

**VILLAGE OF PRAIRIE GROVE MUNICIPAL CODE**  
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**1.01 PRAIRIE GROVE MUNICIPAL CODE**

A. TITLE: This Code of ordinances may be known and cited as the Prairie Grove Municipal Code. Any references to “this Code” or “Code” herein shall also mean the Prairie Grove Municipal Code.

B. AMENDMENTS: Any additions or amendments to this Code are incorporated into this Code so that a reference to the Prairie Grove Municipal Code includes such additions and amendments.

**1.02 DEFINITIONS**

A. Terms used in this Code, unless specifically defined in this Code, have the meanings prescribed by the Illinois Compiled Statutes for the same terms.

B. Unless found elsewhere in this Code, terms used herein are defined in Appendix A.

**1.03 REPEAL OF ORDINANCE**

A. All general ordinances or parts previously adopted by the President and Village Board, inconsistent with those included in this Code are repealed and the following are specifically continued in full force and effect:

1. Ordinances authorizing contracts or the issuance of municipal notes or bonds;
2. Ordinances levying taxes or making special assessments;
3. Ordinances budgeting and appropriating funds or establishing salaries;
4. Ordinances granting franchises;

5. Ordinances relating to the establishment, dedication, opening, grading, naming, improvement, altering, railroad crossings, widening or vacating of any streets, alleys, sidewalks, parks or public grounds;
6. Ordinances respecting the annexation of territory to the Village, or the conveyance or acceptance of real property or easements in real property;
7. Ordinances authorizing or relating to particular public improvements;
8. Ordinances relating to zoning, map amendments, zoning classifications and subdivisions;
9. Ordinances relating to intergovernmental agreements;
10. Ordinances relating to temporary planning moratoriums;
11. Any other ordinances not in conflict with the provisions of this Code.

B. The provisions of this Code, so far as they are the same in substance as those of existing ordinances, are continuations of such ordinances and not new enactments. Any act done, offense committed or right accruing or acquired, or liability, penalty, forfeiture or punishment incurred prior hereto shall not be affected, but may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if the repeal had not been effected.

#### **1.04 ORDINANCES REPEALED NOT REENACTED**

No ordinance or part of any ordinance previously repealed shall now be considered re-ordained or re-enacted by virtue of this Code, unless specifically reenacted. The repeal of any curative or validating ordinance does not impair or affect any cure or validation already effected thereby.

#### **1.05 HOME RULE AUTHORITY**

The Prairie Grove Municipal Code and any amendments thereto constitute an exercise of the Village home rule powers and functions as granted under Article VII, Section 6, of the Constitution of the State of Illinois.

#### **1.06 JURISDICTION**

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

#### **1.07 RESPONSIBILITY FOR ACTS**

Every person concerned in the commission of an act prohibited by this Code, whether he/she directly commits the act, or prosecutes, counsels, aids or abets in its commission, may be prosecuted and on conviction is punishable as if he/she had directly committed such act.

## **1.08 SEPARABILITY OF PROVISIONS**

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

## **1.09 EFFECTIVE DATE**

This Code shall take effect immediately upon its passage. Publication shall be in book form under the authority of the President and Village Board, as provided by law.

## **1.10 COPIES ON FILE**

Copies of this Code shall be kept available at Village Hall for public inspection or purchase during Village Hall business hours. The cost of said Code shall be determined from time to time by the Village Board.

## **1.11 PENALTIES**

A. **STANDARD PENALTY:** Unless another penalty is specifically provided by this Code for violation of any particular provision, section or chapter, any person violating any provision of this Code, or any rule or regulation adopted or issued in pursuance thereof, or any provision of any Code adopted herein by reference, shall, upon conviction, be subject to a fine of not less than \$25 nor more than \$750 and prosecution fees incurred by the Village.

B. **COMMITMENT:** The person upon whom any fine or penalty is imposed for violation of any provision of this Code or any ordinance of the Village, upon order of the court before whom the conviction is had, may be committed to the county or State jail, as provided by law, or to any other place provided by statute.

C. **EACH DAY OF VIOLATION:** Each act of violation and each day upon which a violation occurs constitutes a separate offense.

D. **APPLICABILITY:** The penalty provided by this Section applies to the amendment of any section of this Code or a Code adopted herein by reference whether or not such penalty is reenacted in the amendatory ordinance.

E. **REFERENCE TO SECTIONS:** Reference to a section of this Code shall be understood also to refer to and include the penalty section relating thereto, unless otherwise expressly provided.

F. **FAILURE OF OFFICERS TO PERFORM DUTIES:** The failure of any officer or employee of the Village to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violation of this Code.

G. **COLLECTION:** In the event any fee, including, but not limited to those relating to retained personnel, fines, penalties, repair, abatement, restitution and reimbursement, found in any section of the Code is due the Village and is not paid, the cost of collecting said fee shall be

added to the fee or fine. Collection costs shall include, but not be limited to, prosecution and attorney fees.

**1.12 CITATIONS OR HANG-ON TICKETS** *Amended, 620, 512, 471, 464, 454*

A. PAYMENTS: Any of the following described offenses may be settled and compromised in the following manner: Settlement payment when made within 10 days of the time a notice is delivered to the offender, as listed in Column A. Provided, however, this settlement and compromise procedure shall not be allowed where the offender has violated the same ordinance 2 previous times within 12 consecutive months. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

<b>OFFENSE</b>	<b>Column A in Dollars</b>
Alarms, Section 9.07	25
Alcoholic Beverages (park lands), Section 7.08	100
Building numbering, per day, Section 5.16	25
Building violations, other than listed in Chapter 23	100
Burning Leaves and Rubbish, Section 5.12	25
Curfew, Section 9.17	100
Damage to (Park) Property, Section 7.02-A	100
Damage to Public Property, Section 5.02	100
Damaging property, Section 9.12	100
Debris on public property, Section 5.06	50
Deposit of snow or ice upon public streets, Section 5.21	25
Disorderly conduct, Section 9.08	100
Dogs and other animals, Chapter 11	25
Equipment on vehicles, Section 15.01 (625 ILCS 5/12-101 <i>et seq.</i> )	55
Failure to display company name on commercial truck (625 ILCS 5/12-713), Section 15.01	200
Firearms, Weapons and Fireworks, Section 7.07	100
Failure to have a building permit, Chapter 23	150
Garbage, Chapter 10	25
Liquor, purchase or acceptance under age of 21, Section 14.17	100
Liquor, sale, gift or delivery to persons under 21 years	200
Littering, Section 9.13	25
Noise, Section 9.11	75
Noxious plants and weeds, Section 9.06	25
Obstructing Street, Section 5.04	25
Operation without certificate of safety attached (625 ILCS 5/13-111), Section 15.01	250 (see Section 15.20 for allocation of fine).
Overweight Vehicles, Section 15.17	100
Parental responsibility, Section 9.18	100
Parking after snowfall, Section 5.22	25

<b>OFFENSE</b>	<b>Column A in Dollars</b>
Parking, Chapter 15 (except Section 15.10)	25
Parking Places Reserved for Persons with Disabilities, Section 15.10	250
Parks and playgrounds, Chapter 7 (except Sections 7.02, 7.07, 7.08, 7.14)	25
Persons responsible for unlawful activities on their premises, Section 9.24	100
Possession of Cannabis, Section 9.25	100
Possession of drug paraphernalia seized during a violation of Section 9.25, Section 9.26	100
Street gang activity, Section 9.23	100
Tobacco Products, Section 9.16-C (underage possession)	100
Traffic, other than listed in Chapter 15, Section 15.10	25
Trespass (public property), Section 7.14	75
Unauthorized use of persons with disabilities parking space, Section 15.10	100
Weapons, Section 9.09	100

B. SETTLEMENTS: Settlement payments shall be made at the Village Hall. A receipt shall be provided to the alleged offender in the amount of such payment.

C. DISPOSITION OF PAYMENTS: The amounts paid in settlement of the foregoing claims shall be promptly deposited with the Treasurer and shall be credited to the General Fund.

D. PROSECUTION: The Village shall refrain from prosecuting any alleged offender of the foregoing offenses after receipt of such settlement payment.

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**Chapter 2**  
**VILLAGE BOARD**

- 2.01 Government of Village
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- 2.10 Salaries of Officials
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- 2.12 Indemnification
- 2.13 Term of Office *Ord. 410*

**2.01 GOVERNMENT OF VILLAGE**

The Village shall be governed by a Village Board which shall consist of a President and 6 Trustees. The President and Trustees shall be elected at large and serve a 4-year term, and until their successors are elected and qualified, as provided by law.

**2.02 PRESIDENT, *Ord. 675***

A. ELECTION AND TERM: The President shall be elected for a 4-year term and shall serve until the successor is elected and qualified, as provided by law.

B. DUTIES: The President shall be the President of the Village Board and shall preside at properly called meetings of the Village Board. The President shall devote to the duties of the office whatever time the faithful discharge thereof may require. The President at all times may examine and inspect the books, records and papers of any agent, employee or officer of the Village. The President shall perform all the duties which are prescribed by law, including Village ordinances, and shall take care that the laws and ordinances are faithfully executed.

The President, from time to time, and shall annually give the Village Board information relative to the affairs of the Village, and may recommend for its consideration such measures as required.

C. APPOINTMENT OF OFFICERS: The President shall have the power and authority to appoint, by and with the advice and consent of the Village Board, all officers of the Village whose appointment is not otherwise provided for. Any vacancies occurring in an appointive office shall be filled in like manner.

D. PRESIDENT PRO TEM: During any temporary absence or disability of the

President, the Village Board shall select one of their own as President Pro Tem or temporary chairman, who shall possess the powers and authority of the President as provided by law and by ordinance.

E. ACTING PRESIDENT: In the event of a vacancy in the office of President, the Village Board may appoint one of their own as the acting President to serve until the vacancy is filled as provided by law.

F. EMERGENCY INTERIM EXECUTIVE: Pursuant to the Emergency Interim Executive Succession Act (5 ILCS 275/1 *et al.*), the following officers are designated as the emergency interim successors to the office of President in the following order:

1. The Trustee with the highest number of years in office.
2. The Trustee with the second highest number of years in office.
3. The Trustee with the third highest number of years in office.

The powers and duties of the emergency interim successor shall be pursuant to the Emergency Interim Executive Succession Act.

G. BOND: Before entering upon the duties of office, the President shall execute a bond in such amount and with such sureties as may be required by law and by ordinance, conditioned upon the faithful performance of the duties of the office. The Village shall pay the premium on such bond.

H. VILLAGE REPRESENTATION: The President shall act for and on behalf of the Village on formal occasions and receptions. In the President's absence or inability to attend any such function, the Village Board may select any other Village officer to so act.

I. LOCAL STATE OF EMERGENCY: Whenever an emergency, as is defined in Subsection (1) of this Section exists, or imminent emergency, the Village Board may activate the President's extraordinary powers, as set forth in this Section, with such limitations as the Village Board deems necessary.

1. Definitions: The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in this Subsection, except where the context clearly indicates a different meaning:

EMERGENCY: (1) A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by three or more persons acting together without authority of law; or (2) any natural disaster, epidemic, or manmade calamity, including outbreak of disease, flood, conflagration, cyclone, tornado, earthquake or explosion, or eminent threat of any of those events within the corporate limits of the Village, resulting in or threatening the death or injury of persons or the

destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

**CURFEW:** A prohibition against any person walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the Village except officials of any governmental unit and persons officially designated to duty with reference to said civil emergency.

2. **Declaration:** Whenever an emergency, as defined in Subsection (1) of this Section exists, the President is authorized to declare the existence of a Local State of Emergency by means of a written declaration of the President, under oath, setting forth the facts which constitute the emergency, describing the nature of the emergency and declaring that a Local State of Emergency exists in accordance with the definitions set forth in this Section. This declaration must be filed with the Village Clerk as soon as practicable after issuance.
3. **Curfew Authorized:** After the declaration of a Local State of Emergency by the President, the President may order a general curfew applicable to such geographical areas of the Village or to the Village as a whole, as the President deems reasonable and advisable, and applicable during such hours of the day or night as the President deems necessary in the interest of the public safety and welfare.
4. **Orders Authorized:** After the declaration of a Local State of Emergency, the President may also, in the interest of public safety and welfare, and to address the issues caused threatened by the emergency, make take any or all of the following actions by executive order during the Local State of Emergency:
  - a. All actions reasonably necessary to respond to the emergency;
  - b. Approve previous expenditures of the Village for the purpose of continuing the operations of the Village;
  - c. Authorize agreements for purchases and contracts that impose a financial obligation on the Village that would otherwise be required to be authorized by the Village Board;
  - d. In the event the Local State of Emergency extends beyond the current fiscal year and a new budget has not been approved, the President shall be authorized to approve new spending by the Village during the existence of the Local State of Emergency;
  - e. Order the discontinuance of selling, distributing or giving away



gasoline or other liquid flammable or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle; and

5. Duration: The declaration of a Local State of Emergency herein authorized shall be effective for a period of up to thirty (30) days or until the adjournment of the next regular or special meeting of the Village Board, whichever comes first, unless sooner terminated by a declaration of the President, or, his or her interim emergency successor, indicating that the emergency no longer exists. The President or his or her interim emergency successor, shall have the power to re-declare the existence of an emergency at the end of each 30-day period during the time said emergency exists.
6. Notice: Upon issuing the declaration of a Local State of Emergency herein authorized, the Village Clerk shall notify the news media situated within the Village, and shall cause at least four copies of the declaration of a Local State of Emergency and any curfew authorized to be posted at the following places within the Village: the Village hall, the police station, the post office, and in the area of any curfew.
7. Violations: Any person violating the provisions of this Section or executive orders issued pursuant hereto shall be guilty of an offense against the Village and shall be punished as provided by Section 28.17 of this Code.
8. Effect on Other Ordinances: Nothing contained in this Section shall be construed to impair the powers contained in this Code, giving powers to the police and fire departments, but shall be construed together with existing ordinances now in effect for the safety and welfare of the citizens of the Village.

## **2.03 TRUSTEES**

The Trustees shall pass ordinances, resolutions and motions in the manner provided by law. The Trustees may pass motions, resolutions and ordinances over the President's veto by a two-thirds vote of all Trustees then holding office and as provided by law.

## **2.04 MEETINGS** *Amended, 431*

A. REGULAR MEETINGS: All regular meetings of the Village Board shall be held on the third Tuesday of every month in the Village Hall, 3125 Barreville Road, Prairie Grove, Illinois, at 7 p.m.

B. SPECIAL MEETINGS: Special meetings of the Village Board may be called by the President or any 3 members of the Village Board, provided that a reasonable attempt to

provide written notice of such meetings should be made to each member of the Village Board no less than 48 hours prior thereto, which notice shall include the date, time, place and subject matter of the special meeting. In the event of an emergency meeting, a reasonable attempt to provide written notice of such meeting shall be given to all Village Board members as soon as possible and the meeting notice posted pursuant to the Open Meetings Act.

## **2.05            PRESIDING OFFICER**

The President shall be the presiding officer of the regular and special meetings of the Village Board. In the absence of the President, the Clerk shall open the meeting and a temporary chairman shall be selected.

## **2.06            QUORUM**

A majority of the members of the Village Board shall constitute a quorum.

## **2.07            ORDER OF BUSINESS; SERGEANT-AT-ARMS**

A.    ORDER OF BUSINESS: The order of business at all regular meetings of the Village Board shall be determined by the President

B.    ADJOURNMENT: In the absence of a special resolution, meetings shall promptly adjourn no later than 10 p.m.

C.    SERGEANT-AT-ARMS: The Chief or his designee shall attend every meeting of the Village Board and shall act as Sergeant-at-Arms. The Sergeant-at-Arms is authorized to prevent any unlawful disturbance or demonstration at such meetings.

## **2.08    RULES FOR MEETING ATTENDANCE** *Amended, 684, 411*

In addition to holding meetings pursuant to the Open Meetings Act, 5 ILCS 120/1 *et seq.*, Village Board meetings shall be subject to the following rules:

A.    RULES FOR INDIVIDUAL MEMBER REMOTE ATTENDANCE WHEN A QUORUM IS PHYSICALLY PRESENT:

1.    A quorum of the Village Board shall be physically present at the location of an open or closed meeting.
2.    Provided a quorum is physically present, a member may be allowed to attend the meeting by audio or video conferencing.
3.    Any member who wishes to be considered present at a meeting via audio or video conference may make such a request to the Village Board by notifying the Clerk prior to the meeting, unless advance notice is impractical, that the member cannot physically attend the meeting for one of the following reasons:

- a. Personal illness or disability;
  - b. Employment purposes or Village business; or
  - c. A family or other emergency.
4. An affirmative vote by a majority of the Village Board physically present may allow a member to attend a meeting as provided herein.
  5. The Clerk shall record in the minutes of every meeting the members physically present, absent and present by audio or video conference.

B. REMOTE ATTENDANCE WITOUT A QUORUM PHYSICALLY PRESENT IN THE EVENT OF A DISASTER DECLARATION: Notwithstanding the provisions of Section A above, any open or closed meeting of any Village body subject to the requirements of the Illinois Open Meetings Act (5 ILCS 120) may be conducted by audio or video conference, without the physical presence of a quorum of the members, so long as the requirements of the Illinois Open Meetings Act (as may be amended) for such meetings have been met.

**2.09 VILLAGE BOARD COMMITTEES** *Amended, 503, 431*

A. STANDING COMMITTEES: From time to time and in the sole discretion of the President, standing committees may be established. The President shall make member and chairman appointment(s), with the advice and consent of the Village Board members. Village residents and Village Board members may be appointed to the committee(s). The President shall determine the term and number of members assigned to the committee(s). Matters referred to any committee shall include issues deemed necessary by the President or Village Board. All committee meetings shall be held pursuant to the Open Meetings Act and the Chairman shall prepare minutes of each meeting.

B. SPECIAL COMMITTEES: The President may appoint a special committee to conduct investigations, make detailed studies of pending proposals or projects and deliver specific findings to the Village Board for final action. The findings of any special committee shall be reduced to a written report. On presentation to and acceptance of the committees' report to the Village Board the special committee shall be deemed disbanded. Any special committee must conform to the requirements of the Open Meetings Act. Minutes must be taken at all special committee meetings.

**2.10 SALARIES OF OFFICIALS**

A. TRUSTEES: The Village shall pay each Trustee a salary of \$2,500 per fiscal year, paid in equal monthly installments.

B. PRESIDENT: The Village shall pay the President \$4,000 per fiscal year, paid in equal monthly installments.

C. CLERK: The Village shall pay the Clerk \$4,800 per fiscal year, paid in equal monthly installments.

## **2.11 RULES OF ORDER AND PROCEDURE** *Amended, 590, 431*

The following rules of order and procedure shall govern the deliberations and meeting of the Village Board and the committees thereof.

### 1. DUTIES:

A. Presiding Officer, Duties of the Presiding Officer: The presiding officer shall preserve order and decorum and may speak to points of order in preference to other members and shall decide all questions of order subject to appeal. In case of any disturbances or disorderly conduct, the presiding officer shall have the power to require the Village Board room to be cleared.

B. Members, Duties of Members: While the presiding officer is putting the question to vote, no member shall exit the Village Board chambers. Every member, previous to their speaking or making a motion, shall address themselves to the presiding officer and shall not proceed with their remarks until recognized and named by the chair. They shall confine themselves to the question under debate, avoiding personalities and refraining from impugning the motives of any other member's argument or vote. When 2 or more members address the chair at the same time, the President shall name the member who is to speak first.

### 2. VISITORS: Members of the public are invited and permitted to speak at any public, open meeting of the Village Board and any other commission, committee, board or other public entity created by or subject to the Village's ordinances, subject to the following rules:

A. Individuals wishing to be heard on an item that is not on the agenda may be recognized by the Village President or Village Board during the Public Comment portion of each meeting which will generally be held as one of the initial items of business on the agenda but may, be moved to a different point on the agenda for that meeting.

B. Individuals wishing to be heard on an item that is included in the agenda will be provided an opportunity to speak by the Village President or Village Board during the consideration of that item.

C. Public comment may be restricted to no more than three minutes for each individual speaker. The Village President or Village Board may permit additional comment in his or her discretion taking into account the number of persons wishing to be heard on a matter and the amount of business requiring attention.

D. Members of the public may be asked to avoid repeating comments that have

already been made, although they may be given the opportunity to indicate that they agree or disagree with an earlier speaker.

- E. Members of the public will be required to step forward to the podium and to identify themselves for the record. Members may be asked but are not required to provide an address for the record.
  - F. The Village President or Village Board shall require that order and decorum be maintained at public meetings. This includes prohibiting outbursts from the public or other behavior that is threatening, disorderly or disruptive to the public business. The Village President or Village Board may eject from a public meeting any person who, in the President or Board's sole opinion, disrupts the order and decorum of the meeting or otherwise violates the rules of this Section.
  - G. Public comment shall be restricted to the portions of meetings which are required to be open to the public under the Open Meetings Act. Nothing in this Section shall be construed to allow public access to or public comment at closed sessions or any other meeting of public officials which is not required to be open to the public under the Open Meetings Act.
3. DEBATE: No member shall speak more than once on the same question, except by unanimous consent, and then not until every other member desiring to speak shall have had an opportunity to do so. No member shall speak longer than 5 minutes at any one time, except by consent of the Village Board.
  4. CALL TO ORDER: A member, when called to order by the chair, shall thereupon discontinue speaking and the order of ruling by the chair shall be binding and conclusive, subject only to the right of appeal to the Village Board.
  5. VOTING: Every member who shall be present when a question is stated from the chair shall vote thereon. A failure to vote shall be counted as an abstention and will count in the manner established by law. Any member required to abstain on a matter due to conflict of interest shall so declare.
  6. ADOPTION OF ROBERT'S RULES OF ORDER: The rules of parliamentary practice contained in the latest published edition of *Robert's Rules of Order* shall govern the Village Board in all cases to which they are applicable and in which they are not inconsistent with the special rules of this Village Board or the statutes or laws of the state.
  7. TEMPORARY SUSPENSION OF RULES; AMENDMENT OF RULES: These rules may be temporarily suspended, repealed, altered or amended by a two-thirds vote of the Village Board then holding office.
  8. CENSURE OF MEMBERS; EXPULSION OF MEMBERS: Any member of the Village Board acting or appearing in a lewd, disorderly or disgraceful manner, or who does not obey the order of the chair, shall be, on motion, censured by a majority vote of the

Village Board and, in addition, may be fined not to exceed \$100 for each such occurrence. With the concurrence of two-thirds of the Village Board elected, it may expel a member from a meeting, but not for a second time for the same incident.

## **2.12 INDEMNIFICATION**

In the event a lawsuit is filed against any former or current elected Village officer for acts relating to the Village or Village business affairs while in office, the Village shall retain and pay counsel of its choice to defend the officer. The Village shall also indemnify the officers for any acts for which he or she is found liable within the scope of his or her office, duty or employment with the Village. The protection afforded to officers in this Section shall apply where defense and indemnity is not adequately provided for, without any conflict of interest, by the Village's liability insurance carrier. In the event of a conflict of interest reasonably deemed to exist by the Village officer, separate counsel chosen by the Village officer shall be retained at the Village's cost.

## **2.13 TERM OF OFFICE** *Ord. 410*

The term of office for an elected official shall begin prior to adjournment of the first regular or special meeting of the Village Board following receipt of the official election results from the County Clerk.

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**Chapter 3**  
**VILLAGE ADMINISTRATION**

- 3.1 Administrator
- 3.2 Clerk
- 3.3 Treasurer
- 3.4 Attorney
- 3.5 Engineer
- 3.6 Building Inspector
- 3.7 Bonds of Officers
- 3.8 Officers and Employees of the Village
- 3.9 Corporate Seal
- 3.10 Fiscal Year
- 3.11 Code of Ethics
- 3.12 Investment Policy

**3.1 ADMINISTRATOR** *439; Amended, 499, 440*

A. APPOINTMENT: There is hereby created the office of Village Administrator (the “Administrator”).

B. APPOINTMENT, CONTRACT OR LETTER OF AGREEMENT: The Administrator shall be appointed by the President, with the advice and consent of the Village Board for an indefinite term.

Applicants shall be interviewed by the Corporate Authorities and the appointment shall be contingent upon the applicant signing a contract or letter of agreement regarding conditions of employment. Said contract or letter of agreement shall be approved by a majority vote of the Corporate Authorities.

The Administrator shall be chosen exclusively on the basis of administrative and executive abilities, skills, education, qualifications and experience. The office shall be considered a professional position. No elected official of the Village shall be appointed Administrator during the term of office for which the person was elected.

C. RESIDENCY: The Administrator need not be a resident of the Village. However, the Village and Administrator may provide by contract or letter of agreement the proximity of residency as a condition of employment.

D. ACTING ADMINISTRATOR: In the event the office becomes vacant, an acting Administrator shall be appointed by the President, subject to the advice and consent of the Village Board, to perform the duties of the office until such time as a new Administrator is appointed as provided herein. The Corporate Authorities shall have the authority to create of hierarchy of Village personnel who may temporarily serve as acting Administrator in the event the Administrator is absent from the Village or incapacitated from performing the duties of the office.

E. REMOVAL FROM OFFICE: The Administrator may be removed from office at

any time for any reason or no reason at all, in compliance with the terms of any applicable employment contract, by a majority vote of the Corporate Authorities.

F. **POWERS AND DUTIES:** The Administrator shall be the chief administrative officer of the Village. All departments shall report to the Administrator. The Administrator shall be responsible to the Corporate Authorities for the proper administration of all affairs of the Village. The powers and duties of the Administrator shall be as more specifically set forth below:

1. **EXECUTION OF POLICY:** The Administrator shall execute, on behalf of the Corporate Authorities, its policies, enforce its ordinances and resolutions, and otherwise administer the affairs of the Village as directed by the Corporate Authorities. The Administrator shall have the authority and responsibility to research and analyze issues and alternatives, as well as to recommend policies, for consideration by the Corporate Authorities.
2. **MEETING ATTENDANCE:** The Administrator shall attend all meetings of the Corporate Authorities and its committees. The Administrator shall be permitted to take part in the discussion of all matters coming before the Corporate Authorities or its committees.
3. **LIAISON WITH BOARDS AND COMMISSIONS:** The Administrator shall cooperate with the advisory boards, committees and commissions created by the Corporate Authorities, and those that may be created. The Administrator shall seek direction from the Corporate Authorities as to attendance at such meetings, and the degree of staff support to be furnished to the various boards, committees and commissions.
4. **SUPERVISION OVER DEPARTMENTS AND EMPLOYEES:** The Administrator shall exercise control over and coordinate the work of all departments, the divisions thereof, and all employees of the Village. For the purposes of this Section, the persons holding the offices of Village Attorney and Village Engineer are not considered employees of the Village. However, the Administrator shall work closely with those officers to coordinate the Administrator's efforts with their activities and responsibilities so that Corporate Authorities policies involving those offices are properly implemented.
5. **HIRING, APPOINTMENTS:** Except for the appointment of the Village Attorney and Engineer, the Administrator shall hire and appoint all department heads, as well as any other support staff that directly reports to the Administrator. The Administrator shall have the authority to hire all other employees or to approve their hiring as permitted in the budget adopted by the Corporate Authorities, except for those positions, offices, boards, commissions or other institutions whose appointment or hiring are otherwise governed by this Code or by the Illinois Compiled Statutes. The recruitment, selection, hiring, evaluation, promotion and discipline of employees shall be based on merit and qualifications without regard to political belief or affiliations.



6. BUDGET PREPARATION AND ADMINISTRATION: The Administrator shall:
- a. Prepare the annual operating and capital improvements budgets, and submit them with his/her opinions and recommendations to the Corporate Authorities for review and approval.
  - b. Prepare the annual tax levy ordinance and annual budget ordinance for Corporate Authorities review and approval.
  - c. Apply for and seek to acquire such appropriate state, federal, local, public and private grants as may be available.
  - d. Exercise general direction of the activities of the Treasurer to ensure compliance with state, federal and local law.
  - e. Approve all proper purchases, including Village payroll, not exceeding \$2,500 or up to \$5,000 provided prior written approval from the Village President is first received. Purchases exceeding \$5,000 shall require prior Village Board approval; assist in the preparation of bid specifications and related documents for Corporate Authorities review and approval when required; and administer the Board-approved annual budget after adoption.
  - f. Exercise general supervision over the receipt, collection, disbursement and accounting of all Village revenues and expenses; cause financial reports and audits to be prepared; and provide information and reports to the Corporate Authorities on the financial condition and fiscal matters of the Village for its review and approval as appropriate.
  - g. Purchases Exceeding \$20,000: To the extent required by State Statute, any work or other public improvement which will not be paid for in whole or in part by special assessment or special taxation, when the expense thereof will exceed \$20,000, shall be constructed either (a) by a contract let to the lowest responsible bidder after advertising for bids or (b) without advertising for bids if authorized by a vote of two-thirds of all the Trustees then holding office. Such bids shall be submitted to the Village Board for review and approval. Advertising for bids shall take place in the local newspapers and a notice of bid may be sent to prospective bidders.
  - h. Professional Services: When the Village is in need of professional services the Administrator shall request proposals from at least three professionals in the relevant field of expertise. Newspaper publication is not required. Other forms of advertising, in the

discretion of the Administrator, may be utilized.

7. **COMPENSATION SCALE RECOMMENDATIONS:** The Administrator shall annually recommend to the Corporate Authorities for its adoption a standard schedule of compensation for employee classifications and a merit evaluation system.
8. **REPORTS AND STUDIES:** The Administrator shall evaluate and report, not less frequently than monthly, to the Corporate Authorities on the operations of the Village departments. At the direction of the Corporate Authorities, the Administrator shall conduct studies and submit reports and recommendations in those areas of concern to the Corporate Authorities.
9. **INVESTIGATION OF COMPLAINTS:** The Administrator shall be notified and receive, and shall investigate or have investigated all complaints in relation to matters concerning the administration of the government of the Village, and the services maintained and provided by the Village.
10. **GENERAL RECOMMENDATIONS:** From time to time the Administrator shall recommend to the Corporate Authorities the adoption of such measures as may be deemed necessary or expedient for the health, safety, comfort or welfare of the community or for the improvement of services rendered by the Village, when such measures require action by the Corporate Authorities.
11. **MATTERS DIRECTED TO ADMINISTRATOR'S ATTENTION:** All officers and department heads shall submit all matters requiring Board action, or attention, to the Administrator, who shall submit them to the Corporate Authorities with such recommendations as may be deemed necessary. All direction to departments or employees made by the Corporate Authorities shall be submitted to the Administrator, and the Corporate Authorities will then receive the information as to policy and departmental operations from the Administrator. The Corporate Authorities members will deal with administrative services and functions as much as practical through the Administrator. In instances where a request or an inquiry is made directly to an employee by the Corporate Authorities member, the Administrator should be advised of the matter as soon as possible.
12. **ENFORCEMENT AUTHORITY:** The Administrator shall have the authority to enforce the laws, codes and ordinances of the Village. The Administrator may sign complaints in the name of the Village for violations of laws, codes and ordinances, and shall attend as witness before the court where a trial may be had on such complaints. The Administrator shall see that all franchises, permits, licenses and privileges granted by the Village are faithfully and impartially observed and administered.
13. **EMERGENCIES:** In the event of an accident, disaster or other circumstance creating a public emergency, the Administrator may award contracts, make

purchases and incur other obligations of the Village for the purpose of meeting such emergency, up to \$25,000. As soon as practical, the Administrator shall file with the Corporate Authorities a written statement of such emergency, the necessity for such action and an itemized account of all expenditures or obligations incurred.

14. **ADDITIONAL DUTIES:** The Administrator shall perform such other duties as may be required of or assigned by the Corporate Authorities, consistent with federal and state laws and Village ordinances.

G. **COMPENSATION:** The compensation for the Administrator shall be determined by the Corporate Authorities after an annual performance evaluation or as the contract of letter of agreement otherwise provides.

H. **OTHER EMPLOYMENT:** The Administrator shall devote his/her full time and effort to the performance of his or her duties, and shall not engage in any other employment which would have any possibility of being a conflict of interest with the position without the consent of the Corporate Authorities.

### **3.2 CLERK** *Amended, 377*

A. **APPOINTMENT:** The Village Clerk ("Clerk") shall be filled by appointment by the President, with the advice and consent of the Village Board. Because the position of Clerk requires special expertise, the appointment need not be a resident. The Clerk shall be an at will employee of the Village.

B. **GENERAL DUTIES, OATH, BOND:** The Clerk shall have all powers and perform all duties provided by the laws of the State and the ordinances of the Village. The Clerk shall, before entering upon the duties of the office, take and subscribe the usual oath thereof and execute a bond in such amount and with such sureties as may be required by law or by ordinance, conditioned upon the faithful performance of the Clerk's duties. The cost of the bond shall be paid by the Village.

C. **DUTIES:** The Clerk shall, in addition to the duties imposed by law, perform the following duties:

1. Attend all meetings of the corporate authorities and keep a full and accurate record of their proceedings.
2. Record all ordinances passed by the Village Board, in a suitable book or books kept for that purpose. At the foot of the record for each ordinance there shall be a note of the date of the passage, approval and publication thereof, which record memorandum or certified copy thereof shall be evidence of the passage and publication of such legal ordinance for all purposes. The original of all ordinances passed by the Village Board shall be filed with the Clerk.
3. Deliver to the President all ordinances or resolutions to be approved or

otherwise acted upon by the President.

4. Maintain custody of and retain possession of the corporate seal of the Village and to affix the same to all papers and documents when required.
5. Have custody of and safely keep and preserve in the Clerk's office all papers, books, records, maps, documents and effects of every description belonging to the Village and not in actual use and possession of other Village officers. To deliver upon demand any of the aforesaid articles, when not needed for immediate use to any officer of the Village having a right to them. Upon his or her removal or resignation or the expiration of the term of office, deliver all such effects to the successor in the office of the Clerk.
6. Sign and keep a record of all licenses and permits issued by and on behalf of the Village and the applications that are not the responsibility of any other officer or official.
7. File and keep in the Clerk's office the original of all ordinances passed or a pamphlet thereof when the same are published in pamphlet form. When any ordinance is published in a newspaper, to secure from the publisher thereof and attach to such ordinance a certificate of such publication.
8. Prepare all commissions, licenses, permits and other official documents required to be issued under the laws and ordinances of the Village and to affix the corporate seal thereto.
9. Attest the signature of the President to any and all proceedings of the Village Board.

D. **ABSENCE:** In case the Clerk is absent from any regular or special meeting the Deputy Clerk, if any, shall act as Clerk Pro Tem. In the absence of both the Clerk and Deputy Clerk, the President may appoint one of the Trustees as Clerk Pro Tem; such appointment shall not prohibit such Trustee from also acting in the capacity of Trustee.

E. **FAILURE TO PERFORM DUTIES:** It shall be unlawful for the Clerk to knowingly and willfully destroy any of the records of the Village or knowingly or willfully omit or fail to perform any of the duties of office. For the violation of any of the provisions of this Section, upon conviction, a fine may be imposed of not more than \$750 for each record destroyed.

F. **SALARY:** The annual salary of the Clerk shall be that sum established pursuant to this Code.

G. **DEPUTY CLERK:** The President and Village Board may appoint one Deputy Clerk, who need not be a resident of the Village. Because the Clerk's position is part-time, said appointment should be a full-time employee of the Village. The salary of the Deputy Clerk shall be set by the Village Board. The Deputy Clerk shall report to the President.

### 3.3 TREASURER

A. CREATION OF OFFICE AND APPOINTMENT: There is hereby created the office of Village Treasurer (“Treasurer”). The Treasurer shall be appointed by the President, by and with the advice and consent of the Village Board, and shall serve at the pleasure of the President and Village Board. The Treasurer shall report to the President.

B. DUTIES: The Treasurer shall perform the following duties:

1. Receive all money paid into the Village, either directly or from other Village officers. Make out all checks of the Village and pay out Village funds only on vouchers, orders or checks properly signed by the Treasurer and President, verifying that the signatures are authentic or hand-stamped by the individual whose name is represented.
2. Deposit all Village funds in such legal depositories as may be designated by the Village Board by resolution or ordinance, and keep the Village funds separate and distinct from his own funds and any others with the Village funds, and not make private or personal use of the Village funds. Depositories designated by the Village Board are: Illinois Public Treasurers’ Investment Pool (IPTIP); First Midwest Bank, McHenry; US Bank, Crystal Lake; and Home State Bank/National Association, Crystal Lake.
3. In coordination with Village Hall staff, keep and maintain accurate books and records of account showing all moneys received and keep a record showing the ongoing and current financial condition of the Village. Make monthly reports to the Village Board showing the funds received and disbursed during the month, and an annual report to the Board between the 15<sup>th</sup> and 31<sup>st</sup> day of May of each fund, showing the total amount of all receipts and expenditures of the Village, showing all transactions as Treasurer during the preceding year.
4. Keep a register of all warrants, bonds or orders filed with the Treasurer or paid by the Treasurer, and of all vouchers, as provided by law or by ordinance.
5. In coordination with Village Hall staff, pay recurring and routine bills. The amount of each bill shall not exceed \$1,000. Village Board payment approval shall be required for those recurring and routine bills that exceed \$1,000.
6. From time to time the Treasurer may invest Village funds not immediately necessary to meet Village obligations in such depositories or in such securities as the Treasurer may deem in the best interest of the Village, provided, however, that at the next regular meeting of the President and Village Board, the Treasurer shall obtain ratification of the action.

7. Such other duties as may be required by law or by ordinance.

C. **BOND:** Before entering upon the duties of office, the Treasurer shall execute a bond in such amount and with such sureties as may be required by law and by ordinance, conditioned upon the Village against any loss due to any neglect of duty or wrongful act on the part of the Treasurer. The Village shall pay the premium of such bond.

### **3.4 ATTORNEY**

A. **APPOINTMENT:** The Village Attorney shall be retained by the President, by and with the advice and consent of the Village Board. The Village Attorney need not be a resident nor a qualified elector of the Village.

B. **DUTIES:** The Village Attorney shall be the legal advisor of the Village, and shall render advice upon all legal questions affecting the Village whenever requested to do so by the President, Chief of Police or upon authorization of the Village Board. The Village Attorney shall prosecute or defend any and all suits or actions at law or in equity to which the Village may be a part, or in which the Village may be interested, or which may be brought against or by any officer of the Village on behalf of the Village or in the capacity of such person as an officer of the Village.

### **3.5 ENGINEER**

A. **APPOINTMENT:** The Village Engineer shall be retained by the President, with the advice and consent of the Village Board.

B. **DUTIES:** The Village Engineer shall perform the duties set forth in this Code and such other duties as may be prescribed by the Village Board.

### **3.6 BUILDING INSPECTOR**

A. **OFFICE ESTABLISHED:** There is hereby created and established in and for the Village the office of Building Inspector, also known as the Building Official or Building and Zoning Officer.

B. **APPOINTMENT:** The Building Inspector shall be appointed by the President, with the advice and consent of the Village Board.

C. **DUTIES:** It shall be the duty of the Building Inspector to enforce the Building Code of the Village and other applicable Village regulations and to supervise the construction, reconstruction and alteration and moving of all buildings and approve the issuance of all building permits.

D. **QUALIFICATIONS:** The duties of the Building Inspector require technical training and knowledge. No person shall be appointed Building Inspector unless such person has the requisite technical training and knowledge to discharge the duties of this office.

### **3.7 BONDS OF OFFICERS**

A. Every officer and employee of the Village, as may be required so to do by law or by ordinance, before entering upon the duties of the office or position of employment, shall give a bond in such amount and with such sureties as may be required by law or by the Village Board, which shall be subject to the approval of the Village Board, and which shall be conditioned upon the faithful performance of the duties of the office or position of employment. Unless otherwise provided for by law or by ordinance, such bonds shall have as surety a company or corporation licensed to act as surety in the State and to do business in the State. The premiums of such bonds shall be paid out of the general funds of the Village.

B. The penalty of bonds of certain elected and appointed officers and employees of the Village shall be pursuant to the Bond Position Schedule of the Village's insurer.

### **3.8 OFFICERS AND EMPLOYEES OF THE VILLAGE *Amended, 431***

A. **EFFECT OF SECTION:** The provisions of this Section shall apply equally to all officers and employees of the Village, regardless of the time of the creation of the office or position of employment, and regardless of the time of the appointment of the officer or employment of the employee.

B. **APPOINTMENTS:** The President, by and with the advice and consent of the Village Board, shall make appointments to fill all appointive offices. The respective department heads shall select all employees and fill all positions of employment of the Village, with the advice and consent of the Village Board.

C. **TERMS OF OFFICE, VACANCIES:** Every appointed officer of the Village shall hold office for a period of 1 year from the date of appointment and until a successor is appointed and qualified.

D. **ASSIGNMENT OF DUTIES:** The Village Board shall have the power and authority to assign to any appointed officer any duty which is not assigned by ordinance or by law to some other specific officer, and the Village Board shall mediate and determine all disputes or questions relating to the respective powers and duties of such officers.

E. **RECORDS:** All records kept or maintained by any officer or employee of the Village shall be open to inspection by the President or any member of the Village Board at all reasonable times, whether or not such records are required to be kept by statute or ordinance.

F. **MONIES RECEIVED:** Every officer of the Village shall daily turn over all monies received in their official capacity to the Treasurer, with a statement showing the source from which the same was received, and shall take the Treasurer's receipt therefore.

G. **OATH:** Before entering upon the duties of their respective offices, all Village officers, whether elected or appointed, shall take and subscribe the oath or affirmation as set forth in the Illinois Municipal Code.

H. **SALARIES AND WAGES:** All officers and employees of the Village shall

receive such salaries or wages as may be provided from time to time by ordinance. No officer or employee receiving a salary from the Village shall be entitled to retain any portion of any fees collected or received in the performance of any duties as a Village officer or employee, in the absence of specific authorization to the contrary as may be provided by law or by ordinance.

I. **TERMINATION OF OFFICE OR EMPLOYMENT:** Every officer and employee of the Village, upon the termination of an office or employment, shall deliver to his successor or the Clerk all goods, books and records which may be the property of the Village.

J. **AT WILL EMPLOYMENT:** Except for those employees who are parties to a contract with the Village that specifically provides otherwise, all Village employees are at will employees whose employment may be terminated for any reason or no reason at all by the President, with the advice and consent of the Village Board.

### **3.9 CORPORATE SEAL**

The corporate seal of the Village shall be as follows: A circular disc with the words “Village of Prairie Grove, Prairie Grove, Illinois” inscribed on the outer circle.

### **3.10 FISCAL YEAR**

The fiscal year of the Village shall begin on May 1st of each year and end on April 30th of the following year.

### **3.11 CODE OF ETHICS** *Amended, 613, 341*

A. **DECLARATION OF POLICY:** The proper operation of democratic government requires that Officers and Employees be independent, impartial and responsible to the people; that government decisions and policy be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a Code of Ethics for all Village officials, officers and employees is adopted. The purpose of this Code of Ethics is to establish guidelines for ethical standards of conduct for all Village officials, officers and employees by setting forth those acts or actions that are incompatible with the best interest of the Village and by directing disclosure by such officials, officers and employees of private financial or other interests in matters affecting Village life.

B. **CODE OF ETHICS:** The provisions of this Code of Ethics are intended to comply with the applicable provisions of the State Officials and Employees Ethics Act, 5 ILCS 430/1-1 *et seq.* (hereinafter referred to as the “Act” in this Section) to the extent that the Act applies to municipalities. Any amendments to Article 5-15 (5 ILCS 430/5-15, Prohibited Political Activities) and Article 10 (5 ILCS 430/10-10 through 10-40, Gift Ban) of the Act and any applicable definitions under the Act (contained in 5 ILCS 430/1-5) are hereby adopted by reference and made applicable to the officers and employees of the Village to the extent required by 5 ILCS 430/70-5 (Adoption by Governmental Entities). However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the Village Board.



C. **DEFINITIONS:** In addition to the definitions found in Appendix A of this Code, the terms, whether capitalized or not, used in this Section shall mean as follows:

**Campaign for elective office** means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State or local public office or office in a political organization, or the selection, nomination, or election of presidential or vice-presidential electors, but does not include activities: (i) relating to the support or opposition of any executive, legislative, or administrative action; (ii) relating to collective bargaining; or (iii) that are otherwise in furtherance of the person's official duties.

**Candidate** means a person who has filed nominating papers or petitions for nomination or election to an elected office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at a regular election, as defined in 10 ILCS 5/1-3.

**Collective bargaining** has the same meaning as that term is defined in 5 ILCS 315/3.

**Compensated time** means, with respect to an employee, any time worked by or credited to the employee that counts toward any minimum work time requirement imposed as a condition of his or her employment, but for purposes of this Section, does not include any designated holidays, vacation periods, personal time, compensatory time off or any period when the employee is on a leave of absence. With respect to officers or employees whose hours are not fixed, "compensated time" includes any period of time when the officer or employee is on premises under the control of the employer and any other time when the officer or employee is executing his or her official duties, regardless of location.

**Compensatory time off** means authorized time off earned by or awarded to an employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of his or her employment.

**Contribution** has the same meaning as that term is defined in 10 ILCS 5/9-1.4.

**Employee** means a person employed by the Village, whether on a full-time or part-time basis or pursuant to a contract, whose duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed, but does not include an independent contractor.

**Employer** means the Village of Prairie Grove.

**Employment benefits** include but are not limited to the following: modified compensation or benefit terms; compensated time off; or change of title, job duties, or location of office or employment. An employment benefit may also include favorable treatment in determining whether to bring any disciplinary or similar action or favorable treatment during the course of any disciplinary or similar action or other performance review.

**Gift** means any gratuity, discount, entertainment, hospitality, loan, forbearance or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink and honoraria for speaking engagements related to or attributable to government employment or the official position of an officer or employee.

**Intra-governmental gift** means any gift given to an officer or employee of the Village from another officer or employee of the Village.

**Inter-governmental gift** means any gift given to an officer or employee of the Village from a member or employee of the legislative branch of the government of the State, a judge or employee of the judicial branch of the government of the State, an officer or employee of the executive branch of the government of the State, an officer or employee of a unit of local government, home rule unit or school district, or an officer or employee of any other governmental entity.

**Leave of absence** means any period during which an employee does not receive (i) compensation for employment, (ii) service credit towards pension benefits, and (iii) health insurance benefits paid for by the employer.

**Officer** means a person who holds, by election or appointment, an office created by statute or ordinance, regardless of whether the officer is compensated for service in his or her official capacity.

**Political activity** means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative or administrative action, (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

**Political organization** means a party, committee, association, fund or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under 10 ILCS 5/9-3, but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

**Prohibited political activity** means:

1. Preparing for, organizing, or participating in any political meeting, political rally, political demonstration or other political event.
2. Soliciting contributions, including but not limited to the purchase of, selling, distributing or receiving payment for tickets for any political fund-raiser, political meeting or other political event.
3. Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.
4. Planning, conducting or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
5. Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum

question.

6. Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.
7. Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
8. Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
9. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
10. Preparing or reviewing responses to candidate questionnaires.
11. Distributing, preparing for distribution, or mailing campaign literature, campaign signs or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
12. Campaigning for any elective office or for or against any referendum question.
13. Managing or working on a campaign for elective office or for or against any referendum question.
14. Serving as a delegate, alternate or proxy to a political party convention.
15. Participating in any recount or challenge to the outcome of any election.

**Prohibited source** means any person or entity who:

1. is seeking official action (i) by an officer or (ii) by an employee or by the officer or another employee directing that employee;
2. does business or seeks to do business (i) with the officer or (ii) with an employee, or with the officer or another employee directing that employee;
3. conducts activities regulated (i) by the officer or (ii) by an employee, or by the officer or another employee directing that employee;
4. has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee;
5. Is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act (25 ILCS 170/1 *et seq.*), except that an entity not otherwise a Prohibited Source does not become a Prohibited Source merely because a registered lobbyist is one of its members or serves on its board of directors; or

6. Is an agent of, a spouse of, or an immediate family member who is living with a “Prohibited Source.”

**Relative** means those people related to the officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather or grandmother of the officer’s or employee’s spouse and the officer’s or employee’s fiancé or fiancée.

**D. PROHIBITED POLITICAL ACTIVITIES:**

1. No officer or employee shall intentionally perform any prohibited political activity during any compensated time, as defined herein. No officer or employee shall intentionally use any property or resources of the Village in connection with any prohibited political activity.
2. At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity (i) as part of that officer or employee’s duties, (ii) as a condition of employment, or (iii) during any compensated time off (such as holidays, vacation or personal time off).
3. No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity.
4. Nothing in this Section prohibits activities that are permissible for an officer or employee to engage in as part of his or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this Section.
5. No person either: (i) in a position that is subject to recognized merit principles of public employment; or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

**E. GIFT BAN:**

1. Except as permitted by this Section, no officer or employee, and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as “recipients”), shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this Section.
2. EXCEPTIONS: Section 3.11-E1 is not applicable to the following:
  - a. Opportunities, benefits and services that are available on the same conditions as for the general public.
  - b. Anything for which the officer or employee, or his or her spouse or immediate family member, pays the fair market value.
  - c. Any (i) contribution that is lawfully made under the Election Code; or (ii) activities associated with a fund-raising event in support of a political organization or candidate.
  - d. Educational materials and missions.
  - e. Travel expenses for a meeting to discuss business.
  - f. A gift from a relative.
  - g. Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.
  - h. Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this Section “catered” means food or refreshments that are purchased ready to consume

which are delivered by any means.

- i. Food, refreshments, lodging, transportation and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.
- j. Intra-governmental and inter-governmental gifts.
- k. Bequests, inheritances and other transfers at death.
- l. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Each of the exceptions listed in this Section is mutually exclusive and independent of every other.

3. DISPOSITION OF GIFTS: An officer or employee, his or her spouse or an immediate family member living with the officer or employee, does not violate this Section if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501 (c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered or succeeded.

F. ETHICS ADMINISTRATOR:

1. The President shall designate an appropriate Village employee to serve as the Ethics Administrator for the Village.
2. The Ethics Administrator shall provide information to the officers and employees of the Village concerning the existence and content of this Section. This may be done by incorporating the contents of this Code of Ethics into the Village of Prairie Grove Employee Guidelines and Policy Manual and by providing this manual to all officers and employees of the Village.
3. The Ethics Administrator shall refer any inquiries regarding the application or interpretation of this Section to the Village Attorney.

G. PENALTIES:

1. A person who intentionally violates any provision of Section 3.11-D may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and may be fined in an

amount not to exceed \$2,500.

2. A person who intentionally violates any provision of Section 3.11-E is subject to a fine in an amount not less than \$1,001 and not more than \$5,000.
3. The Commission may levy an administrative fine of up to \$5,000 against any person who violates this Code of Ethics or who intentionally makes a false, frivolous, or bad faith allegation.
4. In addition to any administrative fines imposed pursuant to Section 3.11-G3 above, any person who intentionally makes a false report alleging a violation of any provision of this Section to the Ethics Commission, the State's Attorney or any other law enforcement official may be punished by a term of incarceration in a penal institution other than a penitentiary for a period of not more than 364 days, and may be fined in an amount not to exceed \$2,500.
5. A violation of Section 3.11-D shall be prosecuted as a criminal offense by the Village Attorney by filing in the circuit court an information, or sworn complaint, charging such offense. The prosecution shall be under and conform to the rules of criminal procedure. Conviction shall require the establishment of the guilt of the defendant beyond a reasonable doubt.
6. A violation of Section 3.11-E may be prosecuted as a quasi-criminal offense by an attorney for the Village, or the Commission, through the designated administrative procedure.
7. In addition to any other penalty that may be applicable, whether criminal or civil, an officer or employee who intentionally violates any provision of this Section is subject to discipline or discharge.

H. **DISTRIBUTION OF CODE OF ETHICS:** The Ethics Administrator shall cause a copy of this Code of Ethics to be distributed to every officer and employee of the Village within 90 days after enactment of this Code of Ethics. Thereafter, this Code of Ethics shall be incorporated in the Village of Prairie Grove Employee Guidelines and Policy Manual.

### **3.12 INVESTMENT POLICY**

A. **POLICY:** It is the policy of the Village to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the Village and conforming to all State and local statutes governing the investment of public funds. The State statutes will take precedence except where this investment policy ("Policy" for purposes of this Section) is more restrictive wherein this Policy will take precedence.

B. **SCOPE:** The Policy includes all funds governed by the Village.

C. PRUDENCE: Investments shall be made with judgement and care, under circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as the probable income to be derived.

The standard of prudence to be used by investment officials shall be the “prudent person” standard and shall be applied in the context of managing an overall portfolio.

D. OBJECTIVE: The primary objective, in order of priority shall be:

- \* Legality, conformance with federal, State and other legal requirements.
- \* Safety, preservation of capital and protection of investment principal.
- \* Liquidity, maintenance of sufficient liquidity to meet operating requirements.
- \* Yield, attainment of market rates of return.

The portfolio shall be reviewed annually, by external auditors, as to its effectiveness in meeting the Village’s needs for safety, liquidity, rate of return, diversification and its general performance.

E. DELEGATION OF AUTHORITY: Management and administrative responsibility for the investment program is delegated to the Treasurer who, under the delegation of the Village Board, shall establish written procedures for the operation of the investment program.

F. ETHICS AND CONFLICTS OF INTEREST: Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.

G. AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS: The Village Board shall have the sole responsibility to select which financial institutions (IPTIP, banks, savings and loan, credit unions and other non-banks) will be the depositories for the Village. Any financial institution, upon meeting the applicable requirements, may request to become a depository for Village funds. The Village will take into consideration security, size, location, financial condition, service, fees, competitiveness and the community relations involvement of the financial institution when choosing depositories.

H. AUTHORIZED AND SUITABLE INVESTMENTS: Investments may be made in any type of security allowed for in State statutes regarding the investment of public funds. Investments shall be made that reflect the cash flow needs of the fund type being invested.

I. COLLATERALIZATION: At all times, in order to meet the objective of safety of capital, the Treasurer will require deposits in excess of the federally insured amount to be collateralized to the extent of 110 percent and evidenced by an approved written agreement. Maturity of acceptable collateral shall not exceed 120 months. The ratio of fair market value of collateral to the amount of funds secured shall be reviewed weekly and additional collateral will be requested when the ratio declines below the required level.

J. SAFEKEEPING AND CUSTODY: All security transactions, including collateral



for repurchase agreements, entered into by the Village, shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by an independent third party custodian designated by the Treasurer and evidenced by safekeeping receipts and a written custodial agreement.

K. **DIVERSIFICATION:** The Village shall diversity its investments to the best of its ability based on the type of funds invested and the cash flow needs of those funds. Diversification can be by type of investment, number of institutions invested in, and length of maturity.

L. **MAXIMUM MATURITIES:** To the extent possible, the Village shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the Village will not directly invest in securities maturing more than 10 years from the date of purchase. Reserve funds may be invested in securities exceeding 10 years, if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds.

M. **INTERNAL CONTROL:** The Treasurer is responsible for establishing and maintaining an internal control structure designed to insure that the assets of the entity are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The internal controls shall address the following points: control of collusion; separation of transaction authority from accounting, whenever possible; custodial safekeeping; and written confirmation of telephone transactions for investments and wire transfers, when fees for doing so are reasonable.

N. **PERFORMANCE STANDARDS:** This Policy will be managed in accordance with the parameters specified within this Policy. The portfolio should obtain a comparable rate of return during a market/economic environment of stable interest rates. Portfolio performance should be compared to benchmarks with similar maturity, liquidity and credit quality as the portfolio (i.e., 90-day treasury bill).

O. **REPORTING:** The Treasurer shall prepare an investment report at least monthly. The report should be provided to the Village Board and be available upon request. The report should be in a format suitable for review by the general public. An annual report should also be provided to the Village Board.

P. **MARKING TO MARKET:** A statement of the market value of the portfolio shall be issued to the Village Board quarterly.

Q. **POLICY REVIEW:** This Policy shall be reviewed on an annual basis by the Treasurer and any modifications must be approved by the Village Board.

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## **Chapter 4**

### **POLICE DEPARTMENT**

- 4.1 Department Established
- 4.2 Chief of Police, *641*
- 4.3 Oath
- 4.4 Police Powers and Duties
- 4.5 Duties of Officers
- 4.6 Command Staff and Order of Command, *641*
- 4.7 Police Department Rules and Regulations
- 4.8 Retirement in Good Standing
- 4.9 Police Officer Training Reimbursement Program
- 4.10 Part-Time Police Officers; Training

#### **4.1 DEPARTMENT ESTABLISHED** *Amended, 641, 591, 518, 504*

There is hereby established a department of the Village, known as the “Police Department”, comprising a Chief of Police (“Chief”) who is responsible for the daily operation and oversight of the Police Department, command staff, and patrol officers. All command staff (including the Chief) and officers of the Police Department shall be part-time employees of the Village. citizens of the United States, 21 years of age or older, possess a valid Illinois driver’s license and be subject to the part-time police regulations set forth in the Illinois Compiled Statutes, 65 ILCS 5/3.1-30-21, as amended.

#### **4.2 CHIEF OF POLICE** *Amended, 641, 504, 465*

The Village President, with the advice and consent of the Village Board, shall appoint a police officer licensed in the State of Illinois to the position of Chief. The Chief’s appointment shall be for an indefinite term, except that the President shall retain the right to revoke the appointment with the advice and consent of the Village Board and the advice of the Village Administrator, if one is employed by the Village. The Chief, with the advice and consent of the Village Board, retains the right to appoint the Deputy Chief, and, without the advice and consent of the Village Board, the Chief may hire police officers and appoint person(s) to command staff positions according to his/her discretion.

The Chief shall supervise the work of the Department, and the police and other employees of the Department shall be under his/her command. The Chief may exercise such powers, and shall perform such other duties as may be provided for by ordinance or resolution, or other action of the Village Board. Whenever any statute, ordinance, policy or resolution refers to the Village Marshal, Chief of Police or similar title, it shall be construed to mean the Chief. The Chief shall be the keeper of the Village jail and have custody of all persons incarcerated therein. The Chief shall be custodian of all lost, abandoned, or recovered stolen property in the Village; shall keep such records and make such reports concerning the Department activities as may be required by statute or ordinance; and shall be responsible for the Department’s performance of all its functions and all Department members, who shall serve subject to the orders of the Chief.

### **4.3 OATH**

The Chief, each police officer and each employee belonging to the Department, before entering upon their duties as a member of the Department, shall take and subscribe to an oath or affirmation pursuant to the Illinois Municipal Code. This oath or affirmation shall be filed with the Clerk.

### **4.4 POLICE POWERS AND DUTIES**

Every employee of the Department shall have all the powers provided for under the provisions of law and by ordinance of the Village. It shall be the duty of the Department to use every responsible means for maintenance of law and order in the Village, for the enforcement of the ordinances of the Village and for the performance of such other duties and functions usually performed by police departments.

### **4.5 DUTIES OF OFFICERS** *Amended, 641, 465*

A. **DEPUTY CHIEF:** The deputy chief shall be subordinate to the Chief. The deputy chief is charged with executing the proper performance of patrol and other police duties for subordinate members of the Department assigned to duty. In the absence of the Chief, it shall be the duty of the deputy chief to discharge all of the obligations and assume all of the responsibilities of the Chief. The deputy chief shall also be in command on all patrols and during all hours of duty during which the Chief is not specifically on duty. The deputy chief shall be responsible for the work schedules of all police personnel; the maintenance of all department equipment, including all vehicles operated by the department; and for securing and logging all police evidence and storage of found items. Both the Chief and the Deputy Chief may assign a delegate officer of the Village of their choice to temporarily assume the responsibilities of their positions in case of absence.

B. **COMMANDER:** The commander shall be subordinate to the Chief and deputy chief. The commander is charged with executing the proper performance of patrol and other police duties for subordinate members of the Department assigned to duty during the commander's shift. In addition, the commander shall be responsible for those duties assigned from time to time by the Chief.

### **4.6 COMAND STAFF AND ORDER OF COMMAND** *Amended, 641, 591, 518*

The command staff of the police department shall be as enumerated below. The Chief shall fill the command staff positions according to the amount of supervision needed to meet the law enforcement needs of the Village. During any temporary absence of a commanding officer, the command devolves upon the subordinate next in seniority to such commanding officer. The command seniority is determined first by rank and second by continuous service in the rank. The relative rank in position and order of command, depending on positions appointed and filled by the Chief, shall be as follows:

1. Chief
2. Deputy Chief

3. Commander
4. Lieutenant
5. Sergeant
6. Corporal
7. Patrol Officer

**4.07 POLICE DEPARTMENT RULES AND REGULATIONS**

The Department shall be regulated by general orders, the standard operating procedures issued by the Chief and the Village Personnel Policy as amended from time to time.

**4.8 RETIREMENT IN GOOD STANDING**

Police officers who retire from the Department in good standing, and have completed 10 years or 7,500 hours of service to the Department, shall be eligible to receive a Department retirement star and identification card.

**4.9 POLICE OFFICER TRAINING REIMBURSEMENT PROGRAM**

A. It shall be the contractual obligation and duty of every police officer (the "Officer") to reimburse the Village for the cost of any training paid by the Village should the Officer leave within 30 months after training has been completed. Reimbursement shall not be limited to tuition (except for any portion of tuition costs already reimbursed to the Village by the State) but also include related expenses such as salary or other compensation received during such training period, food, lodging and mileage under the following formula: For every month that the Officer leaves prior to serving 30 months on the Department following training, the Officer shall pay to the Village 1/30th of the total amount expended by the Village for the training.

B. Before a training class is started the Officer shall execute an agreement with the Village, which shall read:

AGREEMENT

This Agreement is entered into between the Village of Prairie Grove ("Village") and \_\_\_\_\_ ("Officer") on the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

WHEREAS, the Village has agreed to hire (or has hired) the Officer and the Officer has agreed to serve (or is serving) on the Village's Police Department; and

WHEREAS, the Village has agreed to pay the costs of sending the Officer to \_\_\_\_\_.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the Village and Officer agree as follows:

1. The foregoing recitals are incorporated herein by this reference.
2. The Officer agrees to serve as a police officer on the Village Police Department for a period of 30 consecutive months following completion of training unless employment is terminated by the Village.

3. Should the Officer voluntarily leave the Village Police Department any time prior to 30 months following the completion of training, the Officer agrees to reimburse the Village according to the following formula for the costs incurred by the Village in sending the Officer to \_\_\_\_\_.

Formula

For every month that the Officer leaves prior to serving 30 months on the Village Police Department following training, the Officer shall pay to the Village 1/30th of the total amount expended by the Village for the training including, but not limited to, tuition (except for any portion of tuition costs already reimbursed to the Village by the State of Illinois), related expenses such as salary or other compensation received during such training period, food, lodging and mileage.

4. Resignation by the Officer for whatever reason shall be prima facie evidence that the Officer left voluntarily.

5. Should the Officer be forced to leave the Village Police Department as a result of serious medical problems which affect his ability to safely and efficiently function as a police officer or upon the death of the Officer, the requirement of reimbursement shall be waived.

6. This Agreement shall be binding on the heirs, executors and administrators of the Officer and on the assignees of the Village.

7. If at any time subsequent to the date of this Agreement the Village utilizes legal counsel or incurs legal expenses or other costs in connection with i) any litigation, contest, dispute, suit, proceeding or action in any way relating to this Agreement or ii) any attempt to enforce the rights of the Village against the Officer by virtue of this Agreement, then in any such event, the attorneys fees arising from such services and all expenses, costs, charges and other fees of such counsel shall be payable to the Village and shall be an additional obligation of this Agreement of the Officer.

8. **WAGE DEDUCTION FOR TRAINING COSTS:** In the event the Officer voluntarily leaves the Village Police Department prior to the expiration of 30 months following the completion of training and has not reimbursed the Village for its costs incurred for such training, including but not limited to tuition (except for any portion of tuition costs already reimbursed to the Village by the State of Illinois), salary or other compensation received during such training period, food, lodging and mileage, the Officer hereby consents to the Village deducting such amount from his paychecks issued after the Village is notified of such resignation. Such deduction may be made notwithstanding the fact that such amounts may exceed 15 percent of the Officer's gross wages per paycheck.

\_\_\_\_\_  
President

\_\_\_\_\_  
Police Officer

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

DATE:

\_\_\_\_\_  
Clerk

**4.10 PART-TIME POLICE OFFICERS; TRAINING** *Amended, 591, 527; 518;*

All part-time police officers shall be employees with the Village on an at-will basis. They shall be hired, disciplined and terminated by the Village Administrator as authorized in accordance with the Village personnel policies and assigned, supervised and directed by the Chief. All part-time police officers shall possess a current valid certification to serve as a full-time or part-time

police officer in the State of Illinois from the Illinois Law Enforcement Training Standards Board or, within 18 months after being hired by the Village, successfully complete all training mandated by the Illinois Law Enforcement Training Standards Board for part-time police officers. Until such certification is obtained, a certified full-time police officer shall directly supervise the part-time officer. The number of hours a part-time officer may work within a calendar year is restricted.

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**Chapter 5**  
**STREETS and PUBLIC WAYS**

- 5.01 Names of Streets
- 5.02 Damage to Public Property
- 5.03 Encroachments on Streets
- 5.04 Obstructing Streets
- 5.05 Material in Public Ways
- 5.06 Debris on Public Property
- 5.07 Excavations in Streets and Rights-of-Way
- 5.08 Protection of Work in Streets
- 5.09 Openings in Streets
- 5.10 Street Maintenance
- 5.11 Curbs and Gutters
- 5.12 Burning Leaves or Rubbish
- 5.13 Driveways
- 5.14 Easements, Rights-of-Ways, Ditches/Swales
- 5.15 Sump Pump Discharge
- 5.16 Numbering Buildings
- 5.17 Mailbox Installation
- 5.18 IDOT Agreements
- 5.19 Utility Franchise Agreements
- 5.20 Deposit of Snow or Ice Upon Public Streets Prohibited, 464
- 5.21 Parking After a Snowfall, 464
- 5.22 Parking on Village Streets-Restricted, 673
- 5.23 Operation of Non-Highway Vehicles on Village Streets, 685

**5.01 NAMES OF STREETS**

All streets of the Village shall be known and designated by the names applied hereto, respectively, on the map of the Village kept on file in the Village Hall office. The street names designated on such map shall continue to be the names of the streets unless and until changed by ordinance of the Village Board.

**5.02 DAMAGE TO PUBLIC PROPERTY**

No person shall damage or deface any street, public way, park or other Village or public property, or any post, wire, lamp, street sign, traffic sign, tree, grass, vegetation, gutter, drain, manhole or any other appurtenance thereon.

**5.03 ENCROACHMENTS ON STREETS**

A. PERMIT: No person shall erect or maintain any structure or thing on, over or under any street or public right-of-way except by permit from the Village Board. Application for such permit shall describe the nature of the encroachment in such detail as the Village Board shall require. The Board, in its discretion, may issue or deny the permit and may impose any conditions to such permit as it deems appropriate.

B. AWNINGS: Awnings shall be permitted pursuant to Sign Regulations of this

Code.

C. MAINTENANCE: Any encroachment on any street or public way shall be maintained so that it does not endanger or obstruct the public.

#### **5.04 OBSTRUCTING STREETS**

A. FREE PASSAGE: No person shall obstruct or endanger the free passage or proper use of the public on any street or public place, except as may be permitted by this Code.

B. EXCEPTIONS: Goods, wares and merchandise may be placed on walkways for such reasonable time as may be necessary while loading and unloading, provided pedestrian traffic is not totally obstructed.

#### **5.05 MATERIAL IN PUBLIC WAYS**

No person shall place any materials on or over any street, walkway or public place.

#### **5.06 DEBRIS ON PUBLIC PROPERTY**

No person shall litter or deposit any foreign matter on any street, walkway, right-of-way, park or public place, except building materials and merchandise as permitted under this Code, or as may be permitted by the Chief.

#### **5.07 EXCAVATIONS IN STREETS and RIGHTS-OF-WAY *Amended, 398***

A. PERMIT: In addition to any other governmental permit, no person shall excavate in or tunnel under any street in the Village without first securing a permit in advance of such work from the Building Department.

B. DEPOSIT: A deposit shall be made pursuant to this Code for any excavation in streets or right-of-way.

C. RESTORATION: Restoration shall include right-of-way restoration to the original or acceptable condition.

D. STANDING BOND: Any public utility or other person shall deposit a letter of credit, approved by the Village Engineer, with the Village to assure the proper repair of Village streets whenever work is done in the Village.

E. To the extent the provisions of this Section may conflict with any of the provisions of Chapter 12, the more restrictive provisions shall prevail.

#### **5.08 PROTECTION OF WORK IN STREETS**

Any person constructing, repairing, or making any excavation in or tunneling under, or placing any material on or over any street, right-of-way or other public place shall maintain suitable barricades and other protective devices as necessary to prevent injury to any person(s) exposed to the construction process. Adequate lighting shall be maintained during the night time to warn the



public. No person, unless authorized by the Village, shall interfere with or disturb any such warning devices.

A JULIE dig number shall be obtained and a permit shall be secured from the Building Department at least 24 hours in advance of placing any barricades in any street.

## **5.09 OPENINGS IN STREETS**

A. PERMIT: No street, tree bank, public ground or place shall be disturbed or opened, nor shall any material or thing be placed or kept therein without first making application to the Building Department for the privilege of making said opening and to have a written permit issued by the Building Inspector for said opening.

B. APPLICATION: Persons desiring such openings shall make application to the Building Department on a form furnished by the Village. No permit will be issued until the permittee:

1. Completes an application for opening providing all information required by the Village and states fully all purposes for which the opening is required.
2. Contacts all individuals or corporations operating gas, electric, telephone or other public utility in the area, as well as the Village itself to receive from them the information as to the existence and location of any underground facilities, so that the proper precautions can be taken to avoid serious damage to the underground structures. Before opening is started the applicant shall furnish the Building Inspector with written statements from persons named above to the effect that they have been informed of the proposed project.
3. Files a work scheduled approved by the Building Inspector indicating starting date and date of completion and number of hours each day that work will be undertaken.
4. Agrees to make an opening in such a manner as to not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of egress to or from properties affected.

If an opening requires the closing of a street, permit approval is required from the Village Board and the permittee shall provide for and pay all costs of detouring traffic.

5. Secures an IDOT permit if required.
6. Pays a permit fee, which shall be determined from time to time by the Village Board.
7. Agrees to pay all costs of Village engineering or inspection services if deemed necessary by the Building Inspector. Permittee may be required to

place on deposit with the Village an estimated cost of engineering and/or inspection services. The permittee, however, shall only pay the actual costs of such services.

8. File with the Village a letter of credit, subject to approval and payable to the Village, conditioned that such person shall faithfully observe the ordinances of the Village and shall make and repair such openings and space, and shall save and keep harmless the Village from all costs arising in any manner or way from the granting of such permit. The amount of the bond shall be determined by the Building Inspector, but in no case shall it be less than \$1,000.
9. Agrees to adequately protect all excavations with barricades, lights, or other means of protection required by the Building Inspector. The name, address and home telephone number of the person responsible for the work shall also be filed with the Village.
10. Agrees that materials used and methods of construction shall be in conformance with specifications established by the Village Engineer or Building Inspector. All work shall be under the supervision of the Building Inspector.
11. Agrees to secure and protect the Village from any liability or damage whatsoever for injury, including death, to any person or property and files with the Village liability insurance certificates in an amount to be established from time to time by the Village Board, but in no case less than \$1,000,000.

C. **DEFAULT:** In any case where a permittee shall be in default or shall fail to comply with the requirements of this Section, or shall fail to complete the work on the date agreed upon, the Building Inspector shall order the work completed by the Village and shall so notify the permittee and surety in writing. The Village shall recover the cost from the permittee or his surety.

## **5.10 STREET MAINTENANCE**

A. **DUTY IMPOSED:** It shall be the responsibility of every subdivider or developer to keep and maintain the streets and ways in and around the subdivision clean and free from all dirt, mud, construction material and other debris during the period of construction.

B. **STREETS:** The duty imposed by this Section shall apply to all streets within the subdivision, all streets designated as construction traffic routes and all perimeter streets or streets adjacent to the subdivision.

C. **REQUIRED CLEANING:** Every subdivider or developer shall scrape each street described herein every day during the period of construction, and shall sweep or cause the streets to be swept once every week. In addition to the foregoing, every subdivider shall be required to scrape, sweep or remove debris from the streets as from time to time directed by the Building Inspector or the Village Engineer.

D. **SNOW AND ICE REMOVAL:** In the event one or more Certificates of Occupancy have been issued for any structures located on an unaccepted street, the subdivider or developer shall be responsible for snow and ice removal. If required by the Village, a subdivider or developer shall enter into a contract with the Village for snow and ice removal. The cost of such service shall be approved from time to time by the Village Board using the IDOT approved cost schedule.

E. **PENALTIES:** Any subdivider violating any provision of this Section shall be subject to one or more of the following penalties, said penalties being cumulative and in addition to any other penalties which may be imposed:

1. A fine of not less than \$25 nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or on which a separate violation occurs or continues.
2. The Village may undertake the necessary cleaning as required herein and then assess the costs and expenses, including reasonable attorneys' fees, incurred by the Village for such cleaning against the subdivider and may take action against the letter of credit.
3. "Stop Work Orders" for the subdivision may be issued by the Village until the subdivider complies with the requirements herein. No work shall be done in the subdivision while the stop work order is in effect.
4. The Village may withhold the issuance of Certificates of Occupancy for all residences or other structures within the subdivision until the subdivider complies with requirements herein.

F. **NOTICE:** Prior to the imposition of the penalties set forth herein, the Village shall send a written notice to the subdivider or developer setting forth the specific violation(s) of this Code. The subdivider or developer shall have 24 hours from the date of the notice within which time to comply with the terms of the Code. In the event the subdivider or developer does not comply with the terms herein within said 24-hour period, the Village may proceed to impose the penalties provided for herein. No notice shall be required prior to the imposition of said penalties.

#### **5.11 CURBS AND GUTTERS**

All curbs and gutters hereinafter constructed in the Village shall be constructed pursuant to this Code and under the supervision of the Village Engineer and Building Inspector.

#### **5.12 BURNING LEAVES AND RUBBISH**

No person shall burn any leaves, paper, rubbish or other substances upon any street.

#### **5.13 DRIVEWAYS**

A. **PERMIT:** No person shall construct a driveway entering any street without a

permit from the Building Department. Driveways shall be constructed according to the requirements of this Code and shall be constructed of asphalt or concrete.

B. CULVERTS: Culverts may be required in areas not served by curb, gutter and storm sewers, prior to the point of entry of the driveway to the public road, as defined in this Code. The length, width, depth and location of the culvert shall be subject to the approval of the Village Engineer or Building Inspector.

In the event driveways are to be altered where there have been no previous culverts or previous culverts are inadequate, new culverts shall be installed pursuant to this Code.

If, in the judgment of the Village Engineer, culverts are needed to remove any obstructions in drainage ditches or swales, the Village shall install a culvert of the size and length determined by the Village Engineer. The cost of the culvert and repaving that portion of any driveway that may be affected shall be borne by the owner of the property.

Maintenance to ensure proper water flows of all culverts, ditches and swales shall be the responsibility of the abutting property owner or tenant.

#### **5.14 EASEMENTS, RIGHTS-OF-WAY, DITCHES/SWALES** *Amended, 398*

Easements, rights-of-way, ditches and swales are that portion of each property in the Village from the front property line to the roadway, which has already been dedicated to the Village to be used for utilities, surface drainage and future roadway. Said easements, rights-of-way, ditches and swales are regulated as follows:

1. Buildings, structures or any parts of appurtenances thereto shall not be constructed or placed in any easement so as to restrict drainage channels.
2. The placement of any fill material in the right-of-way between the property line of the property owner and the public road shall require a permit issued by the Building Department.
3. No permit to alter, build or fill any part of the dedicated roadway shall be issued by the Building Department until written approval is received from the Village Engineer or Building Inspector that the proposed alteration, building or fill will in no way effect surface water run-off capacities or patterns of surrounding properties.
4. The cost of the engineering review shall be paid by the person(s) desiring the modification and shall be paid prior to the review being made.
5. All ditches and swales shall have the appropriate vegetation in the form of grass to eliminate erosion and sedimentation that could be caused by water transversing the ditch or swale, unless some other form of erosion and sedimentation control is recommended by the Village Engineer for the project.
6. In the event the provisions of this Section conflict in any way with the provisions of Chapter 12, the more restrictive provisions shall prevail.

### **5.15 SUMP PUMP DISCHARGE**

No person shall construct, alter, maintain or in any way provide for the discharge of a sump pump, either directly or indirectly, to any public street.

### **5.16 NUMBERING BUILDINGS**

A. **NUMBERING BUILDINGS:** All buildings abutting streets of the Village shall be numbered in accordance with the Village Map prepared by the Village Engineer, which map shall be kept on file in the Village Hall office.

B. **RESPONSIBILITY:** It shall be the duty of the owners and occupants of every building in the Village to have placed thereon or on the property, in a place visible from the street, in Arabic numerals (script not permitted) at least two inches high, showing the number of the house.

### **5.17 MAILBOX INSTALLATION**

Mailboxes installed along Village streets shall be in accordance with U.S. Postal Service regulations. The placement of such mailboxes shall not interfere with street maintenance projects, such as snow plowing and street cleaning.

### **5.18 IDOT AGREEMENTS**

The discharge of sanitary sewage and industrial waste water into a storm sewer or drainage facility constructed as part of an improvement specified in any agreement between the Village and IDOT is prohibited.

Any encroachment into an IDOT right-of-way is prohibited within the limits of any improvements specified in any agreement between the Village and IDOT.

### **5.19 UTILITY FRANCHISE AGREEMENTS *Ord. 393***

A. **DEFINITION:** In addition to the definition for “public utility” in Appendix A of this Code, for purposes of this Section, the word “utility” is to be used in the broadest and most comprehensive manner and includes, but it not limited to, entities that:

1. Fall under the definition of “public utility” at 220 ILCS 3/3-105 (the Public Utilities Act of the Illinois Compiled Statutes).
2. Are owners, operators, lessees or otherwise tied to cable communication systems, cable television systems, cable systems, cable services or multi-channel systems.
3. Is any other entity that provides any type of service or presence to or through the Village that seeks, needs or requires infrastructure installation within the Village.

B. **EXISTING UTILITIES:** All utilities currently within the Village limits are required to enter into a valid and binding franchise agreements with the Village within one year of the effective date of this Section.

C. **NEW UTILITIES:** Any utility that does not currently have facilities, equipment, inventory or any other presence within the Village are required to negotiate and enter into a franchise agreement with the Village prior to extending services to, through, under or over the public rights-of-way within the Village, regardless of whether any of the utility's services are for the benefit of Village or its residents.

D. **MISCELLANEOUS:** Any franchise agreement entered into between the Village and any utility shall pertain to the permit fee and to the utility's ability to use public streets, rights-of-way, alleys, ways for public service facilities or other public grounds which the Village may have an interest, for the construction, installation, operations, maintenance, alteration, addition, extension or improvement of the utility, its equipment or service.

E. **LIMITATION OF AUTHORITY:** Should any matter contained in this Section be directly regulated by the Illinois Commerce Commission or any other legal entity whose authority over a particular subject pre-empts the Village's authority, that particular matter shall be read to only grant the Village authority that is not subject to the pre-emption by the Illinois Commerce Commission or other government entity.

F. **PENALTY:** Any violation of this Section shall be subject to a fine of not less than \$1,500. Violators of this Section shall also be required to pay all attorney fees incurred by the Village in the enforcement of the terms of this Section.

**5.20 DEPOSIT OF SNOW OR ICE UPON PUBLIC STREETS PROHIBITED** *Ord. 464*

No private person, firm or corporation, shall plow or remove or cause to be plowed or removed ice or snow from any public or private driveway, shopping center, parking lot, residential, commercial or industrial area and deposit such ice or snow upon any roadway or along the shoulder or edge of any roadway in the Village.

Any person, firm or institution, public or private, who violates this Section, is guilty of a petty offense.

**5.21 PARKING AFTER A SNOWFALL** *Ord. 464*

A. It shall be unlawful for any person, firm or corporation to park or cause to be parked any vehicle on any public street in the Village at any time after a snowfall of 2 inches or more has occurred, unless the street has been cleared of snow and snow removal operations have been completed.

**5.22 PARKING ON VILLAGE STREETS-RESTRICTED** *Ord. 673*

A. Notwithstanding any posted sign to the contrary, it shall be unlawful for any person to park any vehicle, or cause any vehicle to be parked, on any public street in the Village at any time in any year between December 1, and April 15.

5.23

**OPERATION OF NON-HIGHWAY VEHICLES ON VILLAGE STREETS**

*Ord 685*

A. Definitions: For the purposes of this section, **NON-HIGHWAY VEHICLE** means a motor vehicle not specifically designed to be used on a public highway, including:

**GOLF CART:** As defined in 625 ILCS 5/123.9.

**RECREATIONAL OFF-HIGHWAY VEHICLE:** As defined in 625 ILCS 5/1-168.8.

B. Operation: No person shall operate a non-highway vehicle on a Village street except as set forth in this section.

C. Registration: Each non-highway vehicle operating on a Village street shall be registered with the Village and display a Village registration sticker and plate. This registration shall be valid from May 1 through November 1 of the year it was issued. Registrations shall not be transferable in the event of a change in ownership of the non-highway vehicle. Prior to issuance of a registration by the Village, a non-highway vehicle must comply with the requirements set forth below.

1. An annual safety inspection shall be conducted by the Police Department or a designee authorized by the Chief of Police.
2. A non-highway vehicle must have, at minimum, the following operating equipment:
  - a. Brakes;
  - b. A steering apparatus;
  - c. Tires;
  - d. A rearview mirror;
  - e. Red reflectorized warning devices in the front and rear;
  - f. Seatbelts;
  - g. A slow moving emblem (as required of other vehicles in 625 ILCS 5/12-709) on the rear of the non-highway vehicle;
  - h. A headlight that emits a white light visible from a distance of five hundred (500) feet to the front and a tail lamp that emits a red light visible from at least one hundred (100) feet from the rear;
  - i. Brake lights; and
  - j. Turn signals.
3. A non-highway vehicle shall not have a modified exhaust system which will amplify or increase the noise of the non-highway vehicle above that emitted by the muffler originally installed on the non-highway vehicle.
4. Proof of valid insurance, as identified in 625 ILCS 5/7-601 et seq., must be provided for the non-highway vehicle and the registrant must agree to insure the non-highway vehicle while in use on Village streets.

5. The registrant must agree and sign an indemnification form, releasing the Village, its elected officials and its employees from liability and indemnifying and holding them harmless from any and all claims resulting from the operation of the non-highway vehicle.
6. A fee of one hundred dollars (\$100.00) shall be paid for the initial annual safety inspection of each non-highway vehicle. A fee of fifty dollars (\$50.00) for the annual re-inspection for the same non-highway vehicle under the same ownership each year thereafter shall be paid.

D. Location: No person shall operate a non-highway vehicle except on a Village street or intersection shown as permitted on the Village's Non-Highway Vehicle Map and no person shall operate a non-highway vehicle on a Village street or intersection shown as prohibited on the Village's Non-Highway Vehicle Map. The Village approved Non-Highway Vehicle Map is attached hereto, can be found on the Village's website ([www.prairiegrove.org](http://www.prairiegrove.org)), and a copy will also be given out with the completion of registration for non-highway vehicles. Amendments to the Non-Highway Vehicle Map may be made from time to time by the Village Administrator and republished on the Village's website. Non-highway vehicles are prohibited on all municipal parking lots, parks, County Roads, Township Roads, and State Highways.

E. Time: A person may operate a non-highway vehicle on permitted streets from May 1 through November 1 each year from six o'clock (6:00) AM to nine thirty o'clock (9:30) PM. The use of non-highway vehicles on Village streets between November 2 and April 30 and afterhours is prohibited.

F. Operation Regulations: The operation of a non-highway vehicle is subject to the following requirements:

1. Ability to travel at a speed of nineteen (19) miles per hour;
2. Display of registration decals and rear registration plate as follows:
  - a. Non-highway vehicles registered with the Village are issued two registration decals. The decals must be displayed on both sides of the machine by its own adhesive, in a position which is forward of the operator and visible to law enforcement. Operators should carry all necessary registration cards and paperwork with them for display to a law enforcement officer upon request.
  - b. In addition, all non-highway vehicles registered as public use will be required to furnish a rear plate that displays the registration number. Plates can be created or purchased at owner's expense.
  - c. Plate Specifications:
    - 1) The plate must be a minimum of four inches (4") in height and seven and one-half (7-1/2") wide and made of white material.
    - 2) The registration number must be made of black lettering a minimum of one and one-half inches (1-1/2") high with a minimum three sixteenths inches (3/16") stroke.



- 3) Only the four registration numbers and two letters need to be on the plate. The registration number can be found on both the decals issued by the Village.
  - 4) The owner must maintain the plate so it is in legible condition; and the plate shall be attached to the rear of the vehicle.
3. Valid driver's license by the operator of the non-highway vehicle issued in his or her name by the Illinois Secretary of State or by a foreign jurisdiction;
  4. The operator shall yield the right of way to all pedestrian and vehicular traffic which constitutes a hazard;
  5. Compliance with the provisions of the Illinois Vehicle Code (625 ILCS 5/1-100 et seq., as amended) to include all speed limits and rules of the road;
  6. No operation shall occur when visibility is impaired by weather, smoke, or other conditions or at any time when there is insufficient light to clearly see persons and vehicles on the roadway at a distance of five hundred (500) feet;
  7. The number of occupants shall not exceed the number of seatbelts in the non-highway vehicle; and
  8. Headlight and tail lamps must be lighted at all times when operating on Village streets.

G. **Driving Under The Influence:** A person who operates or is in actual physical control of a non-highway vehicle while under the influence of alcohol, drugs or a combination thereof shall be subject to enforcement through the Illinois Vehicle Code.

H. **Violation; Penalty:**

1. Any person violating this section shall be subject to a citation and imposition of a fine up to seven hundred fifty dollars (\$750.00) plus any attorney's fees incurred by the Village for the prosecution of the case.
2. Any person who is cited for a violation of the Illinois Criminal Code or Illinois Vehicle Code while using their non-highway vehicle in the Village, including no valid license, suspended/revoked license, reckless driving and driving under the influence which results in arrest shall result in an automatic temporary suspension of any Village registrations and, upon a finding of guilty of a violation, shall result in an automatic revocation of any Village registration.
3. Any person who has been issued two (2) or more citations for violations of this section within a twelve (12) month period shall result in an automatic temporary suspension of any Village registrations, and, upon a finding of guilty of a violation, shall result in an automatic revocation of any Village registrations for a minimum of twelve (12) months.

I. **Expiration:** This Section 5.21 expires on April 30, 2022, unless otherwise extended by the Village Board prior to the expiration.

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**Chapter 6**  
**VILLAGE HALL FACILITIES**

- 6.1 Village Hall Uses
- 6.2 Village Hall Use Procedures

**6.1 VILLAGE HALL USES** *Amended, 486*

A. **ACCEPTED USES:** Access to Village Hall meeting room areas (“facility”) on matters other than official Village business or Village-sponsored events shall be restricted to the following classes of organizations, corporations or agencies:

1. Governmental or quasi-governmental units or districts which are wholly or partly coterminous with the Village; or
2. Bona fide charitable or not-for-profit organizations, entities or corporations which have a substantial involvement or provide a substantial benefit to the citizens of the Village, such as homeowners’ associations. An organization shall be deemed to have substantial involvement or provide a substantial benefit in the Village if either a majority of its members are residents or, in the case of regional organizations, if the Village falls within the region.

B. **PROHIBITED USE:** No commercial enterprises, solicitation or sales of merchandise whatsoever shall be transacted in the facility.

C. **CANCELLATION:** The Village reserves the right to deny permission, or cancel permission once permission is granted, for any reason and shall not be responsible for any loss, cost, or damage or injury of any sort, direct or indirect.

**6.2 VILLAGE HALL USE PROCEDURES** *Amended, 486, 431, 374*

A. **PROCEDURES:** All requests for use of the facility shall be made in writing to the Clerk not less than 15 days prior to the date of use. Such request shall identify one or more local residents for purposes of receiving any communication relative to the request and also to act as the responsible party for compliance with all rules and regulations pertaining to facility use. The Clerk may also request supporting documentation to confirm that the group is a permitted user.

B. **CLEANUP:** Any facility user shall be responsible for the condition of the facility and all property within it, and shall leave the facility and all property in its original condition. In the event the Village has to cleanup, repair or replace the facility and/or any property of the organization, the organization shall be responsible for the Village incurred costs plus an administration fee equal to 50 percent of the cost.

C. **HOURS:** Use of the facility is restricted to the hours of 8 a.m. to 9:30 p.m. Any user group may post a notice, subject to the approval of the Village, in the front door area of Village Hall not more than 36 hours prior to the use of the facility. Said notice shall be removed

immediately after the use.

D. FEE, RULES AND REGULATIONS: A fee of \$50 shall be required for use of the facility. The Village Board, by motion, may require a higher fee due to the proposed use of the facility and may further require a deposit to cover any Village incurred clean-up costs. Said fee (and deposit if required) shall be paid prior to the meeting date at the Village Hall. Upon payment, any other rules and regulations deemed necessary for the use of the facility shall be provided to the users.

E. INDEMNIFICATION: Each organization using the facility shall indemnify and hold the Village harmless from any loss, damage or claim of loss or damage or injury of any sort arising or alleged to have arisen from the use of the facility. Proof of liability insurance shall be provided to the Clerk prior to use of the facility and shall name the Village as an additional insured; the minimum requirements for which shall be \$1,000,000 per occurrence and \$2,000,000 annual aggregate.

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**Chapter 7**  
**PARKS and PLAYGROUNDS**

- 7.1 Definitions
- 7.2 Protection of Park Property
- 7.3 Vehicles, Operation
- 7.4 Motorized Vehicles
- 7.5 Speed Limit
- 7.6 Parking
- 7.7 Firearms and Weapons
- 7.8 Alcoholic Beverages
- 7.9 Advertising and Signs
- 7.10 Use of Park Area
- 7.11 Fires
- 7.12 Group Activity
- 7.13 Swimming
- 7.14 Operating policy

**7.1 DEFINITIONS**

The term “park” as used in this Chapter shall mean all recreational areas owned and/or operated by the Village.

**7.2 PROTECTION OF PARK PROPERTY**

A. **DAMAGE TO PROPERTY:** No person shall mark, deface, injure, destroy, damage, tamper with or remove any park property, facilities or equipment, whatsoever, either real or personal.

B. **SANITATION:** No person shall throw, pour or in any other manner, discharge any substance or chemicals, whether liquid or solid, upon the water, grounds or property of the park which may be injurious to persons or park property.

C. **REFUSE:** No person shall bring in, have brought in, or put into any park, any rubbish, refuse, garbage or other such material. Any refuse and rubbish generated from use of any park shall be deposited in receptacles provided in the park. Where no such receptacles are provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

D. **TREES AND VEGETATION:** No person shall damage, destroy, remove or climb upon, any tree or other vegetation located in any park or recreation area.

E. **ANIMALS:** No person shall bring any animal into any baseball or soccer field or marked perimeters of tot lots areas, whether on a leash or being ridden, except blind or other physically challenged persons being led or assisted by a guide dog. Animals on leashes will be allowed in all other Village-owned parks as long as the owner has appropriate waste collection equipment and subsequently picks up any droppings eliminated by their animal.

### **7.3 VEHICLES, OPERATION**

No person shall operate any motor vehicle other than on roadways within Village-controlled park lands except that the Chief of Police may grant special permission to individuals to operate vehicles on areas other than roadways.

### **7.4 MOTORIZED VEHICLES**

No person shall operate a snowmobile or off-road vehicle within any parks controlled by the Village except that the Chief of Police may grant special permission for a snowmobile to be operated on Village-controlled park land.

### **7.5 SPEED LIMIT**

No person shall exceed a speed of 10 miles per hour unless it is otherwise posted on any roadway or traffic way within any Village controlled park.

### **7.6 PARKING**

No person shall park a motor vehicle in any prohibited area which is posted with signs, or park any vehicle in any area for the purpose of repair, except those immediate repairs necessary to remove the vehicle from the area.

### **7.7 FIREARMS, WEAPONS AND FIREWORKS**

A. FIREARMS, WEAPONS: No person, other than authorized police officers, shall display or use on Village-controlled park lands, except as authorized by the Chief of Police, any gun, including a shotgun, rifle, pistol, revolver, air or BB-gun, paint ball gun, or other weapon, including a slingshot, bow and arrow, switchblade knife with spring-loaded blade, throwing knife, tomahawk or throwing axe, or any martial arts devices.

B. FIREWORKS: No person, except authorized personnel, shall bring, carry or use, in any way, any fireworks or other explosive substance of any kind in any Village-controlled park.

### **7.8 ALCOHOLIC BEVERAGES**

No person shall consume or possess any alcoholic beverages on park lands, with the following exceptions:

1. The Village Board may grant a daily exception permit to any organization authorizing the dispensing of beer and/or wine at any group picnic or similar function authorized in any park.
2. Such function must be open to the public and be held during hours that would not inhibit the use of the park by the general public.

3. Before the permit is issued, the permittee must file a certificate of insurance naming the Village as an additional named insured.
4. Unless specifically provided otherwise, all requirements of the Liquor Control Chapter of this Code shall apply to permits granted under this Section.

### **7.9 ADVERTISING AND SIGNS**

A. **ADVERTISING:** No person shall announce, advertise or call to the public's attention in any way, any article or service for sale or hire on any park land.

B. **SIGNS:** No person shall paste, glue, tack or otherwise post any sign, placard, advertisement or inscription whatever on any park land or highway or road adjacent to any such park land, except as approved by the Village Board.

### **7.10 USE OF PARK AREA**

A. **REGULATED:** No person in a park shall picnic, lunch or camp in a place other than that designated for such purpose. Attendants shall have the authority to regulate activities in park areas whenever necessary to prevent congestion and to secure the maximum use for the comfort and convenience of all visitors.

B. **NON-EXCLUSIVE USE:** No person shall use any portion of the picnic areas or of any of the buildings or structures therein for the purpose of holding picnics to the exclusion of other person, nor shall any person use such area and facilities for an unreasonable length of time if the facilities are crowded, unless permission is granted by the Village Board.

### **7.11 FIRES**

No person shall build a fire in any place other than a fireplace or grill affixed to the property by the Village, or any portable grill constructed of a suitable fireproof substance, or in any other area designated by the Village. No persons shall leave a picnic area before their fire is completely extinguished.

### **7.12 GROUP ACTIVITY**

Any group, association or organization desiring to use the park facilities for a particular purpose must first obtain permission from the Village. Permission will be issued if it appears that the group, association or organization will not interfere with the general use of the park by the individual members of the public and if the group, association or organization meets all other conditions contained in the application. The Village may require an indemnity bond to protect the Village from any liability of any kind or character and to protect the Village property from damage.

### **7.13 SWIMMING**

No person shall swim or wade in any stream, creek, lake or pond, located in any park, unless such area is expressly reserved for such activity and clearly posted as such.

## **7.14 OPERATING POLICY**

A. **HOURS:** Village parks shall be open daily to the public during the hours from dawn to dusk. It shall be unlawful for any person other than Village personnel conducting Village business therein to occupy or be present in the park during any hours in which the park is not open to the public, except as approved by the Village Board.

B. **CLOSING PARKS:** Any section or part of a park may be closed to the public by the President at any time and for any interval of time, either temporarily or at regular or stated intervals.

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**Chapter 8**  
**BOARDS, SPECIAL COMMITTEES, COMMISSIONS and HEARING OFFICERS**  
*Amended, 726*

- 8.01 General Provisions
- 8.02 Architectural Review Commission
- 8.03 Planning and Zoning Commission
- 8.04 Economic Development Commission
- 8.05 Hearing Officer

**8.01 GENERAL PROVISIONS** *Amended, 411, 726*

A. **CREATION OF BOARDS, COMMITTEES AND COMMISSIONS:** The Village Board shall be empowered to create advisory boards, commissions, committees, hearing officers, and similar panels from time to time in order to further the public health, safety, comfort and welfare of the Village and its constituents by conducting research on and evaluating issues of public policy, and by making recommendations to the Village Board for further consideration. Boards, commissions, and hearing officers may be temporary (ad-hoc) or permanent in nature. All permanent boards, commissions, and hearing officers shall be created by ordinance and shall function in accordance with the provisions of this Chapter. Temporary committees may be created by the Village Board at any time for the consideration of any particular question or matter, and need not conform with all of the provisions of this Chapter except to comply with other appropriate State laws or Village ordinances, such as the Open Meetings Act. Members of temporary committees shall be filled by appointment by the President with the advice and consent of the Village Board. On the acceptance of a final report from such a special committee, said committee shall stand discharged without further vote or action by the Village Board unless otherwise provided for. All agendas, minutes, reports, communications, petitions, actions and other papers and transactions of all boards, commissions, committees, and hearing officers shall be filed with the Village and retained in accordance with Village ordinances and procedures as well as State law.

B. **STAFF AND OTHER LIAISONS:** The President shall designate the Village employee(s) who shall act as staff liaisons to boards, commissions, committees, and hearing officers. The President may also arrange for the attendance of other Village consultants or officials at meetings for technical advice and assistance as required. Such staff liaisons, consultants or other officials may attend and participate in the discussion, but shall not have a vote. The Village staff shall be responsible for arranging secretarial/clerical support and other resources for boards, committees, commissions, and hearing officers and their meetings, unless otherwise provided for in this Chapter.

C. **MEETINGS AND AGENDAS:** All meetings of boards, commissions, committees, and hearing officers shall be open to the public and shall be held in accordance with the Open Meetings Act and procedures of the Village, including but not limited to building access and use, meeting set-up and mail delivery. The chairperson or hearing officer, as the case may be, shall be responsible for the preparation of meeting agendas. Meetings may be convened on an as-called basis for boards, committees, commissions, and hearing officers that do not have a regular meeting schedule. Special meetings for boards, commissions, and hearing officers that have a regular schedule may be called as required, provided that proper notice of such meetings



is given and the meetings are held in accordance with the Open Meetings Act. A quorum of the members shall be required to conduct official business for boards, commissions, and committees. If a quorum is not available, a smaller number of members may convene and have discussion, but no formal action can occur nor recommendations be made except to set a new meeting date, time and place. Meetings may be canceled or rescheduled due to lack of a quorum or lack of business to discuss. The chairperson or hearing officer, as the case may be, shall be responsible to ensure that meetings are conducted with decorum, and in accordance with the principles of Robert's Rules of Order (except where other public hearing procedures are appropriate or required), although formalities may be waived. Minutes of each meeting of all boards, commissions, committees, and hearing officers shall be made and kept, which shall be a record of the proceedings, official acts and correspondence of said meeting.

D. COMPENSATION: Members and officers shall receive compensation at the per hearing rate as determined from time to time by the Village Board.

E. PURCHASES AND SPENDING RECOMMENDATIONS: Unless otherwise provided for in this Chapter, no board, commission, committee or hearing officer, or any of its members, may purchase, order, contract for or otherwise commit the Village to purchase a product or service. Only the Village Board or President may approve expenditures. Members and officers who violate this policy may be held personally liable by the Village for payment of unauthorized expenses. Boards, commissions, committees, and hearing officers may make budget and spending recommendations to the Village Board, but final decisions in relation to allocation, budgeting and spending of funds shall remain with the Village Board. The Village will bear the administrative expense of the functions of boards, commissions, committees, and hearing officers, and such expenditures should therefore be processed through Village staff to the greatest extent possible. However, miscellaneous expenses incurred by any members or officers in the performance of official duties will be reimbursable in accordance with Village financial policies and procedures.

F. VACANCIES AND SUCCESSORS: In the event of a vacancy due to the resignation, loss of qualification, death, inability to serve or removal of a member of a board, committee, commission, or hearing officer, said vacancy shall be filled by appointment as provided for in this Chapter. The successor of each member or officer so appointed shall serve for a full term, or for the remainder of any applicable remaining unexpired term, as the case may be.

G. ATTENDANCE POLICIES:

1. It is essential that individuals appointed to boards, commissions, committees, and as hearing officers regularly attend and participate in the meetings of their respective panels in order for the business of the Village to operate in an orderly and efficient manner. Wherever practical, members and officers should give advance notice of absences. An excused absence shall be considered to be any absence where the chairperson or staff liaison is notified at least 6 hours in advance of a meeting that the member is unable to attend said meeting. An unexcused absence shall be considered to be any absence where no communication is given to the chairperson or staff liaison prior to the meeting. Any board, commission or committee member or hearing officer who fails to attend 3 consecutive meetings of his/her respective panel due to unexcused absences or without a valid rea-

son, or fails to attend 75 percent of the total of all of the meetings of his/her panel that are scheduled or called during any 1 fiscal year of the Village, may be considered to have abandoned his/her appointment unless otherwise provided by law. Such person's office may be declared vacant and the member removed by the President with the advice and consent of the Trustees. If any member or officer shall accumulate more than 3 excused absences within any 1 fiscal year, that member may be required to appear before the Village Board to show cause as to why the position should not be declared vacant and the member removed by the President with the advice and consent of the Trustees.

2. Rules for Attendance at Meetings via Audio or Video Conference: In addition to holding meetings pursuant to the Open Meetings Act, 5 ILCS 120/1 *et seq.*, meetings held by any board, commission, or hearing officer of the Village shall be subject to the following rules:
  - a. A quorum of the board/commission shall be physically present at the location of an open or closed meeting.
  - b. Provided a quorum is present, a member may be allowed to attend the meeting by audio or video conferencing.
  - c. Any member who wishes to be considered present at a meeting by audio or video conference may make such a request to the board/commission by notifying the Clerk prior to the meeting, unless advance notice is impractical, that the member cannot physically attend the meeting for one of the following reasons:
    - I. Personal illness or disability;
    - II. Employment purposes or Village business; or
    - III. A family or other emergency.
3. An affirmative vote by a majority of the board/commission may allow the member to attend a meeting as provided above.
4. The secretary shall record in the minutes of every meeting the members physically present, absent and present by audio or video conference.

**8.02 ARCHITECTURAL REVIEW COMMISSION** *Amended, 482, 480*

A. INTENT AND PURPOSE: The Architectural Review Commission ("Commission" for purposes of this Section) is created to promote and maintain the high character of development in the Village; to preserve and protect the public health, safety, comfort and welfare by enhancing the value of the real estate within the Village from impairment or destruction of value, appearance and use; and to encourage the most appropriate use of land within the Village. The Commission shall encourage and promote accessibility, attractiveness and compatibility of new buildings and developments, and avoid excessive uniformity, dissimilarity, inappropriate-

ness or poor quality of design in the exterior appearances of buildings which tend to impair property values and the taxable value of real property in such areas, as well as other harmful effects.

The Commission shall review all proposed business, commercial, industrial, single and multiple family dwelling buildings, developments and additions, including decks, patios, fences and all other appurtenances, and also all proposed planned unit developments and proposed uses for open space and public lands, including schools, libraries, fire stations, park and other public uses of whatever nature.

B. MEMBERSHIP, QUALIFICATIONS AND TERMS OF OFFICE: The Commission shall consist of five commissioners appointed by the President with the advice and consent of the Village Board. At least one Commissioner shall have an architectural design background and at least one Commissioner shall be a local business owner/operator. All Commissioners shall serve staggered three-year terms. However, in the event of a vacancy, the position shall be filled only for the unexpired term of the membership so vacated. The term of each Commissioner shall expire April 30 of the year of the expiration of his/her respective term of office. The Village Board shall have the power to remove any Commissioner at any time for any reason or for no reason at all.

C. CHAIRPERSON: One of the commissioners shall be designated by the President, with the advice and consent of the Village Board, as chairperson of the Commission, and shall remain as chairperson until a successor is appointed. In the absence of the chairperson, the Commissioners in attendance shall designate an acting chairperson for that meeting.

D. MEETINGS AND NOTIFICATION OF ADJACENT PROPERTY OWNERS: All meetings of the Commission shall be special meetings held on a monthly basis on a day and time determined by the Commission. Notice of all meetings shall be provided in compliance with the Illinois Open Meetings Act (5 ILCS 120/1, et. seq.). A sign provided by Village staff, stating the date and time of the meeting shall also be posted on the subject property by the petitioner at least 48 hours prior to the meeting. *Amend, 599.*

E. PROCEDURAL RULES: The Commission shall have the authority to adopt procedural rules for the conduct of its meetings consistent with the provisions of this Code and Village ordinances.

F. POWERS AND DUTIES: The Commission shall have the following powers and duties and such other powers as the Village Board may direct from time to time:

1. Consult with and advise the Village Board regarding all matters within its jurisdiction.
2. Review and recommend for acceptance, modification or rejection of submitted proposed building and development plans that relate to the following, but not limited to the following: exterior architectural design, building arrangement, height and appearance, color and texture or the facilities, and similar matters, including aesthetic factors.
3. Make recommendations regarding advisable amendments to existing

codes, ordinances and regulations of the Village.

4. Review, recommend and accept any new and or modifications to owners or tenant association covenants regarding all matters within the Village.
5. Request from the Village Board such technical and professional assistance as may be desirable for the operation of this Commission.

G. **ARCHITECTURAL STANDARDS FOR REVIEW:** The Commission shall consider an application upon receipt of plans, drawings, site layout plans, specifications, architectural renderings or other similar documentation regarding a proposed building(s) or development(s) by which the same can be reasonably evaluated. Sufficient copies of all such documentation shall be required to be submitted by the applicant in order to comply with this provision. The Commission shall review any such application within 30 days from the date of referral, if possible. In review of applications as submitted, the Commission shall give consideration to the architectural review design criteria found in the Building Code.

H. **APPLICANT'S OPPORTUNITY FOR COMMENT:** Any applicant desiring to rebut or comment upon the findings and recommendations of the Commission may do so by submitting its rebuttal or comments in writing to the Commission for its consideration. After completing the internal appeal to the Commission, the decisions of the Commission may be appealed to the Village Board. Appeals to the Village Board must be requested by submitting rebuttal or comments in writing to the Village at least 10 days prior to the Village Board meeting at which the applicant wishes to be heard. Any such applicant may, in addition, submit any oral comments or rebuttal directly to the Village Board at the meeting.

I. **MINOR REVIEW:** If the chairperson determines that a proposed addition or modification to a building or structure is compatible with the surrounding area and that the architectural design is not substantially inferior or different so as to impact the marketability or property values of existing properties in the immediate area, then the chairperson may waive referral to the Commission. In such case, the chairperson is authorized to act on behalf of the Commission.

J. **CONFLICT OF INTEREST:** No commissioner shall participate in the review of any work of which he or she or any partner or professional associate is the author or in which she or he has any direct or indirect financial interest. If such an occasion arises, the other commissioners should proceed to determine the particular matter.

### **8.03 PLANNING AND ZONING COMMISSION** *Amended 726*

#### **A. ORGANIZATION:**

1. **Creation:** A Planning and Zoning Commission is hereby created for the Village to carry out the duties of a plan commission and zoning board of appeals. Any ordinance, code, regulation or rule of the Village or state statute that references the Plan Commission and/or Zoning Board of Appeals shall mean the Planning and Zoning Commission. When used in this Section, "Commission" shall be construed to mean the Planning and Zoning Commission and "Commissioners" shall be construed to mean the

members of the Commission.

2. **Suspension of Commission:** The Commission and its duties shall be suspended at the direction and in the discretion of the Village Administrator or, in his absence, the Village President taking into consideration the complexity of the proposed agenda items and cost effectiveness for all parties involved. During any such suspension, all Commission duties shall be carried out by the hearing officer designated in Section 8.5 of this Code.
3. **Membership:** The Commission shall consist of a chairman and six members to be appointed by motion of the Village Board. The chairman shall be appointed annually by the Village Board. Annually, the Commissioners shall elect one of its own to serve as vice-chairman. The secretary of the Commission shall be designated by the Village Board.
4. **Term of Office:** The first appointees shall serve for the following terms, or until their respective successors, in similar manner, have been appointed and qualified: one for one year, one for two years, one for three years, one for four years, one for five years, one for six years and one for seven years. Successors to each member so appointed shall serve five-year terms except that vacancies shall be filled for the unexpired term of the membership vacated. The term of each Commissioner shall expire April 30 of the year of the expiration of its respective term of office. Thereafter, the appointments shall be made at the annual meeting of the Village Board.
5. **Vacancy:** Any vacancy on the Commission shall be filled in the same manner as the original appointment.
6. **Removal:** The Village Board may remove any member of the Commission for cause after a public hearing.
7. **Compensation:** Commissioners shall receive compensation at the per diem rate determined from time to time by the Village Board, for services as a Commissioner.

**B. DUTIES OF THE COMMISSION:** The duties of the Commission are as follows:

1. To prepare and recommend to the Village Board a comprehensive plan of public improvements looking to the present and future development of the Village. After its adoption by the Village Board this plan shall be known as the Official Plan ("Plan") of the Village of Prairie Grove. Thereafter, from time to time, the Commission may recommend changes in the Plan. This plan may include reasonable requirements with reference to the streets, alleys and public grounds in unsubdivided land situated within the corporate limits or in contiguous territory not more than 1½ miles beyond the corporate limits and not included in any municipality. These requirements shall be effective whenever this unsubdivided land is subdivided after the adoption of the Plan.

Following the adoption of the Plan no map or plat of any subdivision presented for record affecting land within the corporate limits of the Village or in contiguous territory outside of and not more than 1½ miles from those limits and not included in any other municipality, shall be entitled to record or shall be valid unless the subdivision thereon shall provide for streets, alleys and public grounds in conformity with the Plan.

2. To prepare and recommend to the Village Board from time to time plans for specific improvements in the pursuance of the Plan.
3. To give aid to the Village officials charged with the direction of projects for improvements embraced within the Plan and to further the making of these projects, and generally promote the Plan.
4. To exercise such other powers, germane to the powers granted by ordinances of the Village as may be conferred by the Village and are granted a village under the Illinois Municipal Code (65 ILCS), including, but not limited to Sections 5/11-12-1 to 5/11-12-12.
5. To hear appeals from any order, requirement, decision or determination of the Building Inspector, relating to the Zoning Code by any person, firm or corporation aggrieved thereby, or by any officer, department, board or commission of the Village. The appeal shall be taken within 45 days of the action complained of by filing a notice of appeal, in duplicate, specifying the grounds thereof, in the office of the Clerk who shall transmit forthwith one copy to the Building Inspector and one copy to the Chairman of the Commission. The Building Inspector shall forthwith transmit to the Chairman of the Commission all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from unless the Building Inspector certifies to the Commission that, by reason of facts stated in the certification, a stay would cause imminent peril to life or property. In such case, the proceedings shall not be stayed except by a restraining order issued by the Commission or a court of record after notice to the Building Inspector and on due cause shown.

The Commission shall select a reasonable time and place for the hearing of the appeal, give due notice thereof to all interested parties and shall render a written decision on the appeal without unreasonable delay. Any person may appear at the hearing and present testimony in person or by a duly authorized agent or attorney. The Commission may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination of the Building Inspector.

6. To recommend to the Village Board after holding a public hearing on application for variations from the strict enforcement of any provisions of the Zoning Code, in accordance with the rules and standards set forth therein.

7. To recommend to the Village Board, after holding a public hearing, on applications for special uses listed in each of the several zoning districts.
8. To recommend to the Village Board, after holding a public hearing, on applications for planned developments referred to it by the Village Board and to hear and decide other matters referred to it or upon which it is required to pass under the provisions of the Zoning Code.
9. To recommend to the Village Board, after holding a public hearing, on petitions for amendment of the provisions of the Zoning Code and the boundary lines of zoning districts established therein.
10. To transmit to the Village Board, with every recommendation, findings of fact and to refer to any exhibits containing plans and specifications relating to its recommendation, which plans and specifications shall remain a part of the permanent records of the Commission. The findings of facts shall specify the reason or reasons for its recommendation. The terms of the relief recommended shall be specifically set forth in a conclusion or statement separate from the findings of fact of the Commission.
11. To file immediately in the office of the Clerk every rule, order, requirement, decision or determination of the Commission after any meeting or hearing, which shall be a public record.
12. Nothing contained herein shall be construed to authorize the Commission to change any of the provisions of the Zoning Code or district boundary lines established hereby. The concurring vote of four members shall be necessary to reverse any order, requirement, decision or determination of the Building Inspector or to decide in favor of the applicant any matter upon which the Commission is authorized to act.
13. Additional duties of the Commission are also outlined in the Zoning Code, Village ordinances and the Illinois Municipal Code.

C. SPECIAL ZONING COMMISSION: The Commission shall serve as a special zoning commission whenever a text amendment is proposed to the Zoning Code.

D. MEETINGS: All meetings of the Commission shall be held at the call of the Chairman and at such other times as the Commission may determine. The presence of four members shall be necessary for a quorum. All meetings shall be open to the public and subject to the Open Meetings Act (5 ILCS 120/1 *et seq.*). The Commission shall keep minutes of its proceedings, keep record of its examinations and other official actions, prepare findings of fact and record the individual votes upon every question. Expenses incurred by the Commission in the performance of official duties are to be itemized and shall be reimbursed by the Village.

E. PROCEDURAL RULES: The Commission shall have the authority to adopt procedural rules for the conduct of its meetings and hearings consistent with the provisions of the Zoning Code, Subdivision Code and other codes and ordinances of the Village.

**8.04 ECONOMIC DEVELOPMENT COMMISSION** *Ord. 375, Amended, 431, 379*

A. ESTABLISHMENT; MEMBERSHIP: It is hereby established a citizens' advisory commission which shall be known as the Prairie Grove Economic Development Commission ("Commission").

The membership of the Commission shall be composed of 4 Commissioners; residency within 1½ miles of the Village shall be required for membership. The Commissioners shall be appointed by the President with the advice and consent of the Village Board for one year terms beginning on May 1. One of the Commissioners shall be appointed chairperson by the President with the advice and consent of the Village Board.

B. PURPOSE; DUTIES: The Commission is established for the purpose of structuring sound economic development programs in the Prairie Grove area with the following duties:

1. In general, to provide recommendations to the Village Board for expansion and enhancement of the business community within the Village;
2. To recommend goals and methods for the recruitment and retention of businesses within the Village;
3. To recommend general marketing efforts the Village may undertake to help promote the public retail, commercial and industrial businesses within the Village.
4. To recommend goals for and methods of enhancing the relationship between the Village and its business community;
5. To monitor the status of business growth within the Village;
6. To continue its role in special projects and coordination of subcommittees to meet project goals and deadlines; and
7. Make its findings and recommendations to the Village Board in the manner provided herein.

C. VOLUNTEERS: The Commission is authorized to enlist the volunteer services of such other members of the community who will assist in achieving the goals of sound economic growth recognizing broad community involvement will assure broad community support.

D. MEETINGS: In addition to the requirements in Section 8.01, General Provisions, of this Chapter, the Commission shall meet no less than 4 times per calendar year. The Commission may also hold additional special meetings, as necessary, as part of its business visitation program. Village staff shall supply the Commission with program status reports during those months when the Commission is not scheduled to meet. The Commission shall make periodic reports on its progress and shall make recommendations to the Village Board regularly, but in no case not less than once every 6 months.



E. **COMPENSATION:** Commissioners who are not members of the Village Board shall be compensated \$50 for each meeting attended. Compensation per fiscal year shall not exceed \$250 per Commissioner unless the compensation is reimbursed to the Village, such as through development proceedings as outlined in Chapter 19 of this Code.

## **8.5 HEARING OFFICER 726**

A. **PURPOSE:** This Section is intended to furnish an alternative or supplemental procedure for the Village, in its discretion, to provide for hearing, determining, reviewing, and deciding matters which arise under any provision of its Zoning Code, but nothing in this Section shall be deemed to limit or prevent the use of any existing procedure available to the Village under any provision of its Zoning Code for hearing, approving or denying applications for a special use, variation, amendment or other change or modification of any such ordinance, or for hearing and deciding appeals from and reviewing any order, requirement, decision or determination made by an administrative official charged with the enforcement of any provision of the Zoning Code of the Village.

### **B. ORGANIZATION:**

1. **Creation:** The corporate authorities of the Village hereby establish the office of Hearing Officer.
2. **Appointment:** The Hearing Officer shall be appointed by the Village Board. Hearing Officers shall be appointed on the basis of training and experience which qualifies them to conduct hearings, make recommendations or findings of fact and conclusions on the matters heard and otherwise exercise and perform the powers, duties, and functions delegated in accordance with this Section. The Hearing Officer may be the Village attorney or his designee.
3. **Term of Office:** The Hearing Officer shall serve a five-year term except that vacancies shall be filled for the unexpired term of the office vacated. The term of each Hearing Officer shall expire April 30 of the year of the expiration of his/her term of office. Thereafter, appointments shall be made at the annual meeting of the Village Board.
4. **Vacancy:** Any vacancy in the office of Hearing Officer shall be filled in the same manner as the original appointment.
5. **Removal:** The Village Board may remove any Hearing Officer for cause after a public hearing.
6. **Compensation:** Hearing Officers shall receive compensation at the per diem rate determined from time to time by the Village Board, for services as a Hearing Officer.

### **C. AUTHORITY:** The Hearing Officer shall have the authority to:

1. Conduct any public hearing required to be held in connection with applications for any special use, variation, amendment or other change or modification in any provision of the Zoning Code of the Village; and
2. Hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of any provision of the Zoning Code

D. DUTIES: When the Hearing Officer is designated to conduct a public hearing in a matter otherwise required to be heard in accordance with the Village's Zoning Code by the Planning and Zoning Commission:

1. notice of such hearing shall be given in the same time and manner as is provided by the provisions of the Zoning Code;
2. the Hearing Officer shall exercise and perform the same powers and duties as the Planning and Zoning Commission is required to exercise and perform when conducting a public hearing in any such matter;
3. the Hearing Officer shall render a written recommendation to the Village Board within such time and in such manner and form as the corporate authorities shall require;
4. the Hearing Officer in passing upon and determining any matter otherwise within the jurisdiction of the Planning and Zoning Commission shall be governed by all of the standards, rules and conditions imposed by statute; and
5. the Hearing Officer shall exercise and perform all of the powers and duties of the Planning and Zoning Commission in the same manner and to the same effect as provided by statute, provided that:
  - a. When the Hearing Officer is passing upon an application for variation or special use and the power to determine and approve such variation or special use is reserved to the corporate authorities, then upon report of the Hearing Officer the Village may by ordinance without further public hearing adopt any proposed variation or special use or may refer it back to the Hearing Officer for further consideration, and any proposed variation or special use which fails to receive the approval of the Hearing Officer shall not be passed except by the favorable vote of 2/3 of all Village Trustees;
  - b. When the Hearing Officer is passing upon an application for variation or special use and the power to determine and approve such variation or special use is not reserved to the corporate authorities, or when the Hearing Officer is hearing and deciding appeals from or reviewing any order, requirement, decision or determination made by an administrative official charged with the enforcement of any provision of the Zoning Code of the Village,

the determination made by the Hearing Officer with respect to any such matter shall constitute a final administrative decision which is subject to judicial review pursuant to the provisions of the “Administrative Review Law,” as now or hereafter amended.

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## Chapter 9

### NUISANCES and OFFENSES AGAINST PUBLIC PEACE, SAFETY and MORALS

- 9.01 Public Nuisances Prohibited
- 9.02 Public Nuisances Defined
- 9.03 Abatement of Public Nuisances
- 9.04 Cost of Abatement
- 9.05 Abandoned Motor Vehicles
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- 9.24 Persons Responsible for Unlawful Activities on Their Premises
- 9.25 Possession of Cannabis
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- 9.27 *Intentionally Left Blank*
- 9.28 Possession and Public Consumption of Alcoholic Liquor

#### **9.01 PUBLIC NUISANCES PROHIBITED**

No person shall erect, contrive, cause, continue, maintain, or permit to exist, any public nuisance within the corporate limits of the Village.

#### **9.02 PUBLIC NUISANCES DEFINED** *Amended, 592, 492*

A. **GENERALLY:** A public nuisance is a thing, act, occupation, condition, or use of property which shall continue for such length of time as to:

1. Substantially annoy, injure, or endanger the comfort, health, repose, or safety of the public;
2. In any way render the public insecure in life or in the use of property;
3. Greatly offend the public morals or decency;

4. Unlawfully and substantially interfere with, obstruct or tend to obstruct, or render dangerous for passage any street, alley, highway, navigable body of water, or other public way.

B. PUBLIC NUISANCES AFFECTING HEALTH: The following acts, omissions, places and things hereby specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition herein.

1. All decayed, harmfully adulterated, or unwholesome food or drink sold or offered for sale to the public; or
2. Carcasses of animals, birds, or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death; or
3. Accumulations of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, abandoned vehicles or machinery, scrap metal, or any material in which flies, mosquitoes, disease carrying insects, rats, or other vermin may breed; or which may constitute a fire hazard; or
4. All stagnant water in which mosquitoes, flies, or other insects can multiply; or
5. Garbage cans which are not fly-tight; or
6. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash, or industrial dust within the Village limits in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property; or
7. The pollution of any private or public well or cistern, stream, lake, canal, or body of water by sewage, creamery or industrial wastes, or other substances; or
8. Any use of property, substances, or things within the Village emitting or causing any foul, offensive, nauseous, noxious, foul-smelling or disagreeable odors or stenches extremely repulsive to the physical senses of ordinary persons which annoy, discomfort, injure, or inconvenience the health of any appreciable number of persons within the Village; or
9. All abandoned wells not securely covered or secured from public use; or
10. Any obstruction in or across any water course, drainage ditch or ravine; or
11. Any open burning contrary to county ordinances; or

12. The deposit of garbage, rubbish, or any offensive substance on any street, sidewalk, or public place, or on any private property, except as may be permitted by ordinance; or
13. Any noxious weed on private property as defined by 505 ILCS 100/1 *et seq.*

C. PUBLIC NUISANCES OFFENDING MORALS AND DECENCY: The following acts, omissions, places, conditions, and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of herein:

1. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, sexual intercourse, or gambling;
2. All gambling devices and slot machines; provided, however, this prohibition shall not apply to video gaming terminals authorized and licensed by the State of Illinois pursuant to the Illinois Video Gaming Act and its rules.
3. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured, or rectified without a permit or license as provided for by this Code; and
4. Any place or premises within the Village where ordinances or State laws relating to public health, safety, peace, morals, or welfare are openly, continuously, repeatedly, and intentionally violated.

D. PUBLIC NUISANCES AFFECTING PEACE AND SAFETY: The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions herein:

1. All buildings erected, repaired, or altered in violation of the provisions of the ordinances of the Village relating to materials and manner of construction of building and structures; or
2. All unauthorized signs, signals, markings, or devices which purport to be or may be mistaken as official traffic control devices placed or maintained upon or in view of any public highway or railway crossing; or
3. All trees, hedges, or other obstructions which prevent persons driving vehicles on public streets, alleys, or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk; or

4. All limbs of trees which project over a public sidewalk less than 8 feet above the surface thereof or less than 15 feet above the surface of a public street; or
5. All use or display of fireworks except as provided by the laws of the State and ordinances of the Village; or
6. All buildings or structures so old, dilapidated, or out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human use; or
7. All wires over streets, alleys, or public grounds which are strung less than 15 feet above the surface of the street or ground; or
8. All obstructions of streets, alleys, sidewalks, or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the Village or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose thereof has been accomplished; or
9. All open and unguarded pits, wells, excavations, or unused basements freely accessible from any public street, alley, or sidewalk; or
10. All abandoned refrigerators or ice boxes; or
11. Any unauthorized or unlawful use of property abutting on a public street, alley, sidewalk, walkway, or of a public street, alley, sidewalk or walkway which causes large crowds of people to gather, obstructing traffic and free use of the streets, alleys, sidewalks or walkways; or
12. Any advertisements or signs affixed to any building, wall, fence, sidewalk, street, or other private or public property without permission of the owner thereof; or
13. Any sign, marquee, or awning which is in an unsafe condition, or which overhangs any roadway, or which overhangs any sidewalk less than 8 feet above the sidewalk surface; or
14. Any condition or practice constituting a fire hazard; or
15. Any nuisance so defined in the Illinois Compiled Statutes; or
16. All unsheltered storage of old, unused, stripped, junked, and other automobiles not in good and safe operating condition, and of any other vehicles, machinery, implements, and/or equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, within the corporate limits of this Village; or
17. All unsheltered storage of unlicensed automobiles for a period of 10 days or more within the corporate limits of the Village; or

18. All signs advertising garage sales, yard sales, or other similar sales other than those permitted pursuant to the Sign Regulations of this Code.

### **9.03 ABATEMENT OF PUBLIC NUISANCES** *Amended, 492*

A. **INSPECTION OF PREMISES:** Whenever a complaint is made to the Village that a public nuisance exists, or has existed, within the Village, the Chief, Superintendent of Public Works, or Building Inspector (“Inspecting Officer”) shall forthwith inspect or cause to be inspected the premises and shall make a written report of their findings to the Administrator. Whenever practicable, the Inspecting Officer shall cause photographs to be made of the premises and shall file the same with the Administrator.

B. **SUMMARY ABATEMENT:**

1. **Notice to Owner:** If the Inspecting Officer determines that a public nuisance exists on private property and that there is great and immediate danger to the public health, safety, peace, morals or decency, the Inspecting Officer shall serve a notice on the property owner and to post a copy of the notice on the premises. Such notice shall direct the property owner to abate or remove such nuisance within 24 hours. For purposes of this Section, the owner is the person who was sent the property tax bill on the property for the taxable year immediately preceding the nuisance determination.
2. **Abatement by Village:** If the nuisance is not abated within the time provided or if the owner cannot be found, the Inspecting Officer may cause the abatement or removal of such public nuisance.

C. **ABATEMENT BY COURT ACTION:** If the Inspecting Officer determines that a public nuisance exists on private premises but the nature of such nuisance is not an immediate danger to the public health, safety, peace, morals, or decency, he shall file a written report of his findings to the respective enforcement agency, who shall cause an action to abate such nuisance to be commenced in the name of the Village.

### **9.04 COST OF ABATEMENT**

In addition to the penalty imposed by this Code for the erection, contrivance, creation, continuance, or maintenance of the public nuisance, the cost of abating a public nuisance by the Village, including reasonable attorney fees incurred, shall be collected as a debt from the owner, occupant, or person causing, permitting, or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as other liens.



## **9.05 ABANDONED MOTOR VEHICLES**

A. **ABANDONING VEHICLE:** The abandonment of a motor vehicle or any part thereof anywhere in the Village, in view of the general public, is unlawful except on the property of the owner in a completely enclosed permanent building or structure. Removal of the abandoned vehicle or part thereof may be authorized by order of the Chief after expiration of 7 days from the date of violation.

B. **NOTICE TO POLICE:** When an abandoned, lost, stolen, or unclaimed motor vehicle or other vehicle comes into the temporary possession or custody of a person in this State, not the owner of the vehicle, such person shall immediately notify the Police Department when the vehicle is within the corporate limits of the Village.

Upon receipt of such notification, the Chief shall authorize a towing service to remove and take possession of the abandoned, lost, stolen, or unclaimed motor vehicle or other vehicle.

The towing service will safely keep the towed vehicle and its contents, maintain a record of the tow until the vehicle is claimed by the owner, or any other person legally entitled to possession thereof, or until it is disposed of as provided by this Section.

### **C. REMOVAL OF VEHICLES:**

1. When a motor vehicle or other vehicle is abandoned on a public right-of-way in the Village 10 hours or more, its removal by a towing service may be authorized by order of the Chief.
2. When an abandoned, unattended, wrecked, burned, or partially dismantled motor vehicle or other vehicle is creating a traffic hazard because of its position in relation to the highway, a towing service may be authorized by order of the Chief.
3. When a vehicle is removed from either public or private property, as authorized by order of the Chief, the owner of the vehicle will be responsible for all towing costs.

D. **RECORDS OF VEHICLE REMOVED:** When a motor vehicle or other vehicle is authorized to be towed away, the Police Department shall keep and maintain a record of the vehicle towed, listing the color, year of the manufacture, manufacturer's trade name, manufacturer's series name, body style, vehicle identification number, and license plate year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing, and the name of the officer authorizing the tow.

E. **SEARCH FOR OWNER:** When the Police Department does not know the identity of the registered owner or other legally entitled person, it will cause the motor vehicle records of the State to be searched by a directed communication to the Secretary of State for the purpose of obtaining the required ownership information.

The Police Department shall cause the stolen vehicle files of the Illinois State Police to be

searched by a directed communication to the Illinois State Police for stolen or wanted information on the vehicle. When the Illinois State Police files are searched with negative results, the information contained in the National Crime Information Center (NCIC) files will be searched by the Illinois State Police. The information determined from these record searches will be used by the Police Department in sending a notification by certified mail to the owner or legally entitled person advising where the vehicle is held, requesting a disposition be made, and setting forth public sale information.

F. RECLAIMING VEHICLES: Any time before a motor vehicle or other vehicle is sold at public sale or disposed of as provided herein, the owner or other person legally entitled to its possession may reclaim the vehicle by presenting to the Police Department proof of ownership or proof of the right to possession of the vehicle. No vehicle shall be released to the owner or other person under this Section until all towing and storage charges and fines have been paid.

G. SALE OF VEHICLE: Whenever an abandoned, lost, stolen, or unclaimed motor vehicle or other vehicle, 7 years of age or newer, remains unclaimed by the registered owner or other person legally entitled to its possession for a period of 30 days after notice has been given as provided herein, the Police Department having possession of the vehicle shall cause it to be sold at public sale to the highest bidder. Notice of the time and place of the sale shall be posted in a conspicuous place for at least 10 days prior to the sale on the premises where the vehicle has been impounded. At least 10 days prior to the sale, the Police Department shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner or other person known by the Police Department or towing service to be legally entitled to the possession of the vehicle. Such notice shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled person to reclaim the vehicle. In those instances where the certified notification specified herein has been returned by the postal authorities to the Police Department due to the addressee having moved, or being unknown at the address obtained from the registration records of this State, the sending of a second certified notice will not be required. When the identity of the registered owner or other person legally entitled to the possession of an abandoned, lost or unclaimed vehicle of 7 years of age, or newer cannot be determined by any means provided for in this Section, the vehicle may be sold as provided herein or disposed of in the manner authorized by this Section without notice to the registered owner or other person legally entitled to the possession of the vehicle.

H. OLDER VEHICLES: When an abandoned vehicle of more than 7 years of age is impounded as specified by this Section, it will be kept in custody for a minimum of 10 days for the purpose of determining ownership, the contacting of the registered owner by the U.S. Mail, public service, or in person for a determination of disposition, and an examination of the Illinois State Police stolen motor vehicle files for theft and wanted information. At the expiration of the 10-day period, without the benefit of disposition information being received from the registered owner, the Chief will authorize the disposal of the vehicle as junk only.

A motor vehicle or other vehicle classified as a classic or customized antique vehicle is excluded from this Section.

I. RECORDS: When a motor vehicle or other vehicle in the custody of the Police Department is reclaimed by the registered owner or other legally entitled person, or when the vehicle is sold at public sale or other wise disposed of as provided in this Section, a record of the

transaction shall be maintained by the Police Department for a period of one year from the date of the sale or disposal.

J. **DISPOSITION OF SALE PROCEEDS:** When a vehicle located within the corporate limits of the Village is authorized to be towed away by the Chief and disposed of as set forth in this Section, the proceeds of the public sale or disposition, after the deduction of towing, storage, and processing charges, shall be deposited with the Village.

K. **LIABILITY OF OFFICERS:** Any police officer, towing service owner, operator, or employee shall not be held to answer or be liable for damages by the registered owner or his legal representatives, or any other person legally entitled to the possession of a motor vehicle or other vehicle when the vehicle was processed and sold or disposed of as provided by this Section.

**9.06 CUTTING AND REMOVAL OF NEGLECTED WEEDS, GRASS, TREES AND BUSHES** *Amended, 536, 492*

A. **NOXIOUS WEEDS, GRASS, TREES AND BUSHES DECLARED NUISANCE:** Any weeds such as or known as jimson, burdock, ragweed, thistle, cocklebur, or other weeds of like kind, and bushes of the species of tall, common or European Barberry, otherwise known as *Barberis Vulgaris*, or its horticultural varieties, found growing in any place or location within the corporate limits of the Village, are declared to be a nuisance. It shall be unlawful for any person to cause or permit any such weeds or bushes to grow or remain in any place or location within the corporate limits of the Village to a height in excess of 8 inches. It is also hereby declared to be a nuisance and shall be unlawful for any person to cause or permit grass to grow or remain in any place or location within the corporate limits of the Village to a height in excess of 8 inches except as it abuts a public right-of-way for a distance less than 10 feet. For purposes of this Section, neglected weeds, grass, trees and bushes are herein referenced as "Nuisance Greenery".

B. **REMOVAL OF NUISANCE GREENERY:** It shall be the duty of every owner of land within the corporate limits of the Village, to cut, destroy or remove, or cause to be cut, destroyed or removed, Nuisance Greenery as hereinabove described upon every such lot or tract of land in such manner and on or before such time as such Nuisance Greenery exceed the height of 8 inches. Upon the failure of any such owner to remove the Nuisance Greenery it shall be the duty of the Village Administrator to cause to be served a notice upon any such owner of any premises upon which any such Nuisance Greenery is caused or permitted to grow in violation of the provisions of this Section, demanding the abatement of such growth as a nuisance, within a period of 10 days from the date of such service. Failure of any owner to comply with the provisions and demands of such notice shall constitute a violation of the provisions of this Section.

C. **ABATEMENT:** If, upon the expiration of the 10-day period provided in the notice, the owner has not removed the Nuisance Greenery as directed it shall be the duty of the Village to eliminate the nuisance by cutting, destroying or otherwise removing the Nuisance Greenery. Such expense shall be charged to the property owner in accordance with Section 9.06-D below. After the removal activities the Village shall send a notice, by personal service or certified mail, to the property owner and any other person to whom was sent the tax bill for the property taxes for the taxable year immediately preceding the removal activities. Such notice

shall identify the Code violation(s), describe the removal activity and contain a common description of the underlying parcel and state the charges imposed by the Village. It shall be the duty of the property owner to pay such expense.

D. **VILLAGE ABATEMENT CHARGES:** When the Village has removed Nuisance Greenery or has paid for its removal, the property owner shall be charged as follows.

<u>Square Footage of Lot, Place or Area</u>	<u>Charge</u>
Under 10,000 square feet	\$ 70.00
10,000 to 20,000 square feet	\$ 85.00
Over 20,000 square feet to 43,560 square feet (one acre)	\$100.00
For each additional acre or fraction thereof	\$100.00

In addition, a Village administrative fee of 15 percent of the total cost for such removal shall be added to the charge. Said charges shall be due and payable by the property owner within 30 days after a bill for such charges has been mailed to the property owner.

E. **LIEN:** The Village shall have a continuing lien upon the underlying parcel containing the Nuisance Greenery in violation of this Section, for or on account of which it is necessary for any expense to be suffered or incurred by the Village for the removal of the Nuisance Greenery. Every lien shall, upon compliance with the conditions hereinafter set forth, become and be prior and superior to the rights and interest of creditors, encumbrances, purchasers and other parties in interest in such premises and real estate.

Such lien may be preserved and enforced in the following manner: The Village shall, within one year after the removal cost is incurred, file a notice of lien in the office of the Recorder of Deeds. The notice of lien shall contain a description of the underlying parcel, the amount of the removal cost and the date or dates when the removal cost was incurred by the Village. No such lien shall be defeated in the proper amount thereof because of error or overcharging on the part of the Village, nor shall any such lien be defeated upon proof that the expense or cost or charge resulted from or was incurred by reason or fault of any tenant or occupant or other person in possession other than the owner.

F. **FORECLOSURE OF LIEN:** If payment shall not be made as provided in this Section of any amount due by virtue of its provisions when the same shall become due, the Village may file or cause to be filed a petition or bill in the appropriate court for a foreclosure of mortgages. Such suit shall be commenced within 2 years after the accrual of such expense or cost or charge. Any decree rendered in court may be enforced and collected as other decrees or judgments in such court.

The remedy provided in this Section shall not be construed to abridge or in any manner interfere with the right and power of the Village to enforce the collection thereof by an action at law or as otherwise provided in this Section, but the remedy herein provided shall be taken and held as an additional means to enforce payment of such delinquent expense or cost or charge.

## 9.07 ALARMS

A. NOTIFICATION REQUIRED: It shall be unlawful for any person, firm, or corporation to lease or own an alarm system (including burglar alarm and fire alarm systems), or be in control of any premises, including single-family and multi-family dwellings and business places, wherein an alarm system is operated or maintained without first having obtained an Alarm System Permit from the Police Department for such system. No permit shall be required for alarm systems contained in or on vehicles.

B. PERMIT REQUIRED: Any person who desires to install or continue use of an alarm system, including on-premises alarm systems, shall first apply for an Alarm System Permit from the Police Department for each alarm system installed. Each application, which shall be provided by the Police Department, shall be signed by the applicant and shall include, among other things, the following (and if applicable):

1. Name, address, and telephone number of the establishment where the alarm is located;
2. Name, address, and telephone number of the owner or manager;
3. Business hours of the establishment;
4. List of persons authorized access to the establishment during non-business hours;
5. Procedure to be followed in the event of an alarm;
6. Emergency call list of personnel to notify in the event of an alarm;
7. Description and location of the alarm on the premises;
8. The name and address of the alarm business monitoring or maintaining the alarm; and
9. Permit fee, to be determined from time to time by the Village Board.

C. ANNUAL NOTIFICATION INFORMATION: On an annual basis, or more frequently if necessary, every security alarm user shall provide to the Police Department current information about the alarm system and alarm system environment. Each alarm user shall provide current information as required by the Alarm System Permit. Failure to provide current information shall be considered a violation of this Section.

D. STATE LICENSE: Except for those alarms used by the Village and other units of government, only private alarm contractors who have been licensed by the Illinois Department of Professional Registration shall be permitted to install alarm systems in the Village and only private security contractors licensed by the Illinois Department of Professional Registration shall be permitted to monitor alarm systems that have been installed in the Village.

E. FALSE ALARMS, ADDITIONAL CHARGES, REGISTRATION, AND

PERMIT REFOCATION:

1. Commencing 30 days from the date the alarm system is installed and placed in service at the premises, if the Police Department responds to more than 8 false alarms in a calendar year, the alarm user or alarm agency shall pay the following sum(s) to the Village. The fine shall be paid to the Village within 30 days after the alarm user or alarm agency is notified of the violation:  
  
7 or 8 false alarms: \$25 per occurrence;  
9 or 10 false alarms: \$50 per occurrence; and  
11 or more false alarms: \$100 per occurrence.
2. If the Police Department responds to a false alarm and it is determined the cause of the false alarm was the negligence of the alarm business for failing to contact the Police Department of work being done on the alarm, the alarm business shall be subject to the fine sums in Section 9.07-E1.
3. After 20 false alarms the Police Department may revoke the Alarm System permit.

F. AUTOMATIC DIALER ALARMS: Automatic dialer alarms that dial directly into the Police Department are not allowed to be used within the corporate limits of the Village, with the exception of those used by the Village and those authorized by the Chief based upon special facts involving medical and/or life threatening circumstances.

G. AUDIBLE ALARMS: Any alarm that emits an audible alarm is required to have a cut-off timer that will shut the alarm off automatically after 30 minutes.

H. LIMITATION ON VILLAGE LIABILITY: The Village shall take every reasonable precaution to assure that alarm signals and prerecorded alarm messages received by the Village are given appropriate attention and are acted upon with dispatch. Nevertheless, the Village shall not be liable for:

1. Any defects in the operation of the automatic signaling devices;
2. Any failure or neglect to respond appropriately upon receipt of an alarm from such source; or
3. For failure or neglect of any person in connection with the installation and operation of equipment, the transmission of alarm signals and prerecorded alarm messages or the relaying of such signals and messages.

In the event the Village finds it necessary to disconnect a defective alarm detection system, the Village shall incur no liability by such action.

## 9.08 DISORDERLY CONDUCT

A. No person shall engage in disorderly conduct in the Village. A person commits disorderly conduct when he knowingly:

1. Does any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;
2. Transmits in any manner to the fire department of any municipality or fire protection district a false alarm or fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists;
3. Transmits in any manner to another a false alarm to the effect that a bomb or other explosive of any nature is concealed in such place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive is concealed in such place.
4. Transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed.
5. Enters upon the property of another and for a lewd or unlawful purpose and deliberately looks into a dwelling on the property through any window or other opening in it.
6. With the purpose of causing public danger, alarm, disorder, nuisance, he commits any of the following acts in a public place:
  - a. Commits an act in a violent manner toward another whereby that other person is placed in danger of his life or health;
  - b. Commits an act in a violent manner toward another whereby the property of any person is placed in danger of being destroyed or damaged;
  - c. Causes, provokes or engages in any fight, brawl or riotous conduct so as to endanger the life, health or property of another;
  - d. Interferes with another's pursuit of a lawful occupation by acts of violence;
  - e. Obstructs, either singly or together with other persons, the flow of vehicular or pedestrian traffic on a public way and refuses to clear such public way when ordered to do so by a peace officer or other lawful authority;
  - f. Incites, attempts to incite or is involved in attempting to incite a riot or unlawful disturbance;

- g. Uses abusive language or threats to any peace officer or any other person when such words have a direct tendency to cause acts of violence. Words merely causing displeasure, annoyance or resentment are not prohibited;
  - h. Makes or causes to be made any loud, boisterous and unreasonable noise or disturbance in a public place or affecting a public place or another person's premises to the annoyance of any other persons nearby, or near to any public highway, road, street, lane, alley, park, square or common, whereby the public peace is broken or disturbed, or the traveling public annoyed;
  - i. Fails to obey a lawful order to disperse by a peace officer where one or more persons are committing acts of disorderly conduct in the immediate vicinity, and the public health and safety is threatened;
  - j. Uses abusive or obscene language or makes an obscene gesture in public;
  - k. Assembles with three or more persons for the purpose of using force or violence to disturb the public peace;
  - l. Assembles with three or more persons for the purpose of violating any provision of this Code; and
  - m. Appears in any public place and is under the influence of alcohol or controlled substance, to the degree that he may endanger himself or other persons or property, or alarm or disturb other persons in his vicinity.
7. Permits any assembly of two or more persons for the purpose of committing any unlawful act or breach of the peace, or any riotous, offense or disorderly conduct, in or upon any premises owned or occupied by him or under his control.
8. Interrupts or disturbs any lawful assembly of people by making any loud or unusual noise, or by rude or indecent behavior, or by profane, obscene or improper discourse or conduct.
9. Engages in mob action: mob action consists of any of the following:
- a. The use of force or violence disturbing the public peace by 2 or more persons acting together and without authority of law;
  - b. The assembly of 2 or more persons to commit an unlawful act; or
  - c. The assembly of 2 or more persons, without authority of law, for the purpose of doing violence to the person or property of anyone supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.
10. Disturbs, tends to disturb or aid in disturbing the peace of others by violent,



tumultuous conduct, and no person shall knowingly permit such conduct upon any premises owned or possessed by him or under his control.

11. Uses paint or other medium in any way to deface, damage or destroy property.

B. PENALTY: Any person violating this Section shall be fined not less than \$100 for each offense and be responsible for reimbursing the Village's cost of prosecution including attorney fees incurred by the Village. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

#### **9.09 WEAPONS** *Amended, 483*

A. WEAPONS: Unless authorized by law, no person shall wear under his clothing, or conceal about his person, or display in a threatening like manner, any dangerous or deadly weapon including, but not limited to any pistol, revolver, sling shot, knuckles, any bowie or similar knife, or any knife with a switch-blade or device whereby the blade or blades can be opened by a button, pressure on the handle or other mechanical contrivance.

B. DISCHARGE OF FIREARMS: No person shall discharge any firearms in the Village with the intent to inflict harm to a person or property or when used in a reckless manner. This Section shall not be construed to prohibit sworn police officers acting in the performance of their duties or during training authorized by the Chief of Police.

C. DISPLAY AND SALE OF SPECIFIED WEAPONS: No pawnbroker, second-hand dealer or other person engaged in business in the Village shall display or place on exhibition in any show window or other window facing upon any street, any pistol, revolver or other firearm, with a barrel less than 12 inches in length, or any brass or metal knuckles, or any club loaded with lead or other weight, or any blackjack or billy club. Weapons displayed for sale shall be incapable of firing. In non-business hours said weapons shall be stored in a secured and locked vault, safe or security box.

D. PENALTY: Any person violating this Section shall be fined not less than \$100 for each offense and be responsible for the Village's cost of prosecution including attorney fees incurred by the Village. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

#### **9.10 BARBED WIRE FENCES**

No person shall maintain any fences containing barbed wire along or near any public sidewalk.

#### **9.11 NOISE**

A. DEFINITIONS: In addition to the definitions found in Appendix A of this Code, for purposes of this Section, the following words and phrases, whether capitalized or not, shall have the following meanings:

**Construction:** Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition, for or of public or private right-of-way, structures, utilities or similar property.

**Demolition:** Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

**Emergency:** Any occurrence or set of circumstances involving actual or imminent physical trauma or property damage which demands immediate action.

**Emergency work:** Any work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by an emergency.

**Impulsive sound:** Sound of short duration, usually less than one second, with an abrupt onset and rapid decay. Examples of sources of impulsive sound include explosions, drop forge impacts and the discharge of firearms.

**Industrial area:** As defined in the Prairie Grove Zoning Code.

**Motor carrier vehicle engaged in interstate commerce:** Any vehicle for which regulations apply pursuant to Section 18 of the Federal Noise Control Act of 1972 (P.L. 92-574), as amended, pertaining to motor carriers engaged in interstate commerce.

**Motor vehicle:** Any vehicle that is propelled or drawn on land by a motor, such as, but not limited to, passenger car, truck, truck trailer, semitrailer, camper, go-cart, snowmobile, amphibious raft on land, dune buggy or racing vehicle, but not including motorcycles.

**Motorcycle:** An unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

**Muffler or sound dissipative device:** A device for abating the sound of escaping gases of an internal combustion engine.

**Noise:** Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

**Noise disturbance:** Any sound which either:

1. Endangers or injures the safety or health of humans or animals, or
2. Annoys or disturbs a reasonable person or normal sensitivities, or
3. Endangers or injures personal or real property.

**Person:** Any individual, association, partnership or corporation, and includes any officer, employee, department, agency or instrumentality of a state or any political subdivision of a state.

**Powered model vehicle:** Any self-propelled airborne, waterborne or land born plane, vessel or

vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

**Public right-of-way:** Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a governmental entity.

**Public space:** Any real properties or structures thereon which are owned or controlled by a governmental entity.

**Real property boundary:** An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

**Residential area:** As defined in the Prairie Grove Zoning Code.

**Weekday:** Any day Monday through Friday, which is not a legal holiday.

B. **NOISE SENSITIVE ZONE RECOMMENDATIONS:** The Village Board may designate the noise sensitive zone which contains noise sensitive activities. Existing quiet zones shall be considered noise sensitive zones until otherwise designated. Noise sensitive activities include, but are not limited to, operation of a school, public library, church, hospital and nursing home.

C. **NOISE DISTURBANCES PROHIBITED:** No person shall unreasonably make, continue or cause to be made or continued, any noise disturbance. Noncommercial public speaking and public assembly activities conducted on any public space or public right-of-way shall be exempt from this Section.

D. **RADIOS, TELEVISION SETS, MUSICAL INSTRUMENTS AND SIMILAR DEVICES:** No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound:

1. Between the hours of 11 p.m. and 7 a.m. the following day in such a manner as to create a noise disturbance across a real property boundary or within a noise sensitive zone, except for activities open to the public and for which a permit has been issued by the Village Board;
2. In such a manner as to create a noise disturbance at 50 feet or 15 meters from such a device, when operated in or on a motor vehicle on a public right-of-way or public space;
3. In such a manner as to create a noise disturbance to any person other than the operator of the device, when operated by any passenger on a common carrier;

This Section shall not apply to noncommercial spoken language covered until Section 9.12-E herein.

E. **LOUDSPEAKER OR PUBLIC ADDRESS SYSTEMS:** No person shall:

1. Use or operate for any noncommercial purpose any loudspeaker, public address system or similar device between the hours of 11 p.m. and 7 a.m. the following day, such that the sound therefrom creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.
2. Use or operate for any commercial purpose any loudspeaker, public address system or similar device as follows:
  - a. Such that the sound creates a noise disturbance across a real property boundary or within a noise sensitive zone; or
  - b. Between the hours of 11 p.m. and 7 a.m. the following day on a public right-of-way or public space.

F. **STREET SALES:** No person shall offer for sale or sell anything by shouting or outcry within any residential or commercial area.

G. **LOADING AND UNLOADING:** No person shall load, unload, open, close or otherwise handle boxes, crates, containers, building materials, garbage cans or similar objects between the hours of 8 p.m. and 7 a.m. the following day in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

H. **CONSTRUCTION:** Except as provided herein and except for emergency work of public service utilities, no person shall operate or permit the operation of any tools, machinery or equipment used in construction, drilling or demolition work or land development between the hours of 8 p.m. and 7 a.m. the following day on weekdays and Saturdays and between the hours of 6 p.m. and 9 a.m. the following day on Sundays and holidays, such that the sound creates a noise disturbance across a residential real property boundary or within a noise sensitive zone.

I. **VEHICLE OR MOTORBOAT REPAIRS AND TESTING:** No person shall repair, rebuilt, modify or test any motor vehicle, motorcycle or motorboat in such a manner as to cause a noise disturbance across a residential real property boundary or within a noise sensitive zone.

J. **PLACES OF PUBLIC ENTERTAINMENT:** No person shall operate, play or permit the operation or playing of any radio, television, phonograph, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound in any place of public entertainment at a sound level greater than 90 dBA as read by the slow response on a sound level meter at any point that is normally occupied by a customer, unless a conspicuous and legible sign is located outside such place, near the public entrance, stating:

**WARNING: SOUND LEVELS WITHIN  
MAY CAUSE PERMANENT  
HEARING IMPAIRMENT**

K. **POWERED MODEL VEHICLES:** No person shall operate or permit the

operation of powered model vehicles so as to create a noise disturbance across a residential real property boundary, in a public space or within a noise sensitive zone between the hours of 10 p.m. and 7 a.m. the following day. The maximum sound levels in a public space during the permitted period of operation shall be measured at a distance of 50 feet or 15 meters from any point on the path of the vehicle.

L. STATIONARY NON-EMERGENCY SIGNALING DEVICES: Except for devices used in conjunction with places of religious worship, no person shall sound or permit the sounding of any electronically amplified signal from any stationary bell, chime, siren, whistle or similar device intended primarily for non-emergency purposes, from any place for more than 10 minutes in any hourly period.

M. EMERGENCY SIGNALING DEVICES:

1. Except for emergency purposes or for testing, no person shall intentionally sound or permit the sounding outdoors of any fire, burglar or civil defense alarm siren, whistle or similar stationary emergency signaling devices.
2. Testing of a stationary emergency signaling device shall occur at the same time of day each time such test is performed but not before 7 a.m. or after 6 p.m. Any such testing shall use only the minimum cycle test time. In no case shall such test time exceed 60 seconds.
3. Testing of a complete emergency signaling system, including the functioning of the signaling device and the personnel response to the signaling device, shall not occur more than once in each calendar month. Such testing shall not occur before 7 a.m. or after 6 p.m. A time limit shall be applicable to such complete system testing.

N. NOISE SENSITIVE ZONES: No person shall create or cause the creation of any sound within any noise sensitive zone so as to disrupt the activities normally conducted within the zone or disturb or annoy the patients of a hospital, nursing home or similar activity, provided that conspicuous signs are displayed indicating the presence of the zone.

O. DOMESTIC POWER TOOLS: No person shall operate or permit the operation of any mechanically powered saw, drill, sander, grinder, lawn or garden tool, snowblower or similar device used outdoors in residential areas between the hours of 11 p.m. and 7 a.m. the following day so as to create a noise disturbance across a residential real property boundary.

P. EMERGENCY EXCEPTIONS: The provisions of this Section shall not apply to the emission of sound for the purpose of alerting persons to the existence of an emergency or the emission of sound in the performance of emergency work.

Q. EXCEPTIONS: Exceptions to this Section may be granted by the Village Board upon the filing of an application. Said application shall contain information which demonstrates that bringing the source of sound or activity into compliance with this Section would constitute an unreasonable hardship on the applicant, the Village or on other persons.

R. MOTOR VEHICLES: No person shall operate or permit the operation of any

motor vehicle with a gross vehicle weight rating (GVWT) in excess of 10,000 pounds, or any auxiliary equipment attached to such a vehicle, for a period longer than 15 minutes in any hour while the vehicle is stationary for reasons other than traffic congestion, on a public right-of-way or designated noise sensitive zone, between the hours of 11 p.m. and 7 a.m. the following day.

## **9.12 DAMAGING PROPERTY**

A. **GRAFFITI DEFINED:** Graffiti is any permanent display of any name, identification, letter, numeral, figure, emblem, insignia, picture, outline, character, spectacle, delineation, illustration, symbol or any combination thereof, which without authorization is marked, written, drawn, painted, scratched, inscribed or affixed, and which is a different color from the color of the exterior of those objects of structures described above and to which is affixed.

B. **PROHIBITED:** It shall be unlawful, and is hereby declared a nuisance to place graffiti, or permit graffiti to remain upon any public or private curb stone, flagstone, brick, sidewalk or any portion of any part of any sidewalk or street, or upon any tree, lamp post, telephone pole, utility box, utility pole, stanchion, postal mail receptacle, sign, hydrant, fence, door, wall, window, garage or enclosure, vehicle, bridge, pier or upon any other public or private structure or building.

C. No person shall damage, befoul, disturb, destroy or deface any Village property or any public or private property without permission of the owner.

D. **PENALTY:** Whoever violates any provision of this Section shall be fined not less than \$100 for each offense and be responsible for the Village's cost of prosecution including attorney fees incurred by the Village. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to the owner of any property damaged or destroyed. Nothing herein shall preclude such additional civil remedies available to the person whose property has been damaged or destroyed. Each day any violation or any provision of this Section shall continue shall constitute a separate violation.

## **9.13 LITTERING**

No person shall litter any public or private property with paper or other debris or foreign matter. Any stored or transported materials susceptible to blowing or scattering shall be adequately covered or protected to prevent littering.

## **9.14 COMBUSTIBLE REFUSE**

It shall be unlawful to permit or store any combustible refuse in such manner as to create a fire hazard, or to throw or deposit, or cause to be thrown or deposited, any such refuse of any kind on or in any street, highway, or alley or other public place within the corporate limits of the Village.

## **9.15 PARADES AND DEMONSTRATIONS**

A. No person shall participate in or promote any parade or demonstration on any street or other public property unless a permit has been issued by the Village Board.

B. Application for such permit shall provide such information as the Chief shall require for proper protection of the public.

C. No such parade or demonstration shall be held in any such manner as to obstruct the orderly use by the public of any street or public place.

D. The Village Board may issue such permit subject to such reasonable restrictions as it shall deem necessary to safeguard the residents of the Village and to protect private and public property.

#### **9.16 OPEN BURNING OF LANDSCAPE WASTE** *Ord. 542, Amended, 543*

A. **DEFINITIONS:** In addition to those terms defined in Appendix A of this Code, the following definitions are applicable to this Section.

**Brush or Landscape Waste:** Tree trunks, limbs, branches, leaves, shrubbery cuttings and twigs.

**Ceremonial Fire (Bonfire):** An outdoor fire larger than three feet by three feet by three feet which is used for entertainment purposes as part of a specifically scheduled public or private event and excludes leaves, grass or shrubbery clippings or cuttings.

**Garbage:** Any rejected or waste household food, offal, swill or carrion, and every accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of meats, fish, fowl, fruits or vegetable, and any other matter of any nature which are subject to decay, putrefaction and the generation of noxious or offensive gases or odor, or, which during or after decay, may serve as breeding or feeding material for flies or other germ-carrying insects.

**Habitable Structure:** Any Structure with electric and heat intended to be used for living, sleeping, eating, or assembly purposes including but not limited to residences, multi-family dwellings, churches, schools, food facilities and industrial buildings.

**Litter:** Any discarded, used or unconsumed substance or waste. Litter may include, but is not limited to, any Garbage, trash, refuse, debris, rubbish, newspaper, magazines, glass, metal, plastic or paper containers or other packaging construction material, motor vehicle parts, furniture, oil, carcass of dead animal, any nauseous or offensive matter of any kind, any object likely to injure any person or create a traffic hazard, potentially infectious medical waste, or anything else of an unsightly or unsanitary nature, which has been discarded, abandoned or otherwise disposed of improperly.

**Manure:** The fecal and urinary defecations of livestock and poultry. Manure may often contain some spilled feed, bedding or Litter.

**Non-Habitable Structure:** Any Structure not identified as habitable as defined and would include but is not limited to garages, sheds, barns, and swimming pools.

**Open Burning:** The combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under the provisions of the Environmental Protection Act.

**Recreational Fire:** A temporary outdoor fire for warmth, cooking for human consumption, or for nonceremonial purposes where the fire is not larger than three feet by three feet by three feet and excludes leaves, grass or shrubbery clippings or cuttings.

**Structure:** The results of a man-made change to the land constructed on or below the ground, including the construction, reconstruction or placement of a building or any addition to a building; installing a manufactured home on a site; preparing a site for a manufactured home or installing a recreational vehicle or travel trailer on a site for more than 180 consecutive days.

**B. EXEMPTIONS:**

1. Sections 9.16 C-1 and 2, 9.16-D-1, 2 and 3 and 9.16-E-2 shall not apply to:
  - a. Prescribed burns associated with ecologic restoration or natural landscape management, any burning of Landscape Waste for purposes of habitat reclamation, or firefighter training;
  - b. The burning of Brush for purposes of domestic fireplaces or cooking or external fire-places, or to self-contained outdoor wood-burning devices or fireplaces;
  - c. The Open Burning of Brush for purposes of Recreational Fires; and
  - d. The Open Burning of Brush for purposes of Ceremonial Fires or Bonfires provided that notice of any Ceremonial Fire or Bonfire has been given to the Nunda Rural Fire Protection District or Crystal Lake Rural Fire Protection District. Failure to notify the Nunda Rural Fire Protection District or Crystal Lake Rural Fire Protection District and obtain permission therefrom prior to conducting a Ceremonial Fire utilizing Brush shall be deemed a violation of this Section.

**C. PROHIBITIONS:**

1. Open Burning of Landscape Waste shall not take place within 100 feet of a Habitable Structure.
2. Open Burning of Landscape Waste shall not take place less than 50 feet from any Non-Habitable Structure.
3. The burning of grass, paper, Manure, Garbage, Litter, refuse, hay or straw of any size, baled or unbaled, from whatever source is prohibited on any property within the Village.
4. The Village President, or his designee, shall have the authority to prohibit all Open Burning of Landscape Waste or Brush in the event of



emergencies or conditions that may represent significant potential for fire safety issues. In such a situation, the Village President, or his designee, shall prepare and sign a proclamation to such effect, and publically distribute or publish in a manner deemed necessary.

D. RESTRICTIONS: Any Open Burning shall be in accordance with the restrictions enumerated below:

1. The Open Burning of Landscape Waste or Brush shall only occur on the property upon which the Landscape Waste or Brush was generated. The Open Burning of any other materials is prohibited.
2. The following restrictions upon the Open Burning of Landscape Waste or Brush on the property upon which it was generated shall prevail:
  - a. Burning is permitted only on weekends, between dawn and dusk, during the months of October, November, April and May.
  - b. Burning is not permitted when the wind is in excess of 10 miles per hour.
  - c. Burning is not permitted of any material other than dry Landscape Waste and/or Brush.
  - d. Burning is not permitted on public or private roads, alleys, sidewalks or easements.
  - e. Burning is not permitted when it is a visibility hazard on roadways, railroad tracks or air fields.

E. CONDITIONS AND LIMITATIONS OF OPEN BURNING:

1. All Open Burning must be supervised by an individual at least 18 years of age until the fire is extinguished.
2. A fire extinguisher or water hose or other water source shall be available at the burning site.
3. It is the responsibility of the individual conducting the burning and the owner of the property to satisfactorily determine that all conditions upon burning as noted above are complied with during any burning.
4. It shall be unlawful for any person to cause or allow any open or uncontrolled burning of Landscape Waste or Brush in violation of the above regulations and restrictions.
5. Any Ceremonial Fire (Bonfire) or Recreational Fire must be supervised by an individual at least 18 years of age or older.

6. The Village President or his designee shall have the authority to waive all or part of the requirements of this Section in the event of emergencies.

F. ENFORCEMENT, VIOLATIONS AND PENALTIES:

1. The Prairie Grove Police Department shall be primarily responsible for the enforcement of this Section.
2. Any person who violates any provision of this Section shall be punished by a fine of \$250.00 for a first time offense and a fine of up to \$1,000 for offenses subsequent to the first offense. The burning of any toxic material and any prior violations of this Ordinance shall be considered factors in aggravation for purposes of the assessment of any fines.

**9.17 CURFEW, Amended, 716**

A. **DEFINITIONS:** In addition to those terms defined in Appendix A of this Code, the following definitions are applicable to this Section:

**Emergency:** An unforeseen combination of circumstances that call for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

**Establishment:** Any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

**Guardian:** A person who, under court order, is the guardian of the person of a minor; or a public or private agency with whom a minor has been placed by a court.

**Minor:** A person less than 17 years of age.

**Operator:** Any individual, firm, association, partnership or corporation operating, managing or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

**Parent:** A person who is (1) a natural parent, adoptive parent or step-parent or another person; or (2) at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

**Remain:** To linger or stay; or fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.

**Serious bodily injury:** Bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

B. It shall be unlawful for any person less than 17 years of age to be present or upon any public road, street, alley or park, or other lands used for public purposes or in any public place of business or amusement in the Village at the following times unless such person is

accompanied and supervised by a parent, legal guardian or other responsible companion at least 18 years of age approved by a parent or legal guardian or unless engaged in a business or occupation which the State statutes authorize a person less than 17 years of age to perform:

1. Between 12:01 a.m. and 6 a.m. Saturday;
2. Between 12:01 a.m. and 6 a.m. Sunday; and
3. Between 11 p.m. on Sunday to Thursday, inclusive, and 6 a.m. on the following day.

C. It shall be unlawful for a parent, legal guardian or other person to knowingly allow or permit a person in their custody or legal control to violate this Section.

D. **EXCEPTIONS:** The following shall constitute valid exceptions to the operation of the curfew:

1. At any time when accompanied by his or her parent, guardian or other adult person responsible for or having the legal care, custody and control of the individual, or an authorized adult;
2. If participating in, going to or returning from, without any detour or stop:
  - a. An emergency as defined herein;
  - b. Lawful employment;
  - c. Attending an official school, religious or other social or recreational activity supervised by adults and sponsored by a unit of government, civic organization or other similar entity that takes responsibility for the attendees;
  - d. An activity involving the exercise of First Amendment rights protected by the United States Constitution (or those similar rights protected by the State of Illinois Constitution), such as free exercise of religion, freedom of speech and the right of assembly.
3. Is married or had been married or is an emancipated minor under the Emancipation of Mature Minors Act, as amended (750 ILCS 30/1 *et seq.*).

E. **ESTABLISHMENTS:** The owner, operator or any employee of an establishment commits an offense if he or she knowingly allows a minor to remain upon the premises of the establishment during curfew hours or fails to promptly notify the Police Department that a minor is present on the premises of the establishment during curfew hours and refuses to leave.

F. **ENFORCEMENT:** Before taking any enforcement action under this Section, a police officer shall ask the suspected offender's age and reason for being in the public place or on the premises. The police officer shall not issue a citation or make an arrest under this Section unless the police officer reasonably believes that an offense has occurred and that, based on any

response and other circumstances, no exception in Section 9.18-D applies.

G. PENALTY: Any person violating this Section shall be fined not less than \$100 for each offense and be responsible for the Village's cost of prosecution including attorney fees incurred by the Village. Each day that a violation continues shall be considered a separate offense. Restitution by the violator shall also be made to any property damaged or destroyed or person injured.

## **9.18 PARENTAL RESPONSIBILITY**

A. It shall be unlawful for a parent or legal guardian of an unemancipated minor residing with such parent or legal guardian to knowingly allow or permit said minor to commit any violation of a Village ordinance or State statute concerning vandalism, battery, fireworks, obscene conduct, trespass, possession of weapons or alcoholic liquor, curfew, disorderly street gang conduct, suspicious activity, or any other offense or willful or malicious acts to persons or property.

B. The parent or guardian responsible for the willful or malicious acts of the minor child pursuant to this Section shall make full restitution to the injured or damaged party or parties within 10 days after notification by mail. Parents and guardians shall be responsible individually and jointly.

C. PENALTY: Whoever violates any provision of this Section shall be fined not less than \$100 for each offense and be responsible for the Village's cost of prosecution including attorney fees incurred by the Village. Restitution by the violator shall also be made to the owner of any property damaged or destroyed. Nothing herein shall preclude such additional civil remedies available to the person whose property has been damaged or destroyed. Each day any violation or any provision of this Section shall continue shall constitute a separate violation.

## **9.19 THEFT OF SERVICE**

No person shall make any unauthorized connection, physically, electrically, acoustically, inductively or otherwise, with any part of the cable television system existing in the Village for the purpose of enabling himself or others to receive television signals, radio signals, pictures, programs, sounds or any other information or intelligence transmitted over the cable television system without payment to the owner of the cable television system.

No person shall, without the consent of the owner of the cable television system, willfully tamper with, remove or injure any cable, wires, or other equipment used for the distribution programs, sounds, or any other information or intelligence transmitted over said cable television system.

## **9.20 BICYCLES, TRICYCLES, SKATEBOARDS OR SIMILAR MOTORIZED AND NON-MOTORIZED RECREATIONAL DEVICES, *Amended, 716***

A. DEFINITIONS: In addition to the terms defined in Appendix A of this Code, the following words, when used in this Section, shall have the following meanings:

**Village property:** Any sidewalk, street right-of-way, Village park, Village parking lot/area or any other public property owned by the Village.

**Motorized wheelchair:** As defined in 625 ILCS 5/1-148.3, as amended.

**Personal use vehicle and personal use device:** Vehicles, devices or means of transportation or recreation which include, but are not limited to, the following: skateboard, bicycle, tricycle, roller blade, roller skate, or other similar device, whether non-motorized or motorized (electric, gasoline engine or other form of external power), mini-bike, pedalcycle, recreational device or vehicle, snowmobile, go-kart, moped, all-terrain vehicles (ATV), golf cart or other such motorized or non-motorized devices or vehicles or modes of transportation.

B. USE OF PERSONAL USE VEHICLES AND DEVICES: Except as provided in Section 9.20-C herein, it shall be unlawful and is hereby declared a nuisance for any person to operate, ride on, be pushed on or traverse on a personal use vehicle or personal use device on any Village property or on any private property without the permission of the property owner.

C. EXEMPTIONS:

1. Motorized wheelchairs shall be permitted to operate on any Village property so long as operated in a safe and orderly manner.
2. Non-motorized bicycles, tricycles, skateboards and other non-motorized recreational devices or vehicles may be operated on sidewalks in residential zoning districts provided the operators remain in single file, yield the right-of-way to pedestrians, and, when approaching a pedestrian, reduce the speed of the device to a speed which is no greater than necessary to continue the safe operation of the device, and without impairing the right-of-way of the pedestrian or without causing alarm or danger and/or damage to the pedestrian and/or property.
3. Special events that are conducted with a written permit issued by the Chief.
4. Any personal use vehicle or device licensed and registered pursuant to the Illinois Vehicle Code shall be permitted on any Village street or parking lot/area.
5. Any employee of any unit of government may operate any personal use vehicle or device owned by a unit of government in the course of their duties on any Village property.

**9.21 NO SMOKING** *Amended, 440*

A. DEFINITIONS: In addition to those terms defined in Appendix A of this Code, for the purposes of this Section, the following terms have the meanings ascribed to them in this Section unless different meanings are plainly indicated by the context:

**Bar:** An establishment that is devoted to the serving of alcoholic beverages for consumption by guests on the premises and that derives no more than 10 percent of its gross revenue from the sale of food consumed on the premises. Bar includes, but is not limited to, taverns, nightclubs,

cocktail lounges, adult entertainment facilities and cabarets.

**Employee:** A person who is employed by an employer in consideration for direct or indirect monetary wages or profits or a person who volunteers his or her services for a non-profit entity.

**Employer:** A person, business, partnership, association or corporation, including a municipal corporation, trust or non-profit entity that employs the services of one or more individual persons.

**Enclosed area:** All space between a floor and a ceiling that is enclosed or partially enclosed with (i) solid walls or windows, exclusive of doorways, or (ii) solid walls with partitions and no windows, exclusive of doorways, that extend from the floor to the ceiling, including, without limitation, lobbies and corridors.

**Enclosed or partially enclosed sports arena:** Any sports pavilion, stadium, gymnasium, health spa, boxing arena, swimming pool, roller rink, ice rink, bowling alley or other similar place where members of the general public assemble to engage in physical exercise or participate in athletic competitions or recreational activities or to witness sports, cultural, recreational or other events.

**Gaming equipment or supplies:** Gaming equipment/supplies as defined in the Illinois Gaming Board Rules of the Illinois Administrative Code.

**Gaming facility:** An establishment utilized primarily for the purposes of gaming and where gaming equipment or supplies are operated for the purposes of accruing business revenue.

**Healthcare facility:** An office or institution providing care or treatment of diseases, whether physical, mental, or emotional or other medical, physiological or psychological conditions, including, but not limited to, hospitals, rehabilitation hospitals, weight control clinics, nursing homes, homes for the aging or chronically ill, laboratories and offices of surgeons, chiropractors, physical therapists, physicians, dentists and all specialists within these professions. Healthcare facility includes all waiting rooms, hallways, private rooms, semiprivate rooms and wards within healthcare facilities.

**Place of employment:** Any area under the control of a public or private employer that employees are required to enter, leave, or pass through during the course of employment, including but not limited to entrances and exits to places of employment, including a minimum distance of 15 feet from entrances, exits, windows that open and ventilation intakes that serve an enclosed area where smoking is prohibited; offices and work areas; restrooms; conference and classrooms; break rooms; cafeterias and other common areas. A private residence or home-based business, unless used to provide licensed child care, foster care, adult care or other similar social service care on the premises, is not a place of employment.

**Private club:** A not-for-profit association that (i) has been in active and continuous existence for at least three years prior to the effective date of the Act, whether incorporated or not, (ii) is the owner, lessee, or occupant of a building or portion thereof used exclusively for club purposes at all times, (iii) is operated solely for a recreational, fraternal, social, patriotic, political, benevolent or athletic purpose, but not for pecuniary gain, and (iv) only sells alcoholic beverages incidental to its operation. For purposes of this definition, private club means an organization that is

managed by a board of directors, executive committee, or similar body chosen by the members at an annual meeting, has established bylaws, a constitution, or both to govern its activities, and has been granted an exemption from the payment of federal income tax as a club under 26 U.S.C. 501.

**Private residence:** the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home or assisted living facility shall not be considered a private residence.

**Proprietor:** Any individual or his designated agent who, by virtue of his office, position, authority or duties, has legal or administrative responsibility for the use or operation of property.

**Public place:** Any building or vehicle used by and open to the public, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the State of Illinois, or any other public entity and regardless of whether a fee is charged for admission, including a minimum distances of 15 feet from entrances, exits, windows that open and ventilation intakes that serve an enclosed area where smoking is prohibited. A public place does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. A public place includes but is not limited to enclosed indoor areas used by the public or serving as a place of work including, but not limited to, hospitals, restaurants, retail stores, offices, commercial establishments, elevators, indoor theaters, libraries, museums, concert halls, public conveyances, educational facilities, nursing homes, auditoriums, enclosed or partially enclosed sports arenas, meeting rooms, schools, exhibition halls, convention facilities, polling places, private clubs, gaming facilities, and all government owned vehicles and facilities, including buildings and vehicles owned, leased or operated by the State or State subcontract, healthcare facilities or clinics, enclosed shopping centers, retail service establishments, financial institutions, educational facilities, ticket areas, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, bowling alleys, skating rinks, reception areas, and no less than 75 percent of the sleeping quarters within a hotel, motel, resort, inn, lodge, bed and breakfast or other similar public accommodation that are rented to guests, but excludes private residences.

**Restaurant:** An eating establishment, including, but not limited to, coffee shops, cafeterias, sandwich stands and private and public school cafeterias, that gives or offers for sale food to the public, guests or employees, and/or a kitchen or catering facility in which food is prepared on the premises for serving elsewhere. Restaurant includes a bar area within the restaurant.

**Retail tobacco store:** A retail establishment that derives more than 80 percent of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. Retail tobacco store does not include a tobacco department or section of a larger commercial establishment or any establishment with any type of liquor, food or restaurant license.

**Smoke or smoking:** The carrying, smoking, burning, inhaling or exhaling of any kind of lighted pipe, cigar, cigarette, hookah, weed, herbs or any other lighted smoking equipment.

B. **SMOKING IN PUBLIC PLACES PROHIBITED:** No person shall smoke in a public place or any place of employment or within 15 feet of any entrance to a public place or place of employment. No person may smoke in any vehicle owned, leased, or operated by the State, Village or other political subdivision of the State. Smoking is prohibited in indoor public places and places of employment unless exempted by Section 9.21-E.

C. **SMOKING PROHIBITED IN STUDENT DORMITORIES:** Notwithstanding any other provision of this Section, smoking is prohibited in any portion of the living quarters, including, but not limited to, sleeping rooms, dining areas, restrooms, laundry areas, lobbies and hallways, of a building used in whole or in part as a student dormitory that is owned and operated or otherwise utilized by a public or private institution of higher education.

D. **POSTING OF SIGNS; REMOVAL OF ASHTRAYS; DESIGNATION OF OTHER NON-SMOKING AREAS:**

1. “No Smoking” signs or the international “No Smoking” symbol, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it, shall be clearly and conspicuously posted in each public place and place of employment where smoking is prohibited by this Section by the owner, operator, manager, or other person in control of that place.
2. Each public place and place of employment where smoking is prohibited by this Section shall have posted at every entrance a conspicuous sign clearly stating that smoking is prohibited.
3. All ashtrays shall be removed from any area where smoking is prohibited by this Section by the owner, operator, manager, or other person having control of the area.
4. Notwithstanding any other provision of this Section, any employer, owner, occupant lessee, operator, manager, or other person in control of any public place or place of employment may designate a non-enclosed area of a public place or place of employment, including outdoor areas, as an area where smoking is also prohibited provided that such employer, owner, lessee or occupant shall conspicuously post signs prohibiting smoking in the manner described in this Section.

E. **EXEMPTIONS:** Notwithstanding any other provisions of this Section, smoking is allowed in the following areas:

1. Private residences or dwelling places, except when used as a child care, adult day care, or other healthcare facility or any other home-based business open to the public.
2. Retail tobacco stores in operation prior to January 1, 2008. The retail tobacco store shall annually file with the Illinois Department of Public Health by January 31st an affidavit stating the percentage of its gross income during the prior calendar year that was derived from the sale of



loose tobacco, plants or herbs and cigars, cigarettes, pipes or other smoking devices for smoking tobacco and related smoking accessories. Any retail tobacco store that begins operation after the effective date of January 1, 2008, may only qualify for an exemption if located in a freestanding structure occupied solely by the business and smoke from the business does not migrate into an enclosed area where smoking is prohibited.

3. Private and semi-private rooms in nursing homes and long-term care facilities that are occupied by one or more persons, all of whom are smokers and have requested in writing to be placed or to remain in a room where smoking is permitted and the smoke shall not infiltrate other areas of the nursing home.
4. Hotel and motel sleeping rooms that are rented to guests and are designated as smoking rooms, provided that all smoking rooms on the same floor must be contiguous and smoke from these rooms must not infiltrate into nonsmoking rooms or other areas where smoking is prohibited. Not more than 25 percent of the rooms rented to guests in a hotel or motel may be designated as rooms where smoking is allowed. The status of rooms as smoking or nonsmoking may not be changed, except to permanently add additional nonsmoking rooms.

F. **ENFORCEMENT:** The Illinois Department of Public Health, State-certified local public health departments and local law enforcement agencies shall enforce the provisions of this Section and may assess fines pursuant to Section 9.21-G. Any person may register a complaint with the Illinois Department of Public Health, a State-certified local public health department or a local law enforcement agency for a violation of this Section.

G. **VIOLATIONS:**

1. A person, corporation, partnership, association or other entity, who violates this Section, shall be fined no less than \$100 and not more than \$250 plus the Village's cost of prosecution, including reasonable attorney fees. Each day that a violation continues shall be considered a separate offense.
2. A person who owns, operates, or otherwise controls a public place or place of employment that violates this Section shall be fined (i) not less than \$250 for the first violation, (ii) not less than \$500 for the second violation within one year after the first violation, and (iii) not less than \$750 for each additional violation within one year after the first violation.

H. **INJUNCTIONS:** The Illinois Department of Public Health, a State-certified local public health department, local law enforcement agency or any individual personally affected by repeated violations may institute, in the circuit court, an action to enjoin violations of this Section.

## **9.22 REMOTE CONTROL DEVICES**

No remote control device, such as model airplanes or toy vehicles, shall be operated on any Village street or parking lot.

## **9.23 STREET GANG ACTIVITY**

### **A. VILLAGE BOARD FINDINGS:**

1. The Village Board hereby finds and declares that it is the right of every person, regardless of race, color, creed, religious, national origin, sex, gender, sexual orientation, age or disability to be secure and protected from fear, intimidation and physical harm caused by the activities of violent groups and individuals. It is not the intent of this Chapter to interfere with the exercise of the constitutionally protected rights of freedom of expression and association. The Village Board hereby recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who share similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process.
2. The Village Board finds, however, that urban, suburban and rural communities, neighborhoods and schools throughout the State are being terrorized and plundered by street gangs. The Village Board finds there are now several hundred street gangs operating in Illinois, and that while their terrorism is most widespread in urban areas, street gangs are spreading into suburban and rural areas of Illinois, including McHenry County.
3. The Village Board further finds that street gangs are often controlled by criminally sophisticated adults who take advantage of our youth by intimidating and coercing them into membership by employing them as drug couriers and runners, and by using them to commit brutal crimes against persons and property to further the financial benefit to and dominance of the street gang.
4. Street gang activity presents a clear and present danger to public order and safety and is not constitutionally protected. No society is or should be required to endure such activities without redress. Accordingly, it is the intent of the Village Board, by enacting this Chapter, to prohibit street gang related activity.

B. For the purpose of this Section, “street gang” or “gang” is defined as any ongoing organization, association in fact or group of three or more persons, whether formally or informally organized, or any sub-group or affiliated group thereof, having as one of its activities the commission of criminal or illegal acts, including by way of example only and not in anyway limiting or specifying, illegal drug distribution, and whose members individually or collectively engage in or have engaged in a pattern of criminal or illegal acts, and which group frequently, though not necessarily, claim one or more particular geographic territory or “turf” exclusively as its realm of influence and operations.

C. It shall be unlawful for any person within the Village to knowingly use, display or wear colors, emblems or insignia on or about their person in public for the purpose of promoting any street gang activity.

D. It shall be unlawful for any person within the Village to knowingly do or make any act, utterance, gesture or display for the purpose of communicating membership of, affiliation with, association with, support of, identification with, sympathy toward or affront or insult toward any street gang, or with actual knowledge that the subject act, utterance, gesture or display is used and recognized as communicative of street gang membership, affiliation, association, support, identification, sympathy or affront.

E. PENALTY: Any person violating this Section shall be fined not less than \$100 for each offense and be responsible for reimbursing the Village's cost of prosecution including attorney fees incurred by the Village. Each day that a violation continues shall be considered a separate offense.

#### **9.24 PERSONS RESPONSIBLE FOR UNLAWFUL ACTIVITIES ON THEIR PREMISES**

It shall be unlawful for any person or persons who are the owners or occupants of any premises to allow, initiate or maintain any gathering on that premises in which tenants, invitees, visitors or trespassers engage in any unlawful activity. Unlawful activity shall include, but not be limited to, violations of any sections of this Chapter. A person will be deemed to have permitted the gathering if that person is on the premises while the unlawful activity is occurring and has not informed the police thereof. For purposes of this Section only, a gathering shall consist of 2 or more persons who are not occupants or owners of the premises.

#### **9.25 POSSESSION, USE, AND SALE OF CANNABIS, *Amended, Ord. 619, 716***

##### **A. DEFINITIONS:**

**Cannabis:** For purposes of this Section, cannabis is defined as in 720 ILCS 550/3(a), as amended.

**Cannabis Regulation and Tax Act:** The Cannabis Regulation and Tax Act, 410 ILCS 705/1-1, *et seq.*, as amended, the terms of which are incorporated herein.

**Compassionate Use of Medical Cannabis Pilot Program Act:** The Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/1 *et seq.*, as amended, the terms of which are incorporated herein.

##### **B. PROHIBITION ON THE POSSESSION, USE, AND SALE:**

1. It shall be unlawful for any person to knowingly possess, consume, use, purchase, obtain, transport, or sell cannabis, except in compliance with the Cannabis Regulation and Tax Act or the Compassionate Use of Medical Cannabis Program Act, within the corporate limits of the Village.

2. It shall be unlawful for any person to knowingly to allow someone else to consume, use, purchase, obtain, or sell cannabis, except in compliance with the Cannabis Regulation and Tax Act and the Compassionate Use of Medical Cannabis Program Act, in any public place within the corporate limits of the Village.

D. VIOLATION; PENALTY:

1. Whoever violates the possession provisions of this Section 9.25(B)(1) shall be fined not less than \$100 and not more than \$200 if the amount possessed is 10 grams or less and shall be fined not less than \$200 and not more than \$500 if the amount possessed is over 10 grams. Said fines are enacted consistent with 720 ILCS 550/17.5. Each day that a violation continues shall be considered a separate offense.
2. Whoever violates any other provision of this Section 9.25 shall be fined not less than \$200 and not more than \$500. Said fines are enacted consistent with 720 ILCS 550/17.5. Each day that a violation continues shall be considered a separate offense.

**9.26 POSSESSION OF DRUG PARAPHERNALIA, *Ord. 669, 619***

A. DEFINITION: For purposes of this Section, drug paraphernalia is defined in as in 720 ILCS 600/2(d), as amended, and includes, but is not limited to:

1. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
2. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substance;
3. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance;
4. Testing equipment used, intended for use or signed for use in identifying, or in analyzing the strength effectiveness or purity of controlled substances;
5. Scales and balances used, intended for use or designed for use in weighing or measuring controlled substances;
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use or designed for use in cutting controlled substances;

7. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances;
8. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances;
9. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances;
10. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing cocaine into the human body, such as:
  - a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, or punctured metal bowls;
  - b. Water pipes;
  - c. Carburization tubes and devices;
  - d. Smoking and carburization masks;
  - e. Roach clips, meaning objects used to hold burning material that has become too small or too short to be held in the hand;
  - f. Chamber pipes;
  - g. Carburetor pipes;
  - h. Electric pipes;
  - i. Air-driven pipes;
  - j. Chillums;
  - k. Bonges; and
  - l. Ice pipes or chillers.
11. In determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:
  - a. Statements by an owner or by anyone in control of the object concerning its use;
  - b. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substances;

- c. The proximity of the object, in time and space, to a direct violation of this Section;
- d. The proximity of the object to controlled substances;
- e. The existence of any residue of controlled substances on the object;
- f. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons whom he knows, or should reasonably know, intend to use the object to facilitate a violation of this Section; the innocence of an owner, or of anyone in control of the object, as to a direct violation of this Section, shall not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;
- g. Instructions, oral or written, provided with the object concerning its use;
- h. Descriptive materials accompanying the object which explain or depict its use;
- i. National and local advertising concerning its use;
- j. The manner in which the object is displayed for sale;
- k. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- l. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;
- m. The existence and scope of legitimate uses for the object in the community; and
- n. Expert testimony concerning its “use.”

B. **POSSESSION PROHIBITED:** It shall be unlawful for any person to knowingly any drug paraphernalia within the corporate limits of the Village.

C. **USE OF CANNABIS:** Notwithstanding the foregoing, it shall not be unlawful for any individual to possess drug paraphernalia consistent with the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/1 et seq.) or the Cannabis Regulation and Tax Act (410 ILCS 705/1-1, et seq.), as amended, the terms of which are incorporated herein.

D. **VIOLATION; PENALTY:** Whoever violates any provision of this Section 9.26 shall be fined not less than \$100 and not more than \$200 if the drug paraphernalia is seized during a violation of Section 9.25, otherwise the fine shall be not less than \$200 nor more than

\$500. Said fines are pursuant to 720 ILCS 550/17.5. Each day that a violation continues shall be considered a separate offense.

**9.27** *Intentionally left blank, Amended, 716*

**9.28 POSSESSION AND PUBLIC CONSUMPTION OF ALCOHOLIC LIQUOR,**  
*Amended 715*

A. PUBLIC USE PROHIBITED: It shall be unlawful:

1. for any person to consume alcoholic liquor in or about any public place unless otherwise expressly permitted by the Village; and
2. for any owner, tenant, or occupant of any public place to permit the unlawful consumption of alcoholic liquor in or about any public place unless otherwise expressly permitted by the Village.

B. POSSESSION PROHIBITIONS: It shall be unlawful:

1. for any person to possess alcoholic liquor in or about any public place except in the original package and with the seal unbroken unless otherwise expressly permitted by the Village; and
2. for any owner, tenant, or occupant of any public place except in the original package and with the seal unbroken to permit the unlawful possession of alcoholic liquor in or about any public place unless otherwise expressly permitted by the Village.

C. VIOLATION; PENALTY: Whoever violates any provision of this Section 9.28(A)(1) and (B)(1) shall be fined not less than \$100 and be responsible for reimbursing the Village's cost of prosecution including attorney fees incurred by the Village. Whoever violates any provision of this Section 9.28(A)(2) and (B)(2) shall be fined not less than \$250 for the first offense and not less than \$500 for each offense thereafter and be responsible for reimbursing the Village's cost of prosecution including attorney fees incurred by the Village. Each day that a violation continues shall be considered a separate offense.

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## Chapter 10 SCAVENGERS, RECYCLABLES AND REFUSE

- 10.1 Definitions
- 10.2 Residential Scavenger Service Regulations
- 10.3 Commercial Scavenger Service Regulations
- 10.4 Prohibitions
- 10.5 Scavenger Services Licenses

### 10.1 DEFINITIONS

In addition to the definitions found in Appendix A of this Code, the following terms used in this Chapter are defined as follows:

**Bulk items:** Discarded furniture, bedding, appliances, equipment, bicycles, sleds, swing sets, large tools and comparable items, capable of being handled by 1 person and shall not exceed 50 pounds in weight and shall be able to be collected with a standard packer type collection vehicle.

**Landscape waste:** All accumulations of grass or shrubbery cuttings, leaves, tree limbs, aquatic weeds and other materials accumulated as the result of the care of lawns, shrubbery, vines, trees and as otherwise described in 415 ILCS 5/3.20.

**Landscape waste unit:** A landscape waste unit may be any of the following:

1. Landscape waste contained in 1 biodegradable paper "kraft" type bag, up to 33 gallons in capacity.
2. Landscape waste contained in 1 metal or plastic can, up to 34 gallons in capacity and not exceeding 60 pounds.
3. One bundle of landscape waste, including brush or other branches 4 inches or less in diameter, too bulky for placement into kraft paper bags or cans, securely tied with biodegradable string or twine, not exceeding 4 feet in length and 60 pounds in weight.

**Multiple dwelling:** A building or a part of a building designed, intended or used as an apartment house, apartment, hotel, tenement, house or other use in which there is more than 1 dwelling unit.

**Premises:** Any house, residence building, flat, apartment, dwelling place or place of abode, commercial or industrial establishment, office building, hotel, church, school, hospital, club building or meeting hall, or any other business or institutional establishment.

**Recyclable material:** Newsprint, corrugated paper, junk mail, magazines, office paper, boxboard, ferrous metal cans, aluminum containers, glass and plastic, which shall include HDPE, PET containers, and plastics 3 through 7, and additional items as mutually agreed upon by the Village and the scavenger.

**Recycling container:** A waste container used separately for recyclable materials.



**Refuse:** Garbage, industrial, lunchroom or office waste, and other material resulting from the operation of residential, municipal, commercial or institutional establishments and community activities, which are not defined as recyclable material or landscape waste, including small amounts of construction debris and materials that 1 person can load into a collection vehicle.

**Residence:** A building which is arranged, designed, used or intended to be used for residential occupancy by one or more families, but does not include a multiple dwelling building of more than 4 dwelling units.

**Residential scavenger service:** The collection or disposal of refuse from all homes and residences, including multiple dwellings of not more than 4 dwelling units, and including all Village facilities but excluding the removal by contractors, developers, builders, craftsmen, installers, towing services, landscapers, servicemen and the like of debris caused by their normal operations, or trees, logs, brush, tree limbs or junked motor vehicles.

**Scavenger:** Any person, firm, partnership, association, joint stock company, joint venture, public or private corporation conducting any of the enumerated activities of collection and disposal of waste materials for set fees or payments.

**Waste container:** A durable metal or plastic container of standard waterproof construction with a tight fitting cover and handles suitable for lifting by one person having a capacity of not less than 10 gallons nor more than 34 gallons, or a “toter” cart, supplied by the scavenger, having a capacity of 65 gallons or 95 gallons designed for automated collection, provided however, that the term “waste container” as applied to premises receiving scavenger services shall also include receptacles of impervious materials, such as galvanized metal of a suitable gauge and construction to insure durability, with the tight-fitting cover, rodent and fly proof, of a type 1 to 8 cubic yards capacity, supplied by the scavenger and emptied mechanically into a “packer-type” vehicle. Containers that do not meet the criteria set forth in this Chapter shall be prohibited.

## **10.2 RESIDENTIAL SCAVENGER SERVICE REGULATIONS**

A. **REFUSE ACCUMULATIONS PROHIBITED:** It shall be the duty of every owner, occupant and/or agent of any premises located within the Village to keep their premises free and clean from refuse at all times.

B. **REFUSE REMOVAL REQUIRED:**

1. Refuse shall be removed from any and all premises within the Village at least once a week, provided, however, every owner, occupant and/or agent of any premises shall cause all refuse to be removed from any and all premises as often as necessary to comply with this Section.
2. It shall be the duty of every person owning or occupying any premises, or portions thereof, to remove or cause to be removed therefrom, before vacating the same, any and all refuse or any other waste.

C. **REFUSE STORAGE RESTRICTONS:**

1. No person shall permit any refuse to accumulate within the Village unless

such refuse shall be suitably enclosed in waste containers.

2. Only waste containers defined herein shall be acceptable. A sufficient number of waste containers for a weekly accumulation of refuse shall be provided and at all times maintained in good order and repair by the owner, occupant or agent or any premises in the Village. All waste containers shall be kept clean and disinfected with an antiseptic solution as often as necessary to maintain them in a sanitary condition. Filthy, leaky or defective receptacles shall be cleaned, repaired or replaced by the owner, occupant or agent of the premises served.
3. It shall be the duty of the owner, occupant or agent of any premises to cause all refuse produced on the premises to be thoroughly drained of all surplus liquid, securely wrapped or bagged in paper or plastic, bundled or packed in a covered box or carton of such dimensions as will permit its free passage into and out of the waste container, and finally deposited, after such wrapping, bagging, bundling or packaging in such waste container, as soon as practicable after the same is produced thereof.

All refuse shall be securely wrapped, bagged, bundled or packed in such a manner as may be necessary to prevent the scattering of same, and shall be deposited in a waste container.

4. It shall be unlawful for any person to deposit in any waste container any article or thing other than refuse as defined herein.
5. It shall be unlawful to dispose of any refuse in such a manner that the wind, sun, rain or snow scatters refuse.

D. **DEAD ANIMAL DISPOSAL:** Dead animals are not considered refuse and shall not be disposed of in waste containers. Dead animals shall only be disposed of in accordance with all applicable health regulations.

E. **CUSTOMER REGULATIONS:** Except as provided herein, the following regulations shall apply to all persons receiving residential scavenger service.

1. The owner or occupant of every single-family dwelling unit shall provide and maintain in good condition and repair not less than 1 residential waste container. The owner or agent of every multiple dwelling having not more than 4 dwelling units shall provide and maintain in good condition and repair not less than 1 waste container per dwelling unit.
2. Waste containers, landscape waste units and recycling containers shall be stored at the side or rear of the dwelling units except from 3 p.m. on the day prior to collection to 8 p.m. on the day of collection, when waste containers landscape waste units and recycling containers may be placed at the curb. Waste containers shall be placed on the curb on the day of collection by 6 a.m.

3. The items which may be placed at the curb for collection and pickup shall be limited as follows:
  - a. An unlimited number of residential waste containers and bulk items; and
  - b. An unlimited number of landscape waste units; and
  - c. An unlimited quantity of recyclable material contained in one or more recycling container(s).

### **10.3 COMMERCIAL SCAVENGER SERVICE REGULATIONS**

Notwithstanding any provisions herein, all persons who receive commercial scavenger service shall be subject to the following additional regulations:

1. Waste containers may be located anywhere on a lot. However, if waste containers are located in a required front yard or in an exterior side yard, containers shall be adequately screened from public view with a solid type fence not less than 5 feet in height, provided the height of the fencing shall not exceed more than 12 inches the height of the waste containers. Fencing shall enclose the waste containers on no less than 3 sides.
2. A special pickup shall be arranged for all bulk items and bulk items shall remain within an enclosed building until pickup.
3. No refuse, waste container or landscape unit shall be placed on the curb.

### **10.4 PROHIBITIONS**

It shall be unlawful for any person to do any of the following prohibited acts:

1. Place for collection or pickup any landscape waste or refuse in a recycling container.
2. Mix landscape waste with any refuse that is intended for collection or disposal at a landfill.
3. Place for collection or pickup of any landscape waste unless it is packaged as a landscape waste unit.
4. Bury refuse, landscape waste and/or recyclable material at any time within the Village limits.
5. Permit the storage of or to store any refuse, landscape waste and/or recyclable material in any such way as to create a fire hazard.
6. Place, deposit or permit to be deposited in an unsanitary manner upon any public or private property within the Village the carcass of any animal or any offal, filth or noisome substance.

7. Dump, deposit or place any refuse, landscape waste and/or recyclable material upon real property owned by another without the consent of the owner or person in possession of such real property, and otherwise in conformance with all applicable regulations set forth in this Chapter.
8. Dump or deposit refuse, landscape waste and/or recyclable material, construction waste, the carcass of any dead animal or any offal, filth or noisome substance or any other offensive matter in any watercourse, lake, pond, spring, well or common sewer, street or public highway.
9. Sweep or deposit any sweeping from any walkway, driveway, building or any construction activity onto any public or private street, right-of-way or parkway.

## **10.5 SCAVENGER SERVICES LICENSES**

A. It shall be unlawful for any person to engage in residential scavenger service or in the collection or disposal of garbage, refuse, recyclable materials or landscape wastes from residential dwellings within the Village, without first having obtained a license from the Village and entering into a contract with the Village.

B. Applications for scavenger service licenses shall be made in writing at the Village Hall. Each application shall contain such information as may be required by the Village including, but not limited to, the name and address of the applicant, and, if the applicant is other than a natural person, the names and addresses of all partners, directors, officers, registered agents and/or persons having, beneficially or otherwise, any ownership interest in the applicant.

C. Not more than one residential scavenger service license shall be issued and in force at one time. There shall be no limit on the number of commercial scavenger service licenses issued or in force at any time. All scavenger service licenses shall be annual licenses, commencing on May 1<sup>st</sup> of each year, or the date of issuance if later than May 1<sup>st</sup>, and terminate on April 30<sup>th</sup> of the following year. The fee for a residential scavenger service license shall be \$100 per year.

D. It shall be the duty of each person holding a residential scavenger license to comply with the following standards and specifications:

1. Bond and Issuance Requirements:
  - a. Bond: Prior to the issuance of any license, the licensee shall file with the Village a performance bond in the amount of \$25,000 with sureties, in a form acceptable to the Village.
  - b. Prior to the issuance of any license, the licensee shall provide the Village with evidence that the licensee has currently in force adequate insurance against liability under State Workman's Compensation and Occupational Disease, motor vehicle liability insurance and a policy of general liability insurance with such limits and coverages as the Village may from time to time require. The Village shall be named an additional insured on the motor vehicle li-

ability and general liability coverages. Each licensee shall indemnify and hold the Village harmless from and against claims for damages arising by reason of the performance or non-performance of the licensee hereunder or by reason of any act or omission of said licensee. The licensee shall be required to produce a certificate of insurance indicating the required insurance is in force during the term of the license. The certificate shall reflect that the insurance policies shall not be cancelable without 30 days prior written notice to the Village.

2. Vehicle Requirements: The licensee shall use modern loader trucks and keep all equipment used in the performance of its work in a clean, sanitary condition and shall not permit the trucks to remain standing anywhere in the Village. All trucks used for residential refuse collection shall be enclosed in a leak proof packer type of truck. Recyclable material shall be collected in a vehicle appropriate for this purpose. Landscape waste shall be collected in a leak proof packer type of truck.
3. Disposal of Refuse:
  - a. All refuse collected by a licensee shall be disposed of by the licensee at its own expense outside the corporate limits of the Village. Recyclable material shall be disposed of at a proper processing facility or a material vendor, and in accordance with any applicable contract between the scavenger and the Village. Landscape waste shall be disposed of at a site in conformance with State requirements. It shall be unlawful for any licensee to dispose of or store any refuse, recyclable material or landscape waste in any place within the Village limits.
  - b. All refuse collected by any licensee shall be disposed of in accordance with all applicable State statutes and requirements of the Village.
4. Holiday Pickups: When a scheduled pickup day falls on a holiday, the refuse shall be picked up on the next business day occurring immediately thereafter.
5. Customer Service: The licensee shall provide an area office and telephone number for the receipt of service calls or complaints, and shall have an employee available to receive such calls on working days from 8 a.m. to 4:30 p.m. Complaints shall be given prompt and courteous attention. In case of missed scheduled collections, the licensee shall investigate, and if the claim is valid, shall arrange for a pickup of the refuse in question within 24 hours after the complaint is received. All licensees shall maintain a log of every complaint received, the date received, the person making the complaint, any action taken and the date such action is taken. Such complaint log shall at times be available for inspection by the Village.

6. Employees Under the Influence of Liquor Prohibited: It shall be unlawful for any licensee, his agents or employees to be performing scavenger services within the Village while under the influence of intoxicating liquors. Said violation will subject a licensee to license revocation.
7. Additional Standards and Specifications for Residential Scavenger Service: In addition to the standards and specifications herein, any residential scavenger service licensee shall comply with the following standards and specifications:
  - a. The items which may be placed for collection and pickup shall be limited as follows:
    - (1) An unlimited number of residential waste containers and bulk items.
    - (2) An unlimited number of landscape waste units.
    - (3) An unlimited quantity of recyclable material contained in one or more recycling container(s).

The licensee shall collect and pick up all refuse, landscape waste and recyclable material from each residence per pickup in accordance with the provisions of this Section. Such pickups shall be from the front curb.

- b. When any residential customer has accumulated refuse not provided for herein, the customer shall request that a special pickup be made by the licensee. The licensee shall provide the customer with a written estimate of the cost of such special pickup, which shall be agreed to in writing by the customer and the licensee prior to rendering the service. Special pickups shall be accomplished within one week after a cost estimate is provided, or otherwise at such times as is agreed to by the customer.
- c. Collection shall be made from each residence or location once a week, in accordance with bid specifications.
- d. The licensee shall collect discarded Christmas trees from each residence on an annual basis, as provided for in the contract entered into between the Village and the licensee.
- e. Collection rates shall be as provided for in the contract entered into between the Village and the licensee.

E. REVOCATION, SUSPENSION: Residential scavenger service licenses may be revoked and/or suspended as follows:

1. When the conduct or operation of a licensee constitutes a nuisance in fact

and a clear and present danger to the public health, safety or general welfare, the President shall be authorized to summarily order the cessation of business and the suspension of the license for a period not to exceed 10 days.

2. A residential scavenger service license may be revoked by the President after notice and hearing as provided herein above, for any of the following reasons:
  - a. Any fraud, misrepresentation or false statement contained in the license application;
  - b. Any violation by the licensee of provisions relating to the license or the subject matter of the license;
  - c. Conviction of the licensee of any felony or of a misdemeanor involving moral turpitude;
  - d. Failure of the licensee to pay any fine or penalty owing to the Village; or
  - e. Refusal to permit an inspection, or any interference with a duly authorized Village officer or employee while in the performance of their duties in making an inspection.

Such revocation, if ordered, shall not preclude prosecution and imposition of any other penalties provided for the violation of other applicable sections of this Code.

3. Notice of the hearing for revocation of a residential scavenger service license shall be given in writing setting forth specifically the grounds of the complaint and the time and place for the hearing. The notice shall be sent by certified mail (return receipt requested) to the licensee at the last known address at least 5 days prior to the date set forth for the hearing.
4. At the hearing, the Village Attorney shall present the complaint and shall represent the Village. The licensee shall be permitted counsel and shall have the right to submit evidence and cross-examine witnesses. The President shall preside and shall render the decision.
5. Any person aggrieved by the decision of the President in connection with the revocation of a residential scavenger service license shall have the right to appeal to the Village Board. Such appeal shall be taken within 10 days after notice of revocation of the license by filing at the Village Hall a written statement under oath setting forth specifically the grounds for appeal. The Village Board shall thereupon set the time and place for a hearing on such appeal, and notice of such hearing shall be given to the licensee in the same manner as provided herein above. The decision of the Village Board on such appeal shall be by vote of a majority of all the mem-

bers then holding office and shall be final.

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## Chapter 11 DOGS and OTHER ANIMALS

- 11.1 Definitions
- 11.2 Cruelty to Animals
- 11.3 Dangerous Animals
- 11.4 Noisy Animals
- 11.5 Animals Prohibited
- 11.6 Diseased Animals
- 11.7 Dog Licenses
- 11.8 Dogs and Cats Running at Large
- 11.9 Animal Bites
- 11.10 Dog Litter
- 11.11 Limit

### 11.1 DEFINITIONS

In addition to the definitions found in Appendix A of this Code, the following words and phrases shall have the meanings, and are hereby defined, as follows:

**Animal:** Every living creature, domestic or wild, not including man.

**Dangerous animal:** Any lion, tiger, leopard, ocelot, jaguar, cheetah, margay, mountain lion, lynx, bobcat, jaguarundi, bear, hyena, wolf, coyote or life-threatening snake or reptile.

**Domestic animal:** Any animal, except birds or fish, the ownership of which is not prohibited under the definition of “prohibited animal” set forth herein.

**Owner:** Any person who:

1. Has a right of property in an animal;
2. Keeps an animal;
3. Has an animal in his care of custody; or
4. Knowingly permits an animal to remain on or about any premises occupied by him.

**Run at large:** To be free of restraints off the premises of the owner.

**Prohibited animal:** Pigs, swine, sheep, chickens or other fowl, cattle, horses, goats or similar animals, or any naturally wild animal, except birds or fish, whether or not bred for domestic purposes. Such animals shall, however, be permitted in zoological parks, performing animal exhibitions, educational institutions, veterinary hospitals and Farming District (F) and Estate District (E-5) zoning districts.

**Vicious animal:** Any animal which bites, or in any other manner, attacks or attempts to attack, except that any animal that bites, attacks or attempts to attack any person unlawfully entering

upon its owner's premises, or which is provoked to attack, shall not be deemed a vicious animal.

## **11.2 CRUELTY TO ANIMALS**

No person shall cruelly treat any animal. Any person who inhumanely beats, under feeds, overloads or abandons any animal is guilty of a violation of this Section.

## **11.3 DANGEROUS ANIMALS**

All persons owning or in possession of any dangerous or vicious animal shall restrain said animal from running at large within the Village. Exhibitions or parades of dangerous or otherwise prohibited animals as defined herein may be conducted upon securing a permit from the Chief of Police.

## **11.4 NOISY ANIMALS**

No person shall harbor or keep any animal which disturbs the peace by loud noises.

## **11.5 ANIMALS PROHIBITED**

No person shall stable, keep or maintain any prohibited animals, as defined herein, in the Village, nor shall any person ride, walk or lead such prohibited animals in the Village, except by special permission granted by the Village Board; provided that horses may be led through the Village on a public roadway when safe to do so without disrupting traffic. And except also that the Village may issue a permit for the use of any horse-drawn carriage for a particular event or ceremony.

Nor shall any person keep, harbor, care for, act as custodian of or maintain in his possession, any dangerous animal.

## **11.6 DISEASED ANIMALS**

A. All persons owning or in possession of any animal afflicted with a contagious or infectious disease shall restrain said animal from running at large within the Village where the public health may be affected. No diseased animal shall be shipped or removed from the premises of the owner except under the supervision of an animal control officer or the state veterinarian. No diseased animal shall be brought into the Village.

B. The animal control officer shall secure the disposition of any diseased animal and the treatment of affected premises so as to prevent the communication and spread of the contagion or infection, except in cases where the state veterinarian is empowered to act.

## **11.7 DOG LICENSES**

No person shall permit a dog to be or remain in the Village without being registered and licensed by the McHenry County Health Department. The registrations and licensing rules of the county shall prevail. In no case shall a dog that has not been inoculated against rabies be allowed to be or remain in the Village.

## **11.8 DOGS AND CATS RUNNING AT LARGE**

A. It shall be unlawful to permit any dog or cat to run at large in the Village at any time. Dogs and cats which are on any street or walkway or other public place without being held securely on a leash shall be deemed to be running at large.

B. It shall be unlawful to permit any dog or cat to run at large on the property of anyone but the owner thereof without the permission of the property owner.

C. Dogs or cats which are running at large shall be taken up and impounded by the Police Department or the McHenry County Animal Control personnel.

## **11.9 ANIMAL BITES**

Whenever a dog or other animal bites a person, the owner of the animal shall immediately notify the Chief, who shall order the animal held on the owner's premises or shall have it impounded for a period of 2 weeks.

The animal shall be examined immediately after it has bitten any person. When the animal's owner is known, the Chief shall deliver written notice to the owner, who shall give up the animal to the Police Department for confinement or the owner shall confine the animal with the written consent of the Police Department.

## **11.10 DOG LITTER**

It shall be unlawful for any person owning, keeping or otherwise having possession or control of a dog to walk the dog in or upon any public way or other public place in the Village without having sufficient equipment to remove from the public way or other public place any dog litter which may be deposited by the dog.

It shall be unlawful for any person owning, keeping or otherwise having possession or control of a dog to allow the dog to deposit any litter upon any private property not owned by that person unless that person has the permission of the property owner or immediately removes the dog litter from the private property.

## **11.11 LIMIT**

A. **SINGLE FAMILY DWELLING:** It shall be unlawful for any person to keep on any lot or premises or portion thereof more than 4 dogs, cats or domestic animals as defined herein over 4 months of age or more than 2 such animals boarded for compensation or sale. If more than 1 person resides on any lot or premises or portion thereof, then the person who owns, leases, possesses or controls said premises shall be presumed, for purposes of this Chapter, to be the keeper of all animals kept thereon, regardless of the legal ownership thereof. However, in no event shall a non-resident owner of property be held liable hereunder, where there is a person on the premises.

B. **MULTIPLE FAMILY DWELLING:** No more than 2 domestic animals shall be

permitted in a multiple family dwelling unit.

C. EXCEPTIONS: This Section shall not apply to pet shops, zoological parks, performing animal exhibitions, educational institutions, veterinary hospitals or duly organized animal shelters and within Farming District (F) and Estate District (E-5) zoning districts.

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**CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS OF WAY**

- 12.01 Purpose and Scope
- 12.02 Definitions
- 12.03 Annual Registration Required
- 12.04 Permit Required; Applications and Fees
- 12.05 Action on Permit Applications
- 12.06 Effect of Permit
- 12.07 Revised Permit Drawings
- 12.08 Insurance
- 12.09 Indemnification
- 12.10 Security
- 12.11 Permit Suspension and Revocation
- 12.12 Change of Ownership or Owner's Identity or Legal Status
- 12.13 General Construction Standards
- 12.14 Traffic Control
- 12.15 Location of Facilities
- 12.16 Construction Methods and Materials
- 12.17 Small Cell Ordinance
- 12.18 Vegetation Control
- 12.19 Removal, Relocation or Modifications of Utility Facilities
- 12.20 Clean-Up and Restoration
- 12.21 Maintenance and Emergency Maintenance
- 12.22 Variances
- 12.23 Penalties
- 12.24 Enforcement

**12.01 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

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<sup>1</sup> Established by Ordinance 436, 12/18/07

utilities and of other utilities lawfully located in rights of way or public property;

4. Protect against environmental damage, including damage to trees, from the installation of utility facilities;
5. Protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;
6. Preserve the character of the neighborhoods in which facilities are installed;
7. Preserve open space, particularly the tree-lined parkways that characterize the Village's residential neighborhoods;
8. Prevent visual blight from the proliferation of facilities in the rights of way; and
9. Assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.

C. Facilities Subject to this 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.

## 12.02 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 Appendix A of this Code or 92 Ill. Adm. Code § 530.30, unless the context clearly requires otherwise.

**AASHTO**: American Association of State Highway and Transportation Officials.

**Administrator**: The duly appointed Village Administrator.

**ANSI**: American National Standards Institute.

**Applicant**: A person applying for a permit under this Chapter.

**ASTM**: American Society for Testing and Materials.

**Backfill**: The methods or materials for replacing excavated material in a trench or pit.

**Bore** or **boring**: To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

**Cable operator**: That term as defined in 47 U.S.C. 522(5).

**Cable service**: That term as defined in 47 U.S.C. 522(6).

**Cable system**: That term as defined in 47 U.S.C. 522(7).

**Carrier pipe**: The pipe enclosing the liquid, gas or slurry to be transported.

**Casing**: A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

**Clear Zone**: The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide.

**Coating:** Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

**Conductor:** Wire carrying 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:** Pursuant to Section 3.04 of this Code, the Village Engineer or his or her duly authorized agent.

**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 to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

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

**Highway:** A specific type of right of way used for vehicular traffic including rural or urban roads 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.

**Holder:** A person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

**IDOT:** Illinois Department of Transportation.

**ICC:** Illinois Commerce Commission.

**Jacking:** Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

**Jetting:** Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

**Joint use:** The use of pole lines, trenches or other facilities by two or more utilities.

**JULIE:** The Joint Utility Locating Information for Excavators utility notification program, operated pursuant to 220 ILCS 5/1 *et seq.*

**Major intersection:** The intersection of two or more major arterial highways.

**Occupancy:** The presence of facilities on, over or under the right of way.

**Parallel facility:** A facility that is generally parallel or longitudinal to the centerline of a right of way.

**Parkway:** Any portion of the right of way not improved by street or sidewalk.

**Pavement cut:** The removal of an area of pavement for access to facility or for the construction of a facility.

**Permittee:** That entity to which a permit has been issued pursuant to Sections 12.04 and 12.05 of this Chapter.

**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).

**Petroleum products pipelines:** Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane or coal-slurry.

**Prompt:** That which is done within a period of time specified by the Village. If no time period is specified, the period shall be 30 days.

**Public entity:** A legal entity that constitutes or is part of the government, whether at local, state or federal level.

**Restoration:** The repair of a right of way, highway, roadway or other area disrupted by the construction of a facility.

**Right of way or rights of way:** Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or other similar purposes, including utility easements, in which the Village has the right and authority to authorize, regulate or permit the location of facilities other than those of the Village. Right of way or rights of way shall not include any real or personal Village property that is not specifically described in the previous two sentences and shall not include Village buildings, fixtures and other structures or improvements, regardless of whether they are situated in the right of way.

**Roadway:** That part of the highway that includes the pavement and shoulders.

**Sale of telecommunications at retail:** The transmitting, supplying or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

**Security fund:** That amount of security required pursuant to Section 12.10.

**Shoulder:** A width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

**Sound engineering judgment:** A decision(s) consistent with generally accepted engineering principles, practices and experience.

**Telecommunications:** This term includes, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities. Private line means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations.

Telecommunications shall not include:

1. 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.
2. 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.
3. The provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

**Telecommunications provider:** 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:** 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 Chapter.

**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.

### **12.03 ANNUAL REGISTRATION REQUIRED**

Every utility that occupies right of way within the Village shall register by January 1 of each year with the Village, 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 24-hour telephone number for each such person, and evidence of insurance as required in Section 12.08, in the form of a certificate of insurance.

### **12.04 PERMIT REQUIRED; APPLICATIONS AND FEES**

A. Permit Required: Except as otherwise provided in this Chapter, no person shall construct 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, 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 and obtaining a permit from the Village. 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, telephone and telecopy numbers and an e-mail address contact.
2. The applicant's name and address, if different than the utility, its telephone, telecopy numbers, e-mail address and its interest in the work.
3. The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application.
4. A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed.
5. Evidence that the utility has placed on file with the Village:
  - i. 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
  - ii. 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 12.08.
8. Evidence of posting of the security fund as required in Section 12.10.
9. Any request for a variance from one or more provisions of this Chapter (see Section 12.21).
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 Section 12.04-C, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application: *Amended 651*

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 Village have been satisfied.
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.
6. 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 12.04 of the Village Code shall also apply and, in the event of any conflict with the provisions of this Section 12.04, the provisions in Section 12.17 shall control.

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 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 an amount to be determined from time to time by the Village Board. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to Chapter 18 of this Code.

## **12.05 ACTION ON PERMIT APPLICATIONS**

A. Village Review of Permit Applications: Completed permit applications, containing all required documentation, shall be examined by the 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 Engineer shall reject such application in writing, stating the reasons. If the Engineer is satisfied that the proposed work conforms to the requirements of this Chapter and applicable ordinances, codes, laws, rules and regulations, the Village shall issue a permit as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the 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 10 days prior to the commencement of work requiring no excavation and not less than 30 days prior to the commencement of work requiring excavation. The Engineer shall specify the portion of the right of way upon which the facility may be placed, used and constructed.
2. In the event the Engineer fails to provide such specification of location to the telecommunications retailer within either (i) 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 (ii) 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, although in all other appropriate respects, the telecommunications retailer shall be bound by the provisions of this Chapter.
3. Upon the provision of such specification by the Village, where a permit is required for work pursuant to Section 12.04 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 Section 12.05-A.

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 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.

## **12.06 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 6 months unless construction is actually begun within that period and is thereafter diligently pursued to completion.

C. Pre-Construction Meeting Required: At the election of the Village, 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 pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the Village with such Village representatives in attendance as the Village deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights of way by the public during construction, and access and egress by adjacent property owners.

D. Compliance with All Laws Required: The issuance of a Village permit does not excuse the permittee from complying with other requirements of the Village and applicable statutes, laws, ordinances, rules and regulations.

## **12.07 REVISED PERMIT DRAWINGS**

In the event 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 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 a variance in accordance with Section 12.21. If the Village denies the request, then the permittee shall either remove the facility from the right of way or modify the facility so it conforms to the permit and submit revised drawings or plans therefor.

## **12.08 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 below:

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) for bodily injury or death to each person;
  - b. Five million dollars (\$5,000,000) for property damage resulting from any one accident; and
  - c. Five million dollars (\$5,000,000) for all other types of liability;
2. Automobile liability for owned, non-owned and hired vehicles with a combined single limit of \$1,000,000 for personal injury and property damage for each accident;
3. Worker’s compensation with statutory limits; and
4. Employer’s liability insurance with limits of not less than \$1,000,000 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 required policies to the Village within 10 days following receipt of a written request 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 30 days after receipt by the Village, by registered mail or certified mail, return receipt requested, of a written notice addressed to the Village Manager of such intent to cancel or not to renew.”

Within 10 days after receipt by the Village of said notice, and in no event later than 10 days prior to 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 Section 12.08-A, or the requirements of Sections 12.08-B, C and D. 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 Section 12.08-A, 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.]

## **12.09 INDEMNIFICATION**

By occupying or constructing facilities in the right of way, a utility shall be deemed to agree to defend, indemnify and hold the Village and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney’s fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights of way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this 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.

## **12.10 SECURITY**

A. Purpose: The permittee shall establish a Security Fund in a form and in an 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 non-performance 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 Section 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 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 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 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 Section for any single phase.

D. Withdrawals: The Village, upon 14 days' advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this Section, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the Village for such amount within the 14-day notice period. Withdrawals may be made if the permittee:

1. Fails to make any payment required to be made by the permittee hereunder;
2. Fails to pay any liens relating to the facilities that are due and unpaid;
3. Fails to reimburse the Village for any damages, claims, costs or expenses which the Village has been compelled to pay or incur by reason of any action or non-performance by the permittee; or

4. Fails to comply with any provision of this Chapter that the Village determines can be remedied by an expenditure of an amount in the Security Fund.

E. Replenishment: Within 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 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 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.

## **12.11 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. Non-compliance 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 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 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 Section.

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 this Section.

E. Failure or Refusal of the Permittee to Comply: If the permittee fails to comply with the provisions of this Section, the Village or its designee may, at the option of the Village: (1) correct the deficiencies; (2) upon not less than 20 days notice to the permittee, remove the subject facilities or equipment; or (3) after not less than 30 days notice to the permittee of failure to cure the non-compliance, deem them abandoned and property of the Village. The permittee shall be liable in all events to the Village for all costs of removal.

## **12.12 CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS**

A. Notification of Change: A utility shall notify the Village no less than 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.

## 12.13 GENERAL CONSTRUCTION STANDARDS

A. Standards and Principles: All construction in the right of way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:

1. *Standard Specifications for Road and Bridge Construction*;
2. *Supplemental Specifications and Recurring Special Provisions*;
3. *Highway Design Manual*;
4. *Highway Standards Manual*;
5. *Standard Specifications for Traffic Control Items*;
6. *Illinois Manual on Uniform Traffic Control Devices* (92 Ill. Adm. Code § 545);
7. *Flagger's Handbook*; and
8. *Work Site Protection Manual for Daylight Maintenance Operations*.

B. Interpretation of Municipal Standards and Principles: If a discrepancy exists between or among differing principles and standards required by this Chapter, the Engineer shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Engineer shall state which standard or principle will apply to the construction, maintenance or operation of a facility in the future.

## 12.14 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 there is minimum interference with pedestrian and vehicular traffic.

D. Notice When Access is Blocked: At least 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 12.20, 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.

## 12.15 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 Section.

1. No Interference with Village Facilities: No utility facilities shall be placed in any location if the 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 2 feet (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 4 feet (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 1 foot (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 8 feet (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
    - c. In the case of an underground power or communications line, the facility shall be located as near the right of way line as practicable and not more than 5 feet (1.5 m) from the right of way line and any above-grounded appurtenance shall be located within 1 foot (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. 90 Degree Crossing Required: Crossing facilities shall cross at or as near to a 90 degree angle to the centerline as practicable.
4. Overhead Power or Communication Facility: An overhead power or communication facility may cross a highway only if:
  - a. It has a minimum vertical line clearance as required by ICC's rules entitled *Construction of Electric Power and Communication Lines* (83 Ill. Adm. Code 305);
  - b. Poles are located within 1 foot (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 C.F.R. §192.707 (1989)).

D. Facilities to be Located Within Particular Rights of way: The Village may require that facilities be located within particular rights of way that are not highways, rather than within particular highways.

E. Freestanding Facilities:

- 1. The Village may restrict the location and size of any freestanding facility located within a right of way.
- 2. The Village may require any freestanding facility located within a right of way to be screened from view in a manner appropriate for the surrounding environment, and the Village may require the facility's owner to maintain such screening.

F. Facilities Installed Above Ground: Above ground facilities may be installed only if:

- 1. No other existing facilities in the area are located underground;
- 2. New underground installation is not technically feasible; and
- 3. The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.

G. Facility Attachments to Bridges or Roadway Structures:

- 1. Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive or energized, especially those under significant pres-



sure 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.

## 12.16 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 Engineer from the edge of the pavement. Pits for boring or jacking shall be excavated no more than 48 hours in advance of

boring or jacking operations and backfilled within 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 6 Inches: Borings over 6 inches (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 1 inch (25 mm).
  - d. Borings with Diameters 6 Inches or Less: Borings of 6 inches or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
  - e. Tree Preservation: Any facility located within the drip line of any tree 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 pipeline testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Village.
  - 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 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 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 paragraph is permitted under Section 12.21, 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 7 years, or resurfaced in the last 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 1 foot (0.3 m) of the right of way line. No above-ground vent pipes shall

be located in the area established as clear zone for that particular section of the highway.

- c. In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or Village-approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the Village. Bell and spigot type pipe shall be encased regardless of installation method.
- d. In the case of gas pipelines of 60 psig or less, encasement may be eliminated.
- e. In the case of gas pipelines or petroleum products pipelines with installations of more than 60 psig, encasement may be eliminated only if: (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	18-24 inches (0.6 m, as determined by the 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 Ill. Adm. Code Part 305 (formerly General Order 160 of the ICC) entitled *Rules for Construction of Electric Power and Communications Lines*, and the National Electrical Safety Code.
- b. Overhead Facilities: Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed.

Variations may be allowed if there is no feasible alternative and if guy wires 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 method which compress the earth to make the opening for cable installation or (b) the installation is by the open trench method which is only permitted prior to roadway construction or (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 snowdrops, shall be buried by May 31 of the current year, weather permitting, unless otherwise permitted by the Village. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within 10 business days after placement.

2. Underground Facilities Other than Electric Power or Communication Lines: Underground facilities other than electric power or communication lines may be installed by:

- a. The use of “moles,” “whip augers” or other approved methods which compress the earth to move the opening for the pipe;
- b. Jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
- c. Open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
- d. Tunneling with vented encasement, but only if installation is not possible by other means.

3. Gas Transmission, Distribution and Service: Gas pipelines within rights of way shall be constructed, maintained and operated in a Village-approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR §192), IDOT’s *Standard Specifications for Road and Bridge Construction* and all other applicable laws, rules and regulations.

4. Petroleum Products Pipelines: Petroleum products pipelines within rights of way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
5. Water Lines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines: Water lines, sanitary sewer lines, storm sewer lines and drainage lines within rights of way shall meet or exceed the recommendations of the current *Standard Specifications for Water and Sewer Main Construction in Illinois*.
6. Ground-Mounted Appurtenances: Ground-mounted appurtenances to overhead or underground facilities, when permitted within a right of way, shall be provided with a vegetation-free area extending 1 foot (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 ICC 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 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 Village when emergency work is required to restore vital utility services.
3. Unless otherwise permitted by the Village, the hours of construction are those set forth in Section 9.11 of this Code.

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 above-ground 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 48 hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

### **12.17 SMALL CELL ORDINANCE, Ord. 651**

A. Purpose: The purpose of this Chapter 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 Chapter supersedes all Chapters 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 Chapter, the wireless provider shall comply with the requirements of this Chapter to the maximum extent possible without violating federal or State laws or regulations.

D. Definitions: For purposes of this Section 12.17, the following definitions shall apply:

**Act**: The Illinois Small Wireless Facilities Deployment Act (P.A. 100-0585), as may be subsequently amended.

**Antenna**: communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

**Applicable Codes**: uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code.

**Applicant**: any person who submits an application and is a wireless provider.

**Application:** a request submitted by an applicant to the Village for a permit to collocate small wireless facilities, and a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

**Collocate or Collocation:** to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

**Communications Service:** cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(53), as amended; or wireless service other than mobile service.

**Communications Service Provider:** a cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

**FCC:** the Federal Communications Commission of the United States.

**Fee:** a one-time charge.

**Historic District or Historic Landmark:** a building, property, or site, or group of buildings, properties, or sites that are either (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the Village pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

**Law:** a federal or State statute, common law, code, rule, regulation, order, or local ordinance or resolution.

**Micro Wireless Facility:** a small wireless facility that is not larger in dimension than 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 but not subject to zoning review or ap-

proval 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:
  - i. Application Requirements. A wireless provider shall provide the following information to the Village, together with the Village's Small Cell Facilities Permit Application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:
    - a. Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;
    - b. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility;
    - c. Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
    - d. The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
    - e. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
    - f. Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge.
    - g. In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the Village, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.
  - ii. Application Process. The Village shall process applications as follows:
    - a. The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.

- b. An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a non-discriminatory 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.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the Village. The receipt of the deemed approved notice shall not preclude the Village's denial of the permit request within the time limits as provided under this Chapter.

- c. An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the Village fails to approve or deny the application within 120 days after the submission of a completed application.

However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application.

The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the Village. The receipt of the deemed approved notice shall not preclude the Village's denial of the permit request within the time limits as provided under this Chapter.

- d. The Village shall deny an application which does not meet the requirements of this Chapter.

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.

- iii. 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.
- iv. Completeness of Application. Within 30 days after receiving an application, the Village shall determine whether the application is complete and notify the applicant. If an application is incomplete, the Village must specifically identify the missing information. An application shall be deemed complete if the Village fails to provide notification to the applicant within 30 days after all documents, information and fees specifically enumerated in the Village's permit application form are submitted by the applicant to the Village.

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

- v. Tolling. The time period for applications may be further tolled by:
  - a. An express written agreement by both the applicant and the Village; or
  - b. A local, State or federal disaster declaration or similar emergency that causes the delay.
- vi. 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.

- vii. 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 Chapter.

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.

- viii. 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 Chapter. 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 fre-

quency that will not cause unacceptable interference with a public safety agency's communications equipment.

Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency.

If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

The Village may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the Code of Federal Regulations cited in the previous paragraph. Failure to remedy the interference as required herein shall constitute a public nuisance.

4. The wireless provider shall not collocate small wireless facilities on Village utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole.

However, the antenna and support equipment of the small wireless facility may be located in the communications space on the Village utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole.

For purposes of this subparagraph, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

5. The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.
6. The wireless provider shall comply with 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 12.22:
  - i. 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.
  - ii. 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.

iii. 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 100 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

If the applicant refuses a collocation proposed by the Village, the applicant shall provide written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph.

8. Height Limitations. The maximum height of a small wireless facility shall be no more than 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:

- i. 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
- ii. 45 feet above ground level.

9. Height Exceptions or Variances. If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a variance in the manner provided in this Chapter at Section 12.22.
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 12.22 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 12.22 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.
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 Chapter 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:
  - i. routine maintenance;
  - ii. 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 type and model numbers for any of the replacement equipment; or
  - iii. 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 Chapter 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 Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Chapter do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.

For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Chapter 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 Chapter.

- 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 Chapter.

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 Chapter 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 Chapter 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 12.08.

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 Chapter. 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.

## **12.18 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 state 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 state 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 paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the Village for any purpose, including the control of growth, insects or disease.
2. Spraying of any type of brush-killing chemicals will not be permitted on rights of way unless the utility demonstrates to the satisfaction of the Engineer that such spraying is the only practicable method of vegetation control.

## **12.19 REMOVAL, RELOCATION OR MODIFICATIONS OF UTILITY FACILITIES**

A. Notice: Within 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 initiated or mandated improvement in or upon, or the operations of the Village in or upon, the rights of way.

B. Removal of Unauthorized Facilities: Within 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 Village 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 90 days. Following receipt of such notice the Village may direct the utility to remove all or any portion of the facility if the Engineer determines that such removal will be in the best interest of the public health, safety and welfare. In the event 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.

## **12.20 CLEAN-UP AND RESTORATION**

The utility shall remove all excess material and restore all turf and terrain and other property within 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 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 Engineer for good cause shown.

## **12.21 MAINTENANCE AND EMERGENCY MAINTENANCE**

A. General: Facilities and any associated screening or landscaping 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 non-compliance 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 Police Department 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 Police Department 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 48 hours after an emergency repair.

## 12.22 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 Administrator 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 to Grant Variances: The Administrator 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 Administrator 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 not practical in relation to the requested approach.

D. Additional Conditions for Granting a Variance: As a condition for authorizing a variance, the Administrator 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 Administrator 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 30 days after the date of such order, requirement, decision or determination. The Village Board shall commence its consideration of the appeal at the Village Board's next regu-

larly scheduled meeting occurring at least 7 days after the filing of the appeal. The Village Board shall timely decide the appeal.

### **12.23 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 penalty provisions of this Code, not to exceed \$750.00 per violation per day. 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.

### **12.24 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.

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**Chapter 13**  
**TOBACCO AND ALTERNATIVE NICOTINE PRODUCTS**

13.01	Definitions
13.02	License Required
13.03	License Application, Fee
13.04	Prohibitions Regarding Minors
13.05	Certain Free Distribution is Prohibited
13.06	Vending Machine; Locking Devices
13.07	Possession and Use of Bidi Cigarettes, Smoking Herbs, Tobacco Accessories and Tobacco Products; Tobacco Retailer's License
13.08	Administration and Enforcement
13.09	Penalties

**13.01 DEFINITIONS**

In addition to those terms defined in Appendix A of this Code, for purposes of this Chapter, the following words and phrases are defined as follows:

**Alternative Nicotine Product:** Means a product or device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. *Ord. 572*

**Electronic Cigarette or E-Cigarette:** Means an electronic device usually composed of a mouthpiece, a heating element or atomizer, a battery, and electronic circuits that provides a gas derived from liquid nicotine and/or other substances which is inhaled by a user simulating smoking. The term includes such devices, regardless of the details of the product appearance or marketed name, generally manufactured to resemble cigarette, cigars, pipes, or other smoking devices. *Ord. 572*

**Liquid Nicotine:** Means any liquid product composed either in whole or part of nicotine, propylene glycol and/or other similar substances and manufactured for use with an e-cigarette to be converted into gas for inhaling. *Ord. 572*

**Smokeless tobacco:** Any tobacco products suitable for dipping or chewing.

**Smoking paraphernalia:** Smoking devices, accessories and paraphernalia, including cigarette paper, cigarette and cigar rolling machines, pipes, bongs, electronic cigarettes and any other devices which are manufactured or constructed for the use in connection with the preparation or consumption of smoking of tobacco products or use of alternative nicotine products. *Amended, 572*

**Tobacco products:** Any substance containing tobacco leaf, including but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.



**Vending machine:** Any mechanical, electric or electronic self-service device, which, upon the insertion of money, tokens or any other form of payment, dispenses tobacco products.

**13.02 LICENSE REQUIRED** *Amended, 572*

It shall be unlawful to sell or offer for sale, at retail; to give away, deliver or keep with the intention of selling at retail, tobacco products, smokeless tobacco, alternative nicotine products, liquid nicotine and/or smoking paraphernalia within the Village without first having obtained a Tobacco Dealer's License, pursuant to this Chapter. Such license shall be in addition to any other license or permit required by this Code.

**13.03 LICENSE APPLICATION; FEE** *Amended, 514*

Application for a tobacco license (Exhibit A to this Chapter) shall be submitted to the Clerk for processing in accordance with the provisions of this Chapter. The fee for a Tobacco Dealer's License shall be \$100 per year, due and payable by May 1 of each year.

**13.04 PROHIBITIONS REGARDING MINORS** *Amended, 572*

It shall be unlawful:

1. **SALE TO MINORS:** For any person, including any licensee, to sell, offer for sale, give away or deliver tobacco products, alternative nicotine products, liquid nicotine or smoking paraphernalia to any person under the age of 18 years. Signs informing the public of these age restrictions shall be posted by every licensee at or near every display of tobacco products, alternative nicotine products, liquid nicotine or smoking paraphernalia and on or upon every vending machine which offers tobacco products, alternative nicotine products, liquid nicotine or smoking paraphernalia for sale. The text of such sign shall be in red letters on a white background and the letters shall be a minimum of one inch high. Each sign shall be plainly visible and shall state:

**THE SALE OF TOBACCO PRODUCTS  
ALTERNATIVE NICOTINE PRODUCTS AND LIQUID NICOTINE  
TO PERSONS UNDER 18 YEARS OF AGE  
IS PROHIBITED BY LAW**

2. **SALE BY MINORS:** For any licensee or any officer, associate, member, representative, agent or employee of such licensee to engage, employ or permit any minor person under the age of 18 years to sell, deliver, barter, give or exchange tobacco products, alternative nicotine products, liquid nicotine or smoking paraphernalia in any licensed premises.
3. **PURCHASE BY MINORS:** For any persons under the age of 18 years to purchase tobacco products, alternative nicotine products, liquid nicotine or smoking paraphernalia or to misrepresent his identity or age or use any false or altered identification for the purpose of purchasing tobacco products, alternative nicotine products, liquid nicotine or smoking paraphernalia.

4. **POSSESSION BY MINORS:** For any person under the age of 18 years to possess any tobacco products, alternative nicotine products, liquid nicotine or smoking paraphernalia.

Nothing herein shall prohibit the possession or use of tobacco, tobacco products, alternative nicotine products or liquid nicotine by a minor in his or her home, under the direct supervision of his or her parent or guardian.

### **13.05 CERTAIN FREE DISTRIBUTION IS PROHIBITED** *Amended, 572*

It shall be unlawful for any licensee or person in the business of selling or otherwise distributing, promoting or advertising tobacco products, alternative nicotine products, liquid nicotine or smoking paraphernalia or any employee or agent of any such licensee or person, in the course of such licensee's or person's business, to distribute, give away or deliver tobacco products, alternative nicotine products, liquid nicotine or smoking paraphernalia free of charge to any person on any right-of-way, park, playground or other property owned by any public entity.

### **13.06 VENDING MACHINE; LOCKING DEVICES** *Amended, 572*

It shall be unlawful for any licensee to sell or offer for sale, give away, deliver or to keep with the intention of selling, giving away or delivering tobacco products, alternative nicotine products, liquid nicotine or smoking paraphernalia by use of a vending machine unless such vending machine is equipped with a manual or electronic locking device controlled by the licensee so as to prevent its operation by persons under the age of 18 years of age. Any premises where access by persons under the age of 18 years is prohibited by law, or premises where the public is not permitted where vending machines are strictly for use of the employees of the business located at such premises, shall be exempt from the requirements of this Section.

### **13.07 POSSESSION AND USE OF BIDI CIGARETTES, SMOKING HERBS, TOBACCO ACCESSORIES AND TOBACCO PRODUCTS; TOBACCO RETAILER'S LICENSE** *Amended, Ord. 514, 716*

A. **DEFINITIONS:** In addition to those terms defined in Appendix A of this Code, terms used in this Section 9.16 are defined as follows:

**Bidi cigarette:** A product that contains tobacco that is wrapped in temburni or tendu leaf or that is wrapped in any other material identified by rules of the Illinois Department of Public Health that is similar in appearance or characteristics to the temburni or tendu leaf.

**Compliance check:** An inspection conducted with the intention of assessing retail sales of tobacco products to minors and enforcing age-of-sales law. Compliance checks are conducted by having designated persons under the age of 18 years of age attempt to purchase tobacco products from vendors.

**License:** A license issued by the Village for the retail sale of tobacco products.

**Licensee:** The holder of a valid Village license for the retail sale of tobacco products.

**Minor:** Any person under the age of 18.

**Self-service displays:** The open display of tobacco products and point-of-sale tobacco promotional products that the public has access to without intervention of a store employee.

**Smoking herbs:** All substances of plant origin and their derivatives, including but not limited to broom, calea, California poppy, damiana, hops, ginseng, lobelia, jimson weed and other members of the Datura genus, passion flower and wild lettuce, which are processed or sold primarily for use as smoking materials.

**Smokeless tobacco:** Any finely cut, ground, powdered or leaf tobacco that is intended to be placed in the oral cavity; any tobacco product that is suitable for dipping or chewing.

**Tobacco accessories:** cigarette papers, pipes, holders of smoking materials of all types, cigarette rolling machines and other items, designed primarily for the smoking or ingestion of tobacco products or of substances made illegal under any statute or of substances whose sale, gift, barter or exchange is unlawful.

**Tobacco products:** Cigars, cigarettes, smoking tobacco or tobacco in any form.

**Vending machine:** Any mechanical, electric or electronic, self-service device which, upon insertion of money, tokens or any form of payment, dispenses tobacco products.

**B. PURCHASE AND USE OF TOBACCO PRODUCTS PROHIBITED:**

1. No person under 18 years of age shall purchase any tobacco product in any of its forms. No person shall sell, purchase for, distribute samples of or furnish tobacco product in any of its forms to any person under 18 years of age. Tobacco products may be sold through a vending machine only when such tobacco products are not sold along with non-tobacco products in the vending machine and only in the following locations:
  - a. Factories, businesses, offices, private clubs and other places not open to the general public.
  - b. Places to which persons under 18 years of age are not permitted access.
  - c. Places where alcoholic beverages are sold and consumed on the premises.
  - d. Places where the vending machine is under the direct supervision (which means that the owner or employee has an unimpeded line of sight to the vending machine) of the owner of the establishment

or an employee over 18 years of age. The sale of tobacco products from a vending machine under direct supervision of the owner or an employee of the establishment is considered a sale of tobacco products by that person.

e. Places where the vending machine can only be operated by the owner or an employee over age 18 either directly or through a remote control device if the device is inaccessible to all customers.

2. Penalty: Any person violating any provision of this Section 9.16-B is guilty of a petty offense and for the first offense shall be fined \$200, \$400 for the second offense in a 12-month period, and \$600 for the third or any subsequent offense in a 12-month period and be responsible for the Village's cost of prosecution, including reasonable attorney fees.

#### C. POSSESSION OF TOBACCO PRODUCTS:

1. No person under 18 years of age shall possess tobacco products in any of its forms.

2. Penalty: If a minor violates this Section 9.16-C the minor shall be guilty of a petty offense and may be fined \$25 or sentenced to 15 hours of community service for the first offense. If a second violation occurs within a 12-month period of the first offense, the fine shall be \$50 and 25 hours of community service. For a third or subsequent violation that occurs within a 12-month period of the first offense, the fine shall be \$100 and 30 hours of community service. If there is a second or subsequent violation not within a 12-month time period after the first violation, a fine of \$25 or 15 hours of community service shall be assessed. For any violation the violator shall be responsible for the Village's cost of prosecution, including reasonable attorney fees.

#### D. TOBACCO ACCESSORIES AND SMOKING HERBS:

1. Sale to Minors Prohibited: No person shall knowingly sell, barter, exchange, deliver or give away or cause or permit or procure to be sold, bartered, exchanged, delivered or given away tobacco accessories or smoking herbs to any person under 18 years of age.

2. Sale of Bidi Cigarettes: No person shall knowingly sell, barter, exchange, deliver or give away a bidi cigarette to another person, nor shall a person cause or permit or procure a bidi cigarette to be sold, bartered, exchanged, delivered or given away to another person.

3. Sale of Cigarette Paper: No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or cause, permit or procure

cigarette paper to be sold, offered, bartered, exchanged, delivered or given away except from premises or an establishment where other tobacco products are sold.

4. Sale of Cigarette Paper from Vending Machines: No person shall knowingly offer, sell, barter, exchange, deliver or give away cigarette paper or cause, permit or procure cigarette paper to be sold, offered, bartered exchanged, delivered or given away by use of a vending or coin-operated machine or device. For purposes of this Section 9.16-D4, cigarette paper shall not include any paper that is incorporated into a product to which a tax stamp must be affixed under the Cigarette Tax Act (35 ILCS 130/1 *et seq.*) or the Cigarette Use Tax Act (35 ILCS 135/1 *et seq.*).
5. Use of Identification Cards: No person in the furtherance or facilitation of obtaining smoking accessories and smoking herbs shall display or use a false or forged identification card or transfer, alter or deface an identification card.
6. Warning to Minors: Any person, firm, partnership, company or corporation operating a place of business where tobacco accessories and smoking herbs are sold or offered for sale shall post in a conspicuous place upon the premises a sign which there shall be imprinted the following statement: SALE OF TOBACCO ACCESSORIES AND SMOKING HERBS TO PERSONS UNDER 18 YEARS OF AGE OR THE MISREPRESENTATION OF AGE TO PROCURE SUCH A SALE IS PROHIBITED BY LAW. The sign shall be printed on a white card in red letters at least one-half inch in height.
8. Penalty:
  - a. Except for Section 43-15-D2, any person who knowingly violates or shall knowingly cause the violation of any provision of this Section 9.16-E shall be guilty of a Class C misdemeanor and shall be fined pursuant to 730 ILCS 5/5-4.5-65(e). The violator shall be responsible for the Village's cost of prosecution, including reasonable attorney fees.
  - b. Any person who knowingly violates or shall knowingly cause the violation of Section 9.16-D2 shall be guilty of a petty offense for which the offender shall be fined as follows: for the first offense, not less than \$100 or more than \$500, for a second offense within a 2-year period of the first offense, not less than \$250 or more than \$600, and for a third or subsequent offense within a 2-year period of the first offense, not less than \$500 or more than \$1,000. In addition, the violator shall be responsible for the Village's cost of

prosecution, including reasonable attorney fees.

E. **TOBACCO RETAILER'S LICENSE REQUIRED:** It shall be unlawful to sell or offer for sale at retail, give away, deliver or to keep with the intention of selling at retail, giving away or delivery tobacco products within the Village without having first obtained a valid tobacco retailer's license from the Village for each location in which tobacco products are sold.

1. **FEE:** The fee for an annual tobacco retailer's license shall be \$100. Said license shall expire on April 30 and is non-transferable except when a licensee changes location.
2. **IDENTIFICATION REQUIRED:** No licensee shall sell or permit to be sold any tobacco products to an individual appearing younger than 27 years of age without requesting and examining photographic identification establishing the purchaser's age as 18 years of age or greater.
3. **LOCATION:** It shall be unlawful for any person to sell, offer for sale, give away or deliver tobacco products within 100 feet of any school, child care facility or other building used for educational or recreational purposes by persons under 18 years of age.
4. **TOBACCO SAMPLES, DISTRIBUTION:** It shall be unlawful for any licensee or any person, business or tobacco retailer to distribute, give away or deliver tobacco products free of charge, or deliver any coupon or rebate for tobacco products to any person on any right-of-way, park, playground or other property owned by the Village or any unit of government.
5. **PROHIBITED SALES:** It shall be unlawful for any licensee, person, business or tobacco retailer to sell, permit to be sold or offer for sale any tobacco product by means of self-service displays or any other means other than vendor-assisted sales. Tobacco vending machines or any other devices for the sale or distribution of tobacco products is prohibited.
6. **LICENSEE'S RESPONSIBILITIES:** Every act or omission of any nature constituting a violation of any provision of this Section by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such licensee. Such licensee shall be punishable in the same manner as if such act or omission had been done or omitted by the licensee personally.
7. **INSPECTIONS; COMPLIANCE CHECKS:** It shall be the duty of Chief and the Building Inspector to conduct annual random, unannounced inspections of all licensed premises for compliance with this Section and the laws of this State. Not less than 3 compliance checks shall take place each year.

8. VIOLATIONS; ENFORCEMENT: The President shall initiate enforcement against any person who violates any provision of this Section, and shall conduct hearings upon the request of the licensee. The President and the Police Department shall have the authority to enforce this Section.
9. SUSPENSION; LICENSE REVOCATION: Except for Sections 9.16-B and C, a license shall be suspended or revoked for any violation of this Section after notice and a hearing has been conducted on the violation.

The Village's cost of prosecution shall include all costs associated with the hearing, which may include, but not be limited to, court reporter's fees, cost of preparing and mailing notices and orders and all other miscellaneous expenses incurred by the Village, or such lesser sum as the President may allow. Said costs shall be paid to the Village within 30 days of the notification of the costs. Failure to pay said costs within 30 days of notification is a violation of this Section and may cause the levy of an additional fine.
10. NON-RETALIATION: No person or employer shall discharge, refuse to hire, or in any manner retaliate against any employee, applicant for employment or customer, because such employee, applicant or customer reported violations of any provisions of this Section.

### **13.08 ADMINISTRATION AND ENFORCEMENT**

- A. ADMINISTRATION: The Village Administrator shall be charged with the administration of this Chapter.
- B. SUSPENSION AND REVOCATION OF LICENSE: The Administrator may suspend or revoke any license issued under the provisions of this Chapter if it is determined that the licensee has violated any provisions of this Chapter.
- C. FINE IN LIEU OF SUSPENSION OR REVOCATION: In lieu of suspension or revocation of a license, the Administrator may levy a fine on the licensee. The fine imposed shall not exceed \$500 for each violation. Each day on which the violation continues shall constitute a separate violation.

D. HEARING; DECISIONS; FEES:

1. Notice of Hearing: No such license shall be suspended or revoked, or the licensee fined, except after a public hearing before the Administrator, after a seven day written notice has been delivered by regular first class mail, affording the licensee an opportunity to appear and defend against the charges contained in such notice. The seven day notice provision shall begin the day following delivery by certified mail or personal service.
2. Administrator's Decision: Within seven days after such hearing the Administrator shall determine if the licensee is guilty or not guilty. If the licensee is found guilty the license may be revoked or suspended and the licensee may be fined. The order of the Administrator shall be in writing, include the reasons for the determination and mailed to the licensee.
3. Fees: Any licensee determined by the Administrator to have violated any of the provisions of this Chapter shall be responsible for the cost of the hearing, including, but not limited to, court reporter's fees, transcripts or records, attorney's fees incurred by the Village and administrative fees.

The licensee shall pay said fine and costs to the Village within 30 days of notification of the costs by the Village. Failure to pay said fine and costs within 30 days shall be a violation of this Chapter and grounds for license suspension or revocation.

E. USE OF PREMISE AFTER LICENSE REVOCATION: When any license has been revoked a Tobacco Dealer's License shall not be eligible for re-issuance for the premises described in the revoked license for the following six-month period.

F. RESPONSIBILITY OF LICENSEE FOR AGENTS AND EMPLOYEES: Every act or omission of whatsoever nature constituting a violation of any provisions of this Chapter by any officer, director, manager or other agent or employee of the licensee shall be deemed and held to be the act of such licensee and shall be punishable in the same manner as if the act or omission had been done or admitted by the licensee personally.

**13.09 PENALTIES**

Any person, firm or corporation violating any provision of this Chapter shall be fined not less than \$50 and not more than \$500. Any persons, firm or corporation convicted of a second or subsequent offense shall be punished by a fine not less than \$150 and not more than \$500.

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**EXHIBIT A  
VILLAGE OF PRAIRIE GROVE**

**Application for Dealer's License Relating to  
Tobacco and Alternative Nicotine Products**

*License Year May 1<sup>st</sup> to April 30<sup>th</sup>*

Name of Applicant: \_\_\_\_\_

First                      Middle                      Last

Address \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_

Name of Business: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_

Illinois Business Tax Number: \_\_\_\_\_

**The annual license fee is \$100 per year.**

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(For Office Use Only)

Total Payment: \$ \_\_\_\_\_

Approved: \_\_\_\_\_

Date Issued: \_\_\_\_\_

License Number: \_\_\_\_\_

Return completed form to: Prairie Grove Village Hall, 3125 Barreville Road, Prairie Grove,  
Illinois 60012, Attention: Village Clerk

## **Chapter 14**

### **LIQUOR CONTROL**

- 14.01 Adoption of Liquor Control Act of 1934
- 14.02 Definitions
- 14.03 Liquor License Required
- 14.04 Liquor License Applications
- 14.05 Liquor License Restrictions
- 14.06 Liquor License Classifications; Fees
- 14.07 Classes and Maximum Number of Liquor Licenses Issued
- 14.08 Closing Hours
- 14.09 Disposition of License Fees
- 14.10 Insurance Requirements
- 14.11 License Renewal
- 14.12 Change of Location
- 14.13 Prohibited Activities by Licensees
- 14.14 Absence; Abandonment
- 14.15 Sale Restrictions
- 14.16 *Intentionally Left Blank*
- 14.17 Purchase or Acceptance of Gifts of Liquor by Persons Under the Age of 21; Identification Cards, Punishment; Exceptions
- 14.18 Sale, Gift, Delivery to Persons Under 21 Years of Age
- 14.19 Sale or Use of False Evidence of Age and Identity
- 14.20 Employee Server Restrictions
- 14.21 Sales of Intoxicated Persons, Habitual Drunkards, Spendthrifts and Mental Incompetence
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- 14.25 Police Training Events
- 14.26 BASSET Program
- 14.27 Revocation or Suspension of License; Fines; Notice; Hearing; Appeal
- 14.28 Video Gaming Terminals

#### **14.01 ADOPTION OF LIQUOR CONTROL ACT OF 1934**

In addition to the provisions of this Chapter, the Liquor Control Act of 1934 (Chapter 235 of the Illinois Compiled Statutes), as amended from time to time (“Act”), shall be incorporated herein by reference.

#### **14.02 DEFINITIONS, Amended 609**

In addition to the terms defined in Appendix A of this Code and the Act, the following terms are defined as follows:

**Act:** The Liquor Control Act of 1934 (Chapter 235 of the Illinois Compiled Statutes).

**Alcoholic Liquor:** Any spirits, wine, beer, ale or other liquor, containing more than one-half of one percent of alcohol by volume, which is capable of being consumed as a beverage by a human being.

**Commissioner:** The Local Liquor Control Commissioner of the Village of Prairie Grove.

**Convenience Store:** Any public place kept, used, maintained, advertised and held out to the public as a place at which the primary purpose is to offer gasoline and/or limited groceries and sundries for sale, the retail sale of alcoholic liquors being incidental thereto. The area for display of alcoholic liquors shall be limited to not more than ten percent (10%) of the retail floor display area in such an establishment.

**Golf course:** A recreational area with or without club house facilities primarily for the use of members and their guests or the general public engaging in a form of recreation or game commonly known as golf.

**License:** A liquor license issued by the Village.

**Licensee:** The holder of a Village liquor license.

**Person:** Any natural person, firm, partnership, association or corporation.

**Premises:** Any permanent physical structure or building from which alcoholic liquors are sold.

**Restaurant:** Any public place kept, used, maintained, advertised and held out to the public as a place where meals are served, and where meals are actually and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests.

**Retail sale:** The sale for use or consumption and not for resale in any form.

**Retailer:** A person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form.

**Wine:** Any alcoholic beverage obtained by the fermentation of the natural contents of fruits, or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits.

### **14.03 LIQUOR LICENSE REQUIRED**

It is unlawful to sell or offer for sale in the Village, any alcoholic liquor either without having a local license or in violation of the terms, conditions and restrictions of the license. A liquor license is purely a personal privilege. It is effective until the first or earliest of a) one year from the date of issuance; b) April 30 of the year following the date of issuance; c) suspension or revocation; or d) abandonment. All applicants shall be required to pay the full liquor license fee, whether the license is to be issued for a full or partial year. A separate license shall be required for each location, place or premises where the business or occupation is proposed to be carried on, whether or not under the same roof or in the same premises, or at the same street address.

#### 14.04 LIQUOR LICENSE APPLICATIONS, *Amended 609*

A. Application for a liquor license shall be made to the Commissioner in writing, signed by the applicant, if an individual, or by a duly authorized agent thereof if a group or corporation, verified by oath or affidavit, and shall be addressed to the Commissioner. All applicants may be subject to a background check, which may be conducted by the Village through the Federal Bureau of Investigation, the Illinois State Police or other law enforcement agency. The Commissioner shall act to approve or deny the application and, if approved, to issue the license.

B. For any start-up business the applicant must make application not less than 90 days prior to the issuance date of the license to provide sufficient time for a background check.

C. An applicant applying for an annual liquor license shall first deposit the license fee and application fee, if applicable, with the Commissioner. There shall be no rebate of any portion of the license fee due to the fact that the application is made after the beginning of the license year. All applicants desiring a liquor license shall be required to pay the full license fee, whether the license is to be issued for a full or part year.

D. In the event there is a change of ownership in a licensed business, or change of managers, or partners in a partnership, or shareholders in a corporation who own more than 5 percent of the stock of a corporation, or members in a limited liability company, the Commissioner may issue the license prior to receiving the results of the background check. However, if the background check reveals information provided in the application is false, the license will be subject to immediate revocation, the applicant will be subject to a fine and there shall be no refund of any portion of the license fee.

E. An applicant shall allow at least six weeks for processing an application. In addition to the information required by the Act, the application shall include the following information, statements and attachments:

1. If a partnership, proprietorship or joint venture: the name, date of birth and address of all applicants, including all partners, general or limited, character of business in which applicant is engaged and for which the license is desired.

If a corporation: the name, corporate address, principal place of business; character of business; the names and addresses of the officers and directors; if a majority interest of stock in said corporation is owned by 1 person or his nominee, the name and address of the person; the name and address of the 2 largest shareholders of each class of stock in the corporation; the name and address of the person or persons owning controlling interest in the corporation; the name and address of the manager or person(s) in daily charge and control of the business operation; in the case of a copartnership, the persons entitled to share in the profits thereof; the name, date of birth and address of the party to be manager of the corporate facility for which the license is sought; a certified copy of the corporate charter; and a copy of by-laws, including the objects for which organized.

If a limited liability corporation: the name, date of birth and address of all members, character of business in which applicant is engaged and for which the license is desired; and the name and address of the manager or person(s) in daily charge and control of the business operation.

2. Citizenship of the applicant(s), respective places of birth, and if a naturalized citizen(s) of the United States, the date and place of the respective naturalization.
3. Length of time the applicant has been in business of that character; or if a corporation, whether the corporation is either a continuation or successor of a prior entity and if so, the character of the prior entity's business.
4. Amount of all goods, wares and merchandise on hand at the time application is made.
5. Location, general description and approximate square footage of the premises or place of business which is to be operated under the license, including a scaled drawing of the premises showing all ingress and egress locations, windows and location of bar.
6. A statement whether the applicant has made application for a similar or other license on premises other than described in the application, and the disposition of the application; a statement whether an application was filed or a similar license was issued in any other state, county or local municipality; the date of issuance, name and address of the governmental entity; the disposition of the application or license; and the reasons therefore.
7. On initial applications, or whenever there has been remodeling, photographs depicting the interior of the premises including all ingress and egress locations, windows and bar and service areas.
8. A statement that the applicant will allow neither gambling nor gambling devises on the premises except licensed raffles and "Las Vegas" type events, for which all necessary permits have been obtained and except for video gaming terminals permitted in Section 14.28 of this Liquor Code.
9. Whether a previous license issued by any municipality, state or subdivision thereof, or the federal government has been either revoked or suspended and the reasons therefore and date of the revocation or suspension. This includes, but is not limited to suspension and revocation of licenses held by any individual, partner, corporation, majority or controlling shareholder or manager of the applicant seeking a license hereunder.
10. A statement that the applicant has neither been convicted of a felony nor is disqualified to receive a license by reason of any matter or thing contained

in this Chapter, this Code or the laws of this State and the United States.

11. A statement that the applicant will not violate any laws of the State, the United States or any ordinance of the Village.
12. A complete set of fingerprints of all persons listed on the liquor license application shall be provided as part of the background investigation.
13. In the event the premises to be licensed are leased, a copy of the lease shall be included with the application.

#### **14.05 LIQUOR LICENSE RESTRICTIONS** *Amended, 519*

In addition to the liquor license restrictions contained in the Act, a license shall not be issued to a person whose place of business is conducted by a manager or agent unless the manager or agent possesses the same qualification required by the licensee and resides within a 20 mile radius of Prairie Grove corporate limits.

#### **14.06 LIQUOR LICENSE CLASSIFICATIONS; FEES** *Amended, 647, 584, 419*

Liquor licenses shall be divided into the following classifications and fees:

1. Class A, which shall permit the retail sale of alcoholic liquor for consumption only on the premises where sold, and not for resale in any form. Also permitted within this Class shall be the service and consumption of open alcohol either on the outdoor premises (not public sidewalks or rights of way) in which the business lawfully operates in conformity with 1) the requirements of applicable private covenants that apply the subject property, 2) rules of the Village Municipal Code and 3) written directions issued the Local Liquor Control Commissioner from time to time relative to issues including, but not limited to, hours, layout and maximum number of tables and seats, separation from general public by fencing or otherwise and pedestrian traffic flow. The fee for a Class A license shall be \$1,500.
2. Class B, which shall only permit a retail sale of alcoholic liquor in sealed containers, for consumption off the premises where sold and not for resale in any form and the principal source of sales is of goods and commodities other than alcoholic liquor. The fee for a Class B license shall be \$1,500.
3. Class C, which shall permit the retail sale of beer and wine for consumption only on the Premises where sold, but not on any Parking Area or Lot of the Premises, and not for resale in any form. The fee for a Class C license shall be \$1,500.
4. Special Permit: Upon written application being made to the Commissioner, setting forth the time, place, date and organization or applicant's name, the Commissioner may issue a special permit to any qualified person, firm, corporation or organization for the retail sale or

dispensing of alcoholic liquor within the Village. All requests for special permits shall be made not less than 1 week prior to the date being requested. The written application shall be the same application as required in this Chapter and all of the rules and regulations of this Chapter shall be applicable to the special permit. If the permittee does not own the premises from which the sale or dispensing of alcoholic liquor is made, a written statement executed and acknowledged by the owner of the premises shall be provided to the Commissioner stating that the permittee has permission to occupy the premises at the dates and time of and for the purposes set forth in the application. All permittees shall meet all the qualifications, requirements, restrictions and provisions of this Chapter.

- 5. Application Fee: A non-refundable application fee in the amount of \$500 shall be payable upon initial application for a liquor license issued under Classes A, B and C. A non-refundable application fee in the amount of \$50 shall be payable upon application for any Special Permit liquor license.

**14.07 CLASSES AND MAXIMUM NUMBER OF LIQUOR LICENSES ISSUED**

*Amended, 670, 609, 584, 419, 730*

- A. The maximum number of liquor licenses issued by the Village are as follows:

<u>Classes of Liquor License</u>	<u>Maximum Number Issued</u>
1. Class A	4
2. Class B	0
3. Class C	1

B. The number of liquor licenses and classes of liquor license grantable by the Commissioner shall be determined by motion from time to time by the Village Board and revisions to this section of the Village Code shall be made accordingly by the Village Clerk.

**14.08 CLOSING HOURS** *Amended, 419*

A. It shall be unlawful to sell or offer for sale at retail, give or knowingly permit the consumption of alcoholic liquors on any licensed premises pursuant to this Chapter, between the hours of 1 a.m. and 5 a.m. Mondays through Sundays.

B. After closing hours, no person shall be permitted to remain on any licensed premises pursuant to this Chapter except the owner of the licensed premises or his or her duly authorized employees. All entrances and exists shall be locked and shall remain locked during the hours within which the sale of alcoholic liquor is prohibited.

#### **14.09 DISPOSITION OF LICENSE FEES**

Unless otherwise designated by the Village Board, all fees required by this Chapter shall be deposited in the Village's general corporate fund. In the event an application is denied, the fee less an administrative fee of \$250, shall be returned to the applicant.

#### **14.10 INSURANCE REQUIREMENTS**

No license shall be issued under the provisions of this Chapter until the applicant has filed with the Village a certificate or other evidence issued by an insurance company licensed to do business in the State, certifying that the applicant, and the owner of the premises housing the establishment from where the liquor will be sold, has in full force and effect, for a term concurrent with the term of the license to be issued, liquor liability insurance of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate and general liability insurance in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. "Host" insurance shall not satisfy the terms of this Section.

Any certificate of insurance shall provide that the insurance coverage may not be cancelled unless written notice is given to the Village at least 15 days prior to the effective date of cancellation. The failure of the licensee to have insurance coverage in full force and effect at any time during the term of the license shall be cause for the revocation of the license.

#### **14.11 LICENSE RENEWAL**

Not less than 6 weeks before a liquor license is scheduled to expire and after a renewal notice is provided by the Village to the licensee, the licensee may submit an application for renewal provided the applicant a) is then qualified to receive a license and b) the premises for which the renewal license is sought is suitable for these purposes. The renewal privilege provided herein shall not be construed as a vested right and the Commissioner reserves the absolute right to determine the number of licenses to be issued within the Village. In the event a renewal application is submitted less than 6 weeks before a liquor license expires, and after a 10-day written notice is mailed by the Village to the licensee, the applicant shall be subject to an additional renewal application fee of \$500.

#### **14.12 CHANGE OF LOCATION**

The location of the license may be changed only upon the receipt of written permission from the Commissioner. No change of location shall be permitted unless the proposed new location is in compliance with the provisions and regulations of this Chapter. The written permission of change shall be posted with the license as provided for in this Chapter.

#### **14.13 PROHIBITED ACTIVITIES BY LICENSEES** *Amended, 609, 389*

A. No person holding a license issued by the Village shall, in the conduct of the licensed business or upon the licensed premises, either directly or through the agents or employees of the licensee:

1. Violate or permit a violation of any federal law, State statute or regulation related to the control of liquor.



2. Violate or permit a violation of any provision of this Code regulating the sale of alcoholic liquor or relating to the eligibility of the licensee to hold a liquor license.
3. Violate or permit a violation of any rule or regulation of the Illinois Liquor Control Commission as amended from time to time.
4. Permit the sale and/or consumption of any alcoholic beverages outdoors absent a specific permit issued by the Village.
5. Allow fighting, disorderly conduct or excessive noise constituting a nuisance or tumultuous conduct of patrons and/or employees of the licensee, as defined in this Code, to take place on the licensed premises or on, about and/or adjacent to the licensed premises.
6. Allow patrons to serve or distribute alcoholic beverages to minors on the licensed premises or allow minors to drink alcoholic beverages on the licensed premises.
7. Fail to call the Village Police Department upon the violation of any provision of this Code or State law relating to fighting, disorderly conduct or excessive noise constituting a nuisance or tumultuous conduct of patrons and/or employees on the licensed premises.
8. Submit to the Village an application for a license containing a false or misleading statement.
9. Permit any gambling on any licensed premises, except video gaming terminals permitted under Section 14.28 of this Liquor Code.
10. Permit the sale, delivery or give any alcoholic liquor to any intoxicated person.
11. Permit or allow the following activity, as defined in *An Ordinance Establishing an Adult Business License for the Village of Prairie Grove*, adopted March 21, 2006, by the Village, to be conducted on the premises: adult business; adult entertainment center; adults-only activity, bookstore, motion picture theater, nightclub, sauna; nudity; obscene activity; rap parlor; sadomasochistic activity or sexual conduct activity.
12. To sell, distribute or permit beer or alcoholic beverages on any premises defined as an adult business pursuant to *An Ordinance Establishing an Adult Business License for the Village of Prairie Grove*, adopted March 21, 2006, by the Village.
13. Violate any section of this Chapter.

B. CAUSE FOR REVOCATION: Proof before the Commissioner of the facts which

establish a violation of any federal law, State statute, this Code or rule of the Illinois Liquor Control Commission shall be sufficient cause for revocation, suspension and fine of any licensee, irrespective of whether or not a conviction has been obtained in any court. In addition, the licensee shall be obligated to reimburse the Village for all attorney's fees incurred as a result of the prosecution of the offending licensee.

C. **OFFICIAL RECORD:** Pursuant to 235 ILCS 5/7-9, all appeals from the decision of the Commissioner shall be limited to a review of the official record of the proceedings.

D. **LICENSING AFTER REVOCATION:** If a license is permanently revoked, no license shall be granted to any person for a period of one year thereafter for the conduct of a business selling alcoholic liquors in the premises described in the revoked license.

#### **14.14 ABSENCE; ABANDONMENT**

A. **LEAVE OF ABSENCE:** If a licensee leaves the Village for more than 4 consecutive weeks, the licensee shall designate an agent, who is a Village resident, for service of notice and the leave shall be reported to the Commissioner, in writing, with the name and address of the designated agent.

B. **ABANDONMENT:** If the licensee to which a license has been issued discontinues operations at the premises described in the application and license for a period of 60 consecutive days, (except as hereafter set forth) or whenever there is evidence of a clear intent of the licensee to abandon the premises, said license shall be subject to revocation. If said discontinued operation is due to fire or other damage wherein the Building Inspector deems the premises uninhabitable, said 60-day period shall be stayed only until occupancy is granted by the Building Inspector.

#### **14.15 SALE RESTRICTIONS, *Amended 609***

A. **PREMISES CATERING TO MINORS:** No license shall be issued to any person for the sale of any alcoholic liquor at any store or other place of business where the majority of the customers are minors or where the principal business transacted consists of school books, school supplies, food, lunches or beverages for minors.

B. **FIRST FLOOR OF PREMISES:** No license shall be issued for the sale of any alcoholic liquor to any person, firm or corporation whose place of business is located or designated to be in a basement or in any story of any building other than the first floor of the building.

C. **SCHOOLS, ETC.:** No liquor license shall be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school, hospital, day care center or other business or institution whose primary function is the custodial care of children, the aged or infirmed.

Exempt from the prohibitions of this Section are hotels offering restaurant services, regularly organized clubs, restaurants, food shops or other places of business where the sale or delivery of alcoholic liquor is not the principal business being conducted on said premises.

Nothing in this Section shall prohibit the issuance of a license to a church or private

school to sell, at retail, alcoholic liquor, if any sales are limited to periods when groups are assembled on the premises solely for the promotion for some common object other than the sale or consumption of alcoholic liquor.

**14.16** *Intentionally left blank, Amended, 715*

**14.17 PURCHASE OR ACCEPTANCE OF GIFTS OF LIQUOR BY PERSONS UNDER THE AGE OF 21; IDENTIFICATION CARDS, PUNISHMENT; EXCEPTIONS**

A. PURCHASE OR ACCEPTANCE: It shall be unlawful for any person under the age of 21 to purchase, obtain, accept delivery of, accept a gift of, consume, or have in his or her possession alcoholic liquor except as otherwise provided herein.

B. WARNING PLACARD: In every place in the Village where alcoholic liquor is sold or offered for sale, there shall be displayed at all times, in a prominent place, a printed card, which shall read substantially as follows:

Warning to Persons Under 21 Years of Age

You are subject to a fine up to One Thousand Dollars (\$1,000.00) under the Liquor Control Ordinance of the Village of Prairie Grove if you purchase, obtain, accept delivery of, accept a gift of, consume or have in your possession alcoholic liquor, or misrepresent either your age or identity for the purpose of the aforementioned.

Said card shall be displayed together with the license issued for the premises.

C. It shall be unlawful for any holder of a retail liquor license, or his or her agent or employee, to permit any under aged person to be or remain in any room or compartment adjoining or adjacent to or situated in the room or place where the licenses premises is located; provided that this Section shall not apply to any under aged person who is accompanied by his or her parent or guardian, or any licensed premises which derives its principal business from the sale of services or commodities other than alcoholic liquor.

D. EXEMPTIONS: The possession and dispensing or consumption of alcoholic liquor by a person under 21 years of age in a performance of a religious service or ceremony, or the consumption by a person under 21 years of age under the direct supervision and approval of the parents or parent, guardian or spouse of the minor in the privacy of a home, is not prohibited by this Chapter.

E. PENALTY: Whoever violates any provision of this Section shall be fined not less than \$500 nor more than \$2,500.

**14.18 SALE, GIFT, DELIVERY TO PERSONS UNDER 21 YEARS OF AGE**

A. SALE BY LICENSEE: It shall be unlawful for either a licensee or any officer, associate, member, representative, agent or employee of the licensee, to sell, give or deliver alcoholic liquor to any person under the age of 21 years except as otherwise provided herein.

B. SALE BY OTHER PERSONS: It shall be unlawful for any person, after purchasing or otherwise obtaining alcoholic liquor, to sell, give or deliver the alcoholic liquor to another person under the age of 21 years, except as otherwise provided herein.

C. PROOF OF IDENTITY AND AGE: Any licensee, associate, member, representative, agent or employee of said licensee, may refuse to sell, serve, give or deliver alcoholic beverages to any person who is unable to produce adequate written evidence of both identity and of the fact that the person is over the age of 21 years. Adequate written evidence of age and identity of the person is a document issued by a federal, State, county or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to a member of the Armed Forces.

D. PENALTY: Whoever violates any provision of this Section shall be fined not less than \$200 nor more than \$2,500. In addition to all other fines and penalties, the Commissioner may either suspend or revoke the local liquor license for any violation of this Section.

#### **14.19 SALE OR USE OF FALSE EVIDENCE OF AGE AND IDENTITY**

A. It shall be unlawful for any person to sell, give or furnish to any person under the age of 21 years any false or fraudulent written, printed or photo static evidence of either the age or identity of the person or to sell, give or furnish to any person under the age of 21 years evidence of either age or identification of any other person.

B. It shall be unlawful for any person under the age of 21 to present or offer to any licensee, associate, member, representative, agent or employee of said licensee, any written, printed or photo static evidence of either age or identity which is false, fraudulent or not actually his or her own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage.

C. It shall be unlawful for any person to possess any false or fraudulent written, printed or photo static evidence of either age or identity.

D. PENALTY: Whoever violates any provision of this Section shall be fined not less than \$100 nor more than \$1,000.

#### **14.20 EMPLOYEE SERVER RESTRICTIONS**

A. It shall be unlawful for any person under the age of 21 years to draw, pour or mix any alcoholic liquor or in any way tend bar as an employee of any retail licensee for consumption on or off said premises. This shall not prevent persons 18 years of age and over, as employees of licensed premises, from delivering alcoholic liquor for consumption on the licensed premises. Except as otherwise provided in this Section, no person under the age of 21 years shall be permitted to sell at retail any alcoholic liquor for consumption either on or off the premises.

B. It shall be unlawful for any person to consume, partake of or be under the influence of either any alcoholic liquor or drug while either tending any bar, drawing, pouring,

mixing any alcoholic liquor for consumption on or off the licensed premises or selling or delivering any alcoholic liquor in its original unopened container for consumption on or off the licensed premises.

**14.21 SALES TO INTOXICATED PERSONS, HABITUAL DRUNKARDS, SPENDTHRIFTS AND MENTAL INCOMPETENCE**

No licensee, associate, member, representative or agent or employee of the licensee, shall sell, give or deliver alcoholic liquor either to any intoxicated person or to any person known by him or her to be an habitual drunkard, spendthrift, insane, feeble minded or distracted, mentally ill, mentally deficient or in need of mental treatment.

No licensee, officer, member, representative or agent or employee of the licensee, shall harbor or permit any intoxicated persons to either loiter on the licensed premises or permit any conduct which shall tend to disturb the peace or quiet of either the neighborhood or the premises.

**14.22 INSPECTIONS AND ENFORCEMENT**

Any law enforcing officer of the Village may enter at any time upon any licensed premises hereunder to determine whether any of the provisions of this Chapter or State statutes have been or are being violated and at such time may examine the premises of the licensee in connection therewith.

The Commissioner may receive complaint from any citizen within the jurisdiction of the Village that any of the provisions of this Chapter or any rules or regulations adopted by the President and Village Board or by the State or the Illinois Compiled Statutes have been or are being violated, and may act upon the complaints in the manner provided.

The Commissioner shall have authority to make and establish rules and regulations of procedure concerning notice of hearings and all other matters as may from time to time be necessary, and to appoint a Local Liquor Control Commission.

It shall be unlawful to refuse to grant admittance to the licensed premises at any time upon the verbal request of any police officer or any other legally authorized person.

**14.23 ACTS OF AGENT OR EMPLOYEE; LIABILITY OF LICENSEE; KNOWLEDGE OF LICENSEE**

Every act or omission of whatever nature constituting a violation of any of the provisions of federal law, State statutes, rules and regulations of the Illinois Liquor Control Commission and ordinances or resolutions of the Village by any officer, director, manager or other agent or employee of any licensee, shall be deemed and held to be the act of the employer or licensee, and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally for the purposes of these regulations.

**14.24 OWNER OF PREMISES PERMITTING VIOLATION; PENALTY**

If the owner of a licensed premises, or any person from whom the licensee derives the right to possession of the premises, or the agent of the owner or person, shall knowingly permit the

licensee to use the licensed premises in violation of the terms of this Code, the owner, agent or other person shall be deemed guilty of a violation of this Code to the same extent as the licensee and be subject to the same penalties.

#### **14.25 POLICE TRAINING EVENTS**

Except as provided herein and upon approval of the President, the Police Department may serve alcoholic liquor in conjunction with Police Department sanctioned training events held in the Village Hall. Presidential approval shall be required for each training event. All participants shall be required to sign a waiver, release and hold harmless agreement in a form approved by the Village Attorney.

#### **14.26 BASSET PROGRAM, *Amended 609***

Commencing July 1, 2016, the Beverage Alcohol Sellers and Servers Education Training (BASSET) program is required for all licensees and all persons serving alcohol within 120 days of the alcohol server beginning his or her employment. In the event a licensed premises is found to be in violation of any provision of this Chapter or the Liquor Control act of 1934 (235 ILCS 5/1-1 *et seq.*), the Commissioner, within his sole discretion, may require the licensee and/or the manager of the licensed premises, to attend and successfully complete the BASSET program. A photocopy of a certificate of completion of the BASSET program shall be maintained by the licensee in a manner that will allow inspection, upon demand, by the Commissioner or a member of the Police Department.

#### **14.27 REVOCATION OR SUSPENSION OF LICENSE; FINES; NOTICE; HEARING; APPEAL**

The Commissioner may revoke or suspend any local retail liquor license if it is determined that the licensee has violated any provision of this Chapter or any valid ordinance or resolution enacted by the Village Board or any applicable rule or regulation established by the Commissioner or the State Liquor Control Commission which is not inconsistent with law. In addition to said revocation or suspension or in lieu of suspension or revocation, the Commissioner may levy a fine on the licensee for the violation. The fine imposed shall not exceed \$1,000 for the first violation within a 12-month period, and \$1,500 for a second violation within a 12-month period and \$2,500 for a third or subsequent violation within a 12-month period. Each day on which a violation continues shall constitute a separate violation. Not more than \$15,000 in fines under this Section may be imposed against any licensee during the license period. Fine proceeds shall be paid into the Village's general corporate fund.

The license shall be either revoked or suspended and fines levied only after a public hearing before the Commissioner with a 3-day written notice to the licensee affording the licensee an opportunity to appear and defend. All hearings shall be open to the public and the Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the Village he may, upon the issuance of a written order stating the reason for the conclusion and without notice or hearing, order the licensed premises closed for not more than 7 days, giving the licensee an opportunity to be heard during that period, except that if the licensee shall also be engaged in the conduct of another business or businesses on the licensed premises the order shall not be applicable to the other

business or businesses.

The Commissioner shall, within 5 days after the hearing, state the reason or reasons in a written order served upon the licensee, for either the fine, suspension, revocation, or a combination thereof. The amount of the fine, the period of the suspension or the declaration of revocation of said license, and all costs shall be clearly set forth in the order. All costs of the public hearing incurred by the Village shall be charged to the licensee upon a determination of a violation and the issuance of an order setting forth a fine, suspension, revocation or any combination thereof.

Any order or action of the Commissioner may, within 20 days after notice of the order or action, be appealed. The appeal shall be limited to a review of the official record of the proceedings of the Commissioner. A certified official record of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter shall be filed by the Commissioner within 5 days after notice of the filing of the appeal, if the appellant licensee pays for the cost of the transcript.

**14.28** VIDEO GAMING TERMINALS, *Amended 645, 592*

License Required: No person shall have or keep a video gaming terminal or device in any place of public resort unless same is licensed by the Village, pursuant to this Section 14.28

Applications for licenses, as provided herein, shall be made to the Village Clerk and all applicants shall conform to the applicable provisions of the Village Code and rules and regulations of the State of Illinois, through the Illinois Gaming Board, and the Illinois Video Gaming Act and the rules and regulations implemented thereto.

Annual License Fee: The annual license fee payable to the Village shall be \$300 for each video gaming terminal or device and shall be payable no later than April 30<sup>th</sup> each following year after first issuance.

Replacement of License: Whenever a licensed video gaming terminal is replaced during the fiscal year a replacement license must be purchased; the licensee will pay a new license fee equal to the annual license fee.

Issuance: The applicant must obtain federal and state licenses and exhibit proof of said licenses prior to the issuance of a license pursuant to this Section 14.28 upon approval of the application by the State of Illinois and payment of the license fee in accordance with this Section 14.28, the Village shall issue one license for each video gaming terminal.

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## Chapter 15 TRAFFIC

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### 15.1 TRAFFIC REGULATIONS

A. ADOPTION AND INCORPORATION BY REFERENCE OF SPECIFIC CHAPTERS OF THE ILLINOIS VEHICLE CODE: That pursuant to 625 ILCS 5/20-204 of the Illinois Vehicle Code, the Village hereby adopts and incorporates by reference all paragraphs and sections of the Illinois Vehicle Code and subsequent amendments (625 ILCS 5/1-100 *et seq.*) in whole, as Chapter 15 of this Code (Prairie Grove Municipal Code, Chapter 15 §§1-100 *et seq.*). The section numbers used in the Illinois Vehicle Code shall be identical to those section numbers in this Code except that the sections in this Code shall be preceded by the number "15" in accordance with a directive from the Circuit Clerk of McHenry County.

B. PENALTY: All penalty provisions contained or referred to or incorporated in Section 15.01 are also adopted and incorporated, including but not limited to those contained in the Unified Code of Corrections (730 ILCS 5/1-1-1 *et seq.*), with the exception of the fine penalties listed for persons found guilty of violating Chapter 15, pars. 11-501(a)(1), 11-501(a)(2), 11-501(a)(3), 11-501(a)(4) and 6-303(a). Any person found guilty of violating Chapter 15, pars. 11-501(a)(1), 11-501(a)(2), 11-501(a)(3) and 11-501(a)(4) shall be fined not less than \$1,250 nor more than \$2,500 for each offense. Any person found guilty of violating Chapter 15, paragraph 6-303(a) shall be fined not less than \$300, nor more than \$2,500, for each offense. All other penalties listed for violations of these offenses shall be applicable.

C. APPLICABILITY: The penalty provided by this Section applies to the amendment of any section of this Chapter adopted herein by reference whether or not such penalty is re-enacted in the amendatory ordinance.



D. REFERENCE TO SECTIONS: Reference to a section of this Chapter shall be understood to also refer to and include the penalty section relating thereto, unless otherwise expressly provided.

## **15.2 NO LICENSE**

No vehicle without a current State license shall be allowed to be parked on Village streets, and the Village police are authorized to tow away and place in storage any vehicle found to violate this Section.

## **15.3 ABANDONED VEHICLE**

Any vehicle parked on any Village street or municipal parking lot for 7 consecutive days without being moved shall be deemed abandoned and shall be towed away and placed in storage, at the owner's cost, by the Village police.

## **15.4 OFF-STREET STORAGE OF VEHICLES**

The following standards and regulations shall apply to the outdoor storage of vehicles in parking lots and parking areas on a lot in a residential zoning district:

1. STORAGE DEFINED: For purposes of this paragraph, the terms "storage" or "stored" shall mean the parking of a vehicle for a continuous period of longer than 72 hours.
2. SURFACE: No motorized vehicle or non-motorized trailers shall be stored on any lot except on a surface constructed with concrete, asphalt or patio blocks. The width and length of the improved surface shall be at least the same dimensions of the body of the vehicle or trailer. The only exception to this rule shall apply to lots within a designated flood plain wherein the owner has received written correspondence from the federal government to the effect that a hard surface such as required herein is not permitted.
3. PERMANENT LOCATION PROHIBITED: No stored vehicle shall have its wheels removed or be affixed to the ground so as to prevent its ready removal.
4. RESIDENTIAL USE PROHIBITED: No vehicle shall be used for living, sleeping or housekeeping purposes on any lot for more than 10 days in any given calendar year. Any time a vehicle is connected to any public utility, there will be a presumption that such vehicle is being used for residential purposes.
5. UNLICENCED AND INOPERABLE VEHICLES: No vehicle without a current license or any vehicle incapable of being driven or used for the purpose or use for which it was designed shall be stored in any parking lot or parking area on any lot in a residential zoning district.
6. OUTDOOR STORAGE OF RECREATIONAL VEHICLES: Outdoor storage of recreational vehicles is permitted only to the extent that such vehicles are stored in a safe and orderly manner in a compact and contiguous area behind the front building setback

line. For purposes of this Section, a boat upon a trailer shall be considered a single vehicle. No more than one vehicle of each type may be stored on any lot less than 2 acres.

### **15.5 ENFORCEMENT PROCEDURE**

Upon determining that a vehicle has been stored in violation of this Chapter, the Police Department, by and through its personnel, shall give the person, firm or corporation owning, leasing or occupying the property notice by placing written notice on the windshield of the improperly stored vehicle that the person, firm or corporation shall have 24 hours from the date of notice to remove the vehicle from the property. Thereafter the Police Department may cause the vehicle to be towed at the owner's expense. In the event the owner fails to comply with said notice, the owner shall be liable for penalties hereinafter provided.

### **15.6 VEHICLES FOR SALE**

It shall be unlawful to park any vehicle upon any public right of way for the purpose of displaying it for sale.

### **15.7 RECLAIMED VEHICLES, EXPENSES** *Amended, 494*

Any vehicle impounded by the Village shall not be released to the owner, lien holder or other person until proof of ownership or right to possession of the vehicle is presented to the Village Police Department and all towing and storage charges incurred by the Village have been paid. If the Village stores the vehicle on Village property a storage charge shall be paid to the Village, effective 24 hours after the vehicle has been impounded. The charge for said storage shall be \$55 per day. The Village shall not be responsible for any vehicle damage or theft.

### **15.8 CARELESS DRIVING**

It shall be unlawful for any person to drive carelessly within the Village. For purposes of this Section, careless driving is failure to maintain a vehicle under control, exceeding the posted speed limit by more than 10 miles per hour and operating a vehicle in any manner other than as permitted by law.

### **15.9 RESERVED** *Ord. 464*

### **15.10 PARKING PLACES RESERVED FOR PERSONS WITH DISABILITIES**

The parking of any motor vehicle not bearing registration plates or decals issued to a person with disabilities, as defined in the Motor Vehicle Code, is prohibited in those locations where signs have been erected pursuant to the Illinois Vehicle Code.

### **15.11 SCHOOL PARKING AREAS**

A. Parking and traffic in parking areas of any and all schools for which there is a contract between the school district and Village for the regulation of parking and traffic shall be subject to the regulations set forth in this Section. For the purposes of this Section, the term "parking areas" shall mean the area or areas of land near or contiguous to said schools and used as a means of access to and egress from the said schools and for the parking of motor vehicles.

B. No person shall park any vehicle or cause any vehicle to stop or stand in any designated safety zone or fire lane, nor shall any person park any vehicle in any designated loading zone except as provided herein.

C. No person shall park any vehicle or cause any vehicle to stop or stand in any restricted parking area unless authorized by the School District Board of Education. Parking in said restricted areas shall be limited to vehicles registered with the school authorities, faculty or administration vehicles and non-student vehicles on official school business.

D. No person shall park or abandon any vehicle in a school parking area during a snowstorm, flood, fire or other public emergency so as to constitute an obstruction to traffic.

E. The School District Board of Education shall erect and maintain, in the school parking areas, signs posting speed limits and designating safety zones, loading zones, fire lanes and restricted parking areas. It shall be unlawful for any person to exceed said posted speed limits or to violate the restrictions or prohibitions designated by said signs.

**15.12 PARKING LIMITATIONS/PROHIBITIONS** *Amended, 600, 561, 532, 521*

Except for deliveries, parking along the following Village roads is prohibited: all corners of Barreville and Nish Roads; Rogers Road; Half Mile Trail; Ray Street; Illinois Route 176.

**15.13 RESTRICTED PARKING AREAS**

A. POLICE VEHICLES: Directly behind the Police Department.

B. TRUCK PARKING: Except for Class D vehicles equipped with only front and rear single-wheel single axles, any vehicle displaying an Illinois Class D, F, H, J, K, N, P, R, S, T, V, X or Z license registration plate, or an equivalent if registered in another state or country, shall be prohibited from parking in any residential zoning area except for the purposes of loading or unloading the vehicle.

**15.14 NO PASSING ZONES**

The following roadways are designated as no passing zones:

1. Barreville Road from the northern Village limits to Illinois Route 176.
2. Nish Road from the eastern Village boundary to its intersection with Barreville Road.
3. Valley View Road from Nish Road to Illinois Route 176.

**15.15 SNOWMOBILE ROUTES, LOCAL REGULATIONS**

A. LOCAL REGULATIONS: It shall be unlawful for any person to operate a snowmobile in the Village under the following circumstances:

1. Upon any walkway in the Village, except where the tree bank, shoulder or unpaved right-of-way has a natural or hazardous obstruction to the extent of blocking the passage of any snowmobile.
2. At speeds in excess of 10 miles per hour.
3. Upon any street, except to cross the right-of-way thereof, except where the tree bank, shoulder or unpaved right-of-way has a natural or hazardous obstruction to the extent of blocking the passage of any snowmobile.
4. On public school grounds, park property, playgrounds, recreational areas and golf courses, whether public or private, without express written permission to do so by the property owner or property authority.
5. In a manner that creates loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.

B. **PARKING:** It shall be unlawful to park any snowmobile on any sidewalk or street within the Village, or on the private property of any person, without the express permission of the owner or occupant of any such private property.

C. **UNATTENDED VEHICLES:** It shall be unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with the keys for starting the vehicle left in the ignition.

#### **15.16 COMPRESSION/RELEASE ENGINE BRAKE USE PROHIBITED**

No person shall operate or cause to be used or operated within the Village any compression/release engine brake on any vehicle for any reason. For purposes of this Section, compression/release engine brake is defined as any mechanical exhaust device designed to aid in the braking or deceleration of any vehicle by converting engine power to compressed air which results in excessive, loud, unusual or explosive noise from such vehicle, or otherwise known as jake-braking.

#### **15.17 OVERWEIGHT VEHICLES** *Amended, 494*

A. **DEFINITIONS:** In addition to those terms defined in Appendix A of this Code, the following terms used within this Section are defined as follows:

**Commercial vehicle:** As defined in 625 ILCS 5/1-111.8.

**Implement of husbandry:** As defined in 625 ILCS 5/1-130.

**Public utility:** As defined in 625 ILCS 5/1-164.7.

B. **REGULATIONS:** The following weight loads and weight regulations are hereby established for the Village:

1. GENERAL: To promote the safety of the general public and to preserve the streets under the jurisdiction of the Village for the use of the general public, it is hereby declared that the following rules and regulations for maximum weight and load shall apply to all vehicles using the public streets under the jurisdiction of the Village.
2. MAXIMUM WEIGHT PER VEHICLE: Except on Illinois Route 176 and Illinois Route 31 and as otherwise provided herein, it shall be unlawful to operate any vehicle on any street within the Village when the gross weight of such vehicle, including the tractor, trailer and load, exceeds 5 tons.

C. EXCEPTIONS: The following vehicles and uses are hereby excepted from the provisions of Section 15.17-B herein:

1. Firefighting apparatus and equipment for snow and ice removal operations, or any other vehicle being operated for immediate public emergency purposes.
2. Delivery/pick-up vehicles when the vehicle being used is for the sole purpose of making a delivery to, picking up a load from, or otherwise serving a location on a weight-restricted road within the corporate limits of the Village, provided and on the condition that such vehicle enters at the intersection nearest its destination and exits the Village by the same route.
3. Implements of husbandry as defined herein.
4. Public utility vehicles which are engaged in the repair, maintenance, construction or installation of utility service to persons or properties within the Village.
5. Garbage, refuse and septic vehicles operated to service properties within the Village.
6. Vehicles owned or operated by the Village or operated by other persons under contract with the Village for Village purposes.
7. Vehicles owned or operated by a unit of government.
8. School buses being operated to pick up or return children to residences within the Village.
9. Vehicles operating under a permit issued pursuant to Section 15.17-D herein.
10. Feed trucks, trucks hauling livestock, milk trucks, fertilizer trucks, emergency service vehicles used in emergency maintenance repair of farm buildings and farm equipment.

11. Notwithstanding any of the exceptions herein, no vehicle shall be operated on any Village street which is not allowed to be operated on State highways and streets, and any vehicle prohibited from operation on State highways or streets for any reason, including but not limited to weight and size, shall be prohibited from operation on Village streets without a Village permit.
12. Personal licensed vehicles and trailers of Village residents or property owners exceeding 10,000 pounds such as boats, recreational vehicles and trailers, not used for business or commercial applications.
13. Deliveries to and from the Colby Point Area Subdivision.
14. Eastern Village entrance to Crystal Way.

D. PERMITS:

1. Permits to allow the operation of a vehicle or combination of vehicles exceeding the maximum weight established in Section 15.17-B herein, on streets under the Village's jurisdiction, other than Illinois Route 31 and Illinois Route 176 and when there is no other route available, may be issued by the Village.
2. Permits applications are available at the Village Hall, shall require the following information:
  - (a) Name, address and telephone number of applicant;
  - (b) A specific description of the vehicle (s) and load (s) to be operated or moved pursuant to the permit;
  - (c) The point of origin and destination of the overweight vehicle(s) and loads;
  - (d) A statement that there is no other route available on public streets except for a route including Village streets;
  - (e) The date(s) or period of time for which the permit is requested; and
  - (f) A diagram of the proposed route of operation through the Village.
3. The application shall be verified under oath and accompanied by a certified check or cash for the application fee of \$25 per single, one time use load.
4. The permit shall continue in full force and effect for 24 hours from the date of issuance unless there is a change of circumstances by which routes become available on public streets outside of the corporate limits of the Village. Upon showing that such other route is available, the applicant

shall be notified by the Village, in writing, of the termination of the permit, which shall terminate 5 days from the date of mailing said notice to the applicant's last known address or upon receipt of the notice by the applicant, whichever shall first occur.

5. The Village shall designate the route to be used within the corporate limits in the permit.
6. Permits shall not be required for the following Village streets:
  - (a) That part of Edgewood Road located in the Village limits lying west of Illinois Route 31.
  - (b) That part of Valley View Road located within the Village limits lying south of Illinois Route 176.

E. TEMPORARY PROHIBITION OF CERTAIN CLASSES OF VEHICLES:

1. Whenever any highway or street, or parts thereof, under the jurisdiction of the Village, by reason of deterioration, rain, snow or other climatic conditions, will be seriously damaged or destroyed by the use of trucks or other commercial vehicles, the operation of said vehicles thereon shall be prohibited.
2. The Superintendent of Public Works is hereby authorized to determine and designate the time and the highways, streets, or parts thereof, which shall be so seriously damaged or destroyed, and shall so advise the Village Board. By resolution the Village Board may prohibit the operation of trucks or other commercial vehicles over and upon such streets or highways, or parts thereof, so designated, provided that said prohibition shall not exceed 90 days in any calendar year.
3. Upon enacting such resolution, the Village Board shall cause to be erected and maintained signs designating the provision of the resolution at each end of that portion of any highway or street, or parts thereof, affected thereby; and the resolution shall not be effective unless and until such signs are erected and maintained.
4. If the Superintendent of Public Works determines that any streets or highways, or parts thereof, might suffer serious damage prior to the time in which the Village Board can meet for the purpose of taking remedial action as provided herein, then in such emergency the Superintendent of Public Works may act alone in prohibiting the operation of trucks or other commercial vehicles over and upon such streets or highways, or parts thereof, and may direct the erection of signs at each end of such street or highway, or parts thereof, affected thereby. The Village Board, at its next regular meeting called after action taken by the President, as provided herein, shall either confirm said action by resolution and extend said pro-

hibition for a period not to exceed 90 days; or, by resolution, direct that the signs be removed and declare that no emergency exists.

F. ADMINISTRATIVE FEE: In addition to the applicable fine, any person, firm or corporation in violation of this Section shall pay to the Village an administrative fee of \$75. The fee shall be credited to the Police Department Administrative Fees line item, the funds of which will be dedicated to the Police Department truck enforcement equipment repair

**15.18 SPEED LIMITS** *Amended, 532, 403*

The following speed limits shall be observed on the designated roadways and portions of designated roadways within the Village:

**25 miles per hour**

Arbor Lane  
Barreville Road, from Justen Road  
south to Illinois Route 176  
Braberry Lane  
Carlisle Drive  
Cobblestone Drive  
Conestoga Road  
Crystal Way  
Erin Court  
Fawn Trail  
Fawn Trail Court  
Fox Court  
Granite Court  
Harry Court  
Heritage Court  
Heritage Hills Road  
Hillview Drive  
Homestead Trail  
Kame Drive  
Lakewood Drive  
Meadowlark Lane  
Niblick Court  
Nish Road  
North Oak Knoll Road  
South Oak Knoll Road  
Oakleaf Lane  
Park Meadow Road  
Pebble Lane  
Prairie View Road  
Ray Street  
Rita Avenue  
Red Bud Court  
Sutton Woods Court  
Sutton Woods Drive

Tamarack Circle  
Tamarack Court  
North Tamarack Trail  
South Tamarack Trail  
Tanager Trail  
Thunderbird Lane  
Timber Trail Drive  
Valley View Road, from Illinois Route 176  
north to Nish Road  
White Oak Court  
Willow Creek Road  
Wirth Trail  
Woodland Hollow Trail

**35 miles per hour**

Ames Road  
Barreville Road, from 500 feet north of  
Justen Road south to Justen Road  
Bay Road  
Behan Road  
Buhl Road  
Gracy Road  
Justen Road  
Wright Road  
Half Mile Trail  
Pleasant Hill Road  
Valley View Road, from 1,000 feet  
south of Illinois Route 176 and north  
to Illinois Route 176

**40 miles per hour**

Smith Road within the Village limits



**45 miles per hour**

Barreville Road, from the northern Village limit south to 500 feet north of Justen Road  
Edgewood Road  
Illinois Route 176  
Valley View Road, from the southern

Village limit north to 1,000 feet south of Illinois Route 176

**50 miles per hour**

Terra Cotta Avenue within the Village limits

**55 miles per hour**

Illinois Route 31 within the Village limits

**15.19 STOP INTERSECTIONS *Amended, 461***

Pursuant to 625 ILCS 5/11-302, stop signs are designated at the following Village intersections:

<b><u>Traffic On</u></b>	<b><u>Direction</u></b>	<b><u>Stops At</u></b>
Ames Road	eastbound	Barreville Road
Arbor Lane	eastbound	Carlisle Drive
Arbor Lane	westbound	Carlisle
Barreville Road	northbound	Ames Road
Barreville Road	southbound	Ames Road
Barreville Road	northbound	Fox Court
Barreville Road (cutoff)	eastbound	Illinois Route 176
Barreville Road (cutoff)	westbound	Illinois Route 176
Barreville Road	northbound	Nish Road
Barreville Road	southbound	Nish Road
Behan Road	eastbound	Buhl Road
Behan Road	westbound	Illinois Route 176
Carlisle	northbound	Arbor Lane
Carlisle	southbound	Arbor Lane
Fawn Trail	northbound	Nish Road
Fox Court	westbound	Valley View Road
Gracy Road	eastbound	Barreville Road
Half Mile Trail	eastbound	Illinois Route 31
Hillview Road	southbound	Nish Road
Justen Road (west)	westbound	Barreville Road
Justen Road (south)	southbound	Wright Road
Lakewood Drive	southbound	Oakleaf Lane, southernmost leg
Nish Road	westbound	Barreville Road
Oak Knoll Road	eastbound	Barreville Road
Oak Road	eastbound	Barreville Road
Tamarack Trail (north)	eastbound	Barreville Road
Tamarack Trail (south)	eastbound	Barreville Road
Thunderbird Lane	northbound	Braberry Lane
Thunderbird Lane	southbound	Braberry Lane
Thunderbird Lane	southbound	Lakewood Drive

Valley View Road	northbound	Illinois Route 176
Valley View Road	southbound	Illinois Route 176
Valley View Road	northbound	Nish Road
Woodland Hollow Trail	northbound	Arbor Lane
Woodland Hollow Trail	southbound	Arbor Lane
Wright Road	westbound	Barreville Road

**15.20 SAFETY CERTIFICATE FINE ALLOCATION** *Ord. 512*

With regard to fines assessed pursuant to Section 1.12-A of this Code, relating to a section 15.01 code violation of “Operation Without Certificate of Safety Attached” (625 ILCS 5/13-111), \$50 of the fine received shall be credited to the Village general fund and be dedicated to police vehicle replacement.

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**Chapter 16**  
**OCCUPATION and OTHER TAXES**

- 16.01 Municipal Retailers Occupation Tax
- 16.02 Municipal Use Tax
- 16.03 Municipal Utility Tax on Electric Gross Receipts
- 16.04 Locally Imposed and Administered Tax Rights and Responsibilities
- 16.05 Municipal Cannabis Retailers' Occupation Tax

**16.01 MUNICIPAL RETAILERS OCCUPATION TAX**

A. **REQUIRED TAX:** A tax is hereby imposed upon all persons engaged in the Village in the business of selling tangible personal property at retail in this Village at the rate of 1 percent of the gross receipts from the sales made in the course of such business while this Section is in effect, in accordance with the provisions of 65 ILCS 5/8-11-1.3, as amended.

B. **REPORT TO STATE:** Every such person engaged in such business in the Village shall file on or before the 15th day of each calendar month, the report to the Illinois Department of Revenue as required by 35 ILCS 120/3.

C. **PAYMENT TO STATE:** At the time such report is filed, there shall be paid to the Illinois Department of Revenue the amount of tax hereby imposed on account of the receipts from sales of tangible personal property during the proceeding month, together with any penalties then due, if any, and such other information as may be required by 35 ILCS 120/3.

**16.02 MUNICIPAL USE TAX**

A. **REQUIRED TAX:** A tax is hereby imposed upon the privilege of using, in the Village, any item of tangible personal property which is purchased outside the State at retail from a retailer, and which is titled or registered with any agency of the State. The tax shall be at a rate of 1 percent of the selling price of such tangible personal property. "Selling price" is defined in 35 ILCS 105/2, the Use Tax Act.

B. **COLLECTION:** The tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in the Village. Such tax shall be collected by the Illinois Department of Revenue and shall be paid before the title or certificate of registration for the personal property is issued.

**16.03 MUNICIPAL UTILITY TAX ON ELECTRIC GROSS RECEIPTS**

A. **DEFINITIONS:** In addition to the terms defined in Appendix A of this Code, terms, whether capitalized or not, used in this Section mean as follows:

**Person:** Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator or other representative appointed by order of any court.

**Person maintaining a place of business in this State:** Any person having or maintaining within the State, directly or by a subsidiary or other affiliate, an office, generation facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent or other representative operating within the State under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in the State permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in the State.

**Purchase at retail:** Any acquisition of electricity by a purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in 65 ILCS 5/8-11-2, directly in the generation, production, transmission, delivery or sale of electricity.

**Purchaser:** Any person who uses or consumes, within the corporate limits of the Village, electricity acquired in a purchase at retail (other than an exempt purchaser).

**Tax collector:** The person delivering electricity to the purchaser.

B. **TAX IMPOSED:** Pursuant to the Illinois Municipal Code (65 ILCS 5/8-11-2) and any other applicable authority, a tax is imposed upon the privilege of using or consuming electricity purchased at retail and used or consumed within the corporate limits of the Village at the following rates, calculated on a monthly basis for each purchaser, except the Village:

1. For the first 2,000 Kilowatt-hours (“Kwh”) used or consumed in a month, .230 cents per Kwh;
2. For the next 48,000 Kwh used or consumed in a month, .151 cents per Kwh;
3. For the next 50,000 Kwh used or consumed in a month, .135 cents per Kwh;
4. For the next 400,000 Kwh used or consumed in a month, .132 cents per Kwh;
5. For the next 500,000 Kwh used or consumed in a month, .129 cents per Kwh;
6. For the next 2,000,000 Kwh used or consumed in a month, .120 cents per Kwh;
7. For the next 2,000,000 Kwh used or consumed in a month, .119 cents per Kwh;
8. For the next 5,000,000 Kwh used or consumed in a month, .117 cents per Kwh;
9. For the next 10,000,000 Kwh used or consumed in a month, .115 cents per Kwh;

Kwh; and

10. For all electricity consumed or used in excess of 20,000,000 kwh in a month, .113 cents per kwh.

The tax rates set forth hereinabove will be used at least through December 31, 2008, are proportional to the rates enumerated in 65 ILCS 5/8-11-2 (as modified by Public Act 90-561), and do not exceed the revenue that could have been collected during 1997 using the rates enumerated in 65 ILCS 5/8-11-2 (as modified by Public Act 90-561).

C. RETAIL SALE: It shall be presumed that any electricity delivered to a person within the Village is sold at retail, for its use or consumption within the Village. This presumption is refutable only by clear and convincing evidence.

D. COLLECTION: The tax imposed by this Section shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. The tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser. If the tax is unpaid it is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Section and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity, provided that the person delivering electricity shall be allowed credit for such tax related deliveries of electricity, the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax to the Village. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall be authorized to add to such gross charge an amount equal to 3 percent of the tax assessed pursuant to this Section to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting tax and supplying data to the Village. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the Village in the manner prescribed herein. Persons delivering electricity who file returns pursuant to this Section shall, at the time of filing such return, pay the Village the amount of the tax collected pursuant to this Section.

E. BOOKS AND RECORDS:

1. Every person delivering electricity who is required to collect a tax pursuant to this Section shall keep accurate books and records of all transactions which may affect the tax provided for herein including, but not limited to, records of the number of Kilowatt-hours (Kwh) used by each consumer within the Village for each month, the charge imposed upon each consumer for the sale of the electricity and any related services, the amount of tax imposed by this Section billed to each consumer of electricity and the amount of tax actually collected, the amount of the charge imposed and collected by the electric distributor as compensation for collecting the tax, and the total gross receipts received by the electricity deliverer for each month.

2. Every person delivering electricity is required to collect a tax as set forth herein shall provide to the Village, within 7 days of written request, copies of all records, or any part thereof, which the Village requests, which the electricity deliverer is required to keep pursuant to Section herein.

F. TAX REMITTANCE AND RETURN:

1. Every person collecting a tax pursuant to this Section shall, on a monthly basis, file a return with the Village in a form prescribed by the Village along with the total revenues collected. The return and accompanying remittance shall be delivered to the Village on or before the last day of the month following the month during which the tax is collected or is required to be collected under Section 16.03-C5.
2. Each person who is required to pay a tax pursuant to Section 16.03-C and who has not paid the tax to the electricity deliverer as provided for herein, shall file a return with the Village as provided in Section 16.03-G2 and pay directly to the Village the tax on or before the last day of the month following the month during which the electricity was used or consumed.

G. REINSTATEMENT OF UTILITY TAX ON ELECTRICITY: In the event Public Act 90-561 is declared unconstitutional, or if this Section is found unconstitutional or voided by any court of competent jurisdiction, the provisions of Section 16.03-A3 shall remain in effect in all respects as if it had never been repealed, and any amounts paid to the Village by any person delivering electricity pursuant to this Section 16.03-B shall be deemed to have been paid pursuant to Section 16.03-A3 as it existed prior to the passage of this amendment to Section.

#### **16.04            LOCALLY IMPOSED and ADMINISTERED TAX RIGHTS and RESPONSIBILITIES**

A. DEFINITIONS: In addition to the definitions in Appendix A of this Code, the following definitions are applicable to this Section:

**Act:** Local Government Taxpayers' Bill of Rights Act.

**Locally imposed and administered tax or tax:** Each tax imposed by the Village that is collected or administered by the Village, not an agency or department of the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the Village other than infrastructure maintenance fees.

**Local tax administrator** ("Administrator" for purposes of this Section): The Treasurer, who is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees or agents to the extent they are authorized by the Administrator to act in the Administrator's stead. The Administrator shall have the authority to implement the terms of this Section. The exercise of such authority by the Administrator shall not be inconsistent with this Section and the Act.

**Notice:** Each audit notice, collection notice or other similar notice or communication in

connection with each of the Village's locally imposed and administered taxes.

**Tax ordinance:** Each ordinance passed by the Village that imposes any locally imposed and administered tax.

**Taxpayer:** Any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of such tax is placed and with respect to consumer taxes includes the business or entity required to collect and pay the locally imposed and administered tax to the Village.

B. NOTICES: Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than 7 calendar days prior to the day fixed for any applicable hearing, audit or other scheduled act of the Administrator. The notice shall be sent by the Administrator by first class or express mail, or overnight mail, addressed to the persons concerned at the person's last known address, or by personal service or delivery.

C. LATE PAYMENT: Any notice, payment, remittance or other filing required to be made by the Village pursuant to any tax ordinance shall be considered late unless it is (1) physically received by the Village on or before the due date, or (2) received in an envelope or other container displaying a valid, readable U.S. postmark dated on or before the due date, properly addressed to the Village, with adequate postage prepaid.

D. PAYMENT: Any payment or remittance received for a tax period shall be applied in the following order: (1) to the tax due for the applicable period; (2) to the interest due for the applicable period; and (3) to the penalty for the applicable period.

E. CERTAIN CREDITS AND REFUNDS:

1. The Village shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protect the taxes at the time of payment or if the taxpayer paid the taxes under duress.
2. The statute of limitations on a claim for credit or refund shall be 2 years after the end of the calendar year in which payment in error was made. The Village shall not grant a credit or refund of locally imposed and administered taxes, interest or penalties to a person who has not paid the amounts directly to the Village.
3. The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:
  - a. The taxpayer shall submit to the Administrator in writing a claim for credit or refund together with a statement specifying:

- 1) The name of the locally imposed and administered tax subject to the claim;
  - 2) The tax period for the locally imposed and administered tax subject to the claim;
  - 3) The date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
  - 4) The taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
  - 5) A request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the Village.
- b. Within 10 days of the receipt by the Administrator of any claim for a refund or credit, the Administrator shall either:
- 1) Grant the claim; or
  - 2) Deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.
- c. In the event the Administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of 6 percent per annum, based on a year of 365 days and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

F. **AUDIT PROCEDURE.** Any request for a proposed audit pursuant to any local administered tax shall comply with the notice requirements herein. The procedure shall be as follows:

1. Each notice of audit shall contain the following information: the tax; the time period of the audit; and a brief description of the books and records to be made available for the auditor.
2. Any audit shall be conducted during normal business hours and if the date and time selected by the Administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within 30 days after the originally designated audit and during normal business hours.



3. The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than 7 days nor more than 30 days from the date the notice is given unless the taxpayer and Administrator agreed to some other convenient time. In the event the taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the 30 days, approved in writing, that is convenient to the taxpayer and the Administrator.
4. Every taxpayer shall keep accurate books and records of the taxpayers' business or activities, including original source documents and books of entry denoting the transactions which had given rise or may be given rise to any tax liability, exemption or deduction. All books shall be kept in the English language and shall be subject to and available for inspection by the Village.
5. It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the Village. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the Administrator may issue a tax determination and assessment based on the Administrator's determination of the best estimate of the taxpayer's tax liability.
6. If an audit determines there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within 30 days of the Village's determination of the amount of overpayment.
7. In the event a tax payment was submitted to the incorrect local governmental entity, the Administrator shall notify the local governmental entity imposing such tax.

G. APPEAL:

1. The Administrator shall send written notice to the taxpayer upon the issuance of a protest notice of tax due, a bill, a claim denial or a notice of claim reduction regarding any tax. The notice shall include the following information:
  - a. The reason for the assessment;
  - b. The amount of the tax liability proposed;
  - c. The procedure for appealing the assessment; and
  - d. The obligations of the Village during the audit, appeal, refund and collection process.
2. A taxpayer who receives written notice from the Administrator of a

determination of tax due or assessment may file with the Administrator a written protest and petition for hearing setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the Administrator with 45 days of receipt of the written notice of the tax determination and assessment.

3. If a timely written notice and petition for hearing is filed, the Administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within 14 days of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.
4. If a written protest and petition for hearing is not filed within the 45-day period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.
5. Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the Administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than 90 days after the expiration of the 45-day period.

H. HEARING: Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing pursuant to this Section, the Administrator shall conduct a hearing regarding any appeal. No continuance shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed 14 days. At the hearing the Administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply. At the conclusion of the hearing the Administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

I. INTEREST AND PENALTIES: In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

1. Interest: The Village provides for the amount of interest to be assessed on late payment, underpayment or nonpayment of the tax to be 9 percent per annum, based on a year of 365 days and the number of days elapsed.
2. Late Filing and Payment Penalties: If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty of 5 percent of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of 5 percent of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the Village issuing a

notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to 20 percent of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

J. ABATEMENT: The Administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the Administrator determines reasonable cause exists for delay or failure to make a filing.

K. INSTALLMENT CONTRACTS: The Village may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The Administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the Administrator that the payment is 30 days delinquent, the taxpayer shall have 14 business days to cure any delinquency. If the taxpayer fails to cure the delinquency within the 14-day period or fails to demonstrate good faith in restructuring the installment contract with the Administrator, the installment contract shall be canceled without further notice to the taxpayer.

L. STATUTE OF LIMITATIONS:

1. The Village, through the Administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall be 45 days after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.
2. No determination of tax due and owing may be issued more than 2 years after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.
4. If any tax return is not filed or if during any 4-year period for which a notice of tax determination or assessment may be issued by the Village, the tax paid was less than 75 percent of the tax due, the statute of limitations shall be 6 years maximum after the end of the calendar year in which return for the applicable period was due or the end of the calendar year in which the return for the applicable period was filed.
5. No statute of limitations shall apply if a fraudulent tax return was filed by the taxpayer.

M. VOLUNTARY DISCLOSURE: For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation or assessment from the Administrator, a taxpayer is entitled to file an application with the Administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest at 1 percent per month, for all periods prior to the filing of the application but not more than 4 years before the date of filing the

application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than 90 days after the filing of the voluntary disclosure application or the date agreed to be the Administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section must be paid within 90 days after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the Administrator, whichever is longer.

N. PUBLICATION OF TAX ORDINANCES. Any locally administered tax ordinance shall be published pursuant to normal and standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the Village Hall.

O. INTERNAL REVIEW PROCEDURE: The Administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes. Upon a determination by the Administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the Administrator shall (1) timely remove the lien at the Village's expense; (2) correct the taxpayer's credit record; and (3) correct any public disclosure of the improperly imposed lien.

P. APPLICATION: This Section shall be liberally construed and administered to supplement all of the Village's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this Section, this Section shall be controlling.

## **16.5 MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX, Amended, 668**

A. REQUIRED TAX: A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the Village at the rate of 1 percent of the gross receipts from these sales made in the course of that business, in accordance with the provisions 65 ILCS 5/8-11-22, as amended.

B. PAYMENT TO STATE: The tax shall be remitted by such retailer to the Illinois Department of Revenue. Any tax required to be collected and any such tax collected by such retailer and required to be remitted to the Illinois Department of Revenue shall constitute a debt owed by the retailer to the State. A retailer may reimburse itself for its seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that a seller is required to collect.

C. COLLECTION: The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Illinois Department of Revenue. The Illinois Department of Revenue shall have full power to administer and enforce the provisions of this Section 16.5.

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## **Chapter 17 SOLICITORS**

- 17.1 Definitions
- 17.2 Purpose
- 17.3 Permit Required
- 17.4 Application for Permit
- 17.5 Issuance, Denial and Revocation of Permits
- 17.6 Village Policy on Soliciting
- 17.7 Notice Regulating Soliciting
- 17.8 Duty of Solicitors
- 17.9 Uninvited Soliciting
- 17.10 Time Limit on Soliciting
- 17.11 Prohibited Practices
- 17.12 Permit Fee
- 17.13 Regulation of Not-for-Profit Solicitors for Funds

### **17.1 DEFINITIONS**

Terms used in this Chapter are defined in Appendix A of this Code and the Illinois Compiled Statutes.

### **17.2 PURPOSE**

Numerous complaints have been received by the Village Board from occupants of residences and dwelling units about persons who have gained or sought to gain admittance to their residences for the purpose of soliciting; or on the pretext of soliciting, have by their conduct made nuisances of themselves by disturbing and annoying the occupants; or by their acts and conduct have violated the right of the occupants to the quiet and peaceful enjoyment and security of their homes.

The Village declares that the regulations established by this Chapter are necessary for the safety, health, comfort, good order, protection and welfare of residents of this Village who desire the protection of the regulations established by this Chapter.

### **17.3 PERMIT REQUIRED**

It shall be unlawful for any person or organization to call upon any residence in the Village for the purpose of soliciting, without first securing a permit from the Village Hall. Any person required by this Chapter to have a solicitor's permit must have the permit in their possession while engaging in solicitation.

### **17.4 APPLICATION FOR PERMIT**

Application for a solicitor's permit shall be made upon a form provided by the Village and filed with Village Hall staff. The applicant shall truthfully state in full the information requested on the application, to-wit:

1. Name, address of present place of residence, phone number and date of birth of the applicant and person who will be soliciting for the applicant.
2. Provide a valid photo identification (driver's license or state identification) of the applicant and person who will be soliciting for the applicant.
3. Physical description of the applicant.
4. Name and address of the person, firm or corporation or association whom the applicant is soliciting for and the length of time applicant has been soliciting for the entity.
5. Description sufficient for identification of the subject matter of the soliciting which the applicant will engage in.
6. Period of time for which the permit is applied for, shall not exceed 30 days.
7. Whether a permit issued to the applicant under this Chapter was ever revoked.
8. Whether the applicant was ever convicted of a violation of any provision of this Chapter, or the ordinance of any other Illinois municipality regulating soliciting.
9. Whether the applicant was ever convicted of the commission of a felony under the laws of the State or any other state or federal law of the United States.
10. All statements made by the applicant upon application or in connection therewith shall be under oath.

## **17.5 ISSUANCE, DENIAL AND REVOCATION OF PERMITS**

A. Village staff, after consideration of the application and all information obtained relative thereto, shall issue a permit and badge to those applicants found fully qualified and the permit shall be issued forthwith. The badge shall contain the following:

1. Full name, mailing address and telephone number of the person engaged in solicitation; and
2. Full name and mailing address of the person or organization on whose behalf the solicitation is being conducted; and
3. The dates and hours for which the permit is valid.

B. Village staff, after consideration of the application and all information obtained relative thereto, shall deny the application for the reasons here listed. No permit shall be issued to any person who has been convicted of the commission of a felony under the laws of the State or any other state or federal law of the United States, within 5 years of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this Chapter or of an ordinance of any municipality regulating solicitation; nor to any person who has supplied

who has supplied false information on the application or has had a permit previously revoked.

C. Any permit that has been issued shall be revoked by the Chief of Police if the holder of the permit is convicted of a violation of this Chapter, or has made a false statement in the application or otherwise becomes disqualified for the issuance of a permit. Immediately upon such revocation, written notice shall be given by the Chief of Police to the holder of the permit, in person or by certified United States mail addressed to the address set forth in the application. Immediately on giving such notice, the permit shall be null and void.

## **17.6 VILLAGE POLICY ON SOLICITING**

It is the policy of the Village Board that the occupant or occupants of the residences in this Village shall make the determination of whether solicitors shall be, or shall not be, invited to their residence. If no determination is made as is provided in Section 17.07 herein, then soliciting is permitted.

## **17.7 NOTICE REGULATING SOLICITING** *Amended, 500*

Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this Chapter shall comply with the following directions:

Notice of the determination by the occupant of giving invitation to solicitors, or giving invitation only to for-profit solicitors, or the refusal of invitation to any solicitors, to any residence shall be given in the manner following:

1. A card shall be exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

“NO SOLICITORS INVITED”

Such card so exhibited shall constitute notice to any solicitor of the determination by the occupant of the residence of the information.

2. A card shall be exhibited upon or near the main entrance door to the residence, indicating the determination by the occupant, containing the applicable words, as follows:

“NO FOR-PROFIT SOLICITORS INVITED”

Such card so exhibited shall constitute notice to any solicitor of the determination by the occupant of the residence.

3. The absence of a “solicitor’s card” upon or near the main entrance door to the residence shall be deemed notice that solicitation is invited within the provisions of this Chapter.

## **17.8 DUTY OF SOLICITORS**

A. It shall be the duty of every solicitor upon going onto any premises in the Village, upon which a residence as herein defined is located, to first examine the notice provided for in

Section 17.07 herein, if any is attached, and be governed by the statement contained on the notice. If the notice is present then the solicitor, whether having a Village permit or not, shall immediately and peacefully depart the premises.

B. Any solicitor who has gained entrance to any residence, whether or not invited, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

C. A solicitor may not go upon any portion of the yard (other than a walkway or pathway leading to the front door of the residence) or ring the doorbell upon or near any back door of any residence, or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant and engage in soliciting in such areas after dark.

### **17.9 UNINVITED SOLICITING**

It is unlawful and shall constitute a violation of this Chapter for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence.

### **17.10 TIME LIMIT ON SOLICITING** *Amended, 500*

It is unlawful and shall be a violation of this Chapter for any person, whether having received a Village permit or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting, prior to 9 a.m. or after 8 p.m. of any day.

### **17.11 PROHIBITED PRACTICES** *Amended, 500*

A. Not more than 2 individuals shall engage in solicitation upon any residence at the same time for the same goods or services, or religious or charitable purposes.

B. No person or organization shall make more than one solicitation call at the same premises for identical goods or services or for the same religious or charitable purpose within any consecutive 30 day period, without receiving a prior invitation from the occupant of any residence.

C. No person or organization engaged in solicitation shall, at the time of initial contact with a prospective customer or donor, fail to identify themselves and the purpose of the solicitation.

D. No person or organization engaged in solicitation shall misrepresent the purpose of the solicitation or use any false, deceptive or misleading representations to induce a sale or



contribution, or use any plan, scheme or ruse which misrepresents the true status or mission of the solicitor.

E. No person or organization engaged in solicitation shall use abusive, vulgar, obscene or offensive language during their contract with any prospective customer or donor.

F. No person or organization engaged in solicitation shall threaten to use force or use force against a prospective customer or donor, their family or their property.

G. No person or organization engaged in solicitation shall use any sound or voice amplification system or any other device which causes loud or disturbing noises while engaged in solicitation.

H. No person or organization, which is not a charitable organization or representing a charitable organization, shall solicit on any public street or sidewalk within the Village without prior Village Board approval.

#### **17.12 PERMIT FEE**

All solicitors or applicants for a solicitor's permit shall pay a fee of \$100 per person for a 3-day solicitor's permit.

#### **17.13 REGULATION OF NOT-FOR-PROFIT SOLICITORS FOR FUNDS**

A. No permit or solicitation notification shall be required for persons engaged in door-to-door charitable solicitation involving the advocacy of religious or political causes which may include the distribution of handbills, circulars or other printed materials or the appeal for funds, pledges or donations. Such persons, however, shall comply with all other applicable provisions of this Chapter.

B. Any local school, church, service organization or governmental association based within the Village corporate boundaries, or provides its primary service within the Village, is not required to complete a notification form and no permit fee shall be required.

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## Chapter 18

### MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE

- 18.1 Definitions
- 18.2 Registration of Telecommunications Providers
- 18.3 Municipal Telecommunications Infrastructure Maintenance Fee
- 18.4 Collection, Enforcement and Administration of Telecommunications Infrastructure Maintenance Fee
- 18.5 Compliance with Other Laws
- 18.6 Existing Franchises and Licenses
- 18.7 Penalties
- 18.8 Enforcement
- 18.9 Waiver and Fee Implementation

#### 18.1 DEFINITIONS

In addition to the terms defined in Appendix A of this Code, the following terms shall have the following meanings:

**Gross charges:** The amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications within the Village, and for all services rendered in connection therewith, valued in money whether paid in money or otherwise, including cash, credits, services, and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs, or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. Gross charges for private line service shall include charges imposed at each channel point within the Village, charges for the channel mileage between each channel point within the Village, and charges for that portion of the interstate inter-office channel provided within the Village. However, gross charges shall not include:

1. Any amounts added to a purchaser's bill because of a charge made under: (i) the fee imposed by Section 18.03 herein, (ii) additional charges added to a purchaser's bill under 220 ILCS 5/9-221 or 5/9-222 (the Public Utilities Act), (iii) amounts collected under 65 ILCS 5/8-11-17, (iv) the tax imposed by the Telecommunications Excise Tax Act (35 ILCS 630/1 *et seq.*, (v) 911 surcharges, or (vi) the tax imposed by Section 4251 of the Internal Revenue Code;
2. Charges for a sent collect telecommunication received outside the Village;
3. Charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment or accounting equipment and also includes the usage of computers under a time-sharing agreement;
4. Charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identi-

fied from other charges;

5. Charges to business enterprises certified under 220 ILCS 5/9-221 (Public Utilities Act) to the extent of such exemption and during the period of time specified by the Village;
6. Charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit other than a regulatory required profit for the corporation rendering such services;
7. Bad debts (bad debt means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);
8. Charges paid by inserting coins in coin-operated telecommunications devices; or
9. Charges for telecommunications and all services and equipment provided to the Village.

**Public right-of-way:** Any municipal street, alley, water or public right-of-way dedicated or commonly used for utility purposes, including utility easements wherein the Village has acquired the right and authority to locate or permit the location of utilities consistent with telecommunications facilities. Public right-of-way shall not include any real or personal Village property that is not specifically described in the previous sentence and shall not include Village buildings and other structures or improvements, regardless of whether they are situated in the public right-of-way.

**Retailer maintaining a place of business in this State** (or any like term): Means and includes any retailer having or maintaining within the State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

**Sale 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.

**Service address:** The location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, service address shall mean the location of the customer's primary use of the telecommunications equipment as defined by the location in

Illinois where bills are sent.

**Telecommunications:** Includes, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities. Unless the context clearly requires otherwise, telecommunications shall also include wireless telecommunications as hereinafter defined. Telecommunications shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. Telecommunications shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities and all telecommunications resold in the subsequent provision and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. Telecommunications shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

**Telecommunications provider:**

1. Any telecommunications retailer; and
2. Any person that is not a telecommunications retailer that installs, owns, operates or controls equipment in the public right-of-way that is used or designed to be used to transmit telecommunications in any form.

**Telecommunications retailer:** Means and includes every person engaged in the business of making sales of telecommunications at retail as defined in this Section. The Village may, in its discretion, upon application, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Village, furnishes adequate security to ensure collection and payment of the fee. When so authorized, it shall be the duty of such retailer to pay the fee upon all of the gross charges for telecommunications in the same manner and subject to the same requirements as a retailer maintaining a place of business within the Village.

**Wireless telecommunications:** Includes cellular mobile telephone services, personal wireless services as defined in Section 704(C) of the Telecommunications Act of 1996 (Public law No. 104-104), 42 U.S.C. §332(c)(7), as now or hereafter amended, including all commercial mobile radio services, and paging services.

**18.2 REGISTRATION OF TELECOMMUNICATIONS PROVIDERS**

- A. Every telecommunications provider, as defined by this Chapter, shall register with

the Village within 30 days after the effective date of this Chapter, or becoming a telecommunications provider, whichever is later, on the Village's Telecommunications Provider Registration Form, provided, however, that any telecommunications retailer that has filed a return pursuant to Section 18.04-C herein shall be deemed to have registered in accordance with this Section.

B. Every telecommunications provider who has registered with the Village pursuant to this Section has an affirmative duty to submit an amended registration form or current return as required by Section 18.04-C herein, as the case may be, to the Village within 30 days from the date of the occurrence of any changes in the information provided by the telecommunications provider in the registration form or most recent return on file with the Village.

### **18.3 MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE**

A. Village telecommunications infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of 1.0 percent of all gross charges charged by the telecommunications retailer to service addresses within the Village for telecommunications originating or received in the Village.

B. Upon the effective date of the infrastructure maintenance fee authorized in this Chapter, the Village infrastructure maintenance fee authorized hereunder shall be the only fee or compensation for the use of all public rights-of-way within the Village by telecommunications retailers. Imposition of the infrastructure maintenance fee provided under this Chapter does not, however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.

C. The Village telecommunications infrastructure maintenance fee authorized by this Section shall be collected, enforced and administered as set forth in Section 18.04 herein.

### **18.4 COLLECTION, ENFORCEMENT AND ADMINISTRATION OF TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEES**

A. A telecommunications retailer shall charge to and collect from each customer an additional charge in an amount equal to the Village infrastructure maintenance fee attributable to that customer's service address.

B. Unless otherwise approved by the Village, the infrastructure maintenance fee shall be remitted by the telecommunications retailer to the Village not later than the last day of the month subsequent to the month in which a bill is issued to the customer, provided, however, that the telecommunications retailer may retain an amount not to exceed 2 percent of the Village infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the fee.

C. Remittance of the municipal infrastructure fee to the Village shall be accompanied by a return, in a form to be prescribed by the Village, which shall contain such information as the Village may reasonably require.

D. Any infrastructure maintenance fee required to be collected pursuant to this Chapter and any such infrastructure maintenance fee collected by such telecommunications

retailer shall constitute a debt owed by the telecommunications retailer to the Village. The charge imposed pursuant to this Chapter shall constitute a debt of the purchaser to the telecommunications retailer who provides such services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such services.

E. If it shall appear that an amount of infrastructure maintenance fee has been paid that was not due under the provisions of this Chapter, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any infrastructure maintenance fee due, or to become due, under this Chapter, from the telecommunications retailer who made the erroneous payment; provided, however, the Village may request, and telecommunications retailer shall provide, written substantiation for such credit. However, no claim for such credit may be made more than three years after the date of the erroneous payment unless:

1. The credit is used only to offset a claim of underpayment made by the Village within the applicable statutory period of limitations, and
2. The credit derives from an overpayment made by the same telecommunications retailer during the applicable statutory period of limitations.

F. Amounts paid under this Chapter by telecommunications retailers shall not be included in the tax base under any of the following acts as described immediately below:

1. Gross charges for purposes of the Telecommunications Excise Tax Act, 35 ILCS 630/1 *et seq.*;
2. Gross receipts for purposes of the municipal utility tax as prescribed in 65 ILCS 5/8-11-2;
3. Gross charges for purposes of the municipal telecommunications tax as prescribed in 65 ILCS 5/8-11-17;
4. Gross revenue for purposes of the tax on annual gross revenue of public utilities prescribed in 220 ILCS 5/2-202 (Public Utilities Act).

G. The Village shall have the right, in its discretion, to audit the books and records of all telecommunications retailers subject to this Chapter to determine whether the telecommunications retailer has properly accounted to the Village for the Village infrastructure maintenance fee. Any underpayment of the amount of the Village infrastructure maintenance fee due to the Village by the telecommunications retailer shall be paid to the Village plus 5 percent of the total amount of the underpayment determined in an audit, plus any costs incurred by the Village in conducting the audit, in an amount not to exceed 5 percent of the total amount of the underpayment determined in an audit. Said sum shall be paid to the Village within 21 days after the date of an invoice for same.

H. The Village Board may promulgate such further or additional regulations concerning the administration and enforcement of this Chapter, consistent with its provisions, as may be required from time to time and shall notify all telecommunications retailers that are registered pursuant to Section 18.02 herein of such regulations.

## **18.5 COMPLIANCE WITH OTHER LAWS**

Nothing in this Chapter shall excuse any person or entity from the obligations imposed under any law, including but not limited to:

1. Generally applicable taxes; and
2. Standards for construction on, over, under or within, use of or repair of the public rights-of-way, including standards relating to free standing towers and other structures upon the public rights-of-way, as provided; and
3. Any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under or within, use of or repair of the public rights-of-way; and
4. Compliance with any Village ordinance or provision of this Code concerning uses or structures not located on, over or within the right-of-way.

## **18.6 EXISTING FRANCHISES AND LICENSES**

Any franchise, license or similar agreements between telecommunications retailers and the Village entered into before the effective date of this Chapter regarding the use of public rights-of-way shall remain valid according to and for their stated terms except for any fees, charges or other compensation to the extent waived.

## **18.7 PENALTIES**

Any telecommunications provider who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Chapter shall be subject to fine in accordance with the general penalty provisions of this Code.

## **18.8 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.

## **18.9 WAIVER AND FEE IMPLEMENTATION**

A. The Village hereby waives all fees, charges and other compensation that may accrue, after the effective date of the waiver, to the Village by a telecommunications retailer pursuant to any existing Village franchise, license or similar agreement with a telecommunications retailer during the time the Village imposes the Telecommunications Infrastructure Maintenance Fee. This waiver shall only be effective during the time the Infrastructure Maintenance Fee provided for in this Chapter is subject to being lawfully imposed on the telecommunications retailer and collected by the telecommunications retailer from the customer.

B. The Village shall send a Fee Waiver Form by certified mail/return receipt requested to each telecommunications retailer with whom the Village has a franchise.

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**Chapter 19**  
**PLANNING, ZONING AND DEVELOPMENT FEES**

19.1	Annexation Fees
19.2	Planning, Zoning and Development Fees
19.3	Reimbursement of Fees
19.4	Abandoned Property
Exhibit A	Planning, Zoning and Development Review Fees
Exhibit B	Deposits Required for Reimbursement of Fees

**19.1 ANNEXATION FEES**

An annexation fee of \$500, per gross acre, or portion thereof, but in no event less than \$2,500 total, is hereby established for any property annexed into the Village. The annexation fee shall be paid to the Village prior to adoption of an ordinance annexing any property to the Village.

**19.2 PLANNING, ZONING AND DEVELOPMENT REVIEW FEES**

A. FEES ESTABLISHED: There are hereby established fees for the review of development proceedings by the Village. The term “development proceedings” shall mean:

1. Any petition or application filed to annex property to the Village, or to process an annexation agreement or amendments to an annexation agreement;
2. Any petition or application filed for relief from or review of parameters of the Zoning Code;
3. Any petition or application to subdivide, resubdivide or otherwise plat property filed pursuant to the Subdivision Code;
4. Any petition or application filed to address issues relating to rights-of-way or easements, including but not limited to plats of dedication, plats of vacation or easement documents; and
5. Any other improvement or development of real property.

The term “review” shall include, but not be limited to: conducting hearings and meetings; processing, review, and preparation of documents; evaluation of drawings for Code compliance; legal, technical and professional review and consultation; field inspections and preparations; and similar consideration and review of proposed actions which involve the earthmoving of land, construction or alteration of buildings, provision of utilities or other public services, and uses and appearances of property. Said fees do not include building permit fees, which are governed by Chapter 23 of this Code.

B. PAYMENT OF FEES: Review fees are listed in Exhibit A of this Chapter and shall be due and payable to the Village at the time of filing of an application or petition for the desired development proceeding. Said fees shall not be refundable. In the event the filing fee is



paid by check and the check is returned to the Village by the financial institution due to insufficient funds, the Village shall suspend the review process. A cashier's check that includes the required fees, a \$30 returned-check service charge, and any other costs that the Village may incur thereby, shall be deposited with the Village before the Village resumes the review process.

Development proceedings initiated by the Village (e.g. text amendments to the Zoning Code) are exempt from fees.

### **19.3 REIMBURSEMENT OF FEES**

A. **DEPOSIT:** In the event it is necessary for the Village to obtain or furnish professional services, including, but not limited to, attorneys, engineers, planners, architects, surveyors, traffic or drainage experts, inspectors, plan examiners, or other consultants, in connection with any petitioner's request for the Village to consider or otherwise take action upon any annexation, zoning change, subdivision development, planned development (PUD), dedication, vacation or easements or other improvement or development upon real property, then the petitioner and owner of the property shall be jointly and severally liable for the payment of such professional fees plus a service fee for each billing by the Village to cover the Village's administrative expenses as determined by the Village Board from time to time. At the time the petitioner requests action from the Village, he will be required to deposit an amount with the Village as listed on Exhibit B of this Chapter as an initial deposit to be credited against fees and costs incurred for the above described services. The petitioner and owner are liable for and shall be billed for services and consultation rendered prior to the filing of an application or petition for a development proceeding.

B. **INVOICES:** The Village shall send a petitioner regular invoices for the fees and costs incurred thus far, and the petitioner shall reimburse the Village within 30 days of said invoice. At all times the petitioner shall maintain a balance equal to its deposit with the Village.

C. **WITHDRAWALS AND DENIALS OF PETITIONS:** A petitioner who withdraws a petition may apply in writing to the Village for a refund of his initial deposit. The Village Board, may, in its discretion, approve the refund less any actual fees and costs which the Village has already incurred relative to the petition. In the event the Village Board denies approval of any or all portions of a petition, a petitioner shall remain liable for all fees and costs which the Village has incurred relative to the petition, and no refund of a deposit or deposit balance shall occur until such fees and costs have been paid.

D. **PROFESSIONAL FEES:** Any professional fees incurred as a direct or indirect result of the petitioner, owner or their agent requesting a professional opinion or otherwise requesting relief or assistance from the Village, whether or not related to real property, shall be reimbursed in accordance with this Chapter if, in the sole discretion of the Village, a professional opinion is desired or necessary.

E. **DEFAULT:** Upon the failure of the owner or petitioner to reimburse the Village in accordance with this Section, the Village shall send notice to the owner or petitioner, by certified mail, return receipt requested, that the deposit is in arrears. No action on any request made by the owner or petitioner will be acted upon by the Village Board or by any other official, quasi-official or deliberative individual or body thereunder; and such request shall remain in abeyance until all outstanding fees are paid in full. Furthermore, if all outstanding fees are not

paid in full and the deposit replenished pursuant to this Chapter, within 7 business days after the notice was mailed, the application shall be considered withdrawn by the owner or petitioner. Upon any failure to reimburse the Village in accordance with this Section, the Village may, in its discretion, elect to place a lien against any real property associated with the petitioner's request. Interest in the amount of 1½ percent per month shall accrue on all sums outstanding for 30 days or more. Such lien shall be in an amount equal to the outstanding amount owed to the Village.

F. **ASSIGNING AUTHORITY:** The Village Board and the designated Village staff members are hereby authorized to assign requests for professional services to the Village staff or to consultants as the Village Board deems appropriate.

G. **IN HOUSE STAFF:** When any professional services contemplated by this Chapter are rendered by the Village staff, then in such case the party making the request shall reimburse the Village for its cost incurred in providing said professional services. Said reimbursement shall be at the rate of \$30.00 per hour.

H. **REMEDIES:** The remedies available to the Village as set forth hereinabove are non-exclusive and nothing herein shall be construed to limit or waive the Village's right to proceed against any or all parties in a court of law of competent jurisdiction.

I. **AGREEMENT:** At the time the petitioner requests action from the Village he will be required to enter into an agreement with the Village that contains the parameters of this Section.

J. **REFUND:** Any surplus funds in the account of the petitioner or owner after all costs are paid shall be returned after approval by the appropriate Village staff or Village Attorney, upon written request by the petitioner or owner.

K. **PROFESSIONAL FEES INCURRED FOR INDIVIDUAL RESIDENTIAL PROPERTY:** In the event it is necessary for the Village to obtain professional services in connection with any work proposed for or done on an individual resident's property, including but not limited to drainage, provision of utilities or other public services, landscaping or structural issues, the owner of the property shall be liable for the payment of such professional fees plus a service fee for each billing by the Village to cover the Village's administrative expenses as determined by the Village Board from time to time. Said professional fees shall include but are not limited to the costs of any consultation, review of drawings, field inspections and travel expenses. The provisions of Section 19.03-G of this Code also apply.

L. **HIGHER DEPOSIT:** Notwithstanding any of the provisions in this Section, the Village, through its Village Board, may require a higher deposit and a Reimbursement of Fees Agreement containing additional requirements of the petitioner for development proceedings or reviews after taking into account the following factors: i) scope of the development; ii) the acreage of the development; and iii) the anticipated expense of professional consultants including, but not limited to, engineers, land planners and attorneys, reasonably necessary to review the proposed development request. In addition, the Village, through its Village Board or attorneys, may negotiate other items relative to the review or development proceeding including, but not limited to, the use of specific consultants and/or attorneys, rates and budgets.

**19.4****ABANDONED PROPERTY** *Ord. 623*

All tangible or intangible personal property, including entrusted funds deposited with the Village, shall be presumed to be abandoned if the property has remained unclaimed for at least 7 years. Prior to the Village Board declaring property to be abandoned, notice shall have been given, if known, to the last known owner of the property at the last known address of the owner except where the owner has previously declared bankruptcy and the bankruptcy proceeding has been closed or where an individual owner has died and any estate has been closed. If the last known address of the owner is not known, the Village Clerk shall cause a notice to be published in the newspaper providing that if a claim to the property is not made within fourteen (14) days of the published notice, the property shall be presumed to be abandoned. Thereafter, the Village Board may make a finding by motion that the funds originally deposited with the Village have been abandoned and the funds shall then be turned over to the general fund of the Village, for general use.

**EXHIBIT A**

<b>Planning, Zoning and Development Review Fees</b>	
<b>Proceeding</b>	<b>Fee</b>
Annexation or development petition	\$400
Zoning petition	\$750 per meeting
Subdivision/planned development petitions (preliminary)	\$400 + \$10/acre
Concept/site plan review <b>or</b> subdivision/planned development petitions (final)	\$750 per meeting
Special Village Board meeting	\$1,000
Street Opening Permit	\$100 plus \$10,000 bond

**EXHIBIT B**

<b>Deposits Required for Reimbursement of Fees</b>	
<b>Proceeding</b>	<b>Fee</b>
Annexation	\$ 5,000
Appeal	\$ 500
Re-zoning	\$ 5,000
Special use permit, residential	\$ 500
Special use permit, non-residential	\$ 5,000
Zoning text amendment	\$ 5,000
Zoning variation, residential (1 lot)	\$ 500
Zoning variation, residential (more than 1 lot)	\$ 1,000
Zoning variation, non-residential	\$ 2,000
Zoning upon annexation	\$ 5,000
Subdivision or planned development, up to 2.0 acres	\$ 1,000
Subdivision or planned development, greater than 2.0 acres but less than 20.0 acres	\$ 5,000
Subdivision or planned development, 20.0 acres or more	\$10,000
Site plan review, up to 2.0 acres	\$ 1,000
Site plan review, greater than 2.0 acres	\$ 5,000
Other improvement or development activity, individual residential	\$ 500
Other improvement or development activity, multi-lot residential or non-residential	\$ 1,000
NOTE: These fees are not cumulative. Only the highest applicable deposit for a multi-part proceeding is required.	

Village of Prairie Grove  
REIMBURSEMENT OF FEES AGREEMENT

Village of Prairie Grove Account No. \_\_\_\_\_

OWNER:

Name of Property Owner: \_\_\_\_\_

Owner's Address: \_\_\_\_\_

Telephone Number, Days: \_\_\_\_\_ Evenings: \_\_\_\_\_

APPLICANT:

Name of Applicant: \_\_\_\_\_

Applicant's Address: \_\_\_\_\_

Telephone Number, Days: \_\_\_\_\_ Evenings: \_\_\_\_\_

LOCATION OF PROPERTY:

General Location: \_\_\_\_\_

Total Acreage: \_\_\_\_\_ PIN(s): \_\_\_\_\_

Legal Description (attach as Exhibit A)

A. DEPOSIT: In the event it is necessary for the Village to obtain or furnish professional services, including, but not limited to, attorneys, engineers, planners, architects, surveyors, traffic or drainage experts, inspectors, plan examiners, or other consultants, in connection with any petitioner's request for the Village to consider or otherwise take action upon any annexation, zoning change, subdivision development, planned development (PUD), dedication, vacation or easements or other improvement or development upon real property, then the petitioner and owner of the property shall be jointly and severally liable for the payment of such professional fees plus a service fee for each billing by the Village to cover the Village's administrative expenses as determined by the Village Board from time to time. At the time the petitioner requests action from the Village, he will be required to deposit an amount with the Village as listed on Exhibit B of Chapter 19 of the Prairie Grove Municipal Code as an initial deposit to be credited against fees and costs incurred for the above described services. The petitioner and owner are liable for and shall be billed for services and consultation rendered prior to the filing of an application or petition for a development proceeding.

B. INVOICES: The Village shall send the petitioner regular invoices for the fees and costs incurred thus far, and the petitioner shall reimburse the Village within 30 days of said invoice. At all times the petitioner shall maintain a balance equal to its deposit with the Village.

C. WITHDRAWALS AND DENIALS OF PETITIONS: A petitioner who withdraws a petition may apply in writing to the Village for a refund of his initial deposit. The Village Board, may, in its discretion, approve the refund less any actual fees and costs which the Village has already incurred relative to the petition. In the event the Village Board denies approval of any or all portions of a petition, a petitioner shall remain liable for all fees and costs which the Village has incurred relative to the petition, and no refund of a deposit or deposit balance shall occur until such fees and costs have been paid.

D. PROFESSIONAL FEES: Any professional fees incurred as a direct or indirect result of the petitioner, owner or their agent requesting a professional opinion or otherwise requesting relief or assistance from the Village, whether or not related to real property, shall be reimbursed in accordance with Chapter 19 of the Prairie Grove Municipal Code if, in the sole discretion of the Village, a professional opinion is desired or necessary.

E. DEFAULT: Upon the failure of the owner or petitioner to reimburse the Village in accordance with Chapter 19 of the Prairie Grove Municipal Code, the Village shall send notice to the owner or petitioner, by certified mail, return receipt requested, that the deposit is in arrears. No action on any request made by the owner or petitioner will be acted upon by the Village Board or by any other official, quasi-official or deliberative individual or body thereunder; and such request shall remain in abeyance until all outstanding fees are paid in full. Furthermore, if all outstanding fees are not paid in full and the deposit replenished pursuant to said Chapter 19, within 7 business days after the notice was mailed, the application shall be considered withdrawn by the owner or petitioner. Upon any failure to reimburse the Village in accordance with Chapter 19 of the Prairie Grove Municipal Code, the Village may, in its discretion, elect to place a lien against any real property associated with the petitioner's request. Interest in the amount of 1½ percent per month shall accrue on all sums outstanding for 30 days or more. Such lien shall be in an amount equal to the outstanding amount owed to the Village.

F. ASSIGNING AUTHORITY: The Village Board and the designated Village staff members are hereby authorized to assign requests for professional services to the Village staff or to consultants as the Village Board deems appropriate.

G. IN HOUSE STAFF: When any professional services, contemplated by Chapter 19 of the Prairie Grove Municipal Code, are rendered by the Village staff, then in such case the party making the request shall reimburse the Village for its cost incurred in providing said professional services. Said reimbursement shall be at the rate of \$30.00 per hour.

H. REMEDIES: The remedies available to the Village as set forth hereinabove are non-exclusive and nothing herein shall be construed to limit or waive the Village's right to proceed against any or all parties in a court of law of competent jurisdiction.

I. AGREEMENT: At the time the petitioner requests action from the Village he will be required to enter into an agreement with the Village that contains the parameters of this Section.

J. REFUND: Any surplus funds in the account of the petitioner or owner after all costs are paid shall be returned after approval by the appropriate Village staff or Village Attorney, upon written request by the petitioner or owner.



personally known to me to be the same person(s) whose name(s) is/are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she/they signed and delivered the said instrument as his/her/their free and voluntary act, for the uses and purposes therein set forth.

Given under by hand and official seal, the \_\_\_\_\_ day of \_\_\_\_\_, 20 .

(Notary Stamp)

\_\_\_\_\_  
Notary

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## Chapter 20 LANDSCAPING CODE

- 20.1 Purpose
- 20.2 Definitions
- 20.3 Scope of Regulations
- 20.4 Approval Process
- 20.5 Plan Preparation
- 20.6 Submittal Requirements
- 20.7 Landscape Standards
- 20.8 Plant Materials Standards
- 20.9 Maintenance and Replacement
- 20.10 Parking Lot Requirements
- 20.11 Landscaping Required
- 20.12 Transitional Yards
- 20.13 Freestanding, Ground and Monument Signs
- 20.14 Maintenance and Removal of Trees
- 20.15 Preservation of Roadscapes
- 20.16 Prohibited Vegetation

### 20.1 PURPOSE

These regulations are intended to serve to dissuade the unnecessary clearing and disturbing of land so as to preserve, insofar as practical, the existing natural vegetation, preserve existing landscape buffers to minimize the impact of adjoining differing land uses, enhance and protect the integrity of roadway corridors, encourage the use of plant material indigenous to the region, and reduce the surface heat and negative visual impact of vehicular use areas.

### 20.2 DEFINITIONS *Amended, 397*

In addition to those terms defined in Appendix A of this Code, the following terms are applicable to this Chapter:

**Annual:** A plant which completes its life cycle in one year or less.

**Berm:** An earthen mound designed to provide screening of undesirable views, reduce noise, etc.

**Buffer:** A combination of physical space and vertical elements, such as plants, berms, fences or walls, the purpose of which is to separate and screen conflicting land uses.

**Deciduous:** A plant with foliage that is shed annually.

**Evergreen:** A plant with foliage that persists and remains green throughout the year.

**Fence:** A structure used as a boundary, screen, separation, means of privacy, protection or confinement.

**Fence, open:** A fence is one where visibility at right angles to any surface thereof is not reduced by more than 50 percent.

**Fence, solid:** A fence including gates which conceals from view of adjoining properties open storage of materials and/or operations conducted behind fenced areas.

**Ground cover:** A plant that grows near the ground densely and spreads. Generally an herbaceous perennial, sometimes a woody shrub or vine.

**Hedgerow:** Shrubs and/or trees which occur in a row, like a hedge and sometimes purposely planted for wind control in agricultural areas. More commonly an area along a road or field boundary which, left uncut, has grown up with various plants, seeded by wind, water, birds or other natural methods.

**Landscape:** An area of land including preserved natural vegetation on which has been located lawns, trees, shrubs, other plants, water areas and other features such as, but not limited to, walks, signs, lighting, parking lots, patios, decorative walls and fences.

**Landscape architect:** A professional who has graduated from an accredited university program in landscape architecture.

**Landscape designer:** An individual with experience in landscape design.

**Landscape screen/buffer, full:** Maximum landscape buffer between 2 conflicting land uses.

**Landscape screen/buffer, partial:** Selective landscape screening between similar land uses.

**Landscape yard:** A area of ground required to be landscaped for the purpose of screening and buffering a development site.

**Native plant:** A plant which is known to have originated in and is characteristic of Illinois.

**Ornamental tree:** A deciduous tree planted primarily for its ornamental value or for screening. May be any size at maturity but will tend to be smaller than a shade tree.

**Parkway:** The space between a sidewalk and the street generally planted with grass and street trees.

**Plant preservation credit:** Credit given for the preservation of existing vegetation meeting the functional requirements of this Chapter, in lieu of required new landscaping.

**Prairie:** A grassland or meadow, usually with native plant species; or a planting of grasses and wildflowers characteristic of the native Illinois prairie.

**Screen:** A method of reducing the impact of visual intrusions through the use of plant materials, berms, fences and/or walls or any combination thereof. Screening blocks that which is unsightly or offensive with a more harmonious element.

**Shade tree:** A deciduous (rarely, an evergreen) tree planted primarily for its high crown of foliage or overhead canopy.

**Shrub:** A woody plant, smaller than a tree, which consists of a number of small stems from the ground or small branches near the ground. A shrub may be deciduous or evergreen.

**Shrub, low:** Any shrub which attains a mature height of 4 feet or less when left un-pruned.

**Shrub, tall:** Any shrub which attains a mature height of 5 feet or more when left un-pruned.

**Street tree:** A tree planted in close proximity to a street in order to provide a canopy over the street, to give the street a sense of spacial definition and human scale, to provide shade and soften the street environment.

**Tree:** A large, woody plant having 1 or several self-supporting stems or trunks and numerous branches. A tree may be deciduous or evergreen.

**Turf grass:** Grasses planted by seeding or sodding to establish a lawn, which is usually maintained by mowing.

**Wetland:** A wetland is considered a subset of the definition of the Waters of the United States. Wetlands are land that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, under normal conditions, a prevalence of vegetation adapted for life in saturated soil conditions (known as hydrophytic vegetation). A wetland is identified based upon the three attributes: 1) hydrology, 2) soils and 3) vegetation as mandated by the current federal wetland determination methodology.

### **20.3 SCOPE OF REGULATIONS**

The provisions of this Chapter shall apply to plats of subdivision/planned development and any new construction.

### **20.4 APPROVAL PROCESS**

When a landscape plan is required, the plan shall be submitted to the Village with the preliminary plat of subdivision/planned development or building permit application.

### **20.5 PLAN PREPARATION**

All landscape plans required by this Chapter shall be prepared and signed by a professional landscape architect or landscape designer.

### **20.6 SUBMITTAL REQUIREMENTS**

The submittal package for a landscape plan shall include planting and site information. The landscape plan may be submitted on a separate sheet or superimposed on a single sheet with the site plan. The submittal package must include the following information:

1. Site elements: Title block including the name of the project, designer's name, scale of the plan (no smaller than 1"=50' for plans with trees only; and no smaller than 1"=20' for plans with shrubs and smaller plants), north arrow and date of the plan;

Property lines;

Name, location, right-of-way and paving widths of all abutting streets;

Note zoning and use of all abutting properties;

Natural features such as ponds, lakes and streams; delineation of 100-year floodplain and wetland boundaries;

Existing and proposed storm water management ponds and areas;

Required landscape yard width;

Location, height, dimensions and use of all existing and proposed buildings and other structures, including parking lots, sidewalks and other paved areas; fences and walls; and recreational equipment;

Approved grading plan at one-foot contour interval, with slopes of 4:1 labeled.

2. Planting elements: Location, general type and quality of existing vegetation, specimen trees and natural areas.

For plant preservation credits: vegetation areas to be saved, including accurate locations noted and a list of typical species. Note methods and details for protection of existing vegetation during construction. Location and keyed labels of all proposed plants.

Location of all proposed areas to be seeded and/or sodded.

Plant list or schedule to include key symbols, quantity, correct botanical and common names, size and condition of all proposed plants.

Plant names used shall be identified in accordance with *Hortus Third*, by L. H. Bailey, 1976.

All plant sizes and conditions listed shall conform to the *American Standards For Nursery Stock* as published by the American Association of Nurserymen, latest edition.

Location and description of other landscape improvements, such as earth berms, walls, fences, screens, sculptures, foundations, street furniture, signs, lighting and paved areas.

Planting installation details as necessary to ensure conformance with *American Association of Nurserymen's Standards*, latest edition; and standards as specified in this Chapter.

General and specific notes to indicate or explain the design and construction procedures to be used.

3. Cost estimate and notification to permitting body: Upon approval of the landscape plan, a cost estimate prepared by a recognized landscape contractor shall be submitted.

A conditional occupancy permit will be issued when the project's buildings may be occupied but landscaping has not been installed due to weather conditions. A final occupancy permit will be issued upon completion of all landscaping.

## **20.7 LANDSCAPE STANDARDS**

**Appropriateness:** The landscape plan should consider the type of use the development will receive and use plants which will integrate the development site into the surrounding area. Adjacent existing uses will determine the type and extent of screening and buffering required.

**Screening:** Materials may consist of evergreen trees and shrubs; ornamental trees and deciduous shrubs with dense branching; shade trees; and fences, walls and berms. Planted screens shall be arranged in clusters of plants to create optimum screening according to site conditions and as the designer sees fit. Excepting limited space for full screening, plants should not be spaced out equally in a line within the required landscape yard length.

**Fences and Walls:** Screening fences and walls should be built of materials compatible with that of the main building. The use of corrugated metal, corrugated fiberglass, sheet metal, chain link or wire mesh shall not be counted as a screen in landscape yard calculations.

**Berms:** Screening may be accomplished with the use of earth berms in combination with plants. The minimum height required shall be 2.5 feet, with a minimum width of 12 feet. Taller berms require more width so slopes do not become too steep. Slopes shall not exceed 4:1. Berms should be designed with gently curving slopes so they are not susceptible to erosion. Staggering berms allow for drainage and provide visual variety. Ground cover plants may be used to reduce mowing on berms. Berms between single family residential areas and State highways shall be not less than 14 feet high, measured from the crown of the highway.

## **20.8 PLANT MATERIALS STANDARDS**

Plant material standards shall be as follows:

1. All plants shall conform to the *American Standards for Nursery Stock*, latest edition, and shall be installed according to the current standards of the American Association of Nurserymen.
2. All plants used in landscape plans shall be readily available and shall be proven to be reliably hardy in USDA Zone 5. Plants shall have a vigorous root system and shall be free from defects, insects and diseases. Substandard plant material will be rejected.
3. Deciduous trees shall be fully branched, have a minimum caliper of 3 inches for nonresidential and 2½ inches for residential development measured 6 inches above

ground level. Specimens shall be properly pruned to maintain a natural form.

4. Evergreen trees shall be a minimum of 6 feet in height and fully branched to the ground.
5. Shrubs shall be supplied in 1 gallon or larger containers or balled and burlapped and at least 18 inches in height or spread, whichever applies.
6. Ground cover plants shall be planted so that an effective covering is obtained within 2 growing seasons.
7. At the intersection of all streets and/or the intersection of any service entrance drive from a street to a zoning lot, line of sight easements shall be established within the triangular area formed at the intersection of any two street right-of-way lines; and/or the intersection of any street right-of-way line with any service entrance drive (both sides of such drive), by a line drawn between such right-of-way lines, and/or such right-of-way line and service entrance drive line, at a distance along such line of 25 feet from the point of intersection thereof.
8. Plant materials, including deciduous and evergreen trees, shall not cause a hazard. Landscape plant material overhanging walks, pedestrian or bicycle paths and seating areas shall be pruned to a minimum height of 12 feet above parking lot aisles and spaces.
9. Landscape plant materials shall be selected which do not generally interfere with utilities above or below ground level at maturity.
10. No shrub or tree shall be planted closer than 2 feet from any curb face.
11. Trees planted in cutouts, in walks or in pedestrian areas shall have a minimum of 4-foot by 4-foot or a 5-foot diameter circle of open soil, and shall be protected by the use of tree grates of edging which does not pose a hazard to pedestrians.
12. Landscape plant materials shall be properly guyed and staked in accordance with current industry standards, where necessary. Stakes and guy wires shall not interfere with vehicular or pedestrian traffic.
13. Landscape plant materials shall be protected from damage due to foot or vehicular traffic by protective tree grates, pavers, curbs or other suitable methods which prevent soil compaction.
14. Appropriate methods of care and maintenance of the landscape shall be provided by the owner of the property.
15. Additional landscape screening/buffering may be required when an incompatible use occurs which may have a high impact on adjacent development, as determined by the Village. A high impact use is one which is expected to have a strong effect on adjacent properties, due to one or more of the following:

Noise;

Outdoor loading spaces;

Exterior storage, attractive nuisances and objectionable views;

Dust, fumes, odors and vibration;

Litter;

Bright lighting during the evening or at night or headlights from vehicles using the development at night;

Height of structures above the normally allowed height for the specific zone; or adjacent to development of a different zone or zones with a lower building height limit; or

Barrier screening/buffering required for safety and liability reasons.

16. At their expense, the builder or developer shall guarantee and replace any failed plantings for 24 months after planting.

## **20.9 MAINTENANCE AND REPLACEMENT**

The owner, occupant, tenant and agent of each property shall be individually and collectively responsible for the maintenance, repair and replacement of all landscaping, screening and curbing whether or not required by these regulations so as to preserve at least the same quantity, quality and screening effectiveness as initially installed.

## **20.10 PARKING LOT REQUIREMENTS**

The following requirements apply to all parking lot landscaping:

1. Parking lot interior landscaping shall be provided for lots with 10,000 square feet or more of total parkway.
2. Planting islands shall be placed in the following areas of all parking lots:
  - A. End islands shall be provided at each end of all parking bays, except where corner islands are provided.
  - B. Intermediate islands shall be provided after every 12<sup>th</sup> space, or after every 8<sup>th</sup> parking space for single-aisle parking lots.
  - C. Center islands shall be provided between head-in parking for the full length of every other parking bay unless there are 3 or fewer parallel aisles of parking.
  - D. Corner islands shall be provided at the end of 2 perpendicular parking bays when these bays are at the edge of the parking lot.

In the event that the site geometry of the proposed parking lot does not allow strict adherence to the above requirements, alternate schemes will be required to provide at least 10 percent of the parking lot area in landscaped islands.

3. Minimum dimensions of planting islands, including a 6-inch curb:
  - A. End islands shall be a minimum width of 9 feet and a minimum length of 36 feet, 45 feet with a center island, for a double bay of parking.
  - B. Intermediate and half end islands shall be a minimum width of 9 feet and a minimum length of 18 feet, except in single aisle parking lots, where the minimum width shall be 13 feet. In the case of angle parking, the perpendicular length from the center line of the parking bay to the aisle shall be the minimum length.
  - C. Corner islands shall be a minimum of 18 feet square, except in the case of angle parking, where the perpendicular length of the stall from the center line of the parking bay shall be the minimum dimension.
  - D. Center islands between head-in parking shall be a minimum width of 9 feet, and the same length as the parking bay.
4. A curb shall be provided for all parking spaces adjacent to planting or pedestrian areas to prevent vehicle overhang, except in the case of handicapped access ramps.

## **20.11 LANDSCAPING REQUIRED**

A predetermined number of plants are required to provide overhead and low screening of motor vehicles in parking lots. Shade trees and low shrubs or ground cover plants are specified for each type of landscape island. Turf grass may be used but will not be counted as part of the required plants. Ground cover plants may be substituted for any or all of the low shrubs at a ratio of 14:1 when perimeter landscape yards also provide off-site screening for the parking area. Required plantings are:

- 9 feet wide intermediate and half-end islands: 1 shade tree and 9 low shrubs or 126 ground cover plants (excluding turf grass) or some combination.
- 13 feet wide intermediate and half-end islands: 1 shade tree and 12 low shrubs or 168 ground cover plants (excluding turf grass) or some combination.
- 9 feet wide end islands: 2 shade trees and 15 low shrubs or 210 ground cover plants (excluding turf grass) or some combination.
- 18 feet corner islands: 1 shade tree and 21 low shrubs or 294 ground cover plants (excluding turf grass) or some combination.
- 9 feet wide center islands: 3 shade trees and 36 low shrubs or 504 ground cover plants (excluding turf grass) or some combination; all per 100 linear feet of island.



## 20.12 TRANSITIONAL YARDS

A. **APPLICABILITY:** All non-residential and multiple-family residential developments shall provide lot perimeter landscaping in accordance with the provision of this Chapter.

B. **NON-RESIDENTIAL PROPERTY ABUTTING NON-RESIDENTIAL PROPERTY:** Where non-residential property abuts property zoned for non-residential use, landscaping shall be provided as follows:

1. **Width:** A landscaped area a minimum of 10 feet in width shall be provided.
2. **Planting Materials:** A minimum of 50 percent of the required landscape setback shall be landscaped. Such landscaping shall consist of 25 percent evergreen trees a minimum of 6 feet tall, 25 percent shade trees a minimum of 3 inches in caliper, and ornamental trees a minimum of 6 feet tall and 50 percent evergreen and deciduous shrubs a minimum of 3 feet tall. Whenever possible, berms should be used in conjunction with the landscaping.

C. **GROUND COVER:** Except where occupied by planting beds, all perimeter landscaping areas shall be sodded or seeded.

D. **NON-RESIDENTIAL PROPERTY ABUTTING RESIDENTIAL PROPERTY:** Where non-residential property abuts property zoned for residential use, landscaping shall be provided as follows:

1. **Width:** A landscaped area a minimum of 30 feet in width shall be provided.
2. **Screening:** Solid landscape screening to a minimum of 10 feet in height above the grade of the subject property and in a design satisfactory to the Village shall be provided along the length of the abutting property line. If determined necessary by the Village, due to topographical changes between the abutting non-resident and residential property, the minimum height of the required screening may be increased to 12 feet. Any landscape materials used shall be made up of 25 percent evergreen trees a minimum of 6 feet tall, 25 ornamental trees a minimum of 3 inches in caliper or clumps 6 feet tall and 50 percent evergreen and deciduous shrubs achieving a minimum height of screening 6 feet at the time of planting. Whenever possible, berms should be used in conjunction with the landscaping to achieve a total height of 14 feet.
3. **Shade Trees:** Shade trees shall be provided at the equivalent of not more than 30 feet apart along the abutting property line. Such trees may be clustered or spaced linearly.
4. **Ground Cover:** Except where occupied by planting beds, all perimeter

landscaping areas shall be sodded or seeded.

E. **MULTIPLE-FAMILY RESIDENTIAL PROPERTY:** Multiple-family residential property shall be landscaped as follows:

1. **Width:** A landscaped area a minimum of 10 feet in width shall be provided.
2. **Landscaping:** A minimum of 50 percent of the required landscape setback shall be landscaped. Such landscaping shall be made up of 50 percent evergreen trees and ornamental trees a minimum of 6 feet tall and 50 percent evergreen and deciduous shrubs a minimum of 3 feet tall. Whenever possible, berms should be used in conjunction with the landscaping.
3. **Shade Trees:** Shade trees shall be provided at the equivalent of not more than 30 feet apart along the abutting property line. Such trees may be clustered or spaced linearly.
4. **Ground Cover:** Except where occupied by planting beds, all landscaping areas shall be sodded or seeded.
5. **Building Perimeter Landscaping:** Building perimeter landscaping in a minimum planting bed with a width of 8 feet shall be provided along 100 percent of all building facades except where sidewalks and driveways are located. Fifty percent of the landscape requirements shall be made up of evergreen trees and shrubs and 50 percent deciduous trees, ornamental trees and shrubs.

### **20.13 FREESTANDING, GROUND AND MONUMENT SIGNS**

Every permit application for a freestanding, ground or monument sign shall be accompanied by a landscape plan meeting the standards hereinafter specified:

1. For every square foot of sign surface area, there shall be provided 2 square feet of landscape area.
2. Any freestanding, ground or monument sign constructed or erected to a height in excess of 8 feet above the average surrounding grade shall be required to be improved with an additional 1½ square feet of landscaped area for each foot of height that the sign is constructed or erected above said 8 feet in height.
3. Sodded or seeded areas shall not qualify as such a landscaped area.
4. The required landscaped areas shall be improved with such plantings as hedges, conifers, flowering plants, evergreens, etc., of a size and in quantity proportionate to the size and height of the sign as judged by the Village.
5. In addition to the plantings herein described, the landscaped area shall also include

ground protection such as, but not limited to, ground cover plants, landscaping bar, decorative stone or landscape timbers.

6. It shall be the duty of each party owning any lot or parcel improved or to be improved with the landscaping required herein to maintain the landscaping including, but not by way of limitation, the replacement of any dead or diseased vegetation, the trimming of any overgrown vegetation and the maintenance of any groundcover or protection provided in accordance with the terms hereof.

## **20.14 MAINTENANCE AND REMOVAL OF TREES**

A. **PURPOSE:** It is the stated public policy of the Village Board to maintain, to the greatest extent possible, existing trees within the Village. In addition to adding to the scenic beauty of the Village, the maintenance of trees and wooded areas preserve the ecology of the Village through the filtering effect of trees on air pollutants. Trees also help to provide a noise barrier, help to prevent erosion of topsoil, provide nesting areas for birds and other wildlife, provide windbreaks and shaded areas, and increase property values by adding to the aesthetic quality of land. Therefore, the purpose of this Section is to allow for the improvement of platted but underdeveloped lots or buildable parcels where trees of 12 inches or larger exist.

B. **TREE PRESERVATION AREAS:** Tree preservation areas shall be established for all new residences on parcels where 12-inch or larger trees exist at the time of application for a building permit or at the time of preliminary plat of subdivision/planned development review.

1. **Tree Preservation Area:** The tree preservation area is that area of a lot or parcel which is not needed for the house and driveway construction and where all trees, 12-inches or larger in diameter, shall be preserved. The building activity area shall be the area on the lot where building activity may take place and shall be as small as possible, including the entire area affected by building and grading activities related to the approved construction. No construction activity, movement and placement of equipment or material storage shall be permitted outside the building activity area, in the tree preservation area. All buildings and driveways shall be located to minimize tree damage and/or removal but consistent with minimum building setback requirements of the Zoning Code. The building area shall be temporarily fenced by the developer during all construction so all trees in the tree preservation area shall be preserved.
2. The Village Board or its designee shall prescribe and publish procedures to be implemented by building permit applicants. Such procedures shall be binding and shall be filed for use and examination with the Building Department.
3. Replacement location shall be determined by the Village Board or its designee. A letter of credit, approved by the Village, shall be provided at the time the building permit is issued to guarantee the replacement of the number of trees determined to be required by the Village Board or its designee.

C. BARRIERS: Tree preservation areas shall be protected from the building activity areas by a barrier (fencing) of satisfactory materials to prevent impingement of construction vehicles, materials, spoils and equipment into the tree preservation area. The Village Board shall have the authority to stop construction on the site until adequate barriers have been constructed. If a barrier is constructed on the site and is not adequately maintained in the manner which protects the tree preservation area, the Village Board or its designee shall have the authority to stop construction until the barrier is repaired.

D. PERMIT REQUIREMENTS: 616

1. No trees greater than 12 inches in diameter, as measured at 54 inches above the ground, shall be removed from the tree preservation area without a permit. Permits authorizing the removal of trees in excess of 12 inches may be issued by the Village Board or its designee in circumstances when the issuance of such a permit is found to be consistent with the purpose of this Section. Conditions under which a permit may be issued include, but will not be limited to the following:
  - a. The tree is dead or dying; or
  - b. The tree is diseased, damaged or injured to the extent that it is likely to die; or
  - c. The removal of the tree will enhance the tree preservation area and the health of the remaining trees; or
  - d. The removal of the tree will avoid or alleviate an economic hardship or a hardship of another nature on the property or residence; or
  - e. The removal of the tree is consistent with good forestry practices.

In all cases of permit application, the Village staff shall use reasonable interpretations of the circumstances in determining whether or not the permit should be issued.

2. In issuing a permit, or if a tree 12 inches in diameter or larger is damaged or removed from the tree preservation area, the property owner or his designee may be required to replace each tree so removed so as to minimize the visual impact from the loss of each tree as observed from adjacent properties or parkways. The size of each such replacement, to be no less than 4 inches in diameter measured 30 inches from the top of the ball, the location and the variety of the replacement tree, shall be reviewed and approved by the Village Board or its designee who may, at its discretion, require more than 1 replacement tree if it deems it necessary to re-establish the visual character created by the tree which was removed.

If the property owner can demonstrate hardship or special circumstances, the Village Board, at its discretion, may waive the planting of a replacement tree, or trees, but only if a waiver is consistent with the purposes of this Section.

E. PENALTY: The removal of any tree 12 inches in diameter or more in violation of this Section shall be punishable by a fine of \$500 per tree. The diameter of removed trees shall be determined by the average stump diameter at 6 inches from the surrounding ground level. In addition, each tree removed shall be replaced by at least 1 tree of at least a 4-inch diameter; more trees may be required at the sole discretion of the Village Board if it deems it necessary to comply with the purpose of this Section.

## **20.15 PRESERVATION OF ROADSCAPES**

A. PURPOSE: Pursuant to the Village Board's public policy to preserve trees as an important public resource. It is also the Village Board's public policy to preserve natural roadscapes throughout the Village, to preserve the essential character of those areas throughout the Village which are heavily wooded and in a more natural state, and to maintain property values throughout the Village.

B. DEFINITIONS: In addition to those terms defined in Appendix A of this Code, the following definitions are applicable to this Section:

**Cutting:** The felling or removal of a tree of any procedure, the result of which is to cause the death or substantial destruction of a tree. Cutting does not include normal pruning, trimming or topping of trees.

**Drop line or drip line:** An artificial line along the ground which conforms to the perimeter of the crown of a tree and projects vertically to the ground.

**Remove or removal:** The actual physical removal, or the effective removal through damaging, poisoning or other direct or indirect action resulting in, or likely to result in, the death of a tree.

C. TREE PRESERVATION AREA: Tree preservation areas are hereby established in the front yards of each lot or parcel, corner side yards in the case of corner lots or parcels, and any side of a lot or parcel fronting on a public street for all developed properties as herein after set forth.

Within the tree preservation areas, no tree greater than 12 inches in diameter, as measured at 54 inches above the ground, shall be removed except as otherwise provided.

In the event of new construction, a Village approved letter of credit shall be provided at the time the building permit is issued to guarantee the replacement of the number of trees determined to be required by the Village Board or its designee.

D. DESIGNATION: The depth of the tree preservation area shall be 60 feet from the center line of paved public roadways. Within this area, the property owner shall be permitted to trim and remove trees that are less than 12 inches in diameter in order to create a healthy and

thriving environment for the larger more significant trees. That portion of the lot or parcel located outside the tree preservation area may be cleared by the property owner so as to insure reasonable enjoyment and use of the property. However, this removal shall not encroach on, or damage, any of the trees which are located within the tree preservation area.

E. **PERMIT REQUIREMENTS:** For the removal of a tree greater than 12 inches in diameter, as measured at 54 inches above the ground, a permit is required.

F. **APPEALS:** The property owner may appeal to the Village Board any decision made by the Village official designated to enforce this Section within 30 days of the decision being rendered.

G. **EMERGENCIES:** In the event emergency conditions require the immediate cutting or removal of trees within the tree preservation area in order to avoid immediate danger or hazard to persons or structures, an emergency permit will be issued without formal application to the Village Board or its designee. In the event of an emergency and the designated Village official is unavailable and no authorized Village official is reasonably available, it shall be lawful to proceed with the cutting of the tree or trees without permission to the extent necessary to avoid the immediate danger or hazard. Within 48 hours of such emergency action, the action shall be reported to the designated Village official. The report shall include such information and evidence as may be reasonably required by the Village Board or its designee to explain and justify the emergency action.

H. **PENALTY:** The removal of any tree 12 inches in diameter or more in violation of this Section shall be punishable by a fine of \$500 per tree. The diameter of removed trees shall be determined by the average stump diameter at 6 inches from the surrounding ground level. In addition, each tree removed shall be replaced by at least 1 tree of at least a 4-inch diameter. If it deems necessary to comply with the purpose of this Section, more trees may be required at the sole discretion of the Village Board. Replacement location shall be determined by the Village Board or its designee.

**20.16 PROHIBITED VEGETATION**

The following vegetation is prohibited in the Village:

**TREES:**

BOTANICAL NAME	COMMON NAME	REMARKS
Acer negundo	Box Elder	Weak wood; invasive
Ailanthus altissima	Tree-of-Heaven	Weak wood; invasive
Betula pendula	European Birch	Borers; disease
Catalpa species	Catalpa	Weak wood; litter; invasive
Ginkgo biloba (Female) seeds	Female Ginkgo	Offensive fruit; seeds
Gleditsia triacanthos	Torny Honeylocust	Thorns; seed pods; thornless varieties acceptable
Maclura pomifera	Osage-orange	Large fruit; thorns
Morus species	Mulberry	Weak wood; fruit; invasive

Rhamnus frangula	Buckthorn	Weak wood; fruit; invasive
Robinia species	Locust	Weak wood; litter; invasive
Sorbus aucuparia	European Mountainash	Borers; disease
Ulmus American	American Elm	Disease; insects
Ulmus pumila	“Chinese” (Siberian) Elm	Weak wood; disease; insects invasive

Disease resistant varieties are acceptable upon prior approval.

**SHRUBS AND HERBACEOUS PLANTS:**

Coronilla varia	Crownvetch	Invasive; intolerant of other plants
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Highway/large embankments only

Lonicera japonica	Japanese Honeysuckle	Very invasive; crowds out; native understory vegetation
Lythrum salicaria	Purple Loosestrife	Very invasive; replaces native vegetation in wetlands
Rosa multiflora oints	Multiflora Rose	Very invasive; thorns

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**Chapter 21**  
**Village of Prairie Grove Zoning Ordinance**

**Article 1**

**Title, Purpose and Intent**

- 1.1 Title
- 1.2 Purpose and Intent

**Article 2**

**Rules and Definitions**

- 2.1 Rules
- 2.2 Definitions

**Article 3**

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- 3.2 Scope of Regulations
- 3.3 Allowable Use of Land or Buildings
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- 3.9 Control Over Use
- 3.10 Lot Size Requirements
- 3.11 Building Limitations
- 3.12 Building Height
- 3.13 Yards
- 3.14 Permitted Obstructions, Yards
- 3.15 Number of Buildings on a Lot
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- 3.17 Home Occupations
- 3.18 Fences
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**Establishment and Purpose of Districts and District Boundaries**

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- 4.2 Zoning Map
- 4.3 Boundaries and Minimum Areas

- 4.4 Zoning of Public Ways
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Requirements

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ARTICLE 1  
TITLE, PURPOSE AND INTENT

- 1.1 TITLE -- This Ordinance shall be known, cited and referred to as the “Village of Prairie Grove Zoning Ordinance” or “Prairie Grove Zoning Ordinance” or “Prairie Grove Zoning Code.”
- 1.2 PURPOSE AND INTENT -- The Prairie Grove Zoning Ordinance is adopted with the purpose of protecting and promoting the public health, safety, morals, comfort and general welfare of the people. The fulfillment of this purpose is to be accomplished by seeking:
- A. To establish districts, with an appropriate mix of permitted uses, and adequate standards for the provision of light, air, privacy and open spaces.
  - B. To zone all properties with a view to conserving the value of buildings and land and encouraging the most appropriate use of land throughout the Village.
  - C. To lessen congestion on the public streets, and to facilitate the provision of adequate transportation, and of other public facilities and services such as water, sewerage, schools, and parks.
  - D. To avoid hazards to persons and damage to property from inappropriate development of land and provide for adequate drainage, erosion control, and reduction of flood damage.
  - E. To avoid undue concentration of population or activity, and to prevent the overcrowding of land, thereby ensuring proper living and working conditions and preventing the development of blight and slums.
  - F. To foster a more rational pattern and relationship of land uses between residential, business, commercial, and industrial, for the mutual benefit of all.
  - G. To provide for and preserve appropriate open space.
  - H. To protect residential, business, commercial, and industrial areas alike from harmful encroachment by incompatible uses and to ensure that land allocated to a class of uses shall not be usurped by other inappropriate uses.
  - I. To isolate or control the location of unavoidable nuisance-producing uses.
  - J. To facilitate the preservation of sites, areas and structures of historical, architectural and aesthetic importance.
  - K. To establish reasonable standards to which buildings and structures shall conform, and to encourage reasonable flexibility or development design through appropriate innovation.
  - L. To provide for the regulation of non-conforming buildings, structures and uses.

- M. To prevent additions to, and alterations or remodeling of, existing buildings or structures which would not comply with the restrictions and limitations imposed herein.
  - N. To define the powers and duties of the administrative and enforcement officers and bodies.
  - O. To prescribe penalties for any violation of the provisions of this Zoning Code, or of any amendment thereto.
  - P. To implement the objectives of the Village Comprehensive Land Use Plan.
- 1.3 SEPARABILITY -- Should any section or provision of this Zoning Code be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Zoning Code as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.
- 1.4 ZONING CODE PROVISIONS ARE NON-ACCUMULATIVE -- This Zoning Code is non-accumulative in nature. Zoning district requirements do not accumulate from one district to another unless expressly stated. All applications for permits under the terms of this Zoning Code shall be subject to all the provisions of all other pertinent Village regulations.

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ARTICLE 2  
RULES AND DEFINITIONS

- 2.1 Rules
- 2.2 Definitions

2.1 RULES:

- A. Applicability -- The rules and definitions contained in this Article shall be observed and applied except when the context clearly indicates otherwise.
- B. Rules -- The following rules shall apply to the text of this Zoning Code:
  - (1) Words used in the present tense shall include the future.
  - (2) Words used in the singular number shall include the plural number, and the plural the singular.
  - (3) The words “shall” and “will” are mandatory and not discretionary.
  - (4) The word “may” is permissive.
  - (5) The masculine gender includes the feminine and neuter.
  - (6) The word “person” means an individual, association, corporation, estate, joint venture, partnership, trustee or other legal entity capable of holding title to real property.
  - (7) Whenever a word or term defined appears in the text of this Zoning Code, its meaning shall be construed as set forth in the definition. Any word appearing in parentheses directly after a word defined shall be construed in the same sense as the word.
  - (8) The word “building” includes “structure;” “building” or “structure” includes any part thereof; “used” or “occupied” as applied to any land or building shall be construed to include the word “intended, arranged, or designed to be used or occupied.”
  - (9) Terms not herein defined shall be defined pursuant to Webster’s New Collegiate Dictionary, current edition.
  - (10) Any reference to an Article or Section in this Zoning Code shall mean that specific article or section of this Zoning Code. For example, Article 3 means Article 3, General Provisions, and Section 3.9 means Section 3.9, Control Over Use, of this Zoning Code.

- 2.2 DEFINITIONS -- The following definitions, whether capitalized or not, shall apply in the interpretation and enforcement of this Zoning Code: *Amended 687, 615, 594*

Abut: To physically touch or border upon, or to share a common property line.

Accessory Use or Structure: A use or structure on the same lot with, and a nature customarily incidental and subordinate to, the principal use or structure.

Adult-Use Cannabis Business Establishment: An adult-use cannabis cultivation center, craft grower, processing organization or processor, infuser organization or infuser, dispensing organization or transporting organization or transporter.

Adult-Use Cannabis Craft Grower: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization or processor, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

Adult-Use Cannabis Cultivation Center: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

Adult-Use Cannabis Dispensing Organization: A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

Adult-Use Cannabis Infuser Organization or Infuser: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

Adult-Use Cannabis Processing Organization or Processor: A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

Adult-Use Cannabis Transporting Organization or Transporter: An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or a community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.

**Agriculture:** Land, including necessary buildings, dwelling or dwellings and other structures shall be considered used for agriculture if the principal use thereof is the raising or keeping of livestock and/or the growing of crops.

**Agritourism:** Includes certain, specified traditional agricultural purposes and activities to facilitate agricultural tourism, including, but not limited to, crop farming, stable or barn, sales of agricultural products and farm products including vegetables, fruit, pumpkins and trees, farmers market (including outside vendors), food trucks, beekeeping and apiaries, agricultural classes and tours, petting zoo featuring farm and domestic animals, corn and flower mazes, pumpkin and apple launchers, picnic area, hay ride and tractor ride, food concession where locally grown food and beverages are prepared and sold primarily to patrons, gift shop selling souvenirs and novelty gift items such as t-shirts, coffee mugs, key rings, ornaments and food items that are related to the agritourism theme of the property, cider mill, haunted house, “U-pick” fruits and vegetables grown on premises, playground area (slides, swings, etc.), zip lines, observation towers and decks, open campfires (for guests), fairgrounds, and carnival rides and activities, holiday light displays, sledding, ice sculpting, and other winter activities, hosting of indoor and outdoor private events (wedding, party, reunion, business meetings, charity events, concerts, etc.).

**Alley:** A dedicated public right-of-way, other than a street, that affords a secondary means of access to abutting property.

**Amusement Facility:** An area or structure, open to the public, which contains coin-operated games and similar entertainment and amusement devices.

**Animal Hospital:** Any building or portion thereof designed or used for the care, observation or treatment of domestic animals.

**Animal, Small Domestic:** Animals customarily kept as domesticated pets but excluding livestock, such as swine, sheep, goats, ponies or horses, and poultry for sale.

**Applicant:** The owner, contract purchaser or designated legal representative who proposes to subdivide or develop land pursuant to this Zoning Code. Consent shall be required from the legal owner of the premises.

**Army Corps of Engineers:** The US Army Corps of Engineers (also known as United States Army Corps of Engineers).

**Article:** When the word Article appears without a roman numeral it shall mean that article of this Zoning Code.

**Association, Private:** A private association, other than a condominium association, which is organized for a development in which individual owners share common interest in open space or facilities.

**Automobile Service Station, Mini-Mart:** An automobile service station which offers or includes, as an accessory use, the retail sale of prepackaged, non-prescription drugs and convenience-type food items.

**Automobile Service Station, Full Service:** An automobile service station which, in addition to the

retail dispensing of vehicular fuels, performs, as an accessory use, automotive maintenance, service, or repair (excluding body work) including, but not limited to, the sale and installation of lubricants, tires, batteries, and similar accessories for automotive vehicles.

**Automobile Service Station, Self Service:** An automobile service station where the dispensing of vehicular fuels is performed primarily by individual patrons and which normally does not perform any manner of automotive maintenance, service, or repair.

**Basement:** That portion of a building all or partly underground but having at least one-half of its height below the average level of the adjoining ground.

**Bed and Breakfast:** An owner-occupied dwelling providing not more than five rooms for overnight accommodations to the public and, if so desired, breakfasts may be served to the guests thereof. Rental is on a transient basis for a fee.

**Berm:** A mound of earth, or the act of pushing earth into a mound, used to screen or adorn the perimeter of a lot or development along a public right-of-way. Often naturalistic and meandering in nature, and used to provide an aesthetic border to a property.

**Board of Trustees:** The President and Board of Trustees of the Village.

**Buildable Area:** The area of a lot remaining after the minimum yard and open space requirements of the Zoning Code have been met. Also known as building envelope.

**Building:** Any structure substantially enclosed by exterior walls, with a roof supported by columns or walls, and intended for the shelter, housing, or enclosure of any individual, use, animal, process, equipment, goods, or materials of any kind.

**Building Coverage:** The horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.

**Building Footprint:** Outline of a building's foundation as shown on a drawing of a site plan.

**Building Height:** The vertical distance measured from the average existing grade at the two points where the front yard setback line intersects the side yard setback lines, to the highest point of a structure. Chimneys may not exceed the building height by more than 5 feet.

**Building, Non-Conforming:** Any building which does not conform to the regulations of this Zoning Code prescribing the use, required yards, coverage, height and setbacks, minimum required spacing between buildings on a single lot, and minimum required usable open space for the district in which such building is located.

**Building Permit:** Written permission issued by the Village for the construction, repair, alteration or addition to a structure.

**Building, Principal:** A building in which is conducted the main use of the zoning lot on which it is situated.

**Building Setback Line:** The line parallel to the front lot line at a distance equal to, or greater

than, the depth of the required front yard for the zoning district in which the lot is located.

**Building, Temporary:** Any building not permanently affixed to the land.

**Car Wash:** A building, structure or portion thereof containing facilities for washing motor vehicles.

**Certificate of Zoning:** A document issued by the Village certifying that the building or use has been constructed or will be used in compliance with the Zoning Code.

**Chicken:** For purpose of this code, the term Chicken shall be limited to the female of the species *Gallus Domesticus* a/k/a hens and shall not include the male gender a/k/a roosters regardless of the species. *Ord. 615*

**Chord:** A straight line joining any two points on an arc, curve, or circumference.

**Clinic, Medical:** An establishment where two (2) or more licensed doctors of medicine engage in the practice of medicine, operating on a group or individual basis, with pooled facilities such as a coordinated laboratory, X-ray and allied departments, for the diagnosis and treatment of humans, which need not but may include a drug prescription counter (not a drug store) for the dispensing of drugs and pharmaceutical products to the patients of the said organization.

**Club or Lodge, Private:** A non-profit association of persons who are bonafide members, paying dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

**Cluster Subdivision:** A subdivision, consisting of three (3) or more lots, in which the individual lots are clustered, grouped, or arranged so as to achieve a more flexible overall design for the purpose of:

- (1) Providing more useable open space.
- (2) Protecting sensitive natural areas and features.

**Commission:** For the purpose of this Zoning Code, Commission shall refer to the Planning and Zoning Commission of the Village (see Planning and Zoning Commission). *Amended, Ord. 443*

**Comprehensive Land Use Plan:** The plan for the long range growth and development of the Village including graphic and written materials, as formally adopted and amended from time to time by the Village Board.

**Conditions or Restrictions:** Provisions and limitations which may be imposed on a building, structure, parcel of land or use at the time the Village Board grants approval of a variation, amendment, planned development or special use.

**Condominium:** A building, or group of buildings, in which units are owned individually, and common areas and facilities are owned by all the owners on a proportional, undivided basis.

**Congregate Housing:** A dwelling providing shelter and services for a group of persons, typically elderly, which may include provision of meals, housekeeping, and personal care assistance.



Conservation Area: Any parcel or area of land or water acquired in fee or a lesser right or interest and held by a conservation district pursuant to the Conservation District Act (70 ILCS 410/1, *et seq.*) (“Act”), upon which such conservation districts may undertake any and all activities permitted by its corporate powers under the Act, or consistent with its purpose, including, without limitation, all other permitted uses in the OSR Open Space Recreation District and the following activities: *Ord. 594*

- (1) the application and enforcement of a general use ordinance, as amended from time to time, or other ordinances setting forth the rules and regulation governing the use of conservation areas;
- (2) the conduct of public recreational, natural resource and/or educational programs for the public at large;
- (3) the conduct of site management activities, including but not limited to, prescriptive burns and all other ecological or designed landscape management activities, at their discretion, provided that reasonable notice of any prescriptive burns is given to the Village prior to undertaking same by the its staff or its agents;
- (4) the removal, planting and maintenance of trees, brush and plants as they deem necessary to maintain the native ecological communities in their natural state or for other purposes without required compliance with the Landscaping Code or any tree preservation rules of the Village;
- (5) the chemical control of herbaceous weeds and grasses;
- (6) the operation of motorized vehicles by its staff and agents to access, inspect, and manage the conservation area;
- (7) the posting of boundary signs identifying the conservation area or specific natural features of flora and fauna situated thereon;
- (8) the modification or abandonment of farm drainage systems and ditches and installation of water control structures to restore the original hydrology of the conservation area;
- (9) the construction of off-street trails for use by the public at large;
- (10) the construction of pit toilets and water sources for use by the public at large without any requirement for connection to any Village sewer and/or water systems;
- (11) the implementation of recreational hunting programs and the control of deer or other wildlife by removal should such removal be deemed necessary to maintain the ecological health of the conservation area; and
- (12) the construction or installation of permanent improvements and structures including those for site development, maintenance and public access according to the plans for same provided they have been approved by the Village, which approval shall not be unreasonably withheld; provided, however, written notice of the conservation district’s in-

tention to construct or install such public improvement or structure shall be provided at least 15 days prior to commencement of said use or construction on the property. The notice shall be provided by certified mail, return receipt requested, to the adjacent owners giving them the opportunity to notify the Village Administrator, in writing, within 15 days of said notice, of any comment or objection to the proposed use. No hearing, meeting or response from the Village regarding any correspondence received from the property owner shall be required.

**Contiguous:** Next to, abutting, touching and having a boundary, or portion thereof, which is co-terminous.

**Convalescent Home:** A building or structure which is used, designed or intended for the care of the aged or infirm, or for those suffering bodily disorders and which does not contain the facilities nor render the services normally associated with a hospital.

**County:** McHenry County, Illinois.

**Day Care Center:** A facility which exclusively provides supplemental care and supervision, recreation and/or educational instruction to children or adults during the entire or any portion of the day.

**Decibel:** A method of describing differences in sound levels. A logarithmic unit of measurement of the intensity (loudness) of sound.

**Deciduous:** Plants that drop their leaves before becoming dormant in winter.

**Dedicated Street:** A public right-of-way owned by the Village or other public highway agency, and created by designation on a recorded Plat or in a recorded instrument or conveyance accepted by the Village Board or other public highway agency.

**Dedication:** The gift or donation of property by its owner to another party.

**Deed:** A legal document conveying ownership of real property.

**Density, Gross:** The number of dwelling units per acre devoted to residential land development, including streets, street rights-of-way and open space.

**Detention Basin or Pond:** A storage facility for the temporary storage of stormwater runoff.

**Developer:** Any person whose concern and intent it is to improve land in accordance with the development regulations of the Village.

**Development:** The division of a parcel, or consolidation of parcels of land, into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance, and any use or extension of the use of land.

**District:** Whenever the term appears without a reference to a particular zoning district, it shall mean the zoning district that is being discussed in that particular section of the Zoning Code.

District Boundary Line: A line which marks the separation between two zoning districts.

Drive-In Establishment: A business which is operated for the sale and purchase of food and other goods, services or entertainment and which is designed and equipped so as to allow patrons to be served or accommodated while remaining in their automobiles.

Dry Cleaning Establishment: A business which handles on the premises the washing, drying, dry-cleaning and ironing of clothes, including pick-up and delivery services.

Dwelling: A building, or portion thereof, designed or used for residential occupancy, including single-family dwellings, two-family dwellings, multiple-family dwellings, but not including hotels or motels.

Dwelling, Multiplex: A single structure containing two or more attached dwellings in which each unit has two open space exposures; shares one or two walls with an adjoining unit or units; and has a main entry at ground level.

Dwelling, Patio House: A one-family dwelling on an individual lot with open space setbacks on three sides, and with a court. Also known as zero lot line.

Dwelling, Quadraplex: Four attached dwellings in one structure, in which each unit has two open space exposures, and shares one or two walls with an adjoining unit or units.

Dwelling, Single-Family Attached: A one-family dwelling attached to two or more one-family dwellings by common vertical walls.

Dwelling, Single-Family Detached: A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any other means.

Dwelling, Townhomes: A one-family dwelling in a row of units in which each unit has its own front and rear access to the outside, no unit is located over another unit, and each unit is separated from any other unit by one or more common fire resistant walls.

Dwelling, Two-Family: A structure on a single lot containing two dwelling units, each of which is separated from the other by an unpierced wall extending from ground to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both dwelling units.

Dwelling Unit: Referring to one dwelling.

Easement: A grant, by a property owner, for the use of a portion of their land by another party for a specific purpose.

Easement, Conservation: An easement precluding future or additional development of the land.

Easement, Drainage: An easement required for the installation of storm water sewers or drainage ditches and/or required for the preservation or maintenance of a natural stream or water course or

other drainage facility.

Eave: The projecting lower edges of a roof overhanging the wall of a building.

Elevation:

- (1) A vertical distance above or below a fixed reference level; or
- (2) A scaled drawing of the front, rear or side of a building.

Encroachment: Any obstruction in a delineated floodway, right-of-way or adjacent land.

Estate: When a particular estate zoning district is not designated, estate shall mean any estate zoning district.

Family: One or more individuals occupying a dwelling unit and living as a single household unit.

Farming: The use of land solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, nurseries, orchards, forestry and sod; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, bees, fish and wildlife.

Farm Stand: A booth or stall located on a farm from which produce and farm products are sold to the general public.

Fast Food Restaurant: An establishment whose principal business is the sale of prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off-premises.

FEMA: Federal Emergency Management Agency.

Fence: A structure which is used as a boundary, protection or means of screening and which is made of manufactured or natural materials.

Flag Lot: A lot not fronting on or abutting a public road and where access to the public road is by a narrow private right-of-way.

Floodplain: Those areas along rivers and streams subject to periodic flooding. The floodplain is defined by the Flood Boundary and Floodway Map prepared by Federal Emergency and Management Agency.

Floodway: The channel of the watercourse and those portions of the adjoining floodplain which are reasonably required to carry and discharge flood waters.

Floor Area, Gross: The sum of the gross horizontal areas of the several floors of a building measured from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but not including interior parking spaces, loading space for motor vehicles, or any spaces where the floor-to-ceiling height is less than six feet.

**Floor Area, Net:** The total of all floor areas of a building, excluding stairwells and elevator shafts, equipment rooms, interior vehicular parking or loading, and all floors below the first or ground floor, except when used or intended to be used for human habitation or service to the public.

**Floor Area Ratio:** The gross floor area of all buildings on a lot divided by the lot area.

**Food Processing Establishment:** A commercial establishment in which food is processed or otherwise prepared for human consumption but not consumed on the premises.

**Footcandle:** A unit for measuring illumination equal to the amount of direct light thrown by one international candle on a surface one foot away.

**Freight Terminal:** A building, structure, parcel of land or portion thereof from which:

- (1) Freight is shipped by airplane, motor truck or railroad; or
- (2) Freight is received, assembled, sorted and/or rerouted for local, intrastate or interstate shipment.

**Frequency:** The number of oscillations per second in a sound wave, measuring the pitch of the resulting sound.

**Frontage:** That side of a lot abutting on a street.

**Glare:** The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

**Grade:** The mean level of the finished surface of the ground adjacent to the exterior walls of a building or structure; the degree of rise or descent of a sloping surface.

**Green Area:** Land shown on a development plan, master plan or official map for preservation, recreation, landscaping or park.

**Greenbelt:** An open area which may be cultivated or maintained in a natural state surrounding development, or used as a buffer between land uses, or to mark the edge of an urban or developed area; those permanent open space areas illustrated on the Village's Comprehensive Plan and described in Article 5 of this Zoning Code.

**Group Homes:** A community residence serving unrelated persons with disabilities which is licensed, certified, or accredited by appropriate local, state, or national bodies. Group homes do not include residences which serve persons as an alternative to incarceration for a criminal offense.

**Home Occupation:** An occupation for gain or financial support conducted entirely within a principal residential building, or a building or structure accessory thereto.

**Home Professional Office:** A home occupation consisting of the office of a practitioner of a rec-

ognized profession.

**Hospital or Sanitarium:** An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four (24) hours in every week of three (3) or more non-related individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions, including as an integral part of the institution, related facilities such as laboratories, outpatient facilities or training facilities.

**Hotel, Motel, Inn or Auto Court:** An establishment containing lodging accommodations designed for use by transients or travelers or temporary guests. Facilities provided may include maid service, laundering of linen used on the premises, telephone and secretarial desk service, restaurants, meeting rooms, and ancillary retail uses.

**Impervious Surface:** Any material which reduces and prevents absorption of stormwater into previously undeveloped land.

**Improvements:** Any structure, grading, street surfacing, curbs and gutters, sidewalks, bikeways, cross-walks, water mains, sanitary sewers, storm sewers, drainage ditches, culverts, bridges, trees, and other additions or deletions from the natural state of land which increase its utility or habitability.

**Improvement, Public:** Any improvements for which the Village or other public entity may ultimately assume the responsibility for maintenance and operation.

**Industrial Park:** A large tract of land that has been planned, developed and operated as an integrated facility for a number of individual industrial uses, with special attention to circulation, parking, utility needs, esthetics, and compatibility.

**Institutional Use:** A non-profit or quasi-public use or institution such as a church, library, public or private school, hospital or municipally owned or operated building, structure, or land used for public purpose.

**Joint Ownership:** The equal estate interest of two or more persons.

**Junk Yard:** Any area, lot, land, parcel, building or structure, or part thereof used for the storage, collection, processing, purchase, sale or abandonment of wastepaper, rags, scrap metal or other discarded goods, materials, machinery, or two or more unregistered, inoperable motor vehicles.

**Kennel:** Any lot or premises or portion thereof on which three (3) or more dogs or other domestic animals over the age of four months are boarded for compensation or kept for sale.

**Land use plan:** The Village's Comprehensive Land Use Plan, as amended from time to time.

**Light Industry:** Industrial uses which meet the performance standards, bulk controls and other requirements established in this Zoning Code.

**Lot:** A parcel or tract of land.

**Lot Area:** The area of a lot shall be computed exclusive of any portion of the right-of-way of any

public or private street or easement of access.

Lot, Corner: A lot of which at least two (2) adjacent sides abut for their full lengths upon street rights-of-way.

Lot Coverage: The part or percent of the lot occupied by impervious surfaces such as buildings or structures, including accessory buildings or pavements.

Lot Depth: The mean horizontal distance between the front and rear lot lines.

Lot, Double Frontage or Through: A lot which fronts upon two (2) parallel streets, or which fronts upon two (2) streets which do not intersect at the boundaries of the lot.

Lot, Frontage: The measurement of lot frontage shall be considered to be the distance between side lot lines at the street right-of-way. If the side lot lines do not intersect the street right-of-way, the lot frontage shall be only that portion of the lot line abutting the street that coincides with the street right-of-way. For an acre lot line, the lot frontage shall be the internal chord dimension.

Lot, Interior: A lot other than a corner lot with only one frontage on a street.

Lot Line: A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

Lot Line, Corner Side: The boundary of a corner lot which abuts a street right-of-way but is not the front line.

Lot Line, Front: The boundary of a lot which is along a street right-of-way. For land-locked or partially land-locked parcels of land, the front lot line is that lot line that faces the access to the lot.

Lot Line, Rear: The boundary of a lot which is most distant from and is, or in most nearly, parallel to the front lot line.

Lot Line, Side: Any lot line other than a front or rear lot line.

Lot of Record: An area of land which is designated as a separate platted subdivision lot in a subdivision plat prepared in accordance with the Plat Act and recorded in the office of the County Recorder of Deeds.

Lot Width: The distance between straight lines connecting the front and rear lot lines where they intersect the building setback line.

Lot, Zoning: The term zoning lot shall mean and include a lot of record in a recorded subdivision, or a single tract of land, or parcels described by metes and bounds, which are designated by their owner as a tract to be used, developed, or built upon as a single unit in common ownership. Multiple, contiguous parcels in common ownership may be aggregated for the purposes of determining compliance with the provisions of this Article.

**Manufacture:** The production, making or processing of products or commodities for general consumption of the public or for sale to specialized institutions or organizations. Also included is the sub-assembly, fabrications or processing of parts or components for use in other products or commodities.

**Medical Cannabis Cultivation Center:** A facility operated by an organization or business that is registered by the State of Illinois Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis. Such facility, which requires a special use permit pursuant to this Zoning Code, shall not be located within 2,500 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, or public or private park or an area zoned for residential use. *Ord. 568*

**Medical Cannabis Dispensary (or “dispensing organization” or “dispensary organization”):** A facility operated by an organization or business that is registered by the State of Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients. Such facility, which requires a special use permit pursuant to this Zoning Code, shall not be located within 1,000 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, or part day child care facility or public or private park. In addition, such facility may not be located in a dwelling, including but not limited to, single family and multi-family homes, apartments and condominiums or in an area zoned for residential use. *Ord. 568*

**Mini-Warehouse:** A structure containing separate storage spaces of varying sizes leased or rented on an individual basis.

**Mixed Use Development:** The development of a tract of land, building or structure with two or more different uses such as, but not limited to, residential, office, manufacturing, retail, public or entertainment.

**Motor Vehicle:** Any self-propelled wheeled conveyance that does not run on rails and that carries passengers, goods and equipment.

**Multi-Use Building:** A building containing two or more distinct uses.

**Noise:** An undesirable audible sound.

**Noise Pollution:** Continuous or episodic excessive noise in the human environment.

**Non-Conforming Building:** Any building or structure lawfully established at the time this Zoning Code is adopted, which: (a) does not comply with all the regulations of this Zoning Code or any amendment hereto governing standards of the district in which such building or structure is located; or (b) is designed or intended for a nonconforming use.

**Non-Conforming Use:** Any use of land, buildings, or structures, lawful at the time of the enactment of this Zoning Code but which does not comply with all the regulations of this Zoning Code governing use for the zoning district in which such use is located.



Nursery School: An institutional facility for preschool children.

Nursing Home: An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

Octave Band: A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch.

Odor Threshold: The minimum concentration of odorous matter in the air that can be detected as an odor.

Off-Site: Any premises not located within the area of the property to be subdivided or developed, whether or not in the same ownership of the applicant for subdivision or development approval.

Off-Street Parking and Loading Facility: A building, structure, parcel of land, or portion thereof which provides off-street parking or off-street loading spaces and including access ways, driveways and aisles and which is either a principal or accessory use.

Off-Street Parking or Loading Space: An open, hard-surfaced area of land, other than a right-of-way, an access, a driveway or an aisle and the principal use of which is for the standing, loading and unloading of motor vehicles.

On-Site: Located on the lot or parcel that is the subject of an application for development or subdivision approval.

On-Street Parking: A temporary storage area for a motor vehicle which is located on a dedicated street right-of-way.

Opacity: The quality or state of an object that renders it impervious to the rays of light; the degree of non-transparency.

Open Area: That area of a lot, parcel, or tract that is not covered by a building or structure.

Open Space: Any parcel or area of land or water essentially unimproved, or otherwise devoid of buildings or other structures and paved areas, and set aside, dedicated, designated, or reserved for public or private use or enjoyment of owners and occupants of land adjoining or neighboring such open space.

Ordinance: Reference to "Ordinance" shall be construed as the Village of Prairie Grove Zoning Ordinance.

Outdoor Storage: The keeping, in an area external to a principal or accessory structure, of any goods, material or merchandise in the same place for more than 24 hours.

Overhang:

- (1) The part of a roof or wall which extends beyond the facade or a lower wall; and

(2) The portion of a vehicle extending beyond the curb.

**Owner:** Any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or controlling proprietary interest in the land sought to be subdivided under this Zoning Code.

**Parcel:** A lot or tract of land.

**Parking Area or Lot:** A suitably surfaced and maintained area exclusive of any street, alley, or other access way, designed or used for the temporary storage of motor vehicles.

**Parking Space:** An enclosed or unenclosed area permanently reserved for storage of one (1) automobile and appropriately connected with a street or alley by a driveway affording adequate ingress and egress.

**Parkway:** The area between the back of the curb and the sidewalk or the area between the back of the curb and the edge of the street right-of-way where there is no sidewalk.

**Patio:** A level, landscaped and/or surfaced area directly adjacent to a principal building at or within three feet of the finished grade and not covered by a permanent roof.

**Pedestrian:** An individual who travels on foot.

**Performance Standard:** Criteria established to regulate uses according to their effects. Such criteria are noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, and glare or heat.

**Perimeter:** The boundaries or borders of a lot, tract or parcel of land.

**Permitted Use:** Any use allowed in a zoning district and subject to the restrictions applicable to that zoning district.

**Planning and Zoning Commission:** Pursuant to Section 8.03 of the Prairie Grove Municipal Code. Also referred to as “Commission” in this Zoning Code. *Ord. 433*

**Plan Review Committee:** The current Planning and Zoning Commission Chairman, Village Attorney, Village Engineer and Village Planner. *Amended, Ord.433*

**Planned Development:** A parcel of land or contiguous parcels of land of size sufficient to create its own environment, controlled by a single landowner or by a group of landowners in common agreement as to control, to be developed as a single entity, the environment of which is compatible with adjacent parcels, and the intent of the zoning district or districts in which it is located.

**Plat:** A map representing a tract of land, showing the boundaries and location of individual properties, easements and streets.

**Plat, Final:** The final map of all or a portion of a subdivision or site plan which is presented to the Village Board for final approval.

Plat, Preliminary: A preliminary map or site plan indicating the proposed layout of a subdivision which is submitted to the Planning and Zoning Commission and Village Board for consideration and preliminary approval.

Porch: A roofed open area, which may be screened, usually attached with direct access to, a building.

Premises: A lot, parcel, tract or plot of land together with the buildings and structures thereon.

Private Improvement: Any installed or constructed facility for which the responsibility of maintenance and ownership will be retained by the owner or a private association.

Private Street: Any road that is used for access and circulation where the ownership and maintenance responsibility is borne by the owner or a private association.

Professional Office: The office of a member of a recognized profession, maintained for the conduct of that profession.

Prohibited Use: A use that is not permitted in a zoning district.

Property Lines: The lines bounding a lot.

Public Notice: The advertisement of a public hearing in a paper of general circulation in the area, and through other media sources, indicating the time, place and nature of the public hearing.

Public Street: All major, collector or local streets which are shown and dedicated on a plat for public use of which the ownership and maintenance responsibility is borne by the Village or other public agency.

Public Walkway: A right-of-way dedicated for the purpose of a pedestrian access and located so as to connect two (2) or more streets, or a street and a public land parcel.

Quorum: A majority of the full authorized membership of the Planning and Zoning Commission or Village Board. *Amended, Ord. 433*

Recreational Area: A place designed and equipped for the conduct of sports, leisure time activities, and other customary and usual recreational activities.

Recreational Vehicle: Every vehicle originally designed or permanently converted and primarily used for temporary living quarters or human habitation, and not used as a commercial vehicle, including any house trailer, camper or private living coach.

Repair Garage: Any building, premises or land in which or upon which a business, service or industry involving the maintenance, servicing, repair or painting of vehicles is conducted or rendered.

Residential: When a particular residential zoning district is not designated, residential shall mean any residential zoning district.

**Restaurant:** Any land, building or part thereof, other than a boarding house, where meals are provided for compensation, including a café, cafeteria, coffee shop, lunch room, drive-in stand, tea-room and dining room.

**Restrictive Covenant:** A restriction on the use of land usually set forth in the deed.

**Retail Services:** Establishments providing services or entertainment, as opposed to products, to the general public, including eating and drinking places, hotels and motels, finance, real estate and insurance, personal services, motion pictures, amusement and recreation services, health, educational and social services, museums and galleries.

**Retail Trade:** Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

**Retaining Wall:** A structure constructed to hold back or support an earthen bank.

**Retention Basin or Pond:** A pond, pool, or basin used for the storage of stormwater runoff that maintains a permanent pool of open water.

**Re-zone:** To change the zoning classification of a parcel or parcels of land.

**Right-of-Way:** A strip of land dedicated to the public and occupied or intended to be occupied by a street, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, or other similar use. The usage of the term “right-of-way” for land platting purposes shall mean every right-of-way hereafter established and shown on a final plat and shall be separate and distinct from the lots or parcels adjoining such right-of-way. Rights-of-way intended for streets, walks, water mains, sanitary sewers, storm drains, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.

**Right-of-Way Width, Street:** The distance between property lines measured at right angles to the center line of the street.

**School:** A building or group of buildings maintained by the public or by a private organization for the purpose of education and which is accredited by the State of Illinois.

**Screening:** A structure erected or vegetation planted for the purpose of concealing from view the area behind it.

**Setback Line:** The line which represents the required minimum distance from street right-of-way line, or any other lot line, that establishes the area within which principal structure must be erected or placed.

**Sidewalk:** A paved surface area, usually paralleling and separated from the street, used as a pedestrian walkway.

**Smoke:** The visible discharge from a chimney, stack, vent, exhaust or combustion process which consists of particulate matter.

**Special Use Permit:** A permit issued by the Village which must be acquired before construction for, or commencement of, activity listed as a special use with the appropriate zoning district.

**Spot Zoning:** Re-zoning of a lot or parcel of land to benefit an owner for a use incompatible with surrounding uses and not for the purpose or effect of furthering the Comprehensive Land Use Plan.

**Story:** That part of a building between any floor and the floor next above, and if there is no floor above, then the ceiling above. A basement is a story if more than one-half of its height is above the average grade of the lot, or it is used for business purposes, or if it contains any dwelling unit.

**Story, Half:** The portion of a building or structure under a gable, hip or mansard roof, which the top wall plates on at least two (2) opposite exterior walls are not more than four and one-half feet above the finished floor of each story.

**Street:** An improved public or private right-of-way or easement which affords a primary means of vehicular access to abutting property, whether designated as a street, avenue, highway, road, boulevard, lane, throughway, or however otherwise designated, but does not include driveways to buildings.

**Structure:** An improvement upon land, other than the land itself, the use of which requires more or less permanent location on the ground or attached to something having a permanent location on the ground, including, but not limited to, buildings, fences, freestanding signs, patios, and parking areas.

**Subdivision:** The division of a lot, tract or parcel of land into two or more lots, tracts, parcels of land for sale, development or lease.

**Temporary Structure:** A structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

**Temporary Use:** A use established for a fixed period of time with the intent to discontinue such use upon the expiration of the time period.

**Terrace:** A level, landscaped and/or surfaced area directly adjacent to a principal building at or within three feet of the finished grade, and not covered by a permanent roof.

**Toxic Matter:** A substance which is capable of causing injury to living organisms by chemical means when present in relatively small amounts.

**Tract:** An area, parcel, site, piece of land, or property which is the subject of a development application.

**Trailer:** Every vehicle without motive power, designed for carrying persons or property and for being drawn by a motor vehicle.

**Transitional Area:**

- (1) An area in the process or changing from one use to another; and
- (2) An area which lies between two land uses of different intensities.

Transitional Use: A land use of an intermediate intensity between uses of differing intensities.

Unified Control: The combination of two (2) or more tracts of land, wherein each owner has agreed that his or her tract shall be developed as part of a planned development, and shall be subject to all control applicable to, and adopted for the planned development.

Use: The purpose of activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied or maintained.

Use, Accessory: A subordinate use which is clearly and customarily incidental to the principal use of a building or premises and which is located on the same lot as the principal building or use, except for such accessory parking facilities as are specifically authorized to be located elsewhere.

Use, Lawful: The use of any building, structure or land that conforms with all of the regulations of this Zoning Code or any amendment hereto, and which conforms with all of the codes, ordinances and other legal requirements, as existing at the time of the enactment of this Zoning Code or any amendment hereto, for the structure or land that is being considered.

Use, Legal Non-Conforming: The use of any building, structure or parcel of land which lawfully is occupied and maintained upon the effective date of the adoption or amendment of this Zoning Code and which does not conform to the use regulations of the zoning district in which the use is located by reason of the adoption or amendment of this Zoning Code.

Use, Permitted: Any use which is or may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and when applicable, performance standards of this Zoning Code for the district in which such use is located.

Use, Principal: The main use of land or buildings as distinguished from a subordinate or accessory use.

Use, Special: A use, either public or private, which because of its unique characteristics, cannot be properly classified as a permitted use in a particular district or districts. After due consideration, in each case, of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, such special use may or may not be granted, subject to the terms of this Zoning Code.

Variance: A variance is permission to depart from the terms of the Zoning Code where such departure will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the results of the actions of the applicant, a literal enforcement of this Article would result in unnecessary and undue hardship.

Vibration: The periodic motion of the particles of an elastic body or medium in alternately opposite directions from the position of equilibrium when that equilibrium has been disturbed.

Village: Village of Prairie Grove, McHenry County, Illinois.

Village Board: Board of Trustees of the Village.

Warehouse: A building used primarily for the storage of goods and materials.

Wetlands: Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, and bogs.

Wholesale Trade: Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Yard: An open space on the same zoning lot with a building or structure, unoccupied and unobstructed from its lowest level to the sky, except as otherwise authorized by this Zoning Code.

Yard, Front: The open space across the full width of the lot extending from the closest point of the front line of the principal building to the front line of the lot. On corner lots the front yard shall face the shortest dimension of the lot adjacent to the street.

Yard, Rear: A yard extending along the full width of the lot between the closest point of the principal building and the rear lot line.

Yard, Required: The open space between a lot line and the buildable area within which no structure will be located, except as provided by this Zoning Code.

Yard, Side: The open space between the closest point of the principal building and the side line of the lot and extending from the front line to the rear line of the building.

ZBA: The Village's Planning and Zoning Commission.

Zoning Code: The Prairie Grove Zoning Ordinance.

Zoning District: A specifically delineated land area within the incorporated area of the Village, as specified on the Zoning Map, within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.

Zoning Map: The map incorporated herein as a part hereof, designating zoning districts.

Zoning Official: The Zoning Official shall be the individual that has been, or shall be duly appointed by the Village Board, who is in charge of the administration and enforcement of this Zoning Code.

Zoning Ordinance: The Prairie Grove Zoning Ordinance.

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ARTICLE 3  
GENERAL PROVISIONS

- 3.1 Interpretation of Regulations
- 3.2 Scope of Regulations
- 3.3 Allowable Use of Land or Buildings
- 3.4 Prohibited Use of Land or Buildings
- 3.5 Special Uses
- 3.6 Agriculture as a Permitted Use
- 3.7 Accessory Structures and Uses
- 3.8 Temporary Buildings, Structures and Uses of Land
- 3.9 Control Over Use
- 3.10 Lot Size Requirements
- 3.11 Building Limitations
- 3.12 Building Height
- 3.13 Yards
- 3.14 Permitted Obstructions, Yards
- 3.15 Number of Buildings on a Lot
- 3.16 Off-Street Parking and Loading
- 3.17 Home Occupations
- 3.18 Fences
- 3.19 Swimming Pools
- 3.20 Access to Public Streets
- 3.21 Wireless Telecommunications Towers and Antennas
- 3.22 Use of Village Owned Property

3.1 INTERPRETATION OF REGULATIONS:

- A. The provisions of this Zoning Code shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.
- B. Where the conditions imposed by any provision of this Zoning Code are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Zoning Code or of any other law, ordinance, resolution, rule or regulation, the regulations which are more restrictive, or which impose higher standards or requirements shall govern.
- C. This Zoning Code is not intended to supersede any easement, covenant or other private agreement, provided that where the regulations of this Zoning Code are more restrictive, or impose higher standards or requirements, than such easements, covenants or other private agreements, the requirements of this Zoning Code shall govern.
- D. No building, structure or use which is not lawfully existing at the time of the adoption of this Zoning Code shall become, or be made lawful solely by reason of the adoption of this Zoning Code; and to the extent and manner said unlawful building, structure, or use is in conflict with the requirements of this Zoning Code, said building, structure or use remains unlawful.



### 3.2 SCOPE OF REGULATIONS:

- A. No building or other structure shall be erected, altered or enlarged and no use of land shall be established or enlarged for any use except a use that is named in the list of permitted uses for the zoning district in which the building, structure or land is, or will be located. There shall be two (2) exceptions to this requirement:
  - (1) Uses lawfully established prior to the effective date of this Zoning Code may be continued, subject to the conditions and restrictions contained in Article 8, Non-Conformities, of this Zoning Code.
  - (2) Special uses may be allowed, but only in accordance with the provisions of Section 3.5.
- B. The uses permitted in each zoning district are listed in Article 5, District Regulations.

### 3.3 ALLOWABLE USE OF LAND OR BUILDINGS -- Notwithstanding any provision in this Code to the contrary, any use of Village owned property is a permitted use in all zoning districts provided that notice, in accordance with section 3.22 of this chapter is given of such intended use by the Village. In addition, the following uses of land or buildings are allowed in the districts indicated hereinafter in Article 5 under the conditions specified in this Zoning Code. *Amended 593*

- A. Uses lawfully established on the effective date of this Zoning Code.
- B. Permitted and Special Uses listed in Article 5.

### 3.4 PROHIBITED USE OF LAND OR BUILDINGS -- No building or tract of land shall be devoted to any use other than the one which is specified as a permitted or special use in Article 5 in the zoning district in which such building or land is located. However, where a building permit for a building or structure has been issued in accordance with applicable laws prior to the effective date of this Zoning Code, and where construction has begun within six months of such effective date and diligently persecuted to completion, said building or structure may be completed in accordance with approved plans on the basis of which the building permit was issued; and further, may upon completion be occupied by the use originally designated, subject to the provisions of this Zoning Code.

### 3.5 SPECIAL USES -- In each zoning district, certain listed uses may be permitted only if a special use permit is secured in accordance with the provisions and procedures of Article 9. The special uses which may be allowed in each zoning district are set out in Article 5, District Regulations. No listed special use shall be considered an accessory use to any other permitted or special use, and a permit shall be required for each separate special use.

### 3.6 PERMITTED AGRICULTURAL USES: *Amended, 690, 637, 615* Farming shall be permitted in any zoning district, although the raising or keeping of livestock (except horses) or poultry shall not be permitted in Residential Districts E-5, E-3, E-1, R and R-1. Dwelling units which are accessory to the farming uses shall also be permitted provided, however,

that the occupants of the dwellings are engaged in agricultural activities on the premises as their principal means of livelihood, or are for the immediate family (such as parents, children, grandchildren) of the owners of the farm when such owner's principle residence is on the farm, provided, however, that the original farm residence can be rented to non-farm workers if the owners have moved from the property. Notwithstanding any other regulation stated herein raising and maintaining chickens shall be permitted in Residential Districts E-5 and E-3. Raising Chickens shall also be permitted in Residential District E-1 subject to the following regulations:

- A. Permit required. A temporary or perpetual permit shall be approved by the Village Administrator prior to commencing the keeping of chickens, with such conditions included as the Village Administrator may deem necessary to preserve the health, safety and welfare of the residents, under the given circumstances, at the time of application.
- B. Limit. The number of Chickens on each permitted E-1 zoning lot shall not exceed six (6).
- C. Subdivision or Homeowner Association Covenants. To the extent that applicable subdivision or homeowner association covenants regulate or prohibit chickens on the Subject Property, the covenants shall control over this section 3.6 of the Village Code.
- D. Temporary Permit Application. All temporary permit applications shall include all information specified by the Village Board and shall include, at a minimum, a detailed drawing depicting any landscape or other screening of neighboring properties; the Subject Property house footprint, yard and proposed coop, run and fencing, including size, height, material and location of each. It shall be within the discretion of the Village Board to issue the Temporary Permit and its decision shall be final. Issuance of a Temporary Permit shall be evidenced by a letter from the Village Clerk reflecting the date of approval by the Village Board along with a copy of these regulations.
- E. No Fees or ARC Review. No permit fee shall be assessed and no review by the Village architectural review committee shall be required.
- F. Non-transferability of Permits. Permits are not transferrable between persons or property and do not run with the land upon sale or other transfer of title.
- G. Permit Term. Temporary permits shall be valid for a period of one (1) year from the date of issuance by the Village and issuance of a temporary permit shall not constitute a vested right to the issuance of a perpetual permit. This term may be extended upon written approval of the Village President if the temporary permit term is about to expire and a perpetual permit application is filed, but not yet ruled upon by the Village Board. The extension of the temporary permit term shall be until the next Village Board meeting wherein the perpetual permit application is to be voted upon.
- H. Perpetual Permit. A perpetual permit application may be filed with the Village by a temporary permit holder, during the term of the temporary permit, but no sooner than 90 days prior to the expiration of the temporary permit. A perpetual permit applica-

tion shall include (1) the same information provided in subsection D and (2) a representation by the property owner that they are not in violation of any of the rules and regulations set forth within Chapter 21, Article 3, Section 3.6. It shall be within the discretion of the Village Board to permit the perpetual permit application and its decision shall be final. Issuance of a Perpetual Permit shall be evidenced by a letter from the Village Clerk reflecting the date of approval by the Village Board along with a copy of these regulations.

- I. Future Village Actions. The Village Board reserves the right to eliminate or cease the keeping of chickens at any time and any permits issued pursuant to these provisions may be immediately revoked upon notice to the permit holders, regardless of when the permit should otherwise expire.
- J. Revocation of Permit. If it is determined by the Village Board that the Subject Property or chicken(s) are not kept or maintained in compliance with these regulations the permit may be immediately revoked.
- K. No Commercial Activity. No commercial activity involving the transfer or selling of chickens for profit may take place on the Subject Property.
- L. Roosters Not Permitted. Roosters are not permitted on the Subject Property; however, if the gender of a chick cannot be determined at hatching, a chick of either gender may be kept on the property for no more than six (6) months.
- M. No Storage of Manure. No storage of chicken manure is permitted within twenty (20) feet of the Subject Property lot line.
- N. No Slaughtering and Humane Treatment. Slaughtering of chickens on-site is prohibited and all chickens shall be treated humanely.
- O. Nuisances. Nuisances shall be deemed to exist upon the creation or existence of noxious or offensive odors to the public or neighboring property owners, damaging property of others and emitting excessively loud noises for an extended and uninterrupted period.
- P. Chickens in Coops and Runs. Chickens shall be kept in coops and fenced runs at all times. Chickens shall be kept in coops from dusk to dawn. Chicken coops and runs shall meet the following standards:
  - (1) Coop and Run Locations: Chicken coops and runs shall be kept in the rear yard and shall be located at least ten (10) feet from any lot line and ten (10) feet from any other structure.
  - (2) Coop space: A minimum of 3 square feet per chicken shall be required within the coop. Size of coop shall not exceed fifty (50) square feet and seven (7) feet in height. The coop shall include a weather and predator resistant, ventilated coop with definable walls, floor, roof and a securable door. Walls or fencing around the coop shall be buried at least 12” below grade to resist predator entry.

- (3) Run space: A minimum of ten (10) square feet of “run” or “free range” space per chicken shall be required with a maximum total run of sixty (60) square feet. The Chicken run shall be connected to the coop and totally enclosed so as to not allow the chickens to fly or jump out of the run area.
- (4) Maintenance of Coops and Runs: The chicken coop and run shall be kept in good repair, maintained in a clean and sanitary condition, and free of vermin, obnoxious smells, and substances.

### 3.7 ACCESSORY STRUCTURES AND USES:

- A. No accessory use or structure shall be established or erected prior to the establishment or erection of the principal use to which it is accessory. No existing accessory use may be expanded or extended except in compliance with all of the regulations of this Zoning Code.
- B. Where an accessory building is structurally attached to a principal building, it shall be subject to, and must conform to, all regulations of this Zoning Code applicable to the principal building.
- C. No accessory building or structure shall encroach upon that side yard of a corner lot which is adjacent to the street, nor upon the rear yard of a through lot, nor upon the front yard of any lot.
- D. No accessory building or structure shall exceed the height limit identified in Article 5 and shall be at least seven (7) feet from any property line. The seven (7) feet setback requirement does not apply to businesses located along Illinois State Routes 31 and 176, within one-half (1/2) mile of said intersection. *Ord. 570*
- E. Detached accessory uses shall not exceed ten percent (10%) of the rear yard area. The total of all accessory buildings shall not exceed thirty (30) percent of the rear yard area. Exceptions to these standards shall be permitted pursuant to the issuance of a Special Use Permit.

### 3.8 TEMPORARY BUILDINGS, STRUCTURES AND USES OF LAND: *Amended, 507*

- A. The Administrator may authorize the temporary use of a building, structure or parcel of land in any zoning district for a building, structure or use of land that does not conform to regulations prescribed elsewhere in this Zoning Code for the zoning district in which it is located, provided however, that such use is of a temporary nature, not to exceed six (6) months.
- B. Such uses shall be granted for a specified period of time and shall be subject to such conditions as the Administrator determines to be necessary for the safeguarding of the public health, safety and general welfare.
- C. The Administrator’s decision is final and is appealable to the Village Board in writing within 30 days of the final decision.

- 3.9 CONTROL OVER USE -- No building or premises shall hereafter be used or occupied, and no building or structure, or part thereof, shall be erected, raised, moved, reconstructed, extended, enlarged, or altered, except in conformity with the regulations herein specified for the district in which it is located; except that in residence districts, a lot in a subdivision of record at the time of adoption of this Zoning Code, even though such lot does not meet the requirements of this Zoning Code as to area and width, may be used for single family residence purposes, provided the use conforms with all other regulations of the district in which it is located.
- 3.10 LOT SIZE REQUIREMENTS -- Unless otherwise granted under the terms of an annexation agreement, special use permit, or variance, no building or other structure shall be erected, altered or enlarged, nor shall any use of land be established or enlarged on a lot or tract of land that is:
- A. Smaller in area than the minimum lot area prescribed for the zoning district in which the building, structure or land is located.
  - B. Less than the minimum width prescribed for the zoning district in which the building, structure or land is located.
- 3.11 BUILDING LIMITATIONS -- Unless otherwise granted under the terms of a variance or a special use permit the following limitations shall apply:
- A. No building or other structure shall be erected, altered or enlarged so as to exceed the maximum lot coverage percentage, floor area ratio, minimum setbacks and minimum side and rear yards, or the maximum building height for the district in which the building or structure is located.
  - B. No building or other structure shall be erected, altered or enlarged, nor shall any use of land be established or enlarged unless the minimum setbacks and side and rear yards specified for the district in which the building, structure or use of land is located are maintained. All additions to principal buildings shall comply with the setback and yard requirements for the principal building.
- 3.12 BUILDING HEIGHT:
- A. Height limitations shall be as set forth under each zoning district for all buildings, structures and uses of land.
  - B. Chimneys, ornamental towers, scenery lofts, monuments, cupolas, domes, spires, steeples, parapet walls, water towers and similar structures and necessary mechanical appurtenances may be erected to their customary height, regardless of the height limitations of the zoning district in which they are located.
- 3.13 YARDS:
- A. General -- No lot shall be reduced in area so that the yards or other open spaces become less than required by this Zoning Code.

B. Front Yard -- On streets where a front yard setback has been maintained for buildings existing on lots or tracts having a frontage of thirty (30) percent or more of the total frontage on one side of that portion of any street lying between two intersecting streets, or from an intersecting street and a corporate limits line, the following shall apply:

(1) No new building shall project beyond a straight line drawn between the point closest to the street line of the residence upon either side of the proposed structure. If there are residences upon only one side, then no new building shall project beyond the straight line projected from the front of the two nearest residences. This regulation shall not, however, be interpreted to require a front yard of more than 50 feet, nor to permit a front yard of less depth than that of the nearest building.

(2) Where the street is curved the line shall follow the curve of the street rather than to be a straight line.

C. Double-Frontage Lots -- Double frontage lots shall not be allowed, except where lots back up to a major roadway. In such instances, vehicular access between the lots and the primary thoroughfare shall be prohibited.

D. Corner Lots:

(1) A corner lot shall be deemed to have two (2) front yards. The classification of the remaining two (2) yards shall be determined by the type of yard abutting the yard in question:

(a) If a corner lot abuts a side yard, it shall be deemed a side yard.

(b) If a corner lot abuts a rear yard, it shall be classified as a rear yard.

3.14 PERMITTED OBSTRUCTIONS, YARDS -- For the purpose of this Zoning Code, the following in addition to permitted accessory structures, shall be considered permitted obstructions in the required yards.

A. All Yards:

(1) Awnings and canopies.

(2) Steps four (4) feet or less above grade, which are necessary for access to a permitted building, or for access to a zoning lot from a street or alley.

(3) Chimneys that project twenty-four (24) inches or less into the yard.

(4) Approved free-standing signs.

(5) Arbors and trellises.

(6) Flagpoles.

- (7) Window unit air conditioners which project not more than eighteen (18) inches into the required yard.
- (8) Fences or walls, subject to applicable height and other code restrictions.
- (9) Open off-street parking spaces, subject to standards and setbacks set forth in Article 7, Off-Street Parking and Loading.

B. Front and Corner Side Yards:

- (1) Open terraces, patios or decks not over three (3) feet above the average level of the adjoining ground, provided they do not extend more than five (5) feet into the minimum yard.
- (2) One-story bay windows which project three (3) feet or less into the yard.
- (3) Overhanging eaves and gutters which project three (3) feet or less into the yard.

C. Rear Yards:

- (1) Balconies.
- (2) Open terraces or decks, provided they are not over three (3) feet above the average level of the adjoining ground, and do not extend more than fifteen (15) feet into the minimum yard.
- (3) Recreational and laundry drying equipment.
- (4) Ground-supported air conditioning units which extend not more than five (5) feet into the required yard.
- (5) One-story bay windows which project three (3) feet or less into the yard.
- (6) Overhanging eaves and gutters which project three (3) feet or less into the yard.

D. Interior Side Yards:

- (1) Overhanging eaves and gutters which project thirty-six (36) inches or less into the yard.
- (2) Ground-supported air conditioning units which extend not more than five (5) feet into the required yard.

3.15 NUMBER OF BUILDINGS ON A LOT -- Except as a part of a planned development, no more than one principal building shall be located on a zoning lot.

3.16 OFF-STREET PARKING AND LOADING -- Unless otherwise granted under the terms of a special use permit, no building or other structure shall be erected, altered or enlarged, nor shall any use of land be established or enlarged, unless the minimum off-street parking and loading spaces required by Article 7, Off-Street Parking and Loading, are provided.

3.17 HOME OCCUPATIONS:

A. General -- The standards for home occupations are intended to insure compatibility with other permitted uses and the residential character of the neighborhood and to maintain the subordinate and incidental status of the home occupation. In general, a home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence except for a sign.

B. Performance Requirements -- A home occupation or profession, where permitted in a zoning district, shall meet the following performance requirements in addition to those standards applicable to the district in which they are located:

- (1) Not more than one (1) person other than members of the immediate family occupying such dwelling shall be employed on the premises.
- (2) No alteration of the principal building shall be made which changes the residential appearance of the dwelling.
- (3) No more than twenty-five percent (25%) of the floor area of the residential dwelling unit shall be devoted to any home occupation.
- (4) No traffic shall be generated by such home occupation in greater volume than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall meet the off-street parking requirements as specified in Article 7 of this Zoning Code, and shall not be located in a required front yard.
- (5) Signage shall be in conformance with Village ordinances.
- (6) No equipment or material used shall constitute a hazard, create a nuisance or interfere with the reception of broadcast signals.
- (7) The home occupation shall be conducted entirely within the principal building that is used as the residential dwelling.

C. Permitted Home Occupations:

- (1) Day Care Homes licensed by the State of Illinois.
- (2) Dressmakers, seamstresses or tailors.
- (3) Music or dancing teachers, provided that the instruction shall be limited to



one pupil at a time, except for occasional groups.

- (4) Artists, sculptors, or authors.
- (5) Physicians, dentists, or other licensed medical practitioners.
- (6) Planners, architects, attorneys, engineers, realtors, insurance agents, brokers, and members of similar professions.
- (7) Offices for ministers, rabbis, priests, or members of religious orders.
- (8) Offices for salespersons, sales representatives or manufacturers' representatives; provided that no retail transactions shall be made on the premises except through telephone, facsimile or mail communication and no wholesale transactions shall include the acceptance or delivery of merchandise on the premises.

D. Prohibited Home Occupations:

- (1) Animal hospitals.
- (2) Clinics or hospitals.
- (3) Commercial boarding stables or kennels.
- (4) Dancing schools, except where permitted above.
- (5) Mortuaries.
- (6) Nursery schools.
- (7) Private clubs.
- (8) Renting of trailers.
- (9) Repair shops or service establishments, except the repair of small electrical appliances and other similar items.
- (10) Restaurants.

3.18 FENCES -- Fences are a permitted accessory use in all yards subject to the following:

- A. No fence in excess of three (3) feet in height shall be permitted in any required front yard except in F and E-5 and E-3 zoning districts where the height shall be no greater than five (5) feet with horizontal slats separated by not less than twelve (12) inches.
- B. No fence in a residential district shall exceed 6'6" in height in any side or rear lot.

- C. Where there are exposed structural elements on a fence adjacent to a residentially zoned property, the supports shall be exposed on the side of the fence of the property on which it is located.
  - D. No barbed wire fence will be permitted in the residential areas except by permission of the Village Board.
- 3.19 SWIMMING POOLS: Private Swimming Pools -- No private swimming pool shall be allowed in any commercial or residential district, except as an accessory use and unless it complies with all other applicable regulations. Private swimming pools shall not be located in a required front yard.
- 3.20 ACCESS TO PUBLIC STREETS -- Each zoning lot shall have direct access to a public or private street or roadway in accordance with the following regulations:
- A. General:
    - (1) The access control standards contained in this section are intended to promote safe and efficient operation of driveway approaches and to minimize vehicular delays and accidents. The Planning and Design Guidelines of the Comprehensive Plan shall apply.
    - (2) Each required off-street parking space shall open directly upon an all-weather, hard surfaced aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. Such driveway and driveway approach must be maintained as an all-weather hard surface material.
  - B. Maximum Number of Driveway Approaches -- With the exceptions listed below, one driveway approach is permitted per zoning lot. If a use is a listed special use in a district, then additional driveway approaches may be considered during the review of the special use permit, provided documentation of a traffic study is supplied. Otherwise, requests for additional driveway approaches shall be considered as variations. The following exceptions may have additional driveway approaches:
    - (1) Attached single family dwellings may have one driveway approach per dwelling unit.
  - C. Corner Clearance:
    - (1) Minimum separation of a driveway approach from an adjacent intersecting street shall be forty (40) feet from the centerline of the driveway approach to the nearest right-of-way line of the intersecting street.
    - (2) Minimum separation of a driveway from an intersection of a major street with a collector shall be the greater of:
      - (a) Two hundred (200) feet on the major street, and one-hundred fifty

(150) feet on the collector unless a shorter distance has specifically been authorized by IDOT along IL Route 31 and IL Route 176; or

- (b) The length of a full left-turn storage and taper, whichever is greater.
- D. Property Line Clearance -- Driveway approaches shall be located so that the required curb-return lies entirely within the property lines (extended) of the zoning lot served by the driveway approach unless the driveway is being shared with the adjacent zoning lot.
- E. Vision Clearance, Corner Lots -- No obstruction to the vision of persons using streets, sidewalks or driveways, and no building or structure hereafter erected, other than fences meeting the requirements of this Zoning Code shall be located in any of the following areas:
  - (1) In any residence district, within a triangular area formed by the street property lines and a line connecting points on the street property lines located 35 feet from the street property line intersections.
  - (2) In any business district within ten (10) feet of the intersecting right-of-way lines bordering a corner lot.

### 3.21 WIRELESS TELECOMMUNICATION TOWERS AND ANTENNAS *Ord. 491*

- A. Special Use Permit – A special use permit shall be required for the placement and installation of any wireless telecommunication tower or antenna.
- B. Definitions – In addition to those terms defined in Article 2, Rules and Definitions, of this Zoning Code, the following definitions are applicable to this Section:

Antenna: An exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunication signals or other communication signals.

Antenna Support Structure: Any structure designed and constructed for the support of antennas, including any tower or disguised support structure, but excluding support structures greater than 72 feet in height, which is owner by an amateur radio operator licensed by the FCC.

Applicant: Any person, entity, association, partnership, corporation, trust or titleholder making application to the Village for a special use permit for the siting, construction, installation or modification of a wireless telecommunication tower or antenna.

Building: A structure, other than a single family residence, not constructed primarily for the support of antennas, but which may be utilized for such purpose in accordance with the provisions of this Section.

Co-use/co-location: The location and use of two or more antennas on a single antenna support structure.

Disguised Support Structure: Any freestanding, manmade structure, designed for the support of one or more antenna, the presence of which is camouflaged or concealed as an architectural or natural feature. Such structures may include, but are not limited to, clock towers, campaniles, observation towers, artificial trees, light standards, silos or similar alternative design mounting structures that camouflage or conceal the presence of a support structure and antenna(s).

FAA: Federal Aviation Administration.

FCC: Federal Communications Commission.

Free Standing Tower: A tower designed and constructed to stand alone on its own foundation and free of architectural or supporting frames or attachments, including, but not limited to, self-supporting (lattice) towers and monopoles.

Height: The vertical distance measured from the base of a structure at ground level to its highest point, including the main structure and all attachments thereto.

IEPA: Illinois Environmental Protection Agency

Pre-Existing Tower or Antenna: Any tower or antenna for which a permit or special use permit has been properly issued prior to the effective date of this Section or which was in existence at the time the property on which it is located was annexed into the corporate limits of the Village.

Shelter: A structure for the protection and security of telecommunications equipment associated with one or more antennas, where access to equipment is gained from the interior of the structure.

Tower: A structure designed for the support of one or more antennas, including self-supporting (lattice) towers, monopoles or other freestanding towers, but not disguised support structures or buildings.

### C. Applicability

- (1) New Towers and Antennas: All new towers and/or antennas shall be subject to the regulations herein.
- (2) Pre-existing Towers and Antennas: All pre-existing towers and antennas shall not be subject to the regulations herein; however, any additional co-use antennas on an existing tower are subject to these regulations.
- (3) Amateur Radio Station Operators/Receive Only Antennas: This Section shall not govern any tower or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally-licensed ama-

teur radio station operator or is used exclusively for receive-only antennas. However, such towers, installations and antennas, as the case may be, remain subject to the ordinances of the Village.

D. General Requirements

- (1) All requests for a new tower or antenna are subject to the provisions of Sections 9.9 and 9.13 of this Zoning Code and shall only be allowed pursuant to the issuance of a special use permit.
  - (a) New towers and antennas shall only be permitted if it can be shown that all possibilities for co-location of existing towers have been exhausted.
  - (b) Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
    - (i) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
    - (ii) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
    - (iii) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
    - (iv) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
    - (v) The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
    - (vi) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
    - (vii) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new

tower or antenna development shall not be presumed to render the technology unsuitable.

- (c) If co-location is not possible, new towers and antennas may be permitted on property owned, leased, operated or otherwise controlled by the Village, provided a license or lease authorizing such antenna or tower has been approved by the Village.
  - (d) If co-location or locating on Village-owned land is not possible, new towers and antennas may be located on property zoned I Industrial District.
- (2) If the applicant can prove to the reasonable satisfaction of the Board of Trustees that there is no existing tower, Village property or I Industrial District zoned property that would fill a coverage gap, the Board of Trustees may allow the applicant to locate on other property.
  - (3) Any tower and antenna allowed on property which is owned or operated by the Village shall be wholly enclosed within a structure resembling a silo, flagpole, light standard or similar structure approved by the Appearance Review Commission.
  - (4) Towers and antennas shall meet all FCC, FAA, IEPA and Village building requirements.
  - (5) No signs shall be allowed on any new or existing tower or antenna.
  - (6) For the purpose of measurement, tower setbacks and separation distances shall be calculated by the applicant.
  - (7) All buildings and support equipment associated with a new tower or antenna shall meet the provisions of Section 3.21E.

E. Specific Requirements for New Towers and Antennas

- (1) Height and Setback Requirements:
  - (a) Towers shall have a setback of at least 100% of the height of the tower from any adjacent lot line.
  - (b) Guys and accessory buildings shall meet the minimum zoning district setback requirements.
- (2) Separation between Towers and Off Site Uses or Designated Areas:
  - (a) Tower separation shall be measured from the base of the tower to the lot line of the off site uses and/or designated areas listed in Table 1.

- (b) Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1	
Off Site Use/Designated Area	Separation Distance
Single family or duplex residences	200 feet or 300% of tower height, whichever is greater.
Vacant land zoned for single family or duplex residential use which has received preliminary subdivision approval or is currently platted.	200 feet or 300% of tower height from closest residential property line, whichever is greater.
Vacant residentially zoned property that is not platted.	100 feet or 100% of the tower height, whichever is greater.
Existing multi-family residential (3 or more units)	100 feet or 100% of the tower height, whichever is greater.
Non-residentially zoned property or non-residential uses	Normal district setbacks apply.

- (3) Separation Distances between Towers: Separation distances between towers shall be applicable for and measured between the proposed tower and pre-existing towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distances, (listed in linear feet (“lf”), shall be as shown in Table 2.

Table 2				
<i>Separation Distances between New and Existing Towers</i>				
	Lattice	Guyed	Monopole 75 feet in height or greater	<i>Monopole less than 75 feet in height</i>
Lattice	5,000 lf	5,000 lf	1,500 lf	750 lf
Guyed	5,000 lf	5,000 lf	1,500 lf	750 lf
Monopole 75 feet in height or greater	1,500 lf	1,500 lf	1,500 lf	750 lf
<i>Monopole less than 75 feet in height</i>	750 lf	750 lf	750 lf	750 lf

\*Note: The Commission may recommend exceptions from these height, setback and separation requirements when it has been proven that there is no safety hazard related to the exceptions.

- (4) Security Fencing: Towers shall be enclosed by security fencing not less than six feet in height and shall be equipped with an appropriate anti-climbing device excluding barbed or razor wire fencing.
- (5) Landscaping: Tower facilities shall be landscaped in a manner that effectively screens the ground level structures and equipment from any residentially zoned property. Landscaping shall be reviewed and approved by the Architectural Review Commission.

- (6) Buildings and Equipment Storage: Any unmanned building or structure used for the purpose of housing equipment associated with a tower and antenna shall not exceed 300 square feet of gross floor area, and shall not exceed be 15 feet in height. Said building or structure shall meet all minimum setback requirements of the zoning district in which it is located.

F. Pre-Existing and Non-Conforming Towers and Antennas

- (1) Removal of Abandoned Towers and Antennas: Any tower or antenna that is not operated for a continuous period of 12 months shall be considered to be abandoned, and the owner of such tower or antenna shall remove same within 90 days of receipt of notice from the Village. Failure to remove an abandoned tower or antenna within 90 days shall be grounds to have the tower or antenna removed at the owner's expense. If there are two or more users on a single tower, this provision shall not become effective until all users cease using the tower.
- (2) Non-Conforming, Pre-Existing Towers and Antennas: Expansion of the non-conforming use is prohibited; however, routine maintenance (including the replacement of necessary structural elements and electrical equipment needed for the operation of the existing tower and antenna) shall be permitted.

Any pre-existing tower or antenna that is damaged or destroyed by an act of God may be rebuilt in kind without the need for special use permit approval. However, the tower and antenna shall comply with the current applicable building codes, and Village building permits shall be required for the reconstruction. The building permit shall be obtained within 180 days from the date that the tower or antenna was damaged or destroyed. The tower or antenna shall be deemed abandoned if the permit is not obtained within the 180-day period.

- G. Municipal Fees Associated with Co-Location of Antennas on an Existing Tower or New Towers and Antennas in the I- Industrial Zoning District: If the Village approves a special use permit to allow a co-location of an antenna on an existing wireless telecommunication tower, or the erection of a new tower and antenna in the I-Industrial zoning district, the property owner shall share 20 percent of the revenues received from the tower or antenna provider with the Village.

- 3.22 USE OF VILLAGE OWNED PROPERTY— The Village shall provide written notice to of its intention to make permanent use of Village owned property for anything other than open space. Notice shall be provided at least 15 days prior to commencement of said use or construction on the property. The notice shall provide the adjacent owners with the opportunity to notify the Village Administrator, in writing, within 15 days of said notice, of any comment or objection to the proposed use. No hearing, meeting or response from the Village regarding any correspondence received from the adjacent property owner shall be required. *Amended 593*



## ARTICLE 4

### ESTABLISHMENT AND PURPOSE OF DISTRICTS AND DISTRICT BOUNDARIES

- 4.1 Purpose
  - 4.2 Zoning Map
  - 4.3 Boundaries and Minimum Areas
  - 4.4 Zoning of Public Ways
  - 4.5 Annexed Territory, *Amended, Ord.466, 394*
- 4.1 PURPOSE -- The purpose of these regulations is to realize the purposes set forth in Article 1. In addition, the specific purpose of each zoning district is stated in Article 5.
- 4.2 ZONING MAP:
- A. The boundaries of the districts are shown upon the map designated as the "Zoning Map." The Zoning Map and all notations, references and other information shown thereon are a part of this Zoning Code and have the same force and effect as if the Zoning Map and all the notations, references and other information shown thereon were all fully set forth or described herein. The original Zoning Map is properly attested and is on file with the Village Clerk of the Village.
  - B. Whenever any street, alley or other public way is vacated by official action of the Village Board, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacation, and all area included in the vacation shall then and henceforth be subject to all appropriate regulations of the extended districts.
  - C. Where the districts designated on the Zoning Map are bounded approximately by street or alley lines, the centerline of the street or alley shall be construed to be the boundary of the district.
  - D. Where the district boundaries are not otherwise indicated, and where the property has been divided into blocks and lots of record, the district boundaries shall be construed to be the lot lines of the Lots of Record.
  - E. In unsubdivided property, the district boundary lines shall be determined as reflected in the dimensions appearing on the Zoning Map.
- 4.3 BOUNDARIES AND MINIMUM AREAS -- Where uncertainty exists with respect to the boundaries of the various districts as shown on the Zoning Map, the following rules shall apply:
- A. General Guidelines -- District boundaries shall be either the centerlines of rights-of-way for railroads, highways, streets, alleys or easements, and waterways, or the boundary lines of sections, quarter-sections, divisions of sections, tracts or lots (or such extended), unless otherwise indicated.
  - B. Areas Not Subdivided into Lots and Blocks:

- (1) Wherever a district is indicated as a strip adjacent to and paralleling a major highway, the depth of such strip shall be in accordance with the dimensions shown on the map measured at right-angles to the centerline of the street or highway. The length of the frontage of such a strip shall be in accordance with the dimensions shown on the map from section, quarter-section, or division lines of centerlines of streets, highways or railroad rights-of-way unless otherwise indicated.
- (2) If a lot held in one ownership on the effective date of this Zoning Code is divided by a district boundary line, the entire lot shall be construed to be within the more intensively zoned district.
- (3) Section 4.3-B(2) shall not apply, however, if it increases the more intensive portion of the lot by more than 25 percent. If this occurs, the entire lot shall be zoned the least intensive of the two districts, unless otherwise recommended at a public hearing by the Commission and approved by the Village Board.

4.4 ZONING OF PUBLIC WAYS -- All streets, alleys, public ways, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, public ways, and railroad rights-of-way. Where the centerline of a street, alley, public way, or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

4.5 ANNEXED TERRITORY – All territory which is annexed to the Village shall be automatically classified as follows upon annexation, unless otherwise classified by a zoning amendment:

County Zoning Classification	Village Classification
A-1 Agriculture, A-2 Agriculture	(F) Farming District
E-5 Estate	(E-5) Estate District
E-3 Estate	(E-3) Estate District
E-2 Estate	(E-1) Estate District
E-1 Estate	(E-1) Estate District
R-1 Single-Family Residential	R-1 Single Family District
R-2 Two-Family Residential	T Transitional District
R-3 Multiple Family Residential	T Transitional District
B-1 Neighborhood Business	B Business District
B-2 Liquor Business	B Business District
B-3 General Business	B Business District
Office/Research District	IT Industrial Transitional
I-1 Light Industry	IT Industrial Transitional
I-2 Heavy Industry	IT Industrial Transitional

ARTICLE 5  
DISTRICT REGULATIONS

- 5.1 General Provisions for Greenbelt
- 5.2 (F) Farming District
- 5.3 Estate District (E-5)
- 5.4 (E-3) Estate District
- 5.5 (E-1) Estate District
- 5.6 R Single Family District
- 5.7 R-1 Single Family District
- 5.8 Reserved for Future Addition
- 5.9 General Provisions for All Non-Residential Uses and Agritourism
- 5.10 T Transitional District
- 5.11 B Business District
- 5.12 IT Industrial Transition
- 5.13 I Industrial District
- 5.14 OSR Open Space Recreation

5.1 GENERAL PROVISIONS FOR GREENBELT:

A. Open Space/Greenbelt -- Open space shall be provided for Village residents in the form of parks and greenbelts, consistent with regulatory and policy directives of the Village. Where parks and greenbelts illustrated on the Land Use Plan pass through a proposed residential subdivision, land, in lieu of cash, shall be provided pursuant to Chapter 22, Subdivision Regulations, of the Prairie Grove Municipal Code, as may be amended from time to time. The Village has determined that the dedication of land in these areas is essential for implementing the continuous greenbelt and open space system adopted as part of the Village's Comprehensive Land Use Plan:

(1) Purpose:

- (a) To establish natural buffers between dissimilar uses and around the periphery of the Village.
- (b) To visually set the Village apart from adjacent communities.
- (c) To preserve existing natural resources, and protect critical storm-water drainage corridors.
- (d) To provide conveniently-located recreational amenities and facilities for residents of the Village.

(2) Greenbelts:

- (a) Where a greenbelt illustrated on The Village's Comprehensive Land Use Plan passes through a proposed subdivision, a minimum width of one-hundred (100) feet shall be set aside for this amenity. This 100-foot minimum width shall be increased to incorporate

floodplains, steep slopes, wetlands, high quality native plant communities, major stands of trees, riparian zones, and/or other significant natural features that may exist within, or adjacent to these areas. The location and extent of a greenbelt shall be determined at the time of preliminary plan and/or plat.

- (b) For the purpose of this Zoning Code, these natural features shall include:
  - (i) Floodplains –100 year floodplain, as defined by FEMA.
  - (ii) Steep Slopes -- Those land areas with slopes that equal or exceed thirty-five (35) percent, or 2.85:1.
  - (iii) Wetlands -- As defined through the currently applicable criteria established by the U.S. Army Corps of Engineers.
  - (iv) Major Stands of Trees -- Mature woodlands, such as stands of oak/hickory forest, and floodplain forests, such as mature cottonwood, silver maple, sycamore, hackberry, etc.
  - (v) Riparian Zone -- Natural vegetation along the edge of a stream that: modulates temperature; provides nutrient input into the stream system; provides a buffer that intercepts surface runoff, filtering out sediments and pollutants; provides erosion control through soil stabilization; and serves as habitat and migration corridors for wildlife who utilize the stream for food, drink and nesting.
- (c) The greenbelt shall be recorded with the final plan and/or plat of subdivision as open space to be maintained as such in perpetuity.
- (d) At the time of final platting, an easement, not less than fifteen feet wide, shall also be recorded to accommodate future development of a recreation path within the greenbelt. Said path shall be eight feet wide, and installed at such time as the Village determines appropriate. Unless otherwise approved by the Village Board, the path shall consist of crushed limestone, and shall be engineered to avoid erosion.
- (e) Two-inch caliper native trees shall be planted along the perimeter of the greenbelt to define its limits. Tree plantings may be waived by the Commission and Village Board during review of a final plan or plat, if the greenbelt is wooded, or includes natural features that may be inconsistent with required tree plantings. Where required:

- (i) Not less than one native tree shall be planted on each side of the greenbelt for each thirty (30) lineal feet that passes through the residential subdivision.
  - (ii) Trees shall be planted in naturalistic groupings, and shall be worked into the existing landscape.
- (f) Native grasses, wild flowers, or other native vegetation shall be installed where necessary to stabilize slopes within the greenbelt, in lieu of lawn or other traditional groundcover.
- (3) Parks -- The exact location of boundaries and parkland shall be determined as part of the preliminary plan or plat.
- (4) Submittals – Unless otherwise waived by the Commission and Village Board, the following shall be submitted for staff review at the time of preliminary plat or plan to determine the existence, location and extent of wetlands, floodplains, native prairie, major stands of trees, steep slopes and other natural features that may fall within the greenbelt depicted on the Land Use Plan:
  - (a) Items listed below shall be included on a site plan, at a scale not less than 1" = 50':
    - (i) Location of FEMA flood plain.
    - (ii) Existing contours at two-foot intervals.
    - (iii) Existing and proposed drainage system, including all discharge points, collection, conveyance, and storage facilities.
    - (iv) Proposed contours, at two-foot intervals.
    - (v) Drainage features, stormwater management facilities, floodplains and wetland boundaries.
    - (vi) Boundaries of predominate soil types.
    - (vii) Location, species and size of trees six inches or greater in caliper, if any.
    - (viii) Delineation of riparian zone, if any, and location, species and size of trees, six inches or greater in caliper, that exist within the zone.
    - (ix) Delineation of high quality native plant communities, if any, and a copy of the Natural Area Rating Index for the plant communities.

- (b) Where wetlands exist within, or adjacent to the greenbelt, a wetland delineation report shall be submitted which includes:
  - (i) A map showing the exact location of wetlands within the development boundaries.
  - (ii) An aerial photograph delineating wetland, development and watershed boundaries.
  - (iii) Army Corps of Engineers data sheets with representative color photographs.
  - (iv) Written description of the wetland(s) including a professional assessment of functional values.
- (c) Protective covenants shall be submitted for the greenbelt or park, which identify:
  - (i) Name, address and telephone number of the individual or group responsible for maintenance of the park or greenbelt.
  - (ii) Required maintenance provisions and responsibilities for these resources.
  - (iii) Terms and conditions associated with the use of the land.
- (5) Screen Plantings:
  - (a) Where a proposed residential subdivision abuts a more intensive land use, landscape screening shall be provided. Such screening may be accomplished through the provision of landscaped berms, a compact hedge, fence, wall or a combination of these methods, as approved by the Village during the preliminary and final plan and/or plat review process.
  - (b) Required screening shall be a minimum of five (5) feet in height, at installation.
  - (c) The placement of a screen shall not impair the safety of pedestrian or vehicular traffic.
  - (d) Screening shall maintain a year round opacity not less than seventy-five (75) percent.
  - (e) Where screening is required, a landscape plan, prepared by a licensed landscape architect, shall be submitted with the preliminary and final plan and/or plat of subdivision, and shall show:

- (i) Location, design, and dimensions of proposed fencing, if any.
- (ii) Location, species, size and quantity, of proposed trees and shrub plantings.
- (iii) Contours of proposed berms, if any.
- (iv) Limits of seed or sod, and identification of ground covers, if any.

5.2 (F) FARMING DISTRICT:, *Amended, 717*

Table 1 summarizes the lot size and bulk regulations for all districts identified in this Article 5.

- A. Purpose -- The (F) Farming District is intended to protect large parcels of land which contribute to the rural character of the Village and to permit uses appropriate to the larger tract of land.
- B. Permitted Uses:
  - (1) Crop farming and truck gardening where crops are grown to be sold at appropriate markets.
  - (2) Animal husbandry where farm or domestic animals are raised or kept for sale, but not including the feeding or disposal of community or collected garbage.
  - (3) Poultry farming where poultry of any kind are raised or kept for sale.
  - (4) Nurseries and greenhouses where stock is grown.
  - (5) Riding and boarding stables.
  - (6) Cat and dog kennels, if located not nearer than 1,000 feet to any residence other than that of the owner or lessor of the site.
  - (7) Bee keeping.
  - (8) Open space, greenbelts, public parks, and forest preserves.
  - (9) Arboretum or botanical gardens.
- C. Special Uses:
  - (1) Elementary, Junior High or High School, Public or Private.
  - (2) Local, Township or County Governmental Building.

- (3) Public park, playgrounds, forest preserves or play fields which are lighted.
- (4) Bed and Breakfast.
- (5) Private Club.
- (6) Farm stands offering for sale only those farm products which are produced on the premises.

D. Lot Size:

- (1) Residential:
  - (a) Minimum Lot Size -- ten (10) acres.
  - (b) Minimum Lot Width -- Not less than four hundred (400) feet shall be maintained at the front property line.
- (2) Special Uses -- Lot sizes for special uses shall be as specified in the special use permit, unless otherwise noted for a particular use listed in this District, based upon the criteria listed in Article 9, Section 9.13.

E. Yard and Setback Regulations -- Every building hereafter erected or enlarged in this District shall provide and maintain a setback in accordance with the following:

- (1) Minimum Front and Corner Side Yards -- Not less than seventy five (75) feet.
- (2) Minimum Interior Side Yards -- Not less than fifty (50) feet from an interior side lot line.
- (3) Minimum Rear Yards -- Not less than fifty (50) feet from a rear lot line.
- (4) Setback From Major Highways -- Not less than fifty (50) feet from the ultimate right-of-way for IL Route 31 and IL Route 176.

F. Structure Height:

- (1) Single-Family Detached Residences -- Not more than forty five (45) feet in height.
- (2) Special Uses -- Maximum height limitations shall be specified with the granting of a special use permit.
- (3) Accessory Uses -- Forty feet (40) feet.

G. Lot Coverage:



- (1) Lot coverage shall not exceed 0.2.

5.3 ESTATE DISTRICT (E-5):, *Amended 717*

- A. Purpose -- The purpose of the E-5 Estate District is to protect the large lot rural character of the Village.
- B. Permitted Uses:
  - (1) Single family detached residences.
  - (2) Gardening, non-commercial.
  - (3) Non-commercial stable or barn for horses. Shelter must be provided, if a horse or horses are kept.
  - (4) Open space or greenbelts.
- C. Special Uses:
  - (1) Church, Synagogue, Temple, Convent, Monastery or Seminary.
  - (2) Elementary, Junior High or High School, Public or Private.
  - (3) Local, Township or County Governmental Building.
  - (4) Public park, playgrounds, forest preserves or play fields which are lighted.
  - (5) Private Club.
  - (6) Congregate Housing.
  - (7) Group Homes
  - (8) Senior Citizen Housing.
  - (9) Planned Developments.
  - (10) Bed and Breakfasts.
  - (11) Convalescent Home.
- D. Lot Size:
  - (1) Residential:
    - (a) Minimum Lot Size -- five (5) acres.

- (b) Minimum Lot Width -- Not less than two hundred fifty (250) feet shall be maintained at the front property line.
  - (2) Special Uses -- Lot sizes for special uses shall be as specified in the special use permit, unless otherwise noted for a particular use listed in this District, based upon the criteria listed in Section 9.13.
- E. Yard and Setback Regulations -- Every building hereafter erected or enlarged in this District shall provide and maintain a setback in accordance with the following:
- (1) Minimum Front and Corner Side Yards -- Not less than seventy five (75) feet.
  - (2) Minimum Interior Side Yards -- Not less than fifty (50) feet from an interior side lot line.
  - (3) Minimum Rear Yards -- Not less than fifty (50) feet from a rear lot line.
  - (4) Setback From Major Highways -- Not less than fifty (50) feet from the ultimate right-of-way for IL Route 31 and IL Route 176.
- F. Structure Height:
- (1) Single-Family Detached Residences -- Not more than forty five (45) feet in height.
  - (2) Special Uses -- Maximum height limitations shall be specified with the granting of a special use permit.
  - (3) Accessory Uses -- thirty (30) feet.
- G. Lot Coverage:
- (1) Lot coverage shall not exceed 0.2.

5.4 (E-3) ESTATE DISTRICT, *Amended, 717*

- A. Purpose -- The purpose of the E-3 Estate District is to protect the large lot rural character of the Village.
- B. Permitted Uses:
  - (1) Single family detached residences.
  - (2) Non-commercial stable or barn for horses. Shelter must be provided, if a horse or horses are kept.
  - (3) Open space or greenbelts.

(4) Greenhouse, non-commercial.

C. Special Uses:

- (1) Church, Synagogue, Temple, Convent, Monastery or Seminary.
- (2) Elementary, Junior High or High School, Public or Private.
- (3) Local, Township or County Governmental Building.
- (4) Public park, playgrounds, forest preserves or play fields which are lighted.
- (5) Private Club.
- (6) Congregate Housing.
- (7) Group Home.
- (8) Senior Citizen Housing.
- (9) Planned Developments.
- (10) Bed and Breakfasts.
- (11) Convalescent Home.

D. Lot Size:

- (1) Residential:
  - (a) Minimum Lot Size -- three (3) acres.
  - (b) Minimum Lot Width -- Not less than two hundred fifty (250) feet shall be maintained at the front property line.
- (2) Special Uses -- Lot sizes for special uses shall be as specified in the special use permit, unless otherwise noted for a particular use listed in this District, based upon the criteria listed in Section 9.13.

E. Yard and Setback Regulations -- Every building hereafter erected or enlarged in this District shall provide and maintain a setback in accordance with the following:

- (1) Minimum Front and Corner Side Yards -- Not less than seventy five (75) feet.
- (2) Minimum Interior Side Yards -- Not less than thirty five (35) feet from an interior side lot line.

- (3) Minimum Rear Yards -- Not less than fifty (50) feet from a rear lot line.
- (4) Setback From Major Highways -- Not less than fifty (50) feet from the ultimate right-of-way for IL Route 31 and IL Route 176.

F. Structure Height:

- (1) Single-Family Detached Residences -- Not more than forty five (45) feet in height.
- (2) Special Uses -- Maximum height limitations shall be specified with the granting of a special use permit.
- (3) Accessory Uses -- thirty (30) feet.

G. Lot Coverage:

- (1) Lot coverage shall not exceed 0.2.

5.5 (E-1) ESTATE DISTRICT: *Amended 687, 717*

A. Purpose -- The purpose of the E-1 Estate District is to protect the large lot rural character of the Village.

B. Permitted Uses:

- (1) Single family detached residences.
- (2) Open space or greenbelts.
- (3) Greenhouses non-commercial.
- (4) Agritourism (See Section 5.9).

C. Special Uses:

- (1) Church, Synagogue, Temple, Convent, Monastery or Seminary.
- (2) Elementary, Junior High or High School, Public or Private.
- (3) Local, Township or County Governmental Building.
- (4) Public park, playgrounds, forest preserves or play fields which are lighted.
- (5) Congregate Housing.
- (6) Group Home.

- (7) Senior Citizen Housing.
- (8) Planned Developments.
- (9) Bed and Breakfasts.
- (10) Convalescent Home.

D. Lot Size:

- (1) Residential:
  - (a) Minimum Lot Size -- One (1) acre.
  - (b) Minimum Lot Width -- Not less than one hundred fifty (150) feet shall be maintained at the front property line.
- (2) Special Uses -- Lot sizes for special uses shall be as specified in the special use permit, unless otherwise noted for a particular use listed in this District, based upon the criteria listed in Section 9.13.

E. Yard and Setback Regulations -- Every building hereafter erected or enlarged in this District shall provide and maintain a setback in accordance with the following:

- (1) Minimum Front Yards -- Not less than sixty (60) feet.
- (2) Minimum Interior Side Yards -- Not less than twenty five (25) feet from an interior side lot line.
- (3) Minimum Corner Side Yards -- Not less than thirty five (35) feet from an interior side lot line.
- (4) Minimum Rear Yards -- Not less than forty (40) feet from a rear lot line.
- (5) Setback From Major Highways -- Not less than fifty (50) feet from the ultimate right-of-way for IL Route 31 and IL Route 176.

F. Structure Height:

- (1) Single-Family Detached Residences -- Not more than forty five (45) feet in height.
- (2) Special Uses -- Maximum height limitations shall be specified with the granting of a special use permit.
- (3) Accessory Uses -- Thirty (30) feet.

G. Lot Coverage:

- (1) Lot coverage shall not exceed 0.2.

5.6 R SINGLE FAMILY DISTRICT:, *Amended, 717*

- A. Purpose -- The purpose of the R Single Family District (also referred to as residential zoning district in this Zoning Code) is to establish a residential use area with a gross density of 1 dwelling unit per acre. Any clustered residential units constructed in any residential zoning district must be located at least 150 feet from the nearest Estate District boundary line, unless the residential zoning district and the Estate District are separated by a public road or right-of-way.
- B. Permitted Uses:
  - (1) Single family detached residences.
  - (2) Open space or greenbelts.
  - (3) Greenhouses, non-commercial.
- C. Special Uses:
  - (1) Congregate Housing.
  - (2) Group Home.
  - (3) Senior Citizen Housing.
  - (4) Church, Synagogue, Temple, Convent, Monastery or Seminary.
  - (5) Elementary, Junior High or High School, Public or Private.
  - (6) Local, Township or County Governmental Building.
  - (7) Public park, playgrounds, forest preserves or play fields which are lighted.
  - (8) Planned Developments.
  - (9) Bed and Breakfasts.
  - (10) Convalescent Home.
- D. Lot Size:
  - (1) Residential:
    - (a) Minimum Lot Size – Thirty four thousand (34,000) square feet.

- (b) Minimum Lot Width -- Not less than one hundred twenty five (125) feet shall be maintained at the front property line.
  - (2) Special Uses -- Lot sizes for special uses shall be as specified in the special use permit, unless otherwise noted for a particular use listed in this District, based upon the criteria listed in Section 9.13.
- E. Yard and Setback Regulations -- Every building hereafter erected or enlarged in this District shall provide and maintain a setback in accordance with the following:
  - (1) Minimum Front Yards -- Not less than forty five (45) feet.
  - (2) Minimum Interior Side Yards -- Not less than twenty (20) feet from an interior side lot line.
  - (3) Minimum Corner Side Yards -- Not less than thirty five (35) feet from an interior side lot line.
  - (4) Minimum Rear Yards -- Not less than forty (40) feet from a rear lot line.
  - (5) Setback From Major Highways -- Not less than fifty (50) feet from the ultimate right-of-way for IL Route 31 and IL Route 176.
- F. Structure Height:
  - (1) Single-Family Detached Residences -- Not more than forty five (45) feet in height.
  - (2) Special Uses -- Maximum height limitations shall be specified with the granting of a special use permit.
  - (3) Accessory Uses -- Twenty (20) feet.
- G. Lot Coverage:
  - (1) Lot coverage where the principal structure is more than one story shall not exceed 20 percent.
  - (2) Lot coverage where the principal structure is only one story shall not exceed 35 percent.

5.7 R-1 SINGLE FAMILY DISTRICT:, *Amended, 717*

- A. Purpose -- The purpose of the R-1 Single Family District (also referred to as R-1 District in this Zoning Code) is to establish a residential use area with a gross density of approximately 2 dwelling units per acre. Any clustered residential units constructed in a R-1 District must be located at least 150 feet from the nearest Es-

tate District boundary line, unless the R-1 District and the Estate District are separated by a public road or right-of-way.

B. Permitted Uses:

- (1) Single family detached residences.
- (2) Open space or greenbelts.
- (3) Greenhouses, non-commercial.

C. Special Uses:

- (1) Church, Synagogue, Temple, Convent, Monastery or Seminary.
- (2) Elementary, Junior High or High School, Public or Private.
- (3) Local, Township or County Governmental Building.
- (4) Public park, playgrounds, forest preserves or play fields which are lighted.
- (5) Congregate Housing.
- (6) Group Home.
- (7) Senior Citizen Housing.
- (8) Planned Developments.
- (9) Bed and Breakfasts.
- (10) Convalescent Home.

D. Lot Size:

- (1) Residential:
  - (a) Minimum Lot Size -- 21,780 square feet.
  - (b) Minimum Lot Width -- Not less than one hundred twenty five (125) feet shall be maintained at the front property line.
- (2) Special Uses -- Lot sizes for special uses shall be as specified in the special use permit, unless otherwise noted for a particular use listed in this District, based upon the criteria listed in Section 9.13.

E. Yard and Setback Regulations -- Every building hereafter erected or enlarged in this District shall provide and maintain a setback in accordance with the following:



- (1) Minimum Front Yards -- Not less than forty-five (45) feet.
- (2) Minimum Interior Side Yards -- Not less than twenty (20) feet from an interior side lot line.
- (3) Minimum Corner Side Yards -- Not less than thirty-five (35) feet from an interior side lot line.
- (4) Minimum Rear Yards -- Not less than forty (40) feet from a rear lot line.
- (5) Setback From Major Highways -- Not less than fifty (50) feet from the ultimate right-of-way for IL Route 31 and IL Route 176.

F. Structure Height:

- (1) Single-Family Detached Residences -- Not more than forty-five (45) feet in height.
- (2) Special Uses -- Maximum height limitations shall be specified with the granting of a special use permit.
- (3) Accessory Uses -- Twenty (20) feet.

G. Lot Coverage:

- (1) Lot coverage where the principal structure is more than one story shall not exceed 0.2.
- (2) Lot coverage where the principal structure is only one story shall not exceed 0.35.

5.8 RESERVED FOR FUTURE ADDITION

5.9 GENERAL PROVISIONS FOR ALL NON-RESIDENTIAL USES AND AGRITOURISM: *Amended 687*

A. Applicability to Non-Residential Uses, Excluding Agritourism -- The following standards shall apply to all non-residential land uses, except Agritourism, when there are applications for building permits, rezoning, special use permits or planned developments unless otherwise approved by the Village Board. All requests for review of a preliminary plan for a planned development shall be accompanied by the submission of the information listed in Section 6.6-C(4).

(1) Standards of Development:

- (a) Setback, Bulk and Sign Regulations -- Principal and accessory buildings and structures shall comply with yard and setback requirements; floor area and height limitations; and sign regulations,

applicable to the zoning district in which the use is located. All structures shall be setback at least 150 feet from the district boundary of all Estate zoning districts and all Residential zoning districts. The intervening space shall be landscaped to protect the single family residences from visual intrusion and other impacts of more intense uses pursuant to Section 5.9-B(5).

- (b) Vehicular Access:
  - (i) Points of vehicular ingress and egress to the site shall be limited to maximize the safety and operational efficiency of the Village's major and collector roadways.
  - (ii) The location, number and design of access drives shall be reviewed by the Village Engineer, and coordinated with adjacent uses and properties, to provide for safe and efficient movement of vehicles. Where possible, cross-easements between properties shall be provided, to minimize the number of drives required on adjacent public streets.
- (c) Pedestrian Access:
  - (i) Sidewalks, not less than five (5) feet wide, shall be provided along streets and access drives to provide safe pedestrian access to and from the Village's business and industrial districts.
  - (ii) Where parking is proposed to be located perpendicular to an adjacent sidewalk, walks shall be increased to a minimum of six and one-half (6½) feet in width.
- (d) Off-Street Parking and Loading:
  - (i) Parking and loading spaces and drive aisles shall be provided in accordance with Article 7, Off-Street Parking and Loading.
  - (ii) Plans shall demonstrate compliance with the Illinois Accessibility Code and Americans with Disabilities Act, as may be amended from time to time.
- (e) Screening -- Where a non-residential use abuts, or is across the street from a residential or institutional use, screening shall be provided in accordance with the following:
  - (i) A landscaped berm, fence, wall or combination thereof shall be installed to provide year-round screening. Placement of the landscape screen shall not impair the safety of pedestrian or vehicular traffic.

- (ii) Where off-street parking is visible from a public right-of-way, screening shall be at least three (3) feet high upon installation, as measured from the surface elevation of the closest parking surface.
  - (iii) Where off-street parking or loading abuts a residential or institutional use, screening shall be not less than five (5) feet high upon installation.
  - (iv) Plant materials used for screening shall comply with minimum sizes set forth in Section 5.9B(6)(d).
  - (v) Landscape plantings shall be kept alive and in good condition, or replaced. Any property owner that does not maintain required screening in accordance with approved plans shall be subject to fines as described in Article 9, Section 9.16 of this Zoning Code.
  - (vi) Screening shall be incorporated into a landscape plan prepared for the project, and shall require review and approval by the Village.
- (f) Landscaping -- A landscape plan, prepared by a licensed landscape architect, shall be submitted for all projects involving sites in excess of one acre or new construction in excess of 2,000 square feet. The plan shall be subject to review and approval by the Village.
- (i) All areas of the site, which are not paved, shall be landscaped with trees, shrubs, groundcover and/or flowers to:
    - (1) Slow surface water runoff;
    - (2) Restrict blowing trash and litter;
    - (3) Deter improper access or site use by the public; and
    - (4) Improve the visual quality of the site.
  - (ii) The landscape plan shall include identification of species, size and location of plant materials and all other landscape treatments including, but not limited to:
    - (1) Berms;
    - (2) Fences;
    - (3) Ground covers;
    - (4) Ornamental or accent lighting;

(5) Paving materials; and

(6) Limits of seed and/or sod.

(iii) Trees and shrubs shall be keyed into a plant list.

(iv) Upon installation, trees shall not be less than the following sizes:

(1) Shade: Three (3)-inch caliper, minimum, as measured twelve (12) inches above grade;

(2) Evergreen: Six (6) feet tall, minimum;

(3) Ornamental: Six (6) feet tall, minimum, if multi-stem; two and one-half (2½) inches in caliper, minimum, if single-stem.

(v) All plant materials shall be kept alive and in good condition or shall be replaced.

(vi) Provision shall be made for perimeter landscaping through the use of plant materials, unless otherwise recommended by the Commission and approved by the Village Board. Such screening shall include:

(1) The first thirty (30) feet of a front yard. Parking and parallel drive aisles shall not be permitted in this minimum thirty (30) feet;

(2) A minimum ten (10) foot wide perimeter yard around the side and rear property lines, where a business or industrial use abuts another business or industrial use;

(3) A minimum twenty-five (25) foot wide perimeter yard around the side and rear property lines, where a business or industrial use abuts a residential or institutional use;

(4) Shade and/or evergreen trees shall be installed in these yards, at a ratio of not less than one (1) tree for every thirty (30) lineal feet of perimeter yard. Trees may be informally clustered or grouped, rather than equally spaced.

(g) Lighting:

(i) Exterior lighting proposed for use on the site shall be planned, erected and maintained so that light is confined to the property,

and does not cause direct glare or light spillage on adjacent properties or public rights-of-way.

(ii) A point-by-point photometric plan shall be submitted for parking lots containing more than 40 spaces that demonstrates:

(1) Average-maintained illumination between one (1) and three (3) footcandles.

(2) Not more than 0.1 footcandles beyond property lines except within 30 feet of entrances and exits.

(iii) Light fixtures shall be designed to aesthetically relate to the character of the development.

(iv) Plans for parking lot, security, landscape and other building accent lighting shall be subject to review and approval by the Village.

(h) Mechanical Equipment -- All roof-mounted mechanical equipment including, but not limited to, heating, ventilating and air-conditioning units (HVAC) shall be fully screened from public view on all sides of the building:

(i) Screening shall be accomplished by the roof-structure or parapet walls, unless otherwise recommended by the Commission and approved by the Village Board.

(ii) Screening shall be designed to blend with, and complement the architecture of the building.

(iii) The height of the parapet walls, roof structure, or other approved method of screening shall equal the height of the tallest roof-top unit installed on the building.

(i) Utility Meters/Transformers:

(i) Wall-mounted utility meters and ground-supported transformers shall be painted to match the building.

(ii) If visible to the public, meters and transformers shall be screened by landscaping which, upon installation, shall equal the height of the tallest meter or transformer.

(j) Trash Enclosure:

(i) Trash receptacles shall be enclosed by masonry walls or quality wood fencing, designed to match the building.

(ii) Enclosures shall be constructed to be equal to or taller than the height of the tallest bin proposed for use.

(iii) Trash enclosures shall be provided with gates to contain blowing trash, and a concrete pad and approach apron.

(k) Outdoor Storage:

(i) All business, services, storage, merchandise display and processing shall be conducted entirely within an enclosed building, with the exception of:

(1) Off-street parking and loading areas;

(2) Open sales lots;

(3) Outdoor sales of products for automobile service stations, provided they are related to servicing motor vehicles.

(ii) All outdoor storage facilities for accessory uses and products shall be enclosed by a fence, wall or plant materials adequate to conceal such facilities from adjacent properties and public rights-of-way.

B. Applicability to Agritourism -- The following standards shall apply to all Agritourism non-residential land uses when there are applications for building permits, rezoning, special use permits or planned developments unless otherwise approved by the Village Board.

(1) Standards of Development:

(a) Lot size -- Minimum Lot Size – forty (40) acres;

(b) Principal Structures – a maximum of four (4) single family detached residences, including use for bed & breakfasts and/or guest lodging;

(c) Accessory Structures – a maximum of twelve (12) additional accessory buildings and structures in accordance with a site plan approved by the Village Board;

(d) Setback, Bulk and Sign Regulations -- Every building and structure, including each accessory structure, hereafter erected and/or enlarged shall provide and maintain a setback of one hundred fifty (150) feet.

(e) Structure Height:

(i) Single Family Detached Residences -- Not more than forty-five (45) feet in height.

- (ii) Accessory Uses -- Not more than sixty-five (65) feet in height.
  - (f) Off-Street Parking and Loading -- parking and loading spaces and drive aisles shall be provided with a paved, concrete, grass, or gravel surface, subject to requirements of the Illinois Accessibility Code and Americans with Disabilities Act, as may be amended from time to time, and in accordance with a site plan approved by the Village Board. Lights, except for security, shall be turned off one half hour after the close of business.
- (2) Site Plan -- A site plan depicting each proposed use, including, but not limited to, proposed ingress and egress points of access, location of existing structures and proposed single family detached residences, accessory structures, parking lots, and any onsite and offsite advertising signs; exterior lighting; outside sound system plans; trash enclosures; portable toilets/toilet trailers; and proposed landscape or other screening of adjacent properties must be submitted to the Village Board for approval.
- (a) Exterior lighting proposed for the site shall be planned, erected, and maintained so that light is confined to the property, and does not cause direct glare or light spillage on adjacent properties or public rights-of-way.
  - (b) Light fixtures shall be designed to aesthetically relate to the character of the property.
  - (c) Any parcel containing a stream, creek, irrigation, or ditch must have natural vegetation buffering same that intercepts surface runoff, filters out sediments, pollutants, and pesticides, and provide erosion control through soil stabilization. This buffer shall be depicted in the site plan. The site plan shall include a tree plan in and along the boundaries of the parcel for screening purposes.
- (3) Any Agritourism must comply with the McHenry County Stormwater Ordinance as adopted by the Village and in effect from time to time.
- (4) One liquor license may be requested for a parcel with Agritourism, which approval shall be determined by the Village Board and issued by the Local Liquor Control Commissioner.

#### 5.10 T TRANSITIONAL DISTRICT:

- A. Purpose -- The purpose of the T Transitional District (also referred to as T District in this Zoning Code) is to provide for multi-family residential development in order to provide a diversity of housing within the Village. All development within the T District must take place on a contiguous tract of land of not less than 10 acres. Private or public roads created by a plat or plat plan may be included for determining a contiguous tract.
- B. Permitted Uses:

- (1) Single family homes meeting the standards of the E-1 District.
- (2) Patio homes, townhomes, multiplex, quadraplex and two family dwellings.
- (3) The following permitted uses in the F Farming District.
  - (a) Crop farming and truck gardening where crops are grown to be sold at appropriate markets.
  - (b) Nurseries and greenhouses where stock is grown.
  - (c) Riding and boarding stables.
  - (d) Cat and dog kennels, if located not nearer than 1,000 feet to any residence other than that of the owner or lessor of the site.
  - (e) Bee keeping.
- (4) Open space, greenbelts, public park, playgrounds, forest preserves or playfields (unlighted).

C. Special Uses:

- (1) Permitted uses in the B Business District.
- (2) Day Care Center/Nursery School.
- (3) Hospitals and other institutional uses.
- (4) Community Center.
- (5) Farm stands offering for sale only those farm products which are produced on the premises.
- (6) Planned Development.

D. Lot Size:

- (1) Attached Single Family Residential:
  - (a) Minimum Lot Area per dwelling unit -- Seven thousand, nine hundred and twenty (7,920) square feet.
  - (b) Minimum Lot Width -- Not less than one hundred (100) feet shall be maintained at the front property line.



- (2) Special Uses -- Lot sizes for special uses shall be as specified in the special use permit, unless otherwise noted for a particular use listed in this District, based upon the criteria listed in Section 9.13.
- E. Yard and Setback Regulations -- Every building hereafter erected or enlarged in this District shall provide and maintain a setback in accordance with the following:
- (1) Minimum Front Yards -- Not less than twenty five (25) feet.
  - (2) Minimum Interior Side Yards -- Not less than twenty (20) feet for structures over one story and not less than ten (10) feet for one story structures.
  - (3) Minimum Corner Side Yards -- Not less than thirty (30) feet.
  - (4) Minimum Rear Yards -- Not less than forty (40) feet from a rear lot line.
  - (5) Setback From Major Highways -- Not less than fifty (50) feet from the right-of-way for IL Route 31 and IL Route 176.
  - (6) Setback from any Estate District – 150 feet.
  - (7) Setback from any Residential District – 150 feet.
- F. Structure Height:
- (1) Not more than forty-two (42) feet in height.
  - (2) Special Uses -- Maximum height limitations shall be specified with the granting of a special use permit.
  - (3) Accessory Uses -- Twenty (20) feet.
- G. Lot Coverage:
- (1) Lot Coverage: Lot coverage where the principal structure is more than one story shall not exceed 40 percent.

5.11 B BUSINESS DISTRICT: *Amended, 667, 610, 568, 555, 491, 717, 729*

- A. Purpose -- The purpose of the B Business District is to provide areas for a wide range of retail, service, office and other business activities which will enhance the Village's tax base and provide convenient shopping, services and job opportunities for Village residents.
- B. Permitted Uses:
- (1) Retail stores.

- (2) Retail service businesses and offices.
- (3) Banks and financial institutions (excluding drive-in and drive-through facilities).
- (4) Restaurants (including sit-down and outdoor dining, coffee shops, with or without entertainment or cocktail lounges, subject to the applicable Village liquor ordinance).
- (5) Parking lots and garages.
- (6) Health or fitness facilities (excluding outdoor facilities).
- (7) Parks, open space and play fields.
- (8) Government uses.
- (9) Taverns and Bars.
- (10) Video Gaming Terminals

C. Special Uses:

- (1) Banks and financial institutions with drive-in or drive-through facilities.
- (2) Restaurants with drive-in and drive-through facilities.
- (3) Automobile sales, service and repair.
- (4) Automobile service and repair (within an enclosed building only).
- (5) Vehicle fueling stations with or without convenience goods for sale.
- (6) Vehicle washing facilities.
- (7) Veterinary clinics.
- (8) Dog and cat kennels.
- (9) Hospitals and other institutional uses.
- (10) Congregate Housing.
- (11) Church, Synagogue, Temple, Convent, Monastery or Seminary.
- (12) Elementary, Junior High or High School, Public or Private.
- (13) Group Homes.
- (14) Senior Citizen Housing.

- (15) Hotels (with or without conference, banquet or entertainment facilities or cocktail lounges, subject to the applicable Village liquor ordinance).
- (16) Nursery schools and day care centers.
- (17) Educational and training facilities.
- (18) Outdoor Health and Fitness Facilities.
- (19) Planned developments.
- (20) Medical cannabis dispensary.
- (22) Adult-Use Cannabis Craft Grower.
  - (a) Purpose and Intent. It is the intent and purpose of this Section to protect and preserve the health, safety, welfare and morals of the citizens of the Village by regulating the craft growing of adult-use cannabis occurring within the Village. An Adult-Use Cannabis Craft Grower shall comply with all regulations provided in the Cannabis Regulation and Tax Act (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder, and the regulations provided below. In the event that the Cannabis Regulation and Tax Act is amended, the more restrictive of the state or local regulations shall apply.
  - (b) General Standards.
    - (i) A separate special use permit must be issued in accordance with Article 9.13, Special Uses, for each Adult-Use Cannabis Craft Grower and the following components of an Adult-Use Cannabis Craft Grower shall be evaluated based on the entirety of the circumstances affecting the particular property in the context of the existing and intended future use of the properties:
      - (1) Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
      - (2) Proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
      - (3) Hours of operation and anticipated number of customers/employees.

- (4) Anticipated parking demand based on Article 7, Off-Street Parking and Loading, and available private parking supply.
  - (5) Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
  - (6) Site design, including access points and internal site circulation.
  - (7) Proposed signage plan.
  - (8) Compliance with all the requirements set forth in these General Standards set forth below.
  - (9) Other criteria determined to be necessary to assess compliance with Article 9.13, Special Uses.
- (ii) Location Restrictions.
- (1) No Adult-Use Cannabis Craft Grower may be located within 1,500 feet of a pre-existing property zoned or used for residential purposes. The distance limitation shall be measured in a straight line from the lot lines of said Adult-Use Cannabis Craft Grower and applicable residential zoning district.
  - (2) No Adult-Use Cannabis Craft Grower may be located within 1,500 feet of the property line of a pre-existing public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section. The distance limitation shall be measured in a straight line from the lot lines of said Adult-Use Cannabis Craft Grower and applicable public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home.
- (iii) Sales or Distribution. An Adult-Use Cannabis Craft Grower may not conduct any sales or distribution of cannabis other than as authorized by the Cannabis Regulation and Tax Act.
- (iv) Additional Requirements. The Commission may recommend and the Village Board may impose such

conditions and limitations concerning building enhancements, such as security cameras, lighting or other improvements to ensure the safety of employees and customers of the Adult-Use Cannabis Craft Grower, as well as its environs. Said improvements shall be determined based on the specific characteristics of the floor plan for an Adult-Use Cannabis Craft Grower and the site on which it is located, consistent with the requirements of the Cannabis Regulation and Tax Act.

- (v) Locating Adult-Use Cannabis Business Establishments Together. The Village may approve locating an Adult-Use Cannabis Craft Grower with an Adult-Use Cannabis Dispensing Organization or an Adult-Use Cannabis Infuser Organization or Infuser, or both, subject to the provisions of the Cannabis Regulation and Tax Act and Article 9.13, Special Uses. If approved, the floor space requirements for an Adult-Use Cannabis Dispensing Organization in Sections 5.11(C)(23)(b)(vii), 5.12(C)(19)(b)(vii)(1) and 5.13(C)(7)(b)(vii)(1) and the floor space requirements for an Adult-Use Cannabis Infuser Organization or Infuser in Sections and 5.12(C)(19)(b)(viii) and 5.13(C)(7)(b)(viii) shall not apply, but the Adult-Use Cannabis Craft Grower with the Adult-Use Cannabis Dispensing Organization or the Adult-Use Cannabis Infuser Organization or Infuser, or both, as the case may be, shall be the sole use of the space.
- (vi) Compliance. An Adult-Use Cannabis Craft Grower petitioner for a special use shall file an affidavit with the Village affirming compliance with Article 9.13, Special Uses, all other requirements of the Cannabis Regulation and Tax Act.

(23) Adult-Use Cannabis Dispensing Organization.

- (a) Purpose and Intent. It is the intent and purpose of this Section to protect and preserve the health, safety, welfare and morals of the citizens of the Village by regulating the dispensing of adult-use cannabis occurring within the Village. An Adult-Use Cannabis Dispensing Organization shall comply with all regulations provided in the Cannabis Regulation and Tax Act (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder, and the regulations provided below. In the event that the Cannabis Regulation and Tax Act is amended, the more restrictive of the state or local regulations shall apply.
- (b) General Standards.

- (i) A separate special use permit must be issued in accordance with Article 9.13, Special Uses, for each Adult-Use Cannabis Dispensing Organization and the following components of an Adult-Use Cannabis Dispensing Organization shall be evaluated based on the entirety of the circumstances affecting the particular property in the context of the existing and intended future use of the properties:
  - (1) Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
  - (2) Proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
  - (3) Hours of operation and anticipated number of customers/employees.
  - (4) Anticipated parking demand based on Article 7, Off-Street Parking and Loading, and available private parking supply.
  - (5) Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
  - (6) Site design, including access points and internal site circulation.
  - (7) Proposed signage plan.
  - (8) Compliance with all the requirements set forth in these General Standards set forth below.
  - (9) Other criteria determined to be necessary to assess compliance with Article 9.13, Special Uses.
- (ii) Location Restrictions.
  - (1) No Adult-Use Cannabis Dispensing Organization may be located within 250 feet of a pre-existing property zoned or used for residential purposes. The distance limitation shall be measured in a straight line from the lot lines of said Adult-Use Cannabis

Dispensing Organization and applicable residential zoning district.

- (2) No Adult-Use Cannabis Dispensing Organization may be located within 1,000 feet of the property line of a pre-existing public or private nursery school, preschool, or primary or secondary school. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section. The distance limitation shall be measured in a straight line from the lot lines of said Adult-Use Cannabis Dispensing Organization and applicable public or private nursery school, preschool, primary or secondary school, day care center, day care home or residential care home.
- (iii) Sales or Distribution. An Adult-Use Cannabis Dispensing Organization may not conduct any sales or distribution of cannabis other than as authorized by the Cannabis Regulation and Tax Act.
- (iv) Additional Requirements. The Commission may recommend and the Village Board may impose such conditions and limitations concerning building enhancements, such as security cameras, lighting or other improvements to ensure the safety of employees and customers of the Adult-Use Cannabis Dispensing Organization, as well as its environs. Said improvements shall be determined based on the specific characteristics of the floor plan for an Adult-Use Cannabis Dispensing Organization and the site on which it is located, consistent with the requirements of the Cannabis Regulation and Tax Act.
- (v) Locating Adult-Use Cannabis Business Establishments Together. The Village may approve locating an Adult-Use Cannabis Dispensing Organization with an Adult-Use Cannabis Craft Grower or an Adult-Use Cannabis Infuser Organization or Infuser, or both, subject to the provisions of the Cannabis Regulation and Tax Act and Article 9.13, Special Uses. If approved, the floor space requirements for an Adult-Use Cannabis Dispensing Organization in Sections 5.11(C)(23)(b)(vii), 5.12(C)(19)(b)(vii)(1) and 5.13(C)(7)(b)(vii)(1) and the floor space requirements for an Adult-Use Cannabis Infuser Organization or Infuser in Sections and 5.12(C)(19)(b)(viii) and 5.13(C)(7)(b)(viii) shall not apply, but the Adult-Use Cannabis Dispensing Organization with the Adult-Use Cannabis Craft Grower or

the Adult-Use Cannabis Infuser Organization or Infuser, or both, as the case may be, shall be the sole use of the space.

- (vi) Compliance. An Adult-Use Cannabis Dispensing Organization petitioner for a special use shall file an affidavit with the Village affirming compliance with Article 9.13, Special Uses, all other requirements of the Cannabis Regulation and Tax Act.
- (vii) At least 75% of the floor area of any space occupied by an Adult-Use Cannabis Dispensing Organization shall be devoted to the activities of the Adult-Use Cannabis Dispensing Organization as authorized by the Cannabis Regulation and Tax Act, and no Adult-Use Cannabis Dispensing Organization shall also sell food for consumption on the premises other than as authorized in subsection viii below in the same space.
- (viii) An Adult-Use Cannabis Dispensing Organization may be issued a permit to host on-site consumption of cannabis if located in a freestanding structure occupied solely by the Adult-Use Cannabis Dispensing Organization and smoke from the facility does not migrate into an enclosed area where smoking is prohibited. The security plan for the Adult-Use Cannabis Dispensing Organization required by subsection iv above shall also reflect adequate provisions to respond to disruptive conduct and over-consumption. The on-site consumption permit shall be reviewed annually and may be suspended or revoked following notice and hearing as provided in Chapter 28, Administrative Adjudication.

D. Lot Size:

- (1) The minimum lot size shall be twenty thousand (20,000) square feet.
- (2) The minimum lot width is one hundred (100) feet.
- (3) Special Uses -- Lot sizes for special uses shall be as specified in the special use permit, unless otherwise noted for a particular use listed in this District, based upon the criteria listed in Section 9.13.

E. Yard and Setback Regulations -- Every building hereafter erected or enlarged in this District shall provide and maintain a setback in accordance with the following:

- (1) Minimum Front Yards -- Not less than thirty (30) feet.
- (2) Minimum Interior Side Yards -- Not less than ten (10) from property lines adjacent to a non-residential district or use.



- (3) Minimum Corner Side Yards -- Not less than thirty (30) feet adjacent to a non-residential district or use.
- (4) Minimum Rear Yards -- Not less than ten (10) from property lines adjacent to a non-residential district or use.
- (5) Setback From Major Highways – Not less than fifty (50) feet from the IL Route 31 and IL Route 176 right of ways except in the existing Business District south of the Commonwealth Edison easement which runs in an east and west direction where there is a zero (0) building setback requirement.
- (6) Setback from any Estate District – 150 feet.
- (7) Setback from any Residential District – 150 feet.

F. Structure Height:

- (1) Not more than forty-five (45) feet in height.
- (2) Special Uses -- Maximum height limitations shall be specified with the granting of a special use permit.
- (3) Accessory Uses -- Twenty (20) feet.

G. Floor Area Ratio:

- (1) The floor area ratio shall not exceed 0.25 for retail uses.
- (2) The floor area ratio shall not exceed 0.30 for office uses.
- (3) The floor area ratio shall not exceed 0.40 for industrial uses.

H. Lot Coverage: Lot coverage shall not exceed 85 percent.

5.12 IT INDUSTRIAL TRANSITIONAL: *Amended, 667, 491, 717*

A. Purpose -- The purpose of the IT Industrial Transitional District is to provide areas for light manufacturing, office and research facilities and support services and facilities.

B. Permitted Uses:

- (1) Offices (including business, professional, non-profit and government offices).
- (2) Light manufacturing, fabricating, assembling, repairing, servicing and furnishing of materials, goods and products.

- (3) Research laboratories and institutions.
- (4) Museums and other institutional uses.
- (5) Banks and financial institutions (excluding drive-in and drive-through facilities).
- (6) Restaurants (including sit-down and outdoor dining, coffee shops, with or without entertainment or cocktail lounges, subject to the applicable Village liquor ordinance).
- (7) Parking lots and garages.
- (8) Health or fitness facilities (including outdoor facilities).
- (9) Parks, open space and play fields.
- (10) Other commercial, business, retail, service and governmental uses not inconsistent with the permitted uses identified above.
- (11) For developments less than three (3) acres in gross area, single-family attached, patio homes, townhomes, multiplex, quadraplex and two family dwellings.

C. Special Uses:

- (1) Banks and financial institutions with drive-in or drive-through facilities.
- (2) Restaurants with drive-in and drive-through facilities.
- (3) Automobile fueling stations with or without convenience goods for sale.
- (4) Nursery schools and day care centers.
- (5) Educational and training facilities.
- (6) Hotels (with or without conference, banquet or entertainment facilities or cocktail lounges, subject to Chapter 14 of the Prairie Grove Municipal Code).
- (7) Hospitals.
- (8) Veterinary clinics.
- (9) Dog and cat kennels.
- (10) Retail stores (including stores selling household and personal items, drug stores, pharmacies, grocery, video and food stores and bakeries).

- (11) Congregate Housing.
- (12) Church, Synagogue, Temple, Convent, Monastery or Seminary.
- (13) Elementary, Junior High or High School, Public or Private.
- (14) Group Home.
- (15) Senior Citizen Housing.
- (16) Planned developments.
- (17) For developments larger than three (3) acres in gross area, single-family attached, patio homes, townhomes, multiplex, quadraplex and two family dwellings.
- (18) Adult-Use Cannabis Business Establishments (Adult-Use Cannabis Craft Grower, Adult-Use Cannabis Cultivation Center, Adult-Use Cannabis Dispensing Organization, Adult-Use Cannabis Infuser Organization or Infuser, Adult-Use Cannabis Processing Organization or Processor, and Adult-Use Cannabis Transporting Organization or Transporter).
  - (a) Purpose and Intent. It is the intent and purpose of this Section to protect and preserve the health, safety, welfare and morals of the citizens of the Village by regulating the craft growing, cultivation, dispensing, infusing, processing and transporting of adult-use cannabis occurring within the Village. An Adult-Use Cannabis Business Establishment shall comply with all regulations provided in the Cannabis Regulation and Tax Act (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder, and the regulations provided below. In the event that the Cannabis Regulation and Tax Act is amended, the more restrictive of the state or local regulations shall apply.
  - (b) General Standards.
    - (i) A separate special use permit must be issued in accordance with Article 9.13, Special Uses, for each Adult-Use Cannabis Business Establishment and the following components of an Adult-Use Cannabis Business Establishment shall be evaluated based on the entirety of the circumstances affecting the particular property in the context of the existing and intended future use of the properties:
      - (1) Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.

- (2) Proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
  - (3) Hours of operation and anticipated number of customers/employees.
  - (4) Anticipated parking demand based on Article 7, Off-Street Parking and Loading, and available private parking supply.
  - (5) Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
  - (6) Site design, including access points and internal site circulation.
  - (7) Proposed signage plan.
  - (8) Compliance with all the requirements set forth in these General Standards set forth below.
  - (9) Other criteria determined to be necessary to assess compliance with Article 9.13, Special Uses.
- (ii) Location Restrictions.
- (1) No Adult-Use Cannabis Business Establishment may be located within 250 feet of a pre-existing property zoned or used for residential purposes. The distance limitation shall be measured in a straight line from the lot lines of said Adult-Use Cannabis Business Establishment and applicable residential zoning district.
  - (2) No Adult-Use Cannabis Business Establishment may be located within 1,000 feet of the property line of a pre-existing public or private nursery school, preschool, or primary or secondary school. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section. The distance limitation shall be measured in a straight line from the lot lines of said Adult-Use Cannabis Business Establishment

and applicable public or private nursery school, preschool, or primary or secondary school.

- (iii) Sales or Distribution. An Adult-Use Cannabis Business Establishment may not conduct any sales or distribution of cannabis other than as authorized by the Cannabis Regulation and Tax Act.
- (iv) Additional Requirements. The Commission may recommend and the Village Board may impose such conditions and limitations concerning building enhancements, such as security cameras, lighting or other improvements to ensure the safety of employees and customers of the Adult-Use Cannabis Business Establishment, as well as its environs. Said improvements shall be determined based on the specific characteristics of the floor plan for an Adult-Use Cannabis Business Establishment and the site on which it is located, consistent with the requirements of the Cannabis Regulation and Tax Act.
- (v) Locating Adult-Use Cannabis Business Establishments Together. The Village may approve locating an Adult-Use Cannabis Craft Grower with an Adult-Use Cannabis Dispensing Organization or an Adult-Use Cannabis Infuser Organization or Infuser, or both, subject to the provisions of the Cannabis Regulation and Tax Act and Article 9.13, Special Uses. If approved, the floor space requirements for an Adult-Use Cannabis Dispensing Organization in Sections 5.11(C)(23)(b)(vii), 5.12(C)(19)(b)(vii)(1) and 5.13(C)(7)(b)(vii)(1) and the floor space requirements for an Adult-Use Cannabis Infuser Organization or Infuser in Sections and 5.12(C)(19)(b)(viii) and 5.13(C)(7)(b)(viii) shall not apply, but the Adult-Use Cannabis Craft Grower with the Adult-Use Cannabis Dispensing Organization or the Adult-Use Cannabis Infuser Organization or Infuser, or both, as the case may be, shall be the sole use of the space.
- (vi) Compliance. An Adult-Use Cannabis Business Establishment petitioner for a special use shall file an affidavit with the Village affirming compliance with Article 9.13, Special Uses, all other requirements of the Cannabis Regulation and Tax Act.
- (vii) Adult-Use Cannabis Dispensing Organization. In the IT Industrial Transitional District, an Adult-Use Dispensing Organization must also comply with the following:

- (1) At least 75% of the floor area of any space occupied by an Adult-Use Cannabis Dispensing Organization shall be devoted to the activities of the Adult-Use Cannabis Dispensing Organization as authorized by the Cannabis Regulation and Tax Act, and no Adult-Use Cannabis Dispensing Organization shall also sell food for consumption on the premises other than as authorized in subsection vii(2) below in the same space.
  - (2) An Adult-Use Cannabis Dispensing Organization may be issued a permit to host on-site consumption of cannabis if located in a freestanding structure occupied solely by the Adult-Use Cannabis Dispensing Organization and smoke from the facility does not migrate into an enclosed area where smoking is prohibited. The security plan for the Adult-Use Cannabis Dispensing Organization required by subsection iv above shall also reflect adequate provisions to respond to disruptive conduct and over-consumption. The on-site consumption permit shall be reviewed annually and may be suspended or revoked following notice and hearing as provided in Chapter 28, Administrative Adjudication.
- (viii) Adult-Use Cannabis Infuser Organization or Infuser. In the IT Industrial Transitional District, at least 75% of the floor area of any space occupied by an Adult-Use Cannabis Infuser Organization or Infuser shall be devoted to the activities of the Adult-Use Cannabis Infuser Organization or Infuser as authorized by the Cannabis Regulation and Tax Act.
- (ix) Adult-Use Cannabis Processing Organization or Processor. In the IT Industrial Transitional District, at least 75% of the floor area of any space occupied by an Adult-Use Cannabis Processing Organization or Processor shall be devoted to the activities of the Adult-Use Cannabis Processing Organization or Processor as authorized by the Cannabis Regulation and Tax Act.
- (x) Adult-Use Cannabis Transporting Organization or Transporter. In the IT Industrial Transitional District, an Adult-Use Cannabis Transporting Organization or Transporter shall be the sole use of the space in which it is located.

D. Lot Size:

- (1) The minimum lot size shall be one acre.
  - (2) The minimum lot width is one hundred fifty (150) feet.
  - (3) Special Uses -- Lot sizes for special uses shall be as specified in the special use permit, unless otherwise noted for a particular use listed in this District, based upon the criteria listed in Section 9.13.
- E. Yard and Setback Regulations -- Every building hereafter erected or enlarged in this District shall provide and maintain a setback in accordance with the following:
- (1) Minimum Front Yards -- Not less than fifty (50) feet.
  - (2) Minimum Interior Side Yards -- Not less than thirty (30) from property lines adjacent to a non-residential district or use and not less than eighty-five (85) feet from property lines for any residential district or use.
  - (3) Minimum Corner Side Yards -- Not less than forty (40) feet.
  - (4) Minimum Rear Yards -- Not less than forty (40) from property lines adjacent to a non-residential district or use and not less than eighty-five (95) feet from property lines for any residential district or use.
  - (5) Setback From Major Highways -- Not less than eighty-five (85) feet from the right-of-way for IL Route 31 and IL Route 176.
  - (6) Setback from any Estate District – 150 feet.
  - (7) Setback from any Residential District – 150 feet.
- F. Structure Height:
- (1) Not more than forty-five (45) feet in height.
  - (2) Special Uses -- Maximum height limitations shall be specified with the granting of a special use permit.
  - (3) Accessory Uses -- Twenty (20) feet.
- G. Floor Area Ratio:
- (1) The floor area ratio shall not exceed 0.25 for retail uses.
  - (2) The floor area ratio shall not exceed 0.30 for office uses.
  - (3) The floor area ratio shall not exceed 0.40 for industrial uses.

H. Lot Coverage: Lot coverage shall not exceed 70 percent.

5.13 I INDUSTRIAL DISTRICT: *Amended, 667, 491, 388, 568, 717*

A. Purpose -- The purpose of the I Industrial District is to provide areas for production, processing, cleaning, servicing, testing, repair, or storage of materials, goods or products. These should enhance the tax base of the Village and provide employment opportunities in proximity to high quality residential environments.

B. Permitted Uses:

- (1) Heavy industrial facilities related to manufacturing, production, processing, cleaning, servicing, testing, repair or storage of materials, goods or products.
- (2) Railroad rights-of-way, spur tracks and related facilities required for industrial rail service.
- (3) Limited retail establishments and private clubs provided such establishments are related to a primary industrial use otherwise permitted in this District.

C. Special Uses:

- (1) Truck terminals, railports and inter-modal facilities.
- (2) Antennas and wireless communication towers.
- (3) Planned developments.
- (4) Adult business, in this I Industrial District only.
  - (a) Purpose and Intent. It is the intent of this Section to protect and preserve the health, safety, welfare and morals of the citizens of the Village by regulating adult business within the Village.
  - (b) General Standards.
    - (i) A separate special use permit must be issued for each adult business as defined in the Village ordinance establishing an Adult Business License.
    - (ii) Location Restrictions: No Adult Business shall be operated within 1,000 feet of a residential zoning district or within 1,000 feet of the property boundaries of any school, day care center, cemetery, public park, public housing, nursing home, rest home, sheltered care facility and church. The distance limitation shall be measured in a straight line from the lot lines of said adult business and applicable residential



zoning district, school, day care center, cemetery, public park, public housing, nursing home, rest home, sheltered care facility and place of religious worship.

- (iii) Only one adult business shall be permitted per block face.
  - (iv) Sign Requirements: The following sign requirements shall apply to any adult business:
    - a. All signs shall be flat wall signs.
    - b. The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on a street, or as permitted by Chapter 24, Sign Regulations, of the Prairie Grove Code, whichever is more restrictive.
    - c. Window areas shall not be covered or made opaque in any way. No sign shall be placed in any window. One, one-square foot sign may be placed on the door to state hours of operation and admittance to adults only.
  - (v) Advertising: No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk in front of the building.
  - (vi) Alcoholic Liquor Prohibited: It shall be unlawful for any adult business to sell, distribute or permit beer or alcoholic beverages on the premises.
- (5) Medical cannabis dispensary. *Ord.667, 568*
- (7) Adult-Use Cannabis Business Establishments (Adult-Use Cannabis Craft Grower, Adult-Use Cannabis Cultivation Center, Adult-Use Cannabis Dispensing Organization, Adult-Use Cannabis Infuser Organization or Infuser, Adult-Use Cannabis Processing Organization or Processor, and Adult-Use Cannabis Transporting Organization or Transporter).
- (a) Purpose and Intent. It is the intent and purpose of this Section to protect and preserve the health, safety, welfare and morals of the citizens of the Village by regulating the craft growing, cultivation, dispensing, infusing, processing and transporting of adult-use cannabis occurring within the Village. An Adult-Use Cannabis Business Establishment shall comply with all regulations provided in the Cannabis Regulation and Tax Act (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder, and the regulations provided below. In the event that

the Cannabis Regulation and Tax Act is amended, the more restrictive of the state or local regulations shall apply.

(b) General Standards.

(i) A separate special use permit must be issued in accordance with Article 9.13, Special Uses, for each Adult-Use Cannabis Business Establishment and the following components of an Adult-Use Cannabis Business Establishment shall be evaluated based on the entirety of the circumstances affecting the particular property in the context of the existing and intended future use of the properties:

- (1) Impact of the proposed facility on existing or planned uses located within the vicinity of the subject property.
- (2) Proposed structure in which the facility will be located, including co-tenancy (if in a multi-tenant building), total square footage, security installations/security plan and building code compliance.
- (3) Hours of operation and anticipated number of customers/employees.
- (4) Anticipated parking demand based on Article 7, Off-Street Parking and Loading, and available private parking supply.
- (5) Anticipated traffic generation in the context of adjacent roadway capacity and access to such roadways.
- (6) Site design, including access points and internal site circulation.
- (7) Proposed signage plan.
- (8) Compliance with all the requirements set forth in these General Standards set forth below.
- (9) Other criteria determined to be necessary to assess compliance with Article 9.13, Special Uses.

(ii) Location Restrictions.

- (1) No Adult-Use Business Establishment may be located within 250 feet of a pre-existing property zoned or used for residential purposes. The distance limitation shall be measured in a straight line from the lot lines of said Adult-Use Cannabis Business Establishment and applicable residential zoning district.
- (2) No Adult-Use Cannabis Business Establishment may be located within 1,000 feet of the property line of a pre-existing public or private nursery school, preschool, or primary or secondary school. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section. The distance limitation shall be measured in a straight line from the lot lines of said Adult-Use Cannabis Business Establishment and applicable public or private nursery school, preschool, or primary or secondary school.
- (iii) Sales or Distribution. An Adult-Use Cannabis Business Establishment may not conduct any sales or distribution of cannabis other than as authorized by the Cannabis Regulation and Tax Act.
- (iv) Additional Requirements. The Commission may recommend and the Village Board may impose such conditions and limitations concerning building enhancements, such as security cameras, lighting or other improvements to ensure the safety of employees and customers of the Adult-Use Cannabis Business Establishment, as well as its environs. Said improvements shall be determined based on the specific characteristics of the floor plan for an Adult-Use Cannabis Business Establishment and the site on which it is located, consistent with the requirements of the Cannabis Regulation and Tax Act.
- (v) Locating Adult-Use Cannabis Business Establishments Together. The Village may approve locating an Adult-Use Cannabis Craft Grower with an Adult-Use Cannabis Dispensing Organization or an Adult-Use Cannabis Infuser Organization or Infuser, or both, subject to the provisions of the Cannabis Regulation and Tax Act and Article 9.13, Special Uses. If approved, the floor space requirements for an Adult-Use Cannabis Dispensing Organization in Sections 5.11(C)(23)(b)(vii), 5.12(C)(19)(b)(vii)(1) and 5.13(C)(7)(b)(vii)(1) and the floor space requirements for an Adult-Use Cannabis Infuser Organization or Infuser in

Sections and 5.12(C)(19)(b)(viii) and 5.13(C)(7)(b)(viii) shall not apply, but the Adult-Use Cannabis Craft Grower with the Adult-Use Cannabis Dispensing Organization or the Adult-Use Cannabis Infuser Organization or Infuser, or both, as the case may be, shall be the sole use of the space.

- (vi) Compliance. An Adult-Use Cannabis Business Establishment petitioner for a special use shall file an affidavit with the Village affirming compliance with Article 9.13, Special Uses, all other requirements of the Cannabis Regulation and Tax Act.
- (vii) Adult-Use Cannabis Dispensing Organization. In the I Industrial District, an Adult-Use Dispensing Organization must also comply with the following:
  - (1) At least 75% of the floor area of any space occupied by an Adult-Use Cannabis Dispensing Organization shall be devoted to the activities of the Adult-Use Cannabis Dispensing Organization as authorized by the Cannabis Regulation and Tax Act, and no Adult-Use Cannabis Dispensing Organization shall also sell food for consumption on the premises other than as authorized in subsection vii(2) below in the same space.
  - (2) An Adult-Use Cannabis Dispensing Organization may be issued a permit to host on-site consumption of cannabis if located in a freestanding structure occupied solely by the Adult-Use Cannabis Dispensing Organization and smoke from the facility does not migrate into an enclosed area where smoking is prohibited. The security plan for the Adult-Use Cannabis Dispensing Organization required by subsection iv above shall also reflect adequate provisions to respond to disruptive conduct and over-consumption. The on-site consumption permit shall be reviewed annually and may be suspended or revoked following notice and hearing as provided in Chapter 28, Administrative Adjudication.
- (viii) Adult-Use Cannabis Infuser Organization or Infuser. In the I Industrial District, at least 75% of the floor area of any space occupied by an Adult-Use Cannabis Infuser Organization or Infuser shall be devoted to the activities of the Adult-Use Cannabis Infuser Organization or Infuser as authorized by the Cannabis Regulation and Tax Act.

(ix) Adult-Use Cannabis Processing Organization or Processor. In the I Industrial District, at least 75% of the floor area of any space occupied by an Adult-Use Cannabis Processing Organization or Processor shall be devoted to the activities of the Adult-Use Cannabis Processing Organization or Processor as authorized by the Cannabis Regulation and Tax Act.

(x) Adult-Use Cannabis Transporting Organization or Transporter. In the I Industrial District, an Adult-Use Cannabis Transporting Organization or Transporter shall be the sole use of the space in which it is located.

D. Lot Size:

- (1) The minimum lot size shall be two (2) acres.
- (2) The minimum lot width is one hundred and fifty (150) feet.
- (3) Special Uses -- Lot sizes for special uses shall be as specified in the special use permit, unless otherwise noted for a particular use listed in this District, based upon the criteria listed in Section 9.13.

E. Yard and Setback Regulations -- Every building hereafter erected or enlarged in this District shall provide and maintain a setback in accordance with the following:

- (1) Minimum Front Yards -- Not less than fifty (50) feet.
- (2) Minimum Interior Side Yards -- Not less than forty (40) from property lines adjacent to a non-residential district or use and not less than seventy-five (75) feet from property lines for any residential district or use.
- (3) Minimum Corner Side Yards -- Not less than fifty (50) feet to a non-residential district or use.
- (4) Minimum Rear Yards -- Not less than forty (40) from property lines adjacent to a non-residential district or use and not less than eighty-five (85) feet from property lines for any residential district or use.
- (5) Setback From Major Highways -- Not less than fifty (50) feet from the right-of-way for IL Route 31 and IL Route 176.
- (6) Setback from any Estate District – 150 feet.
- (7) Setback from any Residential District – 150 feet.

F. Structure Height:

- (1) Not more than forty-five (45) feet in height.
- (2) Special Uses -- Maximum height limitations shall be specified with the granting of a special use permit.
- (3) Accessory Uses -- Thirty (30) feet.

G. Floor Area Ratio:

- (1) The floor area ratio shall not exceed 25 percent for retail uses.
- (2) The floor area ratio shall not exceed 30 percent for office uses.
- (3) The floor area ratio shall not exceed 40 percent for industrial uses.

H. Lot Coverage:

- (1) Lot coverage shall not exceed 70 percent for I Industrial and IT Industrial Transitional uses.
- (2) Lot coverage shall not exceed 0.85 for business (B) uses.

5.14 OSR OPEN SPACE RECREATION: *Amended 594, 717*

A. The purpose of the OSR Open Space Recreation District is to protect open space and areas with unique natural resources such as wetlands, flood plains, mature woodlands and rare and/or endangered species.

B. Permitted uses:

- (1) Open space.
- (2) Recreational uses.
- (3) Crop farming and truck gardens.
- (4) Bait Shop.
- (5) Boat Launching Ramp.
- (6) Nursery or greenhouses.
- (7) Arboretum or botanical garden.
- (8) Conservation Area.

C. Special uses:

- (1) Gun clubs.

- (2) Archery Range.
- (3) Boat Rental, Storage
- (4) Camp, day or youth.
- (5) Golf course.

D. Lot Size:

- (1) There is no minimum lot size.
- (2) There is no minimum lot width.
- (3) Special Uses -- Lot sizes for special uses shall be as specified in the special use permit, unless otherwise noted for a particular use listed in this District, based upon the criteria listed in Section 9.13.

E. Yard and Setback Regulations -- Every building hereafter erected or enlarged in this District shall provide and maintain a setback in accordance with the following:

- (1) Minimum Front Yards -- Not less than thirty (30) feet.
- (2) Minimum Interior Side Yards -- Not less than thirty (30) feet.
- (3) Minimum Corner Side Yards -- Not less than thirty (30) feet.
- (4) Minimum Rear Yards -- Not less than thirty (30) feet.
- (5) Setback From Major Highways -- Not less than fifty (50) feet from the right-of-way for IL Route 31 and IL Route 176.

F. Structure Height:

- (1) Not more than forty-five (45) feet in height.
- (2) Special Uses -- Maximum height limitations shall be specified with the granting of a special use permit.
- (3) Accessory Uses -- Twenty (20) feet.

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ARTICLE 6  
PLANNED DEVELOPMENTS

- 6.1 Purpose
- 6.2 Special Use
- 6.3 Permitted Uses and Criteria
- 6.4 General Provisions
- 6.5 Residential Standards
- 6.6 Application and Approval
- 6.7 Changes in the Planned Development

6.1 PURPOSE:

- A. The purpose of the planned development provisions which follow is to promote efficient land patterns which preserve natural resources, provide public amenities, and secure large parcels of permanent open space which will implement the Village's Comprehensive Plan.
- B. These provisions are intended to encourage and accommodate more creative and imaginative design for land development than would otherwise be possible under the strict application of Village's conventional provisions in this Zoning Code and Chapter 22, Subdivision Regulations, of the Prairie Grove Municipal Code.
- C. It is the purpose of this Article that the land use patterns which result from these standards will:
  - (1) Foster quality development by allowing flexibility in land use and design standards, thereby encouraging innovative site planning;
  - (2) Promote more efficient land patterns in keeping with the Comprehensive Land Use Plan, which not only preserves open space and natural resources, but also provide for more economical networks of utilities, streets and other facilities;
  - (3) Promote diverse, high-quality, residential environments;
  - (4) Provide for the possibility of a land use pattern with a mixture of residential and non-residential uses that will mutually support each other;
  - (5) Provide for the permanent preservation of open space for the continued use and enjoyment of the residents of each subdivision;
  - (6) Provide for usable and suitably located public and private recreational facilities;
  - (7) Encourage developers to provide amenities that enhance the quality of life, both within the planned development, as well as within the community as a whole;



- (8) Encourage a land use pattern which promotes the public health, safety, comfort, morals and welfare; and
- (9) Allow more than one principal building per zoning lot without necessarily requiring processing as a zoning variance or a subdivision when the above purposes can be achieved more efficiently through the planned development process.

6.2 SPECIAL USE:

- A. Planned developments are of such substantially different character from conventional subdivisions or development on individual zoning lots that they require administrative processing as a special use, under the provisions of Section 9.13.
- B. Because planned developments are complex and of a different character than other special uses, the Village has established more specific procedures, standards, and criteria for exceptions from the standards of the underlying zoning district than those included in Article 5, District Regulations. The procedures, standards and criteria for exceptions which follow are intended to guide the recommendations of the Village Board during their review of preliminary and final plans.

6.3 PERMITTED USES AND CRITERIA -- Planned developments may include uses and structures not otherwise permitted in the underlying Zoning District, provided landscape screening is employed between dissimilar land uses, and the petitioner shows that the planned development accomplishes the standards set forth in this Article, achieves the planning goals and objectives of the Village, as defined in the Comprehensive Land Use Plan, and is compatible with adjacent land uses.

A. Residential Planned Developments:

- (1) A residential planned development may be processed for only one type of dwelling unit, but is intended to allow a mixture of dwelling unit types, thereby offering a choice in lifestyle to residents of the development. Non-residential land uses of a religious, institutional, cultural, recreational, or commercial character may be permitted in a residential planned development, to the extent that they can be integrated with the residential land use. Where provided, non-residential uses in a residential planned development shall:
  - (a) Not exceed fifteen (15) percent of the total developable acreage of the development, excluding lakes, streams, floodplains, wetlands and other natural features that will be set aside as open space.
  - (b) Be compatible in appearance and scale with the residential structures.
- (2) Residential developments shall be processed as planned developments when any of the following apply:

- (a) More than one dwelling unit type is proposed. For the purpose of this Article, dwelling unit type shall mean:
  - (i) Single-family detached
  - (ii) Single-family attached
  - (iii) Two-family, or duplex
  - (iv) Patio House
  - (v) Townhome
  - (vi) Quadraplex (four units)
- (b) More than one principal building is proposed on a zoning lot.
- (c) More than one land use is proposed for the development.
- (d) A cluster subdivision, or zero lot line arrangement, is proposed.
- (e) A multi-family development, consisting of three (3) or more acres is proposed.

B. Commercial Planned Developments:

- (1) A commercial planned development may include any of the permitted or special uses listed in Section 5.11, B Business District, and Section 5.12, IT Industrial Transition District.
- (2) Commercial developments shall be processed as planned developments when any of the following apply:
  - (a) More than one building is proposed on a zoning lot.
  - (b) Development exceeds three (3) acres in area, and includes more than one type of business use, such as retail, office and/or service uses.
  - (c) A commercial development includes residential dwelling units.
  - (d) Commercial planned developments shall also be required for all properties falling within the areas designated on the adopted Comprehensive Plan as a “unified planned development.”
- (3) Commercial developments shall meet the requirements of Section 5.9, General Provisions for All Non-Residential Uses.

C. Industrial Planned Developments:

- (1) An industrial planned development may include any of the permitted or special uses listed in Section 5.11, B Business District, and Section 5.12, IT Industrial Transition District.
- (2) A proposed industrial development shall be processed as a planned development when any of the following apply:
  - (a) The development consists of ten (10) or more acres.
  - (b) More than one building is proposed on a zoning lot.
  - (c) The planned development includes other commercial or support services that warrant special consideration by the Board to assure that potential hazards associated with dissimilar land uses are minimized and involve an acceptable level of potential conflict.
- (3) Industrial developments shall meet the requirements of Section 5.9, General Provisions for All Non-Residential Uses.

#### 6.4 GENERAL PROVISIONS:

##### A. General:

- (1) Traditional development controls, as set forth in this Zoning Code and Chapter 22, Subdivision Regulations, of the Prairie Grove Municipal Code, may restrict imaginative development. Therefore, it is the intent of these provisions to permit review of integrated site proposals on their own merits, where they afford the Village amenities and benefits which enhance the quality of life due to unified planning and design.
- (2) These provisions are not intended as a means to circumvent the procedures or standards of this Zoning Code and Chapter 22, Subdivision Regulations, of the Prairie Grove Municipal Code, and thereby allow a lower standard of development than would otherwise be permitted under the strict interpretation of these ordinances. Rather, they are intended to take advantage of particular site characteristics, to increase the flexibility and originality of design in large scale projects, to provide more open space and public amenities than would otherwise be required, to promote the protection of high-quality natural resources, and to establish better transitions between dissimilar land uses.
- (3) Unless otherwise recommended by the Village Board, the following standards shall apply. The Village Board may recommend exceptions from these standards when determined appropriate to achieve the objectives set forth in Section 6.1, above.
  - (a) Ownership -- The proposed planned development shall be under the unified control of the petitioner.

- (b) Comprehensive Plan -- The proposed planned development shall conform to the land uses, planning and design guidelines, and intent of the Comprehensive Plan and other planning objectives established for the Village.
- (c) Compatibility -- Uses permitted in a planned development shall be compatible with surrounding land uses.
- (d) Subdivided -- Unless otherwise approved by the Village Board, a plat of subdivision shall be required in accordance with procedures set forth in Chapter 22, Subdivision Regulations, of the Prairie Grove Municipal Code, as may be amended from time to time.
- (e) Yards -- The required yards along the periphery of a planned development shall be at least equal in depth to those of the underlying zoning district, or the adjacent zoning district, whichever is greater. The Village Board may recommend greater setbacks from the boundary line of a planned development when determined to be necessary to protect the privacy of residents within both existing and proposed subdivisions adjacent to the planned development.
- (f) Sidewalks -- Sidewalks shall be constructed on both sides of all streets in residential, business, and office planned developments unless an alternative system is provided internal to the development which provides adequate connection between the development and adjacent properties and activity areas. In addition, walks shall be planned to provide convenient access for pedestrians between residential blocks and from cul-de-sacs to adjacent blocks and public activity areas. When a planned development is adjacent to IL Route 31 and IL Route 176, a parallel pedestrian system, internal to the planned development, may substitute for walks along this highway.
- (g) Public Streets:
  - (i) All streets shall be publicly dedicated, and constructed in accordance with applicable standards contained in Chapter 22, Subdivision Regulations, of the Prairie Grove Municipal Code, as may be amended from time to time.
  - (ii) The Commission may recommend and Village Board approve, reduced rights-of-way or pavement width in residential subdivisions, if it is determined appropriate for maintaining the character of the area, or for preserving natural features.
- (h) Vehicular Access -- Points of vehicular ingress and egress to the site shall be minimized to maintain the safety and operational effi-

ciency of Village's major roadways and collector roadways. Where possible, cross-access between properties shall be provided.

- (i) Screening -- Where a non-residential use abuts, or is across the street from a residential or institutional use, screening shall be provided in accordance with requirements of Section 5.9-B(5).
- (j) Underground Utilities -- All utilities (including electric, telephone, gas and cable TV) shall be installed underground including overhead wires along the perimeter of the site.
- (k) Tree Replacement -- Where determined appropriate by the Village Board, trees greater than six (6) inches in caliper, as measured twelve (12) inches above grade, which are identified to be removed for construction, shall be replaced in accordance with a tree replacement plan that is subject to review and approval by the Village Board.
- (l) Performance Standards -- All activities associated with a business, office, or mixed use planned development, shall conform with the standards established by Article 10, Performance Standards.
- (m) Preliminary Plan Approval -- Preliminary approval of a planned development by the Village Board shall be null and void, in the event that the petitioner has failed to obtain final planned development approval for a least the first phase of the development within twenty-four (24) months of the date of the preliminary approval.
- (n) Final Plan Approval -- A valid application for final plan approval shall be submitted within eighteen (18) months of the date of Village board approval of a preliminary plan.
- (o) Recording of Plat -- Within thirty (30) days of the date of approval of any final plan, for all of a development, or a single phase, the petitioner shall record a plat, approved by the Village as being consistent with the approved planned development, with the County Recorder.
- (p) Building Permits -- The developer shall submit an application for building permits within eighteen (18) months of the approval of the final plan of any phase of a planned development.
- (q) Completion -- The planned development shall be initiated within two (2) years of final planned development approval, and shall be substantially completed within the period of time specified by the petitioner, unless an extension is requested by the petitioner and approved by the Village Board.

- (r) Compliance with Zoning or Other Ordinances -- Where there is a conflict, or difference between the provisions of this Article and those of other Articles of this Ordinance, or other ordinances, the provisions of this Article shall prevail. Except as otherwise set forth herein, all other applicable Village ordinance provisions shall apply.
- (s) Exceptions -- The Village Board may recommend and approve, exceptions to standards and criteria when determined necessary to achieve the planning objectives set forth in this Article.

6.5 RESIDENTIAL STANDARDS:

- A. Open Space/Greenbelt -- Open space shall be provided for Village residents in the form of parks, greenbelts, open space and recreational facilities, consistent with regulatory and policy directives of the Village and the provisions of this Article.
  - (1) Unless otherwise recommended and approved by the Village Board, not less than twenty-five (25) percent of the gross land area within a single family residential planned development shall be reserved and designated as open space, greenbelt and/or recreational facilities. This percent shall be increased to thirty (30) percent for planned developments with thirty (30) percent or more of the dwelling units other than single family detached.
  - (2) Where parks and greenbelts illustrated on the comprehensive Land Use Plan pass through a proposed residential subdivision, land in lieu of cash shall be provided pursuant to Chapter 22, Subdivision Regulations, of the Prairie Grove Municipal Code.
  - (3) Designated open space, greenbelts or public recreational facilities reserved under a planned development shall be held and maintained by a homeowners' association, unless conveyed to a public authority approved by the Village Board.
  - (4) All designated open space, greenbelts and/or recreational facilities shall be dedicated as open space in perpetuity, and shall be so designated in the final plat of subdivision(s) recorded for the planned development.
  - (5) The cost for improving open space or greenbelts, or constructing recreational facilities proposed as part of a planned development, shall be included in the letter of credit or other surety required for the public or quasi-public improvements as described in Chapter 22, Subdivision Regulations, of the Prairie Grove Municipal Code.
  - (6) Open space shall be suitably improved for its intended use. However, open space containing natural features worthy of preservation, including traditional agricultural uses, may be left unimproved.

- (7) No portion of a planned development shall be conveyed or dedicated as public open space, greenbelt or recreation to any public body until such conveyance or dedication is reviewed and approved by the Village Board.
- B. Minimum Lot Size -- Minimum lot size shall be pursuant to this Zoning Code unless 25 percent of the total gross acres has been set aside for: active recreational areas and/or facilities, open space, or preservation of major stands of trees, or other natural areas. The Village finds that flexibility in its standards is warranted only when such amenities are proposed as part of a planned development.
  - (1) For the purpose of this Article, recreational facilities and open space provided as part of the planned development shall include but not be limited to the following:
    - (a) Parks
    - (b) Greenbelts
    - (c) Golf course
    - (d) Swimming pools
    - (e) Community center
    - (f) Health club
    - (g) Tennis courts
    - (h) Jogging trails
    - (i) Physical fitness courses
  - (2) At the discretion of the Village Board, the following may be included as open space or recreational facilities:
    - (a) Ponds required for stormwater retention or detention basins, provided they are developed with trails, benches, and other substantial landscape features.
    - (b) Land for parks, greenbelts, or preservation of natural features such as floodplains, steep slopes, wetlands, high quality native plant communities, major stands of trees, or riparian zones.
- C. Building Separation-- Residential structures shall be separated and arranged to protect the privacy of each dwelling unit and provide adequate space for emergency access and maintenance. Townhomes shall contain no more than five (5) units without a separation, side to side, of at least twenty (20) feet. Separation of townhomes front to front, or front to rear, shall be at least sixty (60) feet and front or rear to sides shall be at least forty (40) feet.

## 6.6 APPLICATION AND APPROVAL:

### A. Administrative:

Applications for planned developments shall be made on forms provided by the Village, and shall be accompanied by plans, drawings, documents and other information required by this Article. Applications and other required documentation

shall be reviewed by the Village staff for compliance with submittal requirements set forth herein for pre-application, preliminary or final plan review, before forwarding these materials to the Plan Review Committee, the Commission or Village Board.

B. Pre-Application Procedure (Mandatory):

- (1) Prior to the filing of an application for approval of a planned development, the petitioner shall contact the Village Clerk to arrange an informal meeting with the Plan Review Committee (Committee). The Committee may request the presence of the Village consultants, as determined appropriate by the Village Clerk or Village President.
- (2) The purpose of the pre-application meeting is to discuss the proposed development in conjunction with Village planning and zoning objectives, as expressed in the Comprehensive Plan, and as set forth within this Article.
- (3) Not less than fifteen (15) days before the pre-application meeting, the petitioner shall provide eight (8) copies of:
  - (a) Concept Plan -- A concept plan shall be submitted at a scale necessary to describe the proposed development and surrounding area in sufficient detail to demonstrate the relationship of the planned development to adjoining uses, both existing and proposed, and to the topography and natural features of the adjoining land uses. The concept plan shall include:
    - (i) North arrow, scale and date of preparation.
    - (ii) Name, address and profession of the person or firm who prepared the plan.
    - (iii) Proposed name of the planned development.
    - (iv) Proposed land uses.
    - (v) Total acreage, and percent of the site devoted to each land use.
    - (vi) Proposed layout of streets, lots and blocks.
    - (vii) Proposed school and park sites, if applicable.
    - (viii) Proposed greenbelt, if applicable, and other open space or developed recreation areas.
    - (ix) Proposed building footprints and estimated floor area for all non-residential structures, if any.



- (x) Wetlands, floodplains, floodways and surface waters, including lakes ponds, streams and drainage swales.
  - (xi) Any other data reasonably necessary to provide an accurate overview of the proposed development as determined by the Village Clerk.
- (4) The Plan Review Committee shall evaluate the proposed concept plan and other documentation and shall advise the petitioner as to the compatibility of the planned development with the Comprehensive Plan, the Zoning Code, Chapter 22, Subdivision Regulations, of the Prairie Grove Municipal Code, and the development goals and policies of the Village. Recommendations relative to a pre-application review are advisory only, and shall not constitute a waiver from the requirements contained in applicable ordinances.
- (5) The Plan Review Committee may, at its discretion, require plans and support documentation to be revised before referring the proposed planned development to the Village Board. This may require additional meetings between the petitioner and the Committee, to assure that the proposed planned development conforms, to the maximum extent possible, with the applicable ordinance provisions, goals, and policies of the Village.
- (6) When determined desirable by the Committee, Village staff or its consultants shall prepare a written report, which shall be forwarded to the Village Board. The report shall:
  - (a) Evaluate the compatibility of the planned development with the Village's Comprehensive Plan;
  - (b) Identify and comment on exceptions from applicable ordinances which have been requested by the petitioner;
  - (c) Summarize recommendations by the Plan Review Committee regarding the proposed planned development; and
  - (d) Summarize the petitioner's proposed schedule for submitting preliminary and final plans in accordance with procedures set forth herein.

C. Preliminary Plan:

- (1) Purpose:
  - (a) The purpose of the preliminary plan is to obtain a recommendation and preliminary approval by the Village Board indicating that all plans and programs which the petitioner intends to build and follow are acceptable, and that the petitioner can reasonably proceed

with preparation of detailed architecture, engineering, site and landscape plans.

- (b) The preliminary plan is more detailed than the concept plan required for pre-application. This plan is meant to assure the petitioner that final plans will be approved by the Village Board, provided these plans substantially conform to the approved preliminary plans.

(2) Procedure:

- (a) A request for preliminary plan approval, signed by the owner of record of the land proposed for a planned development, shall be submitted to the Village Clerk, who will forward the request to the Village Board. The Village Board will refer the matter to the Commission for public hearing, report, and recommendation.
- (b) Preliminary and final plans must be filed and processed consecutively, and not simultaneously, unless specifically exempted from this requirement by the Village Board.
- (c) Preliminary plats of subdivision may be processed along with the preliminary plan submittal, according to procedures and submittal requirements set forth in Chapter 22, Subdivision Regulations, of the Prairie Grove Municipal Code, as may be amended from time to time.

(3) Distribution of Plans and Required Documentation:

- (a) Subsequent to referral by the Village Board, the petitioner shall file eighteen (18) copies of plans and other support documentation, as identified below, with the Village Clerk.
- (b) Once all required drawings and information have been received, the Village Clerk shall distribute the preliminary plan submittal to the Commission, and to other reviewers designated by the Village Clerk. This shall include, but not be limited to the following:
  - (i) Commission members and recording Secretary.
  - (ii) Village Board.
  - (iii) Zoning Official.
  - (iv) Village Clerk.
  - (v) Village Engineer.
  - (vi) Village Planner.
  - (vii) Fire Protection District.
  - (viii) Village Attorney.
  - (ix) All local school districts.

- (c) Required plans and support documentation shall be submitted no later than fifteen (15) working days before the next scheduled meeting of the Commission, to assure adequate time for review.
- (4) Required Submittals – Unless specific submittal requirements are waived by the Commission, the following plans and drawings, as applicable, shall be submitted at the scale necessary to clearly indicate what is planned for the property:
  - (a) Location map.
  - (b) Site Plan -- The proposed site plan shall contain all the information required at the pre-application stage, as well as the following:
    - (i) Location of the subject site by section, town and range, or by other approved legal description.
    - (ii) Name and address of the site planner, engineer, architect and landscape architect.
    - (iii) Name and address of the owner and/or trust beneficiary.
    - (iv) Site data, including as applicable:
      - Total acreage, and acreage of each proposed lot, outlot, and open space, greenbelt or recreation areas.
      - Acres and percent of the planned development devoted to each land use.
      - Percent of land devoted to streets and public rights-of-way.
      - Percent of land covered by buildings and parking.
      - Percent of the site devoted to usable open space.
      - Minimum lot size.
      - Existing zoning on and adjacent to the site.
    - (v) Existing topography and proposed grading.
    - (vi) Existing and proposed zoning.
    - (vii) Municipal and school districts within which the project is located.

- (viii) Utility easements.
  - (ix) Proposed lotting and footprints of all non-residential structures.
  - (x) Maximum lot coverage by buildings and other impervious surfaces, for all uses within the planned development.
  - (xi) Off-Street parking and loading areas, including number and dimensions of parking spaces, drive aisles, and loading zones.
  - (xii) Configuration and acreage of all land proposed to be dedicated as open space or greenbelts, and all sites to be conveyed, dedicated, or reserved for parks, playgrounds, school sites, public buildings, and similar public and quasi-public uses.
  - (xiii) Pedestrian and/or bicycle circulation systems.
  - (xiv) Greenbelt or other open space systems, and submittal requirements for these systems.
  - (xv) Proposed phasing.
  - (xvi) Location of trash bins and enclosures for all multiple-family residential and non-residential uses, if any.
  - (xvii) All other information determined necessary by the Commission to clearly show the proposed elements of the planned development.
- (c) Grading Plan -- The grading plan shall show both existing and proposed contours and elevations and shall identify all areas proposed for excavation and/or filling of the property.
- (d) Landscape Plan -- The landscape plan shall be superimposed on the grading plan, and shall include:
- (i) Any proposed fences, walls, berms and entry monuments.
  - (ii) Contours for any landscaped berms.
  - (iii) One or more sections through the site to illustrate the relationship between the landscape materials, the land form, proposed buildings, and nearby properties.

- (iv) Location of all trees and shrubs, keyed into a plant list, which identifies species, sizes and quantities for proposed plantings.
  - (v) Method of screening trash collection facilities and enclosures.
- (e) Photometric Plan -- The photometric plan shall be superimposed on the site plan, for all non-residential planned development, and shall:
- (i) Identify the location and heights of all light standards.
  - (ii) Identify footcandle intensities on the site of the planned development, and ten (10) feet beyond proposed property lines.
  - (iii) Include specifications for proposed lighting, including wattage, method of illumination, and color of light standards and luminaries.
- (f) Development Schedule -- A development schedule shall be submitted which addresses:
- (i) Approximate dates for initiating project construction.
  - (ii) Phasing, and anticipated date of completion for public improvements for each phase.
  - (iii) The area and location of open space and/or greenbelt areas to be provided with each phase.
  - (iv) The mix of uses proposed for implementation within each phase of a mixed use planned development.
- (g) Architectural Drawings -- Preliminary architectural drawings for all primary buildings shall be submitted which include:
- (i) Typical elevations (front, rear and side) for proposed residential and non-residential buildings, which identify materials and color styling proposed for all exterior elements of the building.
  - (ii) Gross floor area for all non-residential buildings.
  - (iii) Minimum habitable floor areas for residential buildings, excluding garages, basements, porches and patios.
  - (iv) Proposed building heights.

- (v) Roof plan for all non-residential structures, which shows the proposed location and top elevation of all roof-mounted mechanical equipment.
  - (vi) Cross-sections of all non-residential structures which show the relation of the roof structure and/or parapet wall to the proposed roof-mounted mechanical equipment.
- (h) Protective Covenants -- Proposed covenants shall be prepared and submitted which include:
- (i) Architectural controls for residential dwellings, including:
    - Minimum floor area, excluding garages, basements, porches and patios.
    - Maximum lot coverage.
    - Minimum yards.
    - Materials.
    - Anti-monotony ordinance.
    - Landscaping for individual lots.
    - Maintenance of common facilities.
  - (ii) Tenant sign controls for all non-residential, multi-tenant developments.
  - (iii) Provisions for dedication and maintenance of all open space, greenbelt and recreation areas.
- (i) Utility Plan -- A proposed utility plan shall be superimposed on the proposed site plan, and shall show:
- (i) Approximate location and dimensions of all sanitary sewer, storm sewer, and water lines.
  - (ii) Drainage ditches, culverts, water retention areas, and utility easements.
  - (iii) Statement from the petitioner's engineer attesting to the capability of existing water and sewer systems to service the proposed development.
- (j) Traffic Impact Study -- A traffic study, prepared by a professional engineer licensed in the State of Illinois shall be submitted to:
- (i) Identify anticipated volumes of traffic to be generated by each phase of the planned development.

- (ii) Identify required public roadway improvements and/or traffic regulation devices needed to insure the proper safety of traffic to, through and around the planned development.
- (k) Written Statement -- A written statement shall be submitted by the petitioner which describes:
  - (i) Why the petitioner is processing the project as a Planned Development.
  - (ii) How the proposed planned development meets the objectives of the Comprehensive Plan and the Planned Development purposes noted in Section 6.1.
  - (iii) How the project is compatible with adjacent development or planned land uses.
  - (iv) How the project will economically benefit or otherwise affect the Village, including information regarding additional public facilities and/or services that will be needed as a result of the proposed project.
  - (v) A comprehensive list of all requested exceptions to applicable ordinances.
- (l) School/Park -- The petitioner shall prepare an estimate of land and/or cash that will be required for the development, based on the current Chapter 22, Subdivision Regulations, of the Prairie Grove Municipal Code.
- (m) Other -- The Commission may require preparation and submittal of the following for review and evaluation:
  - (i) Tax impact study, detailing the estimated cost which the planned development will have on all taxing bodies, and anticipated revenues which will be realized from each phase of development.
  - (ii) A projected school population study estimating the number of students by age group, which will be generated by the development.
  - (iii) Other information that is deemed necessary for evaluation of the proposed development against Village plans, policies, ordinances and existing conditions.
- (5) Public Hearing:
  - (a) Scheduling:

- (i) Prior to scheduling the public hearing the petitioner shall submit eighteen (18) copies of the required submittals for preliminary plan review, as set forth in item 4, above.
  - (ii) Upon receipt of all required documentation, the Village Clerk shall coordinate the time, date and place of the public hearing with the petitioner and the Commission.
- (b) Content of Notice -- The notice of public hearing shall, at a minimum, include:
- (i) A legal description of the subject property.
  - (ii) The address or common name of the subject property.
  - (iii) The name of the petitioner.
  - (iv) A description of the petitioner's request including, but not limited to, the requested zoning, acreage of the subject property, proposed mix of uses, and number and types of dwelling units, if any, and square footage of non-residential uses.
  - (v) Identification of requested exceptions from applicable ordinances.
  - (vi) The time, place and purpose of the public hearing.
- (c) Notice to the Public -- The petitioner shall give notices of the public hearing as follows:
- (i) Property owners:
    - The petitioner shall, by certified mail, return receipt requested, notify all property owners within two hundred fifty (250) feet in all directions of the petitioner's property. Said notices shall be mailed out not more than thirty (30), nor less than fifteen (15) days in advance of such hearing.
    - The petitioner shall file a sworn affidavit with the Village Clerk, which confirms that notices have been sent as required, and include a copy of the notice and the names and addresses of all to whom notices have been sent, and the certified mailing return receipts.



- (ii) Publication -- Notice of said hearing shall be published, by the Village at the petitioner's expense, at least once in a newspaper of general circulation with the Village, not less than fifteen (15), nor more than thirty (30) days before the date of the hearing.
- (iii) Posting:
  - The petitioner shall post and maintain, for a period of not less than fifteen (15) days prior to the hearing, the notice of public hearing.
  - Said notice shall be erected not more than fifteen (15) feet from the front lot line, and not less than four (4) feet above ground, nor more than six (6) feet above ground, and be placed and sized in such a manner so the words "Notice of a Public Hearing" shall be visible from the adjacent street.
- (iv) Other -- Supplemental or additional notices may be distributed, published or posted as the Village Board may require.
- (d) Conduct of Hearing:
  - (i) The petitioner shall enter all plans, drawings and other support documentation into the record as official exhibits, and shall demonstrate compliance with the notice of public hearing, notice of surrounding property owners, and posting of the property.
  - (ii) The hearing may be continued by the Commission from time to time, during which time drawings and support documentation may be revised and resubmitted.
- (6) Commission's Recommendation -- After the close of the public hearing, the Commission shall recommend approval or denial of the proposed planned development. The recommendation may include conditions of approval intended for incorporation into final plans and supporting documentation.
- (7) Statement of Findings of Fact -- The Chairperson shall have prepared a written Statement of Findings of Fact, which shall be submitted to the Village Board with the Commission's recommendation:
  - (a) The Commission's Statement of Findings of Fact shall include but not be limited to:
    - (i) Name and address of the petitioner, and the petitioner's attorney.

- (ii) The petitioner's request.
  - (iii) A description of the project.
  - (iv) A list of requested exceptions from zoning or planned development standards, if any, and the basis for recommending approval or denial of each exception.
  - (v) A list of exhibits upon which the Commission's recommendation is based, including title, author and date of preparation or revision.
  - (vi) Recommendation of the Commission, including conditions of approval, if any.
  - (vii) The roll call vote.
- (b) The Statement of Findings of Fact shall also specify in what respects the proposal would, or would not be in the public interest, and shall, at a minimum, address:
- (i) The extent to which the proposed planned development departs from the zoning, subdivision regulations or planned development standards otherwise applicable to the subject property and the reasons why such departures are in the public interest.
  - (ii) Compatibility of the proposed planned development with adjacent properties and neighborhoods.
  - (iii) The desirability of the proposed planned development, or lack thereof, for the Village's tax base and economic well-being.
  - (iv) The adequacy of the physical design and methods by which the proposed planned development would:
    - Make provision for public utilities and services.
    - Provide adequate control over vehicular traffic.
    - Provide for and protect designated open space and drainage systems.
  - (v) Compatibility with the Comprehensive Plan and the goals and policies for planning within the Village.
- (8) Village Board Review:

- (a) Subsequent to receiving the Commission's Statement of Findings of Fact, the Village Clerk shall schedule the proposed planned development for review by the Village Board.
- (b) The petitioner shall present all exhibits and testimony applicable for review and action by the Village Board.
- (c) The Village Board shall approve, approve with modifications, or disapprove the preliminary plan for the proposed planned development.

(9) Action by the Village Board:

- (a) The preliminary plan may be disapproved or referred back to the Commission for additional review of specified items, by motion of the Board.
- (b) If the preliminary plan is approved, the Village Board shall prepare an ordinance that shall identify all applicable exhibits and support documentation upon which Village Board action is based, and shall include any conditions of approval.

D. Final Plan:

(1) Process:

- (a) Within eighteen (18) months of the adoption of the preliminary plan, the petitioner shall file all required final plan submittals for applicable phases of construction with the Village Clerk. The submittal shall address all conditions of approval that are set forth in the preliminary plans.
- (b) The request for final approval of a planned development shall be submitted to the Village Clerk who, upon receipt of all required submittals, will forward the request to the Commission for its review and recommendation. Final plan approval may be obtained in phases, in accordance with the petitioner's development schedule.
- (c) Final plats of subdivision may be processed along with the final plan submittal in accordance with Chapter 22, Subdivision Regulations, of the Prairie Grove Municipal Code.
- (d) Final plan submittals shall demonstrate compliance with the preliminary plan. The petitioner shall file eighteen (18) copies of plans and other required supporting documentation with the Village Clerk. Once all required drawings and information have been received, the Village Clerk shall distribute the final plan submittal to the Commission and to other designated reviewers.

- (e) Required plans and documentation shall be submitted no later than fifteen (15) working days before the next scheduled meeting of the Commission to assure adequate time for review.
- (2) Submittals -- Required submittals shall include, but not necessarily be limited to the following, as applicable:
- (a) An accurate legal description of the entire area under immediate development within the planned development.
  - (b) A final site plan which includes:
    - (i) Identification of all use areas, including open space greenbelts and recreation areas;
    - (ii) Approved building setbacks and separation;
    - (iii) Footprints of all non-residential buildings.
  - (c) An accurate legal description of each separate unsubdivided use area, such as open space and greenbelts.
  - (d) Tabulations of each use area, including land area, and number of dwelling units per acre, if any.
  - (e) Final landscape plan, superimposed on a grading plan.
  - (f) Final utilities and drainage plan.
  - (g) Final agreements, by-laws, provisions, or covenants which govern the use, maintenance, and continued protection of the planned development and its open space, greenbelts, or other recreational facilities.
  - (h) Final development and construction schedule.
  - (i) Detailed elevations of buildings.
  - (j) Final engineering drawings.
  - (k) A certificate from the County which documents that no delinquent taxes exist, and that all special assessments constituting a lien on the whole or any part of the property of the planned development have been paid.
- (3) The final plan shall be processed as follows:

- (a) The Commission shall review the final plan and plat submittal at a public meeting, and shall recommend approval if it is in substantial compliance with the preliminary plan. Their recommendation may include such additional conditions as may be appropriate, based on the final documentation submitted.
- (b) If the final plan and plat are substantially different from the approved preliminary plan, the Commission shall either:
  - (i) Recommend disapproval of the final plan submittal; or
  - (ii) Recommend to the Village Board that a new public hearing be held in conformance with the procedures established for approval of a preliminary plan.
- (c) With a recommendation of approval, the Commission shall submit to the Village Board, a written Statement of Findings of Fact and Recommendations which:
  - (i) Confirms that final plan submittals are in conformity with the preliminary plan; and
  - (ii) Identifies any additional conditions of approval.
- (4) If the Village Board decides to approve the final development plan, it shall prepare an ordinance. If the Village Board determines that the final development plan shall be disapproved, it shall do so by a motion of the Board. In lieu of denial, the Village Board may grant the petitioner additional time to remedy any deficiencies.
- (5) No plats shall be recorded, and no building permits issued, until final plan submittals have been approved by the Village Board. Final plats shall be recorded by the petitioner within thirty (30) days of the date of final plan approval.
- E. Guarantees -- In all cases where special use permits for a planned development are granted, the Village Board shall require such evidence and guarantees as it may determine necessary as proof that the conditions stipulated in connection with the planned development are being, and will be complied with.

#### 6.7 CHANGES IN THE PLANNED DEVELOPMENT:

- A. The planned development shall be implemented only according to the approved final plan and recorded final plats of subdivision recorded for the planned development. The recorded final plats and supporting data, together with all recorded documents and amendments, if any, shall be binding on the owners, successors, heirs, and assigns.
- B. Changes to a planned development may be made as follows:

- (1) Major Changes:
  - (a) Changes which alter the concept or intent of the planned development may be approved by the Village Board only by submission of a new final plan and final plats of subdivision for the planned development. All revisions shall be reviewed by the Commission at a public hearing.
  - (b) Major changes include, but are not limited to, the following:
    - (i) Increases in density.
    - (ii) Increases in the heights of buildings.
    - (iii) Reductions in approved open space, greenbelts, or preservation areas.
    - (iv) Modifications to the approved uses, and a change by more than ten (10) percent in the acreage allocated to each use.
    - (v) Rearrangement of lots, blocks, and building tracts.
- (2) Minor Changes -- Minor changes may be approved by the Village Board, after review and recommendation of the Commission at a public meeting, provided said changes do not alter the spirit and intent of the approved planned development. Minor changes include:
  - (a) Minor modifications to the location of buildings, provided all setbacks established for the planned development are met.
  - (b) Minor changes to the location and configuration of streets and rights-of-way, which are made to preserve natural features.
  - (c) Minor changes to the location and configuration and size of approved open space, greenbelts and recreational facilities, due to circumstances that were not foreseen at the time the final plans were approved.
- (3) Incidental Field Changes -- Incidental field changes may be approved by the Zoning Official, after review by appropriate staff.
- (4) Recording -- Major changes which are approved for the final planned development shall be recorded as amendments to the recorded final plat of subdivision(s).

ARTICLE 7  
OFF-STREET PARKING AND LOADING

- 7.1 Purpose
- 7.2 General Provisions
- 7.3 Regulations and Requirements
- 7.4 Off-Street Parking Chart
- 7.5 Schedule of Off-Street Parking Requirements
- 7.6 Off-Street Loading
- 7.7 Schedule of Off-Street Loading Requirements

7.1 PURPOSE -- The purpose of these regulations is to alleviate or prevent the congestion of public streets, and so promote the safety and welfare of the public by establishing minimum requirements for the off-street parking and loading and unloading of motor vehicles in accordance with the use to which property is put.

7.2 GENERAL PROVISIONS:

- A. Scope of Regulations -- Off-street parking and loading provisions of this Article shall apply as follows:
  - (1) For all buildings and structures erected and all uses of land established after the effective date of this Zoning Code, accessory parking and loading facilities shall be provided as required by the regulations of the district in which such buildings or uses are located.
  - (2) When the intensity of use of any building, structure or premises is increased through gross floor area, seating capacity or other unit of measurement specified herein for required parking or loading facilities, parking and loading facilities as required shall be provided for such increase in intensity of use.
  - (3) Whenever the existing use of a building or structure is changed to a new use, parking or loading facilities shall be provided as required for such new use.
- B. Damage or Destruction -- For any conforming or legally nonconforming building or use which is in existence on the effective date hereof, which is damaged or destroyed by fire, collapse, explosion or other cause, and which is reconstructed, re-established or repaired, off-street parking or loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored or continued in operation. In no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this Article for equivalent new uses or construction.
- C. Submission of Site Plan -- Any application for a building permit, or for a certificate of occupancy where no building permit is required, shall include a site plan, drawn to scale and fully dimensioned, showing parking or loading facilities to be provided in compliance with this Article.

- D. Time of Completion -- Off-street parking and loading facilities, as required by this Article, shall be constructed at the time of erection, establishment, alteration, or enlargement of the building, structure or use of land for which they are required to serve and be available for use no later than the time the premises are utilized for their intended use.

### 7.3 REGULATIONS AND REQUIREMENTS:

- A. Location of Parking Facilities -- Unless otherwise approved as part of a special use permit, all required off-street parking and loading facilities, which serve a building, structure or land uses, which are erected, established, altered, enlarged, or intensified after the effective date of this Zoning Code, and all such parking facilities which are established or increased voluntarily pursuant to this Zoning Code, shall be located on the same lot as the building, structure, or use of land to be served.

- B. Joint Parking Facilities:

- (1) In any zoning district where compatible, collective off-street parking facilities are available to serve different buildings, structures or uses, joint parking may be permitted by the Village as a special use pursuant to Article 9.
- (2) The total number of spaces provided may be less than the sum of the separate parking requirements specified in Section 7.5, Schedule of Off-Street Parking Requirements, for each building or use, provided that:
  - (a) The parking to be provided for individual land uses shall reflect the actual peak demand for parking as determined by the Village Engineer.
  - (b) The land uses and the shared parking facility shall be located close enough to one another, so that individuals would be willing to walk to each use from most points in the parking facility.
  - (c) Parking spaces to be shared shall not be reserved for certain individuals or groups on a 24-hour basis.
  - (d) Any subsequent change in land uses within the shared parking area shall require a new occupancy permit, and proof that sufficient parking shall be made available.

- C. Yard Requirements:

- (1) Single-Family Residential: For purposes of this Zoning Code, required parking for single-family attached dwellings shall include one space in a garage and one space on the driveway; required parking for single-family



detached dwellings shall include two spaces in the garage and two spaces in the driveway.

- (2) All Other Districts -- Perimeter yards for off-street parking and off-street loading facilities shall be pursuant to Section 5.9, General Provisions for All Non-Residential Uses. There shall be no parking or parallel driveways in minimum yards.

D. Access:

- (1) Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. Off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements.
- (2) All areas providing for off-street parking facilities shall open directly upon an aisle or driveway not less than 9 feet wide for single-family, and 12 feet wide for all other dwelling units, or provide such additional width and design set forth in Section 7.5, Schedule of Off-Street Parking Requirements.

E. Floor Area -- For the purpose of determining off-street parking and off-street loading requirements, floor area shall be calculated as the sum of the gross horizontal area of the several floors of the building or buildings, excluding:

- (1) Areas used for off-street parking and loading facilities.
- (2) The horizontal areas of the basement that are devoted exclusively to uses accessory to the operation of the entire building.
- (3) The horizontal areas of boiler and mechanical rooms used for heating ventilating and air conditioning equipment.

F. Computation:

- (1) When determination of the number of off-street parking spaces required by this Article results in a requirement of a fractional space, any fraction of one-half ( $\frac{1}{2}$ ) or less may be disregarded while a fraction in excess of one-half ( $\frac{1}{2}$ ) shall be counted as one parking space.
- (2) If a particular use is not listed in Section 7.5, Schedule of Off-Street Parking Requirements, the Zoning Official shall determine the requirements of said use by assigning the same requirements as another use which is deemed to be similar in nature to, and compatible with, said unlisted use.

G. Size:

- (1) The minimum off-street parking space shall be 9 feet in width and 20 feet in length. For parallel parking, the length of the parking space shall be in-

creased to a minimum of 24 feet. Notwithstanding the foregoing, such length requirement of 20 feet shall be reduced by 2 feet for parking spaces in which the front of the space abuts a sidewalk (6.00 feet or greater in width) or a landscaped area.

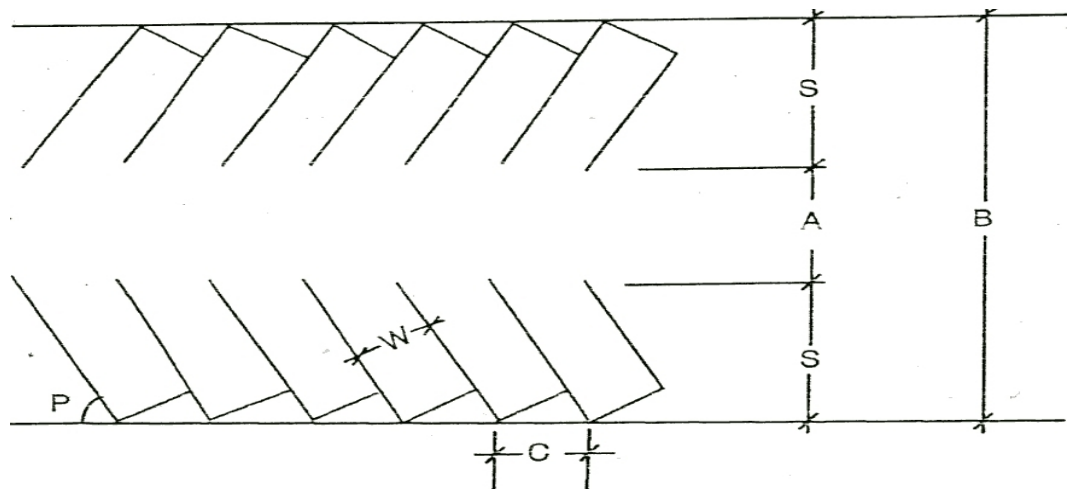
- (2) The number and dimension of parking spaces to be set aside for the handicapped shall be provided in accordance with the current Illinois Accessibility Code published by the Illinois Capitol Development Board.

H. Design:

- (1) Surface: The surface of a parking lot shall be paved with concrete or asphalt and striped to clearly define spaces and drive aisles. Proposed striping shall be subject to approval by the Village Engineer.
- (2) Curbing -- All off-street parking facilities consisting of twelve (12) or more spaces, shall be improved with curbing, as approved by the Village Engineer.
- (3) Lighting -- Required submittals and standards for parking lot lighting are found in Section 5.9, General Provisions for All Non-Residential Uses:
  - (a) Parking lot lighting shall be required for lots with more than twelve (12) spaces which are used at night.
  - (b) Lighting shall be extinguished one-half hour after the close of business, except as may otherwise be permitted or required by the Village Board.
- (4) Screening and Landscaping:
  - (a) Screening of required off-street parking and off-street loading spaces shall be provided pursuant to Section 5.9, General Provisions for All Non-Residential Uses.
  - (b) Unless otherwise approved by the Village Board, an area equal to not less than one (1) 9' x 18' space for every twenty-five (25) parking spaces, shall be set aside for a landscaped island, or a landscaped area between the parking lot and the building it serves, to create visual relief and soften the expanse of pavement:
    - (i) All interior landscaped islands shall be curbed to prevent the destruction of such areas by vehicles.
    - (ii) An area between two (2) and five (5) feet above ground shall be kept clear of plant growth, except for tree trunks, in order to assure that pedestrians and automobiles will be visible to a motorist at all times.

- (iii) Interior landscaping shall include, at a minimum, one deciduous street tree for each twenty-five (25) parking spaces. Trees shall be not less than three (3) inches in caliper, as measured twelve (12) inches above grade, when installed.
  - (iv) All landscaping shall be permanently maintained in good condition with at least the same quality of landscaping as initially installed.
- (5) Access Control and Signage:
- (a) There shall be no more than one (1) entrance and one (1) exit or one (1) combined entrance and exit along any street unless additional entrance/exit is approved by the Village Board.
    - (i) One-way driveways shall be clearly marked with appropriate entrance and exit signs.
    - (ii) If, in the opinion of the Village Engineer, traffic in the vicinity of the site warrants the restriction of turning movements or access to and from a parking facility, signs or driveway modifications necessary to accomplish said restrictions shall be provided.
  - (b) Accessory, or directional signs may be double-sided, but shall be limited to four (4) square feet of sign area per sign face. Signs shall not be greater than four (4) feet in height. The Village Board after a public hearing before the Commission may, however, approve exceptions to these requirements if additional height and area is necessary to include essential informational copy.
- (6) Repair and Service:
- (a) No motor vehicle work or service of any kind shall be permitted within any off-street parking facility that is four (4) or more spaces in size.
  - (b) No gasoline or motor oil shall be sold in any accessory off-street parking facility.

7.4 OFF-STREET PARKING CHART



Parking Aisle	Curb Length	Stall Depth	Stall Width	Aisle Width	Bay Width
P	C	S	W	A	B
90°	9.0'	18.0'	9.0'	24.0'	60.0'
60°	10.4'	20.0'	9.0'	16.0'	56.0'
45°	12.7'	19.1'	9.0'	12.0'	50.2'
0°	24.0'	24.0'	9.0'	12.0'	

NOTES: These standards are for a 9' x 18' parking space.  
<sup>1</sup>Parallel parking. Assumes one-way traffic flow

7.5 SCHEDULE OF OFF-STREET PARKING REQUIREMENTS -- Accessory off-street parking spaces shall be provided as required for the following uses:

<b>Residential:</b>	
Congregate care housing:	1 space per each 2 bedrooms
Group housing:	1 space per dwelling unit
Senior citizen housing:	1.5 spaces per dwelling unit
Single-family residential:	2 spaces per dwelling unit
Townhomes, two-family dwellings and multiplexes	2 spaces per dwelling unit
Two- and three-story apartments	2 spaces per dwelling unit
<b>Retail and Service Use:</b>	
Automobile sales	2.5 spaces per each 1,000 square feet of floor area, plus 1 space per each 2,000 square feet of outdoor sales area
Banks and financial institutions	5 spaces per 1000 square feet of floor area, plus 5 stacking spaces for each drive-up window provided
Bed and breakfast	1 space per sleeping room, plus 2 spaces for the permanent residents
Boat dealers	5 spaces per 1000 square feet of floor area, plus 1 space per 3000 square feet of outdoor sales area
Convenience food store	6 spaces per 1000 square feet of floor area
Delicatessens	6 spaces per 1000 square feet of floor area
Farm and garden supply	5 spaces per 1000 square feet of floor area, 1 space per each 1,000 square feet of outdoor sales area, plus 1 space per each two employees
Funeral parlors	15 spaces for each area where a funeral or wake may take place, 1 space per employee, plus 1 space per vehicle owned, leased or rented
Furniture store	4 spaces per 1000 square feet of floor area
Grocery store	6 spaces per 1000 square feet of floor area
Hair styling salons	2 spaces per chair, plus 1 space per employee
Hotels/motels	1 space per room, 1 space per employee, plus additional spaces for accessory uses as required by this Zoning Code
Kennel	1 space per 400 square feet of floor area, but no fewer than four spaces
Laundromat	1 space per two washing machines
Lumber yards	3 spaces per 1000 square feet of floor area, plus 1 space per 3000 square feet of outdoor sales area
Mobile home dealers	5 spaces per 1,000 square feet of floor area, plus 1 space per each 2,000 square feet of outdoor sales area
Nursery retail sales	5 spaces per 1000 square feet of floor area, plus 1 space per 3000 square feet of outdoor sales area
Photography studio	4 spaces per 1000 square feet of floor area
Plumbing and Heating supply	4 spaces per 1000 square feet of floor area
Printing and publishing	3 spaces per 1000 square feet of floor area
Private clubs and lodges	5 spaces per 1000 square feet of floor area

Produce stand	5 spaces for each stand
Repair shop	4 spaces per 1000 square feet of floor area
Restaurants, fast food	13 spaces per 1000 square feet of floor area, plus seven stacking spaces for each drive-up window through which food and/or drink is dispensed
Restaurant, sit-down, family	10 spaces per 1000 square feet of floor area
Restaurants, with live entertainment and dancing	13 spaces per 1000 square feet of floor area
Retail stores	5 spaces per 1000 square feet of floor area
Store repair shops	4 spaces per 1000 square feet of floor area
Snowmobile sales and service	5 spaces per 1000 square feet of floor area, plus 1 space per 3000 square feet of outdoor sales area
Veterinary clinics and animal hospitals	4 spaces per 1000 square feet of floor area
<b>Offices:</b>	
Offices (business, professional and governmental)	3 spaces per 1000 square feet of floor area for buildings with 5,000 square feet or more of floor area 5 spaces per 1000 square feet of floor area, for building with less than 5,000 square feet of floor area, and development occurs on an individual zoning lot
<b>Automotive/Service:</b>	
Car Wash (manual)	1 space per employee, plus 4 spaces per washing bay (includes bay), 1 of which shall be located directly in front of each bay
Car Wash (automatic)	1 space per each employee, plus stacking spaces equal to 5 times the capacity of the washing bays
Oil change shop	3 spaces per service bay, excluding service bay
Repair	4 spaces per repair stall (including repair stall, 5 spaces per 5,000 square feet of floor area devoted to office and/or retail sales, plus 1 space per each vehicle owned, leased or rented
Service station (full service)	1 space per each gasoline service bay (not including the bay), 2 spaces per repair service bay (not including the bay), 1 space per employee, plus 1 space per vehicle owned or leased
Service station (self-service)	1 space per each gasoline service bay (not including bay), 1 space per employee, plus 5 spaces per 1000 square feet of floor area devoted to retail sales
<b>Religious/Institutional:</b>	
Cemetery	1 space per full-time employee
Child care centers	1 space per each employee, plus 1 space per each 15 children
College or University	1 space per each employee, plus 1 space per each 4 students
Church or Synagogue	1 space per each 4 seats, or 1 space per each 90 lineal inches seating capacity in main chapel or auditorium, based on design capacity
Convalescent center	1 space per each 4 beds, plus 1 space per employee
Elementary school	1 space per each faculty member and other fulltime employee; plus 1 space per each 2 classrooms for visitors;
High school	1 space per each fulltime employee, plus one space per each 7 students, based on design capacity
Hospitals or clinics	1 space per each 2 beds, 1 space per each 2 employees, plus 1 space per each 2 doctors on the staff
Library	1 space per 300 square feet of floor area
Police or Fire station	1.5 spaces per each employee
Post office	4 spaces per 1000 square feet of floor area, plus 1 space per each 3 employees
Religious retreats	1 space per 5 residents plus 1 space per non-resident employee, plus visitor parking as recommended by the Village Board
Trade School	1 space per each 5 students, plus 1 space per each two employees
<b>Recreational/Civic:</b>	
Art Gallery	4 spaces per 1000 square feet of floor area

Auditorium/Assembly Hall	1 space for each four seats or 1 space per each 50 square feet of floor area, where there is no fixed seating
Ball Fields	1 space per 4,000 square feet of playing field
Billiard/Pool Halls	5 spaces per 1000 square feet of floor area
Bowling Alley	5 spaces per lane
Community center	4 spaces per 1000 square feet of floor area, plus 1 space per employee
Game Rooms	5 spaces per 1000 square feet of floor area
Golf Course	65 spaces per 18 holes; 45 spaces per 9 holes; 1 space per each employee; plus additional spaces for accessory uses as required by this Zoning Code
Golf Driving Range	2 parking spaces per tee, plus one parking space per employee, plus additional parking for accessory uses as required by this Zoning Code
Government building	5 spaces per 1000 square feet of floor area used by the public
Gymnasium/Health Club	3 spaces per each 1000 square feet of floor area
Indoor racquet courts	3 spaces per court, plus one space per 200 square feet of floor area
Miniature golf course	2 spaces per hole, plus 5 spaces per 1000 square feet of floor area
Museum	4 spaces per 1000 square feet of floor area
Recreational buildings	Spaces equal to 30 percent of capacity, but not less than 5 spaces per 1000 square feet of floor area, plus 1 space for each 2 employees
Riding academies and stables	2 spaces per each horse stall
Swimming pool	10 spaces per 1000 square feet of pool surface area (not including wading pools or whirlpool baths) plus 5 spaces per 1000 square feet of floor area devoted to accessory uses
Tennis Courts	2 spaces per court, 1 space per employee, plus additional parking for accessory uses as required by this Zoning Code
Skating Rinks	5 spaces per each 1000 square feet of floor area
Theaters (indoor)	1 space per each 4 seats
<b>Industrial:</b>	
Light Industrial	1 space per each 1000 square feet of floor area
Research and development facility	3 spaces per 1000 square feet of floor area up to 50,000 square feet
Self-storage facility	4 spaces per 1000 square feet of floor area devoted to office space, 1 space per employee, 2 spaces per each resident manager, plus 1 space per each 50 storage units
Warehouse	1 space per each 2000 square feet of floor area

7.6 OFF-STREET LOADING -- Every building which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, shall be required to have off-street loading zones in accordance with requirements of this Zoning Code

A. Location of Off-Street Loading Facilities -- All required off-street loading facilities which serve a building, structure, or use of land erected, established, altered, enlarged or intensified after the effective date of this Zoning Code shall be located on the same lot as the building, structure or use of land to be served, unless established in accordance with the following provisions:

(1) Central Loading Facilities -- Central loading facilities, which serve more than one lot, may be established in accordance with the following requirements:

(a) Each lot to be served shall have direct access to the central loading facility without crossing streets or alleys.

- (b) The total number of off-street loading zones provided is not less than the sum of the separate requirements for each use as specified below, in the Schedule of Off-Street Loading Requirements, Section 7.7 of this Zoning Code.
  - (c) Each lot to be served shall be no more than three hundred (300) feet from the central loading facility.
- (2) Control of Central Loading Facilities -- Whenever the required off-street loading is collectively provided in central loading areas, written covenants and easements running with the land assuring the retention, maintenance, and use of said central loading facility shall be executed by the parties concerned. Such covenants and easements shall be reviewed by the Village Clerk and Village Attorney, approved as to content and form by the Village Board, and filed in the Office of the Recorder of Deeds of McHenry County, Illinois.
- B. Yard Requirements -- Required loading areas shall not be located in a required minimum yard.
- C. Floor Area -- For the purpose of determining off-street loading requirements, floor area shall be calculated as described in Section 7.3 E
- D. Computation:
  - (1) The total number of off-street loading spaces required for any building, structure or use shall be based upon standards set forth in Section 7.7, Schedule of Off-Street Loading Requirements.
  - (2) If, in determining the number of off-street loading zones required, the computation results in a requirement of a fractional zone, any fraction of less than one-half ( $\frac{1}{2}$ ) may be disregarded, while a fraction of one-half ( $\frac{1}{2}$ ) or more shall be counted as one (1) loading area.
  - (3) If a particular use is not listed in Section 7.7, Schedule of Off-Street Loading Requirements, the Zoning Official shall determine the loading requirements of the use by assigning the same loading facility requirements as another use which is deemed to be similar in nature to, and compatible with, said unlisted use.
- E. Design:
  - (1) Surfacing:
 

Loading areas shall be paved with concrete or asphalt and striped to clearly define these areas, and discourage automobile parking. Proposed striping shall be subject to approval by the Village Engineer.

- (2) Curbing -- All loading areas shall be improved with concrete curbing, as approved by the Village Engineer.
- (3) Screening:
  - (a) Landscape screening shall be provided for all unenclosed loading areas that are adjacent to a residential or institutional use, or are visible from a public right-of-way according to standards set forth in Section 5.9, General Provisions for All Non-Residential Uses.
  - (b) Landscaping shall be permanently maintained in good condition with at least the same quality of landscaping as initially installed.

F. Minimum Loading Facilities:

- (1) Buildings, structures, or parcels of land which require off-street loading facilities, but which have less area than the minimum prescribed for such required facilities, shall be provided with not less than one (1) 9' x 20' loading area to accommodate delivery and other service vehicles. This loading zone shall be exclusive of required parking spaces or drive aisles, and shall be signed and striped to discourage automobile parking.

7.7 SCHEDULE OF OFF-STREET LOADING REQUIREMENTS -- Off-Street loading berths shall be provided on the basis of gross floor area in accordance with the following:

Use	Required Number and Gross Floor Area In Square Feet	Minimum Horizontal Dimensions of Berth
Multiple-family dwellings	30,000 to 200,000	1 (12' x 60')
	For each additional 200,000 or fraction thereof	1 additional (12' x 60')
Hospitals, sanitariums, nursing homes	10,000 to 100,000	1 (12' x 60')
	For each additional 100,000 or fraction thereof	1 additional (12' x 60')
Auditoriums, bowling alleys, and civic buildings	10,000 to 100,000	1 (12' x 60')
	For each additional 100,000 or fraction thereof	1 additional (12' x 60')
Hotels and motels	10,000 to 100,000	1 (12' x 60')
	For each additional 100,000 or fraction thereof	1 additional (12' x 60')
Hotels, clubs and lodges when containing any of the following: retail shops, convention halls, auditoriums, exhibition hall or business and professional offices	10,000 to 20,000	1 (12' x 60')
	20,000 to 150,000	2 (12' x 60')
	For each additional 150,000 or fraction thereof	1 additional (12' x 60')
Theaters (indoor)	8,000 to 25,000	1 (12' x 60')
	For each additional 50,000 or fraction thereof	1 additional (12' x 60')



<b>Use</b>	<b>Required Number and Gross Floor Area In Square Feet</b>	<b>Minimum Horizontal Dimensions of Berth</b>
Retail/wholesale stores and service uses	5,000 to 10,000	1 (12' x 60')
	10,000 to 25,000	2 (12' x 60')
	25,000 to 40,000	3 (12' x 60')
	40,000 to 100,000	4 (12' x 60')
	For each additional 150,000 or fraction thereof	1 additional (12' x 60')
Establishments dispensing food or beverages for consumption on the premises	5,000 to 10,000	1 (12' x 60')
	10,000 to 25,000	2 (12' x 60')
	25,000 to 40,000	3 (12' x 60')
	40,000 to 100,000	4 (12' x 60')
	For each additional 100,000 or fraction thereof	1 additional (12' x 60')
Banks and offices --- business, professional and governmental	10,000 to 100,000	1 (12' x 60')
	For each additional 100,000 or fraction thereof	1 additional (12' x 60')
Industrial uses	5,000 to 40,000	1 (12' x 60')
	40,000 to 100,000	2 (12' x 60')
	For each additional 100,000 or fraction thereof	1 (additional 12' x 60')

*pjh:PrarieGrove.Code\Chapter.021.Art7.May08.doc*

ARTICLE 8  
NON-CONFORMITIES

- 8.1 NON-CONFORMING LOTS OF RECORD -- Any lot of record, on the effective date of the enactment of this Zoning Code, which does not comply with the requirements of the district in which it is located as to lot area and lot width, may be used for the erection of a building intended for a use permitted in the district in which the lot is located provided, however, that such building complies with all setback and other applicable requirements of this Zoning Code.
- 8.2 NON-CONFORMING BUILDINGS OR STRUCTURES -- A lawfully existing, non-conforming building or structure which does not contain any non-conforming use, but does not comply with the applicable lot size requirements or building standard regulations in the district in which it is located, may be continued except as otherwise permitted by this Article. Non-conforming buildings and structures shall be subject to the following regulations:
- A. Repair or Alteration:
- (1) A non-conforming building or structure may be maintained, repaired or structurally altered. No such enlargement, maintenance, repair, or structural alteration shall create either an additional non-conformity or increase the degree of the existing non-conformity of all or any part of the building or structure. Damaged or destroyed buildings or structures shall be subject to the restrictions contained in Section 8.2-B.
  - (2) Nothing in this Zoning Code shall be deemed to prevent the strengthening or restoring to a safe condition of a building or other structure (other than a damaged or destroyed building or other structure subject to the provisions of Section 8.2-B) in accordance with the order of the Zoning Official who declares such building or other structure to be unsafe and orders its restoration to a safe condition.
- B. Damage or Destruction:
- (1) In the event that a non-conforming building or structure is damaged or destroyed to the extent that the cost of restoration shall exceed fifty (50) percent of the market value of such building or structure, no repairs or reconstruction shall be made unless such restoration or construction shall be made to conform to the regulations for the district in which it is located.
  - (2) If such damage or destruction does not exceed fifty (50) percent of the market value of the building or structure, repairs and restoration must begin within twelve (12) months from the date of the damage or destruction or such restoration shall conform to all the provisions of this Zoning Code and for the district in which it is located.
- 8.3 NON-CONFORMING USES -- When the applicable district regulations do not allow as a permitted use either an existing use of part or all of a building or other structure, or an

existing use of land not involving a building or structure, such existing use may be continued except as otherwise permitted by this Article.

A. Change:

- (1) A non-conforming use of a building or other structure, all or substantially all of which was designed or intended for a use which is not permitted in the district of which it is located, shall not be changed to any use other than one permitted in the district in which the land is located. When a non-conforming use has been changed to a permitted use, it shall not thereafter be changed back to a non-conforming use.
- (2) The non-conforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of land, shall not be changed to any other use, except to a use permitted in the district in which the land is located.
- (3) A non-conforming use in effect at the time an amendatory ordinance becomes effective shall be discontinued and not re-established, except when the provisions of the amendatory ordinance find the use to be conforming to the district in which it is located.

B. Discontinuance -- In the event that operation of a non-conforming use of land, building or structure is discontinued for twelve (12) months, such non-conforming use shall not thereafter be re-established, and any subsequent use or occupancy of such land shall conform to the regulations of the district of which it is located. Intent to resume active operation shall not affect the foregoing restriction.

C. Non-Conforming Accessory Uses -- No non-conforming accessory use shall continue after the principal use to which it is necessary has been abolished.

8.4 REGISTRATION OF NON-CONFORMING USES, BUILDINGS AND STRUCTURES:

A. The Zoning Official shall maintain a system of registration of all nonconforming uses, buildings and structures.

B. Such registration system shall include a provision for notifying owners:

- (1) That a particular use, lot size or standards governing a building, structure or parcel of land does not conform to the regulations of the zoning district in which the use, building or structure is located.
- (2) Of the status of a use, building or a structure as a non-conformity.
- (3) Of the specific regulations applicable to such non-conforming use, building or structure.

8.5 EXISTING SPECIAL USES EXEMPT -- Where a use exists on the date this Zoning Code became effective and is permitted by this Zoning Code as a special use in the district in which it is located, such use shall not be deemed a non-conforming use, but shall, without any further action, be deemed a lawful special use in such district. However, no such lawful special use shall be expanded unless a supplemental special use permit is secured pursuant to Article 9, Administration and Processing.

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ARTICLE 9  
ADMINISTRATION AND PROCESSING

- 9.1 Organization
- 9.2 Zoning Official
- 9.3 Reserved
- 9.4 Reserved
- 9.5 Village Board
- 9.6 Zoning Certificate
- 9.7 Reserved
- 9.8 Certificate of Continued Occupancy of Nonconforming Uses
- 9.9 Notice Requirements for Appeals, Variations, Amendments and Special Use Permits
- 9.10 Appeals
- 9.11 Variations
- 9.12 Amendments
- 9.13 Special Uses
- 9.14 Time Limitations
- 9.15 Fees
- 9.16 Enforcement and Penalties

9.1 ORGANIZATION: 729

A. Administration -- The administration of this Zoning Code is hereby vested in the following:

- (1) Zoning Official.
- (2) Planning and Zoning Commission or Hearing Officer, as applicable, see Section 8.03 (“Commission”).
- (3) Plan Review Committee.
- (4) Village Board.

B. Scope of this Article -- This Article outlines the authority of each of the administrative officers, elected officials and appointed commissioners identified above, and describes the procedures and substantive standards with respect to the following administrative functions:

- (1) Issuance of Zoning Certificates.
- (2) Appeals.
- (3) Variations.
- (4) Amendments.
- (5) Special Uses.
- (6) Planned Developments.
- (7) Fees.
- (8) Enforcement and Penalties.

9.2 ZONING OFFICIAL -- The Zoning Official, or such individual that has been, or shall be duly appointed by the Village Board, shall be in charge of the administration and enforcement of this Zoning Code, and shall perform, or see to the performance of the following duties:

- A. Issue all zoning certificates, and make and maintain records thereof.
- B. Issue all certificates of occupancy, and make and maintain records thereof.
- C. Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this Zoning Code.
- D. Maintain permanent and current records of this Zoning Code including, but not limited to, all maps, amendments, special uses, planned developments, variances, appeals, applications, and records of hearings.
- E. Receive, file and forward for action, all appeals and applications for appeals, variations, amendments, special uses, and planned developments.
- F. Provide clerical and technical assistance that may be required by the Commission in the exercise of its duties.
- G. Initiate, at least every other year, a study of the provisions of this Zoning Code and make reports of recommendations for change to the Commission.
- H. Inform the Village Board of all violations of this Zoning Code and all other matters requiring prosecution or legal action.
- I. Discharge such other duties as may be required by this Article.

9.3 Reserved

9.4 Reserved

9.5 VILLAGE BOARD -- The Village Board is the elected legislative authority of the Village and has reserved to itself the final authority on subdivisions, special uses, planned developments, amendments, and variations, to be exercised pursuant to its legislative discretion.

9.6 ZONING CERTIFICATE:

- A. No permit pertaining to the use of land or buildings shall be issued until the Zoning Official certifies in such permit that the application, with accompanying plans and specifications, conforms to:
  - (1) All regulations of the Zoning Code, as may be modified by exceptions granted by the Village Board.
  - (2) Conditions of approval which may have been required by the Village Board.
- B. When a permit is not required by the Village's Building Code for an improvement or use, but the use or improvement requires conformance with the regulations of

the Zoning Code, an application for a zoning certificate shall be filed with the Zoning Official.

- C. All applications for zoning certificates shall be accompanied by:
  - (1) Two copies of the current plat of the parcel of land, lot, lots, block or blocks, or parts or portions thereof which constitute the proposed zoning lot, drawn to scale showing the actual dimensions and monuments, as certified by a registered Illinois land surveyor, as a true copy of the piece, or parcel, lot, lots, block or blocks, or portions thereof, according to the registered or recorded plat of such land.
  - (2) Two copies of additional drawings, drawn to scale in such form as may be prescribed by the Zoning Official, showing the:
    - (a) Proposed zoning lot.
    - (b) Building footprint.
    - (c) Height of the building or structure.
    - (d) Building lines, in relation to lot lines.
    - (e) Proposed use for building, structure or land.
    - (f) Other information required to determine compliance with the Zoning Code including signage provisions.
- D. The Zoning Official may waive all or any portion of the requirements in paragraphs (1) and (2) above, where it is determined that the information is not necessary because of existing evidence in Village records.
- E. An application for a zoning certificate shall be issued only when the application shows conformance with the regulations of this Zoning Code, as may be modified by approvals or conditions granted by the Village Board.
- F. Any permit or certificate issued under the provisions of this Zoning Code may be revoked whenever there has been any false statement, misrepresentation or omission of a material fact in the application, plat, plans, drawings or other information on which the permit or approval was based.

9.7 Reserved

9.8 CERTIFICATE FOR CONTINUED OCCUPANCY OF NONCONFORMING USES:

- A. Certificates for the continued occupancy of nonconforming uses existing on the effective date hereof, or made nonconforming by this Zoning Code, shall state that the use is a nonconforming one, and does not conform with the provisions of this Zoning Code.
- B. The Zoning Official shall notify the owners of the property being used as a nonconforming use, and shall furnish said owner with a certificate of occupancy for such nonconforming use.

9.9 NOTICE REQUIREMENTS FOR APPEALS, VARIATIONS, AMENDMENTS AND SPECIAL USE PERMITS *Amended, Ord. 544, 466, 443*

- A. Publication of Notice -- No public hearing before Commission on any appeal, or request or petition for variation, amendment, planned development or special use shall be held unless the notice of time and place of the hearing is published at least once, in one or more newspapers with a general circulation within the Village.
- (1) The notice shall be prepared by the petitioner, and submitted to the Zoning Official not less than 30 days before the scheduled hearing.
  - (2) Once received, the Zoning Official shall cause said notice to be published not more than 30 nor less than 15 days before the hearing.
- B. Notice to Adjacent Owners:
- (1) Each petition or application for an appeal, variation, amendment, planned development or special use shall include a list of the Owners of all property adjacent to the property which is the subject of the petition, exclusive of right-of-ways, as disclosed by the records of the McHenry County Recorder of Deeds.
  - (2) The applicant or petitioner shall cause notice of the public hearing to be mailed to property owners at the addresses identified on the list, not less than 15 days before the hearing. The mailing shall be by certified mail, return receipt requested. Return receipts shall be submitted to the Zoning Official no later than the date of the public hearing.
- C. Content of Notice -- The notice of public hearing shall include at least the following information:
- (1) A brief statement of the nature of the request.
  - (2) Existing zoning classification.
  - (3) Proposed zoning, if applicable.
  - (4) Requested exceptions from applicable regulations of the Zoning Code, if applicable.
  - (5) The name and address of the legal and beneficial owner of the property for which the variation is requested.
  - (6) A common street address or addresses and location of all the parcels of real property contained in the affected area and the property index number ("PIN") or numbers for which the appeal, variation, amendment, planned development or special use is requested.



- D. Continuation of Public Hearings -- The Commission shall hold at least one public hearing on the proposed variation, amendment, planned development, or special use. However, public hearings may be continued by the Commission, from time to time, without further notices being published.

#### 9.10 APPEALS:

- A. Authority -- The Commission shall hear and decide upon all appeals from administrative decisions or actions related to this Zoning Code, pursuant to procedures set forth herein.

- B. Initiation:

- (1) An appeal from a final order, requirement, decision or determination to issue, not to issue, revoke, rescind or extend a permit or certificate requiring compliance with the provisions of this Zoning Code may be taken to the Commission by any person aggrieved, or by any officer or department of the Village.
- (2) Such an appeal shall be taken within 45 days after the decision complained of, by filing with the Zoning Official, and with the Commission, a written notice of appeal specifying the grounds thereof.
- (3) The Zoning Official shall transmit to the Commission all papers related to the decision which led to the appeal.

- C. Notice of Appeal:

- (1) The Notice of Appeal shall, at a minimum, contain the following information:
  - (a) Name, address and phone number of the individual filing the appeal.
  - (b) Location of the property involved in the decision which has occasioned the complaint.
  - (c) Identification of the section or provision of the Zoning Code that is in dispute.
  - (d) Written decision of the Zoning Official, or the reason given by said officer, in support of the decision from which the appeal is taken.
  - (e) Description of the proposed use of the property, including a plat, survey or site plan.
  - (f) Brief narrative argument and summary of the factual evidence upon which the appeal is based.

- (2) An appeal shall stay all proceedings related to the action on which the appeal is based, including, but not limited to, plan review, processing of permits, or construction, unless it is demonstrated to the Zoning Official or the Commission that a stay would cause imminent peril to life and/or property.

D. Hearing:

- (1) The Zoning Official shall transmit the application of the appeal to the Commission, who shall hold a public hearing at such time and place as shall be established by the Commission, after due notice is provided.
- (2) The hearing shall be conducted, and a record of such proceedings shall be preserved, in such a manner as the Commission shall prescribe.
- (3) Notice requirements for public hearings on appeals are set forth in Section 9.9 herein.

E. Decision -- The Commission shall reach its decision within a reasonable period of time after the conclusion of the hearing of the appeal:

- (1) The Commission may affirm or may reverse, wholly or in part, or may modify the order, requirement, decision, or determination as, in its opinion, ought to be made in the matter.
- (2) Records of all actions of the Commission, relative to appeals, shall be maintained by the Village.
- (3) The decision of the Commission shall be a final administrative decision, based on the evidence presented at the hearing of the appeal. A concurring vote of four shall be required for reversal of or modification of the order, requirement, decision or determination of the Zoning Official.

9.11 VARIATIONS: *Amended, Ord. 569*

- A. Authority -- The Village Board shall decide variations from the provisions of this Zoning Code that are in harmony with its general purpose and intent, and shall vary them only in the specific instances where the Commission has made a finding of fact based on the standards hereinafter prescribed reflecting practical difficulties or particular hardships in carrying out the strict letter of any regulation of this Zoning Code.
- B. Initiation -- An application for a variation may be made by any individual, office, department, board, bureau or commission requesting or intending to request application for a building permit, zoning certificate, or occupancy certificate.
- C. Processing -- An application for a variation shall be filed with the Zoning Official, who shall forward such application to the Commission for processing in accord-

ance with applicable statutes of the State of Illinois and provisions of this Zoning Code. The application shall be accompanied by:

- (1) The name, address and phone number of the applicant.
- (2) The legal description, common address and permanent index number of the property to be benefitted by the variation.
- (3) Identification of the provisions of this Zoning Code, from which the variation is sought.
- (4) A description of the proposed variation and whether it is a variation as to the use, construction or alterations of buildings or structures or the use of land, a dimensioned site plan or plat shall be provided unless specifically waived by the Zoning Official. The Commission may, however, overrule such waiver and require the submission of a dimensioned site plan before making their findings and recommendations.
- (5) A dimensioned site plan or plat, unless specifically waived by the Zoning Official.
- (6) A brief summary of the factual evidence upon which the applicant will rely to show that the standards for variation will be met.

D. Hearing:

- (1) The Zoning Official shall transmit the application to the Commission, who shall hold a public hearing at such time and place as shall be established by the Commission , after due notice is provided.
- (2) The hearing shall be conducted, and a record of such proceedings shall be preserved, in such a manner as the Commission shall prescribe.
- (3) Notice requirements for public hearings on variations are set forth in Section 9.9 herein.

E. The Commission shall not recommend, and the Village Board shall not vary, the provisions of this Zoning Code, unless it shall find that the:

- (1) The particular surroundings, shape or topographical conditions of the specific property; or restrictions of the use of land involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations was carried out.
- (2) The conditions upon which the petition for a variation are based are unique to the property for which the variation is sought and are not applicable, generally to the other property with the same zoning classification.

- (3) The Property cannot yield a reasonable return if permitted to be used under the conditions allowed by the regulations in the existing ordinance for the pertinent zoning district.
- (4) The alleged difficulty or hardship is caused by the application of this Zoning Code and has not been created by any person presently having an interest in the property.
- (5) The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.
- (6) The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion in the public streets or increase the danger of fire, or endanger the public safety or substantially diminish or impair property values with the adjacent neighborhood.
- (7) That the variation is the minimum variation necessary to make possible the reasonable use of the land, building or structure.

F. Decisions:

- (1) Within 45 days after the close of the hearing on a proposed variation, the Commission shall prepare a written statement of findings of fact and recommendations, and shall submit this statement to the Village Board. The findings of fact shall specify the reason or reasons for recommending approval, approval with conditions, or denial of the proposed variation.
- (2) The Commission is not required to recommend for approval the full variation requested. The Commission may recommend, and the Village Board may approve, a variation of less extent than that contained in the request.
- (3) The Commission may recommend, and the Village Board may require, such conditions and restrictions upon the premises benefitted by a variation as may be necessary in their opinion to comply with the standards set forth in this section, to reduce or minimize injurious effect of such variation upon other property in the neighborhood and/or to implement the general purpose and intent of this Zoning Code.
- (4) A concurring vote of a majority of those members present at the meeting, with a minimum of four concurring votes, shall be required to recommend granting an application for variation.
- (5) The decision of the Village Board shall be final, and subject to judicial review only in accordance with applicable State statutes.

- (6) No variation shall be granted, except by ordinance duly passed and approved by the President and Village Board, after public hearing and written findings of fact and recommendation from the Commission. The terms of relief granted shall be specifically set forth in the ordinance.

9.12 AMENDMENTS:

A. Purpose:

- (1) Amendments to the text or map of the Zoning Code may be granted to:

- (a) Promote the public health, safety, morals, comfort, and general welfare of the Village.
- (b) Conserve the value of property throughout the Village.
- (c) Lessen or avoid congestion in the public streets and highways.

- (2) Amendments shall be classified as follows:

- (a) Text amendments, which are amendments to the text of this Zoning Code.
- (b) Map amendments, which are amendments to the Zoning Map, adopted pursuant to this Zoning Code.

B. Authority -- The Village Board may, after receiving a recommendation from the Commission in the manner hereinafter set forth, approve, approve with conditions, or deny a text or a map amendment, pursuant to the procedures set forth herein.

C. Initiation -- Amendments may be proposed by the Village Board, Commission or any property owner or interested person or organization.

D. Processing -- A petition or application for an amendment shall be filed with the Zoning Official, and shall include at least the following information:

- (1) Text Amendments:

- (a) Name, address and telephone number of the petitioner or applicant.
- (b) The proposed text amendment.
- (c) A statement of how the proposed amendment relates to the Comprehensive Land Use Plan, as may be amended from time to time, or otherwise promotes the public health, safety and general welfare of the Village.

- (2) Map Amendments:

- (a) Name, address and telephone number of the petitioner or applicant.
- (b) The proposed map amendment, including:
  - (i) Legal description of the property to be affected.
  - (ii) Common address and permanent index number.
  - (iii) Identification of existing zoning.
  - (iv) Identification of proposed zoning.
  - (v) Existing use of the property.
  - (vi) Proposed use of the property.
  - (vii) Location map showing property lines, streets, and such other items as the Zoning Official may require.
  - (viii) A written statement of how the proposed amendment:
    - Relates to the Comprehensive Land Use Plan.
    - Promotes the public health, safety and general welfare.
    - Fulfills the standards set forth in item Section 9.12-F herein.

E. Hearing:

- (1) The Zoning Official shall transmit the application to the Commission, who shall hold a public hearing at such time and place as shall be established by the Commission , after due notice is provided.
- (2) The hearing shall be conducted, and a record of such proceedings shall be preserved, in such a manner as the Commission shall prescribe.
- (3) Notice requirements for public hearings on amendments are set forth in Section 9.9 herein.

F. Standards -- The Commission shall not recommend, nor the Village Board grant, an amendment to alter the zoning district boundary lines, unless it shall determine, based upon the evidence presented to the Commission , that:

- (1) The amendment promotes the public health, safety, comfort, convenience and general welfare of the Village, and complies with the policies and Comprehensive Land Use Plan and other official plans of the Village.

- (2) The amendment is consistent with the existing uses and zoning of nearby property.
- (3) The extent to which property values are diminished by the particular zoning restrictions of the existing zoning classification.
- (4) The requested zoning classification permits uses which are more suitable than the uses permitted under the existing zoning classification.
- (5) The relative gain to the public compared to the hardship imposed upon the individual property owner.
- (6) The length of time the property has been vacant as zoned considered in the context of land development in the vicinity.
- (7) The community's need for the propose use.
- (8) The amendment, if granted, will not alter the essential character of the neighborhood, and will not be a substantial detriment to adjacent property.

G. Decision:

- (1) Within 45 days after the close of the hearing on a proposed amendment, the Commission shall prepare a written statement of findings of fact and recommendations and submit this statement to the Village Board. The findings of fact shall specify the reason or reasons for recommending approval, approval with conditions, or denial of the proposed text or map amendment.
- (2) The Village Board may, by ordinance, grant, or grant with modification, a text or map amendment. If an application is not acted upon by the Village Board within three months of the date upon which the findings of fact have been filed by the Commission, it shall be deemed to have been denied.
- (3) The Commission may recommend, and the Village Board may approve, conditions and restrictions upon the premises benefitted by an amendment as may be necessary to comply with the standards set forth in Section 9.12 F herein. Changes in restrictions or conditions shall be processed in the manner established by this Article for amendments.
- (4) A concurring vote of a majority of those members of the Commission present at the meeting, with a minimum of four concurring votes, shall be required to recommend granting an application for an amendment.
- (5) In those instances where the Village Board does not concur with a recommendation of the Commission to deny a map or text amendment, the fa-

avorable vote of two-third (2/3) of the members of the Village Board shall be necessary to approve an ordinance granting the amendment.

- (6) No amendment shall be granted except by ordinance duly passed and adopted by the Village Board, after public hearing and written recommendation from the Commission.

H. Written Protest:

- (1) A map or text amendment shall not be passed except by a favorable vote of two-thirds (2/3) of the members of the Village Board in the case of a written protest against any proposed text amendment or map amendment when said protest is signed and acknowledged by the owners of 20 percent of the:
  - (a) Frontage proposed to be altered.
  - (b) Frontage immediately adjoining or across an alley from the property.
  - (c) Frontage directly opposite the frontage proposed to be altered.
- (2) The written protest shall be served by the protester or protesters on the applicant for the proposed amendment, and a copy served on the Village attorney, and the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application or petition for the proposed amendment.

9.13 SPECIAL USES:

A. Purpose:

- (1) The development and execution of this Zoning Code is based upon the division of the Village into districts, within any one of which the use of land and buildings, and the standards for height and location of buildings or structures, as related to the land, are essentially uniform.
- (2) It is recognized, however, that there are special uses which, because of their unique character, cannot be properly classified in any particular district or districts without consideration, in each case, of the potential impact of those uses upon neighboring lands and upon the public need for the particular use or particular location.
- (3) Such special uses fall into two categories:
  - (a) Uses operated by a public agency or publicly-regulated utilities, which are uses traditionally associated with a public interest, such as parks, recreation areas, public administrative buildings, or the private use of existing public buildings.



- (i) It is stressed that public uses are associated with the public interest.
    - (ii) In the case of a request for a special use by a unit of local government, for a public use within its statutory mandate, the review shall not be based on determining the need for the publicly mandated use on the specific site but, rather for assessing the impact of the proposed public use upon neighboring lands, and upon the Village's streets or utilities.
  - (b) Uses entirely private in character, but of such a nature that the operation may give rise to unique problems or benefits with respect to their impact upon neighboring property, public facilities, the Village as a whole, or the natural environment or resources.
- B. Authority -- The Village Board may, after receiving a recommendation from the Commission in the manner hereinafter set forth, approve, approve with conditions, or deny a special use, pursuant to the procedures set forth herein.
- C. Initiation -- A special use request may be made by any person, or by an office, department, board, bureau or commission requesting or intending to request a building permit, or occupancy certificate.
- D. Processing -- A petition or application for a special use shall be filed with the Zoning Official, and shall include at least the following information:
  - (1) Name, address and telephone number of the applicant.
  - (2) Legal description of the property for which the special use is requested.
  - (3) Description of the existing use of the affected property.
  - (4) The present zoning classification for the affected property.
  - (5) Description of the proposed special use.
  - (6) A dimensioned site plan or plat, showing the location of:
    - (a) All buildings.
    - (b) Parking areas.
    - (c) Traffic access and circulation.
    - (d) Open spaces and yards.
    - (e) Landscaping.
    - (f) Refuse and service areas.
    - (g) Utilities.
    - (h) Signs.

- (i) Other information as determined by the Commission as necessary for determining if the proposed special use meets the intent and requirements of the Zoning Code.
- (7) A written statement, that addresses the:
  - (a) Economic effects on adjoining properties.
  - (b) Effects of such elements as noise, glare, odor, fumes and vibration on adjoining properties.
  - (c) General compatibility with adjacent and other properties in the district.
  - (d) Effects of traffic generated by the proposed use.
  - (e) Relationship to the Comprehensive Land Use Plan.
  - (f) How the proposed special use fulfills requirements of Section 9.13-F herein.
- (8) The Village may require other materials as listed in Section 6.6-C(4) herein.

E. Hearing:

- (1) The Zoning Official shall transmit the application for a special use to the Commission , who shall hold a public hearing at such time and place as shall be established by the Commission , after due notice is provided.
- (2) The hearing shall be conducted, and a record of such proceedings shall be preserved, in such a manner as the Commission shall prescribe.
- (3) Notice requirements for public hearings on amendments are set forth in Section 9.9 herein.

F. Standards:

- (1) The Commission shall not recommend, nor the Village Board approve, a special use unless it shall find, based upon the evidence presented to the Commission in each specific case, that the special use:
  - (a) Will be harmonious with and in accordance with the general objectives of the Comprehensive Land Use Plan and/or this Zoning Code.
  - (b) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or in-

tended character of the general vicinity, and that such use will not alter the essential character of the same area.

- (c) Will not be hazardous or disturbing to existing or future neighborhood uses.
  - (d) Will be adequately served by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water, sewers and schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.
  - (e) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the Village.
  - (f) Will not involve uses, activities, processes, materials, equipment and/or conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
  - (g) Will have vehicular approaches to the property which shall be so designed as to not create an undue interference with traffic on surrounding public streets or highways.
  - (h) Will not increase the potential for flood damage to adjacent property, or require additional public expense for flood protection, rescue or relief.
  - (i) Will not result in the destruction, loss or damage of natural, scenic or historic features of major importance to the Village.
- (2) The special use shall, in all respects, conform to the applicable regulations of the district in which it is located, except as such regulations may be modified, in each instance, by the Village Board, pursuant to the recommendations of the Commission.

G. Decision:

- (1) Within 45 days after the close of the hearing on a proposed special use, the Commission shall prepare a written statement of findings of fact and recommendations and submit this statement to the Village Board.
- (2) The Village Board may, by ordinance, grant, or grant with modification, or deny a requested special use. If an application is not acted upon by the Village Board within six months of the date upon which such application is filed, it shall be deemed to have been denied.

- (3) The Commission may recommend, and the Village Board may approve, conditions and restrictions upon the premises benefitted by a special use as may be necessary in their opinion to:
  - (a) Comply with the standards set forth in Section 9.13 F herein.
  - (b) Reduce or minimize injurious effect of such special use on other property in the neighborhood.
  - (c) Implement the general purpose and intent of the Zoning Code.
- (4) No special use shall be granted, except by ordinance duly passed and adopted by the Village Board after public hearing and written recommendation from the Commission and considering the following:
  - (a) Without further public hearing, the Village Board may grant, deny or amend the recommendation for special use.
  - (b) Every special use granted by ordinance of the Village Board, shall be accompanied by findings of fact, and shall refer to any exhibits containing plans and specifications of the proposed special use, which shall remain a part of the permanent records of the Commission.
  - (c) The findings shall specify the reason or reasons for approving or denying the special use.
  - (d) Any terms of relief granted as part of a special use shall be specifically set forth in the findings and ordinance.
- (5) A concurring vote of a majority of those members of the Commission present at the meeting, with a minimum of four concurring votes, shall be required to recommend granting an application for a special use.
- (6) Changes in restrictions or conditions shall be processed in the manner established by this Article for special uses.

H. Written Protest:

- (1) A special use shall not be passed except by a favorable vote of two-thirds (2/3) of the members of the Village Board in the case of a written protest against any proposed special use when said protest is signed and acknowledged by the owners of 20 percent of the:
  - (a) Frontage proposed to be altered.
  - (b) Frontage immediately adjoining or across an alley from the property.

(c) Frontage directly opposite the frontage proposed to be altered.

- (2) The written protest shall be served by the protester or protesters on the applicant for the proposed special use, and a copy served on the applicant's attorney, if any, with a copy to the Village attorney by certified mail at the address of such applicant and attorney shown in the application or petition for the proposed special use.

#### 9.14 TIME LIMITATIONS:

- A. Variations or Special Uses -- An approval pursuant of the provisions of this Zoning Code of a variation, special use, or special use for a planned development shall become null and void should a building permit to begin construction not be applied for within 18 months of the approval of the ordinance, or the recording of a final plat for a planned development, unless this time limit is expressly extended, by the Village Board.
- B. Map Amendments:
- (1) Where a map amendment has been granted, and no building permit for development has been applied for within 18 months, the Commission may initiate a public hearing, after due notice according to Section 9.9 herein, has been given, and written notice sent to the applicant at the address contained in the application.
- (2) Within 45 days of the close of the hearing, the Commission shall prepare and submit findings of fact and recommendations to the Village Board that such map amendment shall be permanently affirmed or repealed, or that the property subject to said map amendment be reclassified by another map amendment to a more appropriate district classification.
- C. Petitions That Have Been Denied by the Village: No map amendment, special use request, planned development or plat of subdivision that has gone through the public hearing process and been denied by the Village Board may be re-submitted for review and approval until a 12-month period has passed from the date of the Village Board's denial.

#### 9.15 FEES:

- A. The Village Board shall establish a schedule of fees, charges and expenses for zoning certificates, occupancy certificates, appeals, application for variations, amendments, planned developments, special uses, or subdivision review, and other administrative matters pertaining to this Zoning Code.
- B. The approved schedule of fees shall be filed and posted in the office of the Zoning Official, and may be altered or amended by the Village Board, from time to time.
- C. All consulting fees incurred by the Village, including but not limited to, engineering, planning and legal fees in consideration of the petition, for variations,

amendments, special use permits and site plan review, pursuant to the terms of this Zoning Code, shall be paid by the petitioner or applicant.

- D. No action shall be taken on any appeal, or application for variation, amendment, or special use until all applicable fees, charges and expenses have been paid in full.

#### 9.16 ENFORCEMENT AND PENALTIES:

- A. Any person, persons, firm or corporation or anyone acting in their behalf, who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this Article shall be guilty of an offense punishable by a fine not less than \$25, nor more than \$500 for each offense. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this Zoning Code.
- B. A separate offense shall be deemed committed for each day a violation is permitted to exist after notification thereof.
- C. In the event that any building or structure is erected, constructed, altered, repaired, converted or maintained, or any building, structure, or land is used in violation of this Zoning Code, the Village Attorney, in addition to other remedies, may institute any proper action or proceedings in the name of the Village to:
  - (1) Prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use.
  - (2) Restrain, correct or abate such violation.
  - (3) Prevent the occupancy of said building, structure, or land.
  - (4) Prevent any illegal act, conduct, business or use in, or about, said premises.

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ARTICLE 10  
PERFORMANCE STANDARDS

10.1 NOISE:

- A. At no point on or beyond the boundary of any zoning lot shall the sound level resulting from any use or activity not hereafter specifically exempted, whether open or enclosed, exceed the maximum permitted decibel levels for the designated octave band as set forth by this Zoning Code.
- B. Sound levels shall be measured with a sound level meter and associated octave band analyzer manufactured according to standards prescribed by the American Standards Association. The flat network "slow" meter response of the sound meter shall be used. Impulsive type noises shall be measured with an Impact Noise Analyzer, and the peak values so measure shall not exceed the maximum permitted sound pressure levels by more than three (3) decibels. The reference level for the decibel is 0.0002 microbar.

Octave Band Center Frequency (Hertz)	Maximum Permitted Sound Level Pressure in Decibels
31.5	72
63	71
125	65
250	57
500	51
1000	45
2000	39
4000	34
8000	32

- C. The following uses and activities shall be exempt from the noise level regulations:
  - (1) Noises not directly under the control of the property user.
  - (2) Between the hours of 7:00 A.M. and sunset, noises customarily resulting from construction and the maintenance of grounds.
  - (3) The noise of safety signals, warning devices, aircraft and railroads, snow plowing, and mosquito abatement.
  - (4) Church bells, chimes and carillons.

10.2 VIBRATION:

- A. No operation or activity under the control of the property user other than railroad train operations shall cause or create vibration in excess of the limits provided below.

- B. Vibration levels may not exceed those shown in either column of the following table when measured at the lot line, or at any point in a residential or institutional district:

	Maximum Particle Velocity at Lot Line	Maximum Particle Velocity in District
Steady Vibrations	0.015	0.003
Impulsive Vibrations	0.03	0.006
Intermittent Vibrations	0.075	0.015

- C. Vibration displacements shall be measured with an instrument capable or simultaneously measuring in three mutually perpendicular directions. Particle velocity is to be determined by the formula:  $(8.28) \times (F) \times (A)$ , where F equals the frequency or the vibration in cycles per second and A equals the maximum single amplitude displacement of the vibrations in inches. For purposes of this Zoning Code:

Steady Vibrations: Vibrations in discrete impulses more frequent than one-hundred (100) per minute.

Impulsive Vibrations: Vibrations in discrete impulses which do not exceed one-hundred per minute, but exceed eight (8) per twenty-four (24) hours.

Intermittent Vibrations: Vibrations in discrete impulses which do not exceed eight (8) per twenty-four (24) hour period.

- 10.3 ODOR -- The emission of odors or odor-causing substances which exceed the odor threshold at or beyond the lot lines is prohibited. The measurement of the odor threshold shall be in accordance with the American Society for Testing and Materials Method DI391-57 "Standard Method for Measurement of Odor in Atmosphere (Dilution Method)" (Philadelphia: American Society of Testing and Materials, 1957).
- 10.4 SMOKE AND PARTICULATE MATTER -- The emission, from all sources within an commercial or manufacturing zoning lot, of particulate matter containing more than five (1) percent by weight, or particles having a particle diameter larger than forty-four (44) microns is prohibited. The rate of emission of particulate matter from all sources within the boundaries of any lot shall not exceed a net figure of one-half (1/2) pound per acre of lot size during any one hour. Dust and other types of air pollution borne by the wind from such sources as storage areas, yards, and roads within the boundaries of any lot shall be kept to a minimum by appropriate landscaping, paving, oiling, wetting or other acceptable means. The emission of smoke or particulate matter of a density greater than NO. 1 on the Ringelmann Chart as published by the U.S. Bureau of Mines is prohibited, except that Ringelmann No. 2 or No. 3 will be permitted for five (5) minutes during any eight hour period, for the purpose of building fires or soot blowing.
- 10.5 TOXIC AND NOXIOUS MATTER -- No emission which would be demonstrably injurious to human health, animals or plant life common to the region, on the ground at or beyond any lot line will be permitted. Where such emission could be produced as a result



of accident or equipment malfunction, adequate safeguards considered standard for safe operation in the industry involved shall be taken. This shall not be construed to prohibit lawful spraying of pesticides on public or private property.

#### 10.6 FIRE AND EXPLOSIVE HAZARDS:

- A. The storage, utilization or manufacture of solid materials or products with the potential for free or active burning to intense burning (excluding household items in quantities customarily found in the home) shall be subject to approval of the local Fire Protection District.
- B. Activities involving the transportation, storage or utilization of materials or products which decompose by detonation are prohibited unless specifically licensed by the Village.
- C. The storage or utilization of flammable liquids or materials which produce flammable or explosive vapors shall be permitted in accordance with the following limitation, exclusive of storage in underground tanks and exclusive of storage of finished products in original sealed containers:
  - (1) Said materials or products shall be stored or utilized within completely enclosed buildings or structures having incombustible exterior walls and handled in accordance with the standards and regulations of the Village and the local Fire Protection District.
  - (2) All such buildings shall be set back at least forty (40) feet from all lot lines, or in lieu thereof; all such buildings shall be protected throughout by an automatic fire extinguishing system installed in accordance with the standards and regulations of the Village and the local Fire Protection District.

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**Chapter 22**  
**SUBDIVISION REGULATIONS**

22.01	Purpose and Jurisdiction
22.02	Definitions
22.03	Preliminary Subdivision/Planned Development Procedures
22.04	Final Plat of Subdivision Procedures
22.05	Fees
22.06	Subdivision/Planned Development Design Standards
22.07	Required Public Improvements for all Subdivisions/Planned Developments
22.08	Architectural Review Requirements
22.09	Stormwater Management
22.10	Construction Standards and Guarantees, Construction and Maintenance Inspections, Acceptance of Public Improvements and Maintenance
22.11	Cash and Land Donations for Park Sites
22.12	Educational Facilities Impact Fee
22.13	Municipal Impact Fee and Fire Impact Fee

A. **PURPOSE:** The purpose of this Chapter is to provide reasonable rules and regulations for the orderly development of land within the territorial jurisdiction of the Village in accordance with the Village Comprehensive Land Use Plan; to establish reasonable requirements governing the location, width, course and surfacing of public streets and highways, alleys, ways for public service facilities, curbs, gutters, sidewalks, street lights, landscaping, tree preservation, parks, playgrounds, schools, the size of lots to be used for residential, commercial, and industrial purposes, storm water drainage, water supply and distribution, wetlands, sanitary sewers and sewage collection and treatment, including the kind and quality of materials which shall be used in the construction of streets, alleys, and public service facilities required in the Village, and to provide regulations for the vacation of subdivisions, streets, alleys and easements.

The requirements set forth in this Chapter are deemed to be requirements for the protection of the health, welfare and safety of the residents of the Village.

B. **TERRITORIAL JURISDICTION:** In addition to the Village's home rule authority referenced in Chapter 1 of the Prairie Grove Municipal Code and pursuant to the authority vested in it under the provisions of the Illinois Municipal Code (65ILCS5/11.12-4 through 5/11.12-12), the Village has jurisdiction over all subdivisions within its corporate limits and all of the contiguous unincorporated area within one and one-half miles of its corporate limits, except:

1. If the unincorporated territory is within one and one-half miles of the Village and one or more other municipalities have adopted official plans, and the Village and such other municipalities have agreed upon a boundary agreement, a line which shall mark the boundaries of the jurisdiction of each of the municipalities who have adopted such a boundary agreement, the jurisdiction of the Village shall extend to such line.
2. In the absence of such an agreement, the jurisdiction of the Village shall extend to a median line equidistant from its boundary and the boundary of such other corporate authority nearest to the Village at any given point on the line.

The provisions contained herein shall be applicable to all subdivisions in the Village and as to all subdivisions within any unincorporated area lying within one and one-half miles of the corporate limits of the Village of Prairie Grove, this Chapter shall be applicable to all regulations contained herein to the extent permitted by law and the Statutes of the State of Illinois in effect from time to time. The provisions of this Chapter shall also apply to all planned developments whether residential, commercial, or otherwise in nature, and to any other developments whether a subdivision is required or not under the law, statutes, ordinances or regulations of the governmental body or agency having jurisdiction or control, and regardless of whether the same is labeled a subdivision or not, it being the intent of this Chapter to apply to all types of development, both within the Village of Prairie Grove and to areas lying within one and one-half miles of the corporate limits of the Village of Prairie Grove.

C. **REVIEWING AND APPROVAL JURISDICTION:** No land within the territorial jurisdiction of the Village shall be subdivided, re-subdivided or developed as a planned devel-

opment, and no subdivision heretofore platted shall be vacated unless the Board of Trustees shall first review and approve the preliminary and final plats of subdivision and/or planned development of such land, and the plat of vacation of such previously platted subdivision or planned development, including streets and easements therein.

D. PLANNING JURISDICTION:

1. Village Limits: All plats of subdivision, re-subdivision and planned developments of lands within the corporate limits of the Village shall conform to this Chapter.
2. Outside of Village Limits: All plats of subdivision, re-subdivision and planned developments of lands outside the corporate limits of the Village but within its territorial jurisdiction shall conform to this Chapter.
3. Waiver of Requirements: Waiving of the requirements of the provisions of this Chapter shall be within the discretion of and by resolution of the Board of Trustees. The applicant requesting the waiver shall submit in writing the basis for the request with supporting documentation including a plat of survey of the property to be divided, a legal description of the property, documentation of ownership and the basis for the requesting waiver of the requirements. The Board of Trustees may in its discretion refer the matter to the Plan Commission for further review or may grant the waiver. If no such waiver is obtained all the divisions of property shall comply with this Chapter and applicable procedures.
4. Division of Land: No land shall be divided in the Village or within its territorial jurisdiction unless it complies with the provisions of this Chapter.

E. STORMWATER MANAGEMENT ORDINANCE. The Village has enacted a Stormwater Management Ordinance as Chapter 25 of the Prairie Grove Municipal Code. In the event of a conflict between any provisions of this Chapter 22 and the Stormwater Management Ordinance, the Stormwater Management Ordinance shall control.

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## 22.02 DEFINITIONS

In addition to those terms defined in Appendix A in the Prairie Grove Municipal Code, the following words, terms and phrases used in this Chapter are defined as follows:

**A.D.T.** The average daily traffic, which is based on current traffic counts, projected for future development.

**Alley:** A dedicated public right-of-way affording a secondary means of access to abutting property and not intended for general traffic circulation. Frontage on an alley shall not be construed as satisfying the requirements related to frontage on a dedicated street.

**ARC:** The Village Architectural Review Commission.

**Block:** A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, bulkhead lines or shorelines of waterways, or boundary lines of the Village and/or surrounding municipalities.

**Building:** Any structure with a permanent roof separated on all sides from adjacent open space by exterior or party walls, erected partially or wholly above ground, built for the shelter or enclosure of persons, animals, chattels or movable property of any kind. The term includes, but is not limited to, gas or liquid storage tanks and prefabricated buildings and mobile homes permanently fixed on a site and connected to water and sanitary sewer, or a septic system and/or a private well. Prefabricated buildings and mobile homes must also meet the requirements of the Zoning Code and Building Code of this Code. The term “building” includes both the above ground and the below ground portions of the structure.

**Building line:** A line defining the buildable area of a lot, set back from its front lot line, or lines in the case of a corner lot. No building or structure shall be constructed between such building line and the front lot line(s) of such lot or in a required yard. (See the Zoning Code for permitted obstructions in front, side and rear yards).

**Development:** Any manmade change to improved or unimproved real estate, including, but not limited to, earth moving, excavating, filling, grading, and paving; mining, drilling or dredging operations; the construction of or substantial improvements made to, any building or other structure; and the placement of trailers or mobile homes on a site. In addition “development” shall include any activity, excavation or fill alteration, subdivision, change in land use, or practice including without limitation redevelopment, undertaken by public or private entities that affects the discharge of storm water.

**Driveway:** A pathway for motor vehicles from a street to a structure or use used for service purposes or for access to the structure or use only.

**Easement:** An authorization or grant by a property owner for the use of private property, or a strip or portion thereof, by the Village, other governmental entity, or any person or entity for a specific purpose or purposes; or the right to use such private property, or a strip or parcel thereof, for a public or private purpose or purposes, acquired through established usage by operation of law. (See the Building Code and Zoning Code for permitted structures in easements.)

**Final plat:** A map showing all of the requisite details set forth herein for a final plat of subdivision and, in the case of planned developments, all of the additional details set forth herein and in Zoning Code, in substantial conformity to the preliminary plat of a subdivision and which meets the statutory requirements for recording by the County Recorder of Deeds.

**Frontage:** All the property fronting on one side of a street between the two nearest intersecting streets, measured along the line of the street, or if on a dead end street, then all of the property abutting on one side between an intersecting street and the dead end of such street.

**Frontage road:** A road running parallel to the arterial road which functions as the egress/ingress point for land uses, thus limiting the points of access on the arterial road.

**Grade:** The average level of the finished surface of the ground adjacent to the exterior walls of a building or structure.

**Grading:** Reshaping natural land contours, using natural land materials such as soil, gravel, sand, black dirt, etc., for purpose of eliminating erosion or sedimentation problems, creating or improving surface drainage, providing for the natural aesthetic contouring of property, or to accommodate a building plan by making changes in land elevation.

**Illinois Bearing Ratio (IBR):** The relationship between load carrying capacity of the soil and that of a standard crushed stone base material.

**Improvement:** Any structure, grading, installation of water mains, sanitary sewers, lift station, drainage ditches, swales, culverts, storm sewers, and appurtenant structures, detention and retention ponds, street base, curbs and gutters, street surfacing, bridges, sidewalks, bike paths, crosswalks, trees, street lights and other additions or deletions from the natural state of any land which increase its utility or habitability.

**Land division (deed division):** The division of a parcel of land into two or more parts, lots, tracts or parcels, by the recording of a deed or subdivision plat, in accordance with the Plat Act (765 ILCS205/0.01 *et. seq.*)

**Lot:** A parcel of land occupied or intended to be occupied by one principal building and accessory buildings, including a designated portion of a subdivision or other parcel of land intended for transfer of ownership.

**Lot of record:** A lot, which is part of a subdivision, the plat of which has been recorded in the Office of the County Recorder.

**Lot, corner:** A lot situated at the intersection of 2 streets whose interior angle of intersection does not exceed 135 degrees.

**Lot, reversed corner:** A corner lot whose street side lot line is a continuation of the front lot line of the first lot to its rear.

**Lot, through:** A lot having a pair of opposite lot lines along two public streets, more or less parallel, but which is not a corner lot. On a through lot both street lines shall be deemed front lot lines.

**Lot, interior:** A lot other than a corner or reversed corner lot.

**Lot area, gross:** The area of a horizontal plane bounded by the lot's front, side and rear lot lines.

**Lot depth:** The mean horizontal distance between the front lot line and the rear lot line measured within the lot boundaries.

**Lot width:** The horizontal distance between the side lot lines measured within the lot boundary at the building line.

**Lot frontage:** The boundary of a lot that lies along a public or private street.

**Lot line:** A property boundary line of any lot. When a lot extends to an abutting street or alley, the lot line shall be the nearest right-of-way line of such street or alley.

**Lot line, front:** That part of a lot's boundary line which lies along a dedicated public street, or, where no public street exists, the line closest to and parallel with a dedicated public street or public way. On a corner lot, the lot line having the shortest length abutting a street right-of-way line shall be the front lot line.

**Lot line, rear:** That part of a lot's boundary, which is most distant from, and is, or is most nearly, parallel to the front lot line.

**Lot line, side:** Any boundary of a lot, which is not a front lot line or a rear lot line.

**Map:** A drawing illustrating the configuration of a subdivision of land.

**Offsite bike path and/or sidewalk:** Any bike path and/or sidewalk located outside the limits of a subdivision/planned development, which must be constructed to provide the necessary continuity between the existing bike path and/or sidewalk and the subdivision/planned development.

**Offsite bridge:** Any bridge located outside the limits of a subdivision/planned development, which must be constructed to provide the necessary access to the subdivision/planned development.

**Offsite force main:** Any force main located outside the limits of a subdivision/planned development, which must be constructed to provide the necessary sanitary sewer, service to the subdivision/planned development.

**Offsite lift station:** Any sanitary sewer lift station located outside the limits of a subdivision/planned development, which must be constructed to provide the necessary sanitary sewer, service to the subdivision/planned development.

**Offsite sanitary sewer:** Any sanitary sewer located outside the limits of a subdivision/planned development, which must be constructed to provide the necessary sanitary sewer, service to the subdivision/planned development.

**Offsite storm sewer:** Any storm sewer located outside the limits of a subdivision/planned devel-

opment, which must be constructed to provide the necessary storm sewer, service to the subdivision/planned development.

**Offsite stormwater storage:** Any storm water storage system, detention and/or retention facilities located outside the limits of a subdivision/planned development, which must be constructed to provide the necessary stormwater management to the subdivision/planned development.

**Offsite street:** Perimeter street or roadway abutting a subdivision/planned development, which has no direct private access (driveways) from the subdivision/planned development. Improvements may consist of, but not limited to the following activities: reconstruction, widening, turn lanes, overlay curb and gutter, drainage improvements related to the street improvement, street lighting, and pavement marking.

**Offsite traffic signals:** Any temporary or permanent traffic signal located outside the limits of a subdivision/planned development that must be constructed to accommodate the anticipated traffic generated by the construction of the subdivision/planned development.

**Offsite water main:** Any water main located outside the limits of a subdivision/planned development that must be constructed to provide the necessary water main service to the subdivision/planned development.

**Open space:** Any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for passive or active recreational use, including detention areas, retention areas and wetlands.

**Open space in condominium and other planned developments:**

**Common open space (common elements):** All portions of a planned development except the units and except limited common elements.

**Limited private open space (limited common elements):** A portion of a subdivision/planned development reserved for open space in the condominium declaration or homeowners' association covenants for the use of a particular unit or units to the exclusion of other units, including but not limited to balconies, terraces, patios and parking spaces or facilities.

**Owner:** The person who holds title in fee simple, the titleholder of record, the trustee of any trust, which holds title to land, and the beneficiaries of such trust, or any of them.

**Parcel:** Contiguous land under single ownership or control.

**Parkway:** A strip of land between the street and the front boundary line of a lot, including side boundary line of a corner lot and the rear boundary line of a through lot, parcel or tract of land.

**PIN:** Property identification number assigned by McHenry County.

**Planned development:** A planned development is a tract of land containing two or more principal buildings or which is more than two acres in size, which is developed as a unit under single ownership or control and which may not completely conform to all of the regulations of the zon-



ing district in which it is located. Any condominium project of any size, any townhouse project of any size, or any multi-family of any size, whether in one building or more than one building, shall be considered a planned development. Also, a parcel of land planned for development as a single lot or tract rather than as a group of individual lots, with greater flexibility than is possible under traditional zoning regulations.

**Planned development plan or plat:** A drawing or map made to a measurable scale upon which is presented a description and definition of the way in which the design requirements of the Planned Development are to be met and intended for recording with the County Recorder.

**Plat Act:** Chapter 765 of the Illinois Compiled Statutes Section 205/0.01 *et seq.*, as amended from time to time.

**Plat of subdivision:** A drawing showing the division of land into lots in conformance with the requirements of this Chapter and all other applicable requirements of law.

**Preliminary plat:** A map showing all requisite details set forth herein for a preliminary plat of subdivision, and, in the case of planned developments, all of the additional details set forth herein and the Zoning Code, to be submitted to the Board of Trustees for purposes of preliminary consideration and approval.

**Private open space:** An open space within a subdivision/planned development that is reserved for open space purposes by the owner under private ownership and management. Private open space may have some limitations on access and use.

**Private water supply:** Any facility not controlled by the Village, or other governmental entity, which furnishes water for general domestic purposes.

**Public improvements:** Street improvements, including pavements, curb, gutters, bridges, sidewalks, bike paths, street lights, street informational signs, traffic signals and parkway landscaping items including trees and grass; water mains, including fire hydrants valve vaults, water service lines, and appurtenant structures; sanitary sewer lines, including manholes, sewer service lines, lift station, valve vaults metering vaults air release vaults, force main, and appurtenant structures; storm sewers, including storm sewer lines, inlets, catch basins, manholes, head walls, end sections, and appurtenant structures; and control facilities including retention and/or detention areas, shore protection and appurtenant structures. Public improvements shall also include sewer and water utilities operated by private companies serving members of the public.

**Public open space:** An open space, regardless of how it is owned or controlled, which is permanently reserved for open space purposes for use by the public, or which is owned, operated and maintained by a local governmental entity with no limitations on access or use.

**Public right-of-way:** A strip of land dedicated to the Village or other governmental entity and occupied or intended to be occupied by a street and other public improvements and by electric, gas, telephone, cable television and other transmission lines and appurtenant facilities, or for any special public use, including every right-of-way shown on a final plat of subdivision or planned development plan or plat to be separate and distinct from the lots or parcels shown on such final plat. Rights-of-way intended for public use and involving maintenance by a governmental entity shall be designated as "Dedicated for Public Use" on the final plat of subdivision or final planned

development plan or plat. The width of a public right-of-way shall be measured as the shortest distance between the lot lines delineating the public right-of-way.

**Public utility:** An entity duly authorized to furnish and furnishing to the public under government regulations: gas, steam, electricity, telephone, telegraph, cable television, or other communication, as defined in the Illinois Compiled Statutes, as amended.

**Public walkway dedication:** A right-of-way dedicated for the purpose of providing pedestrian access, so located so as to connect two or more streets, or a street and public land parcel.

**Public way:** Any sidewalk, street, alley, highway, bike path or other public thoroughfare.

**Recording:** The filing of a document in the office of the County Recorder of Deeds.

**Section:** Whenever “Section” appears within a particular section number of this Subdivision Code, it means that particular section. For example, if “Section” appears within Section 22.01 of this Code, Section means Section 22.01. Whenever a number is included with the word “Section,” it shall mean that section number of the Subdivision Code.

**Setback:** The minimum horizontal distance between any line of a building or structure and any lot line.

**Sewage system:**

**Public sewage system:** A sanitary sewer system operated by the Village, or other governmental entity, subject to regulation by the IEPA.

**Private sewage system:** A privately owned sewage system which discharges the sewage from a building, subdivision, or planned development to a public sewage system, a watercourse, or on site, and which meets the minimum requirements of the public health department of the county in which such system is located.

**Structure:** Anything that is erected or constructed. The term “structure” includes, without limitation, buildings, tanks, drains, sewers, constructed channels, outfalls, parking lots, driveways, roads, sidewalks and concrete patios.

**Street (road):** A public way which affords the primary means of vehicular access to abutting property, whether designated as a street, avenue, highway, road, boulevard, lane, throughway or other designation, but excepting driveways to buildings. The width of a street shall be measured from face of curb to face of curb on streets improved with curbs and gutters and from edge of pavement to edge of pavement (not including shoulders) on streets without curbs and gutters.

**Street, arterial:** A street of substantial continuity, which serves or is, intended to serve a large volume of traffic for both the immediate area and the region in which it is located. An arterial street may be so designated on the Village’s Comprehensive Street Plan, or a regional plan under the jurisdiction of other governmental agencies. Tollways, freeways, expressways, state routes or county highways are examples of arterial streets.

**Street, collector:** A street used primarily to carry traffic from minor streets to arterial streets.

**Street, cul-de-sac:** A street of short length having only one outlet, and having a suitable terminus approved by the Village to provide for the safe and convenient reversal of traffic movements, including fire and emergency vehicles.

**Street, frontage road:** A street paralleling, adjacent to, and often within the right-of-way of an arterial street, which provides limited access to such arterial street from a collector or local street system.

**Street, industrial service:** A street used primarily for access to industrial sites within an industrial park or zoned industrial area.

**Street, local:** A street primarily providing access to adjacent land uses.

**Street, minor:** A street of limited continuity used primarily for access to abutting properties.

**Subdivider/developer:** A person who, or entity which, subdivides or re-subdivides land or develops land pursuant to a planned development plan

**Subdivision:** The partitioning or dividing of a parcel or tract of land which creates two or more parcels of land; all planned developments whether residential, commercial, or otherwise in nature; and to any other developments whether or not a partitioning or division is required under the applicable law, statutes, ordinances or regulations; and regardless of the label of such development. Provided, however, the conveyance of parcel(s) of real estate to the Village and the exchange of contiguous and adjoining real estate between adjoining property owners are not considered subdivisions and are exempt from the provisions of this Chapter. *Amended, 502*

**Tract:** A contiguous area of land.

**Water service, individual:** The water supply system of a building or premises consists of the water service pipe, the water distribution pipes, and the necessary connecting pipes, fittings, control valves and all appurtenances in or adjacent to such building or premises.

**Water supply system, public:** A water supply system that consists of drift formation, limestone formation and deep wells, surface sources and satellite sources for potable water to be conveyed by the Village water main system.

**Waterworks:** A waterworks in its entirety, or any integral part thereof, including hydrants, meters, valves, standpipes, storage tanks and all other elements useful in connection with a water supply or water distribution system.

**Well:** An underground source of water made accessible by drilling or digging to the level of the water table.

**Wetland:** A wetland is considered a subset of the definition of the Waters of the United States. Wetlands are land that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, under normal conditions, a prevalence of vegetation adapted for life in saturated soil conditions (known as hydrophytic vegetation). A wetland is identified based upon the three attributes: 1) hydrology, 2) soils and 3) vegetation as mandated by the current

federal wetland determination methodology. Amended, Ord. 397

*Pjh:PrarieGrove.Code\Chapter.022.Sect2.Oct10.doc*

A. **APPLICATION:** The applicant shall file with the Village a completed application form with all required submittals as set forth in this Chapter and on the application form, which may be amended from time to time by Village staff. The proposed preliminary subdivision plat with the number of copies as specified in the application form accompanied by the appropriate fees, shall be submitted at least 30 days prior to the regular meeting at which they are to be considered for referral to the Plan Commission.

When the applicant wishes to subdivide only a portion at a time of the property proposed for subdivision, the preliminary subdivision plat shall include the proposed general layout and all information required for the preliminary subdivision plat for the entire property ultimately to be subdivided. The part, which is proposed to be subdivided first, shall be designated as Unit 1, and subsequent phases designated sequentially on the preliminary subdivision plat in order to illustrate clearly the method and sequence of development that the applicant intends to follow. Each subsequent portion of the subdivision shall be self-contained and shall follow the preliminary subdivision plat.

B. **SCALE:** Preliminary subdivision plats shall be drawn at the following scales:

Parcels up to 20 acres ..... 1 inch = 50 feet  
 Parcels 20 to 100 acres..... 1 inch = 100 feet  
 Parcels over 100 acres:..... 1 inch = 200 feet

On a sheet at least 24 inches by 36 inches, and not larger than 30 inches by 36 inches, and shall include all of the data required herein except engineering plans, which may be shown on separate sheets. In the event that the indicated scale is not conducive to depicting accurately the size and shape of the parcel to be subdivided while still maintaining a workable size drawing, the applicant may request a waiver of the scale from the Village.

C. **REQUIRED INFORMATION:** The following plans, drawings and information shall be submitted with the preliminary subdivision plat. The plans and drawings shall be at the scale necessary to clearly indicate what is planned for the property that is the subject of the preliminary subdivision plat.

1. The proposed name of the subdivision/planned development.
2. The legal description of the land proposed to be subdivided/developed.
3. Location map showing section, township and range.
4. The names and addresses of the owner(s) of record of the land proposed to be subdivided (including all of the beneficiaries of any land trust which holds title to such land, together with a certified copy of the trust agreement and all amendments thereto), the subdivider and the designer who prepared the plat.
5. The date of the plat and any revision dates.

6. Name and address of the site planner, engineer, architect and landscape architect.
7. Site data, including:
  - a. The boundary lines of the land proposed to be subdivided, indicated by solid heavy lines, and the approximate total acreage encompassed thereby.
  - b. The location, widths and names of all existing or prior platted streets or other public ways, railroad and utility rights-of-way, parks and other public open spaces, public and private easements, permanent buildings or structures, section lines and Village boundary lines within, and within 200 feet adjacent to, the land proposed to be subdivided.
  - c. The boundary lines of adjacent tracts of subdivided or unsubdivided land, shown in relation to and within 200 feet of the parcel being proposed to be subdivided including those areas within 200 feet of the far right-of-way lines of adjoining streets and roads.
  - d. The existing zoning of the land proposed to be subdivided and adjacent tracts within 100 feet, including those areas within 200 feet of the far right-of-way line of adjoining streets and roads.
  - e. Contours at 1-foot intervals showing streams, rivers, lakes, ponds, swamps, wetlands, floodways, floodplains and other low-lying natural detention areas on the parcel proposed to be subdivided and within 200 feet of all of its boundaries. USGS Datum with benchmarks shall be indicated.
  - f. The location of all field tiles of record located on the parcel proposed to be subdivided and within 200 feet of all of its boundaries.
  - g. Tree survey indicating location, species and size of existing trees and the proposed tree preservation plan for the subdivision.
8. Title report.
9. Phase I Environmental Report.
10. Site plan data, including:
  - a. Total acreage, and acreage of each proposed lot, outlot and open space or recreation area.
  - b. Acres and percent of the development devoted to each land use.

- c. Percent of land devoted to streets and public rights-of-way.
- d. Percent of land covered by buildings and parking.
- e. Percent of the site devoted to usable open space.
- f. Minimum lot size.
- g. The layout and widths of proposed streets, walkways, bike paths and easements.
- h. The layout of lots with lot numbers and lot line dimensions to the nearest foot.
- i. A schedule of the floor areas for each building and lot areas for each lot and a typical lot diagram showing setbacks and easements, outlots, common areas and public use areas.
- j. Building setbacks, showing dimensions.
- k. Easements to be provided for any and all public utilities and drainage systems which will not be located within dedicated streets, to the extent that they reasonably can be expected to be described in the preliminary subdivision plat phase. Proper continuity for public utilities within the proposed development and with existing and future adjoining areas shall be maintained.
- l. The layout and labeling (i.e. Street A, Street B) of public streets, right-of-way widths and connections with adjoining existing platted streets and/or planned streets and roads.
- m. The identity of parcels of land, including their acreage, intended to be dedicated, preserved or otherwise set aside for public use and enjoyment or for the use of the owners of lots in the subdivision/planned development, including any natural environmental features or significant cultural features which will be retained on the site such as detention, retention/detention areas, park sites, school sites, bike paths, nature trails, wetlands, and other open space areas. All such parcels and areas shall be identified by lot or outlot number.
- n. Grading plan, which shall show both existing and proposed contours and elevations and shall identify all areas proposed for excavation and/or filling on the property.
- o. A list of the school districts and fire districts within which the project is located.

- p. Maximum lot coverage by buildings and other impervious surfaces, for all uses within the subject property.
  - q. Off-street parking and loading areas, including number and dimensions of parking spaces, drive aisles and loading zones.
  - r. Pedestrian and/or bicycle circulation systems, including connections to systems in adjacent parcels.
  - s. Proposed phasing of the development.
  - t. Location of trash bins and enclosures for all multiple family residential and non-residential uses, if any.
11. Landscape plan, which shall be superimposed on the grading plan, and shall include:
- a. Any proposed fences, walls, berms and entry monuments.
  - b. Contours for any landscaped berms.
  - c. One or more sections through the site to illustrate the relationship between the landscape materials, the land form, proposed buildings and nearby properties.
  - d. A depiction of all existing trees to be removed.
  - e. Location of all trees and shrubs, keyed into a plant list, which identifies species, sizes and quantities for proposed plantings.
  - f. The location of all landscape easements on the parcel.
12. Method of screening trash collection facilities and enclosures.
13. Location of proposed publicly dedicated walking trails.
14. Photometric plan, which shall be superimposed on the site plan, for all non-residential development, and shall:
- a. Identify the location and heights of all light standards.
  - b. Identify foot-candle intensities on the development and 10 feet beyond the proposed property lines.
  - c. Include specifications for proposed lighting, including wattage, method of illumination and color of light standards and luminaries.
15. Development schedule, which shall address:



- a. Approximate dates for initiating project construction.
  - b. Phasing and anticipated date of completion for public improvements for each phase.
  - c. The area and location of open space areas to be provided with each phase.
  - d. The mix of uses proposed for implementation within each phase of a mixed-use development.
16. Preliminary architectural drawings for all primary buildings that include:
- a. Typical elevations (front, rear and side) for proposed residential and non-residential buildings, which identify materials and color styling proposed for all exterior elements of the building.
  - b. Gross floor area for all non-residential buildings.
  - c. Minimum habitable floor areas for residential buildings, excluding garages, porches and patios.
  - d. Proposed building heights.
  - e. Roof plan for all non-residential structures, which shows the proposed location and top elevation of all roof-mounted mechanical equipment.
  - f. Cross-sections of all non-residential structures that show the relation to the roof structure and/or parapet wall to the proposed roof-mounted mechanical equipment.
17. A traffic management study shall be submitted that provides information on the adequacy of the local transportation and thoroughfare systems to handle the anticipated traffic volumes generated by the proposed development, including an analysis of the adequacy of the internal vehicular circulation.
18. Market Study Information required showing the need for and the feasibility of the proposed development, including the market potential of the proposed development.
19. Proposed covenants shall be submitted which include:
- a. Architectural controls for residential dwellings, including:
    - (1) Minimum floor area, excluding garages, porches and patios.

- (2) Maximum lot coverage.
  - (3) Minimum yards.
  - (4) Materials.
  - (5) Anti-monotony code.
  - (6) Landscaping for individual lots.
  - (7) Maintenance of common facilities.
- b. Tenant sign controls for all non-residential developments.
  - c. Provisions for dedication and maintenance of all open space and recreational areas.
20. Proposed utility plan shall be superimposed on the site plan showing:
- a. Approximate location and dimensions of all sanitary sewer, storm sewer and potable water lines.
  - b. Drainage ditches, culverts, water retention/detention areas and utility easements.
  - c. Statement from a certified engineer attesting to the capability of existing potable water and sanitary sewer systems to service the development.
21. A written statement that describes:
- a. How the development meets the objectives of the Village's Comprehensive Land Use Plan and, if a planned development, how the development meets the objectives of the purposes of a planned development.
  - b. How the development will be compatible with adjacent development or planned land uses.
  - c. How the development will economically benefit or otherwise affect the Village, including information regarding additional public facilities and/or services that will be needed as a result of the development.
  - d. A comprehensive list of all requested exceptions to applicable ordinances.
22. The applicant shall prepare an estimate of the land and/or cash contribu-

tion required herein for the development, and submit a summary of how the development will comply with said sections, including projected school population and estimates of the number of students by age group.

23. School Impact Study: Information on the projected student load and the financial impact on the local school districts shall be provided, including the projected time frame of such impact.
24. Tax impact study: The applicant shall submit a tax impact study detailing the estimated cost which the development will have on all taxing bodies, anticipated revenues which will be realized from each phase of the development and the projected cost/benefit to the Village and other government bodies providing services to the development.
25. A preliminary engineering report shall be submitted along with the preliminary subdivision plat to provide supplemental engineering data regarding factors that will affect the final design of the subdivision/planned development. Items to be addressed specifically in the preliminary engineering report are:
  - a. The identity, location, sizes and inverts of existing sanitary sewers to which the proposed subdivision will be connected.
  - b. The preliminary alignment and size of the proposed sanitary sewer system along with an appropriate schedule of calculations supporting the quantity of flow, sewer sizing and grades as well as the population equivalent (P.E.) for the subdivision in its developed state. ( $N = 0.013$  for all sanitary sewers). Inverts and frame grades need not be shown in the preliminary engineering report.
  - c. Whether a lift station is required, and if so, supporting documentation regarding its required size (gpm), pumping heads (TDH), force main size, general description of control system, description of alternate power source, and the location and accessibility of station.
  - d. Whether septic tanks and wells existing on the site are to be abandoned and, if so, the general procedures to be followed. If these facilities are to be used in total or in part, a description of their proposed use shall be provided.
  - e. The location, size and inverts of all existing storm sewers, bridges, culverts, drain tiles, drainage ways, ditches, creeks or rivers on the site, or within 200 feet of the site, into which the site discharges.
  - f. Stream bottom and 100-year flood profiles of all waterways, streams, channels, basins within or outside the site, which will influence the site drainage. Where limited information is available to prepare such profiles, existing information shall be utilized and in-

terpreted for use in developing the required profiles.

- g. A comprehensive stormwater management plan for the land to be subdivided, including the general alignments of the proposed storm sewer system (individual catch basins and inlets need not be shown), points of connection of existing storm systems, detention (or detention/retention), stage/storage relationship of the discharge structure to identify the varying release rates due to inlet and outlet control, offsite areas of contribution, points at which offsite flows will be intercepted, and all necessary maps, computations and field data supporting the engineer's stormwater management plan. The proposed stormwater management plan shall identify an overland flow route to accommodate flows in excess of the storm sewer design level.

Criteria used in the development of the stormwater management plan shall be in conformity with the McHenry County Stormwater Management Ordinance and the Village Stormwater Management Ordinance (Chapter 25 of the Prairie Grove Municipal Code) as applicable.

- h. The structural design (thickness and material types) to be used for the construction of the roadway system, projected traffic volumes, soils data and IBR values shall be submitted to support the roadway design including widths, crown, thickness, type of curb and gutter, road layout with preliminary grades, and can all be represented by a typical section which clearly identifies the streets to which it is applicable.
- i. The size and location of miscellaneous items such as parkway trees, street lighting, sidewalks, bike paths and driveway approaches shall be identified in the report and shown in typical cross section or typical plan view drawings.
- j. The location and size of water mains to be installed within the proposed subdivision, along with general hydrant and valve spacing. This information shall be shown on an overall plan view of the proposed preliminary subdivision plat.

26. Written approval from the fire district(s) having jurisdiction over the property.

27. IDOT approval where applicable.

**B. PRELIMINARY SUBDIVISION/PLANNED DEVELOPMENT PLAT REVIEW AND APPROVAL PROCEDURES.** The following procedures shall govern the processing of a preliminary subdivision/planned development plat.

- 1. The Village Engineer shall coordinate the review of the preliminary engi-

neering report for the proposed development prior to the Plan Commission reviewing the preliminary subdivision/planned development plat. During the review process, the Village Engineer may require such changes or revisions as may be required so that the engineering design for the public improvements for the subdivision will conform to this Subdivision Code and other applicable Village ordinances.

2. The Plan Commission shall review the proposed preliminary subdivision/planned development plat and shall recommend its approval, disapproval, or recommend modifications within the time specified by the Board of Trustees for the review of such plat, but in no event more than 90 days from the date of the application or the filing by the applicant of the last item of required supporting data, whichever is later, unless such time is extended by mutual consent.
3. The Board of Trustees will review the proposed preliminary subdivision/planned development plat and shall recommend that the petitioner proceed to the Board of Trustees or that the development requires changes to be made prior to its referral to the Board of Trustees.
4. During the review process the Plan Commission may require such changes or revisions as may be required so that the preliminary subdivision plat will conform to the Comprehensive Land Use Plan, the Subdivision Code, Zoning Code and other applicable Village ordinances.
5. The Village Engineer shall submit review comments to the Plan Commission and to the Board of Trustees as to the adequacy of the water system, when applicable, storm water management plan, sanitary sewer system, street system, sidewalks, bike paths, street lighting, parkway trees and other appurtenant public improvements described in the preliminary engineering report for the proposed subdivision. All staff review comments shall be submitted prior to the review of the preliminary subdivision plat by the Plan Commission.
6. The subdivider/developer shall comply with all Village architectural design review regulations, as well as any anti-monotony regulations adopted by the Village from time to time. All preliminary and final plats of subdivision or planned development for any development involving commercial or industrial uses shall be required to receive site plan and architectural design approval from ARC.
7. The President and Board of Trustees, upon receipt of recommendations from Village staff, ARC and the Plan Commission will then approve or disapprove the preliminary subdivision/planned development plat.

C. APPROVAL OF A PRELIMINARY SUBDIVISION AND PLANNED DEVELOPMENT PLAT; TIME LIMITS:

1. The approval of a preliminary subdivision plat by the Plan Commission

and the Board of Trustees indicates only the general acceptability of the layout of the proposed subdivision as submitted.

2. Approval of a preliminary subdivision/planned development plat shall be effective for a maximum period of 1 year from the date of adoption of the ordinance approving said plat. The Board of Trustees may grant a 1-year extension upon application for an extension by the applicant. If the final subdivision/planned development plat has not been approved within such time limit, or as the Village may extend it, the preliminary subdivision plat must be resubmitted for review and approval.

D. **COVENANTS FOR COMMON ELEMENTS:** In all developments that include detention ponds, retention basins, storm sewer, riparian area(s), wetland area(s), common area(s) and common elements, or any of them, it shall be a condition precedent to the approval of the final plat that there shall have been recorded covenants or a declaration establishing a homeowners, town home, condominium, or master association, as the case may be, subject to the approval of the Village Attorney and ARC, to provide for the maintenance, repair and replacement of common areas and common elements, detention ponds, retention basins, drainage swales and ditches, storm sewer, riparian areas and wetland areas, and guarantees including lien rights for the payment of costs for such. The approved covenants and restrictions shall be in compliance with the Village Stormwater Management Ordinance and shall be recorded against the development property at the time of recording of the final plat of subdivision or planned development at the expense of the subdivider/developer.

*Pjh:PrarieGrove.Code\Chapter.022.Sect3.July06.doc*

A. **APPLICATION.** After approval of the preliminary subdivision plat by the Board of Trustees and the fulfillment of the requirements of these regulations, the applicant shall submit its proposed final subdivision plat to the Village with all required submittals as set forth on said application form, which may be amended from time to time by Village staff, and accompanied by the appropriate fees. The application materials shall be submitted at least 30 days prior to the regular meeting at which they are to be considered by the Plan Commission.

1. The original copy of the final subdivision plat tracings drawn in ink on such media as accepted by the county in which the subdivision plat must be recorded, supplementary reproducible copies and blue line copies in the quantities specified in the application, and the final engineering plans shall be submitted to the Village within one year from the date of adoption of the ordinance approving the preliminary subdivision plat. The final subdivision plat shall be accompanied by a current title commitment showing ownership, liens and encumbrances and protective covenants which meet with the approval of the Village Attorney.
2. When the applicant wishes to develop only a portion at a time of the property proposed to be subdivided, the part which is proposed to be developed first shall be designated as Unit 1, and if the subdivision consists of more than 1 unit, each subsequent phase and all lots shall be designated sequentially with the unit number preceding the lot number, (i.e., Unit 1 may contain lots 1-101, 1-102 etc. Unit 2 may contain lots 2-400, 2-401 etc.) in order to illustrate clearly the method and sequence of development which the applicant intends to follow. Each subsequent portion of the subdivision shall be self-contained and shall follow the approved preliminary subdivision plat until the entire property shown on the preliminary subdivision plat is developed.

B. **REQUIRED INFORMATION:** The final subdivision plat shall include the following information:

1. The name of the subdivision/planned development.
2. The legal description of the land proposed to be subdivided.
3. The names and addresses of the owners of record of the land proposed to be subdivided (including all of the beneficiaries of any land trust which holds title to such land) together with a certified copy of the trust agreement and all amendments thereto, the subdivider and the designer who prepared the final subdivision plat.
4. The date of the final subdivision plat and any revision dates.
5. PIN at preliminary plat.

6. A scale of 1 inch to 50 feet, shown graphically and numerically on a sheet 24 inches by 36 inches and no larger than 30 inches by 36 inches. If the plat is computer generated, such plat shall be accompanied by a disc in DXF format containing the subdivision calculations for use in updating the Village's mapping system. Electronic version shall be in AutoCAD Release 14 format. In the event that the indicated scale is not conducive to depicting accurately the size and shape of the parcel to be developed while still maintaining a workable size drawing, the applicant may request a waiver of the scale from the Village Engineer.
7. The north point.
8. Point of beginning and point of commencement if it is utilized in the legal description.
9. The boundaries of the proposed subdivision/planned development based on an accurate transverse with angular and lineal dimensions.
10. The exact location, width and names of all streets within and adjoining the Subdivision. Street names shall be determined pursuant to this Code.
11. The distances to the nearest established street lines and official survey monuments which shall be accurately described in the plat. A minimum of 2 monuments will be required per development over 2 acres. The Public Works Department will determine the final number of monuments to be placed during engineering review of submitted plans. These monuments shall be concrete posts with iron rod core topped with an engraveable brass plate, which shall contain USGS datum including elevation, longitude and latitude, and state plane coordinates. The monument shall become part of the Village's benchmark system and number accordingly.
12. Township and section lines accurately tied to the lines of the subdivision by distances and angles.
13. The radii, internal angles, points of curvature, tangent lengths and bearings and lengths of all arcs.
14. All easements for public services, drainage and utilities that do not fall within dedicated rights-of-way.
15. All lot and boundary lines, with accurate dimensions in feet and hundredths.
16. Accurate outlines and legal descriptions, designated with lot or outlot numbers, of any areas to be donated or reserved for public use, with the purposes indicated thereon, and of any area to be reserved by deed for the common use of all lot owners within the subdivision.
17. Building setback lines accurately shown with dimensions.



18. Square footages labeled on each lot or as set forth on a table.
19. All certificates as required herein.
20. Approval of fire district having jurisdiction over the property.
21. IDOT approval, where applicable.
22. List of street address for final plat.
23. A copy of the approved Village Stormwater Management Permit or, where applicable, the McHenry County Stormwater Management Permit.

C. FINAL SUBDIVISION/PLANNED DEVELOPMENT PLAT REVIEW AND APPROVAL PROCEDURES:

1. The Village Engineer shall coordinate the review of the final engineering plans for the proposed development prior to the Plan Commission' review of the final subdivision plat. During the review process, the Village or its staff may require such changes or revisions as may be required so that the engineering design for the public improvements for the subdivision will conform to this Subdivision Code and other applicable ordinances of the Village.
2. The Plan Commission shall review the proposed final subdivision plat and shall recommend its approval, approval with modifications or disapproval within the time specified by the Board of Trustees for the review of such plat, but in no event more than 60 days from the date of the application which includes the filing by the applicant of the last item of required supporting data, whichever is later, unless such time is extended by mutual consent.
3. The Board of Trustees and staff will review the proposed final subdivision plat and recommend that the petitioner proceed to the Board of Trustees or that the development requires changes to be made prior to its referral to the Board of Trustees.
4. During the review process the Plan Commission, Village Engineer, or the Board of Trustees may require such changes or revisions as may be required so the final subdivision plat will conform to the Subdivision Code, Zoning Code and other applicable ordinances of the Village and substantially comply with the approved preliminary plat as approved by ordinance.
5. The Village Engineer and Superintendent of Public Works shall submit review comments followed by an approval letter once all engineering comments have been addressed to the Board of Trustees as to adequacy of the water system, storm water management plan, sanitary sewer system,

street system, sidewalks, bike paths, street lighting, parkway trees and other appurtenant public improvements described in the preliminary engineering report for the proposed subdivision prior to signature of the final plat.

6. The subdivider/developer shall comply with all Village ordinances relating to architectural design review, as well as the Village anti-monotony regulations. All preliminary and final plats of subdivision or planned development for any development involving commercial or industrial uses shall be required to receive site plan and architectural design approval from ARC of the Village.
7. The Board of Trustees, upon receipt of recommendations from the Village staff, ARC and the Plan Commission will then approve, disapprove or approve with modifications or conditions, the final subdivision plat.

D. CERTIFICATES AND EASEMENTS: The following certificates and easements shall be required on all final plats, if applicable.

1. The certifications of the owner and any mortgagee of record that they have adopted and approved the final subdivision plat including the dedication of all streets, easements and other public areas shown thereon, acknowledged before a notary public.
2. Approval of the final subdivision plat by the signature of the Village President. Such approval shall not be deemed to constitute or affect an acceptance by the Village of the dedication of any street or other proposed public way or space shown on the final subdivision plat.
3. Approval by the Plan Commission chairman that the Plan Commission has reviewed and approved the final plat of subdivision.
4. Certification by the Village Clerk that all special assessments, if any, currently due on the property to be subdivided have been paid in full.
5. The certification by a registered land surveyor to the effect that the final subdivision plat is based on an accurate survey made by him and that all monuments and markers shown thereon are in fact located as shown thereon, and that all dimensional and geodetic details are correct.
6. Certification by the County Clerk that all general real estate taxes have been paid in full.
7. Certification by the County Recorder of Deeds.
8. Certification by the Village (or, where applicable, McHenry County) that a stormwater management permit has been issued for the final plat.
9. Drainage easement provisions certificate.

10. Village utility easement provisions certificate.
11. Public utility easement provisions electric and communications certificate.
12. Public utility easement provisions Nicor Energy certificate.

E. PERFORMANCE AND PAYMENT GUARANTEE: Completion of the public improvements for the subdivision, and payment of the cost thereof in full, shall be guaranteed by a cash deposit with the Village Treasurer or a letter of credit after the final plat of subdivision has been approved by the Board of Trustees, but before it is released to be recorded. The letter of credit shall be in the amount of 150 percent of the estimated cost of public improvements as approved by the Board of Trustees.

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## **22.05 FEES**

An applicant for a subdivision plat or planned development plan approval shall pay to the Village fees sufficient to cover the costs reasonably anticipated to be incurred by the Village for the services of its planning, engineering and legal consultants and for the administrative expenses reasonably anticipated to be incurred by the Village in providing the expertise of its own. These fees shall also include payment for the review of final detailed engineering plans, specifications and cost estimates, and field observation fees of the construction and installation of the public improvements for these subdivisions and planned developments. Fees are to be paid as set forth in the Prairie Grove Municipal Code. The Village may withhold, suspend or revoke building permits and occupancy certificates in the event the subdivider/developer fails to promptly deposit and/or reimburse the Village for such fees.

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**22.06 SUBDIVISION AND PLANNED DEVELOPMENT DESIGN STANDARDS**

The plans for every subdivision and planned development within the territorial jurisdiction of the Village shall meet the following Village’s Planning Design Standards and Standards for Required Public Improvements:

1. **CONFORMITY WITH VILLAGE PLANS AND ORDINANCES:** The subdivision and planned development of land in the Village shall further the goals and objectives of the Village as stated in the Comprehensive Land Use Plan, other plans and policies of the Village, codes and ordinances, including, but not limited to, the Zoning Code and the Building Code.
2. **PLATTING:** All lots shall be designed in accordance with good planning practice.
  - A. **Arrangement:** Lots shall be laid out in an efficient and uniform manner to avoid the creation of odd shaped lots and unusable remnants of land.
  - B. **Lot Sizes:** The minimum residential lot areas shall be as follows:

<b>Zoning Classification</b>	<b>Minimum Lot Area</b>
Farming District (F)	10 acres
Estate District (E-5)	5 acres
Estate District (E-3)	3 acres
Estate District (E-1)	1 acre
Single Family District (R)	34,000 square feet
Single Family District (R-1)	21,780 square feet
Transitional District (T)	1 acre per single family detached dwelling unit; 7,920 square feet per town home dwelling unit
Industrial Transitional District (IT)	1 acre per single family detached dwelling unit;

Bulk regulations for each lot shall be pursuant to the Zoning Code. Corner lots shall be of sufficient size to provide for building lines on each street frontage not less than the depth of the required front yard and corner side yard required in the Zoning Code.

- C. Double frontage lots are not permitted except where lots back upon a collector and/or arterial street, and in such instances, vehicular access between the lots and the thoroughfare is prohibited. Such lots must have an additional depth of at least 20 feet in order to allow for the development of a landscaped berming treatment. Fences shall not be allowed within any landscape easement, and any fence shall be on the house/structure side of the berm.
- D. **Street and Block Layout:** All streets shall be arranged in accordance with the following standards:
  - (1) **Lot Frontage:** All lots shall abut on a publicly dedicated street.

- (2) **Side Lots:** Side lot lines of lots shall be approximately at right angles and extend in a straight line to the rear lot line or radial to street lines when it intersects a curve street and right-of-way.
  - (3) **Street and Block Layout:** Streets and blocks shall be laid out in a clear, logical manner. Forked streets, streets that double back on themselves, and streets that change direction shall be avoided. The street pattern and the building numbering system should enable emergency vehicles to reach a destination quickly and without undue confusion. Long blocks should be avoided and pedestrian walks are required to service all public and civic uses.
  - (4) **Measurement of Irregularly Shaped Lots:** The width of irregularly shaped lots shall be measured along a line drawn parallel to the front lot line at a distance from the front lot line determined by the required front yard setback. In the case of a curved front lot line, the lot width shall be measured as the length of the arc, which is parallel to the front lot line at the building setback. Said measurement at the building line on all irregularly shaped lots shall be on all final plats of subdivision.
  - (5) **Block Lengths:** The maximum length of blocks shall be 1,200 feet unless the Board of Trustees determine that a greater length is required to avoid or reduce a traffic hazard.
  - (6) **Lot Access:** Roadway access shall be provided to each residential unit.
- E. **Vehicular Circulation:** Streets within the proposed subdivision shall be arranged to provide efficient vehicular circulation. All street right-of-way shall be dedicated in fee simple title at the time of recording of the final plat of subdivision or planned development and as depicted on the final plat of subdivision or planned development approved by the Board of Trustees.
- (1) **Traffic Management Studies:** A traffic management study, prepared by a state licensed professional engineer, shall be submitted with each preliminary subdivision plat application. No plat shall be approved if its development will increase traffic to the extent that a lower level of service results unless the proposal includes measures to mitigate such increased traffic. The maximum amount of traffic that will be permitted in the Village shall be that which is served by level of service C as established by the Institute of Traffic Engineers. The study shall include, but not be limited to, the following:
    - (a) Identify anticipated volumes of traffic to be generated by each phase of the development.
    - (b) Identify required roadway improvements and/or traffic regulation devices needed to insure the proper safety of traffic to, through and around the development.

- (2) **Streets and Public Lands:** Wherever the Comprehensive Land Use Plan shows a street running through or along any boundary line of the land owned or controlled by the subdivider/developer, or any land planned for school, park or fire station sites therein, that information shall be shown on the preliminary plat and any conceptual land use plans for the subdivision or planned development of any part of that land. The precise layout of streets shall be considered in relation to existing and planned streets, topographical conditions, public convenience and safety, and in relation to the proposed use of the land to be served by such streets.
- (3) **Continuation of existing streets:** All existing streets, which terminate at the boundary of the proposed subdivision/planned development, shall be continued into the subdivision/planned development and be incorporated into the street pattern.
- (4) **Continuation of Streets:** If the Board of Trustees determine it is necessary for the public safety to continue a street located within the proposed subdivision/planned development to a street outside the subdivision/planned development, the Village may require the acquisition of right-of-way on land that lies on land not owned by the developer. In that instance the Village may take such action as may be required to acquire such off-site right-of-way, and the developer shall pay such acquisition costs, including legal and other condemned expenses, as well as the costs of the required off-site improvements as a condition of subdivision/planned development plat approval. If there is other benefited property, recapture of the off-site costs will be taken into consideration.
- (5) **Perimeter Streets:** When it is determined by the Board of Trustees that a street should be located along a boundary line of a proposed subdivision/planned development to connect with existing or proposed Village streets designated on the Comprehensive Land Use Plan, it shall be incumbent upon the developer either to dedicate the land for such street, obtain dedication of such land by the adjoining owner, or dedicate land for a half street in accordance with this Subdivision Code. If the developer proposes to dedicate a half street the developer must demonstrate to the Board of Trustees that the developer cannot dedicate sufficient right-of-way on its property to maintain the alignment with existing or proposed streets, and that it has exhausted all reasonable efforts to acquire the required right of way from the adjoining land owner. If such off-site right of way is within the Village, the Board of Trustees may require the developer to agree to pay the cost of acquiring such right-of-way by condemnation, including legal fees and other expenses, as a condition precedent to plat approval. If there is benefited adjoining property, then recapture will be considered.
- (6) **Completion of Minimum Right-of-Way Dedication:** When any subdivision/planned development, or any part of a subdivision/planned development is adjacent to only one side of an existing right-of-way whose width is less than the minimum width required under this Subdivision Code, the

developer shall dedicate such additional right-of-way as may be required to meet the minimum width requirements of this Subdivision Code.

- (7) **Visibility:** Clear visibility at intersections shall be achieved by keeping them clear of foliage or structures within the vision clearance triangle at each corner as determined by the Village\_Engineer. Except for traffic control devices, utility poles, fire hydrants and street signs, no structure or plant materials that will exceed 30 inches in height above the top of curb (or center line elevation of the street in the event there is no curb) when they mature shall be permitted within this area in order to provide adequate site distance.
- (8) **Alleys:** Alleys shall not be permitted.
- (9) **Intersection of Streets:** Streets shall be so laid out that they intersect as nearly as possible at right angles. The minimum allowable angle of intersection of 2 streets is 70 degrees. Whenever possible, the intersection of more than 2 streets shall be avoided. The first 100 feet into the intersection shall be limited to a maximum of a two percent grade.
- (10) **Spacing of Collectors:** Collectors carrying traffic in the same direction shall be spaced, whenever possible, at intervals not more than one-quarter mile apart.
- (11) **Cul-de-Sac Lengths:** The maximum length of a cul-de-sac shall be 600 feet as measured from the center of the intersection to the middle radius point of the cul-de-sac. No cul-de-sac shall serve more than 20 lots/dwelling units. The Board of Trustees may grant modifications. Cul-de-sacs shall be approved by the local fire district.
- (12) **Corner Clearance:** Entrances to commercial properties shall be located at least 75 feet to 100 feet from intersections to ensure adequate corner clearance and prevent cars from crossing queues of vehicles at such intersections.
- (13) **Pedestrian Circulation:** Where sidewalks and/or bike paths are required, they shall be constructed in accordance with specifications set forth by the Village and unless otherwise specified, shall be maintained by the property owner or property owner's association pursuant to appropriate covenants approved by the Village. Said covenants must provide for the enforcement of the maintenance and repair of such sidewalks and/or bike paths.
- (14) **Bicycle Circulation:** Bike paths may be required by the Village in a subdivision/planned development in accordance with the Village's Comprehensive Land Use Plan.
- (15) **Access Easements:** Access easements may be required at appropriate locations through the center of blocks longer than 600 feet to provide safe and



convenient pedestrian and bicycle access to schools, parks, or similar destinations when determined to be required for public safety by the Board of Trustees. Access easements shall be a minimum of 10 feet wide.

F. **Street Design Standards:** Every subdivision/planned development shall be provided with a system of public streets, which meets the engineering design standards of the Village.

(1) **Street Plans:** The location and design of the streets and roads, including their arrangement, character, extent and width, for any subdivision or planned development, shall conform to the Village's Comprehensive Land Use Plan in effect at the time of the filing of the application for approval of the preliminary plat or plan of such subdivision/planned development and shall be considered in relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed use of the land to be served by such streets. Collector streets shown on Comprehensive Land Use Plan shall be constructed during development according to layout in Comprehensive Land Use Plan. No collector streets shall have curb cuts, unless approved by Village (or Village Engineer).

(2) **Minimum Rights-of-Way Widths:** All rights-of-way for streets and sidewalks shall conform to the following minimum dimensions, unless included in existing SRA areas which will have a greater right of way requirement.

Arterial Streets	100 feet
Collector Streets	80 feet
Local Streets	66 feet
Cul-de-sac Streets	60 feet*
Public sidewalks	10 feet**
Bike Paths	15 feet
Minor Street	60 feet
Frontage Street	50 feet (60 if utilities are present)
Industrial Service Street	55 feet

\*With not less than a 60 foot radius on the bubble of such cul-de-sac. The approach radius to the cul-de-sac shall not be less than 20 feet.

\*\*Which are not located in a street right-of-way shall be not less than 10 feet in width.

(3) **Acceleration/Deceleration Lanes for Commercial Properties:** In front of areas zoned or designated for non-residential use, the street width and the roadway widths shall be increased on the side or sides on which the property for non-residential use is located by a merging lane at least 15 feet wide and adequate length to insure the free flow of traffic without interference by vehicles entering or leaving parking areas. This is not to be considered a part of the required parking area. Additional right-of-way shall be dedicated when acceleration and deceleration lanes are constructed, so

that the street complies with the street width standards. It is intended that where the abutting property on both sides of a street is developed for non-residential use, there shall be 2 such lanes in addition to the minimum required street width if deemed necessary by the Board of Trustees.

- (4) **Street Names:** The name of each street in the subdivision/planned development shall be submitted to the Village for review and approval on a copy of the proposed final subdivision plat or planned development plan at least 30 days prior to submittal of the final plat or plan, in order to give the Village Engineer an opportunity to confer with the police department and the fire protection district and to develop a street numbering system for the subdivision/planned development. No street name shall be used which duplicates or may be confused with the name of any existing street. Existing street names shall be used wherever possible. All street names shall be subject to Board of Trustees approval.

G. **Phased Construction:** When a subdivision/planned development is proposed to be developed in phases over a period of time the Board of Trustees may permit the developer to complete the public improvements for the subdivision/planned development in phases, provided that; the construction of all public improvements shall be completed to each boundary of the phase of unit proposed to be developed and the plan for phasing is approved in conjunction with the first final plat approval. The Developer shall complete those portions of the public improvements which the Village requires in order to insure contiguity and proper service for the portion of the development for which the phased final plat approval is being sought.

H. **Health and Safety Controls:**

- (1) **Control of Environmental Pollutants:** All proposed subdivisions/planned developments must comply with the Illinois Environmental Protection Act (415ILCS511 *et seq.*) and State of Illinois Rules and Regulations Title 35, Subtitle G -Waste Disposal.
- (2) **Sales, Construction and Storage Trailers:** Prior to approval by the Board of Trustees of a final plat of subdivision or planned development, the subdivider/developer shall submit for approval by the Building Inspector a plan showing the location of all proposed sales, construction and storage trailers, including parking areas, fencing and landscaping. Access to such facilities shall be safe and adequate and shall consist of an asphalt binder course. Said plan shall also indicate where all trailers shall be located. The subdivider/developer shall have the right to use said temporary facilities for the purpose of start-up construction and sales activities. Each of the trailers shall be served by temporary sanitary and potable water facilities to be provided by the subdivider/developer. At no time shall trailers be parked closer than 300 feet from the nearest occupied residence. Once the first model dwelling unit is constructed, the sales trailers shall be removed no later than 30 days after an occupancy permit is issued for the model

home. The subdivider/developer shall leave the areas used for the trailers in a clean and presentable condition.

- (3) **Model Home Sites:** After the subdivider/developer has received final plat and final engineering approval from the Village and the storm drainage systems, retention and detention areas, and roadway improvements have been installed, the subdivider/developer shall be permitted to construct and maintain model homes and to construct and maintain other appurtenant facilities for said model homes, including temporary sanitary facilities, temporary parking areas, temporary trap fencing, temporary walkways and lighting for each model home. A condition of approval for such model homes shall be that the Building Inspector is satisfied that access to the model home is safe and adequate. Access via stone or aggregate drive shall not be permitted to any model homes. An asphalt binder course shall be installed prior to the opening of any model home to the public. The subdivider/developer shall have the right to occupy and use said model homes, as well as their garages, for sales, sales promotions and offices for sales personnel, in connection with the sale of dwellings in the development. No model homes shall be permitted to be occupied as a residence. Models may be lit (interior and exterior) until 10 p.m. except for standard security lighting. No sales for lots or dwelling units other than those in the subdivision where the model home is located shall be allowed. The number of model homes allowed shall be determined by the Board of Trustees at the time of final plat approval.

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**REQUIRED PUBLIC IMPROVEMENTS FOR ALL SUBDIVISIONS AND PLANNED DEVELOPMENTS:**

A. **STANDARDS:** Every subdivision and planned development within the territorial jurisdiction of the Village shall be improved with the following public improvements: a Village owned and operated water distribution system, a sanitary sewer system, a storm water management system, streets with curbs and gutters, sidewalks, street lights, open space, detention, park areas, and parkway landscaping (“Public Improvements”) and facilities for the distribution of electric, natural gas, telephone and cable television service (“public utilities”), except as hereinafter expressly provided. The Board of Trustees shall not approve a subdivision or planned development until the Village Engineer certifies that the engineering plans and specifications for the public improvements for such subdivision or planned development meet the minimum requirements specified in the following sections of this Subdivision Code.

1. **Additional Standards:** No private streets, water mains, sanitary sewers, or storm sewers will be permitted within any subdivision. Private sidewalks and streetlights shall not be permitted within the dedicated rights-of-way or easements for the public street system, unless prior approval from the Board of Trustees is obtained.
2. **Working Drawings and Specifications:** Before considering the approval of the final subdivision plat or final planned development plan for any subdivision or planned development, the Plan Commission shall require that complete working drawings and specifications for the public improvements and public utilities for such subdivision or planned development be submitted to the Village Engineer to determine whether they meet the Village requirements.
3. **Coordination of Review:** The Village Engineer shall coordinate the review of such plans and specifications and report staff’s findings to the Board of Trustees and Plan Commission. Should revisions be recommended by the Village Staff or retained personnel in order for the plans to conform to the requirements herein, the applicant shall revise the plans and/or specifications and resubmit them directly to the Village Engineer and Plan Commission for review and recommendations.
4. **Off-Site Public Improvements:** Each subdivider/developer shall be responsible for the construction and installation of those off-site public improvements, including but not limited to, off-site bike path and/or sidewalk, off-site bridge, off-site force main, off-site lift station, off-site sanitary sewer, off-site storm sewer, off-site stormwater storage, off-site street, off-site traffic signals and off-site water mains, that are necessary to adequately service the development of the subdivision or planned development in the reasonable opinion of the Village Engineer.

B. **SITE GRADING PLAN:** The subdivider/developer shall supply the Village with engineering plans and specifications on a final site grading plan showing the following:

1. Bench mark elevations: The benchmarks should be tied to the Village's certified benchmark system and so verified on the engineering site grading plan.
2. Centerline road elevations at front lot corners.
3. Top of building foundations.
4. Lot corner elevations with drainage arrows showing direction of drainage.
5. Break points at which the drainage changes direction.
6. Drainage structures with frame elevations.
7. Typical footprint of the pad area in which the house or building will be built.
8. Special treatment of embankments.
9. Retaining walls with top wall elevation and length.
10. Emergency/overland flood routes.
11. Stormwater detention/retention facilities, HWL, NWL.
12. Existing and proposed contours shall be shown at no more than one 1-foot intervals.

C. **WATER DISTRIBUTION SYSTEMS:** Subdivisions and planned developments with Village owned and operated public water distribution systems shall be capable of supplying the subdivision/planned development with adequate water meeting specifications for such to be approved by the Village Engineer.

D. **STREET DESIGN STANDARDS:** Every subdivision/planned development shall be provided with a system of public streets, which meets the planning standards herein and the following engineering standards:

1. **Street Improvement Standards:** All materials, workmanship, equipment and testing shall comply with the *Illinois Department of Transportation Standard Specifications for Road and Bridge Construction*, latest edition, and standards set forth herein.
2. **Minimum/Maximum Street Grades:** All street grades shall meet the following limits:

<b>Minimum/Maximum Street Grades</b>		
<b>Type of Street</b>	<b>Maximum</b>	<b>Minimum</b>
Arterial Streets	5.0 percent	0.5 percent
Collector Streets	6.0 percent	0.5 percent

<b>Minimum/Maximum Street Grades</b>		
<b>Type of Street</b>	<b>Maximum</b>	<b>Minimum</b>
Local Streets		
Minor Streets	7.0 percent	0.6 percent
Cul-des-sacs	8.0 percent	0.6 percent
Frontage road	7.0 percent	0.6 percent
Industrial service street	7.0 percent	0.6 percent
A maximum 2.0 percent grade for 100 feet into intersection		

3. Pavement Widths: All streets shall be improved with paved surfaces from edge of road to edge of road as follows:

<b>Pavement Widths, Edge to Edge</b>	
<b>Type of Street</b>	<b>Minimum Width</b>
Residential (per detail)	24 feet
Collector streets	30 feet
Industrial service streets	34 feet

4. Determining Traffic Volumes:

- (a) When the subdivider/developer is improving existing streets, current traffic data shall be secured from responsible agencies or field counts shall be taken.
- (b) When the ultimate size of the subdivision/planned development will be less than 100 acres, traffic projections for the structural integrity of the arterial and collector streets for residential land uses, and all streets in other land uses, shall be determined on the basis of the following standards:
  - (1) For subdivision/planned developments of detached and attached single-family residences, 10 trips per day per unit.
  - (2) For commercial, industrial, office research and institutional uses, traffic projections shall be made by a traffic engineer and submitted to the Village Engineer for approval

The breakdown of traffic by categories of passenger car (PC), single units (SU) or multiple unit (MU) trucks shall be 80 percent PC, 19 percent SU and 1 percent MU for all residential type land uses. The division of traffic for all other land uses shall be in accordance with the recommendations of a traffic engineer, which have been submitted for review and approval by the Village Engineer.

- (c) When the ultimate size of the subdivision/planned development will be more than 100 acres, traffic projections made by a traffic engineer shall be submitted for review and approval by the Village Engineer for all street classifications and land uses.

- (d) Identify proposed traffic mitigation measures, including, but not limited to, street and highway widening, intersection traffic control, change in land use intensity (floor area ratio or use), change in site plan, alternative work schedules, ride sharing, etc.

The developer shall be required to install appropriate traffic signage within the development.

- 5. **Structural Design of Streets:** All sub-base, base and surface designs for streets for all land uses shall be done in accordance with the manuals for the structural design of bituminous and portland cement concrete pavements currently being used by IDOT's Bureau of Local Roads and Streets. All residential streets shall meet the pavement cross section and design thickness pursuant to Table 22.06-A at the end of this Section.
- 6. Street curve radii shall be pursuant to Table 22.06-B at the end of this Section.
- 7. **Concrete Curbs and Gutters:** Curbs and gutters shall be required on all streets constructed within the Village. The curb shall be depressed at all intersections to accommodate handicapped accessible sidewalks. Flag thickness and the widths shall be in conformity with Table 22.06-C at the end of this Section.
- 8. **Excavating and Preparation of Subgrade:** All roadways shall be excavated and the street subgrade prepared in accordance with Sections 202, 301 and 311 of IDOT's *Standard Specifications for Road and Bridge Construction*, current edition.
- 9. **Proof Roll Test:** Under the supervision of the Village Engineer and in accordance with Village standards, a proof roll test shall be conducted prior to the placement of base material. Soft and yielding materials encountered in the subgrade shall be removed and replaced with granular material or other fill material compacted to 95 percent of optimum laboratory density.
- 10. **Materials Inspections:** A competent testing laboratory to be provided at the subdivider/developer's expense shall test subgrade compaction and all materials incorporated into the roadway section. Tests shall be made in compliance with current state recommendations, except that plant inspections will not be required in concrete or blacktop plants continuously during production. However, one random test shall be made daily on all material used. Results of all tests conducted shall be forwarded to the Village Engineer for his review and approval. No acceptance of work will be recommended without such test results being submitted to the Village Engineer.

The subdivider/developer may be required to provide cores on the roadway system prior to the placement of the final surface course in order to

verify binder course and/or base thickness. Cores shall be taken at 500-foot intervals or as directed by the Village Engineer. In the event that cores do not meet at least 95 percent of the total required thickness of the binder and/or base course, additional thickness of surface course will have to be placed to compensate for the inadequate thickness. The adjustment in thickness will be based on the IDOT local roads structural numbers assigned to each respective material type for which the adjustment needs to be made.

11. No Building Permits: Unless this provision is waived by the Village, no permit will be issued for the construction of any building in any subdivision or planned development until curbs and gutters are in place and street pavements have been partially completed to meet the following standards:
  - (a) Bituminous concrete streets: the base course and first lift of bituminous pavement must be in place.
  - (b) Concrete streets: the concrete pavement must be in place.
12. No Certificate of Occupancy: No Certificate of Occupancy will be issued until 85 percent of the public improvements have been installed. Sidewalks and all parkways shall be completed prior to release of Certificate of Occupancy. The developer/contractor shall provide documentation or certification that all lots have been surveyed for elevation and grades verified to meet approved engineering drawings prior to issuing final occupancy permit. Prior to the issuance of the occupancy permit, an inspection shall be done on each lot to check for broken sidewalk/driveway, drainage problems, lot grading, b-box location and key ability.
13. Cut-off Date for Placing Bituminous Materials: No bituminous concrete base or surface course work shall be placed later than November 15<sup>th</sup> of any calendar year without special written permission from the Village, which may be given on a week by week basis after November 15<sup>th</sup>.
14. Street Ditch Sections: In the event that the Board of Trustees permits the use of a roadway ditch section as part of the roadway cross section, the ditch section shall conform to the following minimum requirements:
  - (a) Minimum Shoulder Width: 6 feet.
  - (b) Minimum and Maximum Side Slopes: 6:1 minimum and 4:1 maximum.
  - (c) Minimum and Maximum Ditch Depth: Minimum depth is 2.0 feet below roadway centerline elevation and maximum depth is 3.0 feet below roadway centerline elevation.
  - (d) Ditch Bottom Width: Can vary from 0 to 2.0 feet wide at bottom of slope.



- (e) Ditch Bottom Slope: Minimum slope is 1 percent and maximum slope is 7 percent.
- 15. Temporary Street Name Signs: During the construction of the public improvements in a subdivision or planned development the subdivider/developer shall erect temporary street name signs with lettering at least 3 inches high and water-proofed to facilitate easy delivery of materials and provide ample direction for emergency equipment.
- 16. Permanent Street Signs: Subdivider/developer shall install permanent street name signs and other signage required for the public improvements upon completion of underground improvements.
- 17. Construction Traffic: Prior to the recording of any final plat of subdivision or planned development, the subdivider/developer shall file a road repair letter of credit with the Village to insure the subdivider/developer's repair of damage to streets within the Village caused by construction trucks. The duration of the letter of credit shall be for one-year intervals, but shall be renewed annually until such time as the infrastructure associated with the development is completed and dedicated to the Village. The form and amount of the letter of credit shall be determined by the Village Attorney and Village Engineer.
- 18. Sidewalks shall be required in all public rights-of-way and in other locations as determined by the Board of Trustees. Sidewalks shall extend through all driveways.
  - (a) Standards for Sidewalks: The standards are as follows:
    - (1). All sidewalks in public rights-of-way or easements dedicated to the Village shall be constructed of Portland cement concrete conforming to Section 424 of the Standard Specifications for Road and Bridge Construction.
    - (2). For additional standards refer to the Building Department.
  - (b) Waiver of Sidewalk Requirements: The Board of Trustees may waive the requirements for public sidewalks for subdivisions or planned developments with residential lots one acre or more in area, or wooded areas, or where a bicycle path is provided in lieu of a sidewalk along certain public rights-of way.
  - (c) Handicapped Accessible Sidewalks: All sidewalks shall be provided with ramps from streets to sidewalks at all intersections to accommodate the handicapped. Slopes for such ramps shall not exceed 1:12. The surface of the sidewalk ramp shall have a diamond pattern texture finish.

- (d) **Sidewalk Transverse Slope:** All sidewalk sections shall be sloped from the property line side of the walk to the street side of the walk at one-quarter inch per foot.

E. **BICYCLE PATHS:** Bicycle paths shall be required within or adjacent to a subdivision or planned development where a bicycle path shown on the Village's Comprehensive Land Use Plan runs through all or part of, or adjacent to, such Subdivision or planned development. Bicycle paths may be installed in lieu of sidewalks with the approval of the Board of Trustees.

1. **Standards:**

- (a) All bicycle paths shall be constructed of a crushed gravel base course (C.A. - 6) and a bituminous surface course (Class I-11) conforming to the requirements of IDOT's *Standard Specifications for Road and Bridge Construction*. The excavation shall be lined with geotechnical fabric prior to the installation of the aggregate base course.
- (b) For additional standards refer to the Village of Prairie Grove Standard Specifications for Construction and Estimating.

F. **DRIVEWAY APPROACHES:** A P.C.C. concrete driveway approach up to the right-of-way will be required between the curb and sidewalk (a P.C.C. concrete or asphalt concrete driveway approach will be required between the curb [or edge of pavement where there is no curb] and property line where sidewalks are waived) for each lot before a certificate of occupancy is issued.

- 1. **Materials:** Placement of all materials shall be done in accordance with the current IDOT edition of *Standard Specifications for Road and Bridge Construction*.
- 2. **Slope of Drive Approaches:** All drive approaches shall have a minimum slope of 1 percent and a maximum slope of 8 percent with drainage from the property line to the street. Slope from the street to the property line will be permitted only if it can be demonstrated that storm water runoff can be intercepted within the rights-of-way and carried by the street or storm sewer system.

G. **LANDSCAPING:** All parkway areas, including landscaped islands and cul-de-sacs, and all landscape materials, including lawns, shrubs, and trees, shall be maintained by the homeowner's association of the property owners that abut said parkway or island.

H. **PUBLIC UTILITIES, UNDERGROUND:** All subdivisions and planned developments shall be provided with a complete system of public utilities including telephone, electric, gas service and cable television. All such utility lines shall be placed underground in rear lot line easements with minimal utility installation in public rights-of-way and side yard areas. When cables or conduits are placed within easements or public rights-of-way, they shall be so placed that they will not conflict with the Village's public improvements.

I. EASEMENTS: Easements for drainage and public utilities shall be provided on all side and rear lot lines. Such easements shall be not less than 5 feet wide on each side of common side and rear lot lines, or 10 feet wide in cases when a 5-foot easement cannot be acquired from the adjoining property or properties. If it is determined by the Board of Trustees on the basis of the Village Engineer's recommendation that additional easements or wider easements are required, the developer shall provide such wider easements.

1. In cases where rear or side lot lines abut an existing subdivision/planned development an easement of sufficient width shall be provided to create an easement 10 feet wide.
2. Easements on newly subdivided lots shall, whenever possible, be aligned and continuous with easements on adjoining lots.
3. No obstruction shall be placed in an easement that would prohibit or alter the natural flow of stormwater through the drainage easement.
4. No structures except fences shall be permitted within a drainage or public utility easement. All fences shall require application for and issuance of a building permit, and shall comply with the Village's building codes.
5. On days of extensive rain events stormwater may be present in drainage easements up to 48 hours.
6. Impermeable surfaces shall not be placed on drainage easements.
7. When cables or conduits are placed within easements or public right-of-way they shall be so placed that they will not interfere with the Village sanitary, storm sewer and water lines and their appurtenant structures.
8. All transformer boxes, junction boxes, and risers shall be so located as not to be unsightly or hazardous to the public, or disrupt drainage easements.
9. Utility easements for primary sewer or water facilities shall be located on open or common space areas and not on private property.
10. Provisions for cross-access between adjacent properties may be required for certain developments. These cross-access easements shall be depicted on the final plat of subdivision or planned development.
11. In the event, a subdivider/developer is unable to obtain utility easements over, under, across or through other property which may be necessary or appropriate for the development of the property, on conditions mutually acceptable to the subdivider/developer and the Board of Trustees, the Village may, in its sole discretion, use its powers of condemnation to acquire such easements. All costs and expenses incurred by the Village in the securing of such easements on behalf of the subdivider/developer.

J. RECAPTURE FOR OVERSIZED PUBLIC IMPROVEMENTS: In the event the Village requires the developer to oversize any of the required public improvements for the subdivision, the developer shall provide the public improvements. If any third party outside of the subdivision desires to “tap on” or make use of any of the oversized public improvements required by the Village, the Village agrees that the developer may request a recapture agreement to collect the proportionate share of the cost from others who connect to or utilize such improvements.

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**TABLE 22.07-A  
MINIMUM BASE AND SURFACE THICKNESS FOR BITUMINOUS  
SURFACED STREETS**

	ARTERIAL STREET		INDUSTRIAL COLLECTOR		RESIDENTIAL COLLECTOR & INDUSTRIAL SERVICE		RESIDENTIAL LOCAL	
Base Course Type	Base Course	Surface Course	Base Course	Surface Course	Base Course	Surface Course	Base Course	Surface Course
Portland Cement Concrete Base Course	8"	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Aggregate Base Course Type B (100% crushed gravel or stone)	N/A	N/A	14"	2½" Surface 3" Binder	14"	1½" Surface 2½" Binder	12"	1½" Surface 2½" Binder
			Structural #4.02		Structural #3.42		Pavement #3.16	
Bituminous Aggregate Base Course (BAM)*	9"	1½" Surface 1½" Binder	7½"	1½" Surface 1½" Binder	6"	1½" Surface 1½" Binder	6"	2" Surface
	Structural #4.61		Structural #4.12		Structural #3.62		Structural #3.22	
*A minimum of 4" C.A. -6 crushed gravel or stone sub-base will be required under all bituminous aggregate (BAM) base course sections. The maximum thickness of BAM placement shall be four inches.								

**TABLE 22.07-B  
STREET CURVE RADII**

TYPE OF INTERSECTION	MINIMUM RADII
Cul-de-sac to minor street Minor street to minor street	25 feet
Cul-de-sac to collector street Minor street to collector street Collector street to collector street Minor street to arterial street Cul-de-sac to arterial street	30 feet
Collector street to arterial street Arterial street to arterial street	40 feet

**TABLE 22.07-C  
MINIMUM WIDTHS AND THICKNESS FOR COMBINATION  
CONCRETE CURBS AND GUTTERS**

	Arterial Streets*		Collector Streets**		Local Streets**	
	Flag Width	Flag Thickness	Flag Width	Flag Thickness	Flag Width	Flag Thickness
Flexible Bases	24"	10"	12"	10"	12"	10"
P.C.C. Pavements***	24"	20"	12"	12"	12"	10"
* The curb height for all subdivision streets shall be six inches with a barrier face (B-6.12).						
** For subdivisions that were approved prior to September 1, 1999, the Public Works Director may allow the curb height to be three inches with a mountable face (M-3.12).						
*** When integral curbs are constructed with P.C.C. pavements, the thickness of the curbs shall be equal to the pavement thickness.						

The ARC shall use a set of design and materials standards and guidelines. In addition to the following review criteria, the ARC will individually consider the merits of each design as it relates to the specific site, adjacent areas or the community as a whole.

1. Use of vinyl or aluminum siding on dwelling units must meet the following minimum standards: The minimum thickness for aluminum siding shall be 0.024 inch. The minimum thickness for vinyl siding is 0.044 inch. Not more than 15 percent of front and side elevations shall be constructed with Exterior Insulation Finish Systems (EIFS), such as synthetic stucco or dryvit. Any EIFS synthetic stucco or dryvit over the maximum allowed 15 percent insulation shall be approved in writing by a certified EIFS inspection company. All costs for specialized third party inspection and reports shall be incurred by the builder/owner. No third party inspections are required for concrete stucco installation.
2. The maximum allowed wall or roof line on a single plane shall not exceed 50 feet. All elevations regardless of length, shall contain a minimum of 1 offset of at least 12 inches, which shall follow to the roof line or a minimum of 1 bump out window, bay window, fireplace, covered deck/porch or other to break up excessive areas of single flat planes in walls and roofs. Shed style roofs over bump out windows or bays are discouraged unless consistent with the architectural design.
3. Quoins, when utilized in design, should be expressed on all elevations of the residence.
4. For additions to existing structures, matching materials shall be used, eave lines should align whenever possible. Roof pitch shall be consistent with existing structure.
5. Each house or addition shall be unique and custom built from plans prepared and approved by an Illinois licensed architect.
6. No single-family residence ("subject residence" for purposes of this Section) shall be built in the Village or within its territorial jurisdiction, which is of the same or similar design:
  - a. Within 1,000 feet of each other;
  - b. On the same side of the street within 4 lots on both sides of the subject residence, regardless of any intervening streets (i.e., 3 significantly dissimilar designs and elevations must be provided between each similar design and elevation).
  - c. Directly across the street from the subject residence; or
  - d. Immediately to the rear of the subject residence fronting on the first street to the rear of the subject residence.

For purposes of this Section, residences of the same or similar design are prohibited from being constructed unless in conformance with criteria stated in this Section, and whichever criterion produces a greater distance between residences of the same or similar design and elevation.

The words “directly across the street” include any lot or portion thereof that falls within the lot lines, as extended, of the subject residence. The words “immediately to the rear” include any lot or portion thereof that falls within the lot lines, as extended, of the subject residence.

7. Any elevation of the subject residence shall be deemed to be on the same or similar design to a residence to which it is compared (the “compared residence” for purposes of this Section) unless the subject residence has at least 4 of the following features different from the compared residence:

- a. Basic arrangement of the building and its front elevations elements, such as right or left hand orientation (garage, entry, bays, etc.).
- b. Arrangement and design of windows, shutters, doors, entryway and porches.
- c. Predominant building color.
- d. Major exterior building materials, such as vertical siding, horizontal siding, brick/masonry, stone, etc.
- e. Roof style (hip, gable, mansard, etc.).
- f. Roofing materials such as wood shingles/shakes, terra cotta, etc.
- g. Site orientation (different elevation facing the street).
- h. Type of housing (ranch, raised range, split level, 2-story).

8. No two single-family residence of similar front elevation or façade shall be constructed or located within the criteria of this Section, nor shall there be constructed or located residences of similar front elevations when there is no substantial difference on all of the following:

- a. Roof Lines: For the purposes of this Section, the following differences in the roof lines of residences as seen from the front and sides of the dwelling shall be deemed sufficient to render buildings containing such changes to be dissimilar, if constructed within the criteria of this Section:

Changing gable roofs to hip roofs;

Changing hip roofs to gable roofs;

Providing an interesting gable roof to the main gable roof, provided that the height of the intersecting roof line does not exceed the height of the main roof;

- b. Windows: Every elevation of a dwelling shall have windows. For the purpose of this Section, the following differences in size, location or type of windows shall be deemed sufficient to render buildings containing such changes, if constructed



within the criteria of this Section, to be dissimilar:

- I. Changing from single windows to a multiple window arrangement unit;
- II. Changing from a multiple window arrangement to a single window;
- III. Changing the type of windows (e.g., casement to double hung); and providing a bay window or alternate window type in the area of the predominant window.

The following changes shall not be deemed sufficient to constitute a substantial change in windows:

- I. The addition or subtraction of muntin bars (dividing lights).
- II. A change from clad to wood windows.
- III. A change in window trim color.

- c. Construction Material or Color: For the purpose of this Section, the following differences in construction material between adjacent single-family residences as seen from the front of the residences shall be deemed sufficient to render buildings containing such changes and constructed on adjacent lots to be dissimilar:

Four-inch exposure horizontal siding;  
Eight-inch exposure horizontal siding;  
Masonry facing; and  
Natural wood facing.

When materials are changed, the change must occur throughout the subject residence of a minimum of 1-story in height.

Color change shall be made by significant changes in adjacent colors. The color change must be one of color, rather than merely of the tint, shade or tone.

- d. Miscellaneous:

- I. Continuity of design character shall be carried around all 4 elevations of the subject residence.
- II. Each elevation shall be properly balanced and proportional.
- III. Placement of the subject residence on the lot shall be compatible with the adjacent residences, the existing topography and the street elevation (and shall be approved by the Building Inspector prior to the issuance of a building permit).
- IV. Where feasible, natural materials, such as wood and masonry, shall be used in any exterior construction in the Village.

- V. Windows and doors should reflect restraint in the number of types, styles and sizes. Consistency of detailing on all elevations should be maintained. All openings should be consistently articulated on all elevations. Windows must be placed on all elevations and be properly balanced and proportioned. False windows may be substituted for this requirement in cases where internal architectural arrangements preclude the use of real windows. All garages shall have at least 1 window. Side load garages shall have 2 windows. Window treatments shall be in keeping with the architectural style. Shutters are suggested and should be sized to match the opening.
- VI. The main roof pitch should be a minimum roof pitch of 6/12, or as approved by the ARC, either gabled, hipped or a combination of the two. Roof forms should be well organized and demonstrate the same character on all sides of the subject residence. Eave lines should align whenever possible. If overhanging eaves are appropriate for the architecture of the subject residence, they must be correctly sealed to the subject residence and consistent on all 4 elevations. Eave depth must be at least 12 inches, not counting gutters, unless another dimension is otherwise justified. For addition projects, roof pitches must be consistent with the existing structure. Acceptable roofing materials are slate, tile, cedar shakes, standing seam copper, standing seam metal, architectural laminated shingles, or such other material approved by the ARC. The minimum product weight for asphalt and fiber glass shingles shall be 245 pounds per square or shall have a minimum 30-year warranty period. *Amended, 601.*
- VII. Windows and sliding glass doors shall be constructed of wood or vinyl-clad and/or aluminum-clad wood.
- VIII. Roof vents and plumbing vents shall be located on rear elevations and shall be compatible with the roof color. Some vents and stacks should preferably be concealed within decorative housing. Skylights shall be compatible with the roof color.
- IX. Dormers shall be compatible with the architectural character of the subject residence. They shall be properly proportioned and balanced on roof surfaces.
- X. Decks and their supports shall incorporate materials which relate to the residence, such as brick, stone, etc. Wood decks are permitted where appropriate. Decks shall conform to all building codes and be structurally sound. They may be stained to coordinate with the exterior colors of the subject residence.
- XI. All applications shall include a landscaping plan. The ARC may waive this requirement if such plan is not relevant to consideration of an accessory building or structure.

- 9 All provisions of this Subdivision Code and the Building Code, as amended, shall be applicable. No plans will be approved that violate the covenants of the area in which the construction is proposed. In case of conflict between private covenants and Village standards or codes, however, that which is more restrictive or imposes a higher standard shall govern.
- 10 Design drawing shall be prepared, signed and stamped by an Illinois licensed architect. Each page of a drawing set shall be so signed and stamped.

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**22.09            STORMWATER MANAGEMENT**

See Village of Prairie Grove Stormwater Management Ordinance (Chapter 25 of the Prairie Grove Municipal Code).

**CONSTRUCTION STANDARDS AND GUARANTEES, CONSTRUCTION AND MAINTENANCE INSPECTIONS, ACCEPTANCE OF PUBLIC IMPROVEMENTS AND MAINTENANCE PERIOD** *Amended, 467, 397*

A. **CONSTRUCTION AND MAINTENANCE REQUIREMENTS:** The site grading and erosion control, water distribution system, sanitary sewer system, stormwater management system, street system, street lights, sidewalks, bicycle paths, driveway approaches, landscaping and tree planting (“Public Improvements”) for every subdivision/planned development shall be constructed in strict accordance with the approved engineering plans and specifications therefore, and the standards set forth herein. The public improvements shall be so maintained by the subdivider/developer for a minimum period of 24 months after the Village Engineer has certified completion of the public improvements for the subdivision/planned development as to comply with maintenance requirements set forth in this section and in the Village Stormwater Management Ordinance (Chapter 25 of the Prairie Grove Municipal Code), where applicable. The letter of credit shall be posted to guarantee the completion of and payment for the public improvements, and the procedures for their acceptance by the Village are hereinafter set forth. Security shall be posted to guarantee maintenance and payment for repairs to the public improvements in accordance with the provisions hereinafter set forth. The letter of credit to be in the Village approved format.

B. **CONSTRUCTION STANDARDS:** The public improvements for all subdivisions and planned developments shall be constructed in a good and workmanlike manner in strict accordance with the standards set forth herein, as they may be amended from time to time, and the approved final engineering plans and specifications therefore.

C. **GUARANTEE OF COMPLETION, PAYMENT AND CONSTRUCTION:** The Board of Trustees will not cause the final plat/plan of any subdivision/planned development to be signed and recorded unless and until the subdivider/developer and the owner have (1) satisfied all the terms and conditions of the ordinance approving of the preliminary plat; (2) has executed and delivered to the Village Hall a Public Improvement Completion Agreement and has tendered cash or filed with the Village a letter of credit to guarantee that all required public improvements, including, but not limited to: site grading and erosion control, water distribution system, sanitary sewer system, storm water management system, street system, street lights, sidewalks, bicycle paths, driveway approaches, landscaping and tree planting, damage to existing public improvements, and will be completed in a good and workmanlike manner with materials of good quality in strict accordance with the engineering plans and specifications (the “Plans”) for the public improvements approved by the Village Engineer within a reasonable time (the “Time Limits”) to be determined by the subdivider/developer with the approval of the Board of Trustees, on the recommendation of the Village Engineer, and to further guarantee that the public improvements will be fully paid for and properly maintained in accordance with the requirements of this Subdivision Code; and (3) has complied with all of the provisions of this Subdivision Code.

D. **GUARANTEE PUBLIC IMPROVEMENTS:** To guarantee that the public improvements will be completed within the time limits, fully paid for and properly maintained, the subdivider/developer shall file with the Village:

1. A Public Improvements Completion Agreement in the form approved by Village Attorney.

2. One of the following forms of guarantee of performance and payment (“the Construction Security”) in an amount equal to 150 percent of the estimated construction cost of the public improvements, as approved by the Village Engineer, shall be filed with the Village in form approved by Village Attorney, amount approved by Village Engineer and approved by the Board of Trustees: a cash deposit or an irrevocable letter of credit issued by a federally insured financial institution with assets of at least \$50,000,000, and a capital asset ratio of at least 6 percent, in the form approved by the Village Attorney.

The form of the construction security must be approved by the Village Attorney and it shall be the developer/subdivider’s obligation to cause the financial institution from which it intends to furnish a letter of credit, if applicable, to furnish a current financial statement to the Village so that the Village can determine whether the issuer meets the minimum standards.

3. Cost estimates shall be prepared by the subdivider’s engineer and submitted to the Village Engineer for approval not less than 30 days prior to a request for execution of a plat by the Village. The Village Engineer shall estimate and certify to the Board for its approval the amount of security required, being an amount equal to not less than 150 percent of the reasonably estimated cost of the public improvements plus such additional amount as may be required.
4. If the scheduled completion date for any of the public improvements is more than one year after the date on which any cash deposit is made or letter of credit is issued, the amount of such cash deposit, letter of credit or escrow deposit shall be increased by 1.25 percent for each month or fraction thereof by which such scheduled completion date exceeds one year to allow for estimated construction cost increases and repairs to partially completed improvements. For example, if parkway and open space restoration is not scheduled for completion until two years and six months after the security deposit is made, the security shall be in an amount equal to 137.5 percent of the estimated construction cost of parkway and open space restoration and 150 percent of the estimated construction cost of the other public improvements, assuming the other public improvements are reasonably estimated to be completed within one year.
5. **Record of Account:** Village Hall staff shall maintain a complete record of each cash deposit or letter of credit established to guarantee completion of public improvements, the name of the subdivision, the estimated cost of the public improvements, the scheduled completion dates and the date on which the letter of credit expires. Village Hall staff shall report quarterly to the Board of Trustees on the status of each such cash deposit and letter of credit.
6. **Time Limits:** The time limits may be extended up to one year by the Board of Trustees upon the recommendation of the Village Engineer and/or Plan Commission, for good cause shown, provided the security

shall be extended to cover the new completion date and adjusted for estimated increased costs. The time limits may be extended beyond one year by the Board of Trustees, in its sole discretion, provided the security shall be extended to cover the new completion date and adjusted for increased costs.

7. **Expiration of Letter of Credit:** Upon receipt of the notice of expiration of any letter of credit to the Village, the Village Engineer shall issue a written status report to the Board of Trustees indicating which, if any, of the public improvements are not complete, and either recommend the security be (a) extended, and if extended, whether the amount of the security must be increased to cover the incomplete work, or (b) collected such (1) that the cash deposit be forfeited, or (2) the letter of credit be drawn upon, to cover the estimated cost of the incomplete work plus a sum equal to 15 percent of the Engineer's original estimate of cost to satisfy the subdivider/developer's maintenance security obligation. In the event the subdivider/developer fails to renew and/or extend the letter of credit upon request to do so, the Village shall draw the entire amount available under such letter of credit. Village Hall staff shall maintain the proceeds of any forfeited cash deposit drawn on a letter of credit in a separate fund to be used solely for payment of the cost of completion of the public improvements for that subdivision/planned development, including engineering fees and any legal expenses incurred in connection with obtaining the proceeds of the letter of credit.
8. **Cost Estimate:** If an engineer's estimate of cost is more than 6 months old at the time the plat is recorded, a revised estimate of cost shall be provided, reviewed and approved by the Village Engineer at the subdivider/developer's expense.
9. **Reduction Requests:** The subdivider/developer may request reductions in the balance of the security upon completion of each eligible category of public improvement. The reduction will be 90 percent of the original estimated amount for each eligible category. The remaining 10 percent shall be retained to cover punch list work. Also an additional 15 percent of the approved estimate of the cost of construction of the public improvements shall be retained until the public improvements have been accepted and the requisite maintenance guaranty posted with the Village. Specific information regarding security reductions is available through the Village Engineer.

E. **PERMITS REQUIRED:** None of the work specified herein shall be performed on any portion of the site of a subdivision/planned development until the Village has issued the following special permits:

1. **Early Earthwork Permit:** An early earthworks permit may be issued by the Village only after all of the items listed in the early earthwork checklist have been completed (see Appendix E), the subdivider/developer has executed a Waiver Agreement (see Appendix E), and has posted cash or a let-

ter of credit in an amount sufficient to perform said earth work and to completely restore the property to its original condition if the project is not subsequently approved by the Village.

2. **Site Development Permit:** A site development permit may be issued by the Village only after all of the items listed in the site development permit checklist have been completed, the final subdivision plat/planned development plan has been approved and the site development permit fee has been paid pursuant to the Prairie Grove Municipal Code.
3. **Demolition Permits:** Prior to the demolition of any structure on the land being improved as part of a subdivision/planned development, the subdivider/developer shall apply for and secure a demolition permit. Demolition permits shall also be required for abandoning private wells and septic systems after presentation of a permit or other authorization from the McHenry County Department of Public Health.

F. **TREE REMOVAL:** Tree removal shall be pursuant to the Prairie Grove Municipal Code.

G. **OTHER PERMITS:** The subdivider/developer shall be subject to any other applicable permits, such as those required and issued by the Illinois Environmental Protection Agency, U.S. Army Corps of Engineers, state and county.

H. **INSPECTION OF PUBLIC IMPROVEMENTS REQUIRED:** The public improvements shall be subject to inspection by the Village Engineer and other officials or personnel as designated by the Board of Trustees, both during the course of construction and after construction is completed. The Village Engineer shall have authority over construction, materials, methods of construction and workmanship to insure compliance with this Subdivision Code and the submitted and approved plans. The subdivider/developer shall provide for reasonable tests and proof of quality of materials as reasonably requested by the Village Engineer. The Village Engineer may require that work be suspended for due cause, which shall include adverse weather conditions, questionable materials or methods of construction or workmanship, or failure to adhere to this Subdivision Code and the submitted and approved plans.

1. **Notification:** It shall be the responsibility of the subdivider/developer or its general contractor to notify the Village Engineer and other Village officials or personnel as designed by the Board of Trustees when work is to be started and to request inspections. The initial notification that a particular improvement is to be started shall be in writing and every request for an inspection must be received by the Village at least 72 hours in advance of the time that the requested inspection is to begin.
2. **Subdivider/Developer Responsibility:** Failure of any Village employee, inspector, agent or official to detect construction work or materials, which fail to meet the requirements of this Subdivision Code and the submitted and approval plans, or either of them, shall in no way relieve the subdivider/developer of full responsibility for adherence by it and all contractors and material suppliers to this Subdivision Code and the submitted and



approved plans, nor for failure to adhere to high standards of materials, methods and workmanship.

3. **Inspection and Approval:** When all of the public improvements, including the public improvements of a separate phase or unit, are completed in their entirety, the developer/subdivider must formally request the Village Engineer in writing to certify completion of the public improvements. Upon receipt of the letter of request, the Village Engineer, in conjunction with the Building Inspector, will schedule a final inspection to take place as soon as reasonably possible after receipt of the letter. The first final inspection is done in order to allow the developer to start the 24-month maintenance period. Another final inspection is done at the end of the 24-month maintenance, which allows the developer to turn all improvements over to the Village. Due to the inability to determine whether parkway trees are living during winter months, and the inability to conduct certain other inspections when snow is on the ground, the Village Engineer will not certify completion or recommend acceptance by the Board of Trustees between November 1 and May 1. All deficient Public Improvements which do not totally conform to this Subdivision Code and the submitted and approved plans will be put on a written punch list (the "Construction Punch List"). The Construction Punch List will be forwarded to the developer/subdivider for processing. When the developer/subdivider has corrected the deficiencies in the Construction Punch List, the developer/subdivider shall request a second final inspection of the Village Engineer. Scheduling of a second inspection shall be the same as for the final inspection. If the length of time between the initial final inspection and the second final inspection is greater than 4 months, or if the noted deficiencies have not been corrected at the time the second final inspection is made, the request for certification of acceptance may be canceled by the Village Engineer. If canceled, a second request letter will be required, and said certification will be subject to the following additional requirements:

- a. The developer/subdivider shall be required to pay all costs incurred by the persons conducting the inspection, including, but not limited to, Village staff.
- b. The Construction Punch List recorded during the initial final inspection will be voided and a complete re-inspection may be required.

Neither acceptance nor certification of completion by the Village Engineer or acceptance by any employee, inspector, agent or official of the Village, nor maintenance of the public improvements by the Village shall be deemed accepted by the Village. No public improvements shall be accepted or deemed to be accepted until the Board of Trustees enact an ordinance accepting such public improvements on the written recommendation of the Village Engineer upon satisfaction of the conditions set forth herein. This is after the final inspection at the end of the 15-month maintenance period.

4. **Required Barricades:** Once residential or commercial structure construction activities have started, the subdivider/developer shall have on the project site at all times a minimum of 12 type 2 barricades with lights, which can be erected as needed during repair activities to curb, pavement, sidewalk or other public improvement, to protect the residents in the subdivision/planned development and area. Above what is necessary on site, an additional 12 barricades must be available.

I. **PROTECTION AND REPAIR OF EXISTING PUBLIC IMPROVEMENTS:** The subdivider/developer and its contractors, subcontractors and material suppliers shall be jointly and severally responsible for protecting the existing public improvements in the subdivision/planned development against damage resulting from their construction activities in the Subdivision/planned development and assuring the Village that such existing public improvements and the property of the Village are not damaged or rendered less useful or unsightly as a result of such construction activities. This provision is intended to include any and all damages to, and any nuisance created upon, all public lands, improvements and landscaping of the Village or other governmental entities and public agencies; damage to existing streets, sidewalks, curbs and gutters, driveway approaches and parkways, by the passage there over of equipment or trucks, or by excavation for any purpose; the spilling or tracking of earth, sand or rock onto existing streets, sidewalks, curbs and gutters or parkways; the erosion by storm water of earth, gravel, sand or other debris onto streets, sidewalks, curbs and gutters, drainage swales, manholes, valve vaults, inlets or catch basins; or the damage of water mains, sanitary sewer, b-boxes, hydrants, culverts or storm sewers. To reduce or localize the possibility of damage to streets by heavy trucks, the subdivider/developer shall cause its contractors, subcontractors and material suppliers to follow instructions of the Village as to which streets may be used for access to the subdivision/planned development by their equipment and trucks and the subdivider/developer shall be absolutely responsible for the enforcement of such instructions upon its contractors, subcontractors and their suppliers. Where deemed advisable, the Board of Trustees shall require, either prior to commencement of construction or after construction is in progress, that the subdivider/developer post additional security in the form of a cash deposit or a letter of credit to guarantee the repair of any damages or abatement of any nuisance, caused, suffered or permitted by the subdivider/developer, its contractors or material suppliers. Where the need for such assurance becomes apparent after construction is in progress, the Board of Trustees shall order construction discontinued until such security has been posted. The Village may draw upon such cash deposit or letter of credit to pay for any expenses that have been or may be incurred by the Village for cleaning its streets, catch basins and sewers, regrading as landscaping drainage swales, and repairing any damages to its public improvements.

J. **CONCLUSION OF THE PUBLIC IMPROVEMENT CONSTRUCTION:** The completion date of the public improvements shall be the first day of the next month following completion of the public improvements and all punch list work certified by the Village Engineer based on the Village Engineer's determination that all of the conditions set forth herein have been satisfied (the "Completion Date").

K. **ACCEPTANCE PROCEDURE FOR PUBLIC IMPROVEMENTS:** Public improvements shall be accepted only by the enactment of an ordinance by the Board of Trustees upon the recommendation of the Village Engineer. Such recommendation shall be contingent upon the following conditions being satisfied:

1. **Work in Accordance with Plans:** All of the public improvements shall have been completed in a good and workmanlike manner using materials of good quality and shall be maintained in good repair by the subdivider/developer in accordance with the standards and requirements of this Subdivision Code as of a date certain, and no component part of the public improvements shall be accepted until all of the component parts of the public improvements throughout the subdivision/planned development have been completed in accordance with the plans therefore, and this Subdivision Code, and maintained by the subdivider/developer.
2. **Waivers:** The developer/subdivider has furnished to the Village Engineer a sworn contractor's statement from each prime contractor with whom it contracted for the construction, installation, repair and maintenance, and a final waiver of lien from every person and entity that furnished labor and/or material in connection with the public improvements, including final waivers from all subcontractors and material suppliers shown on first tier subcontractor's waivers to assure the Village of protection against mechanic's lien claims through the completion date.
3. **Test Reports:** Where required by this Subdivision Code or reasonably deemed necessary by the Village Engineer, test reports indicating compliance with this Subdivision Code and the submitted and approved plans must have been furnished to the Village Engineer.
4. **Village Attorney Approval:** The Village Attorney shall have given a written report to the Board of Trustees that the developer/subdivider or owner, as the case may be, has or have made all necessary conveyances and the Village Attorney has approved of the form of the maintenance guaranty posted by the developer/subdivider.
5. **Village Hall Staff Approval:** Village Hall staff shall have acknowledged in writing their receipt of the original maintenance guaranty in form as approved by the Village Attorney.
6. **Warranty Title:** A warranty title, in form approved by the Village Attorney, transferring title to the public improvements to the Village, shall have been delivered to the Village Hall staff.
7. **Benchmarks:** At least 2 benchmarks must be set in each subdivision. One for up to 80 acres and 1 for each additional 40 acres or part thereof. This will be done through coordination with the Village Engineer and paid for by the developer.
8. **Submittal of Final Plans:** Submit to the Village Engineer reproducible mylar set and prints of the required record drawings. The record drawings shall include service location information for sanitary sewer and water for each lot or well and septic as applicable reflect all field changes regarding location and elevation for public improvements.

9. **Inspection of Improvements:** All sanitary sewers must be clean; must have been televised and the videotape thereof turned over to Village for its records, and must have passed the required tests. All sanitary sewer and valve vaults manholes must be water tight and clean. All fire hydrants must be at grade and operable, all hydrant auxiliary valves must be keyable. All catch basins, inlets and storm sewer lines must be free of dirt and debris. No manholes, valve vault frames and drainage structure frames located within roadways may protrude above the roadway surface, but must be even with, or no more than one-half inch below the roadway surface. A full stand of grass shall have been established on all parkways and drainage swales. In the opinion of the Village all dead, dying or diseased parkway trees shall have been replaced. All domestic "buffalo" boxes shall have been adjusted to proper grade, located and keyed by Village Public Works personnel. All structurally cracked or sinking sidewalks, driveways, aprons or curbs shall have been replaced. Variations in roadway surfaces shall not be greater than one-quarter inch in 10 feet as checked using a 10-foot long straight-edge in each wheel lane. All roadway surface and base course thickness must be within substantial compliance with the approved plans and specifications. The Village shall have received a set of "record drawings" showing the locations of all water and sanitary sewer service connections. All streetlights must provide the minimum light levels specified in the lighting standards of this Subdivision Code. All failures must have been repaired and all defects corrected. The public improvements must have been constructed in substantial compliance with the plans. The developer shall submit "as-builts" of the entire project, including location of drain tiles, at the time of the walk through.

L. **GUARANTEE FOR MAINTENANCE OF PUBLIC IMPROVEMENTS:** The subdivider/developer shall post adequate security to guaranty the maintenance of the public improvements and every component part of the public improvements in an acceptable condition for the maintenance period and to guaranty payment for all maintenance work. To guaranty that the public improvements will be maintained during the maintenance period and to guaranty payments for all labor and/or material during the maintenance period, the subdivider/developer shall file with the Village one of the following forms of guaranty of maintenance ("the Maintenance Guaranty") in an amount equal to 15 percent of the engineer's estimate of construction cost of the public improvements as approved by the Village Engineer: a cash deposit or an irrevocable letter of credit issued by a federally insured financial institution with assets of at least \$50,000,000 and a capital asset ratio of at least 6 percent, in the form approved by Village Attorney.

M. **RESPONSIBILITY FOR MAINTENANCE:** The subdivider/developer shall be responsible for the maintenance of all of the public improvements for its subdivision/planned development for the 24-month maintenance period, and for the payment of all costs associated therewith.

1. **Protection of Improvements:** The subdivider/developer shall be responsible for protecting the public improvements from any damage resulting from the subsequent construction activities of its own contractors and sub-

contractors, and the construction activities of builders who purchase lots in the subdivision/planned development.

2. **Maintenance Obligations:** The subdivider/developer's maintenance responsibilities obligations shall include, but are not limited to: (a) maintaining the public improvements, (b) repairing any damage to the public improvements caused by the developer, its agents, servants, employees or its successors and assigns, or by any contractor hired by the subdivider/developer, its agents, servants, employees, successors or assigns, or any subcontractor hired by such contractor, (c) repairing or replacing any defective workmanship or material in the public improvements, (d) making good and protecting the Village against the results of any defective workmanship or materials appearing to have been incorporated in any part of the public improvements which shall have appeared or been discovered within the maintenance period, and (e) paying for the cost of all such maintenance work. In the event that any such public improvements are damaged, the burden shall be on the subdivider/developer to show that such damage was not caused by the subdivider/developer, its agents, servants, employees, successors or assigns, or by any contractor hired by the subdivider/developer, its agents, servants, employees, successors or assigns, or any subcontractor hired by such contractor.
3. **Village Services:** During the maintenance period, the Village will provide its customary street sweeping and snow plowing services, and enforce its vehicle code, on the public streets of a subdivision/planned development, but any and all other maintenance of the public improvements therefore shall be performed by the subdivider/developer. A separate snowplow agreement shall be signed prior to winter and before any services by the Village shall commence.
4. **Term of Maintenance Period:** The maintenance period shall commence on the completion date as certified by the Village Engineer and continue for a minimum of 24 months. The Village Engineer shall establish the length of the maintenance period such that the expiration date of the maintenance period occurs between May 1 and November 1. This schedule eliminates expiration during the winter months and allows inspections and repairs to be made during favorable weather conditions.

Notwithstanding the length of the maintenance period, the maintenance guarantee shall in all cases be for 24 months. Approximately 90 days before the expiration of the maintenance period, the Village Engineer and Public Works Department, or their designees, shall conduct a maintenance inspection. In the event the inspection reveals any deficiencies in the public improvements, the deficiencies will be inventoried and placed on a Maintenance Punch List, which the Village Engineer will forward to the developer/subdivider to remedy. The Village Engineer shall also prepare an estimate of the approximate cost to correct all such deficiencies on the Maintenance Punch List and forward the estimate to the Village Treasurer. The developer/subdivider shall then have 45 days from the date the Main-

tenance Punch List is mailed to correct and remedy all items listed. The Village Engineer and Superintendent of Public Works shall then conduct a final maintenance inspection prior to expiration of the maintenance period to determine compliance. In the event there remain any uncorrected deficiencies or any new deficiencies are discovered, the Village Engineer shall provide a written estimate of the cost to correct said deficiencies to the Village Hall staff.

Within 30 days of the end of the maintenance period, the developer/subdivider shall furnish to the Village Engineer a general contractor's sworn statement from each prime contractor with whom it contracted to perform any of the maintenance work and final waivers of lien from all persons and entities that furnished labor and/or materials in connection with the maintenance work.

In the event there were any uncorrected deficiencies during the maintenance period and/or missing waivers of lien, the Village Clerk shall either (a) deduct from the cash deposit an amount sufficient to correct said deficiencies, including all estimated engineering, legal and other expenses to cover the cost of preparing specifications, bid documents (if applicable) and contract(s) to perform such corrective work, and to cover any potential lien claims based on missing waivers of lien, (b) deliver a notice to the surety demanding performance of its obligations under the maintenance bond, and (c) deliver a site draft to the issuer of the maintenance letter of credit in an amount sufficient to correct the deficiencies, including estimated engineer, legal and other expenses to cover the cost of preparing specifications, bid documents (if applicable) and contract(s) to perform such corrective work, and to cover any potential lien claims based on missing waivers of lien, all before the expiration of the 24-month maintenance guaranty. A fine of \$1,000 cash shall be charged for incomplete work. The Village Engineer shall set the end of the maintenance period such that it will not expire between November 1 and the following May 1.

N. COMPLETION OF ALL SUBDIVISION RELATED CONSTRUCTION RESPONSIBILITIES: All public improvement construction requirements secured by letters of credit or performance bonds shall be fully completed upon the earlier to occur of 24 months subsequent to final subdivision plat approval or when building permits have been issued for 75 percent of the lots in the particular subdivision ("Required Public Improvement Completion Date"). Failure to meet the Required Public Improvement Completion Date shall constitute a violation of this Section and a default under the applicable letter of credit, performance bond or cash security on deposit with the Village.

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**22.11 CASH AND LAND DONATIONS FOR PARK SITES**

As a condition of approval of a final plat of subdivision or a final plat of the planned development, each subdivider or developer shall be required to dedicate land for park and recreational purposes, to serve the immediate and future needs of the residents of the development, or made a cash contribution in lieu of actual land dedication, or a combination of both at the option of the Village, in accordance with the following criteria and formula:

1. Criteria for requiring park and recreation land dedication:

- a. Requirement and Population Ratio: The ultimate density of a proposed development, as calculated in Table 1 at the end of this Section, shall bear directly upon the amount of land required for dedication. The total requirement shall be 10 acres of land excluding retention and detention facilities, except for land need for emergency over land routing of water, per 1,000 of ultimate population in accordance with the following classifications:

Type of Recreation Area	Size Range, Minimum	Minimum Acres per 1,000 people
Play lot	8,000 square feet	Not applicable
School-park (neighborhood playground)	5 acres	2.0
Neighborhood park	32 acres	2.0
District-wide park or play field	4 acres up to 30 acres	2.0
Community wide recreation park	12 acres up to 30 acres	4.0
Total		10.0 acres of land per 1,000 people

- b. Location: A central location which will serve equally the entire development is most desirable. In large developments these sites can be located throughout the development according to established standards for park area distances.

2. Criteria for Requiring a Cash Contribution in Lieu of Land Donation: When the resulting land donation as calculated herein, is too small or when the Village determines that the available land is inappropriate for a park site, the impact caused by the development shall require a cash contribution in lieu of a land donation.

- a. Fair Market Value: The cash contribution in lieu of land shall be based on the “fair market value” of the acres of land in the area improved as required herein, that otherwise would have been dedicated as a park site. It has been determined that the present “fair market value” of such improved land in and surrounding the Village is \$120,000 per acre. The “fair market value” has been determined by examining the actual sales of improved land, as well as through communications with developers and real estate agents who are familiar with the Village and its property. This figure shall be used in making any calculation herein.
- b. Criteria for Requiring Dedication and a Fee: There will be situations in subdivi-

sions or planned developments when a combination of land dedication and a combination of land dedication and a contribution is lieu of land are both necessary. These occasions will arise when:

- (1) A portion of the land that is planned for a park site is located within a development. The amount of land the developer is required to donate is larger than the portion of the planned park site found within the development. The developer will be required to dedicate land within the development that falls within the planned park site as previously indicated, and a cash contribution shall be required to compensate for the additional land that should be dedicated, but is beyond what is needed, from the development, for the particular park site.
- (2) A park site has already been selected and only a portion of land is needed from the development to complete the site. The developer shall dedicate the land necessary to complete the site, but must subject a cash contribution to compensate for the difference between the land needed for the park site and land he would otherwise be required to dedicate.

<b>TABLE 1 OF SECTION 22.11</b>	
<b>POPULATION PER DWELLING UNIT</b>	
Type of Dwelling Unit	Total Population per Unit
<b>Detached Single-Family</b>	
2 bedroom	1.989
3 bedroom	2.987
4 bedroom	3.807
5+ bedrooms	4.419
<b>Attached Single-Family</b>	
1 bedroom	1.050
2-bedroom	1.899
3-bedroom	2.277
4+ bedrooms	3.328
<b>Apartments</b>	
1 bedroom	1.190
2. bedroom	1.659
3+ bedrooms	2.814
<p>Note: The determination of the number of bedrooms shall be made by the Village. Rooms designated as den, library, study, sewing room, exercise room or the like may be designated as bedrooms if they are suitable for such accommodations.</p> <p>Source: Illinois School Consulting Service/Associated Municipal Consultants, Inc., Naperville, IL c. 1983</p>	

**N. COMPLETION OF ALL SUBDIVISION RELATED CONSTRUCTION RESPONSIBILITIES:** All public improvement construction requirements secured by letters of credit or performance bonds shall be fully completed upon the earlier to occur of 24 months subsequent to final subdivision plat approval or when building permits have been issued for 75 percent of the lots in the particular subdivision (“Required Public Improvement Completion Date”). Failure to meet the Required Public Improvement Completion Date shall constitute a violation of



this Section and a default under the applicable letter of credit, performance bond or cash security on deposit with the Village.

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## A. FINDINGS AND PURPOSE:

1. It is declared to be the policy of the Village that the provision of school services required to serve new residential development is subject to the control of the Village in accordance with the comprehensive plan of the Village for the orderly, planned, efficient, and economical development of the Village.
2. New residential developments cause and impose increased and excessive demands upon the school districts that are specifically and uniquely attributable to those new residential developments.
3. Planning projections indicate that new residential development shall continue and shall place ever-increasing demands on the school districts.
4. Development potential and property values are influenced and affected by Village policy as expressed in the comprehensive plan and as implemented by the Zoning Code and other ordinances and regulations.
5. To the extent that new residential developments place demands upon the school districts that are specifically and uniquely attributable to such developments, those demands should be satisfied by requiring that the new residential developments creating the demands pay the cost of meeting the demands.
6. The amount of the Educational Facilities Impact Fee to be required of new residential developments shall be determined by a future triennial needs assessments and, pursuant thereto, the proportionate share cost of the additional school facilities needed to support such developments shall be calculated. The additional school facilities shall be identified in capital improvement programs, thereby ensuring that new residential developments are required to pay only that portion of the costs of acquiring needed lands and only that portion of the costs of constructing needed school facilities specifically and uniquely attributable to the new residential development.
7. Investigation shows that the average delay for a residence appearing, in full, on the tax rolls is about 15 months. School districts are, therefore, forced to bear the burden of educating the children from new construction for a significant period before receiving any Educational Facilities Impact Fees.
8. The Board of Trustees, after careful consideration, hereby finds and declares that imposition of Educational Facilities Impact Fees upon new residential developments to finance specified school facilities, the demand for which is created by such developments within the Village, is in the best interests of the general welfare of the Village and its residents, is equitable, and does not impose an unfair burden on such developments.

B. **DEFINITIONS:** In addition to the definitions in Section 22.02 of this Subdivision Code, the following words and phrases shall, for the purposes of this Section, have the meanings respectively ascribed to them in this subsection, except when the context otherwise indicates.

**Bedroom:** Any room which may be used for bedroom purposes, such as a den, study, loft or extra room located on any floor in a dwelling unit which may be convertible into a sleeping area and is not clearly identified for some other specific purpose such as a kitchen (1 per dwelling unit), dining room (1 per dwelling unit), living room (1 per dwelling unit), bathroom(s) and family room (1 per dwelling unit).

**Building permit:** The permit issued by the Village for the construction, reconstruction, alteration, addition, repair, placement, removal or demolition of or to a building or structure within the corporate limits of the Village.

**Building site:** An area of land designed, intended or used as a location for a structure.

**Capital budget:** The portion of the school districts' annual budget devoted to the funding of capital improvement projects.

**Capital improvement:** A project or piece of equipment with a useful life in excess of three years and limited to the following improvements to sites: newly constructed buildings; newly constructed structural improvements to buildings and permanent additions to buildings; systems that are being installed within newly constructed buildings or within permanent additions to buildings (including, but not limited to, electrical systems, plumbing systems, fire protection systems, and heating, ventilation, and air conditioning systems); additions to or replacements of systems within existing buildings to the extent necessary to meet the demands of development; grading, landscaping, seeding, and planting of shrubs and trees on sites and adjacent ways; retaining walls and parking lots on sites; the initial surfacing and soil treatment of athletic fields and tennis courts, when undertaken or constructed with the construction of a new school or permanent additions thereto; furnishing and installing for the first time fixed playground apparatus, flagpoles, gateways, fences, and underground storage tanks that are not part of building service systems; and demolition work.

**Capital improvement program:** A multi-year plan of each school district that: (a) projects, for a planning period of at least five years, the need for capital improvements within the school district; (b) sets forth a schedule for the construction, acquisition, or leasing of the capital improvements to meet the projected need; (c) indicates the size and general location of the needed capital improvements; (d) identifies the estimated costs of constructing, acquiring, or leasing the needed capital improvements; and (e) sets forth the anticipated funding sources and funds to be received by the school district (including, but not limited to, funds that will be received from the sale of existing capital improvements) for the construction, acquisition, or leasing of the needed capital improvements.

**Comprehensive Plan:** The official plan for the development of the Village adopted by the Board of Trustees.

**Cost:** Expenditures incurred or estimated to be incurred to fund a capital improvement project. These costs include, without limitation, acquisition of land, construction of improvements,

equipping of facilities, and administrative, engineering, architectural and legal expenses incurred in connection therewith.

**Detention area:** A dry-bottom area of land that provides for the temporary storage of stormwater runoff.

**Developer:** A person or entity undertaking to develop property for residential use. For purposes of this Section, developer shall include, without limitation, the owner(s), sub-divider(s), developer(s), contractor(s) or any other person(s) or entity who causes the division of property for residential uses or who causes a building improvement on the property for residential use.

**Development:** Any of the following activities occurring on or after January 1, 2005:

- a.. Any subdivision of land;
- b. Any resubdivision or modification of an existing subdivision;
- c. Any planned development;
- d. Any modification of an existing planned development; or
- e. Any construction, reconstruction, alteration, addition, repair, or placement of or to a building, that requires the issuance of a building permit.

**Development approval:** The approval by the Board of Trustees of any final plat of subdivision or planned development. Reference herein to the phrase “payment at development approval” means payment prior to the recording of any final plat of subdivision or planned development.

**Dwelling unit:** A building or portion thereof designed or used exclusively for residential occupancy, but not hotels, motels, boarding or lodging houses.

**Educational facility:** Any or all school sites and/or school district capital improvements.

**Educational Facilities Impact Fee:** A special and additional fee imposed pursuant to the provisions of this Section.

**Gross acreage:** The entire area of a parcel of real property or a building site expressed in acres or portions thereof.

**Lot:** As defined in the Zoning Code.

**MAI:** The professional designation “Member, Appraisal Institute” as conferred by The American Institute of Real Estate Appraisers.

**Proportionate share:** The cost of a educational facility specifically and uniquely attributable to a development; after the consideration of the generation of additional demand from the development; and any appropriate credits for contribution of money, dedication of land, or taxes dedicated for such projects.

**Residential development:** Any development, as defined herein that is (a) used, or is designed or intended to be used, entirely or in part, for residential purposes, and (b) contemplates, or results in, a net increase in the number of lots, dwelling units, or bedrooms over that which previously existed on the property on which the development is, or is to be, located.

**Retention Area:** A wet-bottom area of land, which provides for the temporary storage of storm water runoff.

**School district:** The following public school districts:

- a. Prairie Grove Consolidated School District No. 46; and
- b. Crystal Lake Community Consolidated School District No. 47; and
- c. Community High School District No. 155.

**Site plan:** A document prepared to scale indicating accurately the dimensions and boundaries of a site; and showing the location of all proposed buildings, structures, uses, and principal site development features for a parcel of land.

**Sites:** Lands that are: (a) leased or owned, or to be leased or owned, by a school district; and (b) used, or to be used, or capable of being used for any purposes of the school district.

**Specifically and uniquely attributable:** A new development creates the need, or an identifiable portion of the need, for additional capacity to be provided by educational facilities.

**Table of Estimated Ultimate Population Per Dwelling Unit:** The 1996 version of the population projection table, by dwelling unit type and age categories, prepared by Associated Municipal Consultants, Inc., of Naperville, Illinois, a division of Ehlers & Associates, Inc., of Minneapolis, Minnesota. (See Exhibit A to Section 22.12 at the end of this Section.)

**Triennial Needs Assessment:** Those certain assessments prepared, or to be prepared, by the school districts every 3 years.

**Wetland:** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

C. ADMINISTRATION:

1. General Procedures for Educational Facilities Impact Fees:
  - a. Calculation of Educational Facilities Impact Fees: The Building Inspector shall calculate educational facilities impact fees established pursuant to this Section.
  - b. Schedule of Educational Facilities Impact Fees: The educational facilities impact fees established pursuant to this Section shall be in the amount set forth herein. The Board of Trustees may, but shall

have no obligation to, adjust the amount of the educational facilities impact fees set forth herein on an annual or triennial basis, based on the Board of Trustees' review and consideration of future triennial needs assessments filed by the school districts. Unless and until an adjustment has been made, the schedule set forth herein shall be deemed to be the current and appropriate schedule of educational facilities impact fees.

- c. **Review of Triennial Needs Assessment:** The Board of Trustees shall consider and review future triennial needs assessments on file in the Village Hall to determine whether each school district has made such modifications thereto as are deemed necessary as a result of (1) development occurring in the prior year, (2) school facilities actually constructed, (3) changing school facilities needs, (4) inflation, (5) revised cost estimates for school facilities, (6) changes in the availability of other funding sources applicable to school facility projects, and (7) such other factors as may be relevant.
- d. **Time of Payment:** All educational facilities impact fees imposed by this Section shall be due and payable upon development approval. For any lot which received development approval prior to the enactment of this Section, and which remains vacant at the time this Section was enacted, all fees imposed by this Section shall be calculated and shall be due and payable at the time a building permit is issued. At the time of payment, the subdivider or developer shall receive a copy of this Section and shall execute an acknowledgment that a copy of the Educational Facilities Impact Fee has been received. The executed acknowledgment shall be maintained and filed along with documents evidencing proof of payment of the educational facilities impact fees by each subdivider or developer.
  - (1) **Payment at Time of Development Approval:** In calculating the educational facilities impact fees to be paid at the time of development approval, the Village will assume the maximum density permitted under the zoning classification approved. For example, if the subdivision in question is zoned single family, the Village will assume for purposes of calculating educational facilities impact fees payable, pursuant to this Section, that all houses will have four bedrooms. The Village will then hold sufficient funds pending issuance of the building permit to enable it to refund any overpayments resulting from the fact that houses with other than four bedrooms are constructed. Refunds shall be made at time of issuance of the building permit.
  - (2) **Payment at Time of Building Permit Issuance:** The Village may agree that the payment of the educational facilities impact fees may be made at the time of building permit issuance in consideration of which the subdivider or developer

shall execute the agreement (Exhibit B to Section 22.12 at the end of this Section) (the “Agreement”). The Agreement essentially provides that the developer agrees: (a) that the educational facilities impact fees payable will be adjusted in accordance with the requirements herein; (b) that the educational facilities impact fees may be expended for the purposes contained in this Section and (c) to accept the validity of the Educational Facilities Impact Fee and the educational facilities impact fees as calculated. The Agreement shall be recorded along with the plat of subdivision upon approval by the Board of Trustees.

In the event the Village agrees to delay the payment of fees required herein to the time of building permit issuance, the fees owed shall be those that are in effect at the time the building permit is issued.

- e. Transfer of Funds to Accounts: Upon receipt of the applicable educational facilities impact fees, the Building Department shall deposit and disburse such fees as set forth herein.
  - f. Establishment and Maintenance of Accounts:
    - (1) The Village shall establish accounts in a bank authorized to receive deposits of Village funds.
    - (2) The educational facilities impact fees deposited in these accounts shall be used solely for the purposes specified herein.
    - (3) The Village staff shall maintain and keep adequate financial records for each such account, which shall show the source and disbursement of all revenues, and which shall account for all moneys received.
  - g. Disbursement of Funds: In order to ensure that each distribution of educational facilities impact fees from the accounts shall be used solely and exclusively for the provision of projects specified in a given needs assessment, prior to the Board of Trustees authorizing disbursement of any such funds, the Village shall be in receipt of an intergovernmental agreement between the Village and each school district receiving such funds, annually executed by each party, governing certain aspects of the implementation of this Section.
2. Use of Educational Facilities Impact Fees: Educational facilities impact fees paid pursuant to this Section shall be restricted to use solely and exclusively for paying the cost of school land and school facilities, whether payment is made directly therefore, or as a pledge against bonds, revenue

certificates, or other obligations of indebtedness.

3. Effect of Educational Facilities Impact Fees on the Zoning Code and Subdivision Code Regulations: This Section shall not affect, in any manner, the permissible use of property, density of development, design, and improvement standards and requirements; or any other aspect of the development of land or provision of public improvements subject to the zoning and subdivision regulations or other applicable regulations of the Village, which shall be operative and remain in full force and effect without limitation with respect to all such development.
4. Educational Facilities Impact Fees as Additional and Supplemental Requirement: Educational facilities impact fees are additional and supplemental to, and not in substitution of, any other requirements imposed by the Village on the development of land or the issuance of building permits. In no event shall a property owner be obligated to pay for school facilities in an amount in excess of the amount calculated pursuant to this Section; but, provided that a property owner may be required to pay, pursuant to Village ordinances, regulations or policies, for other public facilities in addition to the educational facilities impact fees.
5. Land in Lieu of Educational Facilities Impact Fees:
  - a. Each school district may make a request in writing to the Board of Trustees to allow for a donation of land in lieu of educational facilities impact fees related to any development. Such a request shall specifically itemize the school district's reasons for requesting land in lieu of educational facilities impact fees.
  - b. Upon receipt of a request from a school district for land in lieu of educational facilities impact fees, the Board of Trustees shall consider and perform an analysis of such request, and make a determination thereon by resolution duly adopted. The resolution shall be based upon a review of the triennial needs assessment on file with the Village for the school district making the request, as well as the following factors: (1) other developments occurring in the prior year within the surrounding area of the development, (2) school facilities actually constructed and servicing the surrounding area of the development, (3) changing school facility needs and capacity at existing school facilities servicing the surrounding area of the development, and (4) such other factors as the Board of Trustees may deem to be relevant.
  - c. Reservation of Additional Land: Where land is requested in lieu of an educational facilities impact fee or in lieu of a portion of an educational facilities impact fee, and the comprehensive plan or the standards of the Village call for a larger school site in a particular residential development than the developer is required to dedicate, the land needed beyond the developer's dedication shall be re-



served in accord with the Illinois Compiled Statutes for subsequent purchase by the school district; provided that a negotiated purchase is made within 1 year from the date of approval of the final plat, or an agreement between the developer and the Village is recorded outlining specific conditions for the conveyance of such property. Failure to purchase or acquire the property by the school district shall not relieve the developer of the obligation to pay the impact fee required by this Section.

- d. **Combining with Adjoining Development:** Where land is requested in lieu of an educational facilities impact fee and the residential development is less than 40 acres, where practical, a school site should be combined with dedications from adjoining developments in order to produce a usable school site without undue hardship on a particular developer.
- e. **School Site Standards:** A school site shall be dedicated in a condition ready for full infrastructure improvements as required by this Section, including but not limited to electrical service, water service, sanitary service, storm sewer and street improvements, as applicable to the location of the site, and shall otherwise comply with the requirements of the Village's ordinances and regulations. Depending upon the projected timing for the construction of school facilities, a cash contribution may be required in lieu of the sidewalk and street improvements. The cash contribution shall be equal to the cost of such improvements consistent with approved engineering plans and estimates of cost. The site shall have direct access to a fully improved street across at least 20 percent of the distance of its perimeter. School sites should ideally be accessible by a bicycle/pedestrian trail, and any such access route onto the property shall be at least 30 feet wide. Such access routes should normally be dedications and not easements, depending on which entity of government is to be responsible for said routes. Any vehicular access route leading to or on the site shall be of sufficient size and good geometry to properly accommodate vehicles that will access and traverse the site, including but not limited to good principles of traffic circulation, accommodation of one-way and/or two-way drives for school buses, separation of bus traffic from passenger automobile traffic, bus drop-off areas separate from publicly-dedicated streets, guest and employee parking areas, and the like. Such off-street access routes, drives, drop-offs, and parking areas will not be dedicated rights-of-way and shall be the responsibility of the owner of the site to maintain.
- f. **Topography and Grading:** The slope, topography and geology of the dedicated site, as well as its surroundings, must be suitable for its intended purpose. Storm water detention areas shall not be accepted for Village ownership and maintenance, and the portion of a detention area designed to function primarily as a component of

the storm water control system shall not serve as a credit toward the site dedication. Storm water retention areas shall not be accepted for Village ownership and maintenance and shall not serve as a credit toward the site dedication. Wetlands, flood plains, detention areas, retention areas and areas of steep slope shall not be accepted as school sites and shall not serve as a credit toward the site dedication.

In addition, the following site conditions and preparation standards shall be met:

- (1) Slope:
  - (a) Should not vary greatly in appearance from existing and adjacent slopes;
  - (b) Optimum slopes range from two percent minimum to 5 percent maximum. No less than 2 percent slope is acceptable under any circumstances;
  - (c) Maximum allowable slope is 10 percent, except under special conditions where greater slopes are desirable to enhance the use of the site;
  - (d) On-site drainage patterns shall be designated and constructed to:
    - (i) Ensure flow toward swales; and
    - (ii) Ensure drainage away from active areas.
- (2) Grading:
  - (a) Rough grading shall be completed at time of rough grading of adjacent contiguous area;
  - (b) Grading shall comply with Village approved plans;
  - (c) Subgrade shall be graded and compacted so it will parallel finished grade;
  - (d) Subgrade material shall be loosened and fine graded to a depth of 2 to 4 inches. All stones over four inches in size, sticks, debris, rubbish and other foreign substances shall be removed; and
  - (e) Finished grades shall be uniform in slope between points for which elevations have been established.

- (3) Soils:
- (a) Soils shall not differ from those naturally occurring;
  - (b) Soils shall not offer any restriction to the ultimate use of the property;
  - (c) Topsoil shall be spread evenly and lightly compacted to a minimum depth of six6 inches over the entire site;
  - (d) Topsoil must be good, friable soils with good tillage and shall be without any admixture of subsoil, clay, gravel, stones, debris, refuse, sand or other subsurface elements;
  - (e) Topsoil shall not be placed in a muddy or frozen condition;
  - (f) Topsoil shall contain no toxic substances which may be harmful to plant growth; and
  - (g) Topsoil shall be spread no later than the placement of topsoil on the first lot adjacent to the site.

- (4) Seeding:
- (a) All proposed school sites shall be seeded and an acceptable stand of grass or vegetation established prior to dedication of the area to the appropriate school district.
  - (b) Seeding shall be completed during the fall or spring planting times, depending upon the recommended seed planting specifications;
  - (c) Seeding shall be on moderately dry soil on a seed bed which will easily accept and nurture germination of seeds;
  - (d) Seeding shall be watered sufficiently so that the vegetation becomes reasonably established; and
  - (e) The developer shall be responsible for making necessary reparations to the site caused by erosion or other damage. Reparations shall be completed prior to acceptance of the site.

- g. Environmental Risk Audit: Prior to the conveyance of any land to

the school districts the intended grantee shall be furnished with an environmental risk audit prepared by an environmental professional meeting the minimum requirements of 415 ILCS 5/22.2(j)(6)(E)(iii), certified to and acceptable to the grantee, assuring the grantee that there are no hazardous substance(s) (as defined hereinafter) on, under, to or from the land. Said environmental audit shall be what is commonly referred to as a Phase I Environmental Audit, which shall meet the minimum requirements for a pre-acquisition audit as set forth in 415 ILCS 5/22.2(j)(6)(E)(iii)(v).

In the event the Phase I Environmental Audit does not conclude there is no presence or likely presence of a release or substantial threat of a release of hazardous substance(s) or pesticide on, under, to or from the land, the grantee shall furnish a Phase II Environmental Audit as set forth in 415 ILCS 5/22.2(j)(6)(E)(iii)(vi), including a soil toxicity analysis and recommendation from said environmental professional, meeting the minimum requirements of 415 ILCS 5/22.2(j)(6)(E)(iii), which concludes that there is no presence or likely presence of a release or substantial threat of a release of hazardous substance(s) on, under, to or from the land, and certifying that, in the judgment of said environmental professional, there is no reasonable probability that the land contains any hazardous substance(s) in violation of any federal or state environmental standards.

In the event said Phase II Environmental Audit and/or soil toxicity analysis discloses the presence or likely presence of a release or a substantial threat of a release of any hazardous substance(s) at, on, under, to or from the land to be conveyed, the grantor shall first cause all such hazardous substance(s) to be removed at its sole cost and expense in accordance with all federal, state and local environmental laws, rules and regulations and furnish the intended grantee with a "No Further Remediation Letter" from the governmental agencies having jurisdiction over the clean up prior to conveyance of any of the land to the intended grantee.

Prior to the conveyance of the land, the subdivider or developer, as the case may be, and the owner of the land to be conveyed, shall execute and deliver to the intended grantee an Environmental Indemnification Agreement, which form has been approved by the Village Attorney, agreeing to defend, indemnify and hold the Village, its corporate authorities, officers, officials, employees, agents, successors and assigns, and the school district, as the case may be, and its respective officers, officials, employees, agents, successors and assigns, harmless from and against any and all liability, claims, damages, causes of action and expenses arising out of the presence of any hazardous substance(s) in, under or upon said land to be conveyed prior to the date of conveyance.

Hazardous substance(s) includes without limitation:

- (1) Those substances included in the definitions of hazardous substances, extremely hazardous substances, hazardous materials, toxic substances, toxic chemicals, toxic wastes, hazardous chemicals, hazardous wastes, solid waste and pesticides in CERCLA, SARA, RCRA, HSWA, TSCA, OSHA, FWPCE, Illinois Pesticides Act (415 ILCS 60/1 *et seq.*), Illinois Responsible Property Transfer Act (765 ILCS 90/1 *et seq.*) and the Illinois Hazardous Materials Transportation Act (430 ILCS 30/1 *et seq.*), 49 U.S.C. Section 1801 *et seq.*, as amended, and as they may be amended in the future, and in the regulations promulgated pursuant to said laws.
  - (2) Those substances defined in Section 1003 of the Illinois Environmental Protection Act and in the regulations promulgated pursuant to said act or other Illinois laws pertaining thereto.
  - (3) Those substances listed in the U.S. Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto).
  - (4) Such other substances, materials and wastes which are to become regulated under applicable local, state or federal law, or which are classified as hazardous or toxic under federal, state or local laws, ordinances or regulations.
  - (5) Any material waste or substance which is (a) asbestos, (b) polychlorinated biphenols, (c) designated as a hazardous substance pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 *et seq.* (33 U.S.C. Sec. 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Sec. 1317), (d) explosives, or (e) radioactive materials.
  - (6) For purposes of this Section, hazardous substances shall include petroleum or its byproducts as regulated under RCRA and any applicable state law or regulations.
- h. Suitability of Soils at Site: The subdivider or developer, at its own cost or expense, shall provide to the Village or the school districts soil boring data, soil compaction test results and such other engineering studies, data and information pertaining to the proposed school site, which the Village or the school districts may request to

enable them to determine the suitability of the proposed land dedication for school site. The Village or the school districts shall have the right to reject any site the Village or the school districts determine, in accordance with sound engineering practices, is not suitable for school site purposes.

- i. Title Insurance, Survey, Assessment Plats: Each deed or other instrument conveying land to the school districts shall be accompanied by:
  - (1) A written commitment issued by a title insurer licensed to do business in the state to insure the grantee's title to such real estate in an amount equal to the value computed herein, with extended coverage over the general exceptions to title and subject only to:
    - (a) Real estate taxes not yet due and payable;
    - (b) Covenants, conditions and restrictions which do not prohibit the use of the subject property for school purposes;
    - (c) Utility easements located within 20 feet of the boundary lines of the subject real estate (except where approved on the final engineering plans approved by the Village Engineer);
    - (d) Drainage ditches, feeders and laterals;
    - (e) Underground pipe or other conduit; and
    - (f) Acts done or suffered by or judgments against the grantees.
  - (2) A current ALTA boundary line survey, certified to the grantee by a licensed Illinois Land Surveyor to be in compliance with the American Land Survey Standards, showing no encroachments; and
  - (3) Except in instances where the real estate to be conveyed is a lot in a recorded subdivision, an assessment plat and tax division petition in a form acceptable to the appropriate authorities so the land to be conveyed can be assigned its own PIN for exemption purposes.

In addition, monuments must be established and the land staked immediately prior to dedication of the property. The subdivider or developer shall pay for the cost of the owner's title insurance in said amount, the ALTA survey, the assessment plat and any and all

costs in connection with the tax division.

- j. Real Estate Tax Escrow: The developer shall pay the general real estate taxes on the land not yet due and payable as of the date of transfer, and shall deposit a sum of money in escrow with the intended grantee's attorney or a title company licensed to do business in the state, which is prorated as of the date of transfer on the basis of 110 percent of the tax assessor's latest assessed valuation, the latest known equalization factors and the latest known tax rate on the land. In the event the previous tax information or the previous tax bill includes other property, the amount to be deposited in escrow shall be adjusted ratably based on the net acreage of the land compared to the net acreage of the other parcels covered by said tax bills. After the land has been divided for real estate tax purposes and has been conveyed to the intended grantee, the grantee shall proceed with due diligence to apply for a real estate tax exemption on the land.

D. STUDIES AND NEEDS ASSESSMENTS:

1. Preparation of Triennial Needs Assessments: Following adoption of this Chapter, each school district shall prepare a study at least once every 3 years from which it shall develop its triennial needs assessment. The study may consist of a detailed examination or analysis of existing school facilities, capital improvement programs, service standards or research regarding sites, capital improvements and/or service standards.
2. Content of Triennial Needs Assessment:
  - a. A triennial needs assessment shall contain the following information:
    - (1) An inventory of existing lands and buildings utilized by the school district to provide services within the service area.
    - (2) An identification of the capacity of each building within the service area and the number of students then enrolled in each school building.
    - (3) A projection of the character and location of development that is expected to occur within each service area during the succeeding 10-year period.
    - (4) An identification of the amount of lands that will be necessary within each service area in order to accommodate the demands of the projected development and an estimate of the land acquisition costs that will be incurred or have been incurred by the district in acquiring such lands.

- (5) A general description of the total building area, and temporary classrooms, if any, that will be necessary within each service area in order to provide capacity for the projected development.
- (6) A general description of each classification of school capital facilities (including construction, expansion or enhancement of any public facilities and the land improvement, design, engineering and professional costs related thereto) that will be necessary within each district in order to provide school capacity for the projected development, and an estimate of the capital facilities costs that will be incurred by each district in constructing such capital facilities.
- (7) A general description setting forth a schedule for the acquisition of such land and facilities to meet the projected need (which schedule may be conditioned upon the availability of financing); indicating the size and general location of the needed lands and facilities; identifying the estimated or incurred costs of acquiring such needed land and facilities; setting forth the anticipated funding sources for the acquisition of such needed lands and facilities; and a determination of the feasibility of acquiring the needed lands and facilities based upon the district's current financial condition.

- b. The school districts that complete triennial needs assessments for the acquisition of lands; for construction, leasing or acquisition of capital facilities; or for the leasing of temporary classrooms shall update those triennial needs assessments and shall amend their adopted lands acquisition plan and their adopted capital facilities plan based on those updated triennial needs assessments.

E. CALCULATIONS: *Amended 703*

1. Source Information for Population Estimate Variable in Educational Facilities Impact Fee Formulas:
  - (a) Calculations of required educational facilities impact fees shall be made in accordance with the population density projections contained in the Table of Estimated Ultimate Population Per Dwelling Unit, as shown in Exhibit A to Section 22.12.
  - (b) In the event a developer files a written objection to the use of the Table of Estimated Ultimate Population Per Dwelling Unit, the developer shall obtain and submit, at his or her own cost, a demographic study showing the estimated population to be generated from the residential development. Objections to the use of the Table of Estimated Ultimate Population Per Dwelling Unit, as de-



fined above, shall be made in accordance with Section 22.12-F to the Plan Commission. Failure to timely object to the use of the Table of Estimated Ultimate Population Per Dwelling Unit as defined above in accordance with Section 22.12-F, shall hereafter waive any right to raise an objection at a later time.

2. Determination of Land Value Portion of the Educational Facilities Impact Fees:

- (a) Determination of Land Value: The educational facilities impact fees portion for land acquisition shall be based on the fair market value of an acre of land. The land value shall be used in making any calculations required in this Section unless the developer files a written objection thereto. In the event of any such objection, the developer, at his or her own cost, shall obtain and submit an independent appraisal from a MAI designated appraiser indicating the fair market value of such improved land in the area of the proposed development. Objections to the fair market value as defined in this Section, shall be made in accordance with Section 22.12-F to the Plan Commission. Failure to timely object to fair market value in accordance with Section 22.12-F shall hereafter waive any right to raise an objection at a later time.
- (b) Fair Market Value of Land: The land value portion of the educational facilities impact fees shall be based on the fair market value of the acres of land in the area that otherwise would have been dedicated as school sites. In calculating the fair market value on a per acre basis, the following assumptions about the land shall be made: (a) that it is zoned in a one-family dwelling residential zoning district for approximately 32,670 square foot lots; (b) that it is subdivided with appropriate frontage on a dedicated street or road, stubbed with municipal sewer and water, has all appropriate utilities available; and (c) that it is otherwise property capable of being used for residential development. It has been determined that the present fair market value of such improved land in and surrounding the Village is \$163,276 per acre, as of the effective date of this Section. The Board of Trustees shall adjust this figure from time to time after appropriate study and documentation. The fair market value as defined above shall be used in calculating the land value portion of the educational facilities impact fees unless timely objected to as provided in Section 22.12-F. Objections to the fair market value as defined above shall be made in accordance with Section 22.12-F to the Plan Commission. Failure to timely object to the fair market value as defined above in accordance with Section 22.12-F, shall thereafter waive any right to raise an objection at a later time.
- (c) The following criteria shall govern the calculation of the land value portion of the educational facilities impact fee:

- (1) **Service Area Requirement and Population Ratio:** The amount of land that would be required for a school site shall be directly related to the ultimate number of students to be generated by the residential development. The school site development impact fee requirement shall be determined by obtaining the product of the following: (1) estimated number of students to be generated by the residential development within each school classification, as derived from the Table of Estimated Ultimate Population Per Dwelling Unit; over (2) the maximum recommended number of students to be served in each such school classification as established by this Section; times (3) the recommended number of acres for a school site of each school classification as established in this Section. The product thereof shall be the acres of land deemed needed to have sufficient school site land to serve the estimated increased number of students in each such school classification. The school site development impact fee shall be the cash amount equal to the product of the number of acres required for school site times the fair market value of land per acre established in this Section.
- (2) **School Classification and Size of School Site:** School classifications and the size of school building sites within the Village shall be determined in accordance with the following criteria:

<b>School Classification by Grade</b>	<b>Capacity</b>	<b>Acres</b>
Elementary or Grade 0-5	848	15
Junior High or Grades 6-8	430	7
High School or Grades 9-12	1655	80

- (3) **Determination of Capital Improvement Portion of the Educational Facilities Impact Fees:**
- a. The amount of the educational facilities impact fees required for school capital improvements shall be directly related to the ultimate number of students estimated to be generated by the residential development. The school district capital improvement portion of the educational facilities impact fee shall be determined by obtaining the product of the following: (1) the estimated number of new students to be generated by the residential development, as derived from the Table of Estimated Population Per Dwelling Unit; times (2) the capital costs per stu-

dent, as derived from the most current version of the school district's triennial needs assessment on file in the Village Hall.

- b. The following standards for educational facilities based on the educational curriculum approved by each school district shall govern the calculation of the capital improvement portion of the educational facilities impact fee. These standards are intended to provide parameters for the school facilities and the associated educational programs therein and may not be all inclusive:

(1) Elementary School Facility (early childhood through Grade 5):

- (a) Two early childhood classrooms: 10 students per classroom; 800 square feet per classroom.
- (b) Four Kindergarten Classrooms with shared toilet: 20 student per classroom; 1,000 square feet per classroom.
- (c) Twenty Grades 1-5 Classrooms: 24 students per classroom; 785 square feet per classroom.
- (d) Three small group learning rooms: 7 students per classroom; 140 square feet per classroom.
- (e) Three large group learning rooms: 45 students per classroom; 1,350 square feet per room.
- (f) Staff storage space: 480 square feet.
- (g) Visual arts classroom and storage space: 24 student capacity; 1,360 square feet.
- (h) Music classroom and storage: 24 student capacity; 1,110 square feet.
- (i) Wellness education classroom and storage: 52 student capacity; 4,130 square feet.

- (j) Learning center (8,000 volumes): 2,700 square feet.
  - (k) Computer laboratory: 24 student capacity; 960 square feet.
  - (l) Cafeteria and support spaces: 200 student capacity; 3,000 square feet in cafeteria; 1,400 square feet in support spaces.
  - (m) Administrative and support staff areas: 3,360 square feet.
  - (n) Building service areas: 6,317 square feet.
  - (o) Parking as required by the Village approved building codes.
  - (p) Landscaping as required by the Village ordinances.
  - (q) Playground and play field area: 3½ acres minimum.
  - (r) Physical education facilities and support areas for a minimum 600 student capacity use.
  - (s) Special education classrooms and support facilities for a minimum of 12 percent student capacity.
- (2) Middle School Facility (Grades 6 through 8):
- (a) Six math classrooms: 26 students per classroom; 900 square feet per classroom.
  - (b) Six language arts classrooms: 26 students per classroom; 900 square feet per classroom.
  - (c) Six reading classrooms: 26 students per classroom; 900 square feet per classroom.

- (d) Six social studies classrooms: 26 students per classroom; 900 square feet per classroom.
- (e) Six science classrooms: 26 students per classroom; 1,300 square feet per classroom.
- (f) Three special education classrooms and offices: 14 students per classroom; 900 square feet per classroom; 100 square feet per office.
- (g) Three global language classrooms: 26 students per classroom; 900 square feet per classroom.
- (h) Classroom support areas: 2,035 square feet.
- (i) Three small group classrooms: 20 students per classroom; 700 square feet per classroom.
- (j) Library: 10,800 volumes; 3,140 square feet.
- (k) Two technology classrooms: 30 students per classroom; 1,500 square feet per classroom.
- (l) Six technology resource centers: 15 students per center; 750 square feet per center.
- (m) Two art classrooms and office space: 30 students per classroom; 1,500 square feet per classroom.
- (n) One band room and support spaces: 100 students per room; 2,000 square feet for room; 720 square feet for support spaces.
- (o) One music room and support spaces: 30 students per room; 1,460 square feet for room; 210 square feet for support spaces.

- (p) Cafeteria and support spaces: 300 student capacity; 4,500 square feet in cafeteria; 5,760 square feet in support spaces.
  - (q) Physical education field house and support areas: 160 students per field house with 12,000 square feet; 70 students per girl's and boy's locker rooms with 1,420 square feet; 1,550 square feet for support areas.
  - (r) Administrative and support staff Areas: 5,310 square feet.
  - (s) Building service areas: 9,876 square feet.
  - (t) Parking as required by the Village Building Code.
  - (u) Landscaping as required by the Village ordinances.
  - (v) Playground and play field area: 4½ acres minimum.
- (3) High School Facility (Grades 9 through 12):
- (a) One student study center: 2,400 square feet.
  - (b) Two computer labs: 1,000 square feet per lab.
  - (c) One presentation room: 1,600 square feet.
  - (d) Curriculum offices, workrooms, storage areas: 7,120 square feet.
  - (e) Library/ancillary rooms: 15,000 volumes; 7,760 square feet.
  - (f) Nine English classrooms: 800 square feet per classroom.
  - (g) Seven social studies classrooms: 800

square feet per classroom.

- (h) Six foreign language classrooms: 800 square feet per classroom.
- (i) Two large group classrooms: 1,600 square feet per classroom.
- (j) One behavior disorder classroom: 800 square feet.
- (k) Three L.R. classrooms: 500 square feet per classroom.
- (l) Special education ancillary spaces: 1,390 square feet.
- (m) Four chemistry laboratories: 1,200 square feet per laboratory.
- (n) Nine multi-purpose laboratories: 1,200 square feet per laboratory.
- (o) Eight math classrooms: 800 square feet per classroom.
- (p) Seven prep rooms/storage: 250 square feet per room.
- (q) Industrial arts laboratories: 7,000 square feet.
- (r) Business classroom and computer Labs: 2,800 square feet.
- (s) Home economics labs/space: 2,750 square feet.
- (t) One vocational education classroom: 800 square feet.
- (u) Music rooms, ancillary rooms: 6,100 square feet.
- (v) Two art classrooms: 1,200 square feet per classroom.
- (w) Ancillary art rooms: 1,280 square feet.

- (x) Theater, ancillary rooms: 14,430 square feet.
- (y) One main gym: 2,000 bleacher seating; 18,000 square feet.
- (z) One auxiliary gym: 250 bleacher seating; 8,000 square feet.
- (aa) Ancillary physical education rooms: 17,780 square feet.
- (bb) One health classroom: 800 square feet.
- (cc) One driver's education room, office: 900 square feet.
- (dd) Administrative and support staff areas: 7,865 square feet.
- (ee) Student center: 600 square feet.
- (ff) Cafeteria and support areas: 9,000 square feet student dining area; 6,750 square feet of support areas.
- (gg) Building service areas: 28,527 square feet.
- (hh) Parking as required by the Village approved building codes.
- (ii) Landscaping as required by the Village ordinances.
- (jj) Field/athletic areas: To be included at a minimum, 10 all weather surface tennis courts; 1 stadium-football-track; 2 baseball fields; 2 softball fields; 4 soccer fields; 3 football practice fields.
- (kk) Bus parking area: Parking for 30 buses; 3,000 square feet per bus.

3. Calculated Educational Facilities Impact Fees: The Educational Facilities Impact Fees shall be collected based on the school land acquisition and



capital improvement costs as set forth in Exhibit C to Section 22.12 at the end of this Section. The costs for educational facilities included in the calculations contained in Exhibit C to Section 22.12 are derived from studies done by the school districts of comparable educational facilities with the same curriculum parameters as approved by the school districts. The capital improvement costs portion of the educational facilities impact fee provides for the deduction of a developer credit that includes a homestead exemption (\$5,000) and credit for debt service on outstanding bonds.

4. **Distribution of Educational Facilities Impact Fees:** The educational facilities impact fees shall be collected by the Village and shall be held by the Village solely for the capital improvements as set forth in this Section, to serve the immediate and future needs of the residential development. At the time of disbursement of the educational facilities impact fees to a school district, the Village shall deduct an administrative fee of three percent of the funds to be disbursed.

F. **OBJECTIONS:** All objections relating to acreage requirements, presumptions as to fair market value, the calculations, or any other application of this Section to a particular development, shall first be referred to the Plan Commission for a hearing. An objection must be made, if at all, prior to the final development approval by the Village. A failure to object by such time shall constitute a waiver of the right to object to the provisions of this Section. All developers submitting a request for development approval to the Village shall be given a copy of this entire Educational Facilities Impact Fee Section, including the procedures for objecting to such an assessment as prescribed by this Section. Upon receipt, the developer must sign an accompanying document, Exhibit D to Section 22.12 at the end of this Section, acknowledging that the developer has received notice of the existence of such a procedure for objections. The procedure for a hearing before the Plan Commission shall be as follows:

1. **Duties of the Plan Commission:** The Plan Commission shall serve in an advisory capacity and shall have the following duties:
  - a. Advise and assist the Village in resolving objections regarding the calculations, the size of the school sites, the fair market value of the land, or any other application of this Section to a particular development.
  - b. The Village may adopt procedural rules to be used by the Plan Commission in carrying out the duties imposed by this Section.
2. **Information and Services to be Used:** The Village shall make available to the Plan Commission all professional reports relating to the calculations, the size of the school sites and the fair market value of land used in calculating the educational facilities impact fees. The Plan Commission may also retain the services of professionals (attorneys, appraisers, statisticians, etc.) to assist in its review of issues raised by any objection.
3. **Procedure for Resolving an Objection:**

- a. Upon receipt of an objection, the Village Hall staff shall place the same on the next available regular meeting agenda of the Board of Trustees. Thereafter the Board of Trustees shall refer the objection to the Plan Commission, which shall, by resolution, establish a hearing date.
- b. The Plan Commission shall select a hearing date to consider the objection and shall notify the school districts of the filing of the objection and of any hearing regarding the objection.
- c. The Objector shall publish notice of the hearing date once each week for three consecutive weeks, at least 30 days before but no more than 60 days before the scheduled date of the hearing. Notice shall be published in a newspaper of general circulation within the corporate limits of the Village. The notice of public hearing shall not appear in the part of the paper where legal notices or classified ads appear. The notice shall not be smaller than one-quarter page of a standard size or tabloid-size newspaper. The objector shall send a copy of said notice to any person who has requested said notice by certified mail (stamped at a U.S. Postal Service facility showing the date of mailing) at least 30 days prior to the hearing date.
- d. The notice shall contain all of the following information:
  - (1) The headline shall read: "NOTICE OF PUBLIC HEARING ON OBJECTION TO APPLICATION OF THE EDUCATIONAL FACILITIES IMPACT FEE."
  - (2) The date, time and location of the public hearing.
  - (3) A statement that the purpose of the hearing is to consider the objection to a component of the application of the Educational Facilities Impact Fee.
  - (4) A general description of the parcel(s), service area or areas within the Village that are the subject of the hearing.
  - (5) A statement that the Village shall make available to the public, upon request, an easily understandable and detailed map of the parcel(s), service area or areas to which the Educational Facilities Impact Fee applies, and any other available information about the objection.
  - (6) A statement that any member of the public affected by the Educational Facilities Impact Fee or the parcel(s) or service area shall have the right to appear at the public hearing and present testimony and/or evidence in support of or against the objection.

e. A public hearing shall be held for the consideration of the objection. In addition to the Village, the school districts shall be allowed to participate in such hearing as a party thereto to present evidence, cross-examine witnesses and make arguments to the Plan Commission regarding the issues raised in the objection. The Plan Commission shall make a recommendation to adopt, reject in whole or in part, or modify the objection presented at the hearing, by written report to the Board of Trustees, within 60 days after the hearing. The Board of Trustees shall then have at least 60 but not more than 120 days to approve, disapprove or modify, by ordinance or resolution, the findings in this Section as it pertains to the development in question.

4. **Costs and Fees:** The objector shall bear all costs of the hearing before the Plan Commission, including, but not limited to attendance fees paid the Plan Commission members, publication costs, professional consultants, Village attorney's fees and any other expenses of the Village.

G. **CONDITION TO ANNEXATION:** The Educational Facilities Impact Fees required by this Section shall also be required as a condition to the annexation of any land to the Village, and provisions therefore shall at a minimum be incorporated in any annexation or pre-annexation agreement governing such land. However, the Village reserves the right to negotiate an Educational Facilities Impact Fee greater than those set forth herein. Further, any requirements with respect to Educational Facilities Impact Fees shall be incorporated into any subdivision declaration of covenants running with the land.

H. **INDEMNIFICATION:** As a condition to any affected school district receiving any school land dedications and/or cash contributions in lieu thereof, the affected school district shall execute an indemnification agreement largely similar in form and content to that set forth in Exhibit E to Section 22.12 at the end of this Section. This agreement shall be executed on or before June 1st of each year. Following execution of this agreement by the affected school district, this agreement shall be furnished to the Village. In the event the affected school district fails to execute and/or furnish the executed agreement as required in this Educational Facilities Impact Fee Section, the Village reserves the right to refuse to impose any land dedications and/or cash contributions in lieu thereof on behalf of the affected school district.

**EXHIBIT A TO SECTION 22.12, Amended 703**

TABLE OF ESTIMATED ULTIMATE SCHOOL POPULATION PER DWELLING UNIT								
Type of Unit	Children per Unit					Adults 18 years +	Total per Dwelling Unit	Price per Unit
	Preschool 0-4 years	Elementary Grades K-5 5-10 years	Middle Grades 6-8 11-13 years	Total Grades K-8 5-13 years	High School Grades 9-12 14-17 years			
<b>Detached Single-Family:</b>								
2 bedroom	0.12	0.411	0.138	0.549	0.222	1.856	2.746	\$3,305.96
3-bedroom	0.268	0.486	0.153	0.639	0.135	1.913	2.955	\$2,875.79
4-bedroom	0.371	0.702	0.259	0.961	0.242	1.985	3.559	\$4,625.87
5-bedroom	0.386	0.59	0.236	0.826	0.242	2.191	3.645	\$4,241.27
<b>Attached Single-Family:</b>								
2-bedroom	0.206	0.084	0.057	0.141	0.03	1.318	1.697	\$630.88
3-bedroom	0.214	0.104	0.039	0.143	0.05	1.966	2.374	\$798.65
4-bedroom	0.183	0.183	0.271	0.106	0.377	2.102	2.767	\$4,224.31
<b>Apartments:</b>								
Efficiency	0.000	0.000	0.000	0.000	0.000	1.4	1.4	\$0.00
1-bedroom	0.058	0.032	0.012	0.044	0.013	1.653	1.71	\$226.96
2-bedroom	0.0129	0.064	0.031	0.095	0.038	1.744	2.007	\$567.15
3-bedroom	0.199	0.115	0.073	0.188	0.083	2.005	2.475	\$1,181.25

## EXHIBIT B TO SECTION 22.12

### **AGREEMENT BETWEEN DEVELOPER AND THE VILLAGE OF PRAIRIE GROVE TO DELAY PAYMENT OF EDUCATIONAL FACILITIES IMPACT FEES**

This agreement (“Agreement”) is entered into between the Village of Prairie Grove (the “Village”) and, \_\_\_\_\_ (“Developer”).

*WHEREAS*, the Village has approved a final plat of subdivision or a final plat of a planned development at the request of Developer for the real estate legally described in Exhibit A.1 attached hereto and made a part hereof (the “Land”). Accordingly, pursuant to the Educational Facilities Impact Fee Section of the Prairie Grove Municipal Code, (“Ordinance”), certain fees are immediately due the Village from the Developer; and

*WHEREAS*, Developer has, however, requested that the payment of the aforesaid educational facilities impact fees be delayed and that the same become due and payable on a per dwelling unit basis at the time the Village issues an occupancy permit for the particular dwelling unit.

*NOW, THEREFORE*, in consideration for the Village agreeing to delay its receipt of the educational facilities impact fees, Developer hereby agrees as follows:

1. The amount of educational facilities impact fees owed shall be calculated based upon the Ordinance or as provided for in such other future ordinance amending or replacing the Ordinance that is in effect at the time of the issuance of an occupancy permit; and
2. Notwithstanding any present or future law, regulation and/or legal precedent to the contrary, the unit of local government that is the ultimate recipient of the subject cash contributions may expend such contributions for any of the following purposes intended to serve immediate or future needs of the residents and children of the Developer's subdivision or planned development: expenses commonly paid by such school district for the operation and maintenance of its facilities and property.
3. Developer has reviewed the Ordinance, including but not limited to, all of the methodology, formulae, calculations, projections, assumptions, numbers and other factors used to arrive at the educational facilities impact fees that are the subject of the this Agreement (hereinafter referred to as the “Ordinance and Attendant Calculations”) and hereby acknowledges and agrees that:
  - (a) Pursuant to the terms of the Ordinance, Developer has been offered the opportunity to raise in a hearing before the Village Plan Commission, any objections relating to the calculations, or any other application of the Ordinance; Developer has not raised such objections; Developer has thereby waived the right to assert those objections;
  - (b) Developer hereby waives any future right to object to or to institute any legal action regarding Ordinance and Attendant Calculations.
  - (c) Developer hereby acknowledges that Ordinance and Attendant Calculations have

been properly passed, calculated and imposed.

4. This Agreement constitutes a covenant that is appurtenant to and runs with the Land. Either this Agreement or a memorandum thereof may be recorded against legal title to the Land by either party hereto; provided, however, it shall be a condition of the Village's issuance of the first building permit for a dwelling unit on the Land that Developer shall provide satisfactory evidence to the Village that this Agreement or a memorandum thereof has been recorded against legal title to the Land.

5. Developer represents and warrants to the Village that it is the sole holder of record fee title to the Land.

IN WITNESS WHEREOF, the Village and the Developer have caused this Agreement to be duly authorized, executed and entered into as of the \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
President

\_\_\_\_\_  
Developer

\_\_\_\_\_  
Village Clerk

**EXHIBIT B.1 TO SECTION 22.12**  
Legal Description of Property

**EXHIBIT D TO SECTION 22.12**

**Acknowledgement of Notification Rights**

Developer hereby acknowledges receipt of a copy of the Educational Facilities Impact Fee Section of the Village of Prairie Grove that describes, in Section F, the developer's right to object to the calculations or any other application of the Section.

Developer further acknowledges that if it has any objection to such matters, that it must follow the procedure set forth in said Section F. Failure to do so by the developer shall constitute a waiver of the developer's right to object to such matters. Payment of the fees pursuant to the Section shall constitute a waiver of any right to such a hearing.

Signed: \_\_\_\_\_  
Date: \_\_\_\_\_

Witness: \_\_\_\_\_  
Date: \_\_\_\_\_



**EXHIBIT E TO SECTION 22.12**

**INTERGOVERNMENTAL INDEMNIFICATION AGREEMENT  
BETWEEN THE VILLAGE OF PRAIRIE GROVE  
AND SCHOOL DISTRICT NO. \_\_\_\_\_**

THIS INTERGOVERNMENTAL AGREEMENT is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 200\_\_, by and between the VILLAGE OF PRAIRIE GROVE, an Illinois home rule municipal corporation (the “Village”), and the SCHOOL DISTRICT NO. \_\_\_\_\_, an Illinois unit of local government (the “District”) (hereinafter referred to collectively and generically as the “Parties”) pursuant to Section 10 of Article VII of the Illinois Constitution; the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 *et seq.*; Division 12 of the Illinois Municipal Code, 65 ILCS 5/11-12-1 *et seq.*; and all other applicable provisions of law:

WHEREAS, the Educational Facilities Impact Fee Section of the Prairie Grove Municipal Code provides for the imposition of educational facilities impact fees (the “Impact Fees”) within the Village, as defined therein, to provide for and finance educational facilities required to serve residential developments; and

WHEREAS, the Educational Use Transition Fee Section of the Prairie Grove Municipal Code provides for the imposition of educational use transition fees (the “Transition Fees”) within the Village, as defined therein, to provide for revenue during the period between occupancy of a residence and the time wherein the residence is listed on the tax rolls and taxes become due and payable (the Educational Facilities Impact Fee Section and the Educational Use Transition Fee Section are collectively referred to as the “Ordinances”); and

WHEREAS, pursuant to the Ordinances, the Village collects Impact Fees and Transition Fees required under the Ordinances and transfers those Impact Fees and Transition Fees to the District; and

WHEREAS, the Village and the District desire to enter into this Agreement to, among other things, 1) confirm and acknowledge certain aspects of the implementation of the Ordinances as they relate to residential developments in the Village, and 2) to provide the Village with indemnification protection relating to the adoption and enforcement of the Ordinances, as well as payment, administration, and use of the Impact Fees and Transition Fees provided for in the Ordinances; and

WHEREAS, the Village is a home rule municipality as contemplated under Article VII, Section 6 of the Constitution of the State of Illinois, and execution of this Intergovernmental Agreement constitutes an exercise of the Village’s home rule powers and functions as granted in the Constitution of the State of Illinois;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties shall, and do hereby agree as follows:

**SECTION 1. Educational Facilities Impact Fee Section and Educational Use Transition Fee Section Requirements**

A. General. The Parties hereby acknowledge and agree that the obligation of the Village to impose, collect and distribute Impact Fees and Transition Fees pursuant to the Ordinances is subject to the District's compliance with the obligations set forth in this Intergovernmental Agreement.

B. Use of Funds. The District acknowledges and agrees that any Impact Fees and Transition Fees required and received pursuant to the terms of the Ordinances shall be spent and used solely for the uses specifically authorized under each Ordinance.

C. Compliance. The District acknowledges and agrees to comply with the terms and conditions of the Ordinances.

## SECTION 2. **Execution of Intergovernmental Indemnification Agreement**

Development-Specific Disbursement Agreement. The District acknowledges and agrees that the Village shall have no obligation to impose, collect, or disburse Impact Fees and Transition Fees provided for or otherwise required under the Ordinances, unless and until the District has executed and delivered to the Village Clerk this Intergovernmental Agreement. The District understands that it must execute an agreement similar to this Agreement on an annual basis and that the Village shall not pay or cause to be paid any additional funds due to the District until such time as the Village is in receipt of such annually executed agreement. The District further understands that, except as otherwise provided in the Ordinances, the Village is not obligated to cause the payment of money or the transfer of land to the District. The District recognizes that the Village may, at its sole discretion, amend its ordinances or its practices to discontinue the payment of subdivision contributions to the District.

## SECTION 3. **Indemnification**

A. The District shall protect, defend, indemnify, and hold harmless the Village, its officials, employees, agents, and its consultants from and against any attorney fees incurred by the Village, impact or transition fees collected or paid, damages, lawsuits, losses, liability, expenses, costs, causes of action, or other claims, directly or indirectly relating to the Ordinances or this Agreement. Regardless of whether the Ordinances or any part of them is subsequently held to be invalid or unenforceable by a court of competent jurisdiction, the Parties shall still remain bound by the terms of this Agreement.

B. In the event a final and nonappealable judicial determination is made by a court of competent jurisdiction that impact or transition fees received by the District are, in whole or in part, excessive, the District shall promptly repay those fees to the person who procures such a judgment, together with all other amounts judged by the court to be owing. In the event a judicial determination should require the payment of damages or payment of the attorneys' fees of the plaintiff's attorneys, the District shall pay all additional amounts.

## SECTION 4. **Attorneys Fees**

In the event the Village files suit to enforce the terms of this Agreement, or defends a lawsuit filed against the Village directly or indirectly relating to the Ordinances, the District shall reimburse the Village for all attorneys fees incurred therein.

SECTION 5. Miscellaneous

A. Notices. Notices and communications to the Village shall be addressed to the following addresses:

Village of Prairie Grove  
3125 Barreville Road  
Prairie Grove, Illinois 60012  
Attention: Village Clerk

With a copy to:

David W. McArdle  
Zukowski Rogers Flood & McArdle  
50 Virginia Street  
Crystal Lake, IL 60014

Notices and communications to the District shall be addressed to the following addresses:

**[To be provided]**

B. Term. This Agreement shall remain in full force and effect for 12 months from its execution.

C. Authority to Execute. The undersigned representatives on behalf of the Village and District hereby represent that execution of this Agreement has been authorized by board vote at a duly called meeting of their respective boards.

D. Severability. If any provision of this Agreement is construed or held to be void, invalid, illegal, or unenforceable in any respect, the remaining part of that provision and the remaining provisions of this Agreement shall not be affected, impaired, or invalidated thereby, but shall remain in full force and effect. The unenforceability of any provision of this Agreement shall not affect the enforceability of that provision in any other situation.

E. Entire Agreement. This Agreement shall constitute the entire agreement of the Parties to this Agreement concerning the Ordinances; all prior agreements between the Parties, whether written or oral, are merged with this Agreement and shall be of no force and effect.

F. The language in the text of this Agreement shall be interpreted in accordance with the following rules of construction: (a) the singular number includes the plural number, and the plural the singular; (b) the word "shall" is mandatory, the word "may" is permissive; and (c) the masculine gender includes the feminine and neuter.

G. It is understood and agreed that the construction and interpretation of this Agreement shall at all times and in all respects be governed by the State of Illinois and for the purposes of enforcement of the terms hereof, jurisdiction and venue shall be in the State of Illinois, McHenry County.

H. The terms and conditions of this Agreement shall inure to the benefit of and be

binding upon the respective representatives, successors, and assigns of the District, the Village and their respective officials. Nothing in this Agreement, expressed or implied, is intended to confer upon any party, other than the Parties hereto, and their heirs, successors, and assigns, any rights, remedies, obligations, or liabilities under or by reason of this Agreement.

I. The District hereby expressly waives each and all of the following: (a) notice of acceptance of this Agreement by the Village; (b) notice of the amount of Impact Fees or Transition Fees now distributed to it or which hereafter may be distributed to it pursuant to the Ordinances; (c) notice of demand for payment, notice of default, and/or other notices to which the District might otherwise be entitled in connection with this Agreement; (d) any right to require the Village, as a condition precedent to enforcement of this Agreement, to exhaust any security for repayment of said Impact Fees or Transition Fees or to pursue any other rights or remedies which the Village has or hereafter may have against third parties and/or the District, whether such rights exist by statute or otherwise, it being understood by the District that this Agreement is an absolute guarantee to defend, indemnify, and hold harmless the Village, that the failure of the Village to exercise any rights or remedies it has or may have against the District or third parties who are not party to this Agreement shall in no way impair the obligation of the District and that the liability of the District hereunder is and shall be direct and unconditional; and (e) all defenses, offsets, and counterclaims, which the District may at any time have to any claim of the Village against the District.

J. This agreement may be executed in counterparts, each of which shall be deemed an original, of the same instrument representing the Agreement between the Parties.

K. This Agreement shall be terminable by either party for any reason or no reason at all upon 30 days' prior written notice to the other party evidencing the intention to so terminate this Agreement. But the termination of this Agreement shall not affect the continuing obligation of the District or the Village with regard to claims or damages allegedly arising out of the Village's efforts prior to termination to impose, collect or distribute contributions or fees, or to the actual distribution of contributions or fees.

IN WITNESS THEREOF, the Parties hereto have caused the execution of this Agreement by their duly authorized officers on the date stated on the first page of this Agreement.

VILLAGE OF PRAIRIE GROVE

SCHOOL DISTRICT NO. \_\_\_\_\_

By: \_\_\_\_\_  
President

By: \_\_\_\_\_  
President, Board of Education

ATTEST:

ATTEST:

By: \_\_\_\_\_  
Village Clerk

By: \_\_\_\_\_  
Secretary

**22.13****MUNICIPAL IMPACT FEE AND FIRE IMPACT FEE, Amended 703**

A. **MUNICIPAL IMPACT FEE:** A municipal impact fee for the additional municipal services created as a result of new residential development is hereby established. The municipal impact fee shall be as follows:

1. **Residential:**

\$3,000.00 per each proposed residential dwelling unit, payable at the time of final plat of subdivision or planned development approval; and

\$150.00 per bedroom, payable at the time of issuance of a building permit.

2. **Commercial and Industrial:** \$1.00 per square foot of building space, payable at the time of final plat of subdivision or planned development approval.

B. **FIRE IMPACT FEE:** A fire impact fee for the addition fire and rescue services created as a result of new residential development is hereby established. The fire impact fee shall be \$500 per dwelling unit, payable to the applicable fire district at the time of final plat of subdivision or planned development approval.

C. **FIRE DISTRICT INTERGOVERNMENTAL AGREEMENT:** Any fire district that provides fire and ambulance service within the Village shall be required to enter into an intergovernmental agreement with the Village agreeing to be bound to protect, defend, indemnify and hold harmless the Village and its officials, employees and agents from and against any and all losses, damages, costs, claims, expenses or liabilities, including attorney fees, incurred in defense of, or in connection with, the payment, receipt, refund or expenditure of any fire impact fees received from the Village. The Village shall provide the form of the intergovernmental agreement.

**22.14****MUNICIPAL IMPACT FEE AND FIRE IMPACT FEE**

A. **MUNICIPAL IMPACT FEE:** A municipal impact fee for the additional municipal services created as a result of new residential development is hereby established. The municipal impact fee shall be as follows:

1. **Residential:**

\$3,000.00 per each proposed residential dwelling unit, payable at the time of final plat of subdivision or planned development approval; and

\$150.00 per bedroom, payable at the time of issuance of a building permit.

2. **Commercial and Industrial:** \$1.00 per square foot of building space, payable at the time of final plat of subdivision or planned development approval.

B. **FIRE IMPACT FEE:** A fire impact fee for the addition fire and rescue services created as a result of new residential development is hereby established. The fire impact fee shall be \$500 per dwelling unit, payable to the applicable fire district at the time of final plat of subdivision or planned development approval.

C. **FIRE DISTRICT INTERGOVERNMENTAL AGREEMENT:** Any fire district that provides fire and ambulance service within the Village shall be required to enter into an intergovernmental agreement with the Village agreeing to be bound to protect, defend, indemnify and hold harmless the Village and its officials, employees and agents from and against any and all losses, damages, costs, claims, expenses or liabilities, including attorney fees, incurred in defense of, or in connection with, the payment, receipt, refund or expenditure of any fire impact fees received from the Village. The Village shall provide the form of the intergovernmental agreement.

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## **Chapter 23** **BUILDING CODE**

- 23.01 Adoption of Building Code
- 23.02 Exceptions
- 23.03 Specific Amendments to the Codes
- 23.04 Building Permits
- 23.05 Professional Fees
- 23.06 Permit/Construction Schedule
- 23.07 Municipal Property Damage Deposits
- 23.08 Decks
- 23.09 Driveways
- 23.10 Elevator Inspections
- 23.11 Garages
- 23.12 Trenches
- 23.13 Excavation in the Right-of-Way
- 23.14 Moving of Buildings
- 23.15 Sign Boards
- 23.16 Swimming Pools, Hot Tubs, Spas
- 23.17 Temporary Certificate of Occupancy
- 23.18 Certificate of Occupancy
- 23.19 Local Rules
- 23.20 Fee Schedule
- 23.21 Unlawful Issuance of Building Permit
- 23.22 Unlawful Continuance of Building Activity
- 23.23 Architectural Review Requirements
- 23.24 Fire District Rapid Entry Key System
- 23.25 Violation Penalties
- 23.26 Registration of Businesses
- Exhibit A Fee Schedule

### **23.01            ADOPTION OF BUILDING CODE** *Amended, 476, 442, 391*

Subject to the modifications set forth herein, the following list of codes are hereby adopted and amended as part of the Village Building Code for the control of buildings and structures as therein provided in each code. Each and all of the regulations, provisions, penalties, conditions and terms contained in each code described below are hereby referred to, adopted and made a part hereof as if fully set forth in this Chapter:

1.     The International Building code, 2006 edition, published by the International Code Council (“Building Code”);
2.     The International Residential Code for One- and Two-Family Dwellings, 2006 edition, published by the International Code Council (“Residential Code”);
3.     The International Mechanical Code, 2006 edition, published by the International Code Council (“Mechanical Code”);

4. The International Fuel Gas Code, 2006 edition, published by the International Code Council (“Fuel Gas Code”);
5. The International Property Maintenance Code, 2006 edition, published by the International Code Council (“Property Maintenance Code”);
6. The International Energy Conservation Code, 2006 edition, published by the International Code Council (“Energy Conservation Code”);
7. The International Wildland-Urban Interface Code, 2006 edition, published by the International Code Council (“Wildland-Urban Interface Code”);
8. The International Fire Prevention Code, 2006 edition, published by the International Code Council (“Fire Prevention Code”);
9. State of Illinois Plumbing License Law, Plumbers Licensing Code and Plumbing Code, latest edition with amendments, printed by Authority of the State of Illinois Department of Public Health (“Plumbing Code”);
10. The National Electric Code (NFPA 70), 2005 edition, published by the National Fire Protection Association, Quincy, MA (“Electric Code”); and
11. Life Safety Code (NFPA 101, issued by the National Fire Protection Association (“Life Safety Code”).

**23.02**            **EXCEPTIONS** *Amended, 476, 442, 391*

Each and all of the regulations, provisions, penalties, conditions and terms contained in each code adopted herein are hereby referred to adopted and made a part hereof as if fully set forth in this Chapter, except as provided below:

1. All words contained in the codes, which refer to the municipality or other words of similar meaning, including “jurisdiction,” shall mean the Village of Prairie Grove.
2. The words “municipal authority” or “government authority” or “chief appointing authority of the jurisdiction” or “applicable governing authority” or words of similar meaning shall, for purposes of this subsection, mean the Village Board.
3. The words “enforcing officer,” “hearing officer,” “building inspector,” “building official” or other words of similar meaning shall refer to the person or entity designated by the Village Board to act in that capacity.
4. Water supplies shall not be placed on outside walls.
5. Property identification shall be posted on each lot prior to excavation and remain through final inspection. Materials used for said identification shall not fade and permit the attachment of inspection reports.



6. No exterior painting shall be permitted when weather conditions may drop below 40 degrees Fahrenheit within 24 hours. Only oil or alkyd base primer shall be permitted.
7. All exterior walls shall be constructed with an approved moisture barrier, which shall be installed directly beneath the exterior siding so as to create a breathable drainage plane. Barriers with limited vapor diffusion characteristics such as polyethylene shall not be permitted.
8. All wall framing shall be 16 inches on center.
9. All sheathing shall be free of cracks, holes, rips and tears. Any damaged sheathing shall be replaced. There shall be no unbacked seams in sheathing between studs, horizontal or vertical.
10. Omit "International Zoning Code," insert "Village of Prairie Grove Zoning Code."
11. Omit "International Plumbing Code," insert "Illinois State Plumbing Code."
12. Omit "ICC Electrical Code," insert "National Electrical Code."

**23.03 SPECIFIC AMENDMENTS TO THE CODES** *Amended, 567, 476*

A. BUILDING CODE EXCEPTIONS: Exceptions to the Building Code shall be as follows:

1. Section 105, Permits: Delete this section in its entirety.
2. Section 108, Fees: Delete this section in its entirety.
3. Section 1805.4.6: Delete this subsection in its entirety.
4. Section 2308.3.3.1: Delete this subsection in its entirety.
5. Chapter 27, Electrical, Chapter 28, Mechanical, and Chapter 29 Plumbing: delete these chapters in their entirety.
6. Appendix B, Board of Appeals, Appendix H, Signs, Appendix I, Patio Covers, Appendix J, Grading, and Appendix K, ICC Electrical Code: delete these appendices in their entirety.

B. RESIDENTIAL CODE EXCEPTIONS: Exceptions to the Residential Code shall be as follows:

1. The following sections are deleted in their entirety: R103.3, R105, R108.5, R112, R302, R304.4, R309.1.1, R309.5, R316.3, R316.4, R316.5, R320, Figure R403.1(2), R403.1(3), R403.3.3(1), R404.1.8, R404.2, Table R404.2.3d, R408.6, R408.7, R505, R603, R804, and Chapters 11 through 42.

2. All references to Oriented Strand Board (OSB) for roof sheathing and all roof sheathing of less than 15/32 inch thickness shall be deleted.
3. R104.2 shall read as follows: The Building Official shall receive applications, review construction documents, inspect the premises for which permits have been issued and enforce compliance with the provisions of this Residential Code. All permits for the erection and alteration of buildings or structures shall be approved by the Architectural Review Commission before issuance.
4. R104.11: Shall be amended by deleting “building official” and replacing with “Architectural Review Commission” and deleting the last sentence in its entirety.
5. R104.11.1: Shall be amended by deleting “building official” and replacing with “Architectural Review Commission.”
6. R301, Table 301.2(1): Insert “30 psf” for GROUND SNOW LOAD; insert “90 mph basic wind speed” for WIND SPEED; insert “B” for SEISMIC DESIGN CATEGORY; INSERT “severe” for WEATHERING; insert “minimum 42 inches” for FROST LINE DEPTH; insert “Moderate to Heavy” for TERMITE; insert “-4 F degrees” for WINTER DESIGN TEMPERATURE, insert “Yes” for ICE BARRIER UNDERLAYMENT REQUIRED, insert “1972” for FLOOD HAZARD, insert “1800 bf days per 100 years” for AIR FREEZING INDEX, and insert “48 F degrees” for MEAN ANNUAL TEMPERATURE.
7. R305.1: Shall read as follows: The required floor area of a habitable room on the first floor of a dwelling is permitted to have a sloped ceiling less than 9 feet in height as long as 80 percent of the room has minimum ceiling heights of 9 feet. Laundry rooms, bathrooms and closets are exempt from the 9-foot height requirement.
8. R309.1: The second sentence shall read: Other openings between the garage and residence shall be equipped with either solid wood doors not less than 1 3/4 inch (45mm) in thickness or minimum 1-hour fire-rated doors.
9. R309.2: Shall read as follows: The garage shall be separated from the residence and its entire attic area by means of minimum 5/8 inch (15.9 mm) type X gypsum board applied to the garage side. The gypsum board shall be taped tight with 2 coats.
10. R310.1: The second reference to “with habitable space” shall be deleted.
11. R310.4: Add the following: Steel grate covers or transparent plastic covers are required over all escape window wells. Those covers shall meet the requirements of Section R310.3.

12. R311.5: Add the following: All dwellings shall be required to have a minimum of 1 exit from the basement meeting the requirements of Section R310.
13. R311.5.4: Add R311.5.4.1, Shall read as follows: All required landings shall be properly supported by a minimum of 2 concrete wing walls measuring a minimum of 6 inches wide or a minimum of two 8 inch diameter solid concrete piers extending a minimum of 42 inches below finished grade or extending to bear on undisturbed soil.
14. R311.5.4: Add R311.5.4.2, which shall read as follows: All landings constructed of concrete shall rest on the concrete foundation or shall be properly attached with a minimum of 2 #4 steel rebar, one-half-inch in diameter, properly pinned to the concrete foundation.
15. R311.5.4: Insert the following under Exceptions: Where a sliding glass door is installed, the landing on the exterior can be reduced to between 12 inches and 16 inches projection from the edge of the kick board. The landing shall extend a minimum of 6 inches beyond each end of the sliding glass door opening, “in the full position.” Only 1 reduced landing shall be allowed meeting those requirements.
16. R316.2: Shall read as follows: Insulation standards. All insulation for roofs shall be constructed of material with a thermal resistance (R-value) of not less than R-30. All exterior walls shall be constructed of a material with a thermal resistance of not less than R-15. All garage ceilings shall be insulated with a minimum thermal resistance of R-30 where habitable space exists above that ceiling area, including unfinished bonus rooms, prior to the installation of drywall.
17. R317.1: “not less than a 1-hour” shall be changed to “not less than 2-hour.”
18. R317.2: “meeting the requirements of Section 302 for exterior walls” shall be changed to “not less than a 2-hour fire resistance rating when tested in accordance with ASTM E 119.”
19. R317.2: Delete “Exception” in its entirety.
20. R321: Insert the following: In all cases, address numbers shall be permanently affixed to the building.
21. R321: Add R321.1.1, which shall read as follows: The minimum size numbers shall be 3 inches on houses within 60 feet from the edge of the street or curb. The minimum size numbers shall be 4 inches where the building is more than 60 feet from the edge of the street or curb.
22. R321: Add R321.1.2, which shall read as follows: Where the building is not clearly visible from the street, the address numbers shall also be per-

manently affixed to the mailbox, mailbox post or other post or sign designated for the address numbers, plainly visible and legible from the street or road fronting the property.

23. R401, R402, R403, R404, R405, R406 and R504: Any references to wood foundations shall be deleted. Wood foundations are prohibited within the Village.
24. R401.1: After the first sentence, it shall read as follows: All dwelling units shall be constructed with basements. All 2-story dwelling units shall have a basement constructed under 90 percent of the first floor area, except for the area occupied by the garage. All one-story dwelling units shall have a basement constructed under a minimum of 75 percent of the first floor area (except for the areas occupied by bump out areas, such as the garage, kitchen eating area or any 3-season or screened porch), or 1,500 square feet, whichever is greater.
25. R401: Add R401.5, which shall read as follows: Radon Protection. All dwelling units shall be constructed with passive radon protection piping stubbed in from the basement to the attic. This passive radon protection piping shall be constructed to allow the homeowners to install a radon protection system in the event that a future test indicates the presence of radon.
26. Table R404.1.1(1): Delete the following: All plain concrete and plain masonry foundation walls less than 8-inch nominal wall thickness. The minimum plain concrete and plain masonry foundation wall thickness shall be 8 inches nominal wall thickness.
27. R403: The reference pertaining to footings shall be deleted in its entirety.
28. R407.1: Add the following: Wood columns are prohibited from supporting steel beams.
29. R408.6: Add the following: An approved polyethylene vapor barrier with joints lapped no less than 6 inches, covered by a 2-inch concrete slush coat, is required in all crawl spaces. The concrete slush coat shall be pitched toward and allowed to drain into the easement area unless a floor drain is installed and connected to the storm sewer system.
30. Table R503.1: Insert the following: OSB shall not be used for the subfloor sheathing. The minimum thickness for subfloor sheathing shall be  $\frac{3}{4}$ -inch. Unsupported edges shall have tongue and groove joints or shall be supported by a minimum 2-inch by 4-inch blocking between joist members directly below unsupported edges.
31. R503 and Table R503.1: Delete all references to OSB for subfloors and all subfloor sheathing of less than  $\frac{3}{4}$ -inch thickness.

32. Table R503.1: Dimension of 11/16 in the second row and dimension of 5/8 in the third row shall each be changed to three-quarter.
33. Table R602.3(4): Dimension of 3/8 inch shall be changed to 1/2-inch.
34. R602.5: In the first sentence change 2-inch by 3-inch to 2-inch by 4-inch.
35. R613.1: Shall read as follows: All exterior windows shall be insulated glass thermopane.
36. Table R702.3.5: Delete all references to 3/8 inch gypsum board.
37. R803.1: Insert at the end: OSB shall only be used for roof sheathing where it is APA-rated structural grade or better. The minimum thickness for roof sheathing shall be 15/32 inch. Unsupported edges of roof sheathing installed on framing over 16 inches on center shall require H-clips or other methods of reinforcement. H-clips are not required between framing members 16 inches on center or less. Valley and roof edges shall be constructed with ice and water prevention material extending 3 feet from the front roof edge and valley.
38. R902.1: Insert at the end: The minimum product weight for asphalt and fiber glass shingles shall be 245 pounds per square or shall have a minimum 30-year limited warranty period.
39. R905.2.5: Insert at the end: Staples shall not be used as fasteners for asphalt shingles.
40. Chapters 11 through 42: Delete these chapters in their entirety.
41. Appendices A through P: Delete these appendices in their entirety.

C. MECHANICAL CODE EXCEPTIONS: Exceptions to the Mechanical Code shall be as follows:

1. Section 106, Permits: Delete this section in its entirety.
2. Section 301: Add subsection 301.16 "Panning of Joist and Stud Spaces. Panning of joist and stud spaces for supply or return purposes is prohibited."

D. FUEL GAS CODE: Exceptions to the Fuel Gas Code shall be as follows:

1. Section 106, Permits: Delete this section in its entirety.
2. Section 304.1: Insert at the end: Calculations for combustion, ventilation and dilution air requirements shall be submitted to the Building Department for approval upon request. All calculations shall be done by a licensed mechanical contractor or an Illinois licensed mechanical engineer.

3. Section 304.6: Insert at the end: All openings for outside combustion air shall be on the rear of the structure. No openings for outside combustion air shall be located on the front or side walls or the front or side roofs of any structure. Exception: The opening may be located on the side if structure is located a minimum of 100 inches from side lot line.
4. Section 403.5.4: Shall read as follows: Corrugated stainless steel tubing shall not be allowed for piping systems. Only corrugated stainless steel tubing may be used for the connection of a gas fired appliance to the piping.
5. Add Section 403.6.3 Exposed plastic pipe, tubing and fittings. Plastic pipe, tubing or fittings exposed to the elements where accessible above grade shall be protected to a minimum height of 6 inches above grade to prevent damage from mowers, trimmers or other lawn care equipment.
6. Section 503.5.4: Insert at the end: Chimney terminations shall not be located on the street side of any residence including the street side of corner lots.

E. PROPERTY MAINTENANCE CODE EXCEPTIONS: Exceptions to the Property Maintenance Code shall be as follows:

1. Section 111: "Means of Appeal" shall be amended by changing the "three member requirement" to "Board of Appeals, alternate members, chairman, and secretary."
2. Section 302.3: Add: "Risers at stairs, stoops, and landings shall be maintained and shall not exceed the maximum riser height allowed by code."
3. Section 306.1: Add to end of the current text: "Where handrails and guardrails are missing or all are in need of such repair that complete replacement is required, the new handrails and guardrails shall be installed in accordance with Section R315 and B316 of the Residential Code or in accordance with Section 1021.0 and 1022.0 of the BOCA National Building Code, 1996 edition, for commercial structures."
4. Section 602.3: Delete "[DATE] to [DATE]" and insert "September 30 to April 30," and delete "Appendix D of the International Building Code" and insert "Plumbing Code."
5. Section 602.4: Delete "[DATE] to [DATE]" and insert "September 30 to April 30."

F. WILDLAND-URBAN INTERFACE CODE EXCEPTIONS: Section 101.2 shall be amended to add the following sentence at the end of the first sentence: "This code shall only apply to new subdivisions and developments that have access to an adequate fire protection water supply."

G. FIRE PREVENTION CODE EXCEPTIONS: Exceptions to the Fire Prevention Code shall be as follows:

1. Section F101.1: Insert "Fire Protection District" (the fire district/department serving the subject property) ("District/Department").
2. Section F501.1: Add the following: "Any real property within the Village, except single family residences, located within 200 lineal feet of a potable water source provided by Illinois American within the Village that is issued a building or development permit after June 1, 2008, shall 1) connect to the water source and provide a water main capable of providing fire suppression within one year and 2) install the fire suppression system within two years of the connection. Such fire suppression system shall be installed pursuant to the fire prevention code of the applicable fire protection district. With regard to building permits issued prior to June 1, 2008, where fire suppression is required by the applicable fire prevention code, sufficient alternative methods for fire detection and suppression, as determined by the Building Commissioner and applicable fire protection district, shall be required."

#### **23.04 BUILDING PERMITS** *Amended, 567*

A. No building or structure shall hereafter be erected or altered until a building permit is issued by the Building Inspector. A permit shall not be issued unless the proposed construction and use of the land comply with the ordinances of the Village.

B. When a building permit application is submitted to the Building Department, the Building Inspector shall reject the application or issue a permit within 30 days after a permit application is received for a single or multiple-family dwelling and within 60 days after a permit application is received for a commercial or industrial building. In the event a permit application is rejected the reasons shall be put in writing.

C. Building permit applications shall not be considered accepted until all required documentation has been filed with the Building Department. The Building Department shall have available to the public, in written form, what documentation shall accompany a building permit application.

D. As a condition of issuance of a building permit the applicant shall provide the Village with plans certified to be in compliance with the most recent BOCA Basic Fire Prevention Code.

#### **E. APPLICATIONS FOR PERMITS:**

1. General Provisions:
  - (a) The application for a permit shall be in writing using forms provided by the Village. A permit application is not considered complete until all applicable items of information on said forms have

been provided, and all accompanying information as required in this Section has been furnished.

- (b) Each application shall be signed by the owner or his authorized agent (the “applicant”).
- (c) A permit may be amended during the course of work according to the regulations provided for in this Chapter and the payment of any applicable fees. However, any alterations or additions to be made after completion of the work shall require the issuance of another permit.
- (d) The Village may adopt reasonable administrative procedures for the processing of permit applications from time to time in order to better carry out the purposes, intent and regulations of this Chapter.

2. Information Accompanying Permit Applications:

- (a) Each building permit application shall be accompanied by the following material:
  - (1) Two full sets of drawings of the proposed construction showing the location of the building(s), existing and proposed topography, drainage plan, setbacks, easements, roadways, neighboring lots and top of foundation. All pages of said drawings shall be signed and stamped by an Illinois licensed architect or engineer. Said signatory shall also certify that the submitted plans meet the minimum standards under all applicable building codes of the Village.
  - (2) Two copies of the plat of survey of the lot, not more than 1 year old, showing the existing and proposed building(s), structure(s), underground facilities, easements and driveways, as well as building footprints on all immediately adjoining lots.
  - (3) If the scope of the structural work is minor and limited in detail, the Building Inspector shall have the discretion of modifying any portion of this requirement.

- (4) Payment of the following fees:

Building Permit and Administrative Fees found in Exhibit A of this Chapter.

Grading plan review fee for Village Engineer inspection upon completion of the project. If the final grading does not match the original plans, additional inspections may be re-



quired. All costs incurred for additional inspections shall be paid by the permittee.

Fire district impact fee pursuant to this Code.

Municipal impact fee pursuant to this Code.

Educational Facilities Impact Fee pursuant to this Code (assuming the required agreement to defer payment is signed and filed with the Village).

Educational Use Transition Fee pursuant to this Code (assuming the required agreement to defer payment is signed and filed with the Village).

Park and Recreational Land Dedication Fee pursuant to the Code if not paid at time of plat approval.

Municipal property damage deposit pursuant to this Chapter.

- (5) Signed copy of the Village's Building Rules and Regulations letter.
  - (6) Architectural approval letter from the homeowners association, if applicable.
  - (7) One copy of the approved drawings and McHenry County Health Department permit for the well and septic system.
  - (8) Engineered components certification.
- (b) The applicant is required to provide such additional descriptive information in drawn or written forms as to the location, use, materials and design of buildings and structures and appurtenances thereof, and interior or exterior fixtures, as required by this Chapter or by administrative procedures of the Village, in order for the Building Inspector to conduct a proper plan review to assure compliance with this Chapter prior to permit issuance. Such additional information may include, but is not limited to, truss certificates, manufacturer's "cut sheets," or product specifications and MSDS sheets.
3. Supplemental Information Required After Permit Issuance: The applicant shall furnish such other supplemental information during the course of construction as may be occasioned by inspections, if in the judgment of the Building Inspector additional information is required in order to determine if the construction will comply with the regulations of this Chapter. Such information may include, but is not limited to, results of soil

tests, manufacturer's "cut sheets," product specifications or installation standards.

F. **PERMIT APPLICATION APPEALS:** An appeal may be taken from any decision or determination of the Building Inspector relating to plans, which were submitted for a building permit by any person, firm or corporation aggrieved thereby or by any officer, department, board or commission of the Village pursuant to the Building Code.

### **23.05 PROFESSIONAL FEES**

Any person, firm or corporation, upon filing plans for a permit with the Building Department, shall bear the cost, including but not limited to the fees charged by an architect, attorney, engineer or other professional assistance when those fees are incurred by the Building Department regarding any plan submitted to it for review and comment.

### **23.06 PERMIT/CONSTRUCTION SCHEDULE** *Amended, 567*

A. **BEGINNING CONSTRUCTION:** Any person or entity issued a building permit shall commence construction within 90 days of issuance of the building permit.

B. **PRELIMINARY EXCAVATION:** No excavation or ground stripping or tree or brush removal shall be allowed prior to the approval of the site plans by the Village Engineer and authorized by the Village.

C. **SPOT SURVEY:** Within 10 days after placement of concrete foundation walls, a spotted plat of survey shall be submitted to the Building Department for approval. The survey shall be certified by a licensed engineer or land surveyor and reflect the actual location and elevation of the structure. Completion of the structure shall continue only after the survey has been approved by the Building Department. If the foundation is found to be in violation of the approved grading plan the builder or owner shall submit a revised grading plan acceptable to the Village or remove the foundation. All fees and charges applicable to any proposal for a revised grading plan shall be paid by the Builder/Owner.

D. **EXPIRATION OF PERMIT:** Building permits shall expire if work is not completed within 12 months after issuance of the permit.

E. **EXTENSION OF PERMIT:** If, after a building permit has expired and the permitted work has not been completed, in order to continue the authorized work, the permit holder must request an extension of said permit from the Building Inspector. A permit may be extended up to 90 days upon a showing by the permit holder that the permitted work was not completed through no fault of his own. Up to two extensions of time may be granted. If the permit holder cannot show that the delay was through no fault of his own, the permit will be extended for no more than 30 days. However, notwithstanding this paragraph, the Village is not required to extend any permit. Unless waived by the Village Board an extension permit fee equal to 25 percent of the original permit fee for each extension shall be required. If, after the expiration of two such extension periods, the authorized work is still not completed, the building permit shall become invalid and no further work may take place except upon the payment by the applicant of a fee in an amount equal to 100 percent of the original permit fee.

F. **LAPSE IN CONSTRUCTION:** If construction activity is dormant for 6 weeks during the permit period, the site must be graded and the foundation decked and protected, to the satisfaction of the Building Department, to eliminate any health and safety risks.

G. **FINAL INSPECTION:** A final inspection by the Building Department will be required for each permit issued.

H. **PERMIT FEE REFUND:** If, after the purchase of a permit and before any construction or inspection has begun, the permit holder requests a refund of permit fees, \$50 shall be retained for administrative and plan review services. When the permit fee is less than \$50, or the request is received more than 30 days from the permit issue date, or inspections or other services have been rendered, no refund will be given.

### **23.07 MUNICIPAL PROPERTY DAMAGE DEPOSITS** *Amended, 630, 624, 476*

A. Before commencing any residential or commercial construction for which a building permit is required and which is not in an approved project covered by an acceptable Letter of Credit or performance bond for which a building permit is required, and before any private or public utility work is performed within the Village right of way, the Building Department will review the plans submitted for said permit and require the person obtaining the permit to pay the required permit fee and make a cash deposit with the Village to cover the cost of repairing any damage which may be done to Village property. The fees and deposit may be found in Exhibit A of this Chapter.

B. The deposit shall be held by the Village, at its discretion, for a period of not more than 2 years. If, after the two years, no damage has been incurred to Village property, the total amount of the deposit shall be returned to the party making the deposit upon request. Any deposit not claimed shall be forfeited, in accordance with applicable Village ordinances.

C. In the event the Village property sustains damage, that portion of the deposit necessary to effect repairs shall be retained by the Village; the balance shall be returned to the party making the deposit.

D. If the cost of repairs to the Village property exceeds the amount of the deposit such additional costs shall be charged to the owner of the property and/or the person issued the building permit and it shall become immediately due and payable upon the owner receiving written notice of the amount of which the cost of repairs exceeds the deposit.

### **23.08 DECKS**

A. **PERMIT REQUIRED:** A building permit is required prior to the installation of a deck, extension of an existing deck, or replacement of an existing deck. All decks require approval from the Architectural Review Commission before the building permit is issued.

B. **CONSTRUCTION REQUIREMENTS:** All exterior deck framing shall be constructed of pressure preservative treated wood; all decking shall be decay resistant materials. Deck construction is governed by the following requirements:

1. Support for Deck Framing:

- a. Concrete piers shall be a minimum 8 inches in diameter with a minimum depth of 42 inches below the finished grade. Larger diameter pier holes may be required depending upon pier location and the supported load. Pier holes shall not be larger near the surface. Therefore, cylinder forms are recommended and may be required at time of inspection.
- b. Minimum wood support post size is 4 inches by 4 inches. Posts shall be anchored on concrete piers using rebar, anchor bolts or galvanized metal brackets. Posts shall not be sunk in concrete or in the ground.
- c. Ledger boards shall be fastened to house with a minimum of 1 lag bolt at 16 inches on center or 2 lag bolts at 32 inches on center. Joist hangers are required when ends of joists meet ledger boards.
- d. Headers provide support for floor joists and decking. The allowable span for a header is the maximum distance a header can safely span between support posts without sagging or causing excessive deflection. The maximum span depends upon the size of the header pursuant to the following table.

Size of Wood Header (nominal)	Maximum Span
2- 2" x 6" or 1- 4" x 6"	5' – 6"
2- 2" x 8" or 1- 4" x 8"	7' – 6"
2- 2" x 10" or 1- 4" x 10"	9' – 6"
2- 2" x 12" or 1- 4" x 12"	11' – 0"

- e. When laminating 2 lengths of lumber to form a header, the lumber shall be fastened together with 10D nails every 16 inches along all edges on the board. All splice points shall be directly above posts.

2. Deck Framing: The maximum allowable span of a floor joists depends on the size of the floor joist and on the on center ("O.C") spacing (Note, 12 inch and 16 inch O.C. framing is allowed when using 5/4 x 6" decking; 24 inch O.C. framing is only allowed when using 2" by 6" decking.):

Joist Size	Spacing	Maximum Span
2" x 6"	12" O.C.	9' – 9"
	16" O.C.	8' – 10"
	24" O.C.	7' – 9"
2" x 8"	12" O.C.	12' – 10"
	16" O.C.	11' – 8"
	24" O.C.	10' – 2"
2" x 10"	12" O.C.	16' – 5"
	13" O.C.	14' – 11"
	24" O.C.	13' – 0"

2" x 12"	12" O.C.	19' – 11"
	16" O.C.	18' – 1"
	24" O.C.	15' – 10"

3. Stair Requirements:

- a. The stairway shall not be less than 36 inches in clear width at all points.
- b. Maximum riser height is 7¾ inches with a minimum tread depth of 10 inches, measured from the toe of the tread to the toe of the tread. All riser heights and all tread depths shall be equal.
- c. All stair stringers (framing) shall be supported by a minimum of 2 concrete piers, a minimum of 8 inches in diameter and a minimum of 42 inches below finished grade.

4. Hand and Guardrail Requirements:

- a. When the deck floor is 30 inches or more above grade, a 36 inch high guardrail with spacing less than 4 inches between boards or balusters are required.
- b. Three or more risers require a minimum 34 inch to 38 inch high handrail (measured vertically from the top edge of the stair tread) with spacing less than 4 inches between boards or balusters.

5. Other Requirements:

- a. When overhead electrical conductors are present above the deck or within 3 inches of the edge of the deck, the conductors shall be a minimum of 10 feet above the deck surface.
- b. A deck shall not be constructed on or over any portion of the septic tank or field without written permission from the McHenry County Health Department.
- c. Provisions shall be made for proper access and operation of all hose bibs, vents, windows, and utilities. Removable access panels are acceptable.

**23.09 DRIVEWAYS** *Amended, 468*

A. GENERAL REQUIREMENTS:

- 1. **PARKING LOTS:** Parking lots shall comply with all regulations provided for in Article 7 of the Prairie Grove Zoning Ordinance and applicable engineering standards as determined by the Village Engineers. No parking lot shall be constructed in any zoning district in the absence of a principal

building or structure or where the property in question is not in compliance with all Village codes and ordinances.

2. **DRIVEWAYS:** Driveways shall be constructed of asphalt, concrete, or brick pavers. Gravel driveways are permitted in Estate District (E-3) and Estate District (E-5), also the Estate District (E-1) when the lot size exceeds 1 acre. No portion of the driveway shall be less than 12 feet in width; the maximum driveway width at the street is 22 feet. All driveways require a minimum of 2-foot flares on each side where it meets the edge of the road or curb. Where the driveway meets a paved road edge, the existing road edge shall be saw-cut prior to installing the new driveway surface.

**B. CONSTRUCTION SPECIFICATIONS:**

1. **Asphalt Surface:** Asphalt shall be not less than 2 inches thick after being properly compacted, and shall have a base of properly compacted crushed stone at least 6 inches thick.
2. **Concrete Surface:** Concrete shall be at least 4 inches thick, with an ultimate minimum compressive strength of 4,000 pounds per square inch (psi) and shall have a base of compacted crushed stone at least 4 inches thick.
3. **Brick Paver Surface:** Brick paver surfaced driveways shall have at least 1 inch of sand over a base of compacted crushed stone at least 6 inches thick.

**C. COST:** All new driveway approaches, including culvert, subgrade preparation and surface, shall be at the owner's expense. For any replacement or repair work the Village shall, subject to prior approval from the Village Board, reimburse the property owner for permanent surface material meeting specifications up to a maximum surface area of 120 square feet per platted lot. Reimbursement will be made on the basis of actual surface measurements and will be reimbursed at the lower of actual invoice cost or the prevailing retail price per ton of bituminous concrete, Class I, F.O.B. point of origin, or concrete per yard, F.O.B. job site.

All labor and materials, including driveway removal, subgrade preparation and surface material installation, shall be at the expense of the property owner.

**D. CULVERT:** A new corrugated metal culvert shall be installed under the driveway, at the owner's expense, where curb, gutter and storm sewers are not provided for the property. Used or damaged culverts shall be removed and properly disposed of at the owner's expense. The diameter shall not be less than 15 inches and a minimum length of 20 feet plus flared ends to equal 26 feet in length. Any small culvert shall be approved by the Village Engineer. Culvert shall be installed on a 6-inch bed of crushed stone and completely covered with crushed stone. Culverts shall be installed at the proper elevation to prevent puddling at either end.

**E. MODIFICATIONS:** The Superintendent of Public Works may, at his/her discretion, grant exceptions or modifications to this Section if good engineering principles are followed

to protect the integrity of the right-of-way and does not change or restrict the normal flow of storm water.

### **23.10 ELEVATOR INSPECTIONS**

Owners of all buildings having any elevators shall be required to provide access to the Building Inspector or his designee for purposes of inspecting said elevators. The Village shall give notice of the inspection not less than 48 hours before the inspection. In the event access is denied the Building Inspector is authorized to revoke the Certificate of Use and Occupancy for the building housing the elevator. In the event the inspection reveals any material malfunction or deficiency in the operation of the elevator, the owner shall immediately correct or repair the elevator and restore it to a safe operating condition before it is placed in use for passengers.

### **23.11 GARAGES**

A. Every single family detached and single family attached dwelling unit shall be constructed with an attached garage on the building lot upon which it is constructed. Said garage shall be connected to the street by a driveway constructed pursuant to Village ordinances. All garages shall be included in the architectural design of the unit and shall not appear to be constructed as an add-on.

B. The following requirements shall apply to the construction of all garages.

1. **MINIMUM GARAGE SIZE:**

- a. The minimum size of the attached garage for a **single family detached** dwelling shall be 22 feet wide by 22 feet deep (minimum garage area) of open concrete floor space measured from inside wall to inside wall.
- b. The minimum size of the attached garage for a **single family attached** dwelling shall be 15 feet wide by 22 feet deep (minimum garage area) of open concrete floor space measured from inside wall to inside wall.
- c. A maximum of 3 stair treads (4 risers) may encroach into the minimum garage area. Where 5 or more stair risers are required, there shall be a minimum 36 inch by 40 inch landing on the garage side of the service door. The landing shall have a minimum 36 inch high guardrail and shall include a 34 to 38 inch high handrail at the stairs.

Exception: The landing may encroach a maximum of 24 inches into the minimum garage area. The minimum distance between the overhead door, in the closed position and the landing shall be 20 feet. When a landing is constructed on the side wall of the garage, the minimum distance between the garage door opening and the side wall at the landing shall be 4 feet.

2. GARAGE DOORS:

- a. All residential overhead garage doors shall be a minimum of 8 feet in height.
- b. All single family detached units shall have a minimum of 1 overhead garage door, a minimum of 16 feet wide or 2 overhead doors each a minimum of 9 feet wide.

Note: The minimum width of a garage with two 9-foot wide doors is 24 feet measured from inside wall to inside wall.

- c. All single family attached units shall have a minimum of 1 overhead garage door, a minimum of 9 feet wide.
- d. The minimum measurement of all inside walls shall be 24 inches which includes both sides of overhead garage door openings to the inside of finished walls and minimum of 24 inches between multiple overhead garage doors, measured from finished opening to finished opening.

**Exception:** Overhead garage doors installed in the rear of a garage, used to access the rear yard may be reduced to 6 feet in width and 7 feet in height.

3. GARAGE FLOOR DRAINAGE: All garage slabs shall be installed with a minimum 2-inch pitch toward all overhead garage doors.

**Exceptions:**

- a. Where a floor drain system is installed in the garage, the slab may be pitched toward the drain. The drain shall be connected to a triple basin gas and oil separator connected to the sanitary system if the sanitary system is connected to a wastewater treatment plant as required in the Plumbing Code.
- b. Triple basin gas and oil separators installed in dwelling units where a septic system is required shall be approved by and permit obtained from MCDP. Copies of approved drainage plans and MCDH permit shall be submitted to the Building Department prior to issuance of a building permit for the dwelling unit.

Additional plumbing inspections are required for the installation of a triple basin gas and oil separator drainage system. Therefore, it is required to be included on the dwelling unit plans at the time of permit application.



### **23.12 TRENCHES**

All trenches across proposed or existing streets and driveways shall be filled pursuant to requirements provided by the Village Engineer.

### **23.13 EXCAVATIONS IN THE RIGHT-OF-WAY**

Wherever any alteration, construction or disruption of soil is done in any public right-of-way, the following conditions must be met:

1. Pursuant to this Code, soil and erosion control measures must be in place prior to start.
2. All disturbed areas shall be restored with sod and inspected by the Public Works Department and/or Building Department prior to final approval of project.
3. A deposit shall be made to the Village to insure restoration of the right-of-way. If the right-of-way is not restored to the Village's satisfaction the Village will use the deposit for the restoration. The deposits required for a street opening, which is required any time it is necessary to cut into paved surfaces in streets and alleys, is \$750.

### **23.14 MOVING OF BUILDINGS**

The fee for a building permit for the removal of a building or structure, from one location to another or to a new location on the same lot, shall be \$25 plus \$2 per \$100 of the estimated cost of moving plus the cost of new foundations and all work necessary to place the building or structure in its completed condition in the new location.

### **23.15 SIGN BOARDS**

The sign contractor, the erector and the owner of every sign or billboard for which a permit is required, shall show proof of liability insurance in the amount of \$1,000,000 or more prior to the erection and maintenance of all such signs or billboards in accordance with the provisions of Village ordinances.

### **23.16 SWIMMING POOLS**

A. **PERMIT REQUIRED:** A building permit is required for the installation of a swimming pool, hot tub, or spa, whether installed indoors or outdoors. Architectural Review Commission approval shall be required prior to the issuance of a building permit. Above-ground/on-ground, in-ground, portable and non-portable pools, hot tubs, and spas are considered swimming pools (pools) and shall meet the minimum location, electrical and barrier requirements, and shall comply with all the provisions of Appendix G of the Residential Code and Article 680 of the Electrical Code.

B. **DEFINITIONS:** In addition to those terms defined in Appendix A of this Code, the following definitions are applicable to this Section:

**Above-ground/on-ground pool:** See the definition for swimming pool.

**Appurtenance:** Ladders, slides, stair handrails, lights, pool covers and other optional extras.

**Barrier:** A fence, wall, building wall, or combination thereof, which completely surrounds the swimming pool and obstructs access to the swimming pool.

**Hot tub:** See the definition for swimming pool.

**In-ground Pool.** See “Swimming pool.”

**Pool equipment:** All water pumps, motors, filters, and heaters, including required wiring, piping, and support of such equipment.

**Residential:** That which is situated on the premises of a detached 1- or 2- family dwelling or a 1-family townhouse no more than 3 stories in height.

**Spa, non-portable:** See the definition for swimming pool.

**Spa, portable:** A nonpermanent structure intended for recreational bathing, in which all controls, water heating, and water circulating equipment are an integral part of the product.

**Swimming pool:** Any structure intended for swimming, recreational bathing, or immersion or partial immersion of users that contains water having a depth at any point over 24 inches (610 mm) deep. This includes in-ground/on-ground, above ground swimming pools and portable, and non-portable hot tubs and spas.

**Swimming pool, indoor:** A swimming pool which is totally contained within a structure and surrounded on all 4 sides by walls of said structure.

**Swimming pool, outdoor:** Any swimming pool, which is not an indoor pool.

C. PERMIT FEES: The permit fee for the erection or construction of a swimming pool and required barrier in found in Exhibit A of this Chapter.

D. INSPECTION REQUIREMENTS: The building official shall, from time to time, inspect any swimming pool and required barrier to determine whether or not the provisions of Village ordinances and this Code regarding health, sanitation, and safety are being complied with.

E. RECIRCULATION REQUIREMENT: All swimming pools shall be of the recirculation type in which circulation of the water is maintained through the pool by pumps with an hourly capacity equal to the pool volume divided by eight.

F. MEANS OF EGRESS: A minimum of one means of egress in the form of steps or ladders shall be provided for all swimming pools (excluding portable hot tubs). A minimum of 2 means of egress shall be required for any swimming pool (excluding portable hot tubs) with any dimension exceeding 28 feet. Where 2 means of egress are required they shall be located on opposite sides or ends of the pool, or shall be a minimum of 20 feet apart.

G. WALK AREAS: Any walk area providing access to the swimming pool shall be a minimum of 36 inches wide. The walk area shall be constructed of impervious material with a non-slip surface. Concrete or paver brick walk areas shall have a pitch of at least one-quarter inch to the foot away from the pool to prevent back drainage from entering the pool.

H. LOCATION:

1. Swimming pools, including above-ground, on-ground, in-ground, non-portable spas and hot tubs (including all pool equipment) shall be located in a rear yard, at least 8 feet from any property line, except that no pool or pool equipment shall be located within a utility or drainage easement.
2. Pools must be located a minimum of 10 feet (measured horizontally along the ground) from overhead electrical wires and shall maintain clearance of 18 feet from all overhead electrical wires (measured at an angle from the water's edge of the pool to the overhead electrical wires).
3. Pool equipment shall be located out of sight from neighbors or blocked from sight by landscaping, fence or other at least as high as top of equipment.
4. Inground swimming pools shall not be located within 25 feet of any septic tank, building sewer, or subsurface seepage system including drop boxes.
5. Above ground swimming pools shall not be located within 5 feet of any septic tank, or within 10 feet of any building sewer or subsurface seepage system including drop boxes. Any variance from the septic system setback requirements shall be obtained from the McHenry County Department of Health – Division of Environmental Health prior to application for permit.

I. WATER SUPPLY: The water supply used to fill a pool and to add make-up water as needed shall be equipped with an anti-siphon device to protect contamination of the potable water system.

J. ELECTRICAL REQUIREMENTS:

1. Except as provided herein, underground wiring is prohibited under the pool or under the area extending 5 feet horizontally from the wall of the pool. Wiring necessary to supply power to pool equipment may be allowed within 5 feet from the wall of the pool, but not under the pool.
2. All electrical must be in conduit. Underground electrical wiring must be in rigid metallic conduit (heavy-wall with threaded ends) buried a minimum of 6 inches below grade, or in rigid PVC conduit buried a minimum of 18 inches below grade. A separate ground wire is required when using PVC conduit. Conduit may be properly fastened to the bottom or sides of wood deck framing.

3. The receptacle that provides electric for the water pump shall be permitted between 5 feet and 10 feet from the inside walls of the pool. This shall be a single receptacle of the locking and grounding type and shall be protected by a ground-fault circuit-interrupter, (GFCI). The receptacle for the pump must be in a weatherproof box approved for wet locations and must be secured to prevent displacement. The use of extension cords is prohibited.
4. The pool pump receptacle shall be provided with a means of disconnecting (switch). The means of disconnecting shall be located within sight from the pool equipment and shall be in a weatherproof box.
5. All receptacles within 20 feet of the inside wall of a pool shall be GFCI protected.
6. All metal parts of the pool, pool equipment, and appurtenances shall be properly bonded.

K. **BARRIER REQUIREMENTS:** All swimming pools shall be surrounded by a barrier to protect against potential drowning and near drowning by restricting access to swimming pools, hot tubs, and spas. Barriers shall be located so as to prohibit permanent structures, equipment, or similar objects from being used to climb the barriers. The required barrier shall comply with the following:

1. The top of the barrier shall be at least 48 inches above grade outside the pool area; the bottom of the barrier shall be no more than 2 inches above grade. Where the barrier is mounted to the top of an above-ground swimming pool, it shall extend a minimum of 18 inches above the top of the pool and be a minimum 54 inches above grade.
2. Openings in the barrier shall not allow passage of a 4 inch diameter sphere.
3. Solid barriers without openings shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
4. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1.75 inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches in width.
5. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches or more, spacing between vertical members shall not exceed 4 inches. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1.75 inches in width.

6. Maximum mesh size for chain link fences shall be a 1.25-inch square unless the fence is provided with slats fastened at the top or bottom which reduce the openings to not more than 1.75 inches.
7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1.75 inches.
8. Access gates shall comply with all barrier requirements and shall be equipped with self-closing and self-latching devices. Where the release mechanism of the self-latching device is less than 54 inches from the bottom of the gate, it shall be located on the pool side of the gate at least 3 inches below the top of the gate. The gate and barrier shall have no opening greater than one-half-inch within 18 inches of the release mechanism.

L. **EXCEPTIONS TO BARRIER REQUIREMENTS:** Spas or hot tubs with a safety cover which complies with ASTM F 1346-91 (American Society for Testing and Materials 1916 Race Street, Philadelphia, PA 19103).

M. **MAINTENANCE:** All swimming pools, hot tubs, and spas and required barrier shall be properly maintained. The water contained therein shall be kept free of plant and animal life and shall be chemically treated to maintain a proper balance.

### **23.17** **TEMPORARY CERTIFICATE OF OCCUPANCY** *Amended, 567*

A. A Temporary Certificate of Occupancy shall only be issued between November 1 and May 31 to allow for completion of work halted by weather related conditions specified in this Section. A Temporary Certificate of Occupancy shall only be good for 180 days from the date of issuance.

B. Prior to the issuance of a Temporary Certificate of Occupancy the following conditions shall be met:

1. All health and safety related building items shall be completed, inspected and approved by the Building Inspector. At that time, a list of incomplete items will be recorded by the Building Inspector.
2. Payment to the Village of the Temporary Certificate of Occupancy fee, re-inspection fee and refundable cash deposit or letter of credit. These fees are found in Exhibit A of this Chapter.
3. Name and contract information of the property owner shall be provided to the Village Clerk.

C. A cash bond must be filed with the Village Clerk, equal to the permit fee, at the time of application for the Temporary Certificate of Occupancy. In addition, all incomplete items that have been recorded by the Building Inspector and guaranteed by a cash deposit or letter of credit shall be completed by the following June 30.

D. In the event the required work is not completed by the following June 30, the Village shall use the cash deposit or proceeds from the letter of credit to have the work completed. If the work is completed within the required time period, the total amount of the cash deposit shall be returned to the party making the cash deposit or the letter of credit released. The bond shall be refundable in full, without interest paid, at the time of completion of the entire work described in the building permit previously issued.

E. If conditions preclude grading and seeding between June 30 and October 30 and occupancy is required in that time period, a cash deposit may be made with the Village for up to 45 days if approved by both the Building Inspector and the Village Engineer.

### **23.18 CERTIFICATE OF OCCUPANCY**

A. No building or structure hereafter erected or altered shall be occupied or used in any way, until a certificate of occupancy has been issued by the Building Inspector. The certificate of occupancy shall be issued only after the Building Inspector makes a finding that the building or structure has been erected or structurally altered in conformance with the provisions of this Chapter and other health and building laws and in accordance with the building permit.

B. Prior to the issuance of a Certificate of Occupancy the following conditions must be met:

1. The structure shall be completed pursuant to this Code.
2. The builder/owner shall certify, by means of a Professional Engineer's or land surveyor's statement that the elevations of the completed project are in accordance with the grading plan approved by the Village if deemed necessary by the Building Inspector.
3. If applicable, the well and septic have been inspected and approved by McHenry County.
4. Final inspections and approvals have been completed by the Village Engineer, Building Inspector, Nunda Rural Fire Protection District (for commercial structures) and other third party inspections if required.
5. IDOT final approval if the project includes the construction of an entrance and/or exit on a state highway.

### **23.19 LOCAL RULES** *Amended, 567, 476*

A. BUILDING SITE RULES:

1. In addition to the required display of the building permit pertaining thereto, each lot shall be clearly marked with a temporary sign no larger than 2 square feet made of weather-resistant materials and lettering depicting the lot number and common street address assigned to that lot or dwelling unit before construction on that lot may commence. Such sign shall be posted

and maintained in good repair until a certificate of occupancy has been issued.

2. Each lot shall be furnished with a proper container or containers for the deposit of construction debris and refuse and if applicable, for recycling of discarded construction materials. Such containers shall be secured so as to prevent the blowing or scattering of materials, and shall be emptied regularly and not allowed to overflow. No container shall be located on a Village right-of-way. The contractor shall be responsible for litter and debris pickup and containment on the property.
3. Each lot shall be furnished with a proper portable toilet for use by construction workers which shall be regularly maintained by the toilet provider. No toilet shall be located on a Village right-of-way. The Building Inspector shall have the discretion to modify this requirement based on job site conditions, such as at townhouse or commercial developments.
4. Prior to beginning work, a temporary gravel drive must be installed from the street into the lot in order to provide access to the lot for inspections. Culverts must be set in place in accordance with Driveway Section herein before gravel is laid down. The temporary drive shall consist of 6 inches of gravel base that extends at least half of the distance from the street towards the garage portion of the dwelling, or a minimum of 50 feet, and shall have a minimum width of 10 feet.

B. **STREET SIGNS:** Temporary street signs made of weather-resistant materials and lettering identifying the streets in a new subdivision shall be erected before beginning any construction activity on any lot. Said signs shall remain posted and maintained in good repair until permanent street signs are erected as provided for in the Subdivision Code.

C. **USE OF STREETS AND LOTS DURING CONSTRUCTION:**

1. It shall be prohibited to occupy any traveled portion of a paved street or right-of-way with construction materials, construction vehicles or construction material delivery or storage vehicles. Temporary blockage of a street by a construction vehicle shall be limited as governed by Village traffic regulations.
2. No construction materials shall be placed so as to render inaccessible or subject to damage any fire hydrant, manhole, catch basin or similar structure, or so as to obstruct culverts or street gutters to prevent the proper flow of storm water. Any damage caused by construction and/or landscaping activity to said structures shall be repaired at the applicant's expense. Said structures are subject to inspection at the time construction and/or landscaping is completed, and a certificate of occupancy may be withheld by the Village until repairs are properly made.
3. Adjacent streets shall be regularly cleaned of dirt and mud deposits.

4. The washing out of any waste material from trucks, including but not limited to concrete and dirt, is prohibited in any Village right-of-way or public or private drainage swale, similar storm water conveyance, or on any other private lot or public property.
5. Driving over swales or ditches to access lots is prohibited. Any damage caused to ditches, shoulders, pavement, and related vegetation from construction activity shall be the responsibility of the building permit applicant to repair, and the Village may issue a stop-work order in addition to its other remedies in order to achieve compliance with this rule.
6. The Village at all times reserves the right to stipulate and direct the manner and street network in which construction traffic may access a building site.

D. SUMP PUMPS:

1. For the purposes of this section, the term “sump pump” is used in connection with storm water, and the term “ejector pump” is used in connection with wastewater, although it is common parlance to also refer to sump pumps as part of a septic system.
2. Downspouts: All roof downspouts shall be discharged onto the ground. The downspout discharge may be fitted with an extension, provided that a) the outlet of the discharge must not be located nearer than 5 feet to the property line and shall discharge above grade, b) the flow from the discharge extension must be oriented in the direction of the approved drainage ditch or swale and not oriented to discharge storm water directly onto adjacent properties, and c) the extension must be buried. No downspouts shall be connected to a septic system.
3. Foundation/Footing Drains: All exterior foundation/footing drains shall be connected to sump pumps (unless another solution is deemed acceptable to the Village), and the discharge of groundwater or storm water therefrom shall be made into storm sewers or to drainage ditches or swales. No exterior foundation/footing drains shall be connected to a septic system.
4. Floor Drains: All floor drains shall be connected to the sanitary sewer or septic system.
5. Sump Pumps: Sump pumps installed to receive and discharge groundwater or storm water shall be connected to a storm sewer system or discharged to approved drainage ditches or swales. The sump pump discharge may be fitted with an extension, provided that a) the outlet of the discharge must not be located nearer than 5 feet to the property line and shall discharge above grade, b) the flow from the discharge extension must be oriented in the direction of the approved drainage ditch or swale and not oriented to discharge said groundwater or storm water directly onto adjacent properties, and c) the extension must be buried. If an underground storm sewer



system is available, such discharge shall be to the system rather than to another option, except that the Village may, at its discretion, upon application and review, approve discharges into storm water detention or retention ponds, lakes, wetlands, streams or other conveying bodies of water, subject to such terms and conditions as it deems are appropriate or necessary to protect said conveyances.

6. Ejector Pumps: Ejector pumps installed to receive and discharge floor drain flows, wastewater or other sanitary sewage shall be connected to a sanitary sewer system or septic system.

E. ARCHITECTURAL REVIEW REQUIREMENTS: All construction shall be subject to the architectural review requirements found in the Subdivision Code and Section 23.23, Architectural Review Requirements, unless otherwise provided for in this Chapter.

F. MAXIMUM NUMBER OF PERMITS ISSUED: Upon expiration of any applicable moratorium, not more than 125 residential building permits shall be issued in any one fiscal year with no more than 35 residential building permits issued to any one property owner or developer. For purposes of this Section, a permit issued for a multiple family dwelling building shall be considered one residential building permit.

G. ROAD IMPACT FEE: A road impact fee, found in Exhibit A at the end of this Chapter and established to mitigate the adverse impact of construction on the Village roads, shall be payable at the time a building permit is issued.

## **23.20 FEE SCHEDULE**

The total permit fee shall be payable in full in advance of the issuance of the permit or service to be performed. Permit fees are found in Exhibit A of this Chapter.

The payment of the fee for the construction, alteration, removal or demolition and for all work done in connection with or concurrently with the work contemplated by the building permit shall not relieve the applicant or holder of the permit from the payment of other fees that may be prescribed by law or ordinance for water connections, sewer connections, erection of signs and display structures, and marquees or other appurtenant structures, both within and without the jurisdiction of the Building Department.

## **23.21 UNLAWFUL ISSUANCE OF A BUILDING PERMIT**

No building permits shall be issued to a person who:

1. Has an outstanding expired building permit where the permitted work is incomplete; or
2. Is indebted to the Village in reference to building code violations.

## **23.22 UNLAWFUL CONTINUANCE OF BUILDING ACTIVITY**

Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as he is directed to perform to remove a violation or unsafe

condition, shall be liable to a fine of not less than \$150 nor more than \$500, plus the Village's costs of prosecution. Each day that a violation continues shall be deemed a separate offense.

**23.23 ARCHITECTURAL REVIEW REQUIREMENTS** *Amended, 482, 480*

A. REVIEW BODY: The Architectural Review Commission ("Commission" for purposes of this Section), in addition to its powers and duties as prescribed by ordinances and codes of the Village, is charged with the review of architectural plans and designs.

B. JURISDICTION: The Commission shall be responsible for the review and recommendation of construction plans for any building or exterior alteration thereof, building addition, accessory building or structure, fence, deck or swimming pool, as well as the landscaping associated therewith.

C. PURPOSE OF ARCHITECTURAL REVIEW: The purpose of architectural review requirements in the Village is:

1. To retain the unique character of the Village with a diversity of architecture and design;
2. To promote those architectural design qualities in the environment which bring value to the Village;
3. To foster the attractiveness and functional utility of the Village as a place to live and work;
4. To preserve the character and quality of the Village's heritage by maintaining the integrity of those areas which have a discernible character of are of special significance; and
5. To protect public investments in the Village.
6. To ensure that proposed developments and construction are in substantial compliance with the Village Comprehensive Plan and its design guidelines.

It is the primary object of the Village that residential construction:

1. Consists of custom and semi-custom construction;
2. Prevents multiple residences that have similar exterior designs; and
3. Enhances and/or maintains property values of adjacent properties.

These regulations apply to all property within the Village.

The Commission shall have the authority to establish procedures, as well as design and building material standards, as necessary to achieve the goals of the Village as described in this Section. These regulations shall be administered in conjunction with the applicable provisions of

the Zoning Code, the Subdivision Code, Sign Regulations and other Village regulations. Nothing contained in these regulations shall be interpreted to constitute an endorsement or prohibition of any particular building material, construction method or product.

D. **SUBMITTALS AND APPROVALS:** All architectural review applications must be submitted to Village building department prior to the submittal of building permit applications. No building permit shall be issued until final design approval is granted by the Commission, as evidenced in its minutes and by the signature of the Commission chairperson on each set of plans. Provided, however, the Administrator or a designee may review and approve the following minor permit submittals: grade level patios, decks up to 36 inches above grade, concrete and paver walkways, storage sheds, re-roof and re-siding of existing structures with similar materials and colors. Any appeal from the decision of the Administrator or designee shall be made to the Architectural Review Commission.

E. **APPEALS AND STAYS OF PROCEEDINGS:** Appeals from the final action of the Commission shall be appealable to the Village Board. Appeals from the Commission's final action shall be in writing and shall be filed with the Clerk within 30 days of the Commission's final action.

F. **FEES:** There shall be a \$250 application fee to cover the cost for the architectural review of new construction and substantial remodeling; a \$100 fee for architectural review of additions; and a \$25 fee for remodeling, decks, patios, fences and other exterior appurtenances. For developments with multiple lots of less than one acre, the fee for an alternative review process shall be \$75.

#### **23.24 FIRE DISTRICT RAPID ENTRY KEY SYSTEM**

A. **FIRE DISTRICT RAPID ENTRY KEY SYSTEM:** A Fire District Rapid Entry Key System (hereinafter referred to as "KNOX") shall be installed on all buildings equipped with a monitored fire alarm system. Installation, location and mode of KNOX box shall be approved by the fire district prior to installation.

B. **EXCEPTIONS:** For following situations shall be exempt from the KNOX box installation requirement of this Section:

1. Detached single family dwellings.
2. Alarmed buildings that are occupied 24 hours a day throughout the year.
3. Buildings with on-premises guard service with key access to all building areas.

#### **23.25 VIOLATION PENALTIES**

A. Any person who violates any provision of this Chapter or the Building Code or shall fail to comply with any of the requirements thereof or who shall excavate for, erect, construct, alter, repair or remodel a building or structure in violation of an approved plan or directive of the Building Inspector, or of a permit or certificate issued under the provisions of the Building Code, shall be guilty of a misdemeanor, punishable by a fine of not less than \$150 nor

more than \$500, plus the Village's cost of prosecution. Each day that a violation continues shall be deemed a separate offense.

B. Section R113 entitled *Violations and Penalties* of the International Residential One- and Two-Family Dwelling Code is amended to read as follows:

Section R113. It shall be unlawful for any person, firm or corporation whether as owner, lessee, sublease or occupant to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy or maintain any one- or two-family dwelling in the Village's jurisdiction or cause or permit the same to be done, contrary to or in violation of any of the provisions of this Code.

It is hereby declared that any violations of this Chapter constitutes a public nuisance, and in addition to any other remedies provided by this Code for its enforcement, the Village may bring civil suit to enjoin the violation of any provisions of this Code. If for any reason one or more sections, sentence, clause or parts of this Code are held invalid, such judgement shall not affect, impair or invalidate the remaining provisions.

Any person, firm or corporation violating any of the provisions of this Code shall be guilty of a misdemeanor and each such person shall be deemed guilty of a separate offense for each and every day or portion there of during which any violation of any of the provisions of this Code is committed, continued or permitted, and upon conviction of such a violation, such person shall be punishable by a fine of not less than \$100 nor more than \$500 or by imprisonment, or by both such fine and imprisonment as established by local applicable laws.

## **23.26 REGISTRATION OF BUSINESSES, 686**

A. It is the purpose of this chapter to provide sufficient information relative to business establishments within the B-Business zoning district of the Village to provide better life, health, safety and security services to business establishments, as well as provide a means to facilitate communication between the Village and owners of business establishments.

B. For the purposes of this chapter, a "Business Establishment" is any individual, corporation, association, partnership, or any other legal Entity that is engaged in the sale of taxable goods or services within the B-Business zoning district of the Village. The term Business Establishment does not include Home Occupations.

C. It shall be unlawful for any person to operate a business establishment in the B-Business zoning district of the Village or lease property to a person who operates a business establishment in the B-Business zoning district of the Village (collectively, "Responsible Parties") without obtaining and maintaining in force a registration certificate in accordance with the provisions of this chapter. Registration certificates issued by the Village will expire on December 31 of each year. Responsible Parties may apply for registration together.

D. All Responsible Parties shall on or before May 1 of each calendar year ("Due Date") apply for a registration certificate form provided by the Village. The registration form shall include the following information:

1. Name, location, and phone number of the Business Establishment;

2. Owner's address and emergency telephone number;
3. Nature of Business Establishment;
4. Hours of operation of Business Establishment;
5. Federal employment identification number or Social Security number;
6. Nature of security system, if any, and name and telephone number of company providing the security service;
7. Number of employees of the Business Establishment;
8. Form of ownership of the Business Establishment; i.e. individual, Partnership, corporation or other; and
9. Name, address and telephone number of the lessor, if applicable.

Any person violating any provision of this chapter shall, upon conviction, be fined a sum not less than \$100 nor more than \$500 for each offense.

**EXHIBIT A**

Amended, 616, 567

<b>BUILDING PERMIT FEES</b>	
<b>Project/Purpose</b>	<b>Fee</b>
<i>Single Family Dwelling:</i>	
New construction	\$0.17 per square foot
Additions	\$0.17 per square foot
Accessory structures	\$0.17 per square foot
<i>Commercial, Industrial, Storage, Business, Institution, Public, Multiple Family</i>	
New construction, additions and accessory structures	\$200 minimum
	First 1,000 square feet: \$0.20 per square foot
	Over 1,000 square feet: \$0.05 per square foot
<i>Non-Commercial, Utility or Storage</i>	
New construction, additions	\$0.17 per square foot
<i>Alterations, Remodeling, Use Change</i>	
All buildings or structures, additions, accessory structures	\$40 minimum
	\$0.17 per square foot
Garage, Gazebo, Screen Porch, Shed, Windows, Deck, Patio (concrete or paver)	\$40
<i>Electrical</i>	
Service	\$0.10 per square foot; \$40 minimum
<i>Plumbing</i>	
New construction	\$120 minimum
	\$0.13 per square foot
	\$4 per fixture
Additions	\$90 minimum
	\$0.13 per square foot
	\$3 per fixture
<i>Heating and air conditioning</i>	
New construction or addition	\$40 minimum
	\$0.10 per square foot
<i>Moving, raising, shoring or underpinning of structure or foundation</i>	\$90
<i>Demolition</i>	
Residential	\$100
Non-residential	\$200
<i>Deck</i>	\$ 40 (permit) \$20 (administration) \$25 (ARC review) \$100 (road impact fee)

<b>BUILDING PERMIT FEES</b>	
<b>Project/Purpose</b>	<b>Fee</b>
<i>Fences, including dog runs:</i>	
First 200 linear feet	\$40
Excess of 200 linear feet	\$0.10 per linear foot
<i>Pools</i>	
In-ground	\$175
Above-ground, spa, hot tub	\$80
<i>Irrigation system</i>	\$50
<i>Sidewalk</i>	\$0.04 per square foot
<i>Signs</i>	See Chapter 24, Signs Regulations
<i>Structures</i>	40% plus \$0.10 per square foot
<i>Driveway</i>	\$30 (permit fee) \$15 (administration fee) \$100 (road impact fee)
<i>Minimum permit fee</i>	\$40
<i>Re-inspection or each extra inspection need or requested</i>	\$50
<i>Building permit extension</i>	25% of the original permit fee for each extension
<i>Temporary certificate of occupancy</i>	\$100
<i>Administrative fee</i>	50 percent of permit fee
<i>Removal of dying, dead or diseased trees</i>	No fee or administrative fee

Ord. 476; Amended, 630, 624, 479

<b>Municipal Property Damage Deposits and Impact Fees</b>		
<i>Type of Construction</i>	<i>Deposit</i>	<i>Road Impact Fee</i>
Residential deck, shed, fence, patio, re-roof, siding and concrete or asphalt driveway	No deposit	\$100
Residential detached garage, addition, remodeling	No deposit	\$300
Residential single family dwelling	\$3,000	\$500
Residential multiple-family dwelling	\$6,000	\$250 per unit
Commercial/industrial sign, fence, storage tank, accessory storage building, roofing, siding, rooftop HVAC, concrete or asphalt driveway, concrete or asphalt parking lot	\$2,500	\$250
Commercial/industrial addition or remodeling	\$5,000	\$500
Commercial/industrial building up to 100,000 square feet; 10 percent increase for each additional 50,000 square feet over 100,000 square feet	\$7,500	\$750

<b>Municipal Property Damage Deposits and Impact Fees</b>		
<i>Type of Construction</i>	<i>Deposit</i>	<i>Road Impact Fee</i>
Utility	\$50,000 where underground trenching, utility pole installation or open cut construction required; \$50,000 where utility work is limited to connection to existing utility poles	\$7,500

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**Chapter 24**  
**SIGN REGULATIONS, *Amended 699***

- 24.01 PURPOSE AND INTENT
- 24.02 DEFINITIONS
- 24.03 PROHIBITED SIGNS
- 24.04 AUTHORIZED SIGNS – GENERAL PROVISIONS
- 24.05 SIGNS AUTHORIZED BY ZONING DISTRICT
- 24.06 ADMINISTRATION
- 24.07 MAINTENANCE
- 24.08 ENFORCEMENT
- 24.09 VARIATIONS

**24.01 PURPOSE AND INTENT**

A. PURPOSE. All signs which are located within the corporate limits of the Village shall be located, constructed, erected, displayed, placed, designed, altered, used, removed, and maintained in accordance with the provisions set forth in this Chapter.

B. LEGISLATIVE INTENT. The regulations of this Chapter are intended to coordinate the use, placement, physical dimensions, and design of all signs within the Village, as well as protect public health, safety, and welfare as well as to preserve and enhance the image of the community and develop a satisfactory visual appearance within the Village by:

1. Regulating signs in such a way that supports and complements land use objectives set forth in the Comprehensive Land Use Plan and the Zoning Code, as amended, for residential, commercial, and industrial development;
2. Ensuring all signs within the Village are compatible with existing land uses and buildings within the general vicinity of the sign and the community as a whole, with regard to size, location, color, construction, and manner of display;
3. Permitting such signs that do not confuse, mislead, obstruct the vision necessary for traffic safety, or otherwise endanger the public health, safety, morals, or general welfare of the Village;
4. Maintaining property values by eliminating signs that are incompatible with the surrounding land uses;
5. Encouraging a viable economic environment through uniform control of signs;
6. Facilitating effective communication between the public and the environment through signs that are appropriate for the type of street and site upon which they are located;

7. Encouraging quality sign design to promote a better visual environment; and
8. Enhancing the physical appearance of the Village through a program which ensures the removal of inadequately maintained, illegal, and non-conforming signs within a reasonable time frame.

C. **SCOPE AND APPLICATION.** The regulations set forth in this Chapter shall govern the location, construction, erection, display, placement, design, structural or graphic alteration, use, removal, and maintenance of all signs within the Village. It shall be unlawful to locate, construct, erect, display, place, design, structurally or graphically alter, use, remove, relocate, or maintain any sign except in accordance with the provisions of this Chapter. This Chapter shall be interpreted in a manner consistent with the First Amendment guarantee of free speech. If any provision of this Chapter is found by a court of competent jurisdiction to be invalid, such finding must not affect the validity of the other provisions of this Chapter which can be given effect without the invalid provision.

## **24.02 DEFINITIONS**

In addition to those terms defined in Appendix A of this Code, the following words, terms, and phrases used in this Chapter are defined as follows:

**A-Frame:** A temporary sign ordinarily in the shape of the letter “A”, an inverted “V” or some variation thereof, which is displayed on the ground, not permanently attached to the ground, and usually two-sided, generally connected at the top and separated at the bottom. Also referred to as “sandwich boards”.

**Abandoned sign:** A sign which no longer correctly directs or identifies a bonafide business, lessor, owner or activity conducted on the premises where the sign is displayed.

**Address sign:** A sign which identifies the numerical address of a residence, business, manufacturing or institutional building.

**Awning:** A temporary shelter supported entirely from the exterior wall of a building and composed of non-rigid materials except for the supporting framework.

**Awning sign:** A type of sign painted on or attached directly to an awning.

**Background area:** The entire area of a sign on which copy could be placed, as opposed to the copy area when referred to in connection with wall signs.

**Banner:** A temporary sign made of paper, plastic or fabric of any kind which is intended to be hung either with or without a frame, with or without applied characters, letters, illustrations or ornamentations, excluding national, State or governmental flags

**Beacon:** A stationary or revolving light, also known as a “searchlight,” which flashes or projects illumination, single color or multi-colored, in any manner which is intended to attract or divert attention. This term is not intended, however, to include any kind of lighting device which is

required or necessary under the safety regulations described by the Federal Aviation Administration or similar agencies.

**Billboard:** Any structure or portion thereof upon which are signs or advertisements used as an outdoor display. This definition does not include any bulletin boards used to display official court or public office notices, or signs advertising the sale or lease of the premises on which the sign is located.

**Canopy:** A structure other than an awning made of cloth, metal or other materials with frames affixed to a building and carried by a frame which is supported by the ground.

**Canopy sign:** A type of sign painted on or attached directly to a canopy.

**Changeable copy:** Letters, numerals or other graphics which are not permanently affixed to a structure and/or set for permanent display and are intended to be alterable through manual or electronic means.

**Changeable copy sign:** Any permanent sign that is predominantly or entirely designed or used in such a manner that characters, letters or symbols can be manually changed or re-arranged without altering the surface of the sign.

**Curblineline:** The line at the face of the curb nearest to the roadway.

**Decorations:** Ornaments or trimmings displayed in connection with a holiday or a local festivity or event.

**Dimensional sign:** A type of wall sign which consists of three-dimensional letter forms which are applied directly to a building.

**Directional sign:** A wall, ground or window sign which exists for the purpose of identifying or directing vehicular and/or pedestrian traffic to essential service areas, e.g., loading docks, service entrances, offices, etc.

**Ditch line:** A shallow drainage depression of specified depth and distance from the travel lane of a roadway.

**Electronic message board sign:** A sign comprising an electronic LED, plasma or similar display portion.

**Exterior sign:** Any sign that is attached to an exterior wall or otherwise located on the outside of a structure or placed in a yard or upon vacant land.

**Feather Flag:** A temporary sign that includes a banner pole inserted into, or otherwise anchored to the ground or supported by a base, the banner pole supporting, along a vertical side, a fabric advertising display portion. Other common industry names that are considered feather flags include blade flags, teardrop flags, shark-fin flags and flutter flags. All feather flags shall be deemed to be temporary signs.

**Flashing light:** Lighting which alternatively is illuminated and not illuminated, or which otherwise varies in intensity in such a way as to not provide a constant source of light.

**Flashing sign:** Any sign which contains an intermittent or flashing light source, or which includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source. Automatic changing signs, such as the public service time, temperature and date signs, or electronically controlled message centers, shall be classified as changeable copy signs, not flashing signs.

**Frontage:** The length of a lot line or a building site along a street or other public way.

**Grade:** The surface elevation or level of a street, sidewalk or ground.

**Ground sign:** A permanent sign supported by structures placed on, in or anchored to the ground independent from any building.

**Height of a sign:** The vertical distance from grade to the highest point of a sign.

**Human signs:** Any sign that is worn (including costumes) or held by a human.

**Illegally non-conforming:** An unlawful sign which had been constructed or installed prior to the effective date of this Chapter.

**Illuminated sign:** Any sign which is lit by artificial (usually electric) lighting or luminous devices, whether by lights or devices on or within the sign or directed toward the sign, including such chemical or physical properties which cause or effect a reflection. This definition shall include exterior strings of lights or exposed light bulbs.

**Indirect illumination:** A light source which is not directly seen.

**Inflatable sign:** Any sign or inflatable device designed to be filled with air or gas lighter than air, used singly or in clusters, displayed to attract the attention of the public. This definition shall include balloons and balloon signs.

**Institution:** A building housing an organization having a social, educational or religious purpose, such as a school, church, hospital, etc.

**Intermittent lighting:** A type of flashing lighting in which the period of change in the illumination is sufficient duration to permit a distinct message to be conveyed during each cycle.

**Internal illumination:** A light source is contained within the sign and is visible only through a translucent surface or is otherwise recessed into the sign structure using concealed fixtures so that no reflectors, extension arms, floodlights, light bulbs or fixtures are visible from direct view. Illumination of a sign which is affected by a source of light which is contained within the sign itself.

**Interior sign:** Any sign which is fully located within the interior of a building and which is not readily or obviously visible from the exterior.

**Legally non-conforming sign:** A sign which does not comply with some or all of the regulations contained in this Chapter, but which had been lawfully installed as of the effective date of this Chapter.

**Limiting architectural feature:** A significant architectural element of a building or structure which by its existence reduces the area of the building or structure face which is suitable for signage.

**Mansard:** A roof-like sloping surface which is applied to or above the face of a building.

**Marquee:** Any hood or similar structure of a building which projects from the wall of a building and is not supported by the ground or sidewalk.

**Marquee sign:** A sign which is painted on or directly attached to a marquee.

**Menu Board sign:** A permanent sign which is utilized only for those establishments in which services are specifically provided for drive-up/drive-through services.

**Message center sign:** A type of changeable copy sign which conveys periodically-changing information of either a private or public nature.

**Moving sign:** Any sign that has any external or visible part or parts that move, rotate, spin, swing or assume a non-stationary position by electrical or mechanical means, or under normal wind currents.

**Name plate sign:** A sign which identifies the occupant and address of a building or dwelling unit.

**Neon tube sign:** A sign which is illuminated by a light source which consists of a neon or other gas-filled tube which is bent to form letters, symbols or other shapes.

**Non-conforming sign:** A sign which does not comply with 1 or more of the regulations established in this Chapter.

**Obscene:** Statements, words, suggestions or pictures of an indecent or immoral character, such as will offend public morals or decency.

**Obsolete sign:** Any sign which identifies an occupant or advertises a business conducted, product sold, or service rendered which is no longer bonafide or operational. An obsolete sign shall be deemed to be abandoned.

**Off-premise sign:** A sign which identifies goods, services or facilities which are not available on the premises where the sign is located.

**Parapet:** That portion of the wall of a building that rises above the roof level.

**Pennant:** Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in a series, designed to move in the wind. Feather flags shall not be deemed pennants.

**Political campaign sign:** A sign which announces a candidate as seeking public political office and/or which conveys political issues and other data pertinent thereto.

**Portable sign:** Any sign designed to be moved from place to place which is not securely attached to the ground or any other structure, such as, but not limited to a sign mounted on a trailer or on a

frame with wheels attached. Any such sign which has had any features removed (such as wheels, frame hitch or other devices that enable it to be moved) in order to attach it to the ground or any other structure shall still be deemed to be a portable sign. Such signs may also be known as movable signs. Although portable signs often share features of changeable copy signs, for the purposes of this Chapter, this definition of portable sign shall govern

**Premise:** A lot or parcel and the buildings, structures and/or establishments which are located on that lot or parcel.

**Projecting sign:** Any sign affixed to a building or wall in such a manner that its leading edge extends more than 6 inches beyond the surface of such building or wall.

**Property line:** The lot line, as defined in the Zoning Code.

**Public entrance:** An entrance to an establishment which is provided primarily for use by the patrons or customers of the establishment and not for delivery purposes.

**Public sign:** Any sign required and erected by governmental bodies or specifically authorized for a public purpose by any law, statute, Chapter or other official action. Such signs shall include, but not be limited to: traffic control signs; parking control signs; legal notices; railroad crossing signs; warning, danger and temporary emergency signs; street name signs; identification of public sites and facilities or of institutions; announcements of community events as designated by the governmental body; and the like.

**Roof sign:** Any sign erected, constructed and maintained entirely or partially upon or over the roof of any building, with the principal support on the roof. Any sign attached to a mansard roof shall be deemed to be a wall sign.

**Setback:** The minimum distance between the property line, curblineline, or ditch line if no curblineline exists, and any portion of a building or sign.

**Shopping center:** A group of 4 or more stores sharing a common off-street plaza or parking area into which such stores are oriented.

**Sign:** A sign is any name, identification, description, advertisement, display or illustration which is affixed to or painted or represented directly upon a building, structure or other outdoor surface or piece of land; and which directs attention to an object, idea, product, philosophy, place, activity, person, institution, service organization or business; and which is located, on a permanent or temporary basis, on the premises at or on which the object, idea, product, philosophy, place, activity, person, institution, service, organization or business is located, offered or sold. For the purpose of this Chapter, a building, or portion of a building, or any item or material (opaque, transparent, colored or illuminated) physically attached to a building which departs from standard architectural treatment in an attempt to attract attention to the premises by reason of color scheme and/or illumination, or part of a building or facade not required structurally or for maintenance, and which is intended to direct attention to products, goods, services, events or entertainment, shall be considered a "sign" and be subject to all pertinent regulations, including signable area as defined

herein. Signs located completely within an enclosed building, and not exposed to view from a street, are not considered a sign.

**Sign message area:** The area of a sign configured to display words, symbols, geometric shapes, pictures or logos which communicates information to the general public.

**Signable area:** Any continuous portion of a building which is unbroken by doors, windows, or other architectural details.

**Subdivision:** A tract of land which is legally divided into residential, commercial or industrial lots.

**Subdivision identification sign:** Any permanent sign designed to identify a parcel consisting of multiple lots, buildings or dwellings. A residential subdivision identification sign is used for the stated purpose in residential zoning districts. A non-residential subdivision identification sign is used for the stated purpose in non-residential zoning districts.

**Surface area of sign:** Surface area shall be the gross surface area within a single continuous perimeter composed of a single rectangle enclosing the extreme limits of characters, lettering, illustrations, ornamentations or other figures, together with any material or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. Structural supports bearing no sign copy shall not be included in gross surface area; however, if any portion of the required structural supports become enhanced for decorative or architectural purposes, that portion will be included in the total gross surface area of the sign. For computing the area of any sign which consists of individual letters or separate graphic elements, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters or elements. All sides of a sign having more than 2 faces which are visible from any 1 street shall be included in the calculation of the area.

**Swing sign:** Any sign attached or fixed to a metal or wooden frame by a coupling that allows the sign to swing relative to the frame.

**Temporary sign:** A sign designed, constructed or erected for display for a limited and usually fixed duration of time. Non-limiting examples of temporary signs are: feather flags, A-frame signs, portable signs and banners.

**Tracker sign:** Any off-premise subdivision identification sign.

**Translucent:** Permitting the passage of light without being transparent.

**Tube illumination:** A neon or other gas-filled tube of glass or similar material which is formed into a message and, itself, is the source of its illumination.

**Unlawful sign:** A sign which does not meet the terms of this Chapter or which the Village has declared to be unlawful because it poses a danger to public safety by reason of dilapidation or abandonment.

**Vehicular sign:** A sign painted on or applied directly to a truck, car, bus or other motorized vehicle or portable equipment.

**Wall sign:** A sign which is placed against a building or other structure and which is attached to the exterior front, rear or side wall of a building.

**Window sign:** A sign that is posted on the interior or exterior of a window of a building or structure which is intended to be read from the exterior of the building or structure.

**Yard sign.** A temporary sign that is constructed of paper, vinyl, plastic, wood, metal or other comparable material, which is mounted on a stake or a frame structure that includes one (1) or more stakes.

### **24.03 PROHIBITED SIGNS**

The following signs are specifically and expressly prohibited from being located, constructed, erected, displayed, placed, structurally or graphically altered, used, maintained, or relocated on any property within any zoning district within the Village unless otherwise provided for in this Chapter:

1. Inflatable signs.
2. Pennants.
3. Beacons.
4. Flashing signs.
5. Obscene signs.
6. Off-premise signs.
7. Vehicle signs.
8. Moving signs.
9. Obsolete signs.
10. Tracker signs.
11. Roof signs.
12. Billboards.
13. Banners.
14. Feather flags.
15. A-Frame signs.
16. Human signs.
17. Any sign determined by the Building Inspector and/or the Chief of Police to constitute a traffic or pedestrian hazard by reason of size, location, color, condition, or type of illumination.
18. Any sign that is located in or extends over public property or the public right of way, except for public signs as provided in this Chapter.
19. Any sign that obstructs traffic sight lines, sight triangles, or public signs at street intersections or railroad crossings.
20. Any sign for which building code compliance review is required, but for which no building code compliance review has been sought.
21. Any sign painted on an exterior building wall, fascia, parapet, or painted on or attached to a chimney, on a fence or fence-wall, retaining wall, bench, fence post, refuse enclosure, utility box, storage shed, bus shelter, satellite dish, antenna or other accessory structure, unless approved by the Village Board or its designee.
22. Any sign attached, painted on, nailed, or otherwise affixed to trees, other vegetation, landscaping, stones, or natural materials.



23. Any sign attached, painted on, or otherwise affixed to tents or umbrellas, except those that specifically permitted in conjunction with a special event approved by the Village Board or its designee.
24. Any sign which uses exposed exterior neon tubing and/or exposed light bulbs.
25. Any sign painted on, attached, or otherwise affixed to flag poles, light poles, telephone poles or utility poles except public signs attached to light poles as permitted herein.
26. Any additional or subsequent sign painted on, attached, or otherwise affixed to any permitted sign.
27. Any additional sign attached or otherwise affixed to the face of a sign of which any portion extends beyond any edge of the sign.
28. Any sign which emits sound, odor, or visible matter, exclusive of approved electronic message board signs.
29. Any sign that is not expressly allowed or governed by the terms of this Chapter.

**24.04 AUTHORIZED SIGNS-GENERAL PROVISIONS**

A. GENERAL. Signs shall be classified and permitted in accordance with the regulations set forth in this Chapter. This Chapter shall be strictly construed and where signs are not specifically permitted they shall be deemed prohibited as if specifically set forth in Section 24.03.

B. AUTHORIZATION BY OWNER. No person shall erect, alter, or relocate any sign within the Village without first obtaining the express consent of the owner of the land upon which the sign shall be erected, altered, or relocated.

C. NO PORTABILITY OF SURFACE AREA. There shall be no portability of unused permitted surface area for any sign to any other permitted sign unless otherwise provided for in this Chapter.

D. SPECIAL AREAS OF CONTROL. The Village Board may designate geographic areas within the Village with unique characteristics as a “special area of control” for the purposes of permitting and regulating signs therein that meet the intent of this Chapter. Such special areas of control shall be designated on a map prepared by the Village Building Inspector. Sign regulations for special areas of control shall be listed in separate sections of this Chapter.

E. PLANNED DEVELOPMENT SIGNAGE. Signs located within a planned development shall be governed by those standards set forth in the underlying zoning district. The Village may permit additional or different signage or require different standards for signage as part of final approval of a planned development at the time of such approval.

F. SIGN PLACEMENT IN PUBLIC AREAS. Except for public signs, no sign shall be erected on any tree, utility pole, traffic standard or other public sign standard.

**24.05 SIGNS AUTHORIZED BY ZONING DISTRICT**

A. The following signs are hereby exempt from the building code compliance review and fee provisions of this Chapter unless otherwise stated and shall be permitted in all zoning districts within the Village unless otherwise specified herein. Such signs are defined as exterior

signs unless otherwise stated and shall not be illuminated unless illumination is specifically provided for in this Chapter. Any sign permissibly illuminated under this Chapter shall undergo building code compliance review for purposes of determining compliance with the Village's adopted electric code and the owner of the sign shall reimburse the Village for any professional fees incurred in completing the building code compliance review.

1. Interior Signs.
2. Memorial Signs. Memorial plaques or tablets, monuments, grave markers, statuary, or other remembrances of persons or events.
3. Decorations. Decorations shall be allowed, provided that they are maintained for a cumulative period of no more than a total of forty-five (45) days. Such decorations may be illuminated without the need for building code compliance review. Exterior decorations in non-residential districts are limited to placement on buildings only, and require the consent of the building or property owner.
4. Vehicular Signs. Signs placed on or affixed to vehicles and/or trailers where the sign is incidental to the primary use of the vehicle or trailer. However, signs placed on or affixed to vehicles and/or trailers that are parked on a public right of way, public property, or private property in a way so as to be visible from a public right of way shall be prohibited. The intentional parking of a vehicle and/or trailer bearing a sign in such a way or in such a location that the vehicle serves as an off-premise sign shall be prohibited. The parking of such a vehicle and/or trailer shall be permitted at the private residence of the vehicle operator or at the business to which the vehicle and/or trailer relates.
5. Regulatory Notice Signs. No trespassing, no hunting, no dumping, no parking, towing, and other similar signs (including those set forth by the current regulations of the Illinois Commerce Commission) not exceeding one and a half (1 ½) square feet in surface area per sign. In addition to the requirements contained herein, any towing signs or no parking signs on private property subject to towing, on either residential or non-residential zoning lots, shall, in addition to the signage required by 625 ILCS 5/18a-302 and the applicable Illinois Commerce Commission Regulations, include on any such signs the name, address and telephone number of the appropriate towing company utilized for towing from the private property. Regulatory notices signs may be constructed on a fence or other permanent structure.
6. Yard signs and swing signs shall be allowed in residential zoning districts. Only swing signs shall be allowed in non-residential zoning districts. Yard signs and swing signs shall subject to the following provisions:

- i. Only one (1) yard or swing sign may be placed on a property unless otherwise provided in this subsection.
- ii. A yard or swing sign may be displayed a maximum of two (2) times per calendar year upon the same premises for a period of time not to exceed thirty (30) calendar days each time. The two (2) periods of thirty (30) calendar days shall not be immediately sequential. A property listed for sale or lease shall be exempt from the time limitations provided herein.
- iii. Yard or swing signs shall be set back not less than twenty (20) feet, measured from the most restrictive of either the property line, the curblineline, or the ditch line if no curblineline exists.
- iv. No yard or swing sign shall be illuminated, electronically operated, or contain moving parts.
- v. No yard or swing sign shall be displayed on any tree, street light pole, utility pole, street sign, traffic sign pole, or otherwise placed or erected on within public right of way.
- vi. No yard or swing sign shall be displayed on or within a vehicle or be placed in such a location as to cause an obstruction to the clear view of traffic.
- vii. Yard Signs. In addition to the other provisions listed in this subsection 24.05(A)(6), yard signs shall be subject to the following provisions:
  - a. Surface area of any face shall not exceed 24" x 18".
  - b. The height of a yard sign shall not exceed three (3) feet.
- viii. Swing Signs. In addition to the other provisions listed in this subsection 24.05(A)(6), swing signs shall be subject to the following size and height provisions:
  - a. The surface area of any face shall not exceed 36" x 24".
  - b. The height shall not exceed six (6) feet.
  - c. The sign shall be constructed of wood, metal, or a combination thereof.
  - d. The sign shall not contain a rider sign attached to the frame in addition to the swing sign.
  - e. Only one (1) swing sign shall be allowed unless the property has frontage on multiple streets, in which case one (1) swing sign is permitted on each frontage area.

7. Political Campaign Signs. Public campaign signs shall be permitted in all zoning districts and on public property used as a polling place in compliance with the requirements of 10 ILCS 5/17-29. Political campaign signs shall not be placed on a right-of-way.
8. Name Plate Signs. Name plate signs shall be subject to the following provisions:
  - a. They are wall signs not exceeding two (2) square foot in surface area.
  - b. A combination of an address sign and name plate sign shall be permitted provided that such sign does not exceed four (4) square feet in surface area.
  - c. One sign shall be permitted for each building or dwelling unit unless a building or dwelling unit has more than one entrance in which case one (1) sign shall be permitted for each entrance.
9. Address Signs. Address signs shall be subject to the following provisions:
  - a. They are wall signs not exceeding two (2) square foot in surface area.
  - b. A combination of an address sign and name plate sign shall be permitted provided that such sign does not exceed four (4) square feet in surface area.
  - c. One sign shall be permitted for each building or dwelling unit unless a building or dwelling unit has more than one entrance in which case one (1) sign shall be permitted for each entrance.
10. Subdivision Identification Signs. Ground signs shall be permitted for the purpose of identifying planned developments and subdivisions in any zoning district subject to the conditions as specified in this Chapter as well as the following conditions:
  - a. There shall be a maximum of one (1) ground sign allowed provided that:
    - i. Where a planned development or subdivision has multiple entrances along public streets, additional signs may be granted by the Village Board or its designee.
    - ii. Subdivision identification signs as provided for herein shall be approved by the Village Board or its designee.
11. Public Signs.

12. Directional Signs. Directional signs shall be subject to the following provisions:
  - a. The sign shall not exceed four (4) square feet in surface area and may be illuminated.
  - b. A ground sign shall not exceed four (4) feet in height.
  - c. The sign shall be setback a minimum of fifteen (15) feet from any street or access drive measured from the most restrictive of the property line, curblin, or the ditch line if no curblin exists.
  
13. Electronic Message Board Signs.
  - a. Electronic Message Board Signs (a/k/a “Electronic Sign”) may be allowed subject to the following provisions:
    - i. General:
      - a. An electronic sign permit is required for each electronic sign which must be approved by the Village Board of Trustees after a public hearing conducted before the Village Board of Trustees. Such public hearing shall be held at least fifteen (15) days but no more than thirty (30) days after written notice sent by the applicant via regular mail to all owners of record of parcels contiguous to the borders of the parcel on which it is proposed that an electronic sign be installed, and such notice shall include a schematic of the proposed electric sign. The Village Board of Trustees shall have the right to impose reasonable conditions upon the sign applicant to alleviate or eliminate any adverse impacts of the proposed electronic sign in order to protect the health, safety, and welfare of the community.
      - b. No electronic sign may be placed so as to obscure or interfere with a traffic control device.
      - c. The display portion shall comprise a matte black background and a minimally reflective outside shield.
      - d. An electronic sign incorporating controls to automatically display public safety alerts are preferred.

- e. The maximum allowed area of a display portion is two thousand, five hundred square inches (17.36 sq. ft. or 2,500 sq. in.) subject to the conditions and exceptions of subsection iv below.
  - f. This definition of an “electronic sign” does not encompass digital menu boards.
- ii. Format of displayed content.
- a. The content of the LED display portion shall include no more than alphanumeric, text characters, and static graphic components (i.e., non-video).
  - b. Transitions between sequential messages displayed on the display portion shall be limited to fade-out/fade-in, with a minimum of one (1) second delay therebetween, or direct transition only. Animated transitions, such as phasing, scrolling, blending, flashing and other effects are prohibited.
  - c. Message content shall be displayed for a minimum duration of five (5) seconds before transitioning to a different message.
- iii. Operation and maintenance of the display portion.
- a. The display portion must emit the displayed content. Externally illuminated or projected content is prohibited.
  - b. The display portion, electrical connections and integration with surrounding sign structure must meet the standards of the Village’s adopted electric code and must undergo a building code compliance review and be inspected and approved by the Village prior to activation.
  - c. The light output of the display portion shall not exceed an intensity of 0.5 foot candles measured at 150 feet of the source. The display portion shall comprise an ambient light sensing device that will adjust the brightness of the display as the natural ambient light conditions change.
  - d. The electronic sign shall be maintained in proper, working condition.

- iv. Integration of LED display portion.
  - a. Notwithstanding any other provisions of this Code, the LED display portion of the electronic sign must be incorporated into a permanent pole or ground monument sign and shall be subject to the following provisions:
    - i. For a sign with a height of forty-eight (48) inches and less than one hundred and eight (108) inches, the display portion of the sign shall be equal to or less than thirty-three percent (33%) of the total sign area. The sign area shall not exceed 7,500 square inches or fifty-two and eight tenths (52.08) square feet on a side. For a sign with a height less than forty-eight (48) inches, the display portion of the sign shall be equal to or less than fifty percent (50%) of the total sign area. The sign area shall not exceed five thousand (5,000) square inches or thirty four and 72 hundredths (34.72) square feet on a side.
    - ii. Stand-alone electronic displays are prohibited. All electronic displays must be incorporated with surrounding or adjoining sign structure.
    - iii. Under no circumstances shall an electronic sign be installed such that its output casts light onto a residence in excess of an increase of 0.5 foot candles from the previously existing ambient level at any given property line of the parcel for which an electronic sign is sought. Shields and/or landscaping shall be installed to block any such increased light levels.
  - v. Any electronic sign which structure is damaged by any cause by more than fifty percent (50%) as determined by the Village Administrator, shall be rebuilt in compliance with the Village regulations in force at the time of rebuilding.

B. PERMITTED SIGNS IN RESIDENTIAL ZONING DISTRICTS. The following signs shall be permitted within the Village as accessory uses in residential zoning districts, and shall be subject to all applicable standards:

1. Signs permitted as specified in Section 24.05(A).
2. One identification sign, not to exceed thirty-two (32) square feet in total surface area if single-faced, or forty-five (45) feet in total surface area if double-faced, for the following uses: religious institutions, private or public schools and facilities constructed and maintained by any taxing district. Such a sign may be illuminated, shall not exceed nine (9) feet in height, and shall be setback a minimum of fifteen (15) from any property line and, in no case, less than twenty (20) feet from the curblines of an adjacent public street, and if no curblines exist not less than twenty (20) feet from the ditch line of an adjacent public street. Two such identification signs may be erected at entrances to the facility if the permitted square footage is divided equally into two (2) symmetrical signs, provided that all other provisions of this Chapter are met. Identification signs may include changeable copy and may be illuminated.
3. Residential Subdivision Identification Signs. Residential Subdivision Identification Signs shall be subject to the following provisions:
  - a. The sign shall be maintained by a homeowners' association or similar organization.
  - b. The sign may be installed on masonry entry monuments, which may be constructed on both sides of the entry street.
  - c. The height shall not exceed five (5) feet.
  - d. The sign area shall not exceed thirty-two (32) square feet per side, limited to two (2) sides, or sixty-four (64) square feet total.
  - e. The sign shall comply with the following setback requirements:
    - i. Fifteen (15) feet from the property line;
    - ii. Fifteen (15) feet from the curblines of an adjacent access drive;
    - iii. Fifteen (15) feet from the ditch line of an adjacent access drive if no curblines exist;
    - iv. Twenty (20) feet from the curblines of an adjacent public street; and
    - v. Twenty (20) feet from the ditch line of an adjacent public street if no curblines exist.
  - f. The sign shall not impede normal pedestrian movement nor obstruct the line of sight for motor vehicle traffic.



- g. Illumination. All subdivision identification signs may be illuminated. However, only low level landscape lighting shall be permitted in residential districts, subject to review and approval by the Village Board or its designee. Said landscape lighting shall be adjusted to avoid direct illumination of the sign.
  - h. Landscaping. All subdivision identification signs shall be landscaped with trees and shrubs to blend the signs into the landscape of which they are a part.
4. Home Occupation Signs. Properties where a home occupation is permitted shall be allowed one sign in addition to the other signs permitted under this Chapter provided that the additional sign complies with the following requirements:
- a. The sign shall not exceed two (2) square feet in surface area.
  - c. The sign shall be installed flat against the face of a building, rather than in a front or side yard and shall not be illuminated.

C. PERMITTED SIGNS IN NON-RESIDENTIAL ZONING DISTRICTS. The following signs shall be permitted within the Village as accessory uses in non-residential zoning districts, and shall be subject to all applicable standards:

- 1. Signs permitted as specified in Section 24.05(A).
- 2. Ground Signs. Ground signs shall be subject to the following provisions:
  - a. Number. There shall be a limit of one (1) ground sign per lot, shopping center, shopping center out lot or multiple business center, which shall be erected for the purpose of identifying the establishment.
  - b. Height. No ground sign shall exceed nine (9) feet in height.
  - c. Surface Area. No ground sign shall exceed a maximum surface area of thirty (32) square feet if single-faced or sixty-four (64) square feet if double-faced.
  - d. Setback. No ground sign shall be located closer than fifteen (15) feet to the property line, curblineline, or the ditch line if no curblineline exists. Such signs shall be placed no closer than eighteen (18) feet to any building or structure it identifies and shall not obscure any architectural features of a building, such as entrances, display windows or decorative cornices when viewed from the street.
  - e. Shape. Signs of excessively complicated outlines or composed of several different connected shapes are not acceptable. The outlined

shape and silhouette of a ground sign shall be simple and compatible with the building to which it relates.

- f. Scale and Proportion. A ground sign shall be compatible with the building or buildings it identifies, and the sign may not be of such a size that it visually overpowers the building on the site.
- g. Illumination. Ground signs may be internally or externally illuminated.
- h. Tenant Identification Panels. Provision for identifying tenants within a shopping center or multiple business center as part of the permitted square footage of the sign identifying the shopping center or multiple business center as a whole shall be permitted, provided that there shall be a limit of two (2) panels or divisions of said sign for such purposes.
- i. Menu Board Signs. In addition to the one (1) permitted ground sign, one (1) single-faced menu board ground sign shall be permitted per lot or out lot for restaurants with drive-in/drive-through facilities, provided that such sign does not exceed twenty-four (24) square feet in surface area or 8 feet in height. Such sign may only be internally illuminated. Menu board signs shall be permitted only in business zoning districts.

3. Wall Signs. Wall signs shall be subject to the following provisions:

- a. Location. A wall sign shall be erected upon the wall of the building facade having its principal frontage upon a public street. A wall sign may be on the building facade other than the principal frontage if it faces a non- residential district, and the total square footage does not exceed the total permitted on the principal frontage. In no case shall a wall sign be permitted that faces the side of any adjoining lot located in a residential zoning district.
- b. Number. A maximum of one (1) wall sign per establishment shall be permitted, erected for the purpose of identifying the establishment, subject to the following provisions:
  - i. No wall sign shall be permitted for individual tenants in a multi- story or multi-tenant office building, unless specifically authorized as part of an approved planned development at the time of approval of said planned development.
  - ii. A corporate logo shall be permitted but shall count as the permitted wall sign if it is not incorporated into the wall sign.

The square footage of the logo shall be calculated along with the remainder of the sign copy to determine the overall surface area of the sign.

- c. Projection. No wall sign shall project from the building wall more than twelve (12) inches.
  - d. Shape. The outlined shape and silhouette of a wall sign shall be simple and compatible with the building facade it is mounted on. Shapes that disrupt the architectural order and composition of a building facade are not acceptable.
  - e. Scale and Proportion. Wall signs shall be harmonious in scale and proportion with the building facade they are mounted to and with the architectural elements of the building, such as windows, cornices, sign friezes and bays. A wall sign shall not visually overpower those elements nor detract from the composition of the building facade.
  - f. Overhang. The edges of wall signs shall not overhang the top of bays or equivalent architectural features of building facades.
  - g. Illumination. Wall signs may only be internally illuminated.
  - h. Signs to be erected upon mansard roofs shall be treated as wall signs and shall be single-faced signs. In no case shall the roof or a portion of the roof itself be illuminated.
  - i. The maximum size of any such sign is determined by the square footage of the signable area and the setback of the building from the property line, curblin, or ditch line if no curblin exists. (See Table 1 herein).
4. Canopy and Marquee Signs. Canopy and marquee signs shall be subject to the following provisions:
- a. Number. There shall be a limit of one (1) canopy/marquee sign per lot or per establishment, erected for the purpose of identifying the establishment, except as otherwise provided for in this subsection, and provided that no wall signs are directed to the same street frontage.
  - b. Location. Canopy/marquee signs may be mounted on the face (vertical edges only) of the canopy/marquee proper. Signs shall not be erected above the roof line of the canopy/marquee.
  - c. Signable Area. The signable area for canopy/marquee signs shall not extend beyond the canopy/marquee face on which the sign is

located. No sign or portion of a sign shall exceed the borderline of any outer edge of said canopy/marquee.

- d. **Surface Area.** The surface area of a canopy/marquee sign shall not exceed ten (10) square feet or thirty percent (30%) of the signable wall area of a canopy/marquee attached to the building front, whichever is greater. A multiple bay canopy/marquee, such as drive-up lanes at a financial institution, may have a sign for each bay, provided that the sum total of all such signs does not exceed thirty percent (30%) of the surface area of the face of the canopy/marquee that faces a public street or private drive.
  - e. **Projection.** No canopy/marquee sign shall project more than 8 inches from the canopy/marquee proper.
  - f. **Ground Clearance.** A clearance of eight (8) feet shall be maintained from the lowest point on the canopy/marquee to the grade or walkway under said canopy/marquee.
  - g. **Shape.** The outlined shape and silhouette of a canopy/marquee sign shall be simple and compatible with the building it is mounted on. Shapes that disrupt the architectural order and composition of a building facade are not acceptable.
  - h. **Scale and Proportion.** Canopy/marquee signs shall be harmonious in scale and proportion with the building they are mounted to and with the architectural elements of the building, such as windows, cornices, sign friezes and bays. A canopy/marquee sign shall not visually overpower those elements nor detract from the composition of the building facade.
  - i. **Material.** Canopy/marquee signs shall be constructed of a non-combustible type of material.
  - j. **Illumination.** Canopy/marquee signs may only be internally illuminated.
5. **Awning Signs.** Awning signs shall be permitted in order to identify the establishment, subject to the following provisions:
- a. **Location.** Individual letters, words or symbols may be directly affixed or applied to any surface of an awning, generally by painting, printing, or weaving. Signs shall not be constructed of or applied to other material which are then fastened to the awning.
  - b. **Surface Area.** The surface area of an awning sign shall not exceed twenty percent (20%) of the exterior surface area of the awning.

- c. Ground Clearance. A clearance of eight (8) feet shall be maintained from the lowest point on the awning to the grade or walkway under said awning.
  - d. Illumination. Awning signs shall not be illuminated.
  - e. Portability of Surface Area. An awning sign shall be permitted in addition to a permitted wall sign, provided that the surface area of all awning signs shall be counted towards the maximum permitted surface area for the wall sign based on the signable wall area of the building.
6. Automobile Service Station. The following additional or different sign requirements shall apply to automobile service stations:
- a. Ground signs.
    - i. Number. There shall be a limit of one (1) ground sign on the property.
    - ii. Height. No ground sign shall exceed nine (9) feet in height.
    - iii. Surface Area. A bonus of eight (8) square feet per face may be added to the permitted surface area to incorporate a changeable copy board into the overall sign design for the purpose of providing gasoline pricing information, provided that the changeable copy is limited to identification of the various grades of fuel offered for sale and their associated prices. The use of this additional square footage shall permanently forfeit the right to erect any separate gasoline pricing signs on the property.
  - b. Wall Signs. A maximum of two (2) walls signs per automobile service station shall be permitted, placed on separate walls of the building.
  - c. Canopy Signs. A maximum of two (2) canopy signs per automobile service station shall be permitted, placed on separate edges of the canopy, provided that the canopy is not attached to the building. Signs shall not be erected above the roof line of the canopy.
  - d. Car Wash Buildings. If a detached car wash building is provided, one (1) additional wall sign shall be permitted on that building, provided that it conforms to all other provisions for wall signs as stated in this Section.
  - e. Service Bays. If an automobile service station is of the full service variety that contains bays in active use for the servicing of vehicles

a sign may be placed over the service bay subject to the following provisions:

- i. Such signs shall be wall signs.
  - ii. Such signs shall not exceed six (6) square feet in surface area.
  - iii. Such signs shall not extend above the roof line.
  - iv. Such signs shall not be illuminated.
  - v. Such signs shall otherwise conform to all other provisions for wall signs as stated in this Section.
- f. Service Island Signs. Service island signs shall be subject to the following provisions:
- ii. One (1) service island sign shall be permitted for each approach for each island.
  - iii. Such signs may be placed upon fuel pumps or upon support posts for freestanding canopies.
  - iv. Such signs shall not exceed five (5) square feet in surface area.
  - v. Such signs shall not be illuminated.
  - vi. Special instructional signs mandated by units of government (e.g., no smoking, licensing, inspection, etc.) shall be exempt from the provisions of this Chapter.
- g. Pump Signs. One (1) sign, which may be single-faced or double-faced, not to exceed two (2) square feet in surface area per face, shall be permitted on top of each fuel pump machine.
7. Entrance Signs. Signs designating the entrance to a building or an individual unit in a building shall be subject to the following provisions:
- a. One (1) sign shall be permitted per entrance to a building, or to an individual unit in a building and shall not be illuminated.
  - b. The sign shall be a wall sign, painted or decaled upon a door.
  - c. The sign shall not be located above the height of the adjacent door, or seven (7) feet above the individual threshold, whichever is less.
8. Commercial and Institutional Occupation Signs. Commercial and institutional occupation signs shall be subject to the following provisions:

- a. They do not exceed two (2) square feet in surface area.
  - b. A combination of an address sign and an occupational sign is permitted, provided that such sign does not exceed four (4) square feet in surface area. Use of an occupational shall forfeit the right to use a name plate sign.
  - c. One sign shall be permitted for each building, except for buildings that have more than one (1) entrance for the general public, in which case one (1) sign shall be permitted for each general public entrance.
9. Parking Lot Signs. Certain signs related to parking facilities accessory to the main use of the premises shall subject to the following provisions:
- a. Such signs shall be permitted only in non-residential zoning districts.
  - b. Such signs shall be permanently installed and limited to three (3) signs per parking lot.
  - c. Such signs shall not exceed three (3) square feet in surface area if the sign is single-faced or six (6) square feet in surface area if the sign is double-faced.
  - d. Such signs shall not exceed three (3) feet in height.
  - e. Such signs shall be set back a minimum of five (5) feet measured from the most restrictive of the property line, curblineline, or the ditch line if no curblineline exists.
  - f. Such signs may be illuminated.
  - g. Special instructional signs mandated by units of government (e.g., parking spaces reserved for individuals with disabilities, fire lane, etc.) shall be exempt from the provisions of this Chapter.
  - h. Parking lot signs shall be single-faced if located within 20 feet from the most restrictive of the property line, curblineline or the ditch line if no curblineline exists, and the single face shall not face the nearest roadway.
10. Changeable Copy Signs. Changeable copy signs shall only be permitted for the following uses:
- a. Churches.
  - b. Automobile service stations.
  - c. Public agencies and theaters.

11. Mansard Roof Signs. Mansard Roof Signs shall be subject to the following provisions:
  - a. A sign located on a decorative mansard shall be mounted directly vertical as a wall sign, with no visible angle iron, guy wires, braces, or secondary supports.
  - b. All hardware shall be concealed. roof signs that project out from the surface of the roof shall be enclosed on all sides perpendicular to the sign face with a treatment to match the color, texture, and appearance of the roof materials.
  - c. No sign on a mansard roof shall project from the building surface more than six (6) inches as measured at the front edge of the sign.
  - d. Such signs shall be constructed of a non-combustible type of material.
  
12. Non-Residential Subdivision Identification Signs. Non-residential subdivision identification signs shall be subject to the following provisions:
  - a. The sign shall not exceed thirty- five (35) square feet per side, limited to two (2) sides, or seventy (70) square feet total.
  - b. The sign shall not exceed nine (9) feet in height.
  - c. Tenant identification may be provided on subdivision identification ground signs for shopping centers, provided, however:
    - i. Identification is limited to a tenant which occupies fifteen thousand (15,000) square feet or more of gross floor area; and
    - ii. Not more than four (4) such tenants are listed on each side of said sign.
  - d. Tenant identification may be provided on non-residential subdivision identification ground signs for all other non-residential uses, provided not more than two (2) tenants are listed on each side of the sign.
  - e. Setbacks: All non-residential subdivision identification signs in any zoning district shall be set back not less than:
    - i. Fifteen (15) feet from the property line;
    - ii. Fifteen (15) feet from the curbline of an adjacent access drive;
    - iii. Fifteen (15) feet from the ditch line of an adjacent access drive if no curbline exists;



- iv. Twenty (20) feet from the curblineline of an adjacent public street; and
- v. Twenty (20) feet from the ditch line of an adjacent public street if no curblineline exists.
- f. The sign shall not impede normal pedestrian movement nor obstruct the line of sight for motor vehicle traffic.

**24.06 ADMINISTRATION**

**A. BUILDING CODE COMPLIANCE REVIEW.**

- 1. Unless otherwise exempted in this Chapter, no person, firm or corporation shall erect, construct, locate, display, place, structurally or graphically alter, relocate, or maintain any sign without having first obtained approval from the Village Building Inspector that the proposed sign complies all Village Building Codes and the requirements of this Chapter.
- 2. No building code compliance review shall be necessary for repainting, cleaning, and other normal maintenance or repair of a sign structure, provided that such maintenance does not alter the original copy displayed on the sign face(s), the surface area, height, or otherwise in any way render the sign non-conforming.
- 3. A demolition permit shall be required for the removal or demolition of permanent signs.
- 4. Illuminated signs shall require a building code compliance review.
- 5. All building code compliance reviews, except where a variation is sought, shall be subject to review and final approval by the Village Building Inspector.
- 6. Each sign proposed to be erected shall require a separate building code compliance review.
- 7. Any person, firm, or corporation submitting a sign for building code compliance review shall reimburse the Village for any professional fees incurred by the Village for any professional fees incurred in completing said review.

**B. CONSTRUCTION SPECIFICATIONS.**

- 1. Compliance with Applicable Codes. All signs shall be constructed in accordance with applicable provisions of the Village Code including all adopted building codes and the requirements of this Chapter.

2. Obstruction to Exits. No sign shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window, door opening or wall opening intended as a means of ingress or egress.
3. Obstruction to Ventilation. No sign shall be erected, constructed, or maintained so as to interfere with any opening or window required for light or ventilation.
4. Clearance from Electrical Power Lines and Communications Lines.
  - a. All signs shall be located in such a way that they maintain horizontal and vertical clearance of all electrical power lines and communications lines.
  - b. However, in no instance shall a sign be erected or constructed within eight (8) feet of any electrical power line, conductor or service drop or any communications line, conductor, or service drop.
5. Underground Electrical Service. All electrical service to ground signs shall be underground.
6. Clearance from Surface and Underground Facilities.
  - a. All signs and their supporting structures shall maintain clearance and non-interference with all surface and underground facilities and conduits for water, sewage, gas, electricity or communications equipment or lines.
  - b. In addition, the placement of all signs and their supporting structures shall not interfere with natural or artificial drainage of surface or underground water.
7. Supports and Other Hardware.
  - a. Primary supports for permanent signs shall be of the same material or of a coloring the same as or compatible with the sign material in order to harmonize with the sign.
  - b. Secondary supports and hardware, such as angle irons, braces, brackets, and frame members shall be concealed.
  - c. Pieces of electrical hardware, such as raceways, switch boxes, junction boxes and the like, shall be painted the same color as the support, building or portion of the sign to which they are affixed (as the case may apply) in order to conceal or subdue their appearance.
8. Landscaping.

- a. All ground signs shall be located in a landscaped area separated and protected from vehicular circulation, pedestrian movement, and parking areas.
- b. A minimum of two (2) square feet of landscaping is required for every one (1) square foot of sign face erected.
- c. Ground signs shall be landscaped at their base in a way harmonious with the landscape concept of the whole site.
- d. Landscaping shall form an attractive, dense cluster at the base of a ground sign, or around the support(s) of a pylon sign, that is equally attractive in winter and summer.
- e. Landscaping shall not obstruct the line of sight of motorists or pedestrians.

9. Illumination.

- a. All signs permitted to be illuminated under this Chapter shall be installed or applied such that signs shall meet the following standards:
  - i. Wall signs.
    - a. Such signs may be illuminated internally or externally.
    - b. In the case of dimensional signs or individually applied letters, numbers, logos or other copy, illumination may also be placed behind said elements in outline form such that the light source is not visible from direct view.
    - c. Such signs, if illuminated externally, shall either be illuminated from the ground using the same standards as for ground signs given in paragraph ii of this subsection, or from light sources hidden in or along the eave with all lights, fixtures and brackets concealed and shielded from direct view.
  - ii. Ground signs.
    - a. Such signs, if illuminated internally, shall meet the same standards as wall signs.
    - b. If illuminated externally, such illumination shall only be from the ground, with light bulbs contained within

- a protective casing, and such lighting fixtures concealed by dense, evergreen type shrubbery.
- c. Externally Illuminated Signs: Externally illuminated signs shall have lighting fixtures designed and installed only in such a manner that the direct rays of such lights shall be concentrated on the sign and be prevented from causing a glare on or striking the street or nearby property, or the reflector shall be provided with proper glass lenses concentrating the illumination upon the area of the sign so as to prevent glare on the street or nearby property.
- d. Proximity to Residential Zoning Districts: Any illuminated sign visible within a direct distance of one hundred (100) feet of any residential zoning district (including public rights of way, private streets, aisles, etc.) shall be turned off and not operated between the hours of 10 p.m. and 7 a.m., 7 days a week, unless the establishment is engaged in the operation of its business open to the public with employees on the premises during such period.
- iii. Flashing Signs and Devices: Flashing signs and devices shall be prohibited.
- vi. Neon Tubing:
  - i. Exposed neon tubing and exposed light bulbs shall be prohibited.
  - ii. Neon tubing used for internal illumination shall be concealed behind translucent covering.
  - iii. In non-residential zoning districts only, the use of neon tubing as an inside window or door signage treatment is allowed.
  - iv. No outlining of windows or doors with tubing is allowed.
  - v. Only thirty percent (30%) or less of the surface area of any window or door can be covered with the tubing.
  - vi. Only one neon sign is allowed per window or door.
- v. **PARKING FACILITY OR PREMISES ILLUMINATION:**

- i. No ground sign shall be used as a means of holding, housing or otherwise supporting light fixtures intended to illuminate parking lots, buildings or the general premises of any property or establishment.
      - ii. Such light fixtures shall be placed on light poles specifically designed for such purposes and served by separate electrical feeds.
  10. Inspections. Every new sign requiring a building code compliance review shall be subject to a general inspection, electrical inspection (if applicable), footing inspection and any other inspection(s) deemed necessary by the Village.
  11. Private Sign Covenants: Nothing in this Chapter shall be construed to prevent the owner or property manager of a shopping center, multiple business center, other similar multi-tenant or multi-user property, or other business, industrial or institutional use, or a homeowner's association in a residential zoning district to impose and enforce private sign covenants upon such property which may be more restrictive or which may set higher standards than the provisions of this Chapter. However, in the case of conflict between the Village's regulations and the private sign covenants, the more restrictive regulations or the higher standards shall govern. The Village shall not be responsible for enforcement of private sign covenants.
  12. Setback Exemption. Signs located along Illinois Routes 31 and 176 within one-half (1/2) miles of said intersection shall be exempt from any and all setback requirements of this Chapter.
- C. APPLICATION PROCEDURES. Building code compliance review of a permanent sign shall be made upon a form provided by the Village Building Department and, depending upon the type of signage requested, shall include at a minimum the following information:
1. Wall Signs. A photograph or diagram illustrating the following information:
    - a. The setback of the building;
    - b. The signable area;
    - c. The exact location and outer dimensions of the sign;
    - d. The proposed height to the top of the sign; and
    - e. Exact representations of the face of the building to which the sign is to be attached shall be illustrated.
  2. Ground Signs. A photograph or diagram illustrating the following information:

- a. The setback of the building;
  - b. The location of the sign on the property, including front and side yard setbacks and the distance from the sign to the building;
  - c. The height of the sign;
  - d. The property frontage; and
  - e. The distance from the sign to adjacent ground signs shall be illustrated.
3. Projecting Signs. A photograph or diagram illustrating the following information:
- a. The proposed location of the sign on the building;
  - b. The distance that the sign is pinned away from the building;
  - c. The distance from the face of the building wall to the outermost point on the sign;
  - d. The distance between sidewalk grade and the top and bottom of the sign; and
  - e. Exact representation of the face of the building to which the sign is to be attached shall be illustrated.
4. Canopy, Awning or Marquee Signs. A photograph or diagram illustrating the following information:
- a. The complete dimensions of the canopy, awning, or marquee to which the sign is attached;
  - b. The location, outer dimensions and percentage of canopy or awning which the sign or lettering occupies; and
  - c. The distance from sidewalk grade to the top and bottom of the sign shall be illustrated.
5. Window Signs. A photograph or diagram illustrating the following information:
- a. The dimensions of the window or glass surface on which the sign is to be applied;
  - b. The location and outer dimensions of the sign; and
  - c. The location of any other window signs on the face of the building on which the sign is to be attached shall be illustrated.

6. Other Requirements for Permanent Signs. A photograph or diagram, drawn to scale, illustrating the exact location of all existing and proposed signage on the property and adjoining properties.
  - a. One colored sketch, drawn to scale, which accurately represents all features of the sign including, but not limited to, size, message, letter style, border, surface texture, all exposed structural elements, percentage of message area and method of illumination and support.
  - b. One color sample for each color which is proposed to be used in the sign. The color sample shall consist of either the manufacturer's color chart or, in cases of custom colors, an actual sample of the paint to be used, applied to an appropriate material.
- D. Standards for Review and Approval. All requests for building code compliance review will be reviewed according to the Village Code including all adopted building codes and the requirements of this Chapter. The Village may decline to grant building code compliance approval if the proposed sign to be installed does not conform to the Village Code including all adopted building codes and the requirements of this Chapter.
- E. Limitations. Building code review approval shall allow the erection, re-erection, alteration, relocation, affixing of a sign only on the property designated in the review request and only by the person, firm, or corporation requesting building code compliance review.

**24.07 MAINTENANCE**

- A. MAINTENANCE STANDARDS. Maintenance of signs shall be required, according to the following standards:
  1. The owner of a sign and the owner of the premises on which such sign is located shall be jointly and severally liable to maintain such sign and its illumination sources (if applicable) in neat and orderly condition, in good repair, and in good working order at all times, to replace burnt out light bulbs, and to prevent the development of any rust, corrosion, rotting, peeling of paint or other deterioration in the physical appearance, structural integrity or safety of such sign.
  2. The owner of any sign regulated by this Chapter shall be required to have properly painted or finished all parts and supports of said sign when necessary, unless the same are galvanized or otherwise treated to prevent rust or deterioration.
  3. Nothing in this Section shall be construed to permit as "maintenance or repair activities" the changing of a sign face by replacement or repainting

of copy with new copy, except for the changeable portion of changeable copy signs.

4. A new sign permit application shall be required for face changes, and the sign shall then be subject to all provisions of this Chapter.
5. Failure to apply for copy changes shall render the sign subject to all applicable penalties or remedies of this Chapter.

## **24.08 ENFORCEMENT**

### **A. OBSOLETE SIGNS.**

1. Any obsolete sign shall be removed by the owner, agent or person having the beneficial use of the building, structure, or lot upon which such sign is located within ten (10) days after the cessation of such business or sale of such product that renders the sign obsolete. Such a sign shall be deemed abandoned.
2. If such sign is not removed within ten (10) working days of being abandoned, the Building Inspector shall give written notification to the owner or agent of such failure.
3. If such sign is not removed in this time period, the Village may take all necessary legal action to ensure the removal of such sign.
4. The expense incident thereto shall be paid by or be recoverable from the owner of the building, structure, or lot upon which the sign is located; and said expense shall be a lien upon such premises until paid.

### **B. UNSAFE SIGNS.**

1. Any unsafe sign shall be removed by the owner, agent or person having the beneficial use of the building, structure, or lot upon which such sign is located immediately after written notice is given by the Village to said owner, agent, or person.
2. Notwithstanding the foregoing provision, the Building Inspector is authorized to cause any sign to be removed summarily and without notice, at the sole expense of the owner, agent or person having the beneficial interest in the building, structure, or lot on which such sign is located, whenever the Building Inspector determines that such sign is an immediate peril to persons or property.
3. The Building Inspector shall refuse to issue any sign or building permit to any permittee or owner who refuses to pay costs of any sign removal or repair so assessed.



C. NON-CONFORMING SIGNS.

1. Legal Non-Conforming Signs. Any sign lawfully existing as of the date of the adoption of this Chapter which does not conform to one or more of the provisions contained herein shall be deemed to be a legal non-conforming sign and may be continued in operation and maintained subject to the following requirements:
  - a. Legal non-conforming signs that are permanent signs.
    - i. The owner or beneficial user shall maintain such sign in good condition and repair;
    - ii. Such sign shall not be changed or altered in any manner, including face changes (i.e., replacement or repainting of copy with new copy, except for the changeable portion of changeable copy signs); shall not be changed to any other nonconformity; shall not be expanded; shall not be structurally altered to prolong its useful life; and shall not be moved in whole or part to any other location where it would remain nonconforming;
    - iii. Such sign shall not be continued in use after change of occupancy of the business, owner, or activity to which the sign pertains;
    - iv. Cosmetic type non-conforming features (such as painting, concealment of electrical fixtures with landscaping, burying of electrical service drops and the like) shall be rendered conforming within ninety (90) days after the date of adoption of this Chapter, weather permitting.
  - b. Legal non-conforming signs that are not permanent signs.
    - i. The owner or beneficial user shall maintain such sign in good condition and repair;
    - ii. Such sign shall not be changed or altered in any manner, including face changes; shall not be changed to any other nonconformity; shall not be expanded; shall not be structurally altered to prolong its useful life; and shall not be moved in whole or part to any other location where it would remain nonconforming;
    - iii. Such sign shall not be continued in use after change of occupancy of the business, owner, or activity to which the sign pertains;

- iv. Such sign shall be removed within ninety (90) days after the date of adoption of this Chapter.
  - v. Wall signs that have a nominal value of less than \$150 shall not be deemed to be permanent signs and shall be subject to the provisions of this Section.
- c. Any violation of any of the provisions of this Chapter at any time shall immediately terminate the right to maintain the existence of a legal non-conforming sign.
  - d. If during the grace period any legal non-conforming sign is damaged or destroyed, by any means whatsoever, to the extent that its repair or replacement cost exceeds fifty percent (50%) of its replacement cost as of the date it became non-conforming, the right to maintain the existence of a legal non-conforming sign shall be immediately terminated, and the sign may not be rebuilt or used thereafter.
  - e. In the event the damage or destruction of the legal non-conforming sign is less than fifty percent (50%) of its replacement cost, the sign may be rebuilt to its original condition and may continue to be displayed until the end of the grace period. The funds and effort expended on such rebuilding, however, shall not be grounds to justify a waiver of the requirement for the sign to conform, or to extend the time that the sign may remain non-conforming.
  - f. Normal maintenance of legal non-conforming signs, necessary nonstructural repairs and incidental alterations which do not extend or intensify the non-conforming features of the sign, shall be permitted during the grace period.
  - g. Legal non-conforming signs that are permanent signs which are within ten percent (10%) of compliance of any height, surface area or location requirements, and which otherwise conform to all other provisions of this Chapter, shall be deemed to be conforming for the purposes of these regulations.
- 2. Non-Conforming Signs. Any sign not lawfully existing as of the date of the adoption of this Chapter which does not conform to the provisions contained herein shall be deemed to be a non-conforming sign and shall be removed within thirty (30) days after the date of adoption of this Chapter.
  - 3. Any legal non-conforming sign that has not been removed, altered, or relocated by the applicable time frame stated herein so as to render it conforming shall thereafter be deemed a non-conforming sign, and such sign shall then be subject to prosecution by the Village in an applicable court of jurisdiction to achieve its removal.

D. CONFISCATED SIGNS.

1. Any signs in violation of any provision of this Chapter may be removed by the Village and placed into temporary storage.
2. Confiscated signs will be released upon payment of a storage fee of \$25 per sign, payable to the Village.
3. The Village shall not be responsible for loss of or damage to any confiscated sign while in storage.
4. The Village shall not be responsible to notify the owner or agent of said sign that it was confiscated and placed into storage.
5. The Village shall not be obligated to keep said sign in storage beyond five (5) working days, after which time it may be discarded.

E. NOTICE. The owner of the premises on which the sign is located shall be the responsible party for the purpose of receiving notice under any section of this Chapter.

F. PENALTIES FOR ERECTING OFF-PREMISE SUBDIVISION IDENTIFICATION SIGNS.

1. Any person, firm or corporation that erects off-premise subdivision identification signs, commonly referred to as “tracker signs,” in violation of Section 24.03 herein shall be assessed a fine of \$100 per sign.
2. In the event said fine(s) is not paid within forty-eight (48) hours after a violation and the violation is not cured, the Village shall enforce a forty-eight (48) hour moratorium on all construction activities, building permits, certificates of occupancy and building inspections for the residential development. The forty-eight (48) hour moratorium will begin the first weekday after the fee deadline has passed.
3. In the event that a builder or developer, or their agent, erects a subdivision identification sign within the Village for a development outside the Village limits, the Village shall enforce the aforementioned moratorium for any construction activities, building permits, certificates of occupancy and building inspections related to any of the builder’s or developer’s construction activities within the Village. The forty-eight (48) hour moratorium will begin the first weekday after the fee deadline has passed.

G. ABATEMENT. Any sign violating any provision of this Chapter may be removed by the Village pursuant to the following:

1. Notices: Notices shall be sent to the owner of record, as well as to the address where the sign is located, via prepaid first class mail, stating that the sign is in violation of this Code and must be removed within forty-eight

(48) hours of receipt of the notices. For purposes of this Section, notice shall be deemed received twenty (24) hours following its deposit with the U.S. Postal Service.

2. Abatement by Village: If the sign is not removed within forty-eight (48) hours of receipt of the notices, or if the owner of the real estate cannot be found, the Village may cause the abatement or removal of such sign.
3. All costs and fees, including reasonable attorneys' fees incurred by the Village in enforcing this Chapter, shall be the joint and several responsibility of the owner of record where the illegal sign was located and the occupant(s) of the property where the illegal sign was located.

## **24.09 VARIATIONS**

A. VARIATION PROVISIONS. If specific standards or requirements contained in this Chapter preclude a proposed sign from being erected, the applicant may request a variation, subject to the following provisions:

1. Procedure.
  - a. An applicant shall file with the Village Clerk a written petition addressed to the Village Board c/o the Village Clerk requesting a variation and setting forth a brief statement of the grounds.
  - b. At the time of filing said petition, a sign variation review fee of \$50 shall be submitted.
  - c. The petition shall set forth the fact in detail concerning the proposed variation and practical difficulty or particular hardship upon which the applicant's petition is based and shall have attached a diagram or plan showing the result that the proposed variation would have on the subject sign and property in question.
2. Standards for Variations. In granting the petition, the Village Board shall find the following to exist:
  - a. That such a variation is harmonious with the intent and purposes contained in Section 24.01 herein; and
  - b. That there is a practical difficulty or particular hardship upon the applicant, which is non-financial in nature, in carrying out strict compliance with this Chapter, or any part hereof, relating to the construction, alteration, maintenance, repair, or remodeling of any sign. A practical difficulty or particular hardship shall be proven by evidence demonstrating that (1) the plight of the applicant is due to unique circumstances and (2) the variation, if granted, will not alter the essential character of the locality in which it is located; and

- c. That the variation will maintain and/or enhance the historic and architectural character of a site or structure.

3. Village Board Action.

- a. The Village Board, may, without further action, grant or deny any petition for variation.
- b. In granting such a request, the Village Board shall have the right to impose any and all such further conditions upon the petitioner as they may deem to be in the best interests of the Village.
- c. If granted, a variation must be acted upon within 6 months, as demonstrated by the issuance of a valid sign permit, or the permitted variation shall be deemed null and void without any further action by the Village.

B. REVOCATION OF VARIATIONS.

- 1. At any time following the granting of a variation, the Village Board may, upon written notice, consider revocation of the variation which allowed construction of such sign, conduct a hearing to consider revocation of the variation which allowed construction of such sign.
- 2. The variation may be revoked if the Village Board finds that the conditions imposed with the variation have been violated or the conditions which formed the basis for the variation no longer exist.

Chapter 25  
Stormwater Management



McHenry County, Illinois

# Stormwater Management Ordinance

January 20, 2004

*Amended:*  
April 15, 2008  
October 19, 2010  
March 15, 2011  
April 15, 2014  
December 1, 2014  
April 5, 2016  
September 15, 2020

Copies of this document are available  
for review or purchase at:

Department of Planning and Development  
McHenry County Administration Building  
667 Ware Road  
Woodstock, Illinois

It is also available for download at:  
[www.mchenrycountyil.gov](http://www.mchenrycountyil.gov)

Inquiries may be directed to:

[stormwater@mchenrycountyil.gov](mailto:stormwater@mchenrycountyil.gov)

Department of Planning and Development  
2200 North Seminary Avenue  
Woodstock, Illinois 60098  
(815) 334-4560

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*Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.  
Refer to Appendix 1 for permitting flowcharts.*

## Notes to User

The McHenry County Stormwater Management Ordinance (this Ordinance) regulates development and substantial improvements to buildings in the floodplain throughout McHenry County, within incorporated and unincorporated areas alike. As you read through this Ordinance, you will notice that certain terms are underlined and the Ordinance uses numerous acronyms. Underlined terms are defined in Appendix 12 and acronyms are defined in Appendix 13.

Not all development is regulated by this Ordinance, but development that is regulated requires a stormwater management permit before construction is allowed to commence. Some development is regulated because of its size, such as: development that hydrologically disturbs 5,000 square feet or more; development that hydrologically disturbs 50% or more of a parcel; and development that results in an additional 20,000 square feet of impervious area since the original effective date of this Ordinance. Other development is regulated because of its location, regardless of its size. Examples include development that is located partially or completely in a flood hazard area or wetland.

The basic steps used to determine whether a particular project requires a stormwater management permit are listed below. The Permitting Flow Charts in Appendix 1 provide additional guidance. If you have any questions about this Ordinance or its applicability to a specific project, please contact the McHenry County Department of Planning and Development.

1. Determine whether your project meets the definition of development (see Appendix 12). If it does, go on to Step 2.
2. Determine whether your project is regulated development (see Article II, Section B). If it is, go on to Step 3.
3. Determine whether your project is exempted development (see Article II, Section C). If it is not, go on to Step 4.
4. Determine whether your project qualifies for a General Permit, which waives certain requirements of this Ordinance in order to streamline the permit process for specific types of routine projects (see Article III). If it does, follow the process described for that General Permit. If it does not, go on to Step 5.
5. Determine how your project is classified (see Article IV, Section A) and then go on to Step 6.
6. Determine which Application Requirements apply (see Article V). Then go on to Step 7.
7. Determine which Performance Standards apply (see Article VI). Then go on to Step 8.
8. Submit a complete stormwater management permit application to a Certified Community or to the McHenry County Department of Planning and Development, along with the required submittals.
9. Await the issuance of a stormwater management permit prior to commencing your project.

## Article I

### §17.60.010 Introduction, Authority and Purpose

#### A. Introduction

1. The McHenry County Comprehensive Stormwater Management Plan, adopted by the McHenry County Board on June 16, 1997 states, "To provide a consistent level of protection and to provide equity throughout the County, a program for consistent Countywide regulation and enforcement should be developed with standards established at the Countywide level and, where appropriate, modified at the watershed level to meet watershed specific needs. A Countywide regulatory program would involve development of a Countywide watershed development ordinance that applies to both incorporated and unincorporated areas. ... [T]he watershed development ordinance should be comprehensive and specify standards for stormwater drainage and detention, floodplain management, soil erosion and sedimentation control, and stream and wetland protection in a single document."
2. McHenry County has determined that uniform and consistent enforcement by municipalities that adopt the standards of the Stormwater Management Ordinance will enhance the effectiveness of the program. The County also understands that local conditions may sometimes require additional or more restrictive standards to meet the purpose of this Ordinance. In those instances where the requirements of this Ordinance are not stipulated in a municipal ordinance or are more restrictive than municipal requirements, this Ordinance shall prevail. In some cases, the requirements of this Ordinance are more restrictive than Federal or State minimum standards. A municipality has the right to enact more restrictive standards than the minimum standards of this Ordinance.

#### B. Authority

1. This Ordinance is enacted pursuant to the powers granted to McHenry County by 55 ILCS 5/5-1041, 1042, 1049, 1062, 1063, 1104, 12003, 15001 & 40001 *et seq.*, (County) and by 65 ILCS 5/1-2-1, 11-12-12, 11-30-2, 11-30-8, 11-31-2 and 615 ILCS 5/5 *et seq.* including 18g.
2. This Ordinance establishes minimum standards and may be superseded by more restrictive Federal, State, or other local regulations.

#### C. Purpose

1. The purpose of this Ordinance is to establish reasonable rules and regulations for floodplain and stormwater management in order to:
  - a. Protect and preserve the quality and environmental values of land and water resources in McHenry County;
  - b. Encourage development in a manner that promotes the orderly, sustainable and cost-effective utilization of land and water resources;
  - c. Minimize the impact of development on flood hazards, erosion, and water quality;
  - d. Minimize the need for additional expenditure of public funds for flood control projects, repairs to flood damaged public facilities and utilities, and flood related emergency operations;

- e. Minimize additional disruption of governmental services and the economy due to flooding and drainage problems;
- f. Maintain eligibility for the NFIP by equaling or exceeding Federal floodplain development regulations (the NFIP is codified as 44 CFR 59-79, as amended) thereby making federally subsidized flood insurance available to residents in participating communities;
- g. Protect the hydrologic, hydraulic, water quality, aquatic habitat, recreation and other beneficial functions of streams, ponds, lakes, wetlands, and flood storage areas;
- h. Protect the quantity and quality of groundwater resources;
- i. Meet the requirements of The Rivers, Lakes and Streams Act, Resources, 615 ILCS 5/1 *et. seq.*;
- j. Minimize harm due to periodic flooding including loss of life and property and threats and inconveniences to public health, safety and welfare;
- k. Protect buildings and improvements to buildings from flood damage;
- l. Facilitate the permitting of sound maintenance of channels and existing stormwater management systems; and
- m. Require the regular, planned maintenance of new stormwater management systems.

**Article II****§17.60.020 Scope of Regulation**

## A. Jurisdiction and Administration

1. This Ordinance applies throughout McHenry County, within incorporated and unincorporated areas.
2. The administration and enforcement of this Ordinance shall be performed by:  
Certified Communities, within their respective jurisdictions; and,  
The MCSC, its agents, employees and assignees in all other areas of McHenry County.
3. A list of Certified Communities may be obtained from the McHenry County Department of Planning and Development.

## B. Regulated Development

1. Refer to the Regulated Development Flowchart in Appendix 1.
2. No person, firm, corporation or governmental agency, unless specifically exempted, shall commence any regulated development without first obtaining a stormwater management permit. Unless it is specifically exempted in Article II, Section C, any activity that meets any of the following criteria, is considered regulated development:
  - a. Any development that is located partially or completely in a flood hazard area; or
  - b. Any development located partially or completely within the boundary of a wetland or waters; or
  - c. Any development that hydrologically disturbs 5,000 square feet or more; or
  - d. Any development that hydrologically disturbs 50% or more of a parcel; or
  - e. Any development that results in an additional 20,000 square feet of impervious area since the effective date of this Ordinance; or
  - f. Any development on a lot or parcel of land platted after December 1, 2014 that results in impervious area exceeding the design parameters of an existing stormwater management facility; or
  - g. Any development that occurs within a deed or plat restriction or alters a stormwater management system from its original design or permitted condition; or
  - h. Any development that modifies the permitted development between the date of permit issuance and prior to the permit expiration date; or
  - i. Any permitted development that is not completed prior to the permit expiration date; or
  - j. Any development that is part of a larger common plan of development that, as a whole, would constitute regulated development.

### C. Exempted Development

1. Development that consists solely of the following activities shall be exempt from the requirements of this Ordinance, upon review and verification by the Enforcement Officer:
  - a. Maintenance of existing buildings outside the floodplain;
  - b. Maintenance of existing buildings within the floodplain that does not constitute a substantial improvement;
  - c. Maintenance of existing roads and trails;
  - d. Other maintenance activities;
  - e. Gardening and landscaping that does not involve filling, grading, or the construction of berms;
  - f. Tillage and similar agricultural practices that do not involve filling, grading or the construction of levees;
  - g. Improvements undertaken pursuant to a written NRCS Conservation Plan, when the improvements are not located within a flood hazard area, WOTUS, or IWMC;
  - h. Demolition and accompanying restoration, including the removal of bridges and culverts, provided that:
    - (1) Natural land contours are restored;
    - (2) The disturbed area is less than 1 acre; and
    - (3) Appropriate soil erosion and sediment control practices are utilized;
  - i. Installation, repair or replacement of an onsite waste disposal system, well, sewer or water service line, or other utility service line serving one existing building, provided that:
    - (1) The activity is not located partially or completely in a flood hazard area or a wetland;
    - (2) The disturbed area is less than 1 acre;
    - (3) The activity does not result in an increase in ground elevation; and
    - (4) Appropriate soil erosion and sediment control practices are utilized.

### D. Reduced Standards for Specific Types of Development

1. Regulated development that received one or more of the approvals set forth in a through e below prior to June 1, 2004 shall be exempt from the Buffer Areas Performance Standards of this Ordinance and may be exempt from the Runoff Rate Reduction and Watershed Specific Requirements of this Ordinance, upon review and by the Enforcement Officer that the regulated development is consistent with the prior approval. An applicant's written exemption request shall itemize each Ordinance provision for which an exemption is requested.
  - a. Annexation agreement
  - b. Final plat of subdivision
  - c. Planned unit development



- d. Replat of an industrial subdivision
  - e. Replat of a commercial subdivision
2. Mining Development that received a conditional use permit prior to June 1, 2004 shall be exempt from the Buffer Areas Performance Standards of this Ordinance and shall be exempt from the Compensatory Storage Requirements of this Ordinance for fill outside the floodway, upon review and authorization by the Enforcement Officer. The Enforcement Officer may give credit toward meeting the Compensatory Storage Requirements for excavation prior to June 1, 2004 and after September 30, 1981, which was the effective date of the first FIRM in McHenry County. An applicant's written exemption request shall itemize each Ordinance provision for which an exemption is requested.
  3. A Public Road Development in a floodway shall be exempt from the BFE determination requirements of this Ordinance, provided IDOT/DOH issues a Floodway Construction Permit for the Public Road Development.
  4. Portions of a development site that do not drain offsite may be exempt from the Soil Erosion and Sediment Control Performance Standards of this Ordinance.

<b>TABLE 1 Regulation of Routine Projects</b>			
<b>Project Type</b>	<b>Exempt</b>	<b>General Permit</b>	<b>Individual Permit</b>
<b>Building Maintenance</b>	Refer to Appendix 12: Maintenance of Existing Buildings	N/A	Refer to Appendix 12: Substantial Improvement
<b>New Single Family Home</b>	N/A	Refer to Article III, Section B: General Permit 2	All Other Development Regulated by Article II, Section B
<b>Road Maintenance</b>	Refer to Appendix 12: Maintenance of Roads and Trails	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Trails</b>	Refer to Appendix 12: Maintenance of Roads and Trails	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Driveways</b>	Refer to Appendix 12: Other Maintenance Activities	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Parking Lots</b>	Refer to Appendix 12: Other Maintenance Activities	N/A	All Other Development Regulated by Article II, Section B
<b>Culverts, Storm Sewers, and Drain Tiles</b>	Refer to Appendix 12: Other Maintenance Activities	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Bridges</b>	Refer to Appendix 12: Other Maintenance Activities	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms. Refer to Appendix 1 for permitting flowcharts.

<b>Project Type</b>	<b>Exempt</b>	<b>General Permit</b>	<b>Individual Permit</b>
<b>Dredging</b>	Refer to Appendix 12: Other Maintenance Activities	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Removal of an Obstruction</b>	Refer to Appendix 12: Other Maintenance Activities	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Stormwater Management Facilities</b>	Refer to Appendix 12: Other Maintenance Activities	N/A	All Other Development Regulated by Article II, Section B
<b>Gardening and Landscaping</b>	Refer to Article II, Section C: Exempted Development	N/A	All Other Development Regulated by Article II, Section B
<b>Tillage and Similar Agricultural Practices</b>	Refer to Article II, Section C: Exempted Development	N/A	All Other Development Regulated by Article II, Section B
<b>Implementing a NRCS Conservation Plan</b>	Refer to Article II, Section C: Exempted Development	N/A	All Other Development Regulated by Article II, Section B
<b>Demolition</b>	Refer to Article II, Section C: Exempted Development	N/A	All Other Development Regulated by Article II, Section B
<b>Onsite Waste Disposal Systems and Wells</b>	Refer to Article II, Section C: Exempted Development	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Sewer and Water Service Lines</b>	Refer to Article II, Section C: Exempted Development	N/A	All Other Development Regulated by Article II, Section B
<b>Underground and Overhead Utilities</b>	Refer to Appendix 12: Other Maintenance Activities	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Seawalls</b>	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Shoreline and Streambank Stabilization</b>	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Boat Docks</b>	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Signposts, Poles Fencing, and Guardrails</b>	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B

*Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.  
Refer to Appendix 1 for permitting flowcharts.*

<b>Project Type</b>	<b>Exempt</b>	<b>General Permit</b>	<b>Individual Permit</b>
<b>Decks</b>	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Pools</b>	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Material Storage</b>	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Wetland Restoration and Enhancement</b>	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B
<b>Watershed Benefit Measure</b>	N/A	Refer to Article III, Section A: General Permit 1	All Other Development Regulated by Article II, Section B

**Article III**

**§17.60.030 General Permits**

General Permits waive certain requirements of this Ordinance in order to streamline the permit process for specific types of routine projects. The General Permits listed in this Article may be issued by MCSC or a Certified Community, provided that the regulated development meets the Applicability criteria, the Terms and Conditions for the specific type of project, and the Authorization requirements.

<b>TABLE 2 Summary of General Permit 1</b>			
<b>Type of Regulated Development</b>	<b>Applicability</b>	<b>Authorization</b>	<b>Terms and Conditions</b>
<b>Underground and Overhead Utilities</b>	A.1	A.2	A.3.a, A.3.b
<b>Storm Sewer Outfalls, Drain Tile Outfalls, and Outlet Channels</b>	A.1	A.2	A.3.a, A.3.c
<b>Maintenance of Existing Roads and Bridges</b>	A.1	A.2	A.3.a, A.3.d
<b>Sidewalks, Trails, Driveways, and Patios</b>	A.1	A.2	A.3.a, A.3.e
<b>Boardwalks</b>	A.1	A.2	A.3.a, A.3.f
<b>Seawalls</b>	A.1	A.2	A.3.a, A.3.g
<b>Other Shoreline and Streambank Protection</b>	A.1	A.2	A.3.a, A.3.h
<b>Minor Non-Commercial Boat Docks</b>	A.1	A.2	A.3.a, A.3.i
<b>Signposts, Poles, Fencing, and Guardrails</b>	A.1	A.2	A.3.a, A.3.j
<b>Minor Modification of Culverts, Storm Sewers, and Drain Tiles</b>	A.1	A.2	A.3.a, A.3.k
<b>Decks</b>	A.1	A.2	A.3.a, A.3.l
<b>Topsoil and Sand Restoration</b>	A.1	A.2	A.3.a, A.3.m
<b>Pools</b>	A.1	A.2	A.3.a, A.3.n
<b>Replacement Onsite Waste Disposal Systems</b>	A.1	A.2	A.3.a, A.3.o
<b>Material Storage</b>	A.1	A.2	A.3.a, A.3.p
<b>Dredging</b>	A.1	A.2	A.3.a, A.3.q
<b>Wetland Restoration and Enhancement</b>	A.1	A.2	A.3.a, A.3.r
<b>Watershed Benefit Measure</b>	A.1	A.2	A.3.a, A.3.s

*Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms. Refer to Appendix 1 for permitting flowcharts.*

**A. General Permit Number 1 – Authorizing Routine Projects**

1. Applicability

- a. This General Permit Number 1 only applies to regulated developments identified in this Section, which result in less than 20,000 square feet of hydrologically disturbed area, except where the Terms and Conditions for Specified Development set forth in Paragraph 3 below explicitly state otherwise.
- b. This General Permit Number 1 applies to regulated development within flood hazard areas, except where the Terms and Conditions for Specified Development set forth in Paragraph 3 below explicitly state otherwise.
- c. This General Permit Number 1 applies to IWMC impacts less than or equal to 0.10 acre.
- d. This General Permit Number 1 applies to regulated development within WOTUS when a permit or letter of no objection has been obtained from the USACE.
- e. This General Permit Number 1 does not apply to regulated developments which would be required to meet the Stormwater Storage Requirements of this Ordinance.
- f. This General Permit Number 1 does not apply to regulated developments which would adversely impact drainage patterns on adjoining property or increase flood heights on adjoining property.

2. Authorization

- a. Applicants seeking authorization by General Permit Number 1 shall demonstrate an ownership interest in the subject property, or written authorization by the property owner to proceed with the development, and shall submit a stormwater management permit application with the required supporting information to the Enforcement Officer prior to commencing a proposed regulated development. The following information is required in support of the stormwater management permit application:
  - (1) A description and depiction of the proposed regulated development demonstrating that it meets the conditions of the General Permit;
  - (2) All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted; and
  - (3) Payment of the stormwater management permit fee.
- b. If the Enforcement Officer determines that the proposed regulated development complies with the terms and conditions of General Permit Number 1, the Enforcement Officer shall notify the applicant in writing and shall schedule a meeting at the development site for photographic documentation of the site conditions. If the Enforcement Officer determines that the regulated development does not comply with the terms and conditions of General Permit Number 1, the Enforcement Officer shall notify the applicant in writing and provide instructions on the procedures to seek authorization under an individual permit.

- c. No part of a regulated development shall be authorized by a General Permit, unless the entire regulated development meets the terms and conditions of one or more General Permits.
  - d. Regulated development not specified in, or not meeting the terms and conditions of, a General Permit shall require an individual permit.
  - e. MCSC and Certified Communities may authorize regulated development under General Permit Number 1.
  - f. Any regulated development authorized by this General Permit Number 1 shall be completed within 2 years of the date of authorization.
3. Terms and Conditions for Specified Development
- a. All specified regulated development
    - (1) Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. The Enforcement Officer may add requirements or conditions as necessary to control soil erosion and sedimentation.
    - (2) Any drain tile serving adjoining properties that is damaged as a part of regulated development authorized by this General Permit shall be repaired.
    - (3) This General Permit Number 1 does not authorize the operation of equipment within a channel. To the extent possible, all in-stream work shall be conducted during low-water conditions.
    - (4) This General Permit Number 1 authorizes temporary channel crossings, when necessary, provided that the temporary channel crossing meets the following requirements:
      - i. Temporary approach roads shall be 0.5 foot or less above existing grade;
      - ii. Fill within the channel shall be at or below existing grade and shall be composed of non-erosive material, such as rip-rap or gravel; and
      - iii. The temporary channel crossing, including temporary approach roads, shall be removed within 90 days after installation, unless the Enforcement Officer grants an extension of time.
    - (5) Except as specified in Paragraph 2 above and in these Terms and Conditions for Specified Development of this General Permit Number 1, the Application Requirements and Performance Standards of this Ordinance are waived for regulated development authorized by this General Permit Number 1.
  - b. Underground and overhead utilities – To be authorized by this General Permit Number 1, underground and overhead utilities installation shall meet the following criteria.
    - (1) The construction of the utility shall not result in any increase in ground elevations within a flood hazard area.
    - (2) The construction of the utility shall not involve the placement of above ground structures in a flood hazard area other than supporting towers for

overhead utilities, well casings, and watertight openings necessary for a water supply system or sanitary sewer line.

All above ground openings for new and replacement water supply systems and wells within a flood hazard area shall be watertight or elevated to the FPE. When the BFE has not yet been determined according to the Flood Hazard Areas Performance Standards of this Ordinance, the BFE may be approximated by adding 2 feet to the highest adjacent grade.

- (3) All above ground openings for new and replacement sanitary sewer lines within a flood hazard area shall be watertight below the FPE. When the BFE has not yet been determined according to the Flood Hazard Areas Performance Standards of this Ordinance, the BFE may be approximated by adding 2 feet to the highest adjacent grade.
  - (4) In the case of underground stream crossings, the top of the pipe or encasement shall be buried a minimum of 3 feet below the existing stream bed.
  - (5) Overhead utilities and associated supporting towers shall be non-obstructive to flood flows, shall not be placed below the ordinary high water mark, and shall be designed not to catch debris within a flood hazard area. If attached to an existing bridge, the utility shall be constructed above the low chord elevation.
  - (6) In IWMC, any excavation shall be backfilled with soil excavated from the trench in the same stratification in which it was removed.
  - (7) A contingency plan for frac-out shall be required for any utility proposed to be installed by directional boring.
- c. Storm sewer outfalls, drain tile outfalls, and outlet channels – To be authorized by this General Permit Number 1, storm sewer outfalls, drain tile outfalls, and outlet channels shall meet the following criteria.
- (1) The outfall shall not project riverward or lakeward of the existing adjacent natural bank slope or bulkhead.
  - (2) Construction of outfalls and outlet channels shall not result in an increase in ground elevation within a flood hazard area.
  - (3) The velocity of the discharge shall not exceed the scour velocity of the channel soil, unless channel erosion would be prevented by the use of rip-rap or other design measures.
  - (4) Outlets from drainage ditches shall not be opened to a stream until the ditch is vegetated or otherwise stabilized to minimize stream sedimentation.
  - (5) Bank erosion shall be prevented by aprons, energy dissipaters, or drop structures as necessary.
- d. Maintenance of existing roads and bridges – To be authorized by this General Permit Number 1, maintenance of existing roads and bridges shall meet the following criteria.
- (1) Rehabilitative maintenance, such as milling and overlaying, that does not increase the impervious area and does not increase the surface elevation.

Maintenance also includes increasing the surface elevation with the following limitations:

- i. Resurfacing outside flood hazard areas;
  - ii. Resurfacing within flood prone areas;
  - iii. Resurfacing within the flood fringe, provided the difference between the elevation of the road or bridge surface after resurfacing and the elevation of the road or bridge surface on the effective date of this Ordinance is not more than two inches.
- (2) Repair, not including in-kind replacement, of an existing bridge outside the designated floodway.
- e. Sidewalks, trails, driveways, and patios – To be authorized by this General Permit Number 1, sidewalks, trails, driveways, and patios shall be built at or below existing grade within a flood hazard area.
- f. Boardwalks – To be authorized by this General Permit Number 1, boardwalks shall meet the following criteria.
- (1) This General Permit Number 1 does not apply to boardwalks within a designated floodway.
  - (2) The construction of the boardwalk shall not result in any increase in existing ground elevations within a flood hazard area.
  - (3) The boardwalk shall be anchored to prevent lateral movement.
  - (4) The boardwalk shall be non-obstructive to flood flows and designed not to catch debris.
- g. Seawalls – To be authorized by this General Permit Number 1, construction of seawalls shall meet the following criteria.
- (1) The length of shoreline or streambank to be protected shall not exceed 500 feet.
  - (2) The seawall shall be properly anchored to resist anticipated forces of current and wave action.
  - (3) The seawall shall not extend higher than the ordinary high water mark, unless the height of the new seawall matches the height of the existing seawall or existing seawalls on adjacent properties.
  - (4) Eroded areas on the landward side of the seawall may be backfilled, provided the backfill is not placed higher than the top of the seawall.
  - (5) The seawall shall be located so that the modified cross-sectional area of a channel does not decrease the cross-sectional area of the natural channel upstream and downstream of the development site. The Enforcement Officer may waive this requirement where a new seawall would tie into existing seawalls upstream and downstream of the development site, or where a new seawall is constructed no more than 6 inches riverward of the existing seawall.
  - (6) In the case of seawalls on lakes, the seawall shall be constructed at or landward of the water line as determined by the normal pool elevation. The



Enforcement Officer may waive this requirement where a new seawall would tie into existing seawalls on adjacent properties, or where a new seawall is constructed no more than 6 inches lakeward of the existing seawall.

- h. Other shoreline and streambank protection – To be authorized by this General Permit Number 1, construction of shoreline and streambank protection shall meet the following criteria.
  - (1) Where vegetative streambank and shoreline protection is not used, only the following structural materials may be utilized: stone and concrete riprap, cellular blocks, fabric-formed concrete, gabion baskets, rock and wire mattresses, sand/cement filled bags, geotechnical fabric materials, and treated timber (excluding creosote treated railroad ties, utility poles, and other timber).
  - (2) The length of shoreline or streambank to be protected shall not exceed 1,000 feet. Where non-vegetative (structural) protection is utilized, the length of shoreline or streambank stabilization to be protected shall not exceed 500 feet. Vegetative and non-vegetative protection may be combined, but in no case shall non-vegetative protection exceed 500 feet in total length.
  - (3) All material utilized shall be properly sized or anchored to resist anticipated forces of current and wave action. The *Illinois Urban Manual* or other references approved by the Enforcement Officer may be used for proper material sizing.
  - (4) Materials shall be placed in a way that would not cause erosion or the accumulation of debris on properties adjacent to or opposite the project.
  - (5) Materials shall be placed so that the modified cross-sectional area of a channel conforms to that of the natural channel upstream and downstream of the development site or the bank may be graded to obtain a flatter slope and to lessen the quantity of material required.
  - (6) In the case of gabion structures and similar protection measures on lakes, the structure shall be constructed at or landward of the water line as determined by the normal pool elevation.
  - (7) This General Permit Number 1 does not authorize in-stream work performed beyond the toe of the slope, with the exception of naturalized grade control that does not result in a loss of conveyance.
- i. Minor non-commercial boat docks – To be authorized by this General Permit Number 1, construction of minor non-commercial boat docks shall meet the following criteria.
  - (1) The boat dock shall not project more than 50 feet into a waterway, and in no instance greater than  $\frac{1}{4}$  of the width of the waterway.
  - (2) The width of the boat dock shall not be greater than 10 feet.
  - (3) For L-shaped or T-shaped docks, the length of that portion parallel to the shoreline shall not exceed 50% of the landowner's shoreline frontage, nor be greater than 50 feet in length.

- (4) Docks shall be aligned so as not to cross the straight-line projection of property lines into the waterway or come within 10 feet of the straight-line projection of the property line.
  - (5) Seasonal shore stations/boat lifts shall be located adjacent to a boat dock or seawall and shall not cross the straight-line projection of the property lines.
  - (6) The boat dock shall be securely anchored to prevent its detachment and becoming a floating hazard during times of high water or winds.
  - (7) This General Permit Number 1 does not authorize any accessory structures or improvements to a minor non-commercial boat dock, such as non-fabric roofs and elevated decks.
  - (8) Non-floating boat docks shall be constructed in a manner which will minimize obstruction of flow.
- j. Signposts, poles, fencing, and guardrails – To be authorized by this General Permit Number 1, signposts, poles, fencing, and guardrails shall meet the following criteria.
- (1) No fencing shall be placed within a floodway.
  - (2) No fill except posts, poles, and supports shall be placed within the flood hazard area.
  - (3) Signposts, poles, fencing, and guardrails shall be non-obstructive to flood flows.
- k. Minor modification of culverts, storm sewers, and drain tiles – To be authorized by this General Permit Number 1, minor modification of culverts, storm sewers and drain tiles shall meet the following criteria.
- (1) This General Permit Number 1 does not authorize modifications to the size, shape, and material of culverts within a floodway.
  - (2) This General Permit Number 1 does not authorize modifications to the size, shape, and material of culverts where a building within 500 feet upstream of the culvert is located within a mapped Zone AE, A, AH, or AO floodplain on the FEMA FIRM.
  - (3) This General Permit Number 1 does not authorize modifications to the size, shape, and material of culverts where a building within 500 feet upstream of the culvert is located within a mapped Flood of Record area on the USGS-Hydrologic Investigation Atlas Flood of Record Map.
  - (4) This General Permit Number 1 does not authorize culvert extensions within a designated floodway.
  - (5) Modifications to the size, shape, and material of a culvert, storm sewer, or drain tile shall maintain 90-125% of the capacity of the existing culvert, storm sewer, or drain tile. Minor adjustment of pipe invert elevations to correct an adverse slope shall be allowed without consideration of the resulting increase in pipe capacity. Calculations prepared by a licensed professional engineer shall be submitted demonstrating compliance with this condition.

- (6) Culvert extensions shall not exceed the lesser of 40 feet or 100% of the original pipe length and shall not result in a change in alignment or a reduction in pipe size.
- l. Decks – To be authorized by this General Permit Number 1, decks shall meet the following criteria.
    - (1) The construction of the deck shall not result in any increase in existing ground elevations within a flood hazard area.
    - (2) If either the existing building or proposed deck is within a flood hazard area, the deck shall be constructed as a stand-alone structure and shall not be attached to an existing building.
    - (3) The deck shall not be enclosed.
    - (4) The deck shall be anchored to prevent lateral movement.
    - (5) The deck must be non-obstructive to flood flows and designed not to catch debris.
    - (6) The deck shall be designed to allow automatic entry and exit of floodwaters.
  - m. Topsoil and sand restoration – To be authorized by this General Permit Number 1, topsoil and sand restoration shall meet the following criteria.
    - (1) Topsoil may be placed within a flood hazard area for the purpose of restoring the natural ground elevation and stabilizing an erosion control problem or establishing vegetative cover.
    - (2) Topsoil may be placed within a flood hazard area for the purpose of restoring pre-subsidence ground elevations to an area that primarily experiences subsidence due to flooding. The restoration fill shall not exceed pre-subsidence ground elevations.
    - (3) Up to 1 cubic yard of sand per lineal foot may be placed for the purpose of restoring a beach within a flood hazard area.
    - (4) The length of beach restoration shall not exceed 1000 feet.
    - (5) This General Permit Number 1 does not authorize the placement of sand for the purpose of creating a new beach or expanding an existing beach.
  - n. Pools – To be authorized by this General Permit Number 1, pools shall meet the following criteria.
    - (1) This General Permit Number 1 does not authorize the installation of above ground pools within a flood hazard area.
    - (2) This General Permit Number 1 does not authorize fill within a flood hazard area.
    - (3) Spoil materials shall be hauled away from the development site.
    - (4) Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation.
    - (5) Appropriate soil erosion and sediment control practices shall be utilized.

- o. Replacement onsite waste disposal systems – To be authorized by this permit, replacement onsite waste disposal systems shall meet the following criteria.
  - (1) Replacement onsite waste disposal systems may be installed in the flood hazard area below the BFE, provided that no reasonable alternative exists, as determined by the Enforcement Officer, and provided that the system has a watertight holding tank and all mechanical and electrical components and above ground openings of the system below the BFE are watertight. When the BFE has not yet been determined according to the Flood Hazard Areas Performance Standards of this Ordinance, the BFE may be approximated by adding two feet to the highest adjacent grade.
  - (2) Fill within a flood hazard area shall be the minimum necessary for construction.
- p. Material storage – To be authorized by this General Permit Number 1, material storage shall meet the following criteria.
  - (1) This General Permit Number 1 does not apply within a flood hazard area.
  - (2) The design shall minimize exposure of pollutants to precipitation and stormwater runoff.
- q. Dredging – To be authorized by this General Permit Number 1, dredging shall meet the following criteria.
  - (1) This General Permit Number 1 applies to dredging channels and ponds.
  - (2) This General Permit Number 1 does not apply to the construction of a new channel or water body; all work shall be for the purpose of re-establishing the natural or original designed condition.
  - (3) Spoil materials shall be spread thinly (less than 0.1 foot) and incorporated into existing cultivated areas, or shall be hauled away from the development site.
  - (4) Temporary stockpiles greater than 100 cubic yards and temporary stockpiles remaining in place more than 7 days shall not be located in flood hazard areas and shall be non-obstructive to flood flows. Temporary stockpile areas shall not occupy more than 20,000 square feet in total.
  - (5) Channel dredging projects shall not exceed 0.5 mile. The hydrologic disturbance limit of 20,000 square feet is waived for the area of channel dredging.
- r. Wetland restoration and enhancement – To be authorized by this General Permit Number 1, wetland restoration and enhancement shall meet the following criteria.
  - (1) This General Permit Number 1 authorizes wetland restoration and enhancement on any public or private land, including:
    - i. The removal of accumulated sediments;
    - ii. Restoration of eroded areas and grade stabilization;
    - iii. Installation, removal and maintenance of small water control structures, dikes and berms; and

- iv. Other related activities.
- (2) This General Permit Number 1 may be used to relocate aquatic habitat types on the development site.
- (3) This General Permit Number 1 does not authorize:
  - i. Fill within flood hazard areas, except that which would restore the development site to the natural condition;
  - ii. The relocation or channelization of a linear waterway such as a river, stream, or creek;
  - iii. The conversion of a stream or creek to another aquatic use, such as the creation of an impoundment for waterfowl habitat; or
  - iv. The conversion of natural wetlands to another aquatic use.
- (4) The abandonment or removal of drain tiles shall be annotated on a drain tile survey for any restoration and enhancement activities involving the abandonment or removal of drain tiles.
- s. Watershed benefit measure – To be authorized by this General Permit Number 1, watershed benefit measure shall meet the following criteria.
  - (1) This General Permit Number 1 applies to construction of a watershed benefit measure.
  - (2) A narrative shall be provided describing the project, the intended watershed benefits, and how the project will not adversely affect adjacent properties.
  - (3) Watershed benefit measure projects shall not exceed 1.0 mile for linear projects or 1.0 acre for non-linear projects.
  - (4) All material utilized shall be properly sized or anchored to resist anticipated forces of current and wave action. The *Illinois Urban Manual* or other references approved by the Enforcement Officer may be used for proper material sizing.
  - (5) Materials shall be placed in a way that would not cause erosion or the accumulation of debris on properties adjacent to or opposite the project.
  - (6) Materials shall be placed so that the modified cross-sectional area of a channel conforms to that of the natural channel upstream and downstream of the development site. The bank may be graded to obtain a flatter slope and to lessen the quantity of material required.
  - (7) Spoil materials shall be spread thinly (less than 0.1 foot) and incorporated into existing cultivated areas, or shall be hauled away from the development site.
  - (8) Temporary stockpiles greater than 100 cubic yards and temporary stockpiles remaining in place for more than 7 days shall not be located in flood hazard areas and shall be non-obstructive to flood flows. Temporary stockpile areas shall not occupy more than 20,000 square feet in total.

- (9) The installation, repair, replacement, abandonment, or removal of drain tiles shall be annotated on a drain tile survey for any restoration and enhancement activities involving drain tiles.
- (10) This General Permit Number 1 does not authorize:
  - i. Fill within flood hazard areas, except that which would restore the development site to the natural condition;
  - ii. Projects that only qualify as dredging;
  - iii. The relocation or channelization of a linear waterway such as a river, stream, or creek; or
  - iv. In-stream work performed beyond the toe of the slope, with the exception of naturalized grade control that does not result in a loss of conveyance.

## B. General Permit Number 2 – Authorizing Single Family Homes

### 1. Applicability

- a. This General Permit Number 2 only applies to regulated developments involving the construction or reconstruction of a single family residence resulting in less than 1 acre of hydrologically disturbed area.
- b. This General Permit Number 2 does not apply to regulated development within flood hazard areas.
- c. This General Permit Number 2 does not apply to regulated development within IWMC or WOTUS.
- d. This General Permit Number 2 does not apply to regulated developments which would be required to meet the Stormwater Storage Requirements of this Ordinance.
- e. This General Permit Number 2 does not apply to regulated developments which would adversely impact drainage patterns on adjoining property or increase flood heights on adjoining property.

### 2. Authorization

Applicants seeking authorization by General Permit Number 2 shall demonstrate an ownership interest in the subject property, or written authorization by the property owner to proceed with the development, and shall submit a stormwater management permit application with the required supporting information to the Enforcement Officer prior to commencing the proposed regulated development. The following information is required for authorization by General Permit Number 2.

- a. A development plan shall be submitted showing the proposed regulated development with all other relevant information, including but not limited to:
  - (1) Property lines;
  - (2) Buildings and other structures;
  - (3) Easements;
  - (4) Utility lines, culverts, onsite waste disposal systems, and wells;

- (5) Existing and proposed ground elevations sufficient to depict the proposed work and how it ties into existing ground elevations;
  - (6) Existing and proposed impervious areas;
  - (7) Areas of temporary disturbance;
  - (8) Placement of spoil materials;
  - (9) Details of construction;
  - (10) Dimensions of the proposed regulated development;
  - (11) The type and location of all soil erosion and sediment control measures;
  - (12) Specifications for seeding or other methods of stabilization;
  - (13) The McHenry County *Standard Soil Erosion and Sediment Control Notes* in Appendix 2;
  - (14) All components of the stormwater management system, including the overland flow path, drain tiles, storm sewers, and water quality protection measures;
  - (15) The McHenry County *Standard Drain Tile Notes* in Appendix 3;
  - (16) The location of any flood hazard area on the development site and extending 100 feet beyond the development site, based on available maps and studies; and
  - (17) The location of all WOTUS and IWMC, extending 100 feet beyond the development site, based on available maps and studies.
- b. For regulated development disturbing 20,000 square feet or more, the development plan shall be prepared by a licensed professional engineer and include the following additional information:
- (1) A benchmark referenced to NAVD88;
  - (2) Existing contours extending 100 feet beyond the development site with a maximum contour interval of 1 foot;
  - (3) Existing spot elevations demonstrating drainage patterns;
  - (4) Top of foundation and lowest entry elevation of all existing buildings within 100 feet of the development site;
  - (5) All existing impervious areas such as roadways, structures, parking lots, driveways, sidewalks, pathways, trails;
  - (6) The existing stormwater management system including storm sewers, drain tiles, culverts, and inlets on the development site and 100 feet beyond the development site. Information regarding the invert and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;
  - (7) Existing utilities including sanitary sewer, water main, onsite waste disposal system, well, or any other utilities that exist on the site and 100 feet beyond the development site. On development sites where an infiltration facility is proposed, existing water supply wells shall be shown 200 feet beyond the development site. Information regarding the invert

- and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;
- (8) Location and limits of all existing and proposed deed or plat restrictions;
  - (9) Existing trees and vegetation areas on the development site;
  - (10) Proposed contours throughout the development site with a maximum contour interval of 1 foot;
  - (11) Proposed spot elevations demonstrating drainage patterns;
  - (12) Top of foundation, lowest floor, low opening elevation, and floodproofing elevations of all proposed structures adjacent to or within a flood hazard area, stormwater management facility or along an overland flow path;
  - (13) All proposed impervious areas such as roadways, structures, parking lots, driveways, sidewalks, pathways, trails;
  - (14) The proposed stormwater management system including pipes, drain tiles, culverts, and inlets on the development site. Information regarding the invert and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;
  - (15) Proposed utilities including sanitary, storm, water main, onsite waste disposal system, well, or any other utilities on the site. Information regarding the invert and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;
  - (16) Design details for proposed stormwater management system including, but not limited to major and minor stormwater systems; and
  - (17) Cross-sections for overland flow paths, sufficient to demonstrate compliance with the freeboard requirements of this Ordinance.
- c. All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted.
  - d. Payment of the stormwater management permit fee.
  - e. If the Enforcement Officer determines that the proposed regulated development complies with the terms and conditions of General Permit Number 2, the Enforcement Officer shall notify the applicant in writing. If the Enforcement Officer determines that the regulated development does not comply with the terms and conditions of a General Permit Number 2, the Enforcement Officer shall notify the applicant in writing and provide instructions on the procedures to seek authorization under an individual permit.
  - f. No part of a regulated development shall be authorized by a General Permit, unless the entire regulated development meets the terms and conditions of one or more General Permits.
  - g. Regulated development not specified in, or not meeting the terms and conditions of, a General Permit shall require an individual permit.
  - h. MCSC and Certified Communities may authorize regulated development under General Permit Number 2.



- i. Except as specified in this Paragraph 2 and in the Terms and Conditions for Specified Development set forth in Paragraph 3 below of this General Permit Number 2, the Application Requirements and Performance Standards of this Ordinance are waived for regulated development authorized by a General Permit Number 2.
  - j. Any regulated development authorized by this General Permit shall be completed within 2 years of the date of authorization.
3. Terms and Conditions for Specified Development
- a. Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. The Enforcement Officer may add requirements or conditions as necessary to control soil erosion and sedimentation.
  - b. All concentrated stormwater discharges from a regulated development shall be conveyed into an existing channel, storm sewer, or overland flow path and shall not result in flood damage at the development site or upstream of the development site.
  - c. The diversion of stormwater runoff shall be prohibited unless no reasonable alternative exists, as determined by the Enforcement Officer. The diversion of stormwater runoff shall not result in flood damage at the development site, upstream of the development site or on downstream adjoining properties.
  - d. Appropriate pre-treatment shall be provided for stormwater runoff directed to new or existing Class V injection wells.
  - e. Appropriate pre-treatment shall be provided for stormwater runoff directed to infiltration based practices in areas designated as High or Moderately High Potential for Aquifer Recharge/Contamination on the McHenry County Sensitive Aquifer Recharge Areas Map.

### C. Letters of Understanding

The McHenry County Board may enter into Letters of Understanding with various agencies that perform regulated development activities in McHenry County. The purpose of a Letter of Understanding is to streamline the stormwater management permit process for routine and minor projects related to the restoration or enhancement of natural areas or for regulated development that makes natural areas accessible to the public. A Letter of Understanding shall describe the terms and conditions for specific regulated development activities to ensure compliance with the purpose and intent of this Ordinance. A Letter of Understanding will be issued after notice and opportunity for public review and comment, and approval from IDNR/OWR and FEMA, if required by law. Once a Letter of Understanding has been issued, the Letter of Understanding shall authorize any regulated development by the named agency which meets the terms and conditions of the Letter of Understanding, until the Letter of Understanding expires or is terminated by action of the McHenry County Board. Certified Communities may adopt and enforce any Letter of Understanding issued by McHenry County within the community's jurisdiction. Non-compliance with the requirements and standards of a Letter of Understanding constitutes a violation of this Ordinance and is subject to the Violation and Penalty standards of this Ordinance.

## Article IV

### §17.60.040 Stormwater Management Permit Provisions

#### A. Development Classification

1. Refer to the Development Classification Flowchart in Appendix 1.
2. The Enforcement Officer shall make the determination regarding the classification of a regulated development.
3. All regulated development requiring a stormwater management permit, except regulated development authorized by a General Permit, shall be classified as a Minor, Intermediate, Major, Public Road, or Mining Development.
4. Regulated development located partially or completely within a flood hazard area shall also be classified as a Flood Hazard Area Development.
5. Regulated development located partially or completely within WOTUS or IWMC shall also be classified as a Wetland and Waters Development.
6. Regulated development located partially or completely within a watershed or sub-watershed, for which additional or more restrictive standards have been adopted by MCSC or a Certified Community, shall also be classified as a Watershed Specific Area Development.
7. To the extent that a regulated development fits multiple classifications, it shall comply with all applicable requirements for each classification.

#### B. Development Phasing

In order to preclude inappropriate phasing of development to circumvent the intent of this Ordinance, the requirements of this Ordinance shall apply all regulated development within the contiguous property, unless waived by the Enforcement Officer.

#### C. Approval Prior to Permitting

1. Prior to the issuance of stormwater management permit, the applicant may request conditional approval of: a BFE determination, floodway delineation, IWMC boundary determination, or any other component of a regulated development. A request for conditional approval shall include the information required for the component of regulated development by the Application Requirements of this Ordinance. The Enforcement Officer shall review the component of regulated development based on conformance with the Performance Standards of this Ordinance.
2. Earth change approval for a regulated development may be granted by the Enforcement Officer prior to the issuance of a stormwater management permit. The Earth change approval is subject to the following conditions:
  - a. An Earth Change Plan shall be submitted demonstrating that the proposed grading would meet the applicable Performance Standards of this Ordinance;
  - b. No impervious areas shall be created;
  - c. No fill shall be placed in flood hazard areas;
  - d. No regulated development may occur within IWMC or WOTUS;
  - e. No regulated development may occur in areas for which Federal and/or State permits are required, unless the applicable permits have been obtained;

- f. All regulated development shall be completed at the risk of the applicant;
- g. Additional conditions may be specified by the Enforcement Officer, depending on development site characteristics; and
- h. Earth change approval may be revoked by the Enforcement Officer at any time for non-compliance with the requirements of this Ordinance or the conditions of the earth change approval.

D. Fees and Application Review Times

- 1. A fee schedule shall be established by separate resolution of McHenry County.
- 2. A separate fee schedule may be established by Certified Communities.
- 3. Stormwater management permit applications shall be reviewed within 15 business days of receipt to determine if the Application Requirements of this Ordinance have been met. A complete application package shall be approved or denied within 45 business days of the latest item submitted.

E. Permit Terms and Extensions

- 1. The term of a stormwater management permit shall be from the issue date to the expiration date. The term of a stormwater management permit shall be:
  - a. The lesser of 2 years or the term of the building permit for General Permits and for Minor, Intermediate, and Public Road Developments;
  - b. The lesser of 3 years or the term of the building permit for Major Developments; or
  - c. The lesser of 10 years or the term of the conditional use permit for Mining Development.
- 2. A permit extension may be requested in writing by the applicant if the regulated development is not completed within the term of the stormwater management permit. The Enforcement Officer may extend the permit for the time periods listed below. Permit extension requests may not be made prior to 90 days of the permit expiration date.
  - a. The permit term for General Permits and for Minor, Intermediate, and Public Road Developments may be extended for 6 months at a time.
  - b. The permit term for Major Developments and Mining Developments may be extended for 12 months at a time.
- 3. The Enforcement Officer may amend or add special conditions to the permit at the time of the extension, such as updating the terms of a performance guarantee by revising the estimated cost to complete construction.
- 4. A stormwater management permit shall be terminated without the possibility of an extension if the actual start of construction is not commenced within 180 days after the issue date of the stormwater management permit and if any activity related to a building authorized by the stormwater management permit is not in compliance with the most recent version of:
  - a. The FIS;
  - b. The FIRM;

- c. The NFIP regulations; and
  - d. The Flood Hazard Areas Performance Standards of this Ordinance.
5. A stormwater management permit may be terminated during its term or a permit extension may be denied for reasons including, but not limited to:
- a. Noncompliance with any condition of the permit;
  - b. The applicant's failure to disclose fully all relevant facts in the application process or the applicant's misrepresentation of any relevant facts at any time;
  - c. The regulated development is not commenced within 2 years after the issue date of the stormwater management permit;
  - d. The regulated development is suspended or abandoned for a period of 6 months after commencing the regulated development.

F. Permit Conditions

1. Special Conditions may be added to a permit by the Enforcement Officer to clarify the purpose or authorization granted by the stormwater management permit. Special conditions may also specify other restrictions and constraints of the regulated development.
2. Development plans bearing the approval stamp of the Enforcement Officer shall be retained at the development site throughout the duration of construction activities.
3. A deed or plat restriction required as part of a stormwater management permit shall not be modified without the approval of the Enforcement Officer.

**Article V****§17.60.050 Application Requirements**

## A. Enforcement Officer Authority

The Enforcement Officer shall make the determination as to whether the submitted documentation demonstrates compliance with this Ordinance.

## B. Property Interest

The applicant shall demonstrate an ownership interest in the subject property, or written authorization by the property owner to proceed with the development.

## C. Basic Submittal

The following requirements apply to all regulated development, except regulated development authorized by a General Permit.

1. A stormwater management permit application shall be submitted.
2. A development plan shall be submitted showing the proposed regulated development with all other relevant information, including but not limited to:
  - a. Property lines;
  - b. Buildings and other structures;
  - c. Easements;
  - d. Utility lines, culverts, onsite waste disposal systems, and wells;
  - e. Existing and proposed ground elevations sufficient to depict the proposed work and how it ties into existing ground elevations;
  - f. Existing and proposed impervious areas;
  - g. Areas of temporary disturbance;
  - h. Placement of spoil materials;
  - i. Details of construction;
  - j. Dimensions of the proposed regulated development;
  - k. The location of any flood hazard area on the development site and extending 100 feet beyond the development site, based on available maps and studies, unless a BFE determination is required by this Ordinance; and
  - l. The location of all WOTUS and IWMC, extending beyond the development site, based on available maps and studies, unless a Wetland Determination Report is required by this Ordinance.
3. For regulated development that does not include a new building and would not change existing ground elevations, the development plan may be sketched on an aerial photograph showing 2 foot contour interval topographic mapping and the applicant's written agreement that: "The finished ground elevations shall match existing ground elevations and all spoil material shall be removed from the development site" which shall be depicted on the aerial photograph as a note.

4. All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted.
5. Payment of the stormwater management permit fee.

D. Soil Erosion and Sediment Control Submittal

In addition to other applicable Application Requirements, the following requirements apply to all regulated development, except regulated development authorized by a General Permit.

1. A development plan shall be submitted demonstrating compliance with the Soil Erosion and Sediment Control Performance Standards of this Ordinance. The development plan shall include:
  - a. The type and location of all soil erosion and sediment control measures. If the regulated development will be constructed in phases, the development plan shall specify all control measures necessary for each phase;
  - b. Detail drawings for all soil erosion and sediment control measures;
  - c. Specifications for seeding or other methods of stabilization; and
  - d. The McHenry County Standard Soil Erosion and Sediment Control Notes in Appendix 2.
2. For regulated development disturbing 1 acre or more, the development plan shall be submitted with the following additional information:
  - a. A narrative description of the existing land cover and soil survey data for the development site and adjacent areas;
  - b. A narrative description of the proposed temporary and permanent soil erosion and sediment control practices, including a narrative describing how flood hazard areas, wetlands, waters and buffer areas will be protected from erosion and sedimentation;
  - c. A schedule of construction activities including, but not limited to, clearing and grading, installation of stabilized construction entrances, disposal of construction waste, stockpiling, and inspection and maintenance of all soil erosion and sediment control practices;
  - d. Data and calculations used to size, locate, design, and maintain all soil erosion and sediment control practices, where applicable, and for the design of temporary stream crossings; and
  - e. Identification of person(s) or entity having legal responsibility for installation, maintenance, and removal of erosion and sediment control practices during construction and after regulated development is completed.
3. All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted including, but not limited to:
  - a. Coverage by the IEPA under General NPDES Permit No. ILR10; and
  - b. A permit from the road authority for development in a public right-of-way.

## E. Runoff Control Submittal

In addition to other applicable Application Requirements, the following requirements apply to all regulated development, except regulated development authorized by a General Permit.

1. Refer to the Runoff Control Submittal Flowchart in Appendix 1.
2. For Minor Development the following documentation shall be submitted demonstrating compliance with the Runoff Control Performance Standards of this Ordinance.
  - a. A development plan shall be submitted that depicts:
    - (1) All applicable components of the stormwater management system, including the overland flow path, drain tiles, storm sewers, and water quality protection measures; and
    - (2) Includes the McHenry County *Standard Drain Tile Notes* in Appendix 3.
  - b. As applicable, design calculations prepared by a licensed professional engineer shall be submitted. When required, the design calculations shall demonstrate that the Runoff Control Performance Standards of this Ordinance have been met for the following components:
    - (1) Overland flow paths;
    - (2) Drain tiles; and
    - (3) Storm sewers.
3. For Intermediate, Major, Public Road, or Mining Development, the development plans and supporting calculations shall be prepared by a licensed professional engineer and shall meet the Minor Development Runoff Control Submittal requirements set forth in Paragraph E.2 above and the following additional requirements:
  - a. A statement shall be submitted, which is signed by the licensed professional engineer that prepared the development plans, rendering an opinion that the development plans meet the minimum requirements of this Ordinance;
  - b. A development plan shall be submitted that depicts:
    - (1) A benchmark referenced to NAVD88;
    - (2) Existing utilities including sanitary sewer, water main, onsite waste disposal system, well, or any other utilities that exist on the site and 100 feet beyond the development site. On development sites where an infiltration facility is proposed, existing water supply wells shall be shown 200 feet beyond the development site. Information regarding the invert and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;
    - (3) Location and limits of all existing and proposed deed or plat restrictions;
    - (4) Existing trees and vegetation areas on the development site;
    - (5) Proposed contours throughout the development site with a maximum contour interval of 1 foot;
    - (6) Proposed spot elevations demonstrating drainage patterns;

- (7) Top of foundation, lowest floor, low opening elevation, and floodproofing elevations of all proposed structures within a flood hazard area, adjacent to a stormwater management facility; or along an overland flow path;
  - (8) All proposed impervious areas such as roadways, structures, parking lots, driveways, sidewalks, pathways, and trails;
  - (9) Proposed stormwater management system including pipes, drain tiles, culverts, and inlets on the development site. Information regarding the invert and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;
  - (10) Proposed utilities including sanitary, storm, water main, onsite waste disposal system, well, or any other utilities on the development site. Information regarding the invert and rim elevations, pipe sizes, pipe lengths, and material type shall be provided;
  - (11) Design details for proposed stormwater management system including, but not limited to, major and minor stormwater systems, stormwater management facilities, water quality protection measures, overflow structures, and control structures including restrictor size and invert; and Cross-sections for overland flow paths and stormwater management facilities sufficient to demonstrate compliance with the freeboard requirements of this Ordinance;
- c. Runoff data and calculations for the development site and tributary areas, if a stormwater management system is necessary for the development site to meet the requirements of this Ordinance. The data and calculations may include the following, as applicable:
- (1) A narrative identifying the procedures, assumptions, and data used in hydrologic and hydraulic calculations for sizing both major and minor stormwater systems;
  - (2) A schematic diagram of the existing and proposed hydrologic and hydraulic calculations;
  - (3) Delineation of tributary areas to each overland flow path, inlet and stormwater management facility;
  - (4) Time of concentration calculations;
  - (5) Runoff Curve Number and runoff coefficient calculations for existing and proposed conditions;
  - (6) Rainfall depth and distribution data;
  - (7) Storm sewer and inlet design calculations;
  - (8) Hydraulic grade line and high water surface elevations for design storm events;
  - (9) Assumptions or calculations utilized to determine tailwater conditions for the development site;
  - (10) Digital copies of the hydrologic and hydraulic models; and



- (11) Other calculations necessary to demonstrate compliance with this Ordinance;
- d. Stormwater management facility data and calculations for the development site and tributary areas, if stormwater storage is necessary for the development site to meet the requirements of this Ordinance. The data and calculations shall include the following:
- (1) A narrative identifying the procedures, assumptions, and data used in hydrologic and hydraulic calculations to determine the post-development allowable release rate and related stormwater storage volume;
  - (2) A tabular summary of existing, allowable, and proposed release rates for design storm events;
  - (3) A tabular summary of required and proposed stormwater storage volumes for design storm events;
  - (4) Elevation versus storage area data for the stormwater management facility;
  - (5) Elevation versus discharge curve data for the control structure of the stormwater management facility;
  - (6) Elevation versus time data for the stormwater management facility;
  - (7) Calculations demonstrating that the overflow structure is sized to meet the requirements of this Ordinance;
  - (8) Assumptions or calculations utilized to determine tailwater conditions for the development site;
  - (9) Seeding and/or planting specifications for detention within IWMC;
  - (10) Copy of letter notifying adjoining downstream property owner(s) and return receipt of the certified mail as required in Article VI, Section B.5.d.(1)vii; and
  - (11) Copy of letter notifying any drainage district within the watershed where the development site is located and return receipt of the certified mail as required in Article VI, Section B.5.d.(1)viii;
- e. Infiltration facility data including the following development site specific information, prepared by a qualified professional, if the applicant proposes an infiltration facility to meet the Stormwater Storage Requirements of this Ordinance;
- (1) Infiltration rate; and
  - (2) Seasonal high groundwater elevation;
- f. Pre-treatment measures for infiltration facilities, Class V injection wells, and infiltration-based water quality treatment practices;
- g. A narrative describing how the development site utilizes the strategies in the Runoff Volume Reduction Hierarchy of this Ordinance, if applicable;
- h. Watershed specific design data, if applicable;
- i. A recorded deed or plat restriction, if applicable; and

- j. A recorded maintenance plan, if applicable.
  4. For regulated development required to meet the Stormwater Storage Requirements of this Ordinance, as-built plans shall be submitted with a certificate stating that stormwater management facilities were constructed in substantial conformance with the approved development plans.
  5. All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted including, but not limited to documentation of IEPA receipt of a Class V injection well inventory.
- F. Flood Hazard Area Submittal

In addition to other applicable Application Requirements, the following requirements apply to all Flood Hazard Area Development, except regulated development authorized by a General Permit.

1. Refer to the Flood Hazard Area Submittal Flowchart in Appendix 1.
2. A statement shall be submitted, which is signed by the licensed professional engineer that prepared the development plans, rendering an opinion that the development plans meet the minimum requirements of this Ordinance;
3. A development plan and calculations shall be submitted demonstrating compliance with the Flood Hazard Areas Performance Standards of this Ordinance. The development plan shall include:
  - a. A benchmark referenced to NAVD88;
  - b. A delineation of the existing and proposed BFE on the development site with the source of the BFE noted;
  - c. Mapped limits of the flood hazard area per the appropriate source;
  - d. A delineation of the floodway on the development site;
  - e. Identification of any public bodies of water;
  - f. Top of foundation, lowest floor, low opening elevation, and floodproofing elevations of all proposed buildings within a flood hazard area;
  - g. Details of floodproofing measures, such as material specifications, construction methods, and calculations; and
  - h. Notes limiting the usage of enclosed areas below the BFE.
4. A BFE determination prepared by a licensed professional engineer, if necessary to meet the Flood Hazard Areas Performance Standards of this Ordinance. The BFE determination shall include the following:
  - a. A narrative identifying the procedures, assumptions, and data used in the existing and proposed hydrologic and hydraulic calculations;
  - b. A tabular summary of existing and proposed flows, flood elevations, and velocities for all storm events up to and including the base flood event;
  - c. A schematic diagram of the existing and proposed hydrologic and hydraulic calculations;

- d. An exhibit delineating all tributary areas for the hydrologic and hydraulic calculations;
  - e. Time of concentration calculations for existing and proposed conditions;
  - f. Runoff Curve Number calculations for existing and proposed conditions;
  - g. Rainfall depth and distribution data;
  - h. An exhibit locating all cross-sections utilized within the hydrologic and hydraulic calculations;
  - i. Hydraulic grade line and water surface elevations for all storm events up to and including the base flood event;
  - j. Analyses of alternative transition sections;
  - k. Assumptions or calculations utilized to determine tailwater conditions for the development site;
  - l. Digital copies of the hydrologic and hydraulic models; and
  - m. Other calculations necessary to demonstrate compliance with this Ordinance.
5. Floodplain fill and compensatory storage calculations prepared by a licensed professional engineer, if compensatory storage is necessary for the development site to meet the requirements of this Ordinance. The data and calculations shall include the following:
- a. Cross-sections showing the areas of fill and excavation;
  - b. A plan view delineating the location of cross-sections;
  - c. A tabular summary of fill and excavation volumes; and
  - d. As applicable, as-built plans and a certificate stating that compensatory storage areas were constructed in substantial conformance with the approved development plans.
6. For revisions to FIRM(s) necessary to meet the Flood Hazard Areas Performance Standards of this Ordinance, the following information shall be submitted:
- a. All hydrologic and hydraulic calculations;
  - b. All LOMC applications with supporting documentation; and
  - c. A recorded deed or plat restriction for any offsite increase in the water surface profile.
7. For any repair, reconstruction, rehabilitation, addition, or other activity to a building in a floodplain, a substantial improvement determination shall be submitted. The data and calculations shall include:
- a. A detailed and complete cost estimate;
  - b. Supporting documentation for the cost estimate, including data from recognized cost estimating manuals or contractor bids;
  - c. A signed and notarized market value determination form; and
  - d. A calculation of the cumulative percentage of individual damages, repairs, reconstructions, rehabilitations, additions, improvements, and maintenance.

8. For buildings required to meet the Building Protection Requirements of this Ordinance, an Elevation Certificate, a Floodproofing Certificate, or a similar instrument shall be submitted demonstrating compliance with this Ordinance.
9. All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted including, but not limited to permits from IDNR/OWR for floodway construction, dam safety, or development within a public body of water.

G. Wetlands, Waters and Buffer Area Submittal

In addition to other applicable Application Requirements, the following requirements apply to all Wetland and Waters Development, except regulated development authorized by a General Permit.

1. Refer to the Wetlands, Waters and Buffer Area Submittal Flowchart in Appendix 1.
2. A development plan shall be submitted demonstrating compliance with the Wetlands and Waters Performance Standards and the Buffer Area Performance Standards of this Ordinance. The development plan shall include a delineation of all WOTUS, IWMC, and buffer areas on the development site.
3. A Letter of No Impact or a Wetland Determination Report, prepared by a wetland specialist, shall be submitted for all WOTUS and IWMC on the development site, if applicable.
4. All applicable consultations, waivers, approvals, and permits from Federal, State, and local authorities shall be submitted including, but not limited to:
  - a. A Jurisdictional Determination and a Letter of No Objection from the USACE;
  - b. A permit from the USACE;
  - c. Documentation that the regulated development is in compliance with the IDNR's Endangered Species Consultation Program [520 ILCS 10/11];
  - d. Documentation that the regulated development is in compliance with the U.S. Fish and Wildlife Service's consultation program under the Endangered Species Act; and
  - e. A Natural Resources Information (NRI) report or letter prepared by the McHenry-Lake County Soil and Water Conservation District.
5. For regulated development within the buffer area of WOTUS or IWMC, the following additional information shall be submitted:
  - a. A narrative describing the current condition of the buffer area, including the existing plant community(s) present and a list of the plant species characterized individually as native or non-native;
  - b. Calculations for determining the existing and proposed buffer area impacted by the development;
  - c. The size, location, and design details for any BMPs proposed for mitigating buffer impacts; and
  - d. Calculations demonstrating that the required buffer area is provided by varying the buffer width.

6. For regulated development adjacent to IWMC, but not impacting the IWMC, wetland hydrology calculations shall also be submitted.
7. For IWMC impacts, the following additional information prepared by a wetland specialist shall be submitted:
  - a. A mitigation plan;
  - b. Performance standards and a recorded maintenance plan for onsite mitigation of a IWMC impact; and
  - c. A receipt for payment into a Wetland Bank or the MCSC Wetland Restoration Fund.
8. For Category IV IWMC impacts, a narrative describing the benefits of the IWMC impacts to the aquatic environment shall also be submitted. The narrative shall be prepared by a wetland specialist.
9. For Category V temporary IWMC impacts, a restoration plan prepared by a wetland specialist shall be submitted.
10. A recorded maintenance plan and a recorded deed or plat restriction shall be submitted for the wetlands, waters and buffer areas within or adjacent to a regulated development disturbing 5 acres or more, a Mining Development, or any regulated development involving a subdivision of land.
11. For buffer averaging, a recorded deed or plat restriction shall be submitted for the wetlands, waters and buffer areas.

**Article VI**

**§17.60.060 Performance Standards**

**A. Soil Erosion and Sediment Control**

<b>TABLE 3 Applicability of Soil Erosion and Sediment Control Performance Standards</b>						
<b>Type of Development</b>	<b>Basic Requirements A.1</b>	<b>Requirements for Development Disturbing 1 acre or More A.2</b>	<b>Channel Requirements A.3</b>	<b>Inspections and Maintenance Requirements A.4</b>	<b>Notification Requirements A.5</b>	<b>Special Precautions A.6</b>
<b>General Permit</b>	Waived*	N/A	Waived*	Waived*	Waived*	Waived*
<b>Minor</b>	X	N/A	If Channel Construction Included	X	X	X
<b>Intermediate</b>	X	N/A	If Channel Construction Included	X	X	X
<b>Major</b>	X	X	If Channel Construction Included	X	X	X
<b>Public Road</b>	X	If Dev ≥ 1 ac	If Channel Construction Included	X	X	X
<b>Mining</b>	X <sup>5</sup>	If Dev ≥ 1 ac	If Channel Construction Included	X	X	X
<b>Flood Hazard Area</b>	X	If Dev ≥ 1 ac	If Channel Construction Included	X	X	X
<b>Wetland</b>	X	If Dev ≥ 1 ac	If Channel Construction Included	X	X	X

\* Refer to the Performance Standards and Terms and Conditions of Specified Development of the specific General Permit.  
 5. Requirements may be waived by the Enforcement Officer for portions of the development site that do not drain offsite.

**1. Basic Requirements**

The following requirements apply to all regulated development, except regulated development authorized by a General Permit. Specific requirements may be waived by the Enforcement Officer for portions of the development site that do not drain offsite.

- a. Control measures shall meet the minimum standards and specifications of the *Illinois Urban Manual* unless stated otherwise in this Ordinance.
- b. Soil disturbance shall be conducted in such a manner as to minimize erosion. Areas of the development site that are not to be disturbed shall be protected from construction traffic or other disturbance until final stabilization is achieved.

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.  
 Refer to Appendix 1 for permitting flowcharts.

- c. Soil stabilization measures shall consider the time of year, development site conditions and the use of temporary or permanent measures.
- d. Stabilization by seeding shall include topsoil placement and fertilization, as necessary.
- e. Native seed mixtures shall include rapid-growing annual grasses or small grains to provide temporary soil stabilization.
- f. Offsite property shall be protected from erosion and sedimentation. Velocity dissipation devices shall be placed at concentrated discharge locations and along the length of any outfall channel, as necessary to prevent erosion.
- g. Sediment control measures shall be installed prior to the disturbance of tributary areas.
- h. Stabilization of disturbed areas shall be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the development site, or temporarily ceased on any portion of the development site and will not resume for a period exceeding 14 calendar days. Stabilization of disturbed areas shall be initiated within 1 working day of permanent or temporary cessation of earth disturbing activities and shall be completed as soon as possible, but not later than 14 calendar days from the initiation of stabilization work in an area. Exceptions to these time frames are specified below:
  - (1) Where the initiation of stabilization measures is precluded by snow cover, stabilization measures shall be initiated as soon as practicable; and
  - (2) In areas where construction activity has temporarily ceased and will resume after 14 days, a temporary stabilization method may be used.
- i. Disturbance of steep slopes shall be minimized. Areas or embankments having slopes steeper than 3:1 shall be stabilized with staked in place sod, erosion control blanket in combination with seeding, or an equivalent control measure.
- j. The interior side slopes of all stormwater management facilities shall be stabilized with staked in place sod, erosion control blanket in combination with seeding, or an equivalent control measure. The control measure shall be installed between the design high water level and the bottom of the facility in a dry bottom stormwater management facility, or between the design high water level and the normal water level for all other stormwater management facilities.
- k. Perimeter control measures shall be provided downslope and perpendicular to the flow of runoff from disturbed areas, where the tributary area is greater than 5,000 square feet, and where runoff will flow in a sheet flow manner. Perimeter erosion control shall also be provided at the base of soil stockpiles. Acceptable perimeter control measures include:
  - (1) Silt fences meeting the standards and specifications of the *Illinois Urban Manual* or *AASHTO Standard Specification 288-00*;
  - (2) A vegetated filter strip, meeting the following standards:
    - i. A minimum width of 25 feet perpendicular to the flow of runoff; and

- ii. Vegetation consists of native plants, turf grass, or other plants that cover 70% or more of the ground surface; or
- (3) An equivalent control measure. The Enforcement Officer may allow agricultural crops as a perimeter control measure, if such measures are projected to control erosion as well as other typical perimeter controls. The appropriateness of agricultural crops as a perimeter control measure depends on development site specific considerations, such as the ground slope, type of crop, and the distance to the nearest channel or adjacent property.
- l. The stormwater management system shall be protected from erosion and sedimentation downslope from disturbed areas. Inlet protection that reduces sediment loading, while allowing runoff to enter the inlet shall be required for all storm sewers. Check dams, or an equivalent control measure, shall be required for all channels. Filter fabric inlet protection and straw bale ditch checks are not acceptable control measures.
  - m. If dewatering services are used, discharges shall be routed through an effective sediment control measure (e.g., sediment trap or an equivalent control measure). The Enforcement Officer shall be notified prior to the commencement of dewatering activities.
  - n. All temporary soil erosion and sediment control measures shall be removed within 30 days after final stabilization of the development site is achieved or after the temporary measures are no longer necessary. Trapped sediment shall be removed and disturbed areas shall be permanently stabilized.
  - o. Stockpiled soil and materials shall be removed from flood hazard areas at the end of each work day. Soil and materials stockpiled in IWMC or buffer areas shall be placed on timber mats, or an equivalent control measure.
  - p. Effective control measures shall be utilized to minimize the discharge of pollutants from the development site. At a minimum, control measures shall be implemented in order to:
    - (1) Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash water; and
    - (2) Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, vehicle fluids, sanitary waste, and other materials present on the development site to precipitation and to stormwater.
  - q. Adequate receptacles shall be provided for the depositing of all construction material debris generated during the development process. The applicant shall not cause or permit the dumping, depositing, dropping, throwing, discarding or leaving of construction material debris upon or into any development site, channel, or IWMC. The development site shall be maintained free of construction material debris.
  - r. Where regulated development is allowed within a buffer area, construction fencing shall be installed a minimum of 1 foot outside the WOTUS or IWMC and all other regulated development shall be limited to the non-WOTUS or non-IWMC



side of the construction fence. This requirement shall not apply to regulated development involving impacts to or enhancement of WOTUS or IWMC.

- s. The Enforcement Officer may require additional or alternate soil erosion and sediment control measures, based on development site specific considerations and the effectiveness of the installed control measures.

2. Requirements for Development Disturbing 1 Acre or More

In addition to the Basic Requirements, the following requirements apply to Major Development, Public Road Development and Mining Development disturbing 1 acre or more.

- a. Meet the requirements of IEPA General NPDES Permit No. ILR10, if applicable.
- b. A stabilized construction entrance shall be located at any point where traffic will be exiting a development site to a public right-of-way, street, alley or parking area. Any sediment or soil reaching an improved public right-of-way, street, alley or parking area shall be removed by scraping or street cleaning as accumulations warrant and transported to a controlled sediment disposal area.
- c. Structural control measures shall be utilized, when necessary, to treat wash water, divert flows from exposed soils, store flows or otherwise limit runoff and the discharge of pollutants from exposed areas of the development site. Such practices may include: earth dikes, drainage swales, sediment traps, check dams, subsurface drains, pipe slope drains, level spreaders, storm drain inlet protection, rock outlet protection, reinforced soil retaining systems, gabions, and sediment basins.
- d. Unless otherwise specified in this Ordinance or in the *Illinois Urban Manual*, the structural practices shall be designed for a storm event equal to or greater than a 25 year, 24 hour storm.
- e. Sediment traps and sediment basins shall be appropriately sized and designed to facilitate periodic removal of sediment, and located with regard to the size of the tributary area:
  - (1) Runoff from disturbed areas with more than 1 but fewer than 5 acres of tributary area shall be routed to a sediment trap, or an equivalent control measure;
  - (2) Runoff from disturbed areas with a tributary area of 5 acres or more shall be routed to a sediment basin with a perforated filtered riser pipe, or an equivalent control measures; and
  - (3) Sediment basins shall have both a permanent pool (dead storage) and additional volume (live storage). Each volume shall, at a minimum, be equal to the amount of runoff from a 2 year, 24 hour storm over the onsite hydrologically disturbed tributary area. The live storage volume may be determined using the Detention Volume vs. Percent Impervious Chart in Appendix 6 and the developed condition percent impervious area. The available sediment volume below the normal water level shall be in addition to the dead storage volume and shall be sized for the estimated sediment load generated from the development site over the duration of the construction period. For construction periods exceeding 1 year, the 1 year sediment load may be utilized with an annual sediment removal schedule.

3. Channel Requirements

In addition to other applicable Soil Erosion and Sediment Control Performance Standards, the following requirements apply to regulated development below the ordinary high water mark of channels.

- a. Land disturbance in channels shall be avoided, where possible. The following requirements shall be met when land disturbance below the ordinary high water mark of channels cannot be avoided:
  - (1) Disturbance shall be timed to occur during low-flow or no-flow conditions;
  - (2) Equipment shall only cross channels at permanent bridges or culverts, except when a temporary channel crossing meets the following criteria:
    - i. Fill within the channel shall be composed of non-erosive material, such as rip-rap or gravel; and
    - ii. The temporary channel crossing, including temporary approach roads, shall be removed within 1 year after installation, unless the Enforcement Officer grants an extension of time.
  - (3) Temporary cofferdams may be required by the Enforcement Officer and shall be constructed of non-erosive material; and
  - (4) The disturbed area, including bed and banks, shall be stabilized with staked in place sod, erosion control blanket in combination with seeding, or an equivalent control measure no more than 48 hours after disturbance is completed or interrupted.
- b. New or relocated channels shall be constructed in dry conditions. All construction, including stabilization, shall be completed prior to diversion of water into the new or relocated channel.

4. Inspection and Maintenance Requirements

The following requirements apply to all regulated development, except regulated development authorized by a General Permit.

- a. Development plans bearing the approval stamp of the Enforcement Officer shall be retained at the development site throughout the duration of construction activities and shall be annotated with field changes.
- b. Disturbed areas that have not been finally stabilized and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of, or the potential for, pollutants entering the drainage system. Structural control measures identified in the plans shall be observed to ensure that they are operating correctly. Discharge locations shall be inspected to evaluate whether soil erosion and sediment control measures are effective in preventing significant impacts to receiving waters. Locations where vehicles enter or exit the development site shall be inspected for evidence of offsite sediment tracking. Such inspections shall be performed at the intervals stated in Paragraph 4.c below.

- c. For regulated development disturbing 1 acre or more, a qualified inspector (provided by the applicant) shall inspect the development site at the following intervals:
  - (1) Upon completion of installation of soil erosion and sediment control measures (including perimeter controls and diversions), prior to proceeding with any other earth disturbance or grading;
  - (2) After stripping and clearing;
  - (3) After rough grading;
  - (4) After final grading;
  - (5) After seeding and landscaping;
  - (6) After final stabilization and landscaping, prior to removal of sediment controls;
  - (7) At least once every 7 calendar days; and
  - (8) Within 24 hours of the end of a storm that is 0.5 inch or greater rain event or a discharge due to snowmelt.
  - (9) Inspections may be reduced to once per month when construction activities have ceased due to frozen conditions. Weekly inspections will recommence when construction activities are conducted, or if there is 0.5 inch or greater rain event, or a discharge due to snowmelt occurs.
- d. For regulated development disturbing less than 1 acre, an inspector (provided by the applicant) shall inspect the development site at intervals 1, 3, 4, 6, 7 and 8 of the above list.
- e. Inspections may be reduced to once per month when construction activities have ceased due to frozen ground conditions. Weekly inspections shall resume when construction activities resume, within 24 hours of the end of a storm that is 0.5 inch or greater, or when snowmelt results in a discharge from the development site.
- f. Inspection reports shall be retained at the development site throughout the duration of construction activities, and made available to the Enforcement Officer upon request. The reports shall include:
  - (1) The scope of the inspection;
  - (2) The name and signature of the inspector;
  - (3) Qualifications of the qualified inspector, if required;
  - (4) The date of the inspection;
  - (5) Observations relating to the conditions and effectiveness of control measures; and
  - (6) Corrective actions taken to address deficiencies.
- g. All temporary and permanent erosion and sediment control measures shall be maintained in an effective working condition throughout the duration of construction activities. Deficiencies shall be identified through regular inspections, summarized in inspection reports, and repaired or replaced

immediately. The Enforcement Officer shall be notified of any Incidence of Noncompliance filed with the IEPA and whenever an ineffective control measure needs to be replaced with an alternative control measure.

5. Notification Requirements

The following requirements apply to all regulated development, except regulated development authorized by a General Permit.

a. To facilitate inspections by the Enforcement Officer and to ensure compliance with the stormwater management permit, and this Ordinance, the applicant shall notify the Enforcement Officer within 2 working days of the construction stages specified below:

(1) For regulated development disturbing 1 acre or more:

- i. Prior to the start of construction;
- ii. Upon completion of installation of soil erosion and sediment control measures (including perimeter controls and diversions), prior to proceeding with any other earth disturbance or grading;
- iii. After stripping and clearing,
- iv. After rough grading;
- v. After final grading;
- vi. After seeding and landscaping; and
- vii. After final stabilization and landscaping, prior to removal of sediment controls.
- viii. If stripping, clearing, grading and/or landscaping are to be done in phases or areas, the applicant shall give notice at the completion of each of the above work stages in each phase or area.

(2) For regulated development disturbing less than 1 acre, notifications are required at stages i, ii, iv, and vii of the above list.

6. Special Precautions

- a. If at any stage of the construction, the Enforcement Officer determines that the nature of the regulated development is such that further work authorized by an issued stormwater management permit is likely to imperil any property, public way, IWMC, WOTUS, buffer area, or stormwater management system, the Enforcement Officer may require, as a condition of allowing the work to be continued, that reasonable special precautions be taken to avoid the likelihood of such peril. Special precautions may include, but shall not be limited to: constructing a more level exposed slope; constructing additional drainage facilities, berms, or terraces; compaction, or cribbing; temporary or permanent stabilization; or hiring a professional consultant to recommend corrective actions.
- b. Where it appears that damage may occur due to incomplete grading at the development site, work may be stopped and the applicant required to install temporary structures, or take such other measures as may be required to protect adjoining property or the public safety prior to the advent of seasonal rains or

winter shut-down. For regulated development disturbing 1 acre or more, or where unusual site conditions prevail, the Enforcement Officer may require that the operations be conducted in specific stages, so as to insure the completion of protective measures or devices.

B. Runoff Control

1. Basic Requirements

The following requirements apply to all regulated development, except regulated development authorized by a General Permit.

- a. All concentrated stormwater discharges from a development site shall be conveyed into an existing channel, storm sewer, or overland flow path with adequate downstream stormwater capacity and shall not result in flood damage.
- b. The diversion of stormwater runoff shall be prohibited unless no reasonable alternative exists, as determined by the Enforcement Officer. The diversion of stormwater runoff shall not result in flood damage at the development site, upstream of the development site, or on downstream adjoining properties.
- c. Within a development site, streets, blocks, lots, deed or plat restrictions, parks and other public grounds shall be located in such a manner as to preserve natural streams and channels.
- d. Stormwater management facilities within subdivisions, Planned Unit Developments, and manufactured home parks with 5 or more parcels platted after December 1, 2014 shall be located within an outlet.
- e. The development plans and plats for subdivisions, Planned Unit Developments, and manufactured home parks shall show the BFE, as well as the limits of flood hazard areas, public bodies of water, WOTUS, IWMC, and buffer areas.
- f. The plats for subdivisions, Planned Unit Developments, and manufactured home parks shall include a signed statement by a licensed professional engineer that accounts for changes in the drainage of surface water in accordance with the Plat Act (765 ILCS 205/2).
- g. The plats for subdivisions, Planned Unit Developments, and manufactured home parks shall specify the minimum low opening elevation for each lot adjacent to an overland flow path, the minimum lowest adjacent grade for each lot adjacent to a flood hazard area, and the maximum impervious area allowed on each lot for the provided stormwater storage volume.
- h. The stormwater management system for a regulated development shall be functional prior to the issuance of a certificate of occupancy or a certificate of completion for any building which is part of the regulated development.
- i. A community shall not approve any preliminary Planned Unit Development or Plat of Subdivision, unless the Planned Unit Development or Plat is subject to meeting the minimum standards of this Ordinance.
- j. A community shall not approve any final Planned Unit Development or Plat of Subdivision, unless the Planned Unit Development or Plat meets the minimum standards of this Ordinance.

- k. A final Planned Unit Development or Plat of Subdivision with an area greater than 5 acres platted after December 1, 2014 shall state the maximum impervious area allowed for each lot or parcel of land based on the design of the stormwater management system.
  - l. Pursuant to State law, a property owner of a parcel being subdivided adjacent to a State or County right-of-way shall notify the highway authority of the proposed subdivision in writing, and request that the highway authority provide, at the cost of the highway authority or otherwise provided by law, the amount of additional capacity in any stormwater detention facility to be constructed in the subdivision for the future availability of the highway authority for meeting stormwater detention requirements of any future public construction on the highway.
  - m. A maintenance plan shall be recorded for the stormwater management system. The Enforcement Officer may waive this requirement for Minor and Intermediate Development.
2. Overland Flow Paths

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to all regulated development, except regulated development authorized by a General Permit.

- a. An overland flow path shall be provided for all areas of a development site. The overland flow path shall convey floodwaters for all storm events up to and including the base flood event without flood damage at the development site or upstream of the development site. Where the tributary area is less than 20 acres, the storm sewers and inlets may be sized for the base flood event in lieu of providing an overland flow path.
- b. An overland flow path serving more than one property shall be protected from obstructions, such as fencing, landscaping, or storage sheds through a deed or plat restriction. The Enforcement Officer may waive the requirement for a deed or plat restriction where an increase in flood heights on upstream adjoining properties is unlikely to result from obstruction of the overland flow path.
- c. The overland flow path shall be designed to:
  - (1) Ensure the freeboard requirement of this Ordinance is met;
  - (2) Prevent an increase flood heights on upstream adjoining properties; and
  - (3) Prevent flood damage at the development site.
- d. The overland flow path shall be designed using a model or technique identified in Appendix 5 of this Ordinance or otherwise approved by MCSC, based on the flow rate for:
  - (1) The base flood event considering all onsite and offsite tributary areas; or
  - (2) Conveyance of a minimum of 1 cfs per acre of tributary area.
- e. The minimum low opening elevation for a new building that is located adjacent to an overland flow path and has not been wet floodproofed according to the Building Protection Standards of this Ordinance, shall meet the following freeboard requirement:

- (1) At least 0.5 foot above the BFE where the tributary area is 20 acres or less; or
  - (2) At least 1.0 foot above the BFE where the tributary area is between 20 and 100 acres; or
  - (3) At least 2.0 feet above the BFE where the tributary area is 100 acres or more.
- f. Modification of an existing overland flow path shall not result in increased flood heights on upstream adjoining properties or flood damage at the development site.

### 3. Drain Tiles

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to all regulated development, except regulated development authorized by a General Permit.

- a. Drain tiles disturbed during regulated development shall be reconnected by those responsible for their disturbance, unless the development plans specify abandonment of the drain tiles.
- b. All abandoned drain tiles within disturbed areas shall be removed in their entirety.
- c. Drain tiles within the disturbed area of a development site shall be replaced, bypassed around the development site or intercepted and connected to the stormwater management system for the development site. The size of the replaced or bypassed drain tile shall be equivalent to the existing drain tile.
- d. Existing drain tiles shall be protected from an adverse tailwater condition due to a new stormwater management system.
- e. Observation wells, or similar structures for inspecting and maintaining drain tiles, shall be installed at any point where an existing drain tile flows into or out of a development site. Maintenance access shall be provided to the observation well through a deed or plat restriction for regulated development disturbing 5 acres or more.
- f. A drain tile survey shall locate existing farm and storm drain tiles by means of slit trenching or other appropriate methods performed by an experienced subsurface drainage consultant. A drain tile survey shall include the following as applicable on a topographic map:
  - (1) The location of each slit trench identified to correspond with the tile investigation report and field staked at no less than 50 foot intervals;
  - (2) The location of each drain tile with a flow direction arrow, tile size and any connection to adjoining properties;
  - (3) A summary of the tile investigation report showing trench identification number, tile size, material and quality, percentage of the tile filled with water, percentage of restrictions caused by sediment; depth of ground cover and tile system classification; and
  - (4) The name, address and phone number of the person or consultant responsible for the drain tile survey.

- g. The Enforcement Officer may accept a drain tile map prepared by a drainage district or other reliable source in lieu of a drain tile survey. The drain tile survey requirement shall be waived for any Minor Development and the Enforcement Officer may waive the drain tile survey requirement for an Intermediate Development, Major Development, Public Road Development or Mining Development, provided the applicant submits a narrative and supporting evidence indicating to the satisfaction of the Enforcement Officer that drain tiles are not likely to be present within the development site. This evidence may consist of:
- (1) Soil maps;
  - (2) Historic aerial photographs;
  - (3) Historic topographic maps; and
  - (4) Wetland maps.
4. Storm Sewers

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to all regulated development, except regulated development authorized by a General Permit.

- a. Storm sewers shall not connect to sanitary sewers.
- b. Energy dissipation devices shall be provided at the outlets of all storm sewer systems to minimize erosion.
- c. New storm sewers serving new regulated development shall be designed by a licensed professional engineer for the 10 year critical duration storm as a minimum. The storm sewer design shall be based on full flow conditions, unless detailed calculations demonstrate the hydraulic grade line would not exceed the ground elevation. The Enforcement Officer may waive this requirement when storm sewers are not necessary for the development site to meet the requirements of this Ordinance.
- d. New inlets shall be designed to prevent ponding in streets from exceeding 0.5 foot during the 100 year storm and to prevent ponding in parking lots from exceeding 1.0 foot during the 100 year storm. Ponding depth shall be measured at the inlet. The Enforcement Officer may waive this requirement when storm sewers are not necessary for the development site to meet the requirements of this Ordinance.
- e. The minimum full flow velocity for new storm sewers serving new regulated development shall be 2.5 feet per second. The maximum full flow velocity for new storm sewers serving new regulated development shall be 8.0 feet per second. The Enforcement Officer may waive this requirement when storm sewers are not necessary for the development site to meet the requirements of this Ordinance.
- f. The minimum storm sewer size shall be 12 inches for storm sewers serving more than one property. The Enforcement Officer may waive this requirement when storm sewers are not necessary for the development site to meet the requirements of this Ordinance.
- g. New storm sewers serving more than one property shall be located in a deed or plat restriction of sufficient size to maintain and re-construct the storm sewer. The Enforcement Officer may waive the requirement for a deed or plat restriction



where an increase in flood heights on upstream adjoining properties is unlikely to result from the lack of maintenance of the storm sewer.

5. Runoff Rate Reduction

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to all regulated development required to provide stormwater storage.

a. Stormwater Storage Requirements

(1) Stormwater storage shall be required for a regulated development that creates 20,000 square feet or more new impervious area, unless the conditions of i, ii, or iii are met:

i. 1.0 acre or less of new impervious area is created; and

(a) The total impervious area including the proposed development would not exceed 10% of the contiguous property; and

(b) The applicant demonstrates to the satisfaction of the Enforcement Officer that there is adequate downstream stormwater capacity and the development shall not result in flood damage; or

ii. The total impervious area including the proposed development would not exceed 5% of the contiguous property; and

(a) An agricultural conservation easement or other conservation easement is recorded over sufficient undeveloped area that the total impervious area may not exceed 5% of the contiguous property. The easement shall be granted to McHenry County or a Certified Community. The easement may be temporary, but the term of the easement shall run until the stormwater storage waiver is no longer necessary, for reasons such as the removal of new impervious area or the installation of a stormwater management facility; and

(b) The applicant demonstrates to the satisfaction of the Enforcement Officer that there is adequate downstream stormwater capacity and the development shall not result in flood damage; or

iii. The regulated development is a Public Road Development and less than 1.5 acres of new impervious area is created.

(2) Linear impervious areas, such as a widened road, driveways and public recreational trails, which are less than 12.4 feet wide (1.5 acres per lineal mile) may be excluded when calculating the new impervious area to determine whether stormwater storage is required. This exclusion shall apply only when determining whether stormwater storage is required and not to the design of a stormwater management facility in cases where stormwater storage is required.

- b. Allowable Release Rates
- (1) The allowable release rates for a development site shall be calculated based on the hydrologically disturbed area of the regulated development, except that the allowable release rate for a Public Road Development involving an existing linear impervious surface shall be based on the new impervious area, rather than the hydrologically disturbed area.
  - (2) Release rates for a detention facility shall not exceed the lesser of the following:
    - i. 0.04 cubic feet per second per acre for the 2 year, 24 hour storm and 0.15 cubic feet per second per acre for the 100 year, 24 hour storm;
    - ii. More restrictive release for the 2 year and 100 year storm rates, if adopted by the MCSC or a Certified Community; or
    - iii. The existing conditions peak runoff rate.
  - (3) The allowable release rates for a detention facility shall be utilized for the design of an infiltration facility, unless the Enforcement Officer approves a design based on the infiltration rate of the underlying soil, as determined by a qualified professional. In such a case, the Enforcement Officer may add special conditions to the approval, such as a performance guarantee or a design factor of safety.
- c. Runoff Rates and Storage Volume
- (1) The required stormwater storage volume may be determined by:
    - i. The Detention Volume vs. Percent Impervious Chart in Appendix 6 for stormwater management facilities with a tributary area less than 10 acres, provided that the allowable release rates are 0.04 cubic feet per second per acre for the 2 year storm and 0.15 cubic feet per second per acre for the 100 year storm; or
    - ii. A licensed professional engineer using a model or technique identified in Appendix 5 of this Ordinance or otherwise approved by MCSC or IDNR/OWR.
  - (2) Runoff calculations for all offsite tributary areas may be based on either the anticipated future land use conditions or existing land use conditions. Anticipated future land use conditions shall be based on future land use and existing offsite stormwater management facilities. Existing land use conditions shall be based on existing land use and existing offsite stormwater management facilities.
  - (3) Compensatory storage for flood storage volume lost in a depressional storage area may either be:
    - i. Added to the required 2 year stormwater storage volume; or
    - ii. Replaced as a new depressional storage area.
  - (4) The Enforcement Officer may waive the requirement to add compensatory storage volume to the required detention storage volume if accessing the compensatory storage volume would:

- i. Require a control structure with a diameter smaller than the minimum diameter; or
  - ii. Result in a dewatering time that exceeds the maximum dewatering time.
- (5) Any regulated development that results in impervious area exceeding the design parameters of an existing detention or infiltration facility shall either expand the existing stormwater management facility, or include a control measure designed to reduce the additional volume of runoff from the regulated development, such as a rain garden or the replacement of existing impervious pavement with permeable pavement.
- d. Stormwater Management Facilities
- (1) Basic Requirements

The following requirements apply to the stormwater management facilities for all regulated development required to meet the Stormwater Storage Requirements of this Ordinance.

- i. Offsite runoff may be bypassed around a proposed stormwater management facility.
- ii. Stormwater management facilities shall be sized for the runoff from any public road improvements required as part of the regulated development.
- iii. Stormwater management facilities shall be designed to dewater within 72 hours following the end of the design storm.
- iv. A stable overflow shall be provided for each stormwater management facility. The overflow shall be capable of passing the unattenuated inflow from the 100 year critical duration storm from the entire tributary area without increasing flood heights on upstream adjoining properties or resulting in flood damage at the development site, based on runoff calculations meeting the Runoff Rates and Storage Volume Standards of this Ordinance. The overflow elevation shall be at or above the 100 year design high water elevation.
- v. A minimum freeboard of one 1 foot shall be provided above the design high water surface elevation of the 100 year flow through the overflow.
- vi. Stormwater management facilities serving more than one property shall be located in a deed or plat restriction with access to the stormwater management facility from the public right-of-way. The Enforcement Officer may waive the requirement for a deed or plat restriction where an increase in flood heights on upstream properties is unlikely to result from the lack of maintenance of the stormwater management facility.
- vii. The applicant shall notify adjoining downstream property owner(s) via certified mail return receipt of any proposed stormwater management facility outlet location and design. Notification shall occur prior to preliminary Planned Unit Development or Plat of

- Subdivision or shall be provided at the first permit application submittal, whichever is earlier.
- viii. The applicant shall notify any drainage district within the watershed where the development site is located via certified mail return receipt of any proposed stormwater management facility outlet location and design. Notification shall occur prior to preliminary Planned Unit Development or Plat of Subdivision or shall be provided at the first permit application submittal, whichever is earlier.
  - ix. Concentrated discharges from a development site shall be connected to an existing drain tile, where possible; however, the primary outlet from the development site should be a surface discharge and the drain tile connection shall be designed as a secondary, low flow outlet. When no reasonable alternative exists, the Enforcement Officer may approve the connection of a concentrated discharge from a development site to an existing drain tile as the primary outlet, provided the existing drain tile has adequate hydraulic capacity and structural integrity and is located within a recorded deed or plat restriction to the point it discharges into a channel. The deed or plat restriction must be approved by the Enforcement Officer prior to issuance of a stormwater management permit.
  - x. Stormwater management facility discharges onto adjoining properties shall be designed to release as sheet flow using a level spreader, or other energy dissipation device, approved by the Enforcement Officer.
  - xi. An off-site outfall shall be constructed to convey the release from a stormwater management facility if an analysis demonstrates that adequate downstream stormwater capacity cannot be achieved or if land damage to an agricultural swale may occur.
    - (a) The off-site outfall shall be evaluated to the nearest open channel. If the outfall is located within a publicly owned storm drainage system, it shall be evaluated to the downstream location directed by the Enforcement Officer.
    - (b) Stormwater management facility discharges to downstream agricultural surface drainage systems with no base flow must be conveyed 100% underground within forty-eight (48) hours after a storm event up to and including the 100 year, 24 hour storm event.
    - (c) Off-site outfalls shall be located within a public right-of-way or deed or plat restricted area and marked on the as-built plans. The deed or plat restriction language shall clearly define the individual or entity responsible for perpetual maintenance.
    - (d) If an off-site outfall is required to be constructed and the downstream property owner(s) refuse(s) to grant access across his or her property, and construction within a right-of-way or alternate route is not feasible or reasonable, the applicant shall provide the Enforcement Officer a two (2) year post-

development security for the engineer's estimate of probable construction cost for the off-site outfall plus a ten percent (10%) contingency. If the downstream property owner has not granted access for construction of the improvements within two (2) years following completion of the development, the Enforcement Officer shall release the security.

(2) Detention Facilities

In addition to other applicable Stormwater Management Facility Standards, the following requirements apply to detention facilities for all regulated development required to meet the Stormwater Storage Requirements of this Ordinance.

- i. Single pipe outlets shall have a minimum inside diameter of 12 inches. Control structures such as orifices, weirs, and perforated risers may be used to meet the allowable release rates. Outlet pipes and control structures shall be designed to minimize the need for maintenance and prevent tampering.
- ii. Control structures shall have a minimum diameter of 4 inches when a single pipe outlet or an orifice plate is used to restrict the outflow from a detention facility. If a smaller diameter is necessary to meet the allowable release rates, the control structure shall be designed to prevent clogging.
- iii. Detention facilities shall be designed with appropriate tailwater conditions, as approved by the Enforcement Officer.
- iv. Inlets to the detention facility shall be located as far from the outlet as possible. Paved low flow channels shall not be allowed between inlets and the outlet.
- v. The side slopes at the shoreline of wet bottom and wetland detention facilities (from at least 6 inches below to at least 6 inches above normal water level) shall be no steeper than 10:1 to prevent shoreline erosion due to wave action and fluctuating water levels. Above shoreline areas, or in dry detention facilities, the maximum side slope shall be 4:1.
- vi. Wet bottom detention facilities with a permanent pool depth greater than 3 feet shall include a safety shelf with a minimum 8 foot width that is no more than 1 foot below normal water level.

(3) Online Detention

In addition to other applicable Stormwater Management Facility Standards, the following requirements apply to online detention facilities for all regulated development required to meet the Stormwater Storage Requirements of this Ordinance.

- i. Online detention shall not be allowed on perennial streams.
- ii. Online detention shall not be allowed in HQAR.
- iii. Online detention shall not be allowed where the offsite to onsite tributary area ratio is greater than 10:1, except for regulated

development that provides a watershed benefit measure. Online detention shall not be allowed where the tributary area is greater than 640 acres, except for regulated development that provides a watershed benefit.

- iv. The release rates shall be 0.04 cubic feet per second per acre of the total tributary area at the elevation created by impoundment of the required 2 year stormwater storage volume, and 0.15 cubic feet per second per acre of the total tributary area at the elevation created by impoundment of the required 100 year stormwater storage volume. The release rate and required stormwater storage volume shall be calculated using the 24 hour storm. These standards may be modified by the Enforcement Officer to prevent an increase in the existing condition peak discharge rate or to prevent frequent overflow from the online detention facility.
  - v. Compensatory storage shall be provided for the volume of flood storage lost due to fill and stormwater storage within a flood hazard area. The compensatory storage volume shall be in addition to the required detention volume.
  - vi. Meet IDNR/OWR and USACE requirements for modifications to a channel to accommodate online detention, if applicable.
  - vii. An impoundment of a channel shall be designed to allow the migration and movement of present or potentially present indigenous species that require access upstream and downstream of the impoundment as part of their life cycle.
- (4) Detention Within WOTUS and IWMC

In addition to other applicable Stormwater Management Facility Standards, the following requirements apply to detention facilities located within WOTUS or IWMC.

- i. Detention within WOTUS shall meet the requirements of the USACE, if applicable.
- ii. Detention within IWMC shall require IWMC mitigation, unless the detention facility is vegetated according to the standards of the *Native Plant Guide for Streams and Stormwater Facilities in Northeastern Illinois* (NRCS, et al.) and the pre-development IWMC is comprised of:
  - (a) Farmed wetlands;
  - (b) Non-farmed wetlands that are not HQAR covered by at least 85% of one or more of the following species:
    - (i) Reed canary grass (*Phalaris arundinacea*)
    - (ii) Purple loosestrife (*Lythrum salicaria*)
    - (iii) Common reed (*Phragmites australis*)
    - (iv) Buckthorn (*Rhamnus spp.*)
  - (c) Non-farmed wetlands that are not HQAR with a FQI of 7 or less; or

(d) Open water that is not HQAR.

(5) Infiltration Facilities

In addition to other applicable Stormwater Management Facility Standards, the following requirements apply to infiltration facilities for all regulated development required to meet the Stormwater Storage Requirements of this Ordinance.

- i. The underlying soils shall have an infiltration rate of at least 0.5 inch per hour. The development site specific infiltration rate shall be determined by a qualified professional and approved by the Enforcement Officer.
- ii. The bottom of the infiltration facility shall be at least 4 feet above the seasonal high groundwater elevation. The development site seasonal high groundwater elevation shall be determined by a qualified professional and approved by the Enforcement Officer.
- iii. The design high water level of the facility shall be at least 200 feet from water supply wells and onsite waste disposal systems.
- iv. The design high water level of the facility shall be at least 10 feet from any building foundation.
- v. Pre-treatment shall be provided to prevent obstruction of the infiltration facility.
- vi. Runoff from the following areas shall not be routed to an infiltration facility:
  - (a) Areas subject to frequent winter deicing; and
  - (b) Other areas where precipitation will be exposed to potential contaminants.
- vii. The maximum side slope shall be 4:1.

6. Runoff Volume Reduction Hierarchy

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to Major Development, Public Road Development and Mining Development disturbing 1 acre or more.

- a. The applicant shall choose one or more strategy from the following hierarchy to minimize the increase in runoff volume from the development site:
  - (1) Preservation of natural features of the development site (e.g. natural storage and infiltration characteristics, floodplains, wetlands, prairies and woodlands);
  - (2) Preservation of the existing natural streams, channels and drainageways;
  - (3) Minimization of impervious surfaces created at the development site (e.g. narrowing road width, minimizing driveway length and width, clustering homes and shared driveways);
  - (4) Conveyance of stormwater in open vegetated channels;
  - (5) Natural landscaping as an alternative to turf grass;

- (6) Structural measures that provide water quality and quantity control;
- (7) Structural measures that provide only quantity control.

#### 7. Water Quality Protection

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to all regulated development, except regulated development authorized by a General Permit.

- a. Water quality treatment shall be provided for stormwater runoff from increased impervious areas.
  - (1) All sites shall provide water quality treatment using existing or proposed best management practices or green infrastructure methods specifically designed for water quality treatment.
  - (2) On highly impervious development sites, such as multi-family residential and non-residential developments, water quality treatment devices shall be designed to remove both floatable and settleable pollutants from as much of the stormwater runoff from increased impervious areas as possible. This requirement may be met by directing as much stormwater runoff from increased impervious areas as possible through a hydrodynamic separator, or into a catch basin fitted with a hooded outlet cover. Alternate treatment methods providing a similar or higher level of water quality treatment may be approved by the Enforcement Officer.
  - (3) In Public Road Developments, the stormwater management system shall be designed to direct as much stormwater runoff from increased impervious areas as possible through a vegetated swale, across a vegetated filter strip, or into a catch basin before being discharged from the development site. Alternate treatment methods providing a similar or higher level of water quality treatment may be approved by the Enforcement Officer.
- b. Appropriate pre-treatment shall be provided for stormwater runoff directed to new or existing Class V injection well.
- c. Appropriate pre-treatment shall be provided for stormwater runoff directed to infiltration based practices in areas designated as High or Moderately High Potential for Aquifer Recharge/Contamination on the McHenry County Sensitive Aquifer Recharge Areas Map.

#### 8. Watershed Specific Requirements

In addition to other applicable Runoff Control Performance Standards, the following requirements apply to Watershed Specific Area Development, except regulated development authorized by a General Permit.

- a. Crystal Lake Watershed Specific Requirements
  - (1) The boundary of the Crystal Lake Watershed is generally depicted in Appendix 9. Any area of land along the watershed boundary that can be shown to be outside of the Crystal Lake Watershed shall not be subject to the Crystal Lake Watershed Specific Requirements.
  - (2) Any regulated development that hydrologically disturbs more than 20,000 square feet of land within the Crystal Lake Watershed shall comply with the



following requirements in addition to the other applicable requirements of this Ordinance:

- i. The regulated development shall incorporate runoff volume reduction practices to infiltrate, evaporate, or transpire at least 95% of the annual stormwater runoff volume from hydrologically disturbed areas.
  - ii. Perform an evaluation of the development site and field testing practices in accordance with Chapter 2.1 of the City of Crystal Lake - Crystal Lake Watershed Stormwater Management Design Manual.
  - iii. Design the development site in accordance with sections 3.4-3.7 and section 5.1 of the City of Crystal Lake - Crystal Lake Watershed Stormwater Management Design Manual (<http://www.crystallake.org/home/showdocument?id=15263>).
- b. McHenry County Watershed Plans are listed in Appendix 10 for reference only. Recommendations from these plans may be the basis for additional Watershed Specific Requirements upon amendment of this Ordinance by the McHenry County Board.

#### C. Flood Hazard Areas

1. A development is located in a flood hazard area if any of the following criteria are met:
  - a. If any portion of the development site is within a mapped Flood of Record area on the USGS-Hydrologic Investigation Atlas Flood of Record Map;
  - b. If any portion of the development site is within a closed contour of a depressional storage area;
  - c. If any portion of the development site is within a channel that has a tributary area greater than 100 acres;
  - d. If any portion of the development site is within a mapped Zone AE, A, AH or AO floodplain on the FEMA FIRM;
  - e. If any portion of the development site is outside a mapped Zone AE, but is below the BFE; or
  - f. If any portion of the development site is below the BFE determined by the simplified methods for estimating the BFE described in the FEMA publication *Managing Floodplain Development in Approximate Zone A Areas*.
2. Determining the BFE and Limits of a Flood Prone Area
  - a. The BFE shall be determined utilizing one of the following methodologies:
    - (1) Adding 3 feet to the Flood of Record indicated on the USGS-Hydrologic Investigation Atlas;
    - (2) Adding 0.5 foot to the surface overflow of a depressional storage area. Where a smaller depressional storage area exists within a larger depressional storage area, the BFE shall be based on the highest surface overflow; or

- (3) The BFE may be determined by a licensed professional engineer using a model or technique identified in Appendix 5 of this Ordinance or otherwise approved by MCSC or IDNR/OWR.
  - b. The limits of a flood prone area shall be the projection of the BFE onto the development site topography.
3. Determining the BFE and Limits of a Zone AE Floodplain
  - a. The BFE shall be determined utilizing the following hierarchy as it applies to the development site:
    - (1) The 1 Percent Annual Chance elevation from the Summary of Stillwater Elevations table in the FIS (for non-riverine flood sources);
    - (2) The Regulatory 1 Percent Annual Chance Flood Water Surface Elevation from the Floodway Data Table in the FIS (for a development site located at a cross-section);
    - (3) The 1 Percent Annual Chance Flood Elevation at the development site scaled onto the Flood Profile in the FIS; or
    - (4) The BFE may be determined by a licensed professional engineer using a model or technique identified in Appendix 5 of this Ordinance or otherwise approved by MCSC or IDNR/OWR.
  - b. The limits of a Zone AE floodplain shall be the projection of the BFE onto the development site topography. The Building Protection Standards for Flood Hazard Areas of this Ordinance apply to a building within a mapped Zone AE floodplain until a LOMC is obtained from FEMA.
4. Determining the BFE and Limits of a Zone A Floodplain
  - a. The BFE shall be determined utilizing one of the following methodologies:
    - (1) For regulated developments less than 50 lots and 5 acres, the Enforcement Officer may approve the use of the simplified methods for estimating the BFE described in the FEMA publication *Managing Floodplain Development in Approximate Zone A Areas*; or
    - (2) The BFE shall be determined by a licensed professional engineer using a model or technique identified in Appendix 5 or otherwise approved by MCSC or IDNR/OWR.
  - b. The limits of a Zone A floodplain shall be the projection of the BFE onto the development site topography. The Building Protection Standards for Flood Hazard Areas of this Ordinance apply to a building within a mapped Zone A floodplain until a LOMC is obtained from FEMA.
5. Determining the BFE and Limits of a Zone AH Floodplain
  - a. The BFE shall be determined utilizing one of the following methodologies:
    - (1) The elevation noted on the FIRM; or
    - (2) The BFE may be determined by a licensed professional engineer using a model or technique identified in Appendix 5 of this Ordinance or otherwise approved by MCSC or IDNR/OWR.

- b. The limits of a Zone AH floodplain shall be the projection of the BFE onto the development site topography. The Building Protection Standards for Flood Hazard Areas of this Ordinance apply to a building within a mapped Zone AH floodplain until a LOMC is obtained from FEMA.
6. Determining the BFE and Limits of a Zone AO Floodplain
    - a. The BFE shall be determined utilizing one of the following methodologies:
      - (1) The depth noted on the FIRM plus the highest adjacent grade;
      - (2) At least 2 feet above the highest adjacent grade if no depth is noted on the FIRM; or
      - (3) The BFE may be determined by a licensed professional engineer using a model or technique identified in Appendix 5 of this Ordinance or otherwise approved by MCSC or IDNR/OWR.
    - b. The limits of a Zone AO floodplain shall be the projection of the BFE onto the development site topography. The Building Protection Standards for Flood Hazard Areas of this Ordinance apply to a building within a mapped Zone AO floodplain until a LOMC is obtained from FEMA.
  7. Determining the Limits of Floodways
    - a. The designated floodway boundary shall be as depicted on the FIRM. The non-designated floodway boundary shall match the floodplain boundary as depicted on the FIRM. The location of the floodway boundary shall be scaled onto the development plan using references common to both the FIRM and the development plan. IDNR/OWR shall determine the exact location of the floodway boundary wherever an interpretation is needed, including non-designated floodways not depicted on the FIRM.
    - b. Any area of land that can be shown to be higher than the BFE and is located within the boundary of a designated or non-designated floodway is considered a floodway until a LOMR has been obtained from FEMA to revise the floodway boundary.
  8. Basic Requirements

The following requirements apply to all regulated development in a flood hazard area, except regulated development authorized by a General Permit, and where these requirements are modified in the Public Flood Control Project Standards of this Ordinance.

    - a. Regulated development within a flood hazard area, including both permanent and temporary measures, shall meet the following criteria:
      - (1) Regulated development shall not result in increased flood damage at the development site or upstream of the development site.
      - (2) Any water surface profile increase shall:
        - i. Be contained within the banks of the water body; or
        - ii. Be contained within the development site, property in which the applicant has an ownership interest, or a deed or plat restriction; or

- iii. Not exceed 0.1 foot upstream flood height increase for the base flood event, except as allowed by the Bridge and Culvert standards of this Ordinance.
    - (3) Any increase in average channel velocity shall:
      - i. Not exceed the scour velocity of the predominant soil type of the channel; or
      - ii. Provide stabilization measures to prevent increased scour and erosion.
  - b. Any regulated development involving a channel modification, fill, stream maintenance, or a levee, shall not decrease the flood carrying capacity of the flood hazard area.
  - c. All regulated development in a flood hazard area shall meet IDNR/OWR requirements for floodway construction, dam safety, and public bodies of water, if applicable.
  - d. A LOMC from FEMA shall be required, with concurrence from IDNR/OWR, for any regulated development that:
    - (1) Increases the water surface profile by 0.1 foot or more in a floodplain for the base flood event;
    - (2) Increases the water surface profile by more than 0.0 foot in a floodway for the base flood event;
    - (3) Revises the boundary of a floodplain for a future building by the placement of fill;
    - (4) Revises the boundary of a floodway; or
    - (5) Establishes the BFE for a regulated development equal to or exceeding 50 lots or 5 acres.
  - e. A CLOMR is required prior to issuance of a stormwater management permit when a regulated development within a floodplain would increase flood heights more than 0.1 foot, or when a regulated development within a floodway would increase flood heights more than 0.0 foot. Once a CLOMR has been issued by FEMA, with concurrence from IDNR/OWR, the Enforcement Officer may allow filling, the construction or reconstruction of bridges and culverts, and similar regulated development within the floodplain necessary to obtain the LOMR.
9. Additional Standards for Designated Floodways
- a. The only development in a designated floodway which will be allowed is an appropriate use, which will not cause a rise in the BFE, and which will not create a damaging or potentially damaging increase in flood heights or velocity or be a threat to public health and safety and welfare or impair the natural hydrologic and hydraulic functions of the floodway or channel, or permanently impair existing water quality or aquatic habitat. Construction impacts shall be minimized by appropriate mitigation methods as called for in this Ordinance. Only those appropriate uses listed in 17 Ill. Adm. Code Part 3708 will be allowed. The approved appropriate uses are as follows:

- (1) Flood control structures, dikes, dams and other public works or private improvements relating to the control of drainage, flooding, erosion or water quality or habitat for fish and wildlife.
- (2) Structures or facilities relating to the use of, or requiring access to, the water or shoreline, such as pumping and treatment facilities, and facilities and improvements related to recreational boating, commercial shipping and other functionally water dependent uses.
- (3) Storm and sanitary sewer relief outfalls.
- (4) Underground and overhead utilities.
- (5) Recreational facilities such as playing fields and trail systems, including any related fencing (at least 50% open when viewed from any one direction) built parallel to the direction of flood flows, and including open air pavilions and toilet facilities (4 stall maximum) that will not block flood flows nor reduce floodway storage.
- (6) Detached garages, storage sheds, or other non-habitable accessory buildings that will not block flood flows nor reduce floodway storage.
- (7) Bridges, culverts, roadways, sidewalks, railways, runways and taxiways and any modification thereto.
- (8) Parking lots built at or below existing grade where either:
  - i. The depth of flooding at the base flood event will not exceed 1.0 foot; or
  - ii. The depth of flooding can be greater than 1.0 foot for parking lots used for short-term outdoor recreational use facilities, provided the applicant agrees to restrict access during overbank flooding events and agrees to accept liability for all damage caused by vehicular access during all overbank flooding events.
- (9) Designated floodway regrading, without fill, to create a positive non-erosive slope toward a channel.
- (10) Floodproofing activities to protect previously existing lawful buildings including the construction of water tight window wells, elevating buildings, or construction of floodwalls around residential, commercial or industrial principal buildings where the outside toe of the floodwall shall be no more than 10-feet away from the exterior wall of the existing building, and which are not considered substantial improvements to the building.
- (11) The replacement, reconstruction, or repair of a damaged building, provided that the outside dimensions are not increased and provided that the Building Protection Standards are met if the replacement, reconstruction, or repair is a substantial improvement or if the building is considered substantially damaged.
- (12) Modifications to an existing building that would not increase the enclosed floor area of the building below the BFE, and which will not block flood flows, including but not limited to, fireplaces, bay windows, decks, patios and second story additions. Substantial improvements shall meet the Building Protection Standards.

- b. Appropriate uses do not include the construction or placement of any new buildings, fill, building additions, buildings on stilts, excavation or channel modifications done to accommodate otherwise non-appropriate uses in the floodway, fencing (including landscaping or planting designed to act as a fence) and storage of materials except as specifically defined above as an appropriate use.
- c. Development of an appropriate use will be considered permissible provided that the development meets the following criteria:
  - (1) All effective designated floodway conveyance lost due to the development will be replaced for all flood events up to and including the base flood event. In calculating effective designated floodway conveyance, the following factors shall be taken into consideration:
    - i.  $K = (1.486/n)(AR^{2/3})$   
where “n” is Manning’s roughness factor, “A” is the effective flow area of the cross-section, and “R” is the ratio of the area to the wetted perimeter.
    - ii. The same Manning’s “n” value shall be used for both existing and proposed conditions unless a recorded maintenance agreement with a federal, state, or local unit of government can assure the proposed conditions will be maintained or the land cover is changing from a vegetative to a non-vegetative land cover.
    - iii. Transition sections shall be provided and used in calculations of effective designated floodway conveyance. The following expansion and contraction ratios shall be used (unless alternate ratios are approved by IDNR/OWR) for excavations in the designated floodway, between cross-sections with rapid expansions and contractions, and when matching the designated floodway boundary on an adjoining property:
      - (a) Water will expand no faster than at a rate of 1 horizontal foot for every 4 feet of the flooded stream’s length.
      - (b) Water will contract no faster than at a rate of 1 horizontal foot for every 1 foot of the flooded stream’s length.
      - (c) Water will not expand or contract faster than 1 vertical foot for every 10 feet of flooded stream’s length.
      - (d) All cross-sections used in the calculations shall be located perpendicular to the flood flows.
      - (e) In the design of excavations in the designated floodway, erosion or scour protection shall be provided on land upstream and downstream of proposed transition sections.

#### 10. Public Health Protection Standards

The following requirements apply to all regulated development in a flood hazard area, except regulated development authorized by a General Permit.

<b>TABLE 4 Minimum Elevation Standards for Public Health Protection</b>							
<b>Type of Flood Hazard Area</b>	<b>Storage of Materials Outside a Building C.10.a</b>	<b>Water Supply Systems C.10.b</b>	<b>Sanitary Sewers C.10.b</b>	<b>Wells C.10.c</b>	<b>New Onsite Waste Disposal Systems C.10.d</b>	<b>Replacement Onsite Waste Disposal Systems C.10.d</b>	<b>Wastewater Treatment Plants C.10.e</b>
<b>Flood Prone Area</b>	Waived	Waived	Waived	Waived	Waived	Waived	FPE
<b>Floodplain: Flood Fringe and Floodway</b>	BFE	FPE	FPE	FPE	N/A	Waived	FPE

- a. No regulated development in a floodplain shall include the outside storage of chemicals, explosives, buoyant materials, fertilizers, flammable liquids, pollutants, or other hazardous or toxic materials below the BFE.
- b. New and replacement water supply systems and sanitary sewer lines in a floodplain shall consist of watertight construction below the FPE.
- c. The wellhead for new wells in a floodplain shall be elevated to the FPE to prevent floodwaters from entering the well. The Enforcement Officer may provide an approximate BFE for the purpose of well protection.
- d. New onsite waste disposal systems, such as septic systems, shall not be installed in the floodplain. Replacement onsite waste disposal systems may be installed in the flood hazard area below the BFE if no reasonable alternative exists, as determined by the Enforcement Officer, and provided that the system has a watertight holding tank and all mechanical and electrical components and above ground openings of the system below the BFE are watertight.
- e. Wastewater treatment plants in a flood hazard area shall be equipped with watertight openings below the FPE. These facilities shall be located to avoid impairment to the facility or contamination of floodwaters during the base flood.

11. Building Protection Standards for Flood Hazard Areas

The following requirements apply to: all new buildings, building additions, and substantial improvements located within a floodplain; and to all new buildings and building additions in a flood prone area after December 1, 2014 that increase total enclosed area below the BFE by more than 600 square feet. These requirements apply to a building within a mapped floodplain until a LOMC is obtained from FEMA.

a. Basic Requirements

- (1) A building may be constructed in a flood hazard area, provided that it meets the FPE and lowest floor elevation requirements listed in Table 5 by utilizing an acceptable protection measure listed in Table 6. Lowest floor elevation requirements do not apply to buildings utilizing dry floodproofing as the flood protection measure.

*Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms. Refer to Appendix 1 for permitting flowcharts.*

- (2) All building protection measures shall meet the Standards for Flood Protection Measures in this Ordinance.
- (3) An elevation certificate or a floodproofing certificate shall be required for any building, building addition, or substantial improvements to a building within a floodplain. The elevation certificate or a floodproofing certificate shall be prepared on forms published by FEMA, except for small accessory buildings, the Enforcement Officer may allow alternate documentation that the constructed building complies with the Building Protection Standards for Flood Hazard Areas of this Ordinance.

Type of Building	Type of Flood Hazard Area	Flood Protection Elevation (feet above BFE)	Lowest Floor Elevation (feet above BFE) <sup>6</sup>
<b>Residential</b>	Flood Prone Area	2	2
	Floodplain	2	2
<b>Attached Garage</b>	Flood Prone Area	0.5	0.5
	Floodplain	0.5	0.5
<b>Accessory</b>	Flood Prone Area	2	<BFE
	Floodplain	2	0.5
<b>Small Accessory</b>	Flood Prone Area	0.5	<BFE
	Floodplain	0.5	<BFE
<b>Non-Residential</b>	Flood Prone Area	2	2
	Floodplain	2	2
<b>Agricultural</b>	Flood Prone Area	2	<BFE
	Floodplain	2	<BFE

6. This requirement does not apply to dry floodproofed buildings.

Type of Building	Type of Flood Hazard Area	Construction on Permanent Fill C.11.b(1)	Elevation on Crawl Space, Stilts, Piles, Walls, etc. C.11.b(2)	Dry Floodproofing C.11.b(3)	Wet Floodproofing C.11.b(4)
<b>Residential</b>	Flood Prone Area	YES	YES	YES	NO
	Floodplain	YES	YES	NO	NO
<b>Attached Garage</b>	Flood Prone Area	YES	YES	YES	NO
	Floodplain	YES	YES	NO	NO
<b>Accessory</b>	Flood Prone Area	YES	YES	YES	YES
	Floodplain	YES	YES	YES	NO
<b>Small Accessory</b>	Flood Prone Area	YES	YES	YES	YES
	Floodplain	YES	YES	YES	YES
<b>Non-Residential</b>	Flood Prone Area	YES	YES	YES	NO
	Floodplain	YES	YES	YES	NO
<b>Agricultural</b>	Flood Prone Area	YES	YES	YES	YES
	Floodplain	YES	YES	YES	YES

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.  
 Refer to Appendix 1 for permitting flowcharts.



## b. Standards for flood protection measures:

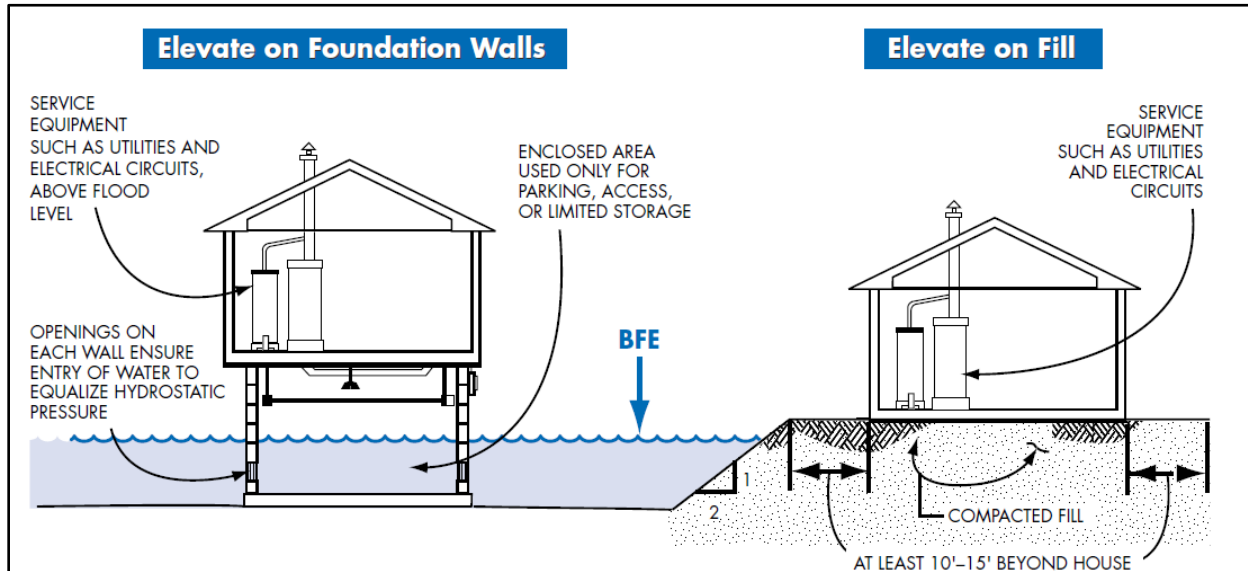
## (1) Elevation on permanent fill

A building elevated on fill shall meet the following criteria:

- i. The lowest floor (including basement) shall be at or above the lowest floor elevation shown in Table 5, based on the type of building and the type of flood hazard area;
- ii. Fill shall be placed following the FEMA guidelines for ensuring that buildings placed on fill (FEMA Technical Bulletin 10-01, or current guidelines) are reasonably safe from flooding, except where the requirements of this Ordinance exceed FEMA guidelines;
- iii. All building components shall be constructed of flood damage-resistant materials up to the FPE shown in Table 5, based on the type of building and the type of flood hazard area;
- iv. Manufactured homes, recreational vehicles or travel trailers installed on a site for more than 180 consecutive days shall be elevated to or above the FPE; and shall be anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code Part 870; and recreational vehicles or travel trailers shall be required to meet the elevation and anchoring requirements above unless:
  - (a) They are on site for fewer than 180 consecutive days; and,
  - (b) They are fully licensed and ready for highway use. A recreational vehicle or travel trailer is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utility and service devices, and has no permanently attached additions.

FIGURE 1

**How to Elevate Your Floodplain Building**  
(IDNR *Floodplain Management in Illinois Quick Guide*, 2001)



(2) Elevation on a crawl space, stilts, piles, walls, etc.

A building elevated on a crawl space, stilts, piles, etc., shall meet the following criteria:

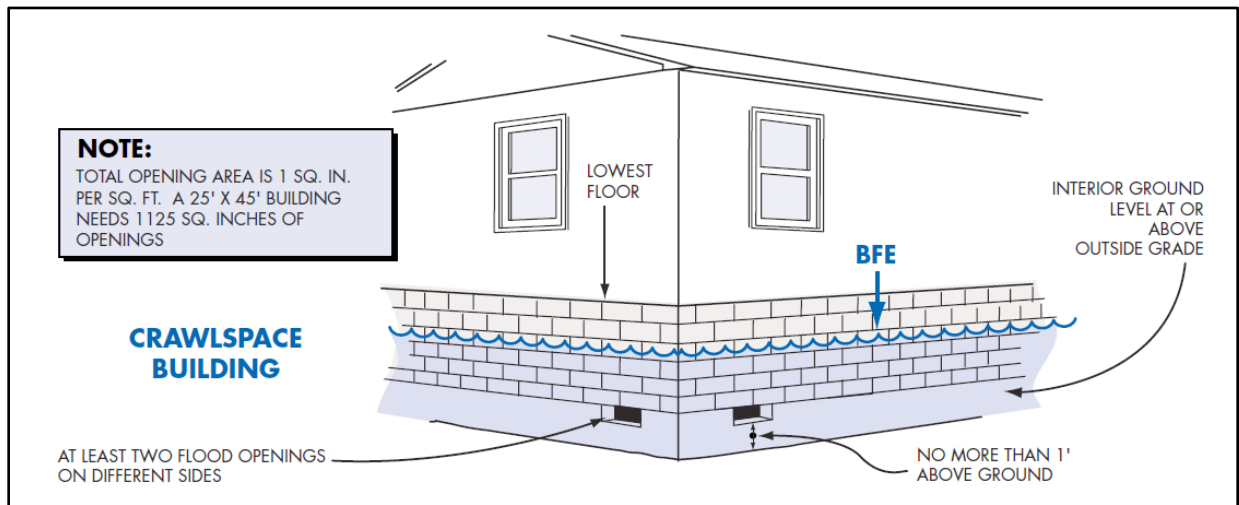
- i. The lowest floor (including basement) shall be at or above the lowest floor elevation shown in Table 5, based on the type of building and the type of flood hazard area;
- ii. The lowest inside grade shall not be below the existing and proposed lowest adjacent grade;
- iii. The building or improvements may be elevated on stem walls or may be elevated on a crawl space, stilts, piles, walls, or other foundation that is permanently open to floodwaters and not subject to damage by hydrostatic pressures of the base flood.
- iv. The permanent openings shall meet all of the following criteria:
  - (a) The bottom of the permanent openings shall be no more than 1 foot above the lowest adjacent grade;
  - (b) The total net area shall be provided below the BFE and consist of a minimum of 2 openings for each enclosed area with each opening of an enclosed area on a different exterior wall;
  - (c) Any louvers, screens, or other opening covers shall not block or impede the automatic flow of floodwaters into and out of the enclosed area; and

- (d) The openings shall have a total net area of not less than 1 square inch for every 1 square foot of enclosed area subject to flooding below the BFE, unless the building is equipped with engineered openings meeting the FEMA guidelines for openings in foundation walls and walls of enclosures (FEMA Technical Bulletin 1-08, or current guidelines), except where the requirements of this Ordinance exceed FEMA guidelines;

**FIGURE 2**

**Enclosures Below the BFE**

(IDNR *Floodplain Management in Illinois Quick Guide*, 2001)



- v. The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice and floating debris;
- vi. All building components below the FPE shown in Table 5 shall be constructed of flood damage-resistant materials;
- vii. All electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPE shown in Table 5;
- viii. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPE shown in Table 5;
- ix. The areas below the FPE shown in Table 5 may only be used for the parking of vehicles, building access or storage in an area other than a basement;
- x. All interior storage within a building in the floodplain shall be elevated at least 0.5 feet above the BFE;

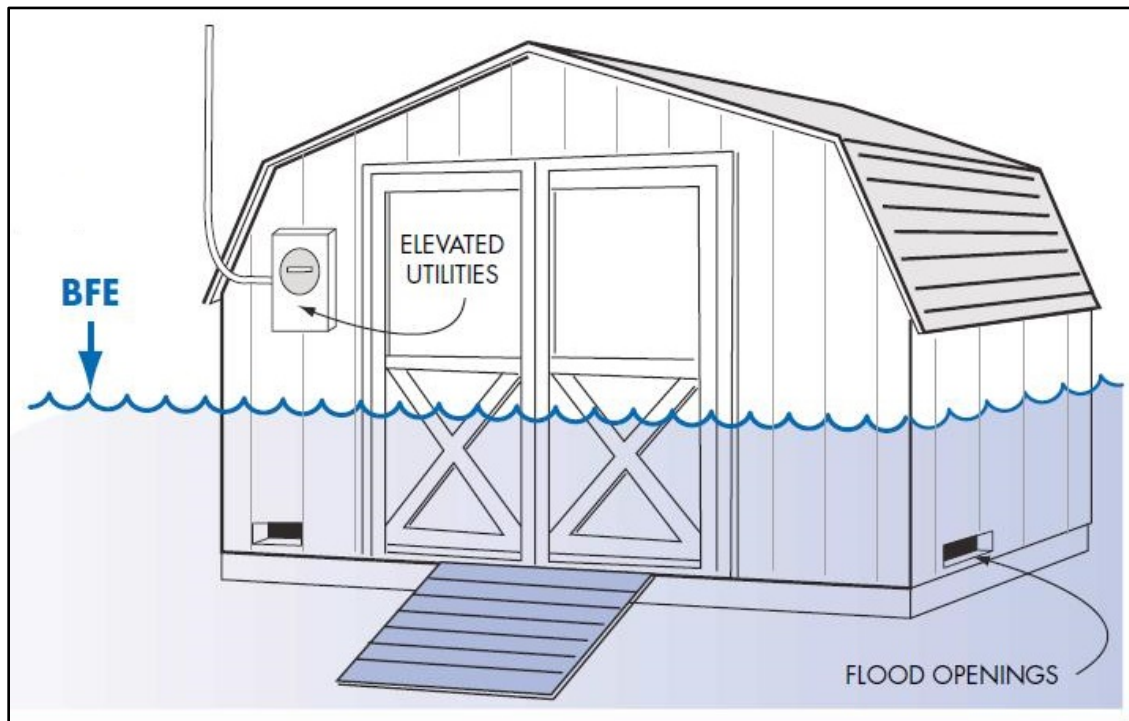
- xi. Manufactured homes, recreational vehicles or travel trailers installed on a site for more than 180 consecutive days shall be elevated to or above the FPE; and shall be anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code Part 870; and
  - xii. Recreational vehicles or travel trailers shall be required to meet the elevation and anchoring requirements above unless:
    - (a) They are on site for fewer than 180 consecutive days; and,
    - (b) They are fully licensed and ready for highway use. A recreational vehicle or travel trailer is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utility and service devices, and has no permanently attached additions.
- (3) Dry floodproofing
- A building that is dry floodproofed shall meet the following criteria:
- i. Dry floodproofing shall be provided to the FPE shown in Table 5.
  - ii. Dry floodproofing shall follow current FEMA guidelines, except where the requirements of this Ordinance exceed FEMA guidelines; and
- (4) Wet floodproofing
- A building that is wet floodproofed shall meet the following criteria:
- i. The building shall not be used for human habitation;
  - ii. All building components below the FPE shown in Table 5 shall be constructed with flood damage-resistant materials;
  - iii. The building shall be anchored to prevent flotation, collapse, or lateral movement;
  - iv. All electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the FPE shown in Table 5;
  - v. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the FPE shown in Table 5; and
  - vi. The permanent openings shall meet all of the following criteria:
    - (a) The bottom of the permanent openings shall be no more than 1 foot above the lowest adjacent grade;
    - (b) The total net area shall be provided below the BFE and consist of a minimum of 2 openings for each enclosed area with each opening of an enclosed area on a different exterior wall;
    - (c) Any louvers, screens, or other opening covers shall not block or impede the automatic flow of floodwaters into and out of the enclosed area; and

- (d) The openings shall have a total net area of not less than 1 square inch for every 1 square foot of enclosed area subject to flooding below the BFE, unless the building is equipped with engineered openings meeting the FEMA guidelines for openings in foundation walls and walls of enclosures (FEMA Technical Bulletin 1-08, or current guidelines), except where the requirements of this Ordinance exceed FEMA guidelines.

**FIGURE 3**

**Accessory Structures**

(IDNR *Floodplain Management in Illinois Quick Guide*, 2001)



12. Substantial Improvement Standards

In addition to other applicable Flood Hazard Area Performance Standards, the following requirements apply to any repair, reconstruction, rehabilitation, addition, or other activity to a building within a floodplain.

a. Determining substantial improvement

The repair or improvement of a building shall be considered a substantial improvement if either of the following criteria is met:

- (1) The cost of a single project or the value of damage caused by a single event equals or exceeds 50 percent of the market value of the building before the improvement or repair is started; or

- (2) The cumulative cost of two or more projects requiring a building permit or a stormwater management permit over a 5 year period equals or exceeds 50 percent of the market value of the building tracked on a percentage basis for each project.
- b. Determining the cost
- (1) A detailed and complete cost estimate shall be prepared by the applicant on a form provided by McHenry County. The cost estimate may exclude items not considered a permanent part of the building (i.e., plans, surveys, or permits), but shall include the cost of:
    - i. Damages of any origin, regardless of the actual repair work; and
    - ii. Maintenance of existing buildings that was or will be part of a larger project requiring a building permit or a stormwater management permit.
  - (2) The cost estimate shall be based on pre-damage costs, if applicable.
  - (3) The cost of all materials shall be equal to the actual or estimated fair market value of the materials. Where materials or servicing equipment are donated or discounted below normal market value, the cost shall be adjusted to fair market value.
  - (4) The cost of all labor shall be equal to the actual or estimated fair market value of the labor. Where volunteer or discounted labor is involved, the cost of the labor shall be adjusted to fair market value.
- c. Determining the market value
- (1) A signed and notarized market value determination shall be prepared on a form provided by McHenry County. The market value may be determined by:
    - i. Multiplying the current tax assessed value of the building by three. The current tax assessed value shall exclude:
      - (a) The value of the land; and
      - (b) The value of any other buildings or exterior improvements on the land; or
    - ii. A certified appraisal prepared by a state licensed appraiser, completed within the previous two years, and based on the comparable sales method;
    - iii. An estimate prepared and sealed by a licensed architect; or
    - iv. An alternate approach, approved by the Enforcement Officer, provided that the building does not have a tax assessed value and the cost estimate is clearly less than 50 percent of the market value.
  - (2) The market value shall be based on the value prior to any construction or damages, if applicable.

- d. Determining the cumulative percentage
  - (1) The percentage for each individual project shall be determined by dividing the cost of the project (at the time the project was completed, including the full cost of any damage, if applicable) by the value of the structure (at the time the project was completed, or prior to any damage, if applicable); and
  - (2) Adding the percentages of each individual project.
- e. Substantial improvements to buildings shall meet the Building Protection Standards for Flood Hazard Areas of this Ordinance.

13. Compensatory Storage Volume Standards

The following requirements apply to all regulated development resulting in flood storage volume lost or displaced due to the placement of fill, materials, or structures in a flood hazard area, or due to draining a depressional storage area, except regulated development authorized by a General Permit or specifically exempted below.

<b>TABLE 7 Compensatory Storage Exemptions</b>					
<b>Type of Flood Hazard Area</b>	<b>Fill Less than 5 Cubic Yards C.13.a(1)</b>	<b>Replacement Septic Systems and Wells C.13.a(2)</b>	<b>Floodproofing Habitable Buildings C.13.a(3)</b>	<b>Artificially Created Storage C.13.a(4)</b>	<b>All Other Regulated Development C.13.b</b>
<b>Flood Prone Area</b>	Exempt	Exempt	Exempt	Exempt	Not Exempt
<b>Floodplain: Flood Fringe</b>	Exempt	Exempt	Exempt	Exempt	Not Exempt
<b>Floodplain: Designated or Non-Designated Floodway</b>	Not Exempt	Not Exempt	Exempt	Exempt	Not Exempt

- a. Compensatory storage exemptions
  - (1) Compensatory storage may be waived through a written waiver by the Enforcement Officer for up to 5 cubic yards of fill within the flood fringe or a flood prone area. This waiver may only be exercised one time per parcel. The Enforcement Officer may deny the waiver for reasons including, but not limited to:
    - i. A determination that the fill would create a damaging or potentially damaging increase in flood heights or velocity; or
    - ii. That a parcel has been subdivided to qualify for more than one waiver.
  - (2) Compensatory storage shall not be required for replacement onsite waste disposal systems within the flood fringe or a flood prone area. The applicant shall demonstrate to the satisfaction of the Enforcement Officer that no reasonable alternative location exists outside of the flood hazard area and that the fill volume is the minimum necessary.

*Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms. Refer to Appendix 1 for permitting flowcharts.*

- (3) Compensatory storage shall not be required for the floodproofing of existing lawful habitable residential or commercial buildings within 10 feet of the outside face of the building.
- (4) Compensatory storage shall not be required to replace the loss of artificially created storage due to a reduction in upstream head loss caused by a bridge, culvert, storm sewer, or constructed embankment.

<b>Type of Flood Hazard Area</b>	<b>Regulated Development without As-Builts<sup>7</sup></b>	<b>Regulated Development with As-Builts</b>	<b>Public Road Development</b>
<b>Riverine Floodplain</b>	1.5:1	1.2:1	Minimum 1:1
<b>Riverine Flood Prone Area</b>	1.5:1	1.2:1	Minimum 1:1
<b>Non-Riverine Floodplain</b>	1:1	1:1	1:1
<b>Non-Riverine Flood Prone Area</b>	1:1	1:1	1:1

<sup>7</sup> As-built plans shall be required for any regulated development resulting in 100 cubic yards or more of fill in a flood hazard area.

b. Compensatory storage requirements

- (1) Compensatory storage volume shall be provided below the BEF and above the normal water level.
- (2) As-built plans shall be required for any regulated development resulting in 100 cubic yards or more of fill in a flood hazard area. The Enforcement Officer may require as-built plans for regulated development resulting in smaller amounts of fill in a flood hazard area based on development site specific considerations.
- (3) For regulated development in a riverine flood hazard area:
  - i. Hydraulically equivalent compensatory storage volume shall be provided at ratios at least equal to:
    - (a) 1.5 times the flood storage volume lost or displaced; or
    - (b) 1.2 times the flood storage volume lost or displaced, provided that as-built plans are submitted.
  - ii. For a Public Road Development that cannot reasonably provide the compensatory storage volume required by this Ordinance:
    - (a) The hydraulically equivalent compensatory storage volume required at a minimum 1:1 ratio may be waived by the



Enforcement Officer as long as the total compensatory storage ratio is at least equal to 1:1. The waiver shall be the minimum necessary to afford relief. Any compensatory storage within a designated floodway shall be approved by IDNR/OWR.

- (b) The additional compensatory storage volume required beyond a 1:1 ratio may be waived by the Enforcement Officer. The waiver shall be the minimum necessary to afford relief.
- iii. Any additional compensatory storage volume required beyond a 1:1 ratio may be provided above or below the 10 year flood elevation.
- iv. The compensatory storage area shall be located in close proximity to the fill area and shall drain freely and openly to the channel.
- (4) For regulated development in a non-riverine flood hazard area:
  - i. The compensatory storage volume shall be at least equal to the flood storage volume lost or displaced; and
  - ii. The compensatory storage volume lost by filling or draining a depressional storage area shall be based on the critical duration storm.

#### 14. Public Flood Control Project Standards

The Flood Hazard Area Performance Standards of this Ordinance shall be considered met for any public flood control project that meets all the following criteria.

- a. Flood heights shall not be increased outside a deed or plat restriction for all flood events up to and including the base flood event.
- b. The improvements shall be owned and maintained by a public agency. A land stewardship corporation, or similar entity, may own and maintain the improvements, provided that a public agency executes an agreement with the corporation to take over ownership, operation, and maintenance if the corporation dissolves or fails to meet its obligations.
- c. A CLOMR and a LOMC from FEMA shall be required, with approval from IDNR/OWR, for any regulated development that:
  - (1) Increases the water surface profile by 0.1 foot or more in a floodplain for any storm event up to and including the base flood event;
  - (2) Revises the boundary of a floodplain by the placement of fill; or
  - (3) Revises the boundary of a floodway.

#### 15. Standards for On-Stream Structures Built for the Purpose of Backing Up Water

- a. Any water surface profile increase shall:
  - (1) Be contained within the banks of the water body; or
  - (2) Be contained within the development site, property in which the applicant has an ownership interest, or a deed or plat restriction; or
  - (3) Not exceed 0.1 foot upstream flood height increase for all events up to and including the base flood event.

- b. All dams and impoundment structures shall meet the applicable requirements of 17 Ill. Adm. Code Part 3702 (Construction and Maintenance of Dams).
  - c. If the proposed activity involves a modification of the channel or floodway to accommodate an impoundment, it shall be demonstrated that:
    - (1) The impoundment is determined to be in the public interest by providing flood control, public recreation, or regional stormwater detention;
    - (2) The impoundment will not prevent the migration of indigenous fish species, which require access to upstream areas as part of their life cycle, such as for spawning;
    - (3) The impoundment will not cause or contribute to degraded water quality or habitat conditions. Impoundment design should include gradual bank slopes, appropriate bank stabilization measure, and a pre-sedimentation basin; and
    - (4) A nonpoint source control plan has been implemented in the upstream watershed to control the effects of sediment runoff as well as minimize the input of nutrients, oil and grease, metals and other pollutants. If there is more than one municipality in the upstream watershed, the municipality in which the impoundment is constructed should coordinate with upstream municipalities to ensure comprehensive watershed control.
16. Bridge and Culvert Standards
- a. Designated Floodways
    - (1) New bridges and culverts
      - i. Any water surface profile increase shall:
        - (a) Be contained within the banks of the water body; or
        - (b) Be contained within the development site, property in which the applicant has an ownership interest, or a deed or plat restriction; or
      - ii. The proposed structure shall not result in an increase of upstream flood stages greater than 0.1 foot for all flood events up to and including the base flood event; and
      - iii. If the proposed construction will increase upstream flood stages greater than 0.1 foot within a designated floodway, the applicant shall contact IDNR/OWR to obtain a permit for a dam or waiver.
    - (2) Reconstruction or modification of existing bridges, culverts and approach roads
      - i. The bridge or culvert and roadway approach reconstruction or modification shall be constructed with no more than 0.1 foot increase in backwater over the existing flood profile for all flood frequencies up to and including the base flood event, if the existing bridge or culvert is not a source of flood damage.
      - ii. If the existing bridge or culvert and roadway approach is a source of flood damage to buildings in the upstream floodplain, the applicant's

engineer shall evaluate the feasibility of redesigning the structure to reduce the existing backwater, taking into consideration the effects on flood stages on upstream and downstream properties.

- iii. The determination as to whether or not the existing crossing is a source of flood damage and should be redesigned must be prepared in accordance with 17 Ill. Adm. Code Part 3708 (Floodway Construction in Northeastern Illinois) and submitted to IDNR/OWR for review and concurrence before a permit is issued.
- b. Non-Designated Floodways and Flood Prone Areas
- (1) New bridges and culverts
    - i. Documentation must be provided that the proposed crossing will not cause demonstrable flood damage; and
    - ii. Any water surface profile increase shall:
      - (a) Be contained within the banks of the water body; or
      - (b) Be contained within the development site, property in which the applicant has an ownership interest, or a deed or plat restriction; or
    - iii. In urban areas, the water surface profile increase would not exceed 0.5 foot at the structure, nor 0.1 foot at a point 1000 feet upstream of the structure, for all flood events up to and including the base flood event, as determined by the horizontal projection of the increase and the slope of the hydraulic grade line for the existing and proposed conditions hydraulic models; or
    - iv. In rural areas, the water surface profile increase would not exceed 1.0 foot at the structure, nor 0.5 foot at a point 1000 feet upstream of the structure, for all flood events up to and including the base flood event, as determined by the horizontal projection of the increase and the slope of the hydraulic grade line for the existing and proposed conditions hydraulic models; and
    - v. Any increase in the average channel velocity would not be beyond the scour velocity of the predominant soil type of the channel; or
    - vi. Increased scour, erosion and sedimentation would be prevented by the use of rip-rap or other design measures.
  - (2) Reconstruction or modification of existing bridges, culverts and approach roads
    - i. The reconstruction (including approach roads) shall be no more restrictive to normal and flood flows than the existing bridge or culvert crossing; and
    - ii. Documentation must be provided that the existing crossing has not caused demonstrable flood damage. In the case of public projects, certification by a District Engineer of the Department of Transportation's Division of Highways, a County Engineer (if a licensed professional engineer), or a Municipal Engineer (if a licensed

professional engineer) that the existing crossing has not caused demonstrable flood damage will be adequate documentation.

#### D. Wetlands and Waters

##### 1. Minimization of Impacts

All reasonable measures shall be taken to avoid and minimize impacts to wetlands, streams, ponds and lakes.

##### 2. Jurisdictional Determination

- a. The applicant shall obtain a Jurisdictional Determination from the USACE for any regulated development that impacts wetlands or waters or is adjacent to wetlands or waters. This requirement may be waived by the Enforcement Officer when the USACE issues a Letter of No Objection for the regulated development.
- b. Impacts to WOTUS shall be mitigated according to the requirements of the USACE.
- c. Impacts to IWMC shall be mitigated according to the requirements of this Ordinance. No IWMC impacts shall be allowed without a clear purpose and need for the regulated development and without demonstrating the measures taken to avoid and minimize IWMC impacts to the satisfaction of the Enforcement Officer.

##### 3. Boundary Determination Requirements

The following requirements apply to all regulated development within or adjacent to IWMC, except regulated development authorized by a General Permit.

- a. A Letter of No Impact prepared by a wetland specialist may be accepted by the Enforcement Officer, in lieu of a Wetland Determination Report, when a field investigation by the wetland specialist reveals the closest wetland or waters to a regulated development is clearly beyond the limits of the required buffer. A Letter of No Impact shall include:
  - (1) The date of the field investigation;
  - (2) A written description of the development site closest to the IWMC;
  - (3) Color photographs representative of the development site closest to the IWMC;
  - (4) A grading plan showing the limits of development site and the approximate boundary of the IWMC closest to the development site; and
  - (5) An aerial photograph showing the limits of development site and the approximate boundary of the IWMC closest to the development site.
- b. The presence and boundary of waters shall be determined by a wetland specialist. Waters shall include the entire area inundated at the ordinary high water mark.
- c. The presence and boundary of farmed wetlands on agricultural land within or adjacent to a development site shall be determined by the NRCS or a wetland specialist, in accordance with the current NRCS or USACE wetland delineation methodology.
- d. The presence, boundary, and quality of non-farmed wetlands within or adjacent to a development site shall be determined by a wetland delineation conducted in accordance with the current USACE wetland delineation methodology. The

findings of this determination shall be documented in a Wetland Determination Report prepared by a wetland specialist.

- e. A Wetland Determination Report shall be prepared by a wetland specialist and shall include:
- (1) A plan showing the location and extent of all wetlands and waters within or adjacent to the development site. The boundaries of these wetlands and waters shall be flagged in the field and surveyed. The approximate location and extent of offsite wetlands and waters within 100 feet of the development site shall also be shown. The approximate offsite boundaries shall be established using the best available information, as approved by the Enforcement Officer. The best available information may include:
    - i. Aerial photography;
    - ii. A previously approved Wetland Determination Report, even if the report was prepared more than 5 years ago;
    - iii. The ADID Map or other wetland map; and
    - iv. McHenry County Soil Survey;
  - (2) An aerial photograph delineating all wetlands and waters within or adjacent to the development site, as well as the approximate location and extent of wetlands and waters within 100 feet of the development site;
  - (3) The most recent version of the following maps, delineating the limits of the development site:
    - i. USGS Quadrangle Map;
    - ii. NRCS Wetland Inventory Map;
    - iii. FEMA FIRM;
    - iv. McHenry County Soil Survey;
    - v. USGS Hydrologic Investigations Atlas, and
    - vi. ADID Map;
  - (4) USACE data sheets with color photographs provided for representative upland and wetland data points; and
  - (5) A narrative description of the wetlands, including a Floristic Quality Assessment, as determined by the methodology described in *Plants of the Chicago Region* (Swink, F. and G. Wilhelm, 1994, 4<sup>th</sup> Edition, Indianapolis: Indiana Academy of Science). Floristic Quality Assessments shall be conducted during the local growing season, generally between May 15 and October 1. Non-growing season assessments may require additional sampling during the growing season prior to approval.
- f. Approval of a Wetland Determination Report shall remain valid for 5 years.

#### 4. Hydrology Requirement

The following requirement applies to all regulated development within or adjacent to IWMC, except regulated development authorized by a General Permit.

- a. The regulated development shall maintain 80%-150% of the existing condition runoff volume from the development site to each IWMC for the 2 year, 24 hour storm event; otherwise the IWMC shall be considered impacted and shall be subject to the Mitigation Requirements of this Ordinance.

5. Mitigation Requirements

The following requirements apply to all regulated development resulting in an IWMC impact, except regulated development authorized by a General Permit.

- a. IWMC mitigation is required for regulated development resulting in IWMC impacts greater than or equal to 0.10 acre to IWMC. The Enforcement Officer may require mitigation for IWMC impacts less than 0.10 acre for reasons including, but not limited to:
  - (1) The proposed regulated development would result in a cumulative IWMC impact greater than or equal to 0.10 acre, due to a prior unmitigated impact to the same IWMC; or
  - (2) A prior unmitigated impact to another IWMC within the contiguous property.

TABLE 9 IWMC Mitigation Ratios									
Cat	IWMC Quality	Impact Area	Regulated Development Type	D.5.a	D.5.c.(1)	D.5.c.(2)	D.5.c.(3)	D.5.c.(4)	D.5.c.(5)
I	Any	≤ 0.10 ac	Any	Exempt					
I	Standard <sup>8</sup>	0.1- 1.0 ac	Any		1.5:1 or 1:1				
II	Standard <sup>8</sup>	1.0-2.0 ac	Any		1.5:1 or 1:1				
III	Standard <sup>8</sup>	> 2.0 ac	Any		1.5:1 or 1:1				
III	HFVW	Any	Any			3:1 <sup>9</sup>			
III	HQAR or HQHS	Any	Any				5:1 <sup>9</sup>		
Impacts Prior to Permit Issuance								5:1 <sup>9</sup>	
IV	Any	Any	Restoration, Creation, and Enhancement						1:1
V	Any	Any	Temporary Impact						1:1

<sup>8</sup>. Standard means any IWMC that is not a HFVW, HQAR, or HQHS.

<sup>9</sup>. May be reduced to 1:1. Refer to D.5.c(6).

- b. IWMC impacts shall be categorized as follows:
- (1) Category I: IWMC impacts with a cumulative impact area less than or equal to 1 acre and not impacting HQAR, HFVW, or HQHS;
  - (2) Category II: IWMC impacts with a cumulative impact area greater than 1 acre and less than or equal to 2 acres and not impacting HQAR, HFVW, or HQHS;
  - (3) Category III: IWMC impacts with a cumulative impact area greater than 2 acres or impacting HQAR, HFVW, or HQHS;
  - (4) Category IV: IWMC impacts necessary for wetland restoration, wetland creation and/or wetland enhancement, including streambank and shoreline stabilization projects that utilize appropriate bioengineered practices; or
  - (5) Category V: Temporary IWMC impacts.
- c. IWMC mitigation shall replace the area of IWMC impacted by regulated development at the following proportional rates (i.e., creation acreage to IWMC impact acreage):
- (1) 1.5:1 ratio for IWMC impacts under Categories I, II and III that are not designated as HQAR, HQHS, or HFVW, or a minimum 1:1 ratio for USACE-certified wetland mitigation bank credits;
  - (2) 3:1 ratio is required for IWMC impacts that are designated as HFVW;
  - (3) 5:1 ratio is required for IWMC impacts that are designated as HQHS or HQAR;
  - (4) 5:1 ratio is required for IWMC impacts prior to issuance of a stormwater management permit, if the Enforcement Officer determines that IWMC mitigation is an acceptable alternative to wetland restoration; and
  - (5) 1:1 ratio is required for IWMC impacts under Categories IV and V; or
  - (6) 1:1 ratio may be allowed for IWMC impacts under Categories I, II and III, including HQAR, HQHS, an HFVW, provided that IWMC mitigation occurs onsite according to the requirements of this Ordinance.
- d. A mitigation plan shall be prepared by a wetland specialist for any regulated development that requires IWMC mitigation. A mitigation plan shall include:
- (1) A statement of the purpose and need for the project;
  - (2) A statement of the area, type, and Category of the IWMC impact;
  - (3) A statement of the selected mitigation option;
  - (4) A narrative describing the alternative measures taken to avoid, minimize, or mitigate IWMC impacts;
  - (5) A narrative describing any benefits to the aquatic environment;
  - (6) A narrative describing how the selected mitigation alternative is consistent with the Mitigation Hierarchy of this Ordinance; and

- (7) A narrative describing the monitoring and maintenance tasks necessary to ensure the long-term success of the mitigation.

## 6. Mitigation Options

The following requirements apply to all regulated development resulting in an IWMC impact requiring IWMC mitigation.

- a. IWMC mitigation shall be designed to duplicate or improve the hydrologic, biologic, botanic, and wildlife features of the IWMC.
  - b. Onsite IWMC mitigation
    - (1) Onsite IWMC mitigation includes mitigation on a parcel adjacent to the development site, even if the adjacent parcel has a different owner.
    - (2) Onsite IWMC mitigation shall only be allowed for IWMC impacts in Categories IV and V, or if the mitigation area is 1.5 acres or larger and:
      - i. The IWMC mitigation area is located within a conservation easement managed by a conservation agency; or
      - ii. The applicant establishes performance standards approved by the Enforcement Officer, and provides a performance guarantee payable to the MCSC Wetland Restoration Fund in the event the performance standards are not met.
    - (3) Temporary IWMC impacts shall be restored in place. The disturbed area shall be:
      - i. Returned to its original contour and general soil profile;
      - ii. Restored to a comparable IWMC community type; and
      - iii. Exhibit an FQI no lower than that of the IWMC prior to disturbance.
    - (4) The Buffer Area Performance Standards of this Ordinance shall apply to IWMC mitigation areas, except mitigation for IWMC impacts in Categories IV and V.
    - (5) The area of wetland restoration shall not be less than the area of IWMC impact. The additional mitigation area may consist of wetland enhancement; however, only 0.25 acre of mitigation shall be credited for each acre of wetland enhancement.
    - (6) Wetland creation shall not be credited for mitigation of IWMC impacts.
  - c. Wetland mitigation banking
    - (1) Wetland mitigation banking shall be required if the IWMC mitigation area is less than 1.5 acres.
    - (2) Mitigation credit may be obtained by payment into a Wetland Bank or the MCSC Wetland Restoration Fund. A receipt for payment into a Wetland Bank or the MCSC Wetland Restoration Fund shall be provided prior to issuance of a stormwater management permit.
    - (3) To provide credit for mitigation, a Wetland Bank must be certified by the USACE and comply with the *Interagency Coordination Agreement on*



*Wetland Mitigation Banking within the Regulatory Boundaries of Chicago District*, dated January, 1997, or current version.

- (4) Payment into the MCSC Wetland Restoration Fund shall not be allowed if the IWMC impact is in the same watershed as a Wetland Bank in existence at the time the MCSC Wetland Restoration Fund was established, provided the Wetland Bank has mitigation credits available. The following Wetland Banks were in existence at the time the MCSC Wetland Restoration Fund was established:
- i. Sybaquay Girl Scout Camp (Kishwaukee River Watershed);
  - ii. Kishwaukee Bottoms (Kishwaukee River Watershed);
  - iii. Marengo (Kishwaukee River Watershed); and
  - iv. Slough Creek (Nippersink Creek Watershed).

7. Mitigation Hierarchy

In addition to other applicable Wetland and Waters Performance Standards, the following requirements apply to all regulated development requiring IWMC mitigation.

- a. IWMC mitigation shall be provided as close to the IWMC impact site as possible, with respect to the following hierarchy:
  - (1) Onsite, provided the criteria for onsite mitigation are met;
  - (2) Wetland mitigation banking within the same sub-watershed;
  - (3) Wetland mitigation banking within an adjacent sub-watershed and within the same watershed;
  - (4) Wetland mitigation banking within the same watershed;
  - (5) Wetland mitigation banking within an adjacent watershed; or
  - (6) Wetland mitigation banking within McHenry County.
- b. Any funds paid into the MCSC Wetland Restoration Fund shall only be used to fund wetland restoration activities located fully within McHenry County.

8. Requirements for Underground Utilities

The following requirements apply to all regulated development involving the installation of underground utilities, except regulated development authorized by a General Permit.

- a. In the case of underground stream crossings, the top of the pipe or encasement shall be buried a minimum of 3 feet below the existing stream bed.
- b. In IWMC, any excavation shall be backfilled with soil excavated from the trench in the same stratification in which it was removed.
- c. A contingency plan for frac-out shall be required for any utility proposed to be installed by directional boring.

## E. Buffer Areas

## 1. Buffer Requirements

The following requirements apply to all regulated development adjacent to WOTUS or IWMC, except regulated development authorized by a General Permit. These requirements are minimum standards and may be superseded by more restrictive USACE requirements.

<b>Buffer Type</b>	<b>Criteria</b>	<b>E.1.b.(1)</b>	<b>E.1.b.(2)</b>	<b>E.1.c.(1)</b>	<b>E.1.c.(2)</b>	<b>E.1.c.(3)</b>
Linear	Tributary Area > 20 ac	50 ft				
Linear	HFVW, HQHS, or HQAR		100 ft			
Non-Linear	0.25 ac ≤ Surface Area < 0.50 ac			30 ft		
Non-Linear	0.50 ac ≤ Surface Area				50 ft	
Non-Linear	HFVW, HQHS, or HQAR					100 ft

- a. Roadside drainage ditches, detention facilities, borrow pits, quarries, and improvements to public roads shall be exempt from these Buffer Requirements.
- b. Buffers shall be designated along both sides of linear WOTUS and IWMC using the following widths:
  - (1) 50 feet on each side of linear WOTUS and IWMC having a tributary area greater than 20 acres; or
  - (2) 100 feet on each side of linear WOTUS and IWMC that are HFVW, HQHS, or HQAR.
- c. Buffers shall encompass all non-linear WOTUS and IWMC using the following widths:
  - (1) 30 feet for all non-linear WOTUS and IWMC with a surface area of at least 0.25 acre but less than 0.50 acre;
  - (2) 50 feet for all non-linear WOTUS and IWMC with a surface area of at least 0.50 acres; or
  - (3) 100 feet for all non-linear WOTUS and IWMC that are HFVW, HQHS, or HQAR.
- d. Buffer areas for wetlands shall extend landward from the wetland boundary.

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.  
Refer to Appendix 1 for permitting flowcharts.

- e. Buffer areas for water bodies which are WOTUS or IWMC shall extend landward from the ordinary high water mark.
- f. A property may contain a buffer area originating from WOTUS or IWMC on another property.
- g. Buffer widths may be increased by the Enforcement Officer where State or Federal threatened and endangered species may be present or for Illinois Natural Area Inventory sites following consultation with IDNR and USFWS.
- h. Buffer areas within subdivisions, Planned Unit Developments, and manufactured home parks with 5 or more parcels platted after December 1, 2014 shall be located within an outlot with adjacent stormwater management facilities, WOTUS, and/or IWMC.
- i. Buffer areas within regulated development disturbing 5 acres or more shall be located within a deed or plat restriction with adjacent stormwater management facilities, WOTUS, and/or IWMC.
- j. A maintenance plan shall be prepared for the buffer areas. The Enforcement Officer may waive this requirement for Minor and Intermediate Development.
- k. Filling WOTUS or IWMC to meet these Buffer Requirements or any other regulatory program shall not be allowed.

## 2. Buffer Use

The following requirements apply to all regulated development within buffer areas for WOTUS or IWMC, except regulated development authorized by a General Permit. These requirements may be superseded by more restrictive USACE requirements.

- a. Buffer areas shall be maintained free from development including disturbance of the soil, dumping or filling, erection of buildings and placement of impervious areas except as follows:
  - (1) Buildings, trails, water dependent facilities, other new impervious areas occupying a maximum of 20% of the buffer area, provided that the stormwater runoff from the new impervious areas is not concentrated;
  - (2) Grading or filling, provided that the hydrologically disturbed area is revegetated according to the *Native Plant Guide for Streams and Stormwater Facilities in Northeastern Illinois*, NRCS, et al., (as amended);
  - (3) Redevelopment within the footprint of legal non-conforming development in existence within a buffer area prior to the effective date of this Ordinance;
  - (4) BMPs;
  - (5) Stormwater management facilities; and
  - (6) Utilities, including wastewater wetlands, but not including septic leach fields.
- b. Regulated development within buffer areas which does not conform to the allowable uses shall be mitigated by:
  - (1) Varying the buffer width to a minimum of ½ the prescribed buffer width, provided that the total area of the buffer adjacent to WOTUS or IWMC is not reduced and that the buffer is located within a deed or plat restriction; or

- (2) Replacing the impacted buffer area with BMPs, such as a rain garden or replacement of existing turf grass with native vegetation, at a 1:1 proportional rate.
  - (3) The consultation of the USACE, IDNR, or USFWS may preclude the use of either mitigation approach.
3. In the event the implementation of these Buffer Requirements preclude an otherwise legally buildable parcel from being developed, the Enforcement Officer may allow the minimal amount of relief from the Buffer Area Performance Standards in order to restore the parcel to a buildable condition.

**Article VII****§17.60.070 Variances and Appeals**

## A. Variances

Variances to the provisions of this Ordinance may be granted subject to the process and standards that follow.

## 1. Process

- a. In order to be considered for a variance, a variance petition shall be submitted to the Enforcement Officer.
- b. The Enforcement Officer shall submit a written recommendation to the oversight committee regarding each variance petition within 30 days after receipt of a complete variance petition. The oversight committee may also request an opinion from the McHenry County Stormwater Technical Advisory Committee.
- c. The oversight committee shall have the authority to grant variances to the provisions of this Ordinance.

(1) A public hearing is required for a variance petition that affects adjoining properties or has the potential to affect adjoining properties, as determined by the Enforcement Officer.

- i. When required, the petitioner shall schedule a public hearing before the oversight committee and shall be responsible for all fees associated with the hearing. Notice of the hearing shall be published once in a newspaper having a general circulation within the community. The publication shall not be less than 15 days, nor more than 30 days prior to the hearing. All owners of record of land within 250 feet of the contiguous property shall be served notice of the public hearing not less than 15 days, nor more than 30 days prior to the hearing. The notice shall be served by certified mail, return receipt requested. All notices shall include at least the following information:
  - (a) The street address of the development site, or if there is no street address, then the location of the development site with reference to well-known landmarks;
  - (b) A description of the regulated development;
  - (c) Identification of each Ordinance provision for which a variance is requested;
  - (d) A statement that any person may attend the hearing and submit verbal comments regarding the variance petition with the date, time, and location of the hearing;
  - (e) A statement that any person may submit written comments regarding the variance petition with the address to which written comments shall be mailed and the date by which written comments shall be received; and
  - (f) A statement that any and all documents that concern the variance petition which are subject to public disclosure, will be

made available for inspection by the community with the location where the documents will be available for inspection.

- (2) The oversight committee shall grant the variance, grant the variance with conditions, or deny the variance in writing within 45 days after receipt of the written recommendation from the Enforcement Officer.
- (3) Written decisions shall be made public for all variance petitions and shall be on file with the community.
- (4) The MCSC Chief Engineer shall be notified of every variance hearing in a Certified Community and of every variance granted by a Certified Community.
- (5) Any person with an affected interest in the variance petition may appeal a variance decision according to the Appeals standards of this Ordinance.

## 2. Standards

- a. The oversight committee may grant variances to the provisions of this Ordinance if the petitioner provides evidence demonstrating that:
  - (1) Failure to grant the variance would result in an unreasonable hardship; and
  - (2) The variance is necessary due to unique and exceptional physical circumstances or a condition of a particular property; and
  - (3) The variance is the minimum necessary to afford relief, and
  - (4) The variance will not cause detriment to the public good, safety or welfare; and
  - (5) The variance will not cause an increase in the water surface profile within a floodway; and
  - (6) The variance will not cause an increase in the water surface profile upstream of the development site, unless:
    - i. The increase is contained within the banks of the water body; or
    - ii. The increase is contained within the development site, property in which the applicant has an ownership interest, or a deed or plat restriction; or
    - iii. The increase does not exceed 0.1 foot for the base flood event.
  - (7) The variance will not be contrary to the spirit, purpose and intent of this Ordinance; and
  - (8) The regulated development meets the minimum Federal, State, and other local regulations, including those of IDNR/OWR and FEMA for participation in the NFIP.
- b. The Enforcement Officer shall notify a petitioner in writing that a variance from the requirements of the Building Protection Standards of this Ordinance, that lessens the degree of protection to a building may result in increased premium rates for flood insurance and may increase the risk of loss of life and property. The Enforcement Officer shall require the petitioner to acknowledge the assumption of the risks and liability in writing. If the variance is approved, the

document shall be recorded against the property with the McHenry County Recorder of Deeds Office and the petitioner shall pay the fee for recording the exception.

3. Conditions

- a. In granting a variance, the oversight committee may impose specific conditions and limitations on the petitioner concerning any matter relating to the purposes of this Ordinance.
- b. Whenever any variance is granted subject to any condition to be met by the petitioner, the petitioner shall submit evidence that the condition has been met.

4. A variance petition shall include:

- a. A stormwater management permit application;
- b. Payment of the initial application fee;
- c. Payment of the variance fee;
- d. A description and depiction of the regulated development;
- e. Plans, reports, calculations and any other documentation listed in the Application Requirements of this Ordinance which the Enforcement Officer deems necessary in order to make a written recommendation to the oversight committee;
- f. Identification of each Ordinance provision for which a variance is requested;
- g. A written statement describing the effect on adjoining properties; and
- h. A legal description or PIN for all parcels impacted by the regulated development.

B. Appeals

1. Any person aggrieved by the following decisions of the Enforcement Officer shall have the right to appeal the decision to the oversight committee:
  - a. The denial of a stormwater management permit;
  - b. The conditions imposed on a stormwater management permit; and
  - c. The issuance of a stop work order.
2. Any person aggrieved by a ruling of the oversight committee, including rulings related to variance petitions, may appeal that ruling to the MCSC.
3. After exhausting the administrative reviews set forth in this Section, any aggrieved person contesting a ruling of the MCSC may appeal to the Illinois circuit courts under the Illinois Administrative Procedures Act (5 ILCS 100/1-1 *et. seq.*).
4. All appeals to the oversight committee and the MCSC shall be made in writing, shall specify the reasons for the appeal, and shall include all information pertinent to the appeal. For appeals regarding permit denials or permit conditions, the appeal must be submitted within 30 calendar days from the date of denial or conditional issuance of a stormwater management permit. An appeal of the issuance of a stop work order must be served within 14 calendar days from the date of posting the stop work order.
5. The oversight committee and the MCSC shall rule in favor of or against an appeal, in whole or in part, within 45 days after receipt of the appeal.

6. Any person who has been issued a stormwater management permit, and appeals a condition of the permit, may commence construction of the subject development prior to the resolution of the appeal; however, any commencement of construction must comply with all the terms and conditions of the stormwater management permit as issued.
7. Any person whose stormwater management permit was denied is prohibited from commencing construction of the subject development while the appeal is pending. Under no circumstances shall construction commence prior to the issuance of a stormwater management permit.
8. Any person who requests an appeal of the issuance of a stop work order must suspend construction of the subject development while the appeal is pending.



**Article VIII****§17.60.080 Inspections and Access**

Representatives of the MCSC and of any Federal, State and local unit of government are authorized to enter upon any land or water to inspect for development activity that is or appears to be regulated development.

Pursuant to the authority granted by 55 ILCS 5/5-1062, representatives of the MCSC may, after 10 calendar days' written notice to the owner or occupant, enter upon any lands or waters within the County for the purpose of inspecting stormwater or flood hazard area facilities, structures, or areas. The MCSC representatives may cause the removal of obstructions to an affected watercourse.

The 10 calendar day notification requirement shall not apply in an emergency situation, as determined by the Enforcement Officer, or on any lands or waters that are the subject of an active stormwater management permit or permit application.

**Article IX****§17.60.090 Violation and Penalty**

Any person who violates, disobeys, omits, neglects, refuses to comply with or resists the enforcement of any provision of this Ordinance, including but not limited to: obtaining a required stormwater management permit, violating a condition of an issued stormwater management permit, or violating a stop work order shall be in violation of this Ordinance and subject to various available legal or equitable actions, remedies and penalties.

- A. Failure to comply with any of the requirements of this Ordinance shall constitute a violation, and any person convicted thereof shall be fined not more than seven hundred fifty dollars (\$750.00) for each offense. Each day the violation continues shall be considered a separate offense.
- B. Any legal action resulting in a guilty verdict shall be subject to a minimum fine totaling not less than one hundred dollars (\$100.00) plus court costs.
- C. Whenever the Enforcement Officer finds a violation of this Ordinance, or of any stormwater management permit or stop work order, within his or her respective jurisdiction, the Enforcement Officer may pursue any one or more of the following legal or equitable actions, remedies and penalties against any person found to be in violation of this Ordinance including but not limited to:
  1. The Enforcement Officer may initiate a complaint and civil legal action in a court of competent jurisdiction against any person in violation of this Ordinance;
  2. The Enforcement Officer may revoke any stormwater management permit issued;
  3. The Enforcement Officer may require the person to apply for an “after-the-fact” stormwater management permit, including any and all supporting documentation required thereto, for any unpermitted, unauthorized regulated development, disturbance, or impact;
  4. The Enforcement Officer may require the development site or impacted area to be fully restored to its condition existing prior to the violation. If it is not feasible or practical to fully restore the development site or impacted area to the condition existing prior to the violation, the Enforcement Officer may allow the development site or impacted area to be restored to a condition that increases flood storage or decreases stormwater runoff compared to the condition existing prior to the violation;
  5. The Enforcement Officer may issue a stop work order requiring the suspension of any further work on the development site. Such stop work order shall be in writing, indicate the reason for its issuance, and require compliance with this Ordinance prior to completion of the activity in violation;
  6. The Enforcement Officer may take other legal action including but not limited to a temporary restraining order and other preliminary or permanent injunctive relief necessary to prevent further harm or violation and/or remedy any harm or violation that has already occurred, and if applicable require removal, correction, remediation and/or mitigation for said harm and violation. In addition to any fine or other relief, all costs and expenses, including reasonable attorney’s fees incurred, may be recovered;

7. The Enforcement Officer may require removal, correction, remediation and/or mitigation for any harm and violation that has occurred and require that the area be fully restored to its condition prior to such regulated development, disturbance or impact; and
8. The Enforcement Officer may, after notice is sent to the owner(s) of the parcel(s) upon which the violation is located, record the complaint filed, the notice of violation or any stop work order against the property at the McHenry County Recorder of Deeds Office.

## Article X

### §17.60.100 Procedure and Enforcement

#### A. Responsibility for Enforcement

1. The MCSC shall oversee the enforcement of this Ordinance.
2. The MCSC Chief Engineer, and the Enforcement Officers in Certified Communities, shall enforce this Ordinance. In performing their duties, the MCSC Chief Engineer and the Enforcement Officers in Certified Communities may delegate routine responsibilities to a designee.
3. A Certified Community shall enforce the requirements of this Ordinance on municipal projects that are regulated by this Ordinance and are within the community's jurisdiction.
4. Upon the request of a Certified Community, the MCSC Chief Engineer may be the Enforcement Officer for any regulated development:
  - a. Located within multiple Certified Communities; or
  - b. Partially located within a Certified Community and partially located within a non-Certified Community; or
  - c. Meeting the terms and conditions of a Letter of Understanding issued by McHenry County.
5. Each community shall remain solely responsible for its standing in the NFIP.

#### B. Multi-County Municipalities

1. A multi-county municipality may adopt and enforce one of the following ordinances of an adjacent county if the municipality has corporate authority within that county:
  - a. The Cook County Watershed Management Ordinance, as amended from time to time by the Metropolitan Water Reclamation District of Greater Chicago Board of Commissioners, provided that the municipality also adopts a NFIP compliant ordinance;
  - b. The Kane County Stormwater Ordinance, as amended from time to time by the Kane County Board; or
  - c. The Lake County Watershed Development Ordinance, as amended from time to time by the Lake County Board.
2. A stormwater management permit shall not be required from McHenry County for any regulated development within a multi-county municipality, in which the multi-county municipality meets all of the following criteria:
  - a. Elects to adopt an adjacent county's ordinance;
  - b. Has authority to adopt an adjacent county's ordinance;
  - c. Retains qualified staff or consultants per the adopted ordinance;
  - d. Enters into an intergovernmental agreement with McHenry County; and
  - e. Administers and enforces the adopted ordinance per the requirements of the adopted ordinance.

C. Duties of the MCSC Chief Engineer

The MCSC Chief Engineer shall:

1. Supervise the enforcement of this Ordinance in Certified Communities by periodically reviewing the community's Ordinance enforcement records and making remedial recommendations to the community;
2. Notify all the communities of the County, FEMA, and IDNR/OWR of any amendments to this Ordinance; and
3. Maintain a current list of all maps considered regulatory under this Ordinance.

D. Duties of the Enforcement Officer

The Enforcement Officer shall:

1. Attend a minimum of 4 hours of annual training for Enforcement Officers, as scheduled by the County;
2. Ensure that all applicable consultations, waivers, approvals, and permits from Federal, State, and other local authorities are received prior to issuing a stormwater management permit;
3. Utilize a form to document the following characteristics for each stormwater management permit issued:
  - a. The proposed hydrologically disturbed area;
  - b. The existing and proposed impervious area and the impervious area that existed at the development site prior to the effective date of this Ordinance;
  - c. Whether a flood hazard area exists on the development site;
  - d. Whether an IWMC exists on the development site;
  - e. The development classification;
  - f. The signature of the Certified Floodplain Manager that has reviewed and recommends approval of the stormwater management permit application, if applicable;
  - g. The signature of the licensed professional engineer that has reviewed and recommends approval the stormwater management permit application, if applicable;
  - h. The signature of the wetland specialist that has reviewed and recommends approval of the stormwater management permit application, if applicable;
  - i. The signature of the Enforcement Officer issuing the stormwater management permit;
4. Approve the BFE for a regulated development, if applicable;
5. Ensure that a Certified Floodplain Manager reviews or supervises the review of a permit application within a flood hazard area;
6. Ensure that a licensed professional engineer reviews or supervises the review of any plans, calculations or analyses prepared by a licensed professional engineer as part of a stormwater management permit application. The review and design engineers shall not be the same person;

7. Ensure that a wetland specialist reviews or supervises the review of any documents prepared by a wetland specialist as part of a stormwater management permit application. The review and design wetland specialist shall not be the same person;
8. Determine whether as-built plans and/or a performance guarantee are necessary to ensure regulated development is built and maintained in accordance with the stormwater management permit. The amount of a performance bond, surety, or other such security may be up to 150 percent of the estimated cost to complete construction of the approved stormwater management system. The estimated cost to complete construction shall be prepared by a licensed professional engineer and approved by the Enforcement Officer;
9. Ensure that the required notice of a petition for a variance has been given and published as required by this Ordinance;
10. Notify the MCSC Chief Engineer of every scheduled variance hearing not less than 15 days, nor more than 30 days prior to the hearing;
11. Notify a petitioner for a variance that such variance may result in increased rates for flood insurance, if applicable;
12. Notify the MCSC Chief Engineer of an application for a CLOMR or LOMR;
13. Provide for inspections of regulated development as required by this Ordinance;
14. Investigate complaints of violations of this Ordinance within his or her community;
15. Notify violators within floodplains that failure to comply with the provisions of the NFIP could make them ineligible to receive flood insurance;
16. Utilizes the legal or equitable actions, remedies and penalties necessary to enforce this Ordinance within his or her community;
17. Advise, consult, and cooperate with other governmental agencies to promote the purposes of this Ordinance;
18. Maintain copies of all the following documents for public inspection:
  - a. Stormwater management permit applications;
  - b. Applicable Federal, State, and other local permits;
  - c. Variances;
  - d. Records required for eligibility in the NFIP, including elevation certificates, floodproofing certificates, and lowest floor elevations;
  - e. Documentation and data on the cost of any repair, reconstruction, rehabilitation, or other improvement to a building in the floodplain in order to enforce the substantial improvement requirements of this Ordinance;
  - f. CLOMRs, LOMRs, LOMAs; and
  - g. Any additional documentation submitted to demonstrate compliance with the requirements of this Ordinance;
19. Inspect damaged buildings, regardless of the source of the damage, located within the floodplain, to determine whether they have been substantially damaged;

20. Notify the MCSC Chief Engineer, FEMA, and IDNR/OWR of any proposed amendment to this Ordinance;
21. Notify IDNR/OWR of any dam that does not have a permit from IDNR/OWR;
22. Notify IDNR/OWR, IEMA, and the owner of the dam, if a dam is believed to be in an unsafe condition; and
23. Notify adjacent communities in writing 30 days prior to the issuance of a stormwater management permit involving a channel modification.

E. Representative Capacity

In all cases when any action is taken by the MCSC Chief Engineer or the Enforcement Officer, or his or her duly appointed designee, to enforce the provisions of this Ordinance, such action shall be take either in the name of the County or the Certified Community, as the case may be, and neither the MCSC Chief Engineer or the Enforcement Officer nor his or her designee, in so acting shall be rendered personally liable.

F. Community Certification

1. Certification Criteria

Any community of McHenry County, including multi-county municipalities, that meets the following criteria may be certified by MCSC to enforce the provisions of this Ordinance within the community's jurisdiction.

- a. The community shall be participating in the regular phase of the NFIP and shall not be a NFIP sanctioned community;
- b. The community shall have adopted this Ordinance or an ordinance that is at least as stringent and contains all the criteria of this Ordinance; and
- c. The community shall have a Certified Floodplain Manager in the employ or under contract; and
- d. The community shall agree to perform the duties of the Enforcement Officer within the community's jurisdiction.

2. Certification Process and Duties

- a. A petition for certification shall be submitted to the MCSC indicating how the community meets the Certification Criteria of this Ordinance. A copy of the community's adopted ordinance shall be included with the petition.
- b. Within 90 days of receipt of the petition and in conjunction with the next regularly scheduled MCSC meeting, the MCSC Chief Engineer shall make a recommendation to the MCSC, based on his or her review of the petition recommendation shall be presented.
- c. Within 60 days of the MCSC Chief Engineer's recommendation, the MCSC may approve the petition as submitted, may approve the petition with conditions, or may deny the petition. A notice of the MCSC action shall be submitted to the petitioning community.
- d. Certified Communities shall notify the MCSC Chief Engineer within 2 weeks of any change in:

- (1) The community's Enforcement Officer; or

- (2) The Certified Floodplain Manager(s), licensed professional engineer(s) or wetland specialist(s) responsible for review of stormwater management permit applications for the Certified Community.
- e. Certified Communities shall submit an annual report summarizing the community's stormwater management permit activity. At a minimum, the annual report shall include:
- (1) The name and contact information for the Enforcement Officer;
  - (2) The name and contact information for the Certified Floodplain Manager;
  - (3) The name and contact information for the licensed professional engineer responsible for reviewing or supervising the review of any plans, calculations or analyses prepared by a licensed professional engineer as part of a stormwater management permit application;
  - (4) The name and contact information for the wetland specialist responsible for reviewing or supervising the review of any documents prepared by a wetland specialist as part of a stormwater management permit application;
  - (5) Documentation of the following characteristics of each stormwater management permit issued:
    - i. The proposed hydrologically disturbed area;
    - ii. The existing and proposed impervious area and the impervious area that existed at the development site prior to the effective date of this Ordinance;
    - iii. Whether a flood hazard area exists on the development site;
    - iv. Whether an IWMC exists on the development site;
    - v. The development classification;
    - vi. The signature of the Certified Floodplain Manager that has reviewed and recommends approval of the stormwater management permit application, if applicable;
    - vii. The signature of the licensed professional engineer that has reviewed and recommends approval the stormwater management permit application, if applicable;
    - viii. The signature of the wetland specialist that has reviewed and recommends approval of the stormwater management permit application, if applicable;
    - ix. The signature of the Enforcement Officer issuing the stormwater management permit;
  - (6) A list of any stormwater management permits issued for regulated development that was designed and reviewed by the same firm;
  - (7) A summary of any variances granted to the provisions of this Ordinance; and
  - (8) A list of any pending violations to the provisions of this Ordinance.



- f. Certified Communities shall petition for recertification every 5 years.
3. Committee Review of Performance
- a. Within the 5 year certification period, the MCSC or the MCSC Chief Engineer may periodically review the community's ordinance enforcement records and make remedial recommendations to the community, if necessary. Review findings will be used in the assessment of petitions for recertification from Certified Communities.
  - b. The MCSC may rescind a community's certification for the following reasons:
    - (1) The community is no longer a participant in the NFIP;
    - (2) The community adopts an ordinance or amends its ordinance so that its ordinance is less restrictive than this Ordinance; or
    - (3) The community fails to enforce the provisions of this Ordinance or issues a permit not meeting the requirements of this Ordinance.
  - c. The MCSC Chief Engineer may immediately rescind a community's certification for the above reasons until the MCSC can discuss the reasons at the next regularly scheduled meeting.

**Article XI****§17.60.110 Disclaimer of Liability**

It is recognized that the degree of flood protection required by this Ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations; however, on occasion, greater floods than the base flood will occur and will result in greater flood heights and flood damage. Furthermore, flood heights may be increased by other man-made or natural causes. These provisions do not imply that land outside flood hazard areas or that uses permitted within such areas will be free from flooding or flood damage. These provisions shall not create liability on the part of the MCSC nor any Certified Community nor any officer or employee thereof for any flood damage that results from reliance on this Ordinance or any administrative decision lawfully made there under.

**Article XII**

**§17.60.120 Severability**

- A. The provisions of this Ordinance shall be severable in accordance with the following rules:
  - 1. If any court of competent jurisdiction shall adjudge any provision of this Ordinance invalid, such judgment shall not affect any other provision of this Ordinance; and
  - 2. If any court of competent jurisdiction shall adjudge invalid the application of any provision of this Ordinance to a particular parcel of land, a particular structure, or a particular development, such judgment shall not affect the application of said provisions to any other parcel of land, structure, or development.
- B. All such unaffected provisions of this Ordinance shall remain in full force and effect.

**Article XIII****§17.60.130 Abrogation and Greater Restrictions**

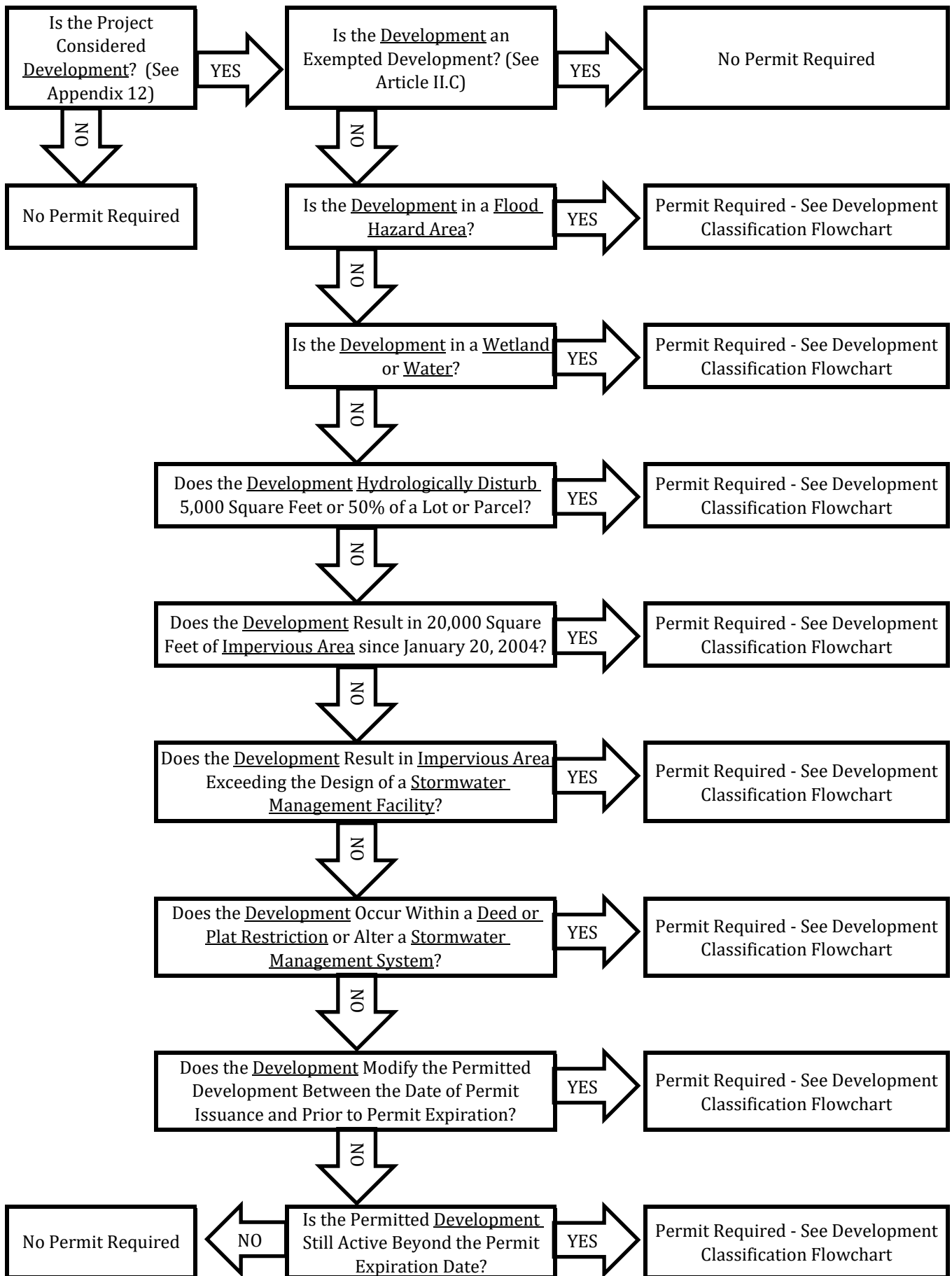
This Ordinance is not intended to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. Where this Ordinance and other ordinances, easements, covenants, or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail. This Ordinance shall repeal the original ordinance or resolution which was adopted to meet the community's NFIP regulations, but shall not repeal the resolution which the community passed in order to establish initial eligibility for the NFIP.

**Article XIV****§17.60.140 Amendments**

No amendment to this Ordinance may be adopted without a public hearing first being held before the MCSC upon notice published. Notice of the hearing shall be published once in a newspaper having a general circulation within the community. The publication shall not be less than 15 days, nor more than 30 days, prior to the hearing. FEMA and IDNR/OWR shall also be notified prior to adoption of any amendment. Amendments to this Ordinance shall become effective when adopted by the McHenry County Board.

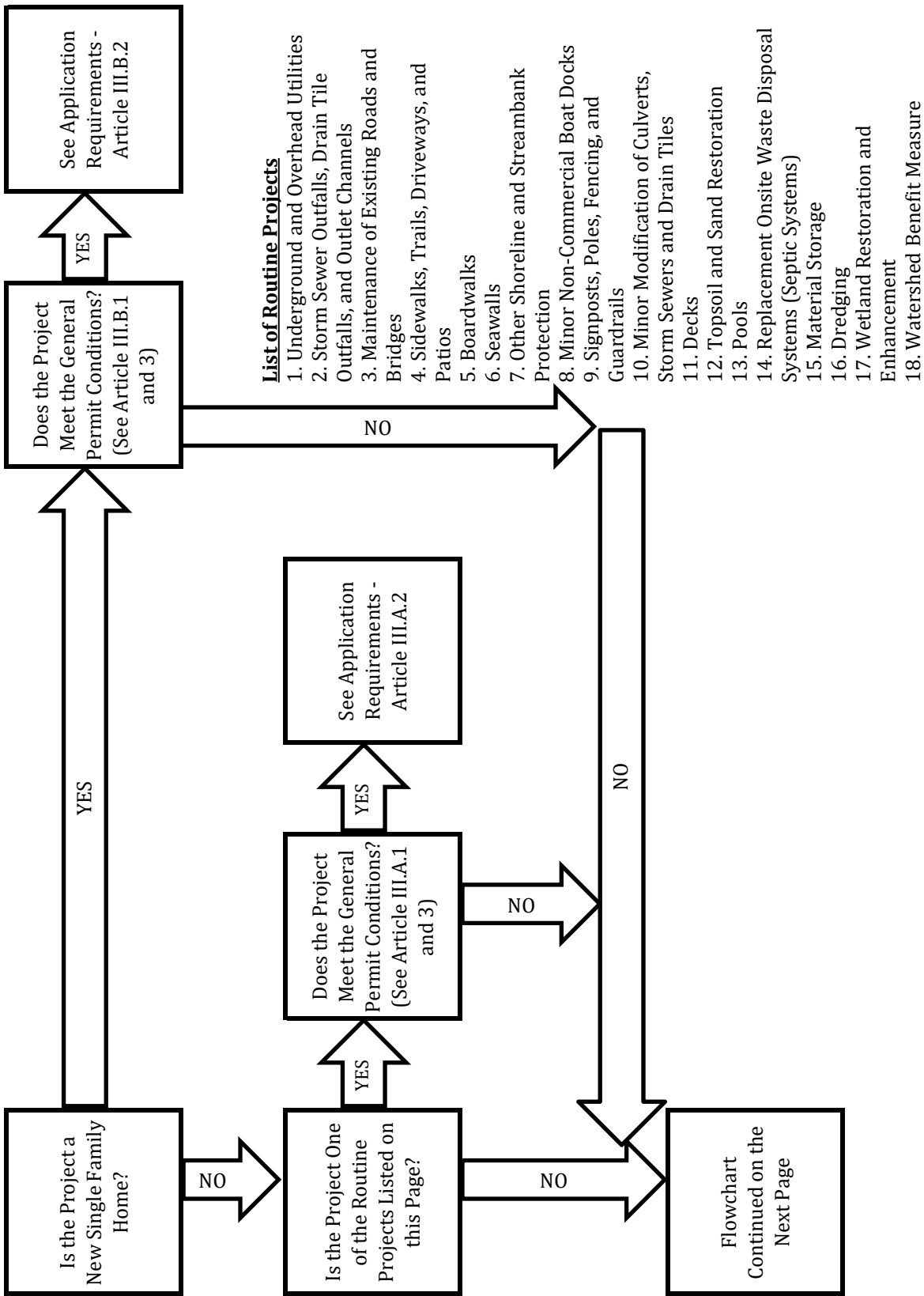
From time to time the lists in Appendix 11 of this Ordinance need to be updated to reflect a new or revised FIRM or FIS. Routine revisions to update these lists are required by FEMA and IDNR/OWR. Public notice and review of a new or revised FIRM or FIS is required by FEMA and IDNR/OWR prior to final adoption. The public notice and review process applies to both the impacted community and individual property owners. For this reason, the lists in Appendix 11 may be updated by MCSC without additional public notice over and above that accomplished by FEMA and IDNR/OWR.

Regulated Development Flowchart

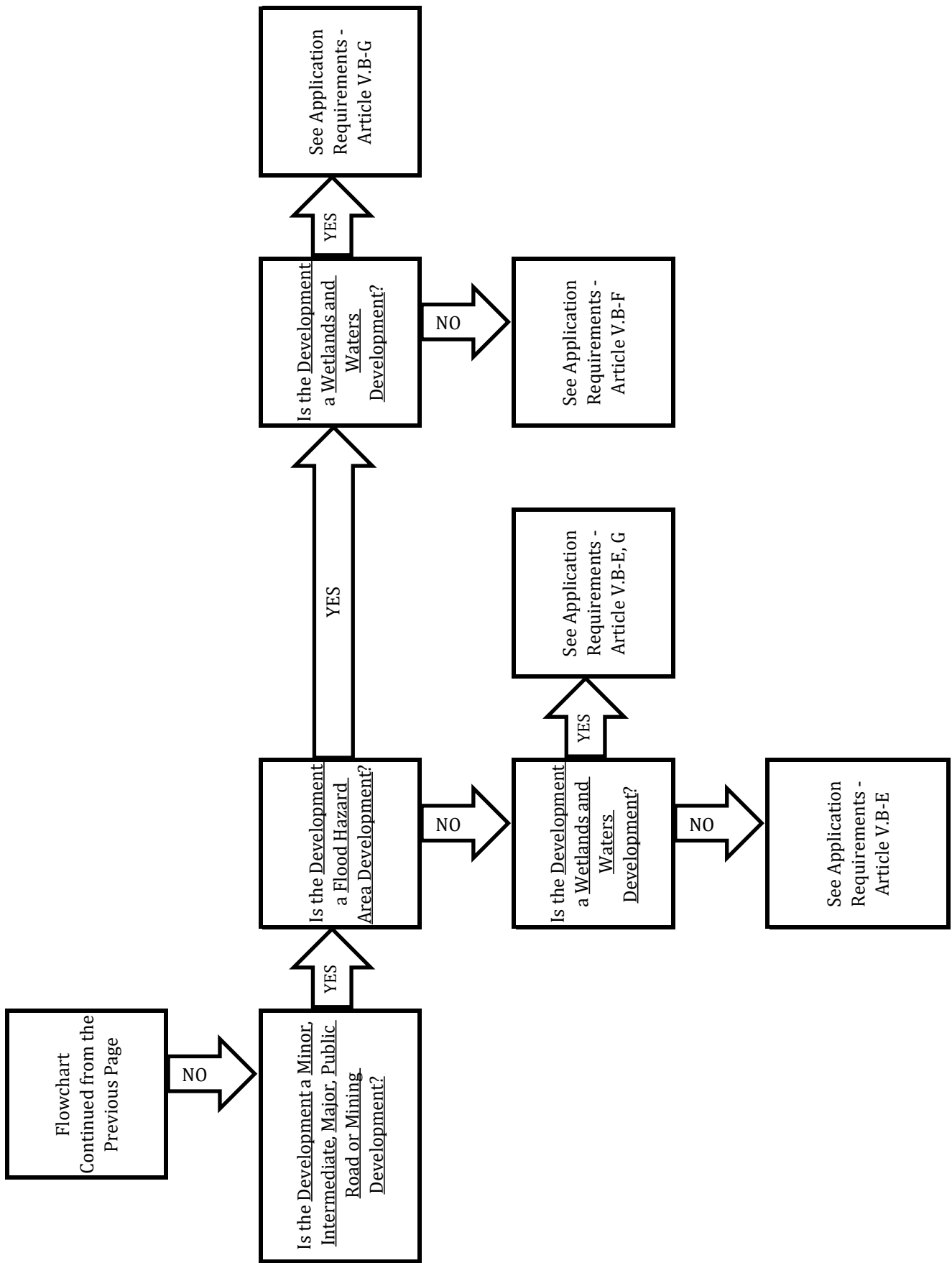


Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.

Development Classification Flowchart (Page 1 of 2)



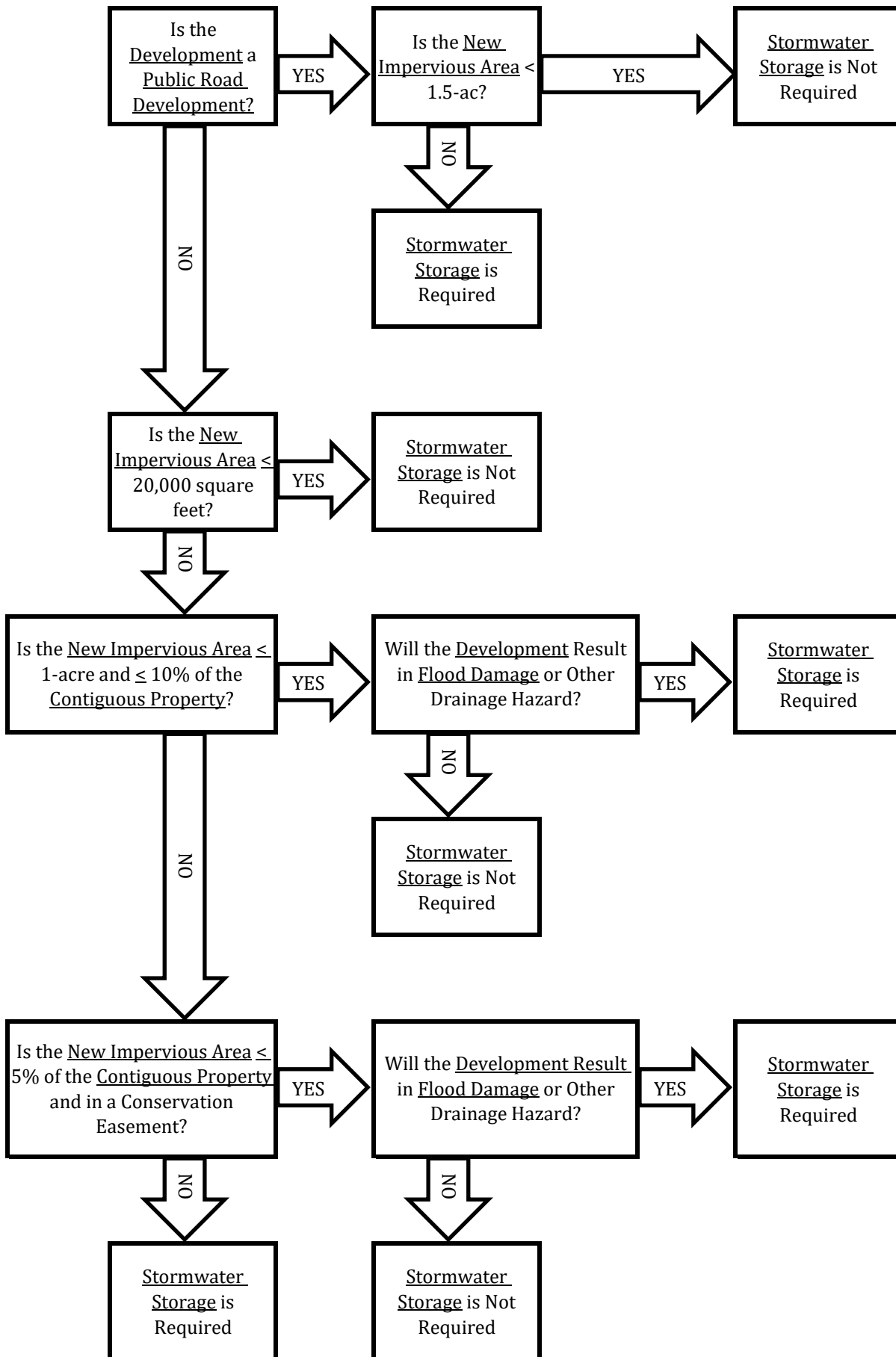
Development Classification Flowchart (Page 2 of 2)



Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.

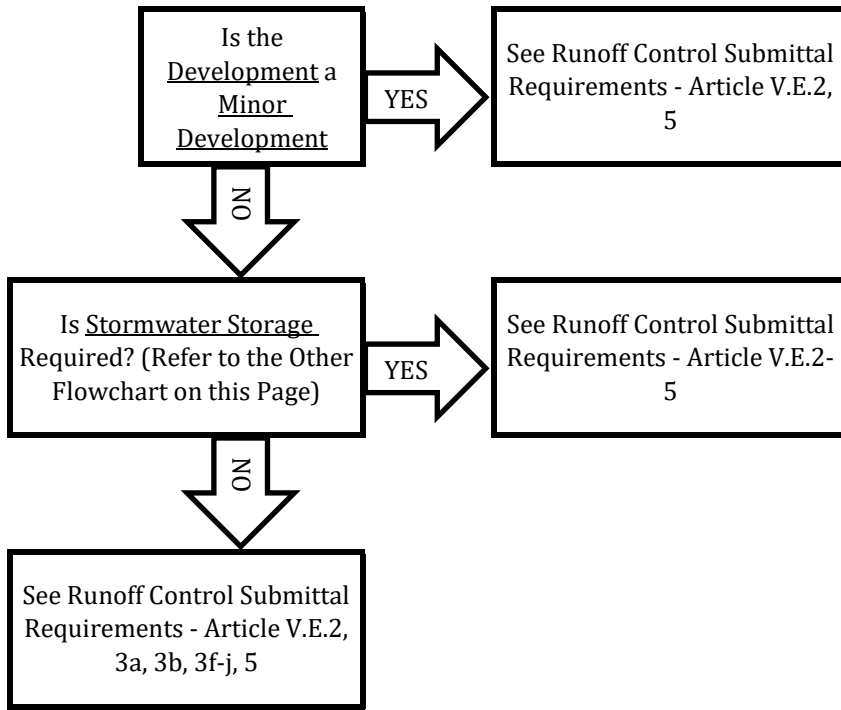


Runoff Control Submittal Flowchart (Page 1 of 2)

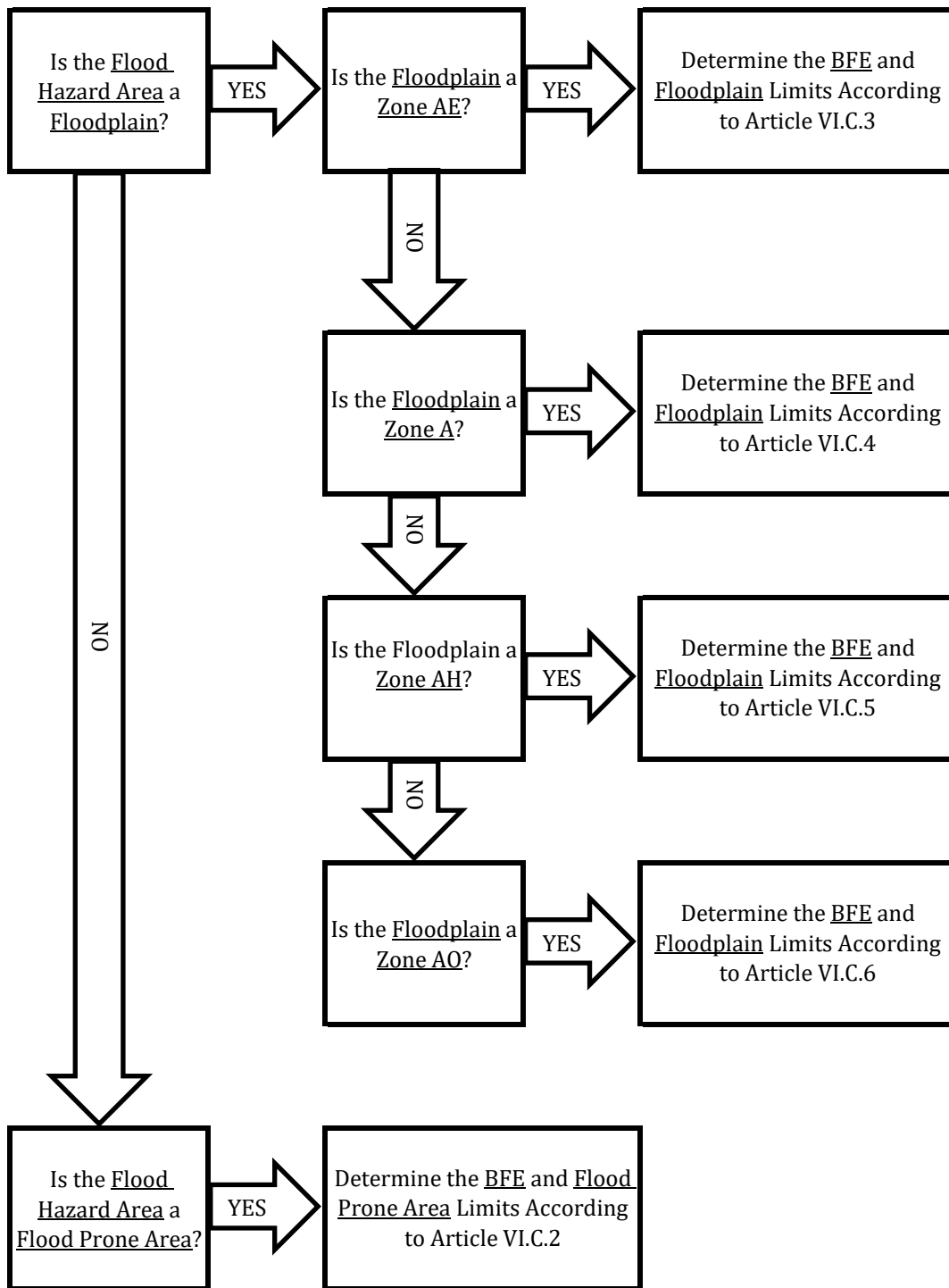


Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.

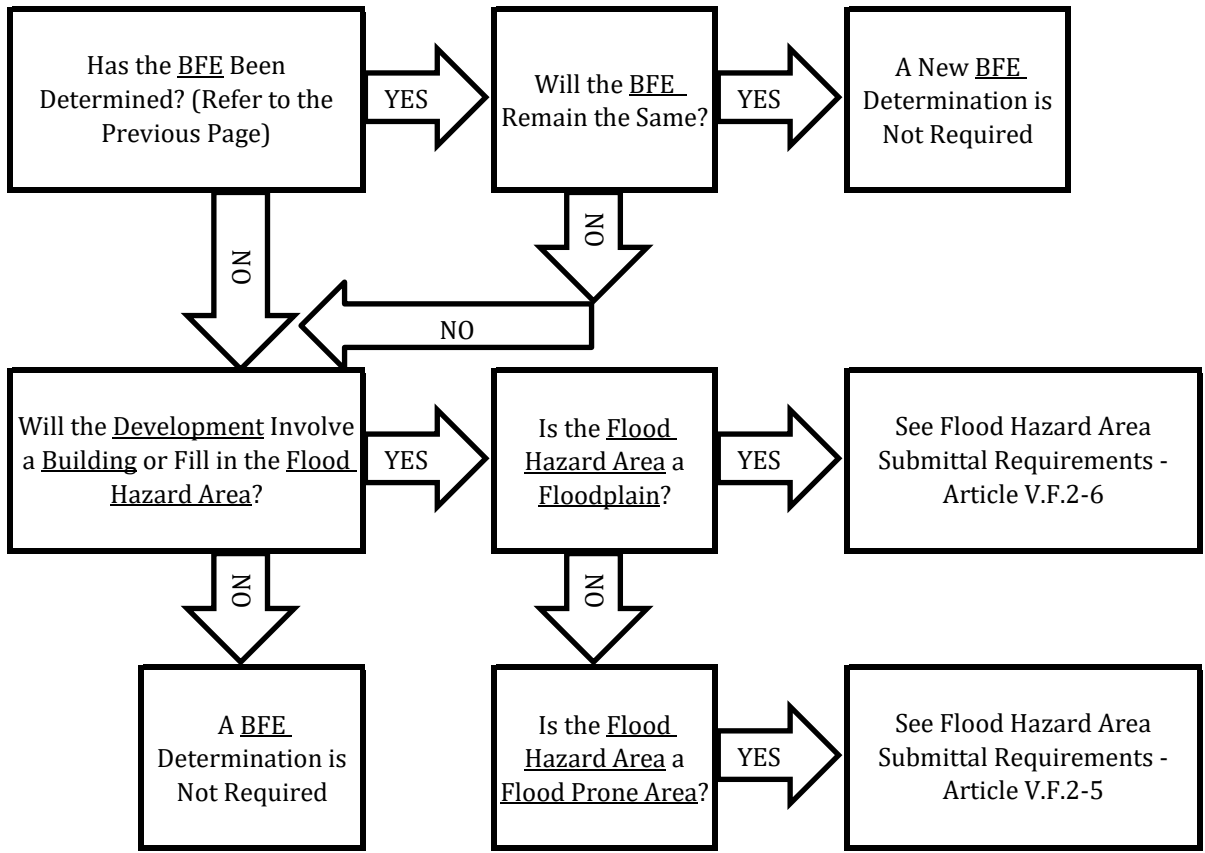
Runoff Control Submittal Flowchart (Page 2 of 2)



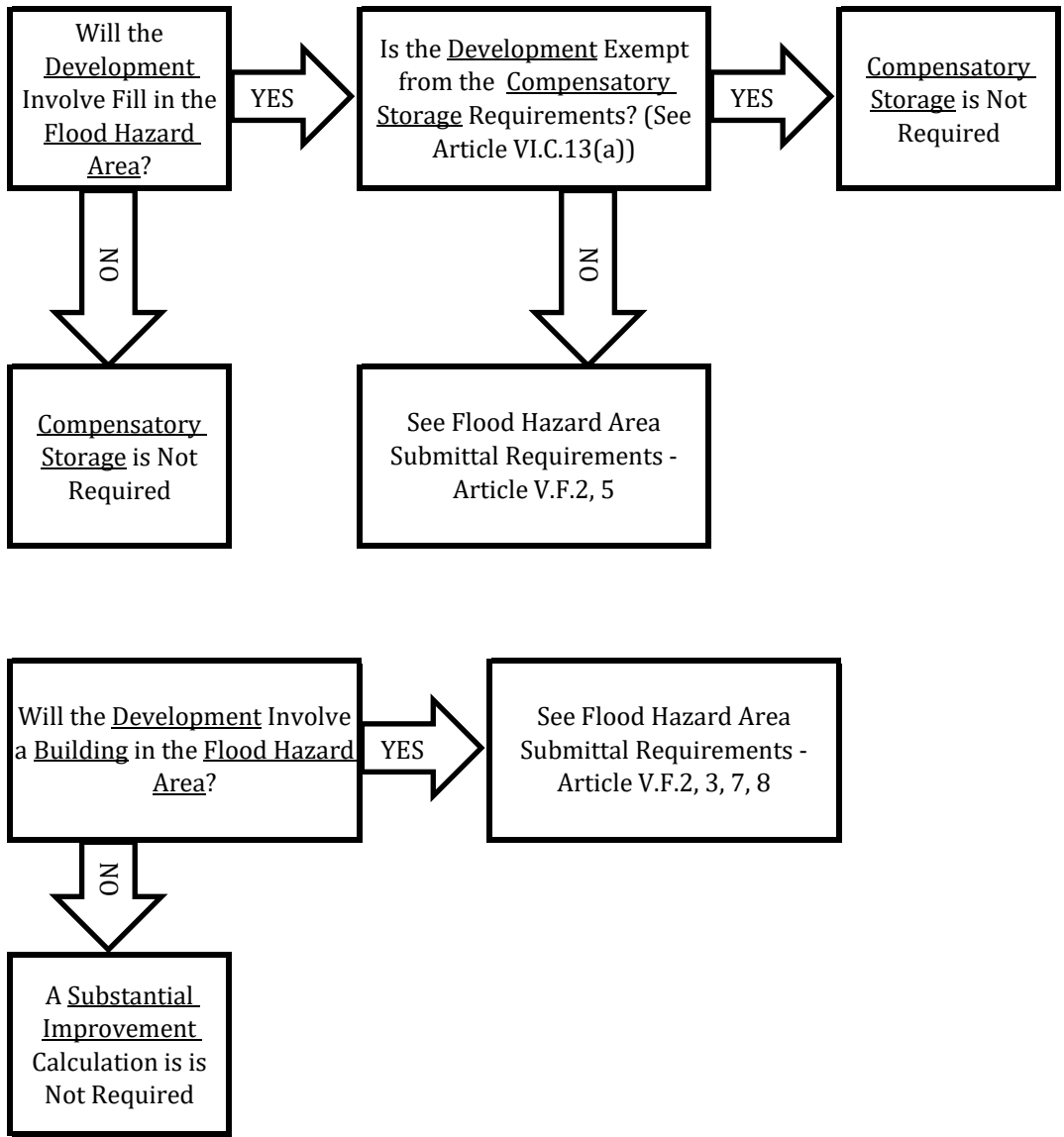
Flood Hazard Area Submittal Flowchart (Page 1 of 3)



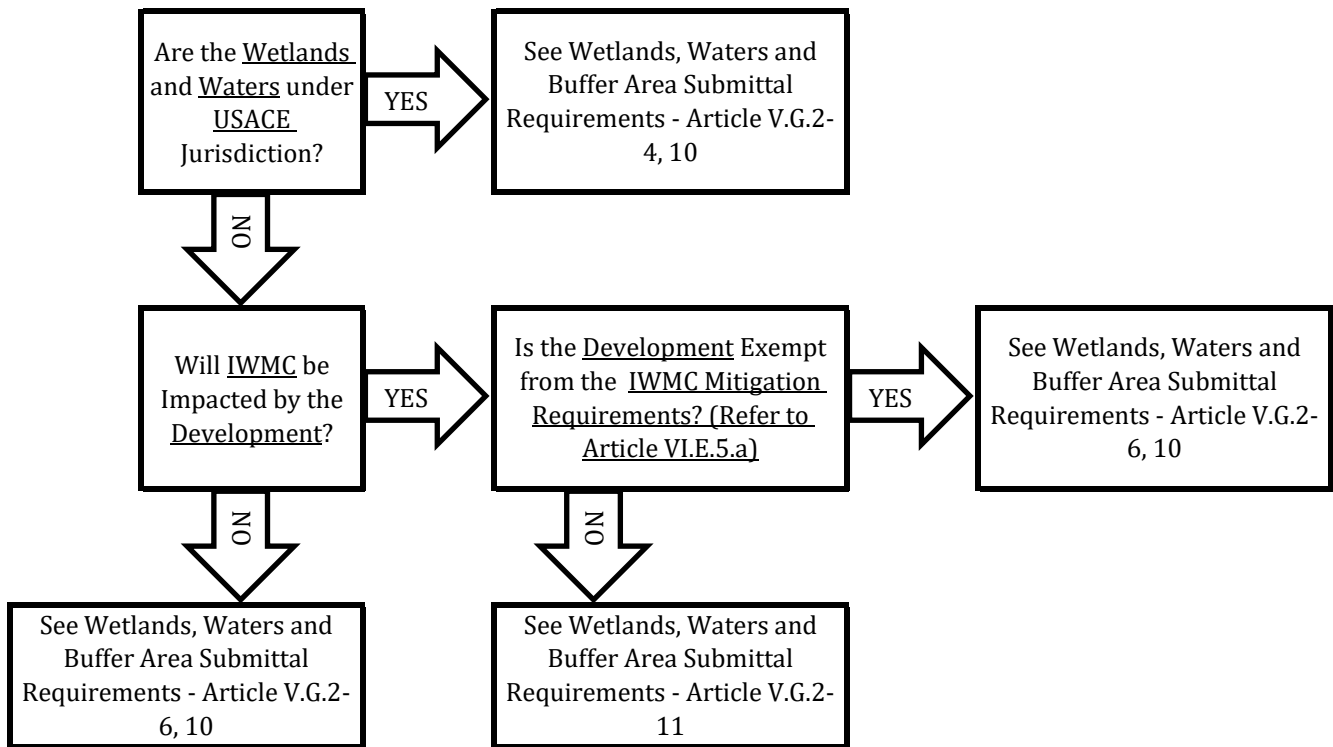
Flood Hazard Area Submittal Flowchart (Page 2 of 3)



Flood Hazard Area Submittal Flowchart (Page 3 of 3)



Wetlands, Waters and Buffer Area Submittal Flowchart



**Appendix 2****§17.60.160 Standard Soil Erosion and Sediment Control Notes**

1. Control measures shall meet the minimum standards and specifications of the *Illinois Urban Manual* unless stated otherwise.
2. Soil disturbance shall be conducted in such a manner as to minimize erosion. Areas of the development site that are not to be disturbed shall be protected from construction traffic or other disturbance until final stabilization is achieved.
3. Soil stabilization measures shall consider the time of year, development site conditions and the use of temporary or permanent measures.
4. Stabilization by seeding shall include topsoil placement and fertilization, as necessary.
5. Native seed mixtures shall include rapid-growing annual grasses or small grains to provide initial, temporary soil stabilization.
6. Offsite property shall be protected from erosion and sedimentation. Velocity dissipation devices shall be placed at concentrated discharge locations and along the length of any outfall channel, as necessary to prevent erosion.
7. Sediment control measures shall be installed prior to the disturbance of tributary areas.
8. Stabilization of disturbed areas shall be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the development site, or temporarily ceased on any portion of the development site and will not resume for a period exceeding 14 calendar days. Stabilization of disturbed areas shall be initiated within 1 working day of permanent or temporary cessation of earth disturbing activities and shall be completed as soon as possible, but not later than 14 calendar days from the initiation of stabilization work in an area. Exceptions to these time frames are specified below:
  - a. Where the initiation of stabilization measures is precluded by snow cover, stabilization measures shall be initiated as soon as practicable; and
  - b. In areas where construction activity has temporarily ceased and will resume after 14 days, a temporary stabilization method may be used.
9. Disturbance of steep slopes shall be minimized. Areas or embankments having slopes steeper than 3:1 shall be stabilized with staked in place sod, erosion control blanket in combination with seeding, or an equivalent control measure.
10. Perimeter control measures shall be provided downslope and perpendicular to the flow of runoff from disturbed areas, where the tributary area is greater than 5,000 square feet, and where runoff will flow in a sheet flow manner. Perimeter erosion control shall also be provided at the base of soil stockpiles.
11. The stormwater management system shall be protected from erosion and sedimentation downslope from disturbed areas. Inlet protection that reduces sediment loading, while allowing runoff to enter the inlet shall be required for all storm sewers. Check dams, or an equivalent control measure, shall be required for all channels. Filter fabric inlet protection and straw bale ditch checks are not acceptable control measures.
12. If dewatering services are used, discharges shall be routed through an effective sediment control measure (e.g., sediment trap or an equivalent control measure). The

Enforcement Officer shall be notified prior to the commencement of dewatering activities.

13. All temporary soil erosion and sediment control measures shall be removed within 30 days after final stabilization of the development site is achieved or after the temporary measures are no longer necessary. Trapped sediment shall be removed and disturbed areas shall be permanently stabilized.
14. Stockpiled soil and materials shall be removed from flood hazard areas at the end of each work day. Soil and materials stockpiled in IWMC or buffer areas shall be placed on timber mats, or an equivalent control measure.
15. Effective control measures shall be utilized to minimize the discharge of pollutants from the development site. At a minimum, control measures shall be implemented in order to:
  - a. Minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash water; and
  - b. Minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, vehicle fluids, sanitary waste, and other materials present on the development site to precipitation and to stormwater.
16. Adequate receptacles shall be provided for the depositing of all construction material debris generated during the development process. The applicant shall not cause or permit the dumping, depositing, dropping, throwing, discarding or leaving of construction material debris upon or into any development site, channel, or IWMC. The development site shall be maintained free of construction material debris.
17. The Enforcement Officer may require additional or alternate soil erosion and sediment control measures, based on development site specific considerations and the effectiveness of the installed control measures.



**Appendix 3****§17.60.170 Standard Drain Tile Notes**

1. Drain tiles disturbed during regulated development shall be reconnected by those responsible for their disturbance, unless the development plans specify abandonment of the drain tiles.
2. All abandoned drain tiles within disturbed areas shall be removed in their entirety.
3. Drain tiles within the disturbed area of a development site shall be replaced, bypassed around the development site or intercepted and connected to the stormwater management system for the development site. The size of the replaced or bypassed drain tile shall be equivalent to the existing drain tile.

**Appendix 4**

**§17.60.180 Rainfall Depth-Duration Frequency Tables for McHenry County**

Angel, J. R., M. Markus, K. A. Wang, B. M. Kerschner, S. Singh. 2020. Precipitation Frequency Study for Illinois. Illinois State Water Survey Bulletin 75, Champaign, IL.

Storm Duration	Frequency												
	2- month	3- month	4- month	6- month	9- month	1- year	2- year	5- year	10- year	25- year	50- year	100- year	500- year
<u>5 minutes</u>	0.19	0.22	0.24	0.27	0.31	0.33	0.40	0.52	0.62	0.77	0.90	1.03	1.35
<u>10 minutes</u>	0.33	0.38	0.41	0.47	0.53	0.58	0.70	0.90	1.08	1.35	1.58	1.80	2.36
<u>15 minutes</u>	0.42	0.49	0.53	0.61	0.69	0.75	0.90	1.16	1.39	1.74	2.03	2.32	3.04
<u>30 minutes</u>	0.58	0.66	0.73	0.83	0.94	1.03	1.24	1.59	1.91	2.39	2.78	3.17	4.16
<u>1 hour</u>	0.74	0.84	0.93	1.05	1.20	1.30	1.57	2.02	2.42	3.03	3.53	4.03	5.28
<u>2 hours</u>	0.91	1.04	1.14	1.30	1.48	1.61	1.94	2.49	2.99	3.74	4.35	4.97	6.52
<u>3 hours</u>	1.00	1.15	1.26	1.44	1.63	1.77	2.14	2.75	3.30	4.13	4.80	5.49	7.20
<u>6 hours</u>	1.18	1.35	1.48	1.68	1.91	2.08	2.51	3.23	3.86	4.84	5.63	6.43	8.43
<u>12 hours</u>	1.37	1.56	1.71	1.95	2.21	2.41	2.91	3.74	4.48	5.61	6.53	7.46	9.78
<u>18 hours</u>	1.48	1.69	1.85	2.11	2.39	2.61	3.14	4.04	4.84	6.06	7.05	8.06	10.57
<u>24 hours</u>	1.57	1.80	1.97	2.24	2.55	2.77	3.34	4.30	5.15	6.45	7.50	8.57	11.24
<u>48 hours</u>	1.72	1.97	2.16	2.46	2.79	3.04	3.66	4.71	5.62	6.99	8.13	9.28	12.10
<u>72 hours</u>	1.87	2.14	2.34	2.67	3.03	3.30	3.97	5.08	6.05	7.49	8.64	9.85	12.81
<u>120 hours</u>	2.08	2.38	2.61	2.97	3.37	3.67	4.42	5.63	6.68	8.16	9.39	10.66	13.81
<u>240 hours</u>	2.63	3.01	3.30	3.76	4.27	4.65	5.60	7.09	8.25	9.90	11.26	12.65	16.00

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms. Refer to Appendix 1 for permitting flowcharts.

## Huff Quartiles for Time Distribution of Heavy Rainfall

Duration $\leq$ 6 hours	1 <sup>st</sup> Quartile
6 hours < Duration $\leq$ 12 hours	2 <sup>nd</sup> Quartile
12 hours < Duration $\leq$ 24 hours	3 <sup>rd</sup> Quartile
Duration > 24 hours	4 <sup>th</sup> Quartile

Portion of the Storm	Drainage Area Under 10 Square Miles				Drainage Area 10 to 50 Square Miles				Drainage Area 50 to 400 Square Miles			
	1st	2nd	3rd	4th	1st	2nd	3rd	4th	1st	2nd	3rd	4th
0/24	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
1/24	8.36	2.29	2.05	2.31	6.41	1.48	1.33	1.48	4.59	0.88	0.72	0.90
2/24	17.73	4.82	4.31	4.79	15.69	3.57	3.02	3.34	13.49	2.38	1.85	2.29
3/24	28.11	7.78	6.67	7.12	27.45	6.39	5.13	5.72	25.94	4.93	3.47	4.36
4/24	38.33	11.33	9.12	9.78	38.91	10.02	7.53	8.56	39.17	8.52	5.57	7.10
5/24	47.45	15.79	11.71	12.53	49.34	14.71	10.01	11.69	51.04	13.19	8.28	9.93
6/24	55.50	21.39	14.36	15.23	58.55	20.89	12.65	14.19	60.79	19.59	10.96	12.84
7/24	62.25	28.41	16.91	17.91	65.88	28.91	15.24	17.19	69.26	27.46	13.79	15.46
8/24	67.22	36.44	19.64	20.33	71.10	37.55	18.17	19.69	74.80	37.17	16.35	17.83
9/24	70.82	45.29	22.78	22.83	74.92	46.86	21.46	22.27	78.74	47.77	19.66	20.12
10/24	74.17	54.35	26.33	25.41	78.30	56.25	25.36	24.81	82.20	58.18	23.46	23.12
11/24	76.97	62.38	30.93	28.35	81.16	64.84	29.90	27.46	85.13	67.64	28.07	25.76
12/24	79.81	69.76	36.35	31.25	83.75	72.90	35.60	30.33	87.38	75.86	34.06	28.26
13/24	82.55	75.48	43.92	33.90	86.20	79.07	43.42	32.42	89.58	82.04	42.30	30.99
14/24	85.18	80.38	52.11	36.33	88.64	83.97	52.18	34.28	91.45	86.92	52.02	33.68
15/24	87.40	84.70	61.02	38.61	90.81	87.58	61.88	36.89	93.35	90.33	62.76	36.12
16/24	89.47	87.81	69.89	41.24	92.58	90.67	71.81	39.73	94.80	93.09	72.80	39.07
17/24	91.17	90.22	78.19	45.08	93.99	92.76	80.43	43.85	95.99	94.82	82.27	42.93
18/24	92.70	92.17	84.92	51.29	95.19	94.59	87.25	49.87	96.94	96.25	89.19	48.98
19/24	94.03	93.81	89.74	59.31	96.35	95.97	92.01	58.93	97.70	97.34	93.60	59.22
20/24	95.36	95.29	93.11	69.19	97.27	97.10	95.04	69.85	98.35	98.21	96.33	71.66
21/24	96.56	96.57	95.34	80.05	98.03	97.99	96.90	82.36	98.86	98.83	97.97	85.18
22/24	97.74	97.74	97.06	89.71	98.74	98.72	98.22	92.59	99.28	99.30	98.98	94.64
23/24	98.85	98.84	98.56	96.04	99.37	99.39	99.21	97.96	99.66	99.67	99.58	98.77
24/24	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.  
Refer to Appendix 1 for permitting flowcharts.

## Appendix 5

## §17.60.190 Hydrologic and Hydraulic Models and Techniques Approved by MCSC

Hydrologic Models or Techniques Approved by MCSC				
Hydrologic Model or Technique	Less than 10 ac 5.c.(1)	Less than 20 ac 5.c.(2)(a)	Between 20 and 100 ac 5.c.(2)(b)	Greater than 100 ac 5.c.(2)(c)
Detention Volume vs. Percent Impervious Chart	X			
Rational Method	Runoff but not Storage	Runoff but not Storage		
TR-55	X	X	X	
USGS Regression Equations			X <sup>10</sup>	X <sup>10</sup>
StreamStats			X <sup>10</sup>	X <sup>10</sup>
HEC-1	X	X	X	X
TR-20	X	X	X	X
HEC-HMS	X	X	X	X

<sup>10.</sup> Only allowed where all habitable buildings are above the BEF.

1. The hydrologic models or techniques approved by MCSC include, but are not limited to:
  - a. HEC-HMS, TR-20, HEC-1, TR-55, and the Rational Method for tributary areas less than 20 acres;
  - b. HEC-HMS, TR-20, HEC-1, TR-55, USGS Regression Equations, and StreamStats for tributary areas less than 100 acres but greater than or equal to 20 acres; or
  - c. HEC-HMS, TR-20, HEC-1, USGS Regression Equations, and StreamStats for tributary areas of 100 acres or more.

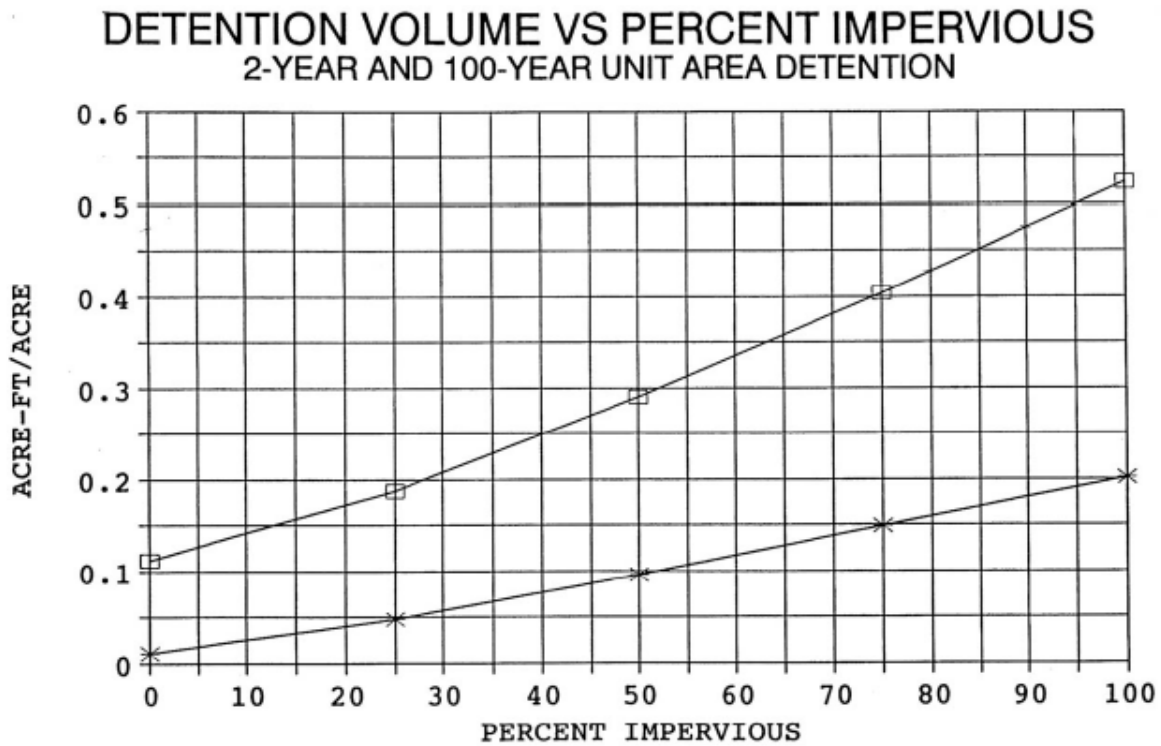
Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.  
Refer to Appendix 1 for permitting flowcharts.

2. The Rational Method may be used to determine the peak stormwater runoff rate, but neither the Rational Method nor the Modified Rational Method shall be used to determine the required stormwater storage volume.
3. The Rainfall Depth Duration Frequency Tables in Appendix 4 shall be used for all hydrologic models.
4. Peak stormwater runoff rates determined using hydrograph producing models shall be based on the critical duration storm event using the appropriate Huff Rainfall Distributions in Appendix 4.
5. Peak stormwater runoff rates determined using TR-55 shall be based on the 24 hour NRCS (SCS) Type II distribution.
6. BFE determinations using USGS Regression Equations and StreamStats shall only be allowed where all habitable buildings are above the BFE.

**Appendix 6**

**§17.60.200 Detention Volume vs. Percent Impervious Chart for McHenry County**

Unit Area Detention Volume (NIPC, 1991)



2-year release = 0.04 cfs/acre, 100-year release = 0.15 cfs/acre

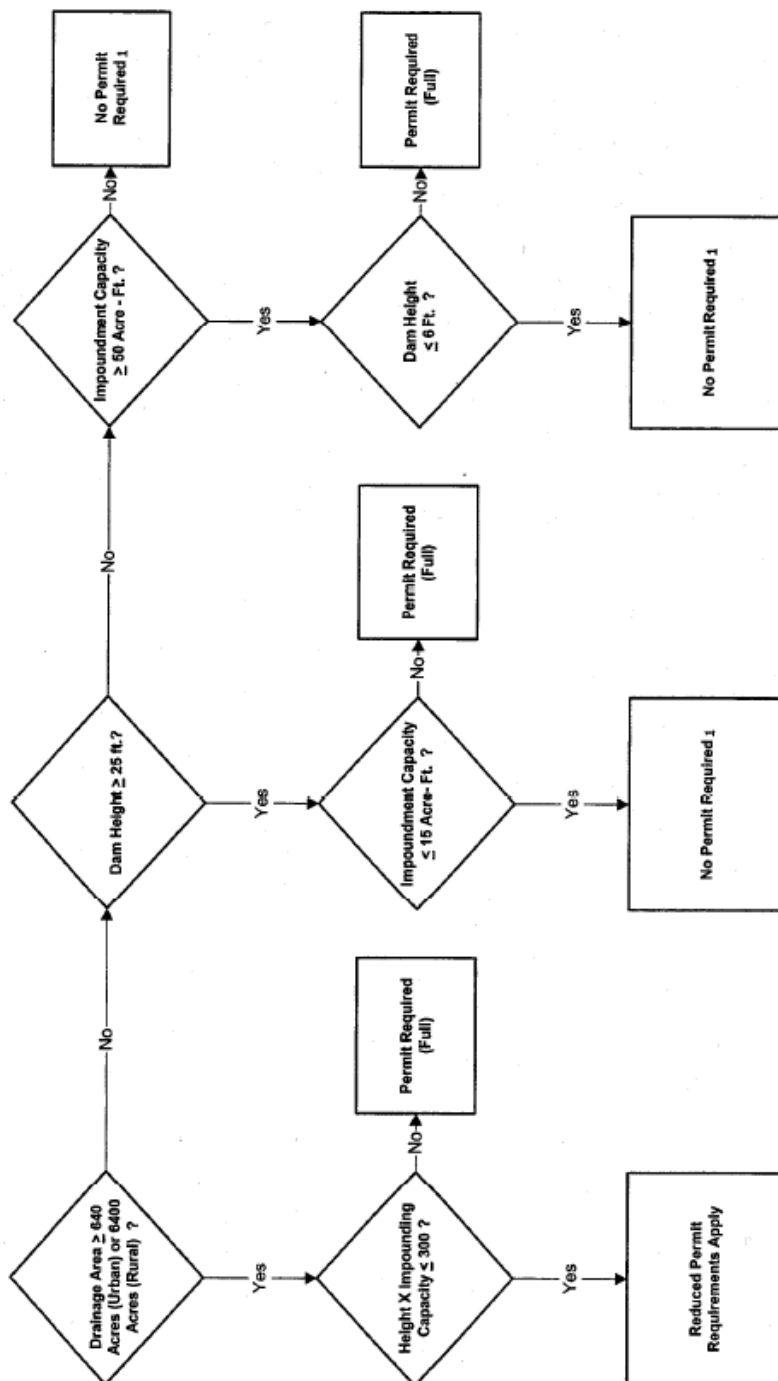
—\*— 2-YEAR    —□— 100-YEAR

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.  
Refer to Appendix 1 for permitting flowcharts.

Appendix 7

§17.60.220 IDNR/OWR Dam Safety Permit Flowchart

**CLASS III, SMALL SIZE DAM**



**REDUCED PERMIT REQUIREMENTS**

- a) a completed "Application for Permit form,
  - b) construction plans and documents that are sealed, signed and dated by an engineer or qualified personnel
  - c) information describing the downstream floodplain for a distance of two miles,
  - d) calculations for the reservoir's 100-year flood pool elevation,
  - e) proof of flooding rights (fee simple ownership or flood easement) of all lands within the reservoir's flood pool.
  - f) right of access authorization for the State to inspect the dam site and immediate vicinity before, during and after construction for the life of the dam and its appurtenances, and
  - g) agreement to submit record ("as-built") plans and specifications upon completion of the project.
1. Unless known, potential exists for downstream for flood related structural damage which would result from dam failure.

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms. Refer to Appendix 1 for permitting flowcharts.

**Appendix 8****§17.60.230 Public Bodies of Water in McHenry County**

The following public bodies of water were navigable in their natural condition or were improved for navigation and opened to public use. The entire length and surface area in Illinois, including all backwater lakes and sloughs open to the main channel or body of water at normal flows or stages, which are open to the public.

1. Fox River (Illinois River Basin)
2. Fox Chain-O-Lakes (Lake and McHenry Counties): Bluff Lake, Lake Catherine, Channel Lake, Fox Lake, Grass Lake, Lake Marie, Nippersink Lake, Dunns Lake, Pistakee Lake, Lake Jerilyn, Lac Louette, Redhead Lake;
3. Griswold Lake including the connecting channel to the Fox River.

The following public bodies of water are navigable waters that were dedicated to public use. This list is incomplete. It is believed there are numerous channels and slips in subdivisions on the margins of public bodies of water which have been dedicated by plat. Additional channels and slips have been dedicated by common law.

1. No list for McHenry County.

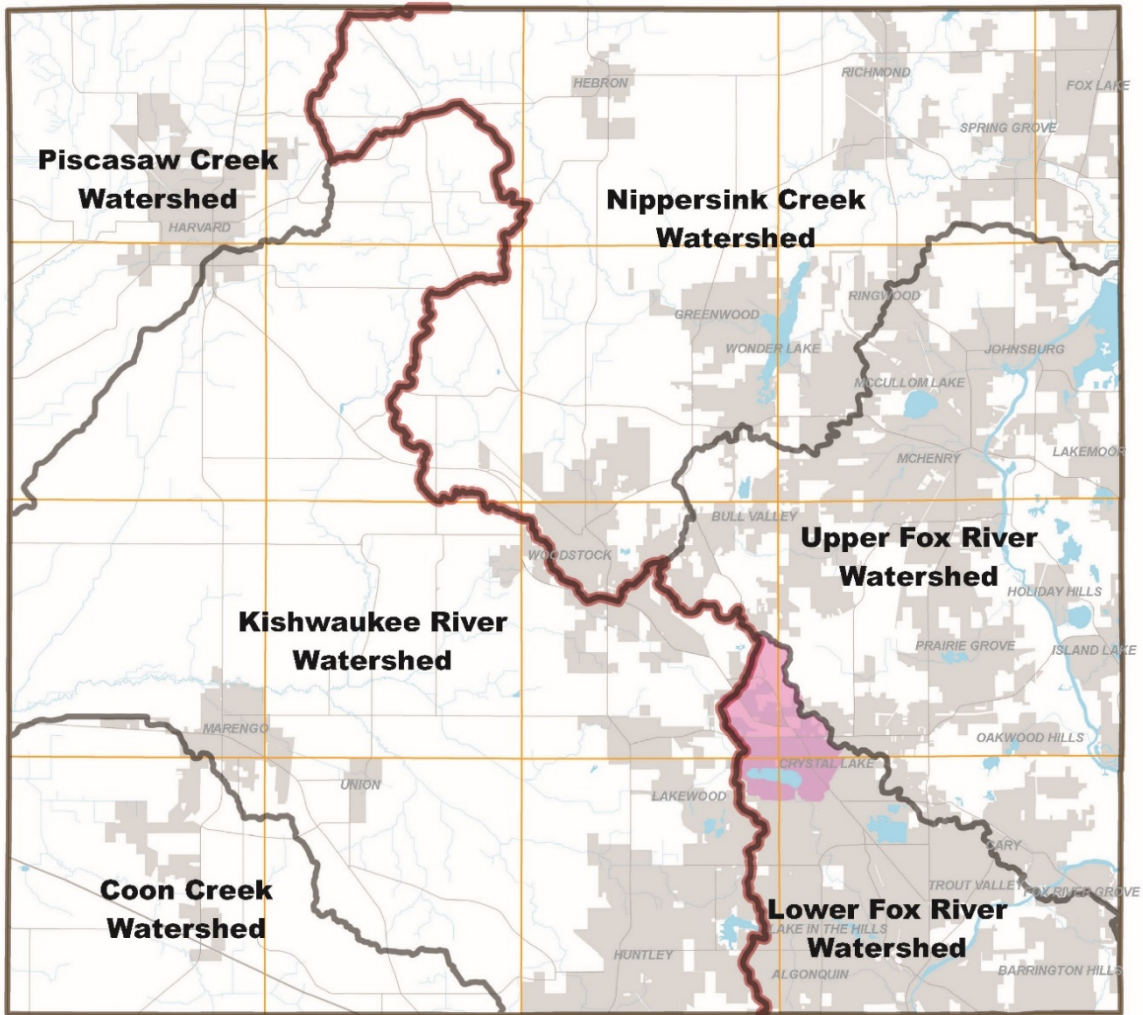
**NOTE:** The above lists are provided by IDNR/OWR. An IDNR/OWR permit is required for regulated development within the listed waterways and adjacent wetlands.



Appendix 9

§17.60.240 McHenry County Watersheds

### McHenry County, Illinois Watersheds



- McHenry County Watersheds
- Crystal Lake Watershed
- Fox-Kishwaukee Watersheds Divide



TOWNSHIPS

CHEMUNG	ALDEN	HEBRON	RICHMOND	BURTON
DUNHAM	HARTLAND	GREENWOOD	MCHENRY	
MARENGO	SENECA	DORR	NUNDA	
RILEY	CORAL	GRAFTON	ALGONQUIN	

Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms. Refer to Appendix 1 for permitting flowcharts.

**Appendix 10**

**§17.60.250 McHenry County Watershed Plans**

Boone-Dutch Creek Watershed-Based Plan

Crystal Lake Watershed Design Manual and Implementation Plan

Lawrence Creek Watershed Plan

Nippersink Watershed Plan

Preserving the Kishwaukee Watershed (Greater Marengo-Union Area Watershed Plan)

Silver Creek and Sleepy Hollow Creek Watershed Action Plan

Upper Kishwaukee River Watershed Plan

Watershed Protection and Restoration Strategy for Boone Creek

Woods Creek Watershed Plan

**Appendix 11****§17.60.260 Floodplain and Floodway Maps**

<u>COMMUNITY NAME</u>	<u>COMMUNITY NUMBER</u>	<u>DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)</u>	<u>MCHENRY COUNTY FIRM PANEL NUMBER</u>	<u>MCHENRY COUNTY FIS EFFECTIVE DATE</u>
ALGONQUIN, VILLAGE OF	170474	NOV. 16, 2006	17111C 0320J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0334J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0335J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0336J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0337J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0340J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0341J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0342J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0343J	NOV. 16, 2006
BARRINGTON HILLS, VILLAGE OF	170058	NOV. 16, 2006	17111C 0342J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0353J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0354J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0356J	NOV. 16, 2006
BULL VALLEY, VILLAGE OF	170977	NOV. 16, 2006	17111C 0183J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0200J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0205J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0215J	NOV. 16, 2006
CARY, VILLAGE OF	170475	NOV. 16, 2006	17111C 0334J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0335J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0351J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0352J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0353J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0354J	NOV. 16, 2006
CRYSTAL LAKE, CITY OF	170476	NOV. 16, 2006	17111C 0200J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0215J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0220J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0310J	NOV. 16, 2006

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Refer to Appendix 1 for permitting flowcharts.*

<u>COMMUNITY NAME</u>	<u>COMMUNITY NUMBER</u>	<u>DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)</u>	<u>MCHENRY COUNTY FIRM</u>		<u>MCHENRY COUNTY FIS</u>
		NOV. 16, 2006	<u>PANEL NUMBER</u>		<u>EFFECTIVE DATE</u>
		NOV. 16, 2006	17111C	0326J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0327J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0328J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0329J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0334J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0335J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0336J	NOV. 16, 2006
FOX LAKE, VILLAGE OF	170362	NOV. 16, 2006	17111C	0112J	NOV. 16, 2006
FOX RIVER GROVE, VILLAGE OF	170477	NOV. 16, 2006	17111C	0353J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0354J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0365J	NOV. 16, 2006
GREENWOOD, VILLAGE OF	171057	NOV. 16, 2006	17111C	0074J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0086J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0088J	NOV. 16, 2006
HARVARD, CITY OF	170479	NOV. 16, 2006	17111C	0017J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0025J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0036J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0050J	NOV. 16, 2006
HEBRON, VILLAGE OF	170086	NOV. 16, 2006	17111C	0075J	NOV. 16, 2006
HOLIDAY HILLS, VILLAGE OF	170936	NOV. 16, 2006	17111C	0236J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0237J	NOV. 16, 2006
HUNTLEY, VILLAGE OF	170480	NOV. 16, 2006	17111C	0304J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0308J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0309J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0312J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0314J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0315J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0316J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0318J	NOV. 16, 2006

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Refer to Appendix 1 for permitting flowcharts.*

<u>COMMUNITY NAME</u>	<u>COMMUNITY NUMBER</u>	<u>DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)</u>	<u>MCHENRY COUNTY FIRM</u>		<u>MCHENRY COUNTY FIS</u>
		NOV. 16, 2006	<u>PANEL NUMBER</u>		<u>EFFECTIVE DATE</u>
ISLAND LAKE, VILLAGE OF	170370	NOV. 16, 2006	17111C	0236J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0237J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0238J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0239J	NOV. 16, 2006
JOHNSBURG, VILLAGE OF	170486	NOV. 16, 2006	17111C	0093J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0094J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0111J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0112J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0113J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0114J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0206J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0207J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0226J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0230J	NOV. 16, 2006
LAKE IN THE HILLS, VILLAGE OF	170481	NOV. 16, 2006	17111C	0308J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0309J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0316J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0320J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0328J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0329J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0334J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0335J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0336J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0337J	NOV. 16, 2006
LAKEMOOR, VILLAGE OF	170915	NOV. 16, 2006	17111C	0226J	NOV. 16, 2006
		NOV. 16, 2006	17111C	0230J	NOV. 16, 2006
LAKESWOOD, VILLAGE OF	170805	NOV. 16, 2006	17111C	0309J	NOV. 16, 2006

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<u>COMMUNITY NAME</u>	<u>COMMUNITY NUMBER</u>	<u>DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)</u>	<u>MCHENRY COUNTY FIRM PANEL NUMBER</u>	<u>MCHENRY COUNTY FIS EFFECTIVE DATE</u>
		NOV. 16, 2006	17111C 0310J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0326J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0328J	NOV. 16, 2006
MARENGO, CITY OF	170482	NOV. 16, 2006	17111C 0163J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0164J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0275J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0276J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0277J	NOV. 16, 2006
MCCULLOM LAKE, VILLAGE OF	170829	NOV. 16, 2006	17111C 0093J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0206J	NOV. 16, 2006
MCHENRY COUNTY (UNINC.)	170732	PANEL NUMBERS LISTED AT THE END OF THE TABLE		
MCHENRY, CITY OF	170483	NOV. 16, 2006	17111C 0205J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0206J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0207J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0208J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0209J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0217J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0220J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0226J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0230J	NOV. 16, 2006
OAKWOOD HILLS, VILLAGE OF	170831	NOV. 16, 2006	17111C 0220J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0238J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0335J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0351J	NOV. 16, 2006
PORT BARRINGTON, VILLAGE OF	170478	NOV. 16, 2006	17111C 0239J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0352J	NOV. 16, 2006
PRAIRIE GROVE, VILLAGE OF	170975	NOV. 16, 2006	17111C 0217J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0220J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0236J	NOV. 16, 2006

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 Refer to Appendix 1 for permitting flowcharts.

<u>COMMUNITY NAME</u>	<u>COMMUNITY NUMBER</u>	<u>DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)</u> NOV. 16, 2006	<u>MCHENRY COUNTY FIRM PANEL NUMBER</u> 17111C 0238J	<u>MCHENRY COUNTY FIS EFFECTIVE DATE</u> NOV. 16, 2006
RICHMOND, VILLAGE OF	170484	NOV. 16, 2006	17111C 0079J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0080J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0081J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0083J	NOV. 16, 2006
RINGWOOD, VILLAGE OF	170060	NOV. 16, 2006	17111C 0087J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0089J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0091J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0093J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0094J	NOV. 16, 2006
SPRING GROVE, VILLAGE OF	170485	NOV. 16, 2006	17111C 0082J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0084J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0091J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0092J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0103J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0111J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0112J	NOV. 16, 2006
TROUT VALLEY, VILLAGE OF	170062	NOV. 16, 2006	17111C 0334J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0353J	NOV. 16, 2006
UNION, VILLAGE OF	170487	NOV. 16, 2006	17111C 0281J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0300J	NOV. 16, 2006
WONDER LAKE, VILLAGE OF	170976	NOV. 16, 2006	17111C 0074J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0086J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0087J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0088J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0089J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0200J	NOV. 16, 2006
WOODSTOCK, CITY OF	170488	NOV. 16, 2006	17111C 0205J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0176J	NOV. 16, 2006

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Refer to Appendix 1 for permitting flowcharts.*

<u>COMMUNITY NAME</u>	<u>COMMUNITY NUMBER</u>	<u>DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)</u>	<u>MCHENRY COUNTY FIRM PANEL NUMBER</u>	<u>MCHENRY COUNTY FIS EFFECTIVE DATE</u>
		NOV. 16, 2006	17111C 0177J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0178J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0179J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0181J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0183J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0200J	NOV. 16, 2006
MCHENRY COUNTY (UNINC.)	170732	NOV. 16, 2006	17111C 0017J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0025J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0036J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0050J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0064J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0065J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0070J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0073J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0074J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0075J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0079J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0080J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0081J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0082J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0083J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0084J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0086J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0087J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0088J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0089J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0091J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0092J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0093J	NOV. 16, 2006

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<u>COMMUNITY NAME</u>	<u>COMMUNITY NUMBER</u>	<u>DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)</u>	<u>MCHENRY COUNTY FIRM PANEL NUMBER</u>	<u>MCHENRY COUNTY FIS EFFECTIVE DATE</u>
MCHENRY COUNTY (UNINC.)	170732	NOV. 16, 2006	17111C 0094J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0103J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0111J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0112J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0113J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0114J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0150J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0163J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0164J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0175J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0176J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0177J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0178J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0179J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0181J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0183J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0200J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0205J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0206J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0207J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0208J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0209J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0215J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0217J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0220J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0226J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0230J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0236J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0237J	NOV. 16, 2006

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Refer to Appendix 1 for permitting flowcharts.*

<u>COMMUNITY NAME</u>	<u>COMMUNITY NUMBER</u>	<u>DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)</u>	<u>MCHENRY COUNTY FIRM PANEL NUMBER</u>	<u>MCHENRY COUNTY FIS EFFECTIVE DATE</u>
MCHENRY COUNTY (UNINC.)	170732	NOV. 16, 2006	17111C 0238J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0239J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0275J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0276J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0277J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0281J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0300J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0303J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0304J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0305J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0308J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0309J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0310J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0312J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0314J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0315J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0316J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0318J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0320J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0326J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0327J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0328J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0329J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0334J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0335J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0336J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0337J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0340J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0341J	NOV. 16, 2006

*Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.  
Refer to Appendix 1 for permitting flowcharts.*

<u>COMMUNITY NAME</u>	<u>COMMUNITY NUMBER</u>	<u>DATE OF CURRENT EFFECTIVE MAP (OR MAP INDEX)</u>	<u>MCHENRY COUNTY FIRM PANEL NUMBER</u>	<u>MCHENRY COUNTY FIS EFFECTIVE DATE</u>
MCHENRY COUNTY (UNINC.)	170732	NOV. 16, 2006	17111C 0342J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0343J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0351J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0352J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0353J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0354J	NOV. 16, 2006
		NOV. 16, 2006	17111C 0365J	NOV. 16, 2006

*Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.  
Refer to Appendix 1 for permitting flowcharts.*

**Appendix 12****§17.60.270 Definitions**

The following definitions shall be used with this Ordinance.

accessory building: A non-habitable structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

actual start of construction: Either the first placement of permanent construction of a building on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or placement of a manufactured home on a foundation.

adequate downstream stormwater capacity: A downstream channel or stormwater management system with the ability to store and convey the anticipated 100-year stormwater runoff without increasing damage to adjoining properties.

Advanced Identification Wetland Study (ADID): A study conducted in McHenry County by the USACE and the USEPA in 1997 to generate wetland maps.

agricultural building: An accessory building that is used solely for agricultural purposes in which the use is exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities, including the raising of livestock.

agricultural land: Land predominantly used for agricultural purposes.

agricultural swale: Grassed waterway or cultivated swale within a farm field under agricultural production which is ephemeral in nature and does not have a defined bed and banks.

applicant: Any person, firm, or governmental agency who owns property or its duly appointed representative and proposes to develop that property and executes the necessary forms to procure a permit to obtain authorization for such regulated development from the Enforcement Officer.

appropriate use: The only regulated development within the designated floodway that is permissible and will be considered for permit issuance. The appropriate uses are determined by IDNR/OWR.

armoring: The placement of materials (concrete, rip-rap, retaining wall, etc.) within a channel or along a shoreline to protect property along streams, lakes or ponds from damage caused by wave action and flowing water.

as-built plans: Record drawings prepared by a licensed land surveyor or licensed professional engineer to confirm that a regulated development was constructed in substantial conformance with the approved plans.

base flood: The flood having a one percent probability of being equaled or exceeded in any given year. The base flood is also known as the 100 year flood event.

base flood elevation (BFE): The water surface elevation that can be expected during the base flood. Determination of the BFE at any location is as described in the Flood Hazard Areas section of this Ordinance.

basement: Any area of a building having its floor below ground level on all sides.

best management practice (BMP): Land planning and engineered practices designed to reduce soil erosion, sediment deposition, and water quality impacts of development.

boardwalk: A walkway constructed of wooden, composite, metallic, or other decking material, primarily serving pedestrian and bicycle traffic.

buffer: An area of predominantly vegetated land located adjacent to WOTUS and IWMC for the purpose of, but not limited to, reducing contaminants in stormwater that flows to such areas.

building: A structure that is principally above ground and is enclosed by two or more rigid walls and a roof. The term includes a gas or liquid storage tank, a manufactured home, mobile home or a prefabricated building. This term also includes recreational vehicles or travel trailers installed on a site for more than 180 consecutive days.

Certified Community: A community which has petitioned the MCSC and has been found by the MCSC to be capable of enforcing an ordinance (or ordinances) which contain rules and regulations which are consistent with or at least as stringent as the regulations of this Ordinance.

Certified Erosion, Sediment and Storm Water Inspector (CESSWI): A certification by EnviroCert International, Inc., which can be earned by demonstrating certain qualifications based on a combination of education and experience, and passing an exam.

Certified Floodplain Manager (CFM): A certification by the Association of State Floodplain Managers, which is designed to establish educational, training and experience criteria related to floodplain management, hazard mitigation, National Flood Insurance Program and to certify that an individual applicant has met these criteria.

Certified Professional in Erosion and Sediment Control (CPESC): A certification by EnviroCert International, Inc., which can be earned by demonstrating certain qualifications based on a combination of education and experience, and passing an exam.

channel: Any river, stream, creek, brook, branch, flow path, slough, ditch, gully, ravine, swale, wash, or drainageway with a discernible bed and banks, in or into which surface or groundwater flows, either perennially or intermittently.

channel modification: Alteration of a channel by changing the physical dimensions or materials of its bed or banks. Channel modification includes damming, rip-rapping or other armoring, widening, deepening, straightening, relocating, lining and significant removal of bottom or woody vegetation of the channel. Channel modification does not include dredging or the clearing of invasive, dead or dying vegetation, debris, or trash from the channel.

Class V injection wells: Any bored, drilled, or driven shaft, or dug hole that is deeper than its widest surface dimension, or an improved sinkhole, or a sub-surface fluid distribution system. This includes most direct infiltration structures such as drywells and column drains. Class V injection wells are regulated by the IEPA and the owner of any proposed injection well is required to submit an inventory information form prior to the infiltration structure becoming operational.

column drain: Any device, including drywells, which facilitates direct infiltration of stormwater runoff below the soil layer (typically greater than five feet).

community: Any municipality (as defined at Ill. Rev. Stat., 1989, Ch. 24, 1-1-2 {1}) or McHenry County when providing services or applying its regulatory authority to the unincorporated portions of the County.

compensatory storage: An excavated volume of storage used to offset the loss of existing flood storage volume when:

- A. Fill, materials or structures are placed within a flood hazard area; or
- B. A depressional storage area is drained.

Conditional Letter of Map Revision (CLOMR): A letter which indicates that FEMA will revise the BFEs, flood insurance rate zones, flood boundaries or floodway as shown on an effective FIRM, once the as-built plans are submitted and approved.

contiguous property: The lot or parcel of land on which a development is proposed, together with the adjacent lots or parcels of land that were owned in whole, or in part, by the same property owner on the effective date of this Ordinance.

control structure: A structure designed to control the rate of flow that passes through it, based on a specific upstream and downstream water surface elevation.

cosmetic repair: Cleaning, sanitizing, resurfacing (e.g., sanding, repair of joints, re-painting) and similar repairs.

critical duration: The duration of a storm event that results in the greatest peak runoff rate or the greatest peak storage volume required. A critical duration analysis shall compare the peak runoff rates or the peak storage volumes from varying storm durations between the 1 hour and 240 hour events.

dam: All obstructions, wall embankments or barriers, together with their abutments and appurtenant works, if any, constructed for the purpose of storing or diverting water or creating a pool. Underground water storage tanks are not included.

damage: A measurable rise in flood heights on property unless it is contained within the streambanks or a recorded deed or plat restricted area.

deed or plat restriction: Permanent easements, covenants, deed restricted open spaces, outlots, reserved plat areas, and conservation easements dedicated to meet the requirements of this Ordinance, or public road rights-of-way that contain any part of the stormwater management system of a development.

depressional storage area: A non-riverine depression where stormwater collects; only regulated when total storage of an individual depressional storage area exceeds 0.75 acre-feet. Any area within a closed contour and drained by a sewer or culvert with a full-flow capacity greater than 0.10 cubic feet per second per acre (cfs/ac) capacity shall not be considered a depressional storage area.

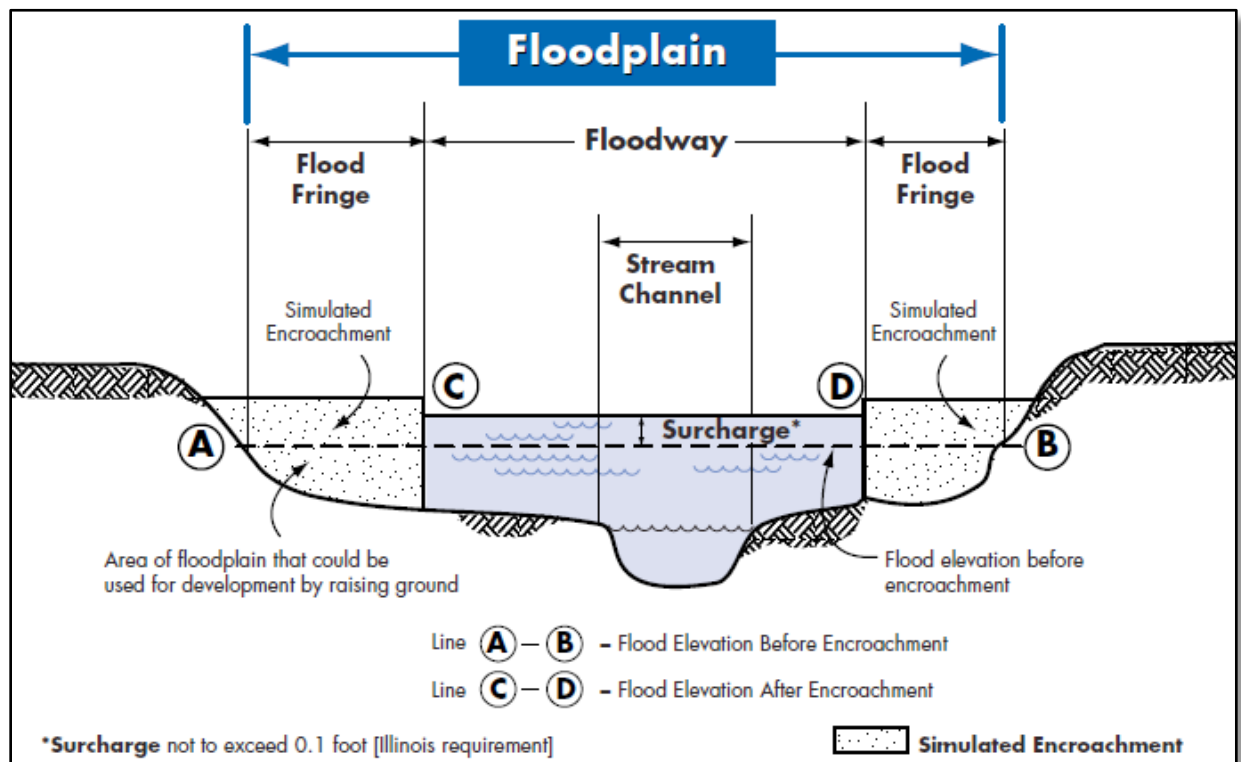
**design storm:** A selected storm event, described in terms of the statistical probability of occurring once within a given number of years, for which stormwater or flood control improvements are designed and built.

**designated floodway:** The channel, including on-stream lakes, and that portion of the floodplain adjacent to a stream or watercourse, as depicted on the FEMA FIRM, which is needed to store and convey the existing 100 year frequency flood discharge with no more than a 0.1 foot increase in stage due to the loss of flood conveyance or storage, and no more than a 10 percent increase in velocities. The need to preserve storage when determining the designated floodway will be waived if all the municipalities and counties along a hydraulically significant portion of the watershed require hydraulically equivalent compensatory storage for all lost floodplain storage volume.

**FIGURE 4**

**Understanding the Floodway**

(IDNR *Floodplain Management in Illinois Quick Guide*, 2001)



**detention facility (detention pond/detention basin):** A man-made structure for the temporary storage of water with a controlled release rate.

development: Any man-made change to real estate by private property owners or public agencies including, but not limited to:

- A. Construction, reconstruction, repair or remodeling, maintenance or placement of a building or any addition to a building, including “ag exempt” buildings;
- B. Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle or travel trailer on a site for more than 180 days (if the recreational vehicle or travel trailer is on the site for less than 180 days, it must be fully licensed and ready for highway use);
- C. Drilling, mining, installing utilities, construction of roads, bridges, or similar projects;
- D. Demolition of a structure or redevelopment of a site;
- E. Construction or erection of levees, walls, fences, dams, or culverts;
- F. Channel modification;
- G. Filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
- H. Storage of materials;
- I. Extensive removal of vegetation; or
- J. Any other activity of man that changes the height or velocity of flood or surface water.

development site: The portion of contiguous property that is hydrologically disturbed by the development.

drain tile: Sub-surface conduit used for drainage of land, typically for agricultural purposes. Drain tile does not include footing drains.

drain tile survey: An inventory of existing farm and storm drain tiles, typically based upon a field investigation utilizing the slit trench method to locate existing drain tiles.

drainage district: A special district created by petition or referendum and court approval. It has the power to construct and maintain drainage improvements and to pay for the improvements with assessments on the land within the district boundaries. An assessment on the land cannot be greater in value than the benefits of the drainage improvements.

dredging: The maintenance or restoration of a water body by removing accumulated silt, sediment, and other debris from its bed.

dry detention facility: A detention facility designed to drain completely after temporary storage of stormwater. A dry detention facility is normally dry over the majority of its bottom area.

dry floodproofing: Building protection measures designed according to current FEMA guidelines to keep water out of the building. Dry floodproofing measures are among the floodproofing measures described in the following FEMA publications: *Engineering Principles and Practices for Retrofitting Flood-Prone Residential Structures* (FEMA P-259), *Homeowner's Guide to Retrofitting* (FEMA P-312), *Selecting Appropriate Mitigation Measures for Floodprone Structures* (FEMA 551), *Protecting Building Utilities from Flood Damage* (FEMA 348), *Reducing Damage from Localized*



*Flooding* (FEMA 511), *Non-Residential Floodproofing – Requirements and Certification* (FEMA TB 3), and *Floodproofing Non-Residential Structures* (FEMA 102).

earth change: Development in which the primary activity is a change in ground elevations affected by the movement of earth materials.

effective date of this Ordinance: January 20, 2004. Subsequent amendments shall be effective upon passage of an amending ordinance.

elevation certificate: A form published by FEMA that is used to certify the lowest floor (including the basement) elevation to which a building has been constructed.

emergency overflow: The structure in a stormwater management facility designed to protect the stormwater management system in the event of a malfunction of the control structure or a storm event greater than the design storm. The emergency overflow capacity initiates at the design high water level of the stormwater management facility.

Enforcement Officer: The MCSC Chief Engineer or the Certified Community's development regulations officer.

erosion: The process whereby soil is detached by precipitation, flowing water, wind or wave action.

extensive removal of vegetation: Removal of 1 acre or more of vegetation, such as woods or meadow, for non-agricultural purposes and replacement with a surface cover having a higher Runoff Curve Number. The removal of vegetation (in any quantity) consisting primarily of invasive, dead, or dying vegetation shall not be considered extensive removal of vegetation.

farmed wetland: Any wetland that has been identified as a "Farmed Wetland" in accordance with the current "National Food Security Act Manual" (NFSAM) and the current U.S. Army Corps of Engineers – Chicago District methodology.

flood: A general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation of runoff of surface water from any source.

flood damage: A measurable rise in flood heights at a building currently subject to flooding, or flooding of a building not currently subject to flooding.

flood damage-resistant materials: Any building product (material, component or system) capable of withstanding direct contact with floodwaters for at least 72 hours without sustaining damage requiring more than cosmetic repair. FEMA Technical Bulletin 2 provides guidance in the classification of flood damage-resistant materials.

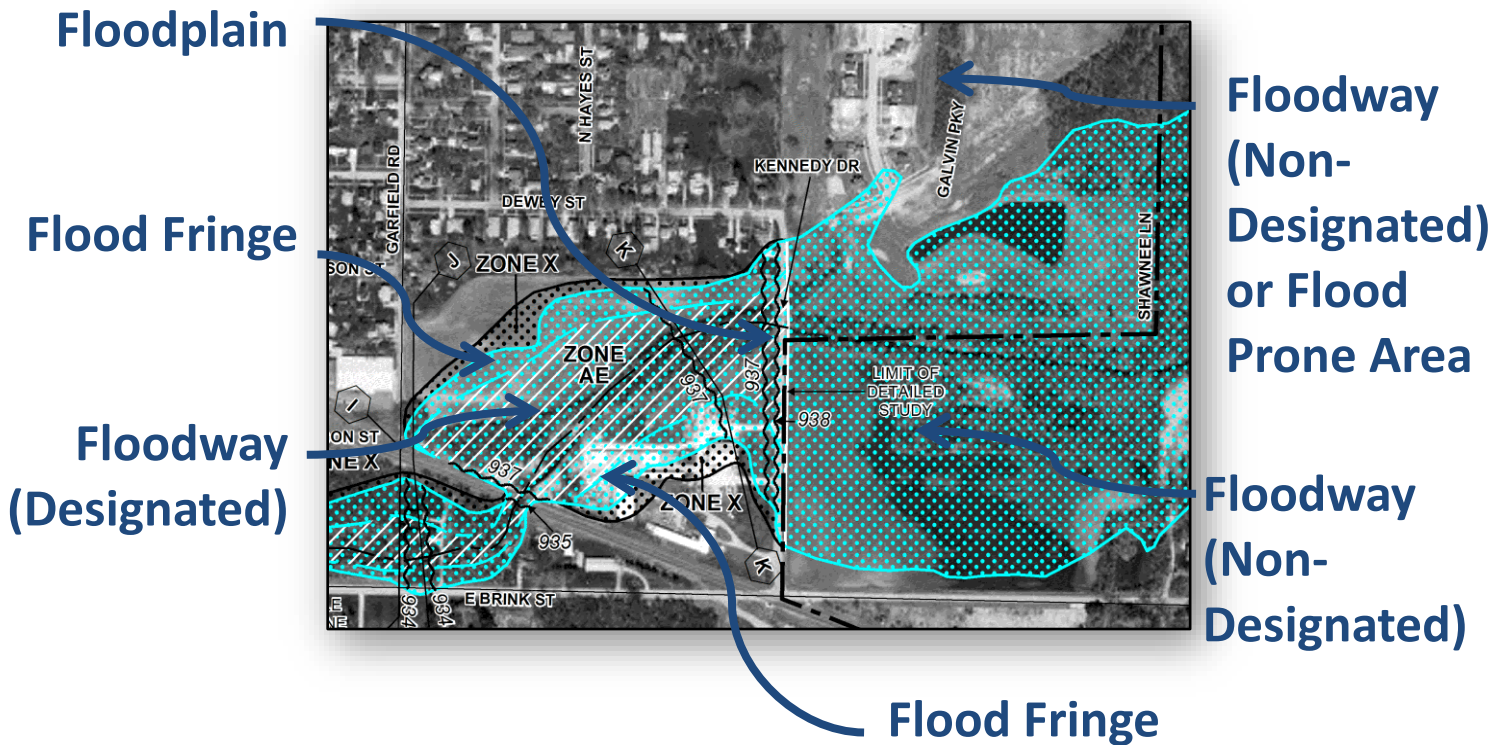
flood frequency: A frequency, normally expressed as a period of years, that a flood of a stated magnitude can be expected to be equaled or exceeded, based upon a statistical analysis of the percent chance of occurrence in any given year.

flood fringe: That portion of the floodplain outside of a designated floodway. No flood fringe exists within a floodplain that has a non-designated floodway.

flood hazard area: The land located in a floodway, floodplain, or flood prone area subject to the base flood.

*Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms. Refer to Appendix 1 for permitting flowcharts.*

FIGURE 5

**Flood Hazard Areas**

**Flood Hazard Area Development:** Regulated development located partially or completely within a floodway, floodplain, or a flood prone area.

**Flood Insurance Rate Map (FIRM):** A map prepared by FEMA that depicts the floodplain, designated floodways, and flood insurance risk premium zones within McHenry County. The effective dates of the FIRMs in McHenry County are listed in Appendix 11. The effective FIRMs may be amended or revised by a LOMC.

**Flood Insurance Study (FIS):** A report published by FEMA for McHenry County in conjunction with the McHenry County's FIRMs. The effective date of the McHenry County FIS is shown in Appendix 11. The study contains such background data as the base flood discharges and water surface elevations that were used to prepare the FIRMs. The effective FIS may be revised by a LOMC.

**flood prone area:** Any area inundated by the base flood and located outside the limits of the floodplain that:

- A. Has a tributary area greater than 100 acres,
- B. Is a depressional storage area, or
- C. Is mapped as a Flood of Record area on the USGS-Hydrologic Investigation Atlas Flood of Record Maps.

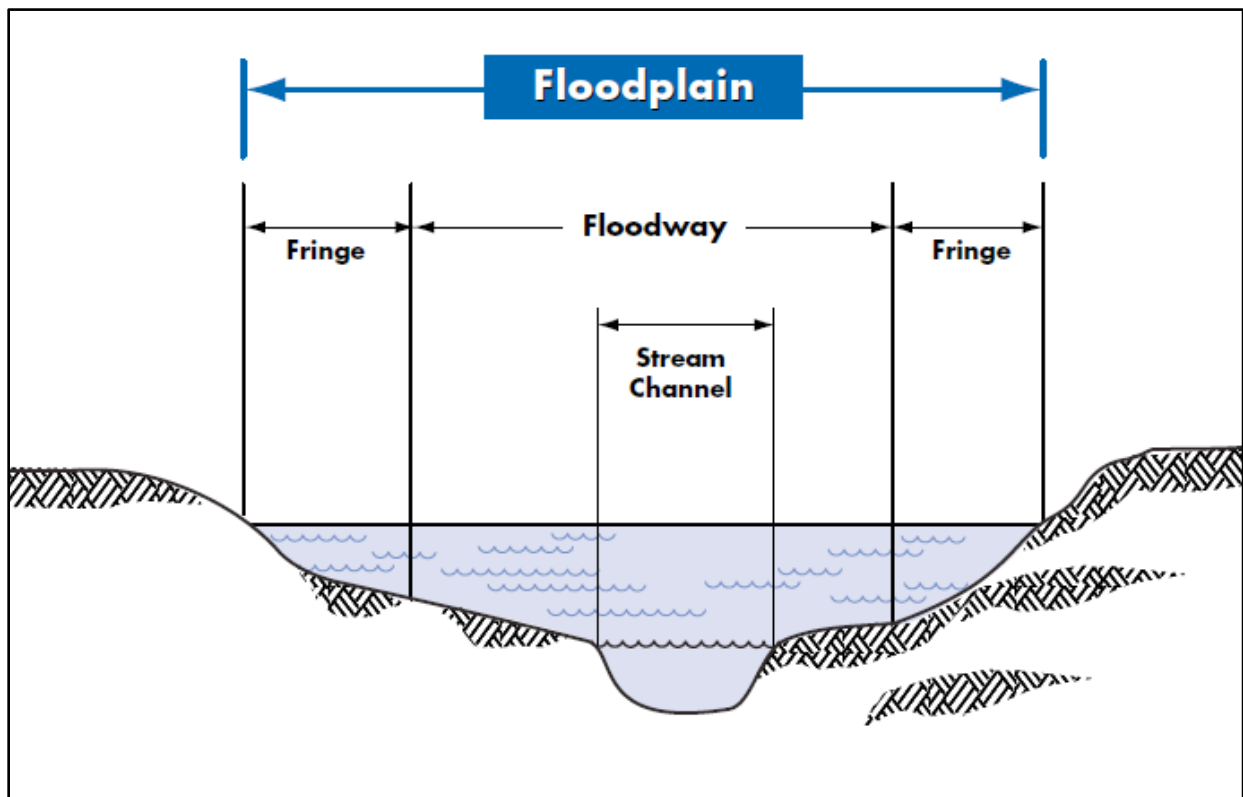
*Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms. Refer to Appendix 1 for permitting flowcharts.*

**flood protection elevation (FPE):** The BFE plus 2 feet of freeboard, except in the case of attached garages and small accessory buildings, where the FPE is the BFE plus 0.5 foot of freeboard.

**floodplain:** Those lands within the jurisdiction of McHenry County and its municipalities that are subject to inundation by the base flood. The floodplains of McHenry County are identified on the FIRMs of McHenry County prepared by FEMA. The effective dates of the FIRMs in McHenry County are listed in Appendix 11. The effective FIRMs may be amended or revised by a LOMC. The floodplain includes areas identified on the FIRMs as Zones A, AO, AH, AE, A99, AR, AR/AE, AR/AO, AR/AH, or AR/A.

**FIGURE 6**

**Understanding the Riverine Floodplain**  
(IDNR *Floodplain Management in Illinois Quick Guide*, 2001)



**floodplain management:** An overall program of corrective and preventive measures for avoiding or reducing future flood damage.

**floodproofing:** Any combination of structural and non-structural measures, changes or adjustments to buildings or property which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, buildings and their contents. (See also dry floodproofing and wet floodproofing.)

**floodproofing certificate:** A form published by FEMA that is used to certify that a non-residential building has been designed and constructed to be structurally dry floodproofed up to the FPE.

*Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.  
Refer to Appendix 1 for permitting flowcharts.*

floodway: See designated floodway and non-designated floodway.

freeboard: An increment of height added to the BFE or a design high water elevation to provide a factor of safety for uncertainties in calculations, unknown local conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

functional assessment: An assessment of a wetland's flood storage, water quality and other beneficial functions.

General Permit: A stormwater management permit pertaining to a specific type of regulated development, which may be issued by MCSC or a Certified Community in order to streamline the permit process for a routine project. Each General Permit specifies the terms and conditions for a specific type of regulated development to assure compliance with the purpose and intent of this Ordinance. Valid General Permits are listed in Article III of this Ordinance.

green infrastructure: Any stormwater management technique or practice that reduces runoff volume through preserving, restoring, utilizing, or enhancing the processes of infiltration, evapotranspiration, and reuse. Approaches may include, but not be limited to, green roofs, naturalized detention facilities, trees and tree boxes, rain gardens, vegetated swales, wetlands, infiltration planters, porous and permeable pavements, porous piping systems, dry wells, vegetated median strips, reforestation/revegetation, rain barrels and cisterns, and protection and enhancement of riparian buffers and floodplains.

HEC-1: Hydrograph producing hydrologic computer model created by the USACE in the Hydrologic Engineering Center.

HEC-2: Hydraulic step backwater computer model created by the USACE in the Hydrologic Engineering Center.

HEC-RAS: Windows™ based hydraulic step backwater computer model created by the USACE in the Hydrologic Engineering Center.

High Functional Value Wetland (HFVW): Any WOTUS or IWMC identified as such on the ADID Maps or any WOTUS or IWMC that, through a functional assessment, meets the criteria defined in that Study for determining high functional value, related specifically to hydrological and water quality functions.

High Quality Aquatic Resource (HQAR): WOTUS or IWMC that are determined to be critical due to their uniqueness, scarcity, function and/or value. The following types of WOTUS or IWMC are considered HQAR.

- A. ADID wetland and aquatic sites.
- B. Bog: A low nutrient peat land, usually in a glacial depression, that is acidic in the surface stratum and dominated by the genus Sphagnum.
- C. Ephemeral pool: A seasonally inundated depression within forested or open areas, usually located on a moraine, glacial outwash plain, or in an area shallow to bedrock; also known locally as a "vernal pool." These areas may or may not be permanently vegetated.

- D. Fen: An herbaceous or wooded peat land created and maintained by the constant surface water flow of cold mineralized (calcareous) groundwater flow.
- E. Forested wetland: A wetland, including wooded seeps, shrub swamps, and floodplain forests, dominated by shrubs or trees growing on soils that are inundated or saturated much of the year, but that do dry out at the surface.
- F. Sedge meadow: Saturated, sometimes flooded open wetlands dominated by grasses and sedges, including hummock forming Tussock Sedge (*Carex stricta*).
- G. Seep: A wetland, herbaceous or wooded, with saturated soil or inundation resulting from the diffuse flow of groundwater to the surface stratum.
- H. Streams: Perennial and intermittent streams, provided that the stream is not WOTUS and that the IBI is greater than 35, or that the stream is classified as Class A or Class B in the Biological Stream Characterization System of the IEPA.
- I. Streamside marsh: A wetland that is within a 100 year riverine floodplain and dominated by herbaceous species.
- J. Wet prairie: A wetland dominated by native graminoid species with a diverse indigenous forb component that is seasonally saturated and/or temporarily inundated.
- K. Wetlands supporting Federal or Illinois endangered or threatened species.
- L. Wetlands with a FQI of 20 or greater or a mean C-value of 3.5 or greater, as determined by the methodology described in *Plants of the Chicago Region* (Swink, F. and G. Wilhelm, 1994, 4<sup>th</sup> Edition, Indianapolis: Indiana Academy of Science).
- M. Wetlands that are within a designated Illinois Natural Areas Inventory Site or McHenry County Natural Areas Inventory Site.

High Quality Habitat Sites (HQHS): WOTUS or IWMC that are identified as having high quality wildlife habitat, high floristic quality or high quality aquatic habitat based on the ADID Maps; or meets the criteria defined in the ADID Study through a functional assessment.

highest adjacent grade: The highest natural ground elevation in an area of interest, such as next to the proposed walls of a building.

historic structure: A structure that is:

- A. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on the State inventory of historic places by the Illinois Historic Preservation Agency; or

- D. Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.

HY-8: Culvert hydraulic analysis program created by the Federal Highway Administration.

hydraulically equivalent compensatory storage: Compensatory storage that can be shown by hydrologic and hydraulic calculations to offset the loss of existing flood storage volume. The storage volume displaced below the existing 10 year frequency flood elevation must be replaced below the proposed 10 year frequency flood elevation. The storage volume displaced above the existing 10 year frequency flood elevation must be replaced above the proposed 10 year frequency flood elevation.

hydrologic and hydraulic calculations: An engineering analysis which determines expected flood flows and flood elevations based on land characteristics, sub-surface drainage characteristics, and rainfall events.

hydrologically disturbed: An area where the land surface has been cleared, grubbed, compacted, graded, excavated, filled or otherwise modified in a manner that changes runoff volumes, or rates.

impervious surface, impervious area: Any hard-surfaced, compacted area that does not readily absorb or retain water, including but not limited to building roofs, asphalt and concrete surfaces, and graveled areas.

in-kind replacement: A replacement culvert, storm sewer, or drain tile that has an equivalent cross-sectional area and shape, with the same material or a smoother material. In-kind replacement of a culvert, storm sewer, or drain tile includes minor adjustment of pipe invert elevations to correct an adverse slope.

Index of Biotic Integrity (IBI): Ecologically based water quality score calculated from multiple types of fish data utilized to classify streams. An initial IBI may be obtained from the biannual IEPA Illinois Water Quality Report, but a site specific IBI assessment may override the initial IBI.

individual permit: Any stormwater management permit which does not meet the terms and conditions of a General Permit.

infiltration facility (infiltration pond/infiltration basin): A facility designed to completely retain a specified amount of stormwater runoff without release except by means of infiltration. A rain garden shall not be considered an infiltration facility.

initial construction: The date the first building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date.

inspect: To check or to review a site for compliance with this Ordinance, permitted plans and permit conditions.

Intermediate Development: Regulated development that:

- A. Consists of hydrologic disturbance between 20,000 square feet and 1 acre; and
- B. Is not a Public Road Development or Mining Development.

intermittent stream: A stream that has flowing water during certain times of the year, when groundwater provides water for stream flow. During dry periods, intermittent streams may not have flowing water. Runoff from rainfall is a supplemental source of water for stream flow. Intermittent streams are depicted on the USGS Quadrangle Maps with a dashed blue line.

Isolated Waters of McHenry County (IWMC): All waters such as rivers, lakes, ponds, streams (including intermittent streams), farmed wetlands, and wetlands that are not under USACE jurisdiction.

- A. The limits of the IWMC extend to the ordinary high water mark or the delineated wetland boundary.
- B. IWMC exclude excavations created for such purposes as stormwater conveyance, detention/retention areas constructed as part of a stormwater management system, recreation, mining, stock watering, irrigation, settling basins or wastewater treatment systems and roadside ditches, provided that the excavation has been permitted or that no permit was required at the time of the excavation.
- C. Mitigation sites where wetlands or waters were created to meet the requirements of this Ordinance or Section 404 of the Clean Water Act are not excluded.

IWMC impact: IWMC that are disturbed or otherwise adversely affected, whether temporarily or permanently, by development. Trenchless installation of utilities beneath IWMC does not constitute an IWMC impact, provided that no soil is disturbed within the limits of the wetland, the installation does not drain the IWMC, and no drilling fluids are discharged into the IWMC.

IWMC mitigation: Compensation for impacts to IWMC through the restoration, creation, enhancement of wetlands or waters.

lake: A body of water encompassing an area of 2 or more acres which retains a normal water level throughout the year.

Letter of Map Amendment (LOMA): An official determination by FEMA that a specific building or parcel of land is above the BFE and was inadvertently included in a floodplain provided that the natural ground elevation has not been altered. A LOMA amends the effective floodplain limits on a FIRM. A LOMA does not modify a floodway limit or the BFE.

Letter of Map Change (LOMC): A LOMA or LOMR.

Letter of Map Revision (LOMR): Letter issued by FEMA or IDNR/OWR that revises BFEs, flood insurance rate zones, flood boundaries or floodways as shown on an effective FIRM.

licensed land surveyor: A surveyor licensed in the State of Illinois, under the Illinois Professional Land Surveyor Act of 1989 225 ILCS 330/1, et seq.(1994 State Bar Edition).

licensed professional engineer: An engineer licensed in the State of Illinois, under the Professional Engineering Practice Act of 1989 225 ILCS 325/1, et seq. (1994 State Bar Edition).

low opening elevation: The elevation at which water could enter a building through any non-watertight opening such as a doorway threshold, a window sill, the top-of-foundation, or a basement window well.

lowest adjacent grade: The lowest finished grade adjacent to a building, not including the bottom of window wells.

lowest floor: The lowest floor of the lowest enclosed area, including a basement. An unfinished or wet floodproofed enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the building in violation of the applicable non-elevation design requirements of this Ordinance.

maintainable outlet: A new storm sewer or overland flow path that discharges to an existing stormwater management system or channel.

maintenance of existing buildings: Re-roofing, replacement of windows, re-siding, carpeting, painting, installing a new water heater, installing a new electric service, and maintenance tasks that do not require a building permit.

maintenance of existing roads and trails: Rehabilitative maintenance, such as milling and overlaying, that does not increase the impervious area and does not increase the surface elevation. Maintenance of existing roads and trails also includes increasing the surface elevation with the following limitations:

- A. Resurfacing outside flood hazard areas;
- B. Resurfacing within flood prone areas;
- C. Resurfacing within the flood fringe, provided the difference between the elevation of the road surface after resurfacing and the elevation of the road surface on the effective date of this Ordinance is not more than two inches.

maintenance plan: A plan for the perpetual maintenance of the stormwater management system, including wetlands, waters and buffer areas. A maintenance plan shall include the following:

- A. Planned maintenance tasks and the frequency of each task such as removal of sediment, debris, mowing and pruning of vegetation, and restoration of eroded areas;
- B. Identification of the party responsible for performing each task; and
- C. A description of applicable deed or plat restrictions.

Major Development: Regulated development that is not classified as a Minor Development, Intermediate Development, Public Road Development, or Mining Development.

major stormwater system: The portion of a stormwater management system needed to store and convey flows for the base flood event.

manufactured home (or mobile home): A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term manufactured homes also includes park trailers, travel trailers and other similar vehicles placed on site for more than 180 consecutive days. The term manufactured home does not include a recreational vehicle or travel trailer.



manufactured home park (mobile home park, trailer park): A parcel (or contiguous parcels) of land on which two or more manufactured homes are harbored, either free of charge, for rent or for sale.

McHenry County Stormwater Management Commission (MCSC): The Commission established and existing under 55 ILCS 5/5 1062 (1994 State Bar Edition) for the purposes of developing, revising and implementing a countywide stormwater management plan and ordinance.

MCSC Chief Engineer: A licensed professional engineer representing the MCSC as the Enforcement Officer of this Ordinance.

Mining Development: Regulated development that:

- A. Consists of extracting and/or mining mineral or aggregate resources; and
- B. Is conducted upon a recorded parcel of land exceeding 2 acres; and
- C. Involves the removal of 10 feet or more of overburden.

Minor Development: Regulated development that:

- A. Consists of hydrologic disturbance of less than 20,000 square feet; and
- B. Is not a Public Road Development or a Mining Development.

minor stormwater system: All infrastructure including curb, gutter, culverts, roadside ditches and swales, storm sewers, drain tiles, subsurface drainage systems, and other practices intended to convey or capture stormwater runoff from storm events less than the base flood event.

mitigation: Measures taken to offset negative impacts from development activities, such as construction in wetlands, waters and flood hazard areas. Wetland mitigation typically involves wetland restoration or enhancement. Floodplain and flood prone area mitigation typically involves compensatory storage and created conveyance capacity.

mitigation plan: A plan to mitigate IWMC impacts.

multi-county municipalities: A municipality containing corporate area within both McHenry County and an Illinois county located contiguously adjacent to McHenry County.

mobile home: See manufactured home.

National Flood Insurance Program (NFIP): The requirements of the NFIP are codified in Title 44 of the Code of Federal Regulations.

National Geodetic Vertical Datum of 1929 (NGVD29): Reference surface set by the National Geodetic Survey deduced from a Continental adjustment of all existing sea level adjustments in 1929. Mean Sea Level for 1929 (MSL adj. 1929), is an equivalent. Refer to the FIS for conversion between NGVD29 and NAVD88.

native vegetation: Generally, all warm season, deep rooted, grass and forb species believed to have grown naturally in the pre-settlement landscape of northern Illinois and southern Wisconsin.

natural ground elevation: The elevation of the ground on September 30, 1981, which was the effective date of the first FIRM in McHenry County.

natural streams and channels: Streams and channels formed prior to changes made by man. A modified stream or channel which has regained natural characteristics over time as it meanders and re-establishes vegetation may be considered natural.

new construction: Buildings for which the initial construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such buildings.

new impervious area: Impervious surface area created after the effective date of this Ordinance.

non-designated floodway: The channel, including on-stream lakes, and that portion of the floodplain adjacent to a stream or watercourse, not specifically identified as a floodway on the FEMA FIRM, but which has a tributary area of 640 acres or more in an urban area or a tributary area of 6,400 acres or more in a rural area. The urban area or rural area designations shall be determined by IDNR/OWR.

non-residential building: A commercial or industrial building. An accessory building is not considered a non-residential building.

non-riverine: Areas not associated with a stream or river, such as isolated depressional storage areas, ponds and lakes.

North American Vertical Datum of 1988 (NAVD88): A datum that supersedes the NGVD29. Refer to the FIS for conversion between NGVD29 and NAVD88.

online detention: Any detention facility that receives runoff from an offsite area or from an onsite area that is not hydrologically disturbed.

open channel: A conveyance system with a definable bed and banks carrying the discharge from field tiles and surface drainage including a ditch, culvert, stream, creek, and river. An open channel does not include grassed swales or cultivated swales within a farm field under agricultural production which are ephemeral in nature.

ordinary high water mark: The point on the bank or shore at which the presence and movement of surface water are continuous so as to leave a distinctive mark, such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other such recognized characteristics.

other maintenance activity: Rehabilitative maintenance that is not maintenance of existing buildings or maintenance of existing roads and trails, including but not limited to:

- A. Repair or replacement of existing driveways or parking lots within the same footprint and outside flood hazard areas;
- B. Repair or replacement of existing driveways or parking lots within the same footprint and within flood prone areas;
- C. Repair or replacement of existing driveways or parking lots within the same footprint and within the flood fringe, provided the difference between the elevation of the paved surface after repair or replacement and the elevation of the paved surface on the effective date of this Ordinance is not more than two inches;

- D. Repair of existing underground and overhead utilities, provided the repair does not result in any IWMC impact;
- E. Repair or in-kind replacement of existing culverts, storm sewers, or drain tiles, provided the culverts, storm sewers, or drain tiles are outside the designated floodway and have a cross-sectional area less than 12.6 square feet;
- F. Repair, not including in-kind replacement, of an existing bridge outside the designated floodway;
- G. Maintenance of drainage ditches (i.e., dredging and the removal of obstructive, invasive, dead, or dying vegetation), outside the designated floodway, provided that spoil materials: are removed from the flood hazard area and are spread thinly and incorporated into existing cultivated areas; or are hauled away from the development site; and provided that appropriate soil erosion and sediment control practices are utilized. Maintenance of drainage ditches does not include ditch straightening, ditch widening, flood hazard area fill, soil stockpiles or the construction of any new channel or water body;
- H. Dredging of ponds, outside the designated floodway, provided that spoil materials: are removed from the flood hazard area and are spread thinly and incorporated into existing cultivated areas; or are hauled away from the development site; and provided that appropriate soil erosion and sediment control practices are utilized. Dredging of ponds does not include the construction of any new pond or water body;
- I. Removal of any obstruction from a channel, culvert, or storm sewer to restore its original design or permitted condition. Removal of obstruction does not include channel straightening, channel widening, flood hazard area fill, soil stockpiles, or the construction of any new channel or water body; and
- J. Maintenance to restore an existing stormwater management facility to its original design or permitted condition (the Enforcement Officer may also allow minor modifications to an existing stormwater management facility to reduce the need for future maintenance).

outfall : Discharge or point of discharge of a culvert or other closed conduit from a development at which stormwater can be released from the development site without causing scour, erosion, flooding, sedimentation or produce any damage in the receiving system.

overland flow path: The route that stormwater will travel based on the topography of the land. Overland flow paths are typically viewed without consideration of infiltration, evaporation or underground drainage structures.

oversight committee: A decision-making authority designated by a Certified Community or McHenry County. For a Certified Community, the oversight committee may be comprised of the corporate authorities or any committee thereof, plan commission, zoning board of appeals, or other existing body, or the corporate authorities may, according to their own rules and procedures, establish a separate oversight committee. The Committee of the McHenry County Board that the Planning and Development Department reports to shall act as the oversight committee for McHenry County.

parcel identification number (PIN): Permanent index number used to identify properties.

perennial stream: A water course which intersects the groundwater table and flows throughout the year, depicted on the USGS Quadrangle Maps with a solid blue line.

performance guarantee: A bond, surety, letter of credit, or other instrument used to ensure regulated development conforms with the requirements of this Ordinance and the terms and conditions of the stormwater management permit.

permanent erosion control: Permanent features of a development site designed to control soil erosion and sedimentation.

permeable pavement: Porous asphalt, pervious concrete, permeable pavers and similar paving materials designed to promote stormwater infiltration. Permeable pavement is not considered an impervious surface, provided that it is constructed over soil which can be shown by development site specific soil data to be sufficiently permeable to allow infiltration without a system of underdrains and provided that the full depth of the pavement cross-section is above the seasonal high groundwater elevation.

pond: A body of water of less than 2 acres which retains a normal water level year round.

precipitation: Any form of water, such as rain, snow, sleet or hail that falls to the earth's surface.

pre-treatment: BMPs used to remove pollutants from stormwater prior to infiltration.

public bodies of water: All open public rivers, streams, and lakes specifically designated by IDNR/OWR. The IDNR/OWR designated public bodies of water are listed in Appendix 8. Generally, public bodies of water are capable of being navigated by watercraft, in whole or in part, for commercial uses and purposes, or which in their natural condition were capable of being improved and made navigable, or that are connected with or discharge their waters into navigable lakes or rivers within, or upon, the borders of the State of Illinois, together with all bayous, sloughs, backwaters, submerged lands and lakes that are open to the main channel or body of water and directly accessible thereto.

public flood control project: A flood control project which will be operated and maintained by a public agency to reduce flood damages to existing buildings and structures, including hydrologic and hydraulic calculations of the existing and proposed conditions of the watershed. Nothing in this definition shall preclude the design, engineering, construction or financing, in whole or in part, of a flood control project by persons or parties who are not public agencies.

Public Road Development: Regulated development that:

- A. Takes place in a public right-of-way or part thereof; and
- B. Does not include the construction of a building; and
- C. Consists of culverts, bridges, roadways, sidewalks, bike paths and related construction. Public recreational trails and linear railroad developments shall be considered Public Road Development with respect to the requirements of this Ordinance, even if the public recreational trail or linear railroad development is not located within a public right-of-way.

qualified inspector: A person knowledgeable in the principles and practices of erosion and sediment control measures, such as a licensed professional engineer, a Certified Professional in Erosion and Sediment Control (CPESC), a Certified Erosion, Sediment and Storm Water Inspector (CESSWI) or other knowledgeable person who possesses the skills to assess conditions at the development site that could impact stormwater quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of stormwater discharges from the construction activities.

rain garden: A small, shallow depression planted with flowers, grasses or other vegetation that is designed to collect stormwater runoff from surrounding areas. Rain gardens are typically less than 300 square feet in size with a depth less than 12 inches.

Rational Method: An empirical formula that relates stormwater runoff to rainfall intensity, surface area and surface characteristics.

recreational vehicle or travel trailer: A vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

redevelopment: The process of developing land previously developed.

regulated development: Development that meets any of the criteria listed in Article II, Section B of this Ordinance, unless the development is specifically exempted in Article II, Section C of this Ordinance.

repair or remodeling: Development activities which do not result in any changes in the outside dimensions of a building, any changes to the dimensions of a structure or increase in impervious area.

repetitive loss: Flood-related damages sustained by a building on two separate occasions during a 5 year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the building before the damaged occurred.

retention facility (retention pond/retention basin): See infiltration facility.

riverine: Relating to, formed by, or resembling a stream (including creeks and rivers).

runoff: See stormwater runoff.

Runoff Curve Number: An empirical parameter developed by the NRCS and used for predicting direct runoff or infiltration from excess rainfall.

rural area: The rural area designation within non-designated floodways shall be determined by IDNR/OWR. In flood prone areas, all residential, commercial or other non-residential land uses that are not defined as or included within an Urban Area, as defined by the U.S. Department of Commerce, Census Bureau (USCB) or as approved by the Enforcement Officer.

sediment basin: A permanent, wet-bottom basin created to detain sediment-laden stormwater runoff long enough for sediment or other water-based debris to settle to the bottom.

sediment trap: A temporary structure formed by construction of an embankment or excavation of a basin in order to detain sediment-laden stormwater runoff from a disturbed area of 5 acres or less long enough for sediment or other water-based debris to settle to the bottom.

sedimentation: The processes that deposit soils, sediment, debris, and other materials.

silt fence: A temporary barrier of entrenched geotextile fabric (filter fabric) stretched across and attached to supporting posts used to intercept sediment laden runoff from small tributary areas of disturbed soil.

small accessory building: An accessory building that:

- A. Is less than 600 square feet in size; and
- B. Is less than \$22,150 in value; and
- C. Is only used for the storage of vehicles and/or tools; and
- D. Is accessory to a residential building.

soil stockpile: 100 cubic yards or more of soil that remains in place for 7 or more days.

start of construction: The date on which a regulated development commenced.

stormwater management: A set of actions taken to control stormwater runoff with the objectives of providing controlled surface drainage, flood control and pollutant reduction in runoff.

stormwater management facility: A detention facility or infiltration facility.

stormwater management permit: A permit established by this Ordinance which signifies conformance with the provisions of this Ordinance. A stormwater management permit may be issued as a General Permit or as an individual permit.

stormwater management permit application: A form provided by McHenry County or a Certified Community that includes the following information:

- A. The name and legal address of the applicant;
- B. The PIN or legal description of each parcel comprising proposed development;
- C. A written description of the proposed development;
- D. The proposed hydrologically disturbed area;
- E. The existing and proposed impervious area and the impervious area that existed at the development site prior to the effective date of this Ordinance;
- F. Approximate start and end dates of the proposed development; and
- G. A statement of intent to comply with the requirements of this Ordinance, signed by the applicant.

stormwater management system: The major and minor stormwater system for a development.

stormwater runoff: Precipitation that flows off of permeable and impermeable surfaces.

stormwater storage: Temporary detention or retention of stormwater with a controlled release rate or with release by means of infiltration.

stream: A course of running water flowing in a channel (includes creeks and rivers).

StreamStats: A web-based Geographic Information System developed by the USGS that delineates the watershed boundary and estimates stream flow statistics for a user selected site.

structural dry floodproofing: Building protection measures designed to make the building and its attendant utilities watertight and capable of resisting the effects of the base flood. The building design shall take into account flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and impacts from debris or ice. Structural dry floodproofing measures shall be operable without human intervention and without an outside source of electricity. Levees, berms, floodwalls, and similar building protection measures are forms of dry floodproofing which are not structural dry floodproofing.

substantial damage: Damage of any origin sustained by a building in a floodplain whereby the cumulative percentage of damage during a 5 year period equals or exceeds 50 percent of the market value of the building before the damage occurred, regardless of actual repair work performed. The market value of volunteer labor and materials must be included in this determination.

substantial improvement: Any repair, reconstruction, rehabilitation, addition, or other activity to a building in a floodplain taking place during a 5 year period in which the cumulative project cost equals or exceeds 50 percent of the market value of the building before the improvement or repair is started.

Substantial improvement is considered to begin when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

Substantial improvement includes:

- A. The cost to repair a building that has incurred repetitive loss or substantial damage, regardless of the actual repair work performed; and
- B. The cost of proposed maintenance of existing buildings; but

Substantial improvement does not include:

- A. The cost of any maintenance of existing buildings completed within the previous 5 year period as a stand-alone project that did not require a building permit; or
- B. The cost of any project to improve a building to comply with existing State or local health, sanitary, or safety code specifications, which are solely necessary to assure safe living conditions; or
- C. The cost of any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

sub-watershed: A sub-section of a larger watershed. For the purpose of this Ordinance, sub-watersheds would include the tributary areas of named streams and lakes within a given

watershed (i.e. Rush, Lawrence, and Mokeler Creeks are sub-watersheds within the Piscasaw Watershed).

temporary erosion control: Erosion control measures used to control soil erosion and sedimentation during the construction phase of a development.

temporary IWMC impact: An IWMC impact that would result in a short-term loss of IWMC function. Temporary IWMC impacts shall not result in a permanent conversion of wetland to non-wetland. Temporary IWMC impacts shall not include relocation of an IWMC, or conversion of a vegetated community to open water. Additionally, for the IWMC impact to be considered temporary: soil profiles shall be restored to a similar pre-disturbance condition and elevation; vegetative communities shall be restored to the same or higher quality and function; and the restoration must be completed within 1 year of the disturbance. The Enforcement Officer shall make the determination as to whether an IWMC impact is considered a temporary IWMC impact.

TR-20: Technical Release 20 is a hydrograph producing hydrology computer model created by the NRCS.

TR-55: Technical Release 55 (NRCS, June 1986) is a document that presents simplified procedures for estimating runoff and peak discharges in small watersheds.

transition section: Reaches of the stream where water flows from a narrow cross-section to a wide cross-section and vice-versa.

travel trailer: See recreational vehicle or travel trailer.

tributary area: All of the land surface that contributes runoff to a given point.

urban area: The urban area designation within non-designated floodways shall be determined by IDNR/OWR. In flood prone areas, any densely developed residential, commercial or other non-residential land uses in which the U.S. Department of Commerce, Census Bureau (USCB) census block or tract contains a population density of at least 2,500 people, at least 1,500 of which reside outside institutional group quarters or as approved by the Enforcement Officer. Urbanized Areas and Urban Clusters, as defined by the USCB, are subsets of urban areas. A map of all urban areas of the county can be found on the USCB website: <http://tigerweb.geo.census.gov/tigerweb/>.

USGS Regression Equations: Equations developed by the USGS and approved by IDOT for estimating the peak runoff from a watershed for a given flood frequency.

variance: A grant of relief by a community from the requirements of this Ordinance.

violation: The failure of a structure or other regulated development to be fully compliant with this Ordinance. A structure or other regulated development without the elevation certificate, other certifications, or other required evidence of compliance is presumed to be in violation until such time as that documentation is provided.

water dependent facilities: Structures or facilities relating or requiring access to the water or shoreline. Examples include shoreline protection, pumping and boating facilities and improvements.



waters: A subset of the definitions of the WOTUS and IWMC. Waters are areas that are normally inundated by surface water, such as lakes, ponds, and streams (including intermittent streams).

Waters of the United States (WOTUS): Those areas that are under the regulatory jurisdiction of the USACE.

watershed: A geographic area that collects, concentrates and contributes stormwater runoff to a given point on a waterway. The major watersheds in McHenry County, which are shown in Appendix 9, are:

- A. Piscasaw Creek,
- B. Nippersink Creek,
- C. Kishwaukee River,
- D. Upper Fox River,
- E. Lower Fox River, and
- F. Coon Creek.

watershed benefit: A decrease in flood damages created by installation of the stormwater management system. The benefit must be beyond the benefit provided by meeting the minimum requirement of this Ordinance.

watershed benefit measure : A Natural Resources Conservation Service (NRCS) Conservation Practice, or other approved practice, used to mitigate the adverse stormwater related effects of development. Measures include practices that : stabilize swales, agricultural ditches and streams; reconnect channels and wetlands to the floodplain; create or enhance wetlands, buffers and riparian areas; improve and preserve natural upland areas such as prairies and forest stands; and filter or remove pollutants from impervious areas or agricultural practices. Examples of allowable NRCS Conservation Practices include: bioreactors, channel bed stabilization, constructed wetland, contour buffer strips, drainage water management plan implementation, filter strips, grassed waterway, riparian forest buffer, riparian herbaceous cover, saturated buffers, streambank and shoreline protection, stream habitat improvement and management, wetland creation, wetland enhancement, and wetland restoration.

watershed plan: A study and evaluation of the stormwater management and/or floodplain management needs and capabilities of a watershed or sub-watershed.

Watershed Specific Area Development: Regulated development that is partially or completely located in a watershed or sub-watershed, for which additional or more restrictive standards have been adopted by MCSC or a Certified Community, based on the recommendations of a watershed plan.

wet bottom detention facility: A wet detention facility is designed to maintain a permanent pool of water after the temporary storage of stormwater runoff.

wet floodproofing: Protection from flood damage according to current FEMA guidelines by using flood damage-resistant materials below the FPE and elevating other items above the FPE. Wet floodproofing measures are among the floodproofing measures described in the following FEMA publications: *Wet Floodproofing Requirements for Structures Located in Special Flood Hazard Areas*

(FEMA TB 7-93), *Engineering Principles and Practices for Retrofitting Flood-Prone Residential Structures* (FEMA P-259), *Homeowner's Guide to Retrofitting* (FEMA P-312), *Selecting Appropriate Mitigation Measures for Floodprone Structures* (FEMA 551), *Protecting Building Utilities from Flood Damage* (FEMA 348), *Reducing Damage from Localized Flooding* (FEMA 511), *Non-Residential Floodproofing – Requirements and Certification* (FEMA TB 3), and *Floodproofing Non-Residential Structures* (FEMA 102).

wetland: A subset of the definitions of the WOTUS and IWMC. Wetlands are land that is inundated or saturated by surface or ground water at a frequency and duration sufficient to support, under normal conditions, a prevalence of vegetation adapted for life in saturated soil conditions (known as hydrophytic vegetation). A wetland is identified based upon the three attributes: 1) hydrology, 2) soils and 3) vegetation as mandated by the current Federal wetland determination methodology.

wetland creation: The introduction of wetlands to an area where none existed historically.

Wetland and Waters Development: Regulated development located partially or completely within WOTUS or IWMC.

wetland enhancement: The improvement in wetland functional value of an area currently meeting the technical definition of a wetland.

wetland mitigation banking: The process of purchasing “credits” from a financial institution established by a third party to compensate for permitted losses.

wetland restoration: The re-introduction of wetlands to an area where wetlands existed historically, but not prior to the mitigation activity.

wetland restoration activities: Those restoration activities in wetlands or adjacent buffer areas determined to be necessary and beneficial to the preservation, maintenance, or restoration of wetland plant communities, wildlife habitat and ecosystems native to McHenry County.

wetland specialist: A person complying with A, B, and C as follows:

- A. Provide a signed statement of qualifications to MCSC demonstrating the minimum requirements of B and C have been met. The signed statement will be considered evidence of qualification.
- B. Completion of the USACE Wetland Delineation Certification Program or equivalent course and meet one of the following.
  - (1) Registered Professional Wetland Scientist (PWS) from the Society of Wetland Scientists; or
  - (2) Minimum of a Bachelor's Degree in an Earth Science or Biologic Science and at least one of the following:
    - a. Three years (cumulative) full-time experience in the Upper Midwest region on wetland related projects; or
    - b. The completion of 100 wetland delineations in the upper Midwest; or

- c. A minimum of 300 hours spent in field review of wetlands in the Upper Midwest.
- C. A minimum of 24 work-related professional development hours shall be obtained every three years. Documentation shall be self-monitoring and shall be provided to MCSC upon request.

Zone A: Areas subject to inundation by the 1 percent-annual chance flood event generally determined using approximate methodologies. Because detailed hydraulic analyses have not been performed, no BFEs or flood depths are shown. Mandatory flood insurance purchase requirements and Flood Hazard Area Performance Standards apply.

Zone AE: Areas subject to inundation by the 1 percent-annual chance flood event determined by detailed methods. BFEs are shown. Mandatory flood insurance purchase requirements and Flood Hazard Area Performance Standards apply.

Zone AH: Areas subject to inundation by 1 percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. BFEs derived from detailed hydraulic analyses are shown in this zone. Mandatory flood insurance purchase requirements and Flood Hazard Area Performance Standards apply.

Zone AR: Areas that result from the decertification of a previously accredited flood protection system that is determined to be in the process of being restored to provide base flood protection. Mandatory flood insurance purchase requirements and Flood Hazard Area Performance Standards apply.

Zone AO: Areas subject to inundation by 1 percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet. Average flood depths derived from detailed hydraulic analyses are shown in this zone. Mandatory flood insurance purchase requirements and Flood Hazard Area Performance Standards apply.

**Appendix 13****§17.60.280 Acronyms**

The following acronyms shall be used with this Ordinance.

ADID: Advanced Identification Wetland Study

BFE: Base flood elevation

BMP: Best management practice

CESSWI: Certified Erosion, Sediment and Storm Water Inspector

CLOMR: Conditional Letter of Map Revision

CPESC: Certified Professional in Erosion and Sediment Control

FEMA: Federal Emergency Management Agency

FIRM: Flood Insurance Rate Map

FIS: Flood Insurance Study

FPE: Flood protection elevation

HFVW: High Functional Value Wetland

HQAR: High Quality Aquatic Resource

HQHS: High Quality Habitat Sites

IBI: Index of Biotic Integrity

IDNR: Illinois Department of Natural Resources

IDNR/OWR: Illinois Department of Natural Resources/Office of Water Resources

IDOT: Illinois Department of Transportation

IDOT/DOH: Illinois Department of Transportation/Division of Highways

IEPA: Illinois Environmental Protection Agency

IWMC: Isolated Waters of McHenry County

LOMA: Letter of Map Amendment

LOMC: Letter of Map Change

*Refer to Appendix 12 for the definition of underlined terms or to Appendix 13 for a list of acronyms.  
Refer to Appendix 1 for permitting flowcharts.*

LOMR: Letter of Map Revision

MCCD: McHenry County Conservation District

MCSC: McHenry County Stormwater Management Commission

NAVD88: North American Vertical Datum of 1988

NFIP: National Flood Insurance Program

NGVD29: National Geodetic Vertical Datum of 1929

NRCS: United States Department of Agriculture – Natural Resource Conservation Service

PIN: Parcel Identification Number

USACE: United States Army Corps of Engineers

USEPA: United States Environmental Protection Agency

USFWS: United States Fish and Wildlife Service

USGS: United States Geological Survey

WOTUS: Waters of the United States

# The Village of Prairie Grove

3125 Barreville Road  
Prairie Grove, IL 60012



Phone: (815) 455-1411  
Fax: (815) 455-0783

## STORMWATER MANAGEMENT PERMIT APPLICATION

Owner's Name: _____ Company Name (if any) : _____ Address: _____ _____ _____ Email Address: _____ Phone: _____	Primary Contact (if different): _____ Company Name (if any): _____ Address: _____ _____ _____ Email Address: _____ Phone: _____
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### STATEMENT OF AUTHORIZATION (only required if primary contact is not owner)

I hereby authorize, (primary contact name) \_\_\_\_\_ to act in my behalf as my agent in the processing of this application and to furnish, upon request, supplemental information in support of this permit application. This person will act on my behalf as the point of contact for permit correspondence.

Owner's Signature \_\_\_\_\_

Date: \_\_\_\_\_

### PROJECT INFORMATION

Project address: _____ _____ _____ Township Name: _____ PIN: - - - - -	Attach a drawing showing the location of work on the site. <u>The drawing shall include:</u> Property lines                      Patio/retaining wall/seawall/pier/deck Easements                              Utilities, septic systems, culverts Existing ground elevations        Temporary disturbance Proposed ground elevations       Spoil locations / note if hauled off site Buildings                                Erosion control and stabilization details Driveways/parking areas            Dimensions of proposed work Details of construction              Clearly label existing versus proposed
Mapping information can be found at: <a href="http://www.mchenrycountygis.org/athena/">www.mchenrycountygis.org/athena/</a>	Only one copy of the plan is necessary for review. Additional copies will be required at the time of final approval.

Written description of proposed project: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Proposed disturbance area (sq-ft): _____	* where soil is graded/compacted/plants removed
Proposed impervious area (sq-ft) with this project: _____	* areas of any gravel/pavement/rooftop/etc.
Impervious area (sq-ft) from other projects after Jan 2004: _____	* areas of any gravel/pavement/rooftop/etc.
Volume of excavation and fill (in cubic feet): _____	* provide calculations on separate sheet
Any work on adjoining properties (yes or no): _____	* if yes - provide approval letter from property owner
Any work within road rights-of-way (yes or no): _____	* if yes - provide road district approval letter
Approximate date when work will start: _____	
Approximate date when work is expected to be completed: _____	

### OWNER / PRIMARY CONTACT CERTIFICATION:

*I declare that this application is true and correct to the best of my knowledge. I realize that the information that I have provided forms a basis for the issuance of the Stormwater Management Permit and have included all work to be authorized with this permit. I agree to construct said development in compliance with the permitted documents.*

Signature: \_\_\_\_\_ DATE: \_\_\_\_\_

*To be filled out by Village staff*

Assigned permit number: \_\_\_\_\_ DATE: \_\_\_\_\_



Chapter 26<sup>1</sup>  
**CABLE/VIDEO SERVICE PROVIDER FEE**

- 26.01 Definitions
- 26.02 Cable/Video Service Provider Fee Imposed
- 26.03 Applicable Principles
- 26.04 No Impact on Other Taxes Due from Holder
- 26.05 Audits of Cable/Video Service Provider
- 26.06 Late Fees, Payments

26.01 **DEFINITIONS**

In addition to those terms defined in Appendix A of this Code, the following terms shall have the following meanings in this Chapter:

**Cable service:** As defined in 47 U.S.C. § 522(6).

**Commission:** The Illinois Commerce Commission.

**Gross revenues:** All consideration of any kind or nature, including, without limitation, cash, credits, property and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the Village.

1. Gross revenues shall include the following:
  - A. Recurring charges for cable or video service.
  - B. Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.
  - C. Rental of set top boxes and other cable service or video service equipment.
  - D. Service charges related to the provision of cable service or video service, including but not limited to activation, installation and repair charges.
  - E. Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
  - F. Late payment fees or charges, insufficient funds check charges and other charges assessed to recover the costs of collecting delinquent payments.
  - G. A *pro rata* portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the Village. The allocation shall be based on the number of subscribers in the Village divided by the total number of subscrib-

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<sup>1</sup> Established by Ordinance 437, 12/18/07



ers in relation to the relevant regional or national compensation arrangement.

- H. Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to paragraph 1-H herein.
  - I. In the case of a cable service or video service that is bundled or integrated functionally with other services, capabilities or applications, the portion of the holder's revenue attributable to the other services, capabilities or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.
  - J. The service provider fee permitted by 220 ILCS 5/21-801(b).
2. Gross revenues do not include any of the following:
- A. Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).
  - B. Refunds, discounts or other price adjustments that reduce the amount of gross revenues received by the holder of the state-issued authorization to the extent the refund, rebate, credit or discount is attributable to cable service or video service.
  - C. Regardless of whether the services are bundled, packaged or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement and electronic publishing or any other revenues attributed by the holder to non-cable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards or orders.
  - D. The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the Village and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.
  - E. Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal or any other governmental entity and collected by the holder of the state-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
  - F. Security deposits collected from subscribers.
  - G. Amounts paid by subscribers to "home shopping" or similar vendors for merchandise

sold through any home shopping channel offered as part of the cable service or video service.

3. Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS 5/21-801(b) which would otherwise be paid by the cable service or video service.

**Holder:** A person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

**Service:** The provision of “cable service” or “video service” to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

**Service provider fee:** The amount paid under this Chapter and 220 ILCS 5/21-801 by the holder to a Village for the service areas within its territorial jurisdiction.

**Video service:** Video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail or other services offered over the public Internet.

## 26.02 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED

A. Fee Imposed: A fee is imposed on any holder providing cable service or video service in the Village.

B. Amount of Fee: The amount of the fee imposed shall be 5 percent of the holder’s gross revenues.

C. Notice to the Village: The holder shall notify the Village at least 10 days prior to the date on which the holder begins to offer cable service or video service in the Village.

D. Holder’s Liability: The holder shall be liable for and pay the service provider fee to the Village. The holder’s liability for the fee shall commence on the first day of the calendar month following 30 days after receipt of the ordinance adopting this Chapter by the holder. The ordinance adopting this Chapter shall be sent by first class mail, postage prepaid, to the address listed on the holder’s application notice sent pursuant to 220 ILCS 5/21-401(b)(6) to the Village.

E. Payment Date: The payment of the service provider fee shall be due on a quarterly basis, 45 days after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

F. Exemption: The fee imposed does not apply to existing cable service or video service

providers that have an existing franchise agreement with the Village in which a fee is paid.

G. Credit for Other Payments: An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) with credit for prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under Section 26.02-B.

#### 26.03 **APPLICABLE PRINCIPLES**

All determinations and calculations under this Chapter shall be made pursuant to generally accepted accounting principles.

#### 26.04 **NO IMPACT ON OTHER TAXES DUE FROM HOLDER**

Nothing contained in this Chapter shall be construed to exempt a holder from any tax that is or may later be imposed by the Village, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A state-issued authorization shall not affect any requirement of the holder with respect to payment of the Village's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A state-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

#### 26.05 **AUDITS OF CABLE/VIDEO SERVICE PROVIDER**

A. Audit Requirement: The Village will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the Village imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recompute any amounts determined to be payable under the requirements of the Village. If all local franchises between the Village and cable operator terminate, the audit requirements shall be those adopted by the Village pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* No acceptance of amounts remitted should be construed as an accord that the amounts are correct.

B. Additional Payments: Any additional amount due after an audit shall be paid within 30 days after the Village's submission of an invoice for the sum.

#### 26.06 **LATE FEES, PAYMENTS**

All fees due and payments which are past due shall be governed by ordinances adopted by the Village pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*

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**CABLE AND VIDEO CUSTOMER PROTECTION LAW**

- 27.01 Customer Service and Privacy Protection Law
- 27.02 Enforcement
- 27.03 Penalties
- 27.04 Customer Credits

**27.01 CUSTOMER SERVICE AND PRIVACY PROTECTION LAW**

A. Adoption: The regulations of the Cable and Video Customer Protection Law, 220 ILCS 5/70-501 *et seq.*, are hereby adopted by reference and made applicable to the cable or video providers offering services within the Village's boundaries.

B. Amendments: Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this Chapter shall be incorporated into this Chapter by reference and shall be applicable to cable or video providers offering services within the Village's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Chapter by reference without formal action by the Board of Trustees.

**27.02 ENFORCEMENT**

Pursuant to law, the Village declares its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the Village.

**27.03 PENALTIES**

A. Penalty: In addition to the penalties provided by law, the schedule of penalties found in 220 ILCS 5/70-501(r)(1) shall be applicable for any material breach of the Cable and Video Protection Law by cable or video providers. The monetary penalties shall apply on a competitively neutral basis and shall not exceed \$750 for each day of the material breach and shall not exceed \$25,000 for each occurrence of a material breach per customer.

For purposes of this Section, material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.

A material breach, for the purpose of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice pursuant to Section 27.03-B.

B. Notice: The Village shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least 30 days from the receipt of the notice to remedy the specified material breach.

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<sup>1</sup> Established by Ordinance 438, 12/18/07

27.04      **CUSTOMER CREDITS**

The credits provided in 220 ILCS 5/70-501(s) shall be applied on the statement issued to the customer for the next billing cycle following a violation or the discovery of a violation of this Chapter. The cable or video provider shall be responsible for providing the credits and the customer is under no obligation to request the credit.

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## **CHAPTER 28 ADMINISTRATIVE ADJUDICATION**

- 28.1 Adoption of State Statutes
- 28.2 Office of Administrative Adjudication
- 28.3 Director
- 28.4 Compliance Administrators
- 28.5 Administrative Law Judge
- 28.6 Notice of Violation (Non-Vehicular)
- 28.7 Service (Non-Vehicular)
- 28.8 Administrative Hearings
- 28.9 Defenses to Building Code Violation
- 28.10 Sanctions Applicable to Owner; Property
- 28.11 Subpoenas
- 28.12 Default; Motion to Set Aside Default Judgment
- 28.13 Judicial Review
- 28.14 Enforcement of Judgment
- 28.15 Parking and Standing of Vehicles and the Condition and Use of Vehicle Equipment
- 28.16 Election of Remedies
- 28.17 Fines Applicable to All Offenses
- 28.18 Vehicle Impoundment *Ord.578*

### **28.1 ADOPTION OF STATE STATUTES**

The Village adopts 65 ILCS 5/1-2.1-1, *et seq.*, which authorizes a home rule municipality to create and implement a system of Administrative Adjudication for code violations and 625 ILCS 5/11-208.3, *et seq.*, which authorizes a municipality to create and implement a system of Administrative Adjudication of Violations of Traffic Regulations Concerning the Standing, Parking, and Condition of Vehicles. The adoption of these statutes shall not preclude the Village from using other methods to enforce Village ordinances.

### **28.2 OFFICE OF ADMINISTRATIVE ADJUDICATION**

A. CREATION: An Office of Administrative Adjudication is established pursuant to the authority of 65 ILCS 5/1-2.1-1, *et seq.* and 625 ILCS 5/11-208.3, *et seq.*, the function of which is to administer a system of administrative adjudication provided for in this Chapter. The Office of Administrative Adjudication shall administer, manage and conduct administrative adjudication proceedings in the manner provided for in this Chapter. The creation of the Office of Administrative Adjudication shall not preclude the Village from using other methods to enforce Village ordinances. The Office of Administrative Adjudication shall be comprised of the following individuals appointed by the Village Administrator:

1. Hearing officer, who may also be referred to as an administrative law judge;

2. The Director of Public Safety or designee;
3. The Village Administrator;
4. A code administrator; and
5. Any person or persons deemed necessary for the efficient administration of the Office of Administrative Adjudication.

B. **JURISDICTION:** The Office of Administrative Adjudication shall have the authority to conduct the administrative adjudication of charges of all code violations of this Code, as amended, and vehicular standing, parking and compliance violations, except the following:

1. Any offense under the Illinois Vehicle Code or this Code governing the movement of vehicles;
2. Any reportable offense under 625 ILCS 5/6-204;
3. Violations punishable by a penalty of incarceration; and
4. Violations punishable by a fine in excess of \$50,000 per violation excluding allowable costs, provided, however, that the maximum fine amount of \$50,000 does not apply to cases brought to enforce the collection of any tax imposed and collected by the Village.

C. **ADJUDICATION OF MATTERS:** Charges of violations of this Code, as amended from time to time, and any other matter falling within the jurisdiction of the Office of Administrative Adjudication shall be heard and adjudicated by an Administrative Law Judge.

### **28.3 DIRECTOR**

The director of the Office of Administrative Adjudication shall be the Village Administrator or designee, or an independent contractor or agency contracted by the Village to perform such duties as enumerated herein. The director is authorized, empowered and directed to:

1. Operate and manage the system of administrative adjudication of vehicular standing and parking regulation violations, vehicle compliance violations, vehicle license or sticker requirement violations, building, fire and health code violations, and all other Village ordinance violations as may be permitted by law and directed by ordinance or this Code.
2. Adopt, distribute and process all notices as may be required under this Chapter or Code, or as may reasonably be required to carry out the purpose of this Chapter.
3. Collect moneys paid as fines and/or penalties assessed after a final determination of liability.

4. Certify copies of final determinations of building, fire and health code violations or any other ordinance violation adjudicated pursuant to this Chapter and Code.
5. If also appointed as Traffic Compliance Administrator pursuant to Section 28.15, certify copies of final determinations of vehicular standing and parking regulation violation liability, vehicle compliance violations, vehicle license or sticker requirement violations, and any factual reports verifying the final determination of any violation liability which were issued in accordance with this Chapter or the laws of the State, including 625 ILCS 5/11-208.3, as from time to time amended; and also certify reports to the Secretary of State concerning initiation of suspension of driving privileges in accordance with the provisions of this Chapter and those of 625 ILCS 5/6-306.5.
6. Promulgate rules and regulations reasonably required to operate and maintain the system of administrative adjudication hereby established.
7. Collect unpaid fines and penalties through private collection agencies that may be retained by the Village or by filing citations in the 22<sup>nd</sup> Judicial Circuit Court, or by selecting or appointing an individual or agency to act on behalf of the Village in filing citations, seeking judgments for unpaid fines or penalties and pursuing all post-judgment remedies available under current law.
8. Operate and maintain, or delegate the operation and maintenance of any computer program(s) for the system of administrative adjudication hereby established, on a day-to-day basis, including, but not limited to:
  - A. Inputting of violation notice information;
  - B. Establishing hearing dates and notice dates;
  - C. Recording fine and penalty assessment and payments;
  - D. Issuing payment receipts;
  - E. Issuing succeeding notices of hearing dates and/or final determination of liability, issuing notices of immobilization, issuing notices of impending impoundment, and issuing notices of impending driver's license suspension as may be required, in accordance with the Illinois Vehicle Code; and
  - F. Keeping accurate records of appearances and non-appearances at administrative hearings, pleas entered and fines and other penalties assessed and paid.

#### **28.4 COMPLIANCE ADMINISTRATORS**

The Village Administrator, or designee, shall appoint Compliance Administrators who are authorized to issue Code violation notices and citations. Compliance Administrators are any and all police and



community service officers, building code and property maintenance inspectors, supervisors in the Public Works Department and any other person appointed to issue Code violation notices and citations.

## **28.5 ADMINISTRATIVE LAW JUDGE**

A. APPOINTMENT: The Village Administrator, with advice and consent of the Village Board, shall appoint an Administrative Law Judge to hear all matters under this Chapter. The Administrative Law Judge must be an attorney licensed to practice law in this State for at least three years. In the event the Administrative Law Judge is unavailable for any regular or special court date, the Village Administrator shall appoint a temporary Administrative Law Judge. The temporary appointee must be an attorney licensed to practice law in this State for at least three years.

B. TRAINING: Prior to conducting proceedings under this Chapter, Administrative Law Judges shall successfully complete a formal training program that includes the following:

1. Instruction on the rules of procedure of the hearings which they will conduct;
2. Orientation to each subject area of the Code violations they will adjudicate;
3. Observation of administrative hearings; and
4. Participation in hypothetical cases, including ruling on evidence and issuing final orders.

C. POWERS AND DUTIES: The powers and duties of the Administrative Law Judge shall include:

1. Hearing testimony and accepting evidence that is relevant to the existence of the Code violation;
2. Administering oaths and affirmations to witnesses;
3. Issuing subpoenas, at the request of any party or on the Administrative Law Judge's own motion for the appearance of witnesses or for the production of relevant books, records or other information, subject to Section 28.11;
4. Regulating the course of the hearing in accordance with this Chapter, the rules and regulations adopted by the Office of Administrative Adjudication or other applicable law;
5. Preserving and authenticating the record of the hearing and all exhibits and evidence introduced at the hearing;

6. Holding conferences for the settlement or simplifications of issues;
7. Issuing a determination, based on the evidence presented at the hearing, of whether a Code violation exists. The determination shall be in writing and shall include the fine, penalty or action with which the respondent must comply;
8. Imposing penalties consistent with applicable Code provisions and assessing costs upon finding a party liable for the charged violation. However, in no event shall the Administrative Law Judge have authority to (i) impose a penalty of incarceration, or (ii) impose a fine in excess of \$50,000, or at the option of the Village, such other amount not to exceed the maximum amount established by the Mandatory Arbitration System as prescribed by the Rules of the Illinois Supreme Court from time to time for the 22<sup>nd</sup> Judicial Circuit. The maximum monetary fine under this Section shall be exclusive of costs of enforcement or costs imposed to secure compliance with the Village's ordinances and shall not be applicable to cases to enforce the collection of any tax imposed and collected by the Village;
9. Ordering a respondent to comply with the appropriate relevant Code section(s) that the respondent has been found liable of violating during the course of the administrative hearing;
10. Imposing, in addition to fines and costs assessed, costs related to the enforcement of this Code's provisions for which the respondent has been found liable; and
11. Granting equitable relief as otherwise authorized by law or local ordinance.

## **28.6 NOTICE OF VIOLATION (NON-VEHICULAR)**

The form and manner of notice for a vehicular parking, standing and compliance violation shall be as provided in Section 28.15. All matters, excepting vehicular parking, standing and compliance violations, to be adjudicated by the Office of Administrative Adjudication shall be commenced against the party alleged to have violated one or more Code provision(s) by issuing and serving upon that party a charging document in accordance with the following procedures:

1. **ISSUANCE OF CITATION:** The charging document for a violation of any provision of this Code subject to the system of administrative adjudication provided in this Chapter, other than vehicular parking, standing and compliance violations, shall be issued by a Village officer or employee as authorized in Section 28.04, and served as provided for in Section 28.07.
2. **CONTENTS:** The charging document shall contain the following information:

- A. The name, Village department and identification number, if applicable, of the person issuing the charging instrument;
  - B. The name and address of the person or entity being charged with the violation;
  - C. The name and address of the person to whom the charging document is served upon if that person is not the respondent;
  - D. The section(s) of the Code alleged to have been violated;
  - E. The date, time and place of the alleged violation(s);
  - F. A legally sufficient description of the activity or conduct alleged to constitute a violation of each Code section set forth in the charging document; and
  - G. The name of the complaining witness(es) if the violation was not witnessed by the Village officer or employee issuing the charging document.
3. CERTIFICATION: The Village officer or employee issuing the charging document shall certify the correctness of the information required by this Section by signing his or her name to the charging document.
4. PRIMA FACIE EVIDENCE: Charging documents which comply with this Section will be sufficient to establish a prima facie case of liability for the Code violation charged.
5. HEARING INFORMATION: A charging document issued pursuant to this Section shall also set forth:
- A. The date, time and place of the adjudication hearing to be held with respect to the violation;
  - B. The legal authority and jurisdiction under which the hearing will be held;
  - C. The penalties for failure to appear at the hearing; and
  - D. The fine to be paid within the time frame set forth in Section 1.12, Citations or Hang-On Tickets, of this Code, and/or noting that appearance is required on the hearing date.

**28.7 SERVICE (NON-VEHICULAR)**

- A. The form and manner of service for a vehicular parking, standing and compliance violation shall be as provided in Section 28.15. A proceeding before the Administrative Law Judge shall be instituted upon the filing of a written sworn pleading or citation by any authorized official of the

Village, including police officers, code enforcement officers and such other employees as authorized with the Office of Administrative Adjudication.

B. Respondents shall be served with a copy of the written sworn pleading or citation along with a notice of the hearing in any manner reasonably calculated to give them actual notice of the proceeding instituted against them including:

1. Personal service upon a party or its employees or agents;
2. Service by first class mail, certified mail return receipt requested, or express mail at the party's last known address; or
3. Service by posting a copy of the sworn pleading or citation upon the property when a structure is involved where the violation is found if service on the owner cannot be made by mail. Posting shall be on the front door of the structure not less than 20 days before the hearing is scheduled. However, notice by posting shall not be effective notice if the property at issue is a vacant lot or a vacant building.

## **28.8 ADMINISTRATIVE HEARINGS**

A. Hearings shall be scheduled with reasonable promptness, provided that for hearings scheduled in all non-emergency situations, if requested by the respondent, the respondent shall have at least 15 days after service of process to prepare for a hearing. For purposes of this Section, "non-emergency situation" means any situation that does not reasonably constitute a threat to the public interest, safety, health or welfare. If service is provided by mail, the 15-day period shall begin to run on the day the notice is deposited in the mail.

B. All hearings shall be open to the public, shall be recorded, and shall be conducted before an Administrative Law Judge.

C. Documentary evidence, including the notice of violation, citation and attached exhibits, may be presented to the Administrative Law Judge.

D. Respondents appearing at the hearing and their authorized agent or counsel shall file with the Office of Administrative Adjudication a written appearance on a form provided by the Office of Administrative Adjudication.

E. All testimony shall be given under oath or affirmation.

F. The formal and technical rules of evidence shall not apply in an adjudicatory hearing authorized under this Chapter. Evidence, including hearsay, may be admitted only if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

G. Parties shall be provided with an opportunity for a hearing during which they may be

represented by counsel, present witnesses and cross-examine opposing witnesses. Parties may request the Administrative Law Judge to issue subpoenas to direct the attendance and testimony of relevant witnesses and the production of relevant documents; however issuance of the subpoena shall be at the discretion of the Administrative Law Judge where it is determined the witness or documents are material and do not constitute a needless presentation of cumulative or repetitive evidence.

H. Continuances may be granted at the discretion of the Administrative Law Judge upon a finding of good cause.

I. Upon the conclusion of a hearing the Administrative Law Judge shall issue a final determination of liability or no liability. No violation may be established except by proof by a preponderance of the evidence.

J. Upon issuing a determination of liability, the Administrative Law Judge may impose penalties and/or fines that are consistent with applicable provisions of this Code, impose a term of community service, assess costs of fifty dollars (\$50.00) related to instituting the administrative adjudication proceeding, if applicable, order the respondent to immediately correct the violation, and impose any other penalties or remedies available at law. *Amended 578*

K. Payment in full of any fine or penalty resulting from a violation shall constitute a final disposition of that violation.

## **28.9 DEFENSES TO A BUILDING CODE VIOLATION**

Except for violations of the International Property Maintenance Code (as adopted in Section 23.01 of this Code, as amended), it shall be a defense to a building code violation charged if the owner, his attorney or any other agent or representative proves to the Administrative Law Judge's satisfaction that:

1. The building code violation alleged in the citation does not in fact exist or, at the time of the hearing, the violation has been remedied or removed;
2. The building code violation has been caused by the current property occupants and, in spite of reasonable attempts by the owner to maintain the dwelling free of such violation, including filing civil action to evict current occupants, the current occupants continue to cause the violation;
3. An occupant or resident of the dwelling has refused entry to the owner or his agent to all or part of the dwelling for the purpose of correcting the building code violation.

## **28.10 SANCTIONS APPLICABLE TO OWNER; PROPERTY**

The order to correct a building code violation and the sanction imposed by the Village as the result of a finding of a building code violation under this Chapter, shall attach to the property as well as to the owner of the property so that a finding of a building code violation against one owner cannot be

avoided by conveying or transferring the property to another owner. Any subsequent transferee or owner of the subject structure or property shall be subject to the findings, decision and order of a hearing officer.

## **28.11 SUBPOENAS**

A. **ISSUANCE:** Issuance of a subpoena shall be at the discretion of the Administrative Law Judge and shall only be enforceable for the attendance of persons or the production of books, records or other documents that have a relevant evidentiary connection with the: 1) subject matter, and 2) facts which are relevant to the case and relate to a contested issue in the case. A party's request to an Administrative Law Judge for a subpoena must be timely. Service of subpoenas shall be made in the same manner as summons in a civil action. Issuance shall be based upon whether the evidence sought is relevant and necessary to the defense of a violation, where without the issuance of the subpoena, the defense could not otherwise be established by the requesting party.

B. **CONTENT:** A subpoena issued under this Chapter shall identify:

1. The person to whom it is directed;
2. The documents or other items sought by the subpoena, if any; and
3. The date, time and place for the appearance of the witnesses and the production of the documents or other items described in the subpoena.

C. **APPEARANCE:** The date identified for the appearance of the witnesses or the production of the documents or other items shall not be less than seven days after subpoena service.

D. **CONTESTING A SUBPOENA:** Within five business days of being served with a subpoena issued in accordance with this Chapter, the person or entity to whom the subpoena is directed may contest the issuance of the subpoena by filing a written motion with the Office of Administrative Adjudication, and with proper notice to all parties. The motion shall specify the grounds therefore, and shall be heard by an Administrative Law Judge on the return date indicated on the subpoena, or at the next hearing date scheduled for the case, whichever occurs earlier.

## **28.12 DEFAULT; MOTION TO SET ASIDE DEFAULT JUDGMENT**

A. **DEFAULT:** The Administrative Law Judge may find a respondent in default if the respondent, his attorney or authorized representative fails to appear at a hearing where proper service of notice of the hearing has been provided to the respondent, in accordance with this Chapter, and where there is not a finding of good cause by the Administrative Law Judge for the respondent's absence. Upon a finding of default, the hearing shall then proceed in absence of the respondent and evidence may be accepted relevant to the Code violation. A copy of the findings, decision and order resulting from the hearing shall be served on the respondent within 5 days after it is issued.

B. **MOTION TO SET ASIDE DEFAULT JUDGMENT:** The Administrative Law Judge

may set aside any judgment entered by default and set a new hearing date, upon a petition filed by the respondent within 21 days after the issuance of the order of default, if the Administrative Law Judge determines that the respondent's failure to appear at the hearing was for good cause, or at any time if the respondent establishes, by a preponderance of the evidence, that the Village did not provide proper service of process. If any judgment is set aside pursuant to this Section, the Administrative Law Judge shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the Village as a result of the vacated default judgment. When a judgment is vacated, the Administrative Law Judge shall proceed immediately with a new hearing on the underlying violation(s) as soon as practical.

### **28.13 JUDICIAL REVIEW**

Any final decision by an Administrative Law Judge that a Code violation does or does not exist shall constitute a final determination for purposes of judicial review and shall be subject to review under the Illinois Administrative Review Law (735 ILCS 5/3-101 *et seq.*).

### **28.14 ENFORCEMENT OF JUDGMENT**

Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of or the failure to exhaust judicial review procedures under the Illinois Administrative Review Law are a debt due and owing the Village and may be collected in accordance with applicable law. Additionally, after expiration of the period in which judicial review under the Illinois Administrative Review Law may be sought for a final determination of a Code violation, unless stayed by a court of competent jurisdiction, the findings, decision and order of the Administrative Law Judge may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

1. **FAILURE TO COMPLY; COSTS OF ENFORCEMENT:** In any case in which a respondent has failed to comply with a judgment ordering that respondent to correct a Code violation or imposing any fine or other sanction as a result of a Code violation, any expenses incurred by the Village to enforce the judgment entered against that respondent, including, but not limited to, attorneys' fees, court costs and costs related to property demolition or foreclosure, repair and/or enclosure of dangerous or unsafe buildings or uncompleted and abandoned buildings, costs for the removal of garbage, debris and other hazardous, noxious or unhealthy substances or materials from buildings or other real property after they are fixed by a court of competent jurisdiction or an Administrative Law Judge, shall be a debt due and owing the Village and may be collected in accordance with applicable law. Prior to any expenses being fixed by the Administrative Law Judge pursuant to this Section, the Village shall provide a notice to the respondent that states the respondent shall appear at a hearing before the Administrative Law Judge to determine whether the respondent has failed to comply with the judgment. The notice shall set the date for such hearing, which shall not be less than 7 days from the date that notice is served. If notice is served by mail, the 7-day period shall begin to run on the date the notice was deposited in the mail.

2. **LIEN:** Upon being recorded in the manner required by Article XII of the Illinois Code of Civil Procedure (735 ILCS 5/12-10 1, *et seq.*), or by the Uniform Commercial Code (810 ILCS 5/1-101, *et seq.*), a lien shall be imposed on the real estate or personal estate, or both, of the respondent in the amount of any debt due and owing the Village under this Code. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.
3. **DENIAL OF SERVICES:** If the respondent fails to pay any debt due and owing the Village as described in this Section within 14 days after service of the notice of debt, the Village may take the following actions in addition to any debt collection authorized by law:
  - A. Decline to issue, renew or provide any license, permit, zoning variance or permission applied for or requested by respondent under any Code or ordinance of the Village until the respondent pays such debt; or
  - B. Decline to issue or renew residential parking permits, temporary residential parking permits or passes, or any other permit required and applied for by the respondent under any Code or ordinance of the Village, until the respondent pays such debt.

## **28.15 PARKING AND STANDING OF VEHICLES AND THE CONDITION AND USE OF VEHICLE EQUIPMENT**

- A. This Section shall be applicable to violations of Village ordinances regulating the parking and standing of vehicles and the condition and use of vehicle equipment.
- B. **DEFINITIONS:** In addition to the definitions found in Appendix A of this Code, terms used in this Section, whether capitalized or not, shall have the following meanings:

**Compliance violation:** A violation of a Village ordinance or code governing the condition or use of equipment on a vehicle.

**Traffic Compliance Administrator:** The Village Administrator or designee.

**Vehicle Code:** The Illinois Vehicle Code, 625 ILCS 5/1-100, *et seq.*

**Violation notice:** A violation notice issued pursuant to 625 ILCS 5/11-208.3 and the provisions of this Section.

- C. **TRAFFIC COMPLIANCE ADMINISTRATOR:** Unless otherwise designated by the Village Administrator, the director of the Office of Administrative Adjudication shall serve as the Traffic Compliance Administrator. The Traffic Compliance Administrator shall:



1. Operate an administrative adjudication system for the adjudication of violations of Village ordinances regulating the parking and standing of vehicles and the condition and use of vehicle equipment;
2. Adopt, distribute and process violations of Village ordinances regulating the parking and standing of vehicles and the condition and use of vehicle equipment and other notices required by 625 ILCS 5/11-208.3; and
3. Collect money paid as fines and penalties for violations of Village ordinances regulating the parking and standing of vehicles and the condition and use of vehicle equipment
4. Make a certified report to the Secretary of State pursuant to 625 ILCS 5/6-306.5. Any such certified report shall contain the information required under 625 ILCS 5/6-306.5(c).

D. **ADMINISTRATIVE LAW JUDGE:** The adjudication of all notices of violation of Village ordinances regulating the parking and standing of vehicles and the condition and use of vehicle equipment shall be conducted by an Administrative Law Judge conforming to all provisions of this Chapter.

E. **ISSUANCE OF CITATION:** Police and community service officers shall have the authority to issue notices of violation for any vehicular parking, standing or compliance violation.

F. **NOTICE REQUIREMENTS:** A violation notice shall include:

1. The date, time and place of the violation;
2. The particular regulation violated;
3. The fine and any penalty that may be assessed for late payment;
4. The vehicle make and state registration number;
5. The identification number of the person issuing the notice;
6. That the payment of the indicated fine, and any applicable penalty for late payment, shall operate as a final disposition of the violation;
7. Information on the availability of a hearing in which the violation may be contested on its merits; and
8. The time and manner in which a hearing will be held.

G. SERVICE:

1. The original or a facsimile of the notice shall be affixed to the vehicle or by handing the notice to the operator of a vehicle if present.
2. When Traffic Compliance Administrators issue violation notices they shall certify to the correctness of the facts on the violation notice by signing their name to the notice at the time of service. The original or a facsimile of the violation notice shall be retained by the Traffic Compliance Administrator. A record of the proceeding shall be kept in the ordinary course of business.
3. A violation notice issued, signed and served in accordance with this Section, or a copy of the notice, shall be prima facie correct and shall be prima facie evidence of the correctness of the facts shown on the notice. The notice shall be admissible in any subsequent administrative or legal proceedings.
4. Service of additional notices may be sent by first class United States mail, postage prepaid, to the address of the registered owner of the cited vehicle as recorded with the Secretary of State, or, under 625 ILCS 5/11-1306, to the lessee of the cited vehicle at the last address known to the lessor of the cited vehicle at the time of lease. If notice to that address is returned as undeliverable, service shall be to the last known address recorded in a United States postal service database. The service shall be deemed complete as of the date of deposit with the United States postal service.
5. SECOND VIOLATION NOTICE: A second notice of violation shall include:
  - a. The date and location of the violation cited in the violation notice;
  - b. The particular regulation violated;
  - c. The vehicle make and state registration number;
  - d. The fine and any penalty that may be assessed for late payment;
  - e. The method in which a hearing to contest the violation on its merits may be obtained by the respondent, and the time and manner in which the hearing may be requested;
  - f. A statement that failure either to pay the fine and any applicable penalty or to appear at the scheduled hearing will result in a final determination of violation liability for the cited violation in the amount of the fine and penalty indicated; and

g. A statement that, upon the occurrence of a final determination of violation liability for the failure, and the exhaustion of, or failure to exhaust, available administrative or judicial procedures for review, any unpaid fine or penalty will constitute a debt due and owing the Village.

6. **FINAL NOTICE OF DETERMINATION:** A notice of final determination of parking, standing and compliance violation liability shall be issued following a final determination of parking, standing and compliance violation liability and the conclusion of the judicial review procedures taken pursuant to this Section. The notice shall:

a. State the unpaid fine or penalty is a debt due and owing the Village; and

b. Contain warnings that failure to pay any fine or penalty due and owing the Village within the time specified may result in the Village filing a petition in the 22<sup>nd</sup> Judicial Circuit Court to have the unpaid fine or penalty rendered a judgment as provided by this Section, or may result in suspension of the person's drivers license for failure to pay fines or penalties for 10 or more parking violations under 625 ILCS 5/6-306.5.

7. **DRIVER'S LICENSE SUSPENSION:** A notice of impending driver's license suspension shall:

a. Be sent to the person liable for any fine or penalty that remains due and owing on 10 or more parking violations;

b. State that failure to pay the fine or penalty owing within 45 days of the notice's date will result in the Village notifying the Secretary of State that the person is eligible for initiation of suspension proceedings under 625 ILCS 5/6-306.5;

c. State that the person may obtain a photostatic copy of an original ticket imposing a fine or penalty by sending a self-addressed, stamped envelope to the Village with a request for a copy; and

d. Be sent by first class United States mail, postage prepaid, to the address recorded with the Secretary of State or, if any notice to that address is returned as undeliverable, to the last known address recorded in a United States postal service approved database.

H. **EVIDENCE RULES:** An opportunity for a hearing for the registered owner of the ve-

hicle cited in the violation notice in which the owner may contest the merits of the alleged violation, and during which formal or technical rules of evidence shall not apply; provided, however, that under 625 ILCS 5/11-1306, the lessee of a vehicle cited in the violation notice shall be provided an opportunity for a hearing as afforded the registered owner.

I. DEFENSES: For matters relating to parking and standing of vehicles and the condition and use of vehicle equipment, the Administrative Law Judge may consider in defense of a violation:

1. The motor vehicle, or registration plates, of the motor vehicle was stolen before the violation occurred and not under the control of or in the possession of the owner at the time of the violation;
2. The relevant required signs prohibiting or restricting parking were missing or obscured;
3. The facts alleged in the parking, standing or compliance violation notice are not correct, are materially inconsistent or do not support a finding that the specified regulation was violated; and
4. Any other evidence or issues provided by Village ordinance.

To demonstrate that the motor vehicle, or the registration plates, was stolen before the violation occurred and was not under the control or possession of the owner at the time of the violation, the owner must submit proof that a report concerning the stolen motor vehicle or registration plates was filed with a law enforcement agency in a timely manner.

J. FINAL DETERMINATION OF VIOLATION LIABILITY: A final determination of violation liability shall occur following failure to pay the fine and any applicable penalty, or to appear at a hearing on the merits, and upon the exhaustion of the administrative review procedures. When a person fails to appear at his/her scheduled hearing to contest an alleged violation, the Administrative Law Judge's determination of violation liability shall become final (i) upon denial of a timely petition to set aside that determination; or (ii) upon expiration of the period for filing the petition without a filing having been made.

K. APPEALS: A petition to void a determination may be filed by a person owing an unpaid fine or penalty and shall be filed within 30 days of the finding of liability and shall be ruled upon by the Administrative Law Judge. The grounds for such a petition are limited to:

1. The person was not the owner or lessee of the cited vehicle on the date the violation notice was issued; or
2. The person had paid the fine or penalty for the violation in question; or

3. Excusable failure to appear at or request a date for a hearing.

When it has been determined there is just cause, the registered owner shall be provided with a hearing on the merits for the violation.

L. **PROCEDURES FOR NON-RESIDENTS:** If an alleged violator does not reside within the Village, the violation may be contested in writing pursuant to the notice of violation. In such circumstances, the non-resident may submit his or her position, in writing, signed and under oath, to the Administrative Law Judge, setting forth the reasons why a finding of liability should not be entered and why the issuance of the violation was improper. Said written challenge must be submitted not less than 14 days prior to the hearing as noted on the notice of violation.

### **28.16 ELECTION OF REMEDIES**

In no case may the Office of Administrative Adjudication conduct an administrative adjudication proceeding for an alleged violation of this Code where the remedy provided is a punishment of imprisonment; provided, however, where a violation of the Code is punishable by fines and other penalties in addition to imprisonment, the Village may elect to institute an action with the Office of Administrative Adjudication and waive any imprisonment for the Code violation. Nothing in this Section, however, shall preclude the Village from seeking the remedy of imprisonment in a court of competent jurisdiction.

### **28.17 FINES APPLICABLE TO ALL OFFENSES**

Ordinance and Code violations that may be heard in an administrative adjudication as set forth in this Chapter shall carry the fines listed in this Code, with the maximum fines being \$1,000 or as provided for in the State statutes, whichever is greater.

### **28.18 VEHICLE IMPOUNDMENT** *Ord. 578*

- A. **Violations Authorizing Seizure:** A motor vehicle, operated with the permission, express or implied, of the owner of record, that is used in connection with the following violations, shall be subject to seizure and impoundment by the Village, and the owner of record of said vehicle shall be liable to the Village for an administrative penalty of \$500, in addition to costs of prosecution and any towing and storage fees as hereinafter provided:
  1. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to 720 ILCS 5/36-1; or
  2. Driving under the influence of alcohol, another drug or drugs, an intoxicating compound or compounds, or any combination thereof, in violation of 625 ILCS 5/11-501; or

3. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony or in violation of the Cannabis Control Act (720 ILCS 550/1 *et seq.*); or
4. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the Illinois Controlled Substances Act (720 ILCS 570/100 *et seq.*); or
5. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of 720 ILCS 5/24-1 (Unlawful Use of Weapons), 720 ILCS 5/24-1.5 (Reckless Discharge of a Firearm) or 720 ILCS 5/24-3.1 (Unlawful Possession of Firearms and Firearm Ammunition); or
6. Driving while a driver's license, permit or privilege to operate a motor vehicle is suspended or revoked pursuant to 625 ILCS 5/6-303; except that vehicles shall not be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing; or
7. Operation or use of a motor vehicle while soliciting, possessing, or attempting to solicit or possess cannabis or a controlled substances, as defined by the Cannabis Control Act (720 ILCS 550/1 *et seq.*) or the Illinois Controlled Substances Act (720 ILCS 570/100 *et seq.*); or
8. Operation or use of a motor vehicle with an expired driver's license, in violation of 625 ILCS 5/6-101, if the period of expiration is greater than one year; or
9. Operation or use of a motor vehicle without ever having been issued a driver's license or permit, in violation of 625 ILCS 5/6-101, or operating a motor vehicle without ever having been issued a driver's license or permit due to a person's age; or
10. Operation or use of a motor vehicle by a person against whom a warrant has been issued by a circuit clerk in Illinois for failing to answer charges that the driver violated 625 ILCS 5/6-101, 6/303 or 11-501; or
11. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of 720 ILCS 5/16 *et seq.* or 720 ILCS 5/16A *et seq.*; or
12. Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of 625 ILCS 5/11-204 (fleeing or attempting to elude); or
13. Operation or use of a motor vehicle in violation of 625 ILCS 5/11-503 (obedience to police officers):
  - a. While the vehicle is part of a funeral procession; or
  - b. In a manner that interferes with a funeral procession.
14. Any other circumstances under which the vehicle may be towed pursuant to this Code, the Village of Prairie Grove Police Department Operations Procedures, or the Village of Prairie Grove Police Department Administrative Procedures.

B. General Regulations:

1. All administrative fees and towing storage charges shall be imposed on the registered owner of the motor vehicle or the agents of that owner.
2. The administrative fees shall be in addition to (i) any other penalties that may be assessed by a court of law for the underlying violations; and (ii) any towing or storage fees, or both, charged by the towing company.
3. This Section shall not replace or otherwise abrogate any existing State or Federal laws or Village ordinance pertaining to vehicle seizure and impoundment.
4. The fees imposed shall be uniform for all similarly situated vehicles.
5. Following payment of the impoundment fee of \$500 to the Village, the Village shall provide written notice to the owner of record along with the receipt for payment that any request for refund, provided for herein, must be submitted within thirty (30) days of the finding of not guilty.
6. The towing or storage fees, or both, shall be collected by and paid to the person, firm, or entity that tows and stores the impounded vehicle.
7. An impounded vehicle shall be released to the owner of record, lessee, or a lienholder of record upon payment of all administrative fees and towing and storage fees.
8. For purposes of this Section, the “owner of record” of a vehicle is the record title holder as required with the Illinois Secretary of State.

C. Notice of Impoundment:

1. Whenever a police officer has cause to believe that a motor vehicle is subject to impoundment, the officer shall provide for the towing of the vehicle to a facility authorized by the municipality.
2. At the time the vehicle is towed, the municipality shall notify or make a reasonable attempt to notify the owner, lessee, or person identifying himself or herself as the owner or lessee of the vehicle, or any person who is found to be in control of the vehicle at the time of the alleged offense, of the fact of the seizure, and of the vehicle owner’s or lessee’s right to an administrative hearing.
3. The Village shall also provide notice that the motor vehicle will remain impounded pending the completion of an administrative hearing, unless the owner or lessee of the vehicle or a lienholder posts with the Village a bond equal to the administrative fee as provided by this Section and pays for all towing and storage charges.

D. Notice of Hearing: The Village shall provide notice of hearing to the registered owner or lessee of the vehicle and any lienholder of record, said notice shall:

1. Be served upon the owner, lessee, and any lienholder of record either by personal service or by first class mail to the interested party's address as registered with the Secretary of State;
2. Be served upon interested parties within ten (10) days after a vehicle is impounded by the Village; and
3. Contain the date, time, and location of the administrative hearing. The initial hearing shall be scheduled and convened no later than 45 days after the date of the mailing of the notice of hearing.

E. Administrative Hearing: A hearing shall be provided pursuant to 625 ILCS 5/11-208.3(b)(4) and Section 28.08 of this Chapter.

F. Decision:

1. At the conclusion of the administrative hearing, the hearing officer shall issue a written decision either sustaining or overruling the vehicle impoundment.
2. If, after the hearing, the Administrative Law Judge determines by a preponderance of evidence that the vehicle was used in connection with a violation set forth in this Section, the Administrative Law Judge shall enter a written order finding the owner of record of the vehicle civilly liable to the Village for an administrative penalty as provided in this Section and requiring the vehicle to continue to be impounded until the owner pays the administrative penalty plus costs of prosecution to the Village plus fees to the tower for the towing and storage of the vehicle. If the basis for the vehicle impoundment is sustained by the administrative hearing officer, any administrative fee posted to secure the release of the vehicle shall be forfeited to the Village. If the owner of record fails to appear at the hearing, the Administrative Law Judge shall enter a default order in favor of the Village.
3. If, after the hearing, the Administrative Law Judge does not determine by a preponderance of the evidence that the vehicle was used in such violation, the Administrative Law Judge shall enter a written order finding for the owner and for the immediate return of the owner's vehicle or cash bond without fees.
4. All final decisions of the administrative hearing officer regarding the impoundment shall be subject to review under the provisions of the Administrative Review Law.

G. Stolen Vehicle: The administrative fee shall be waived by the Village upon verifiable proof that the vehicle was stolen at the time it was impounded.



- H. Release of Vehicle: Unless the administrative hearing officer overturns the basis for the vehicle impoundment, no vehicle shall be released to the owner, lessee, or lienholder of record until all administrative fees and towing and storage charges are paid.
- I. Failure to Retrieve Vehicle: Vehicle not retrieved from the towing facility or storage facility within 35 days after the administrative hearing officer issues a written decision shall be deemed abandoned and disposed of in accordance with the provisions of 625 ILCS 5/4-201 *et seq.*
- J. Enforcement: Unless stayed by a court of competent jurisdiction, any fine, penalty, or administrative fee imposed under this Section which remains unpaid in whole or in part after the expiration of the deadline for seeking judicial review under the Administrative Review Law may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.
- K. Administrative Fee Refund: A finding of not guilty following a trial in the 22<sup>nd</sup> Judicial Circuit Court for the underlying violation(s) for which the motor vehicle was impounded, shall entitle the owner of record to a full and complete refund of any administrative fee imposed under this Section. However, the owner of record must request the refund in writing from the Village within thirty (30) days of the finding of not guilty and include in the request a certified disposition of not guilty following a trial from the 22<sup>nd</sup> Circuit Court Clerk. The Village shall have thirty (30) days from the date of the written request for a refund to refund the money.

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**Chapter 29, Ord. 646, 727**  
**LICENSES AND PERMITS**

ARTICLE 1  
RAFFLES

- 29.1 Definitions
- 29.2 Clerk Designated License Officer
- 29.3 Duties of Village Clerk
- 29.4 When Fee Payable
- 29.5 Termination of Licenses
- 29.6 Authority for Issuance; Applicability
- 29.7 License Required
- 29.8 Application for License
- 29.9 License Fees
- 29.10 Restrictions on Issuance of Licenses
- 29.11 Conduct of Raffles
- 29.12 Raffle Manager; Bond
- 29.13 Raffle Tickets
- 29.14 Prizes
- 29.15 Records
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**29.1 DEFINITIONS**

As used in this Chapter, the following words shall have the meanings hereafter ascribed to them:

**Auxiliary or Affiliates.** Whenever used in this Chapter, the word “organization” shall include an auxiliary or affiliate of the licensee.

**Business.** A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civil interests of a community.

**Charitable.** An organization or institution organized and operated to benefit an indefinite number of the public. The services rendered to those eligible for benefits must also confer some benefit on the public.

**Educational.** An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

**Fraternal.** An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those that otherwise would be cared for by the government.

**Labor.** An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

**Net Proceeds.** The gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle.

**Nonprofit.** An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation.

**Raffle.** A form of lottery, as defined in 720 ILCS 5/28-2 conducted by an organization licensed under this Chapter in which:

- (a) The player pays or agrees to pay something of value for a chance, represented and differentiated by a number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;
- (b) The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

**Religious.** Any church, congregation, society or organization founded for the purpose of religious worship.

**Veterans.** An organization or association comprised of members who are substantially veterans and spouses, widows or widowers of veterans, the primary purpose of which is to promote the welfare of its membership and to provide assistance to the general public in such a way as to confer a public benefit.

## **29.2 CLERK DESIGNATED LICENSE OFFICER**

In the absence of specific provisions to the contrary, the Village license officer shall be the Village Clerk and she shall collect all license fees and issue all licenses in the name of the Village, to all persons qualified under the provisions of this Code.

## **29.3 DUTIES OF VILLAGE CLERK**

The Village shall promulgate and enforce all reasonable rules and regulations necessary to the operation of license and permit issuance and enforcement; the Village Clerk shall adopt all forms and may require affidavits pertaining to information given on such forms; shall submit such applications as require investigation or compliance with specific ordinances to such employees or officials of the Village as shall have jurisdiction thereof and shall notify applicants of the acceptance or rejection of the applications submitted, or revocation of licenses or permits.

#### **29.4 WHEN FEE PAYABLE**

In the absence of provisions to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefore is made to the Village Clerk.

#### **29.5 TERMINATION OF LICENSES**

All annual licenses shall terminate on the last day of the fiscal year of the Village, where no provision to the contrary is made.

#### **29.6 AUTHORITY FOR ISSUANCE; APPLICABILITY**

The Office of the Village Administrator shall have the authority to issue licenses for raffles subject to the limitations set forth herein. Nothing in this Chapter shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity or device other than a raffle provided for herein.

#### **29.7 LICENSE REQUIRED**

A. It shall be unlawful for any person, firm or corporation to conduct raffles or chances within the Village of Prairie Grove unless the person, firm or corporation has a valid license issued in accordance with the provisions of this Chapter.

B. Licenses shall be issued only to bona fide religious, business, charitable (501 3c), labor, fraternal, educational or veteran organizations that operate without profit to their members and which have been in existence continuously for a period of five (5) years immediately before making application for a license, and which have been during that entire five-year period a bona fide membership engaged in carrying out their objectives; or to a nonprofit fund-raising organization that the Village of Prairie Grove determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

C. A license issued by the Village of Prairie Grove shall authorize the sale of raffle chances for a drawing to be held only within the corporate Village limits of the municipality.

D. The Office of the Village Administrator shall act on a raffle license application within fourteen (14) days from the date of application receipt.

E. In the event a license is denied, the applicant shall have the right upon written receipt to appeal the decision to the Village President and Village Board at the next regularly scheduled Village Council meeting.

F. The Village Administrator or his/her designated representative may revoke any licenses issued by the Village of Prairie Grove if it is determined that the licensee has violated any provision of this Chapter.

## **29.8 APPLICATION FOR LICENSE**

Applications for such licenses shall be made in writing on the forms provided to the Office of the Village Administrator, signed by the applicant or its duly authorized representatives. Each license and application for license shall contain the following information:

- A. The name and address of the applicant;
- B. The area within the Village of Prairie Grove in which the raffle chances will be sold and issued;
- C. The time period during which raffle chances will be sold or issued;
- D. The date, time, manner and location(s) of determining the winning chances;
- E. A sworn statement attesting to the not-for-profit character of the respective licensee organization signed by the presiding officer and secretary of that organization;
- F. A copy of the applicant's not-for-profit articles of incorporation and/or charter;
- G. Such other information as the Office of the Village Administrator may require under the authority of this Chapter or 230 ILCS 15; and
- H. Each license issued under this article shall be valid for a single raffle, or a specified number of raffles to be conducted during a specific period not to exceed one (1) year.

## **29.9 LICENSE FEES**

Raffle License Fees shall be \$100 for each Raffle event drawing.

## **29.10 RESTRICTIONS ON ISSUANCE OF LICENSES**

No such license shall be issued to:

- A. Any person who has been convicted of a felony;
- B. Any person who is or has been a professional gambler or gambling promoter;
- C. Any person who is not of good moral character;
- D. A person whose license issued under this Chapter has been revoked for cause;
- E. A person who, at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;

F. Any firm or corporation in which a person defined in A, B or C, above, has a proprietary, equitable or credit interest, or in which such a person is active or employed;

G. Any organization in which a person defined in A, B or C, above, is an officer, director, or employee, whether compensated or not; or

H. Any organization in which a person defined in A, B or C, above, is to participate in the management or operation of a raffled as defined in this Code.

## **29.11 CONDUCT OF RAFFLES**

The conducting of raffles is subject to the following restrictions:

A. The entire net proceeds of any raffle must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game;

B. No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle.

C. No person may receive any remuneration or profit for participating in the management or operation of the raffle;

D. The maximum fee which may be charged for each raffle chance sold or issued shall not exceed one hundred dollars (\$100.00). All such fees shall be paid in currency, by check, or by credit card.

E. A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this chapter;

F. Raffle chances may be sold or issued only within the area specified on the license and winning chances may be determined only at those locations specified on the license; and

G. A person under the age of 18 years may participate in the conducting of raffles or chances with the permission of a parent or guardian. A person under the age of 18 years may be within the area where winning chances are being determined only when accompanied by his/her parents or guardian.

## **29.12 RAFFLE MANAGER; BOND**

Operation and conduct of raffles shall be under the supervision of a single raffles manager designated by the organization making application for a license. The raffles manager shall file with the Office of the Village Administrator a fidelity bond in an amount not less than the anticipated gross receipts for the raffle. The bond shall be in favor of the organization and conditioned upon his/her honesty in the performance of duties. The bond shall also provide that notice be given in writing to the Village of Prairie Grove not less than thirty (30) days prior to its cancellation. The Village Administrator or his/her designated representative is authorized to waive the requirement

for a bond by including a waiver provision in the license issued, provided that the license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

### **29.13 RAFFLE TICKETS**

A. Each raffle ticket, chance or other raffle token shall state, on its face, the name and address of the licensee, the date or dates of the drawings, and the prize or prizes to be awarded; provided, however, that this requirement shall not apply to any raffle in which prizes in aggregate value under fifty dollars (\$50.00) are awarded, or to any raffle in which raffle chances are sold only on the date of the drawing during the event at which the drawing is to be conducted. No such ticket, chance or token shall be sold or issued more than one hundred eighty (180) days before the determination of the winning chance or chances.

B. If any raffle for which a license is issued under this Chapter is canceled, or if any such raffle is not conducted on the date contained in the application for license, the licensee shall refund all money paid for any raffle chances issued or sold to the persons to whom such raffle chances were issued or sold within forty-five (45) days after the date on which the raffle was to be conducted or within forty-five (45) days after cancellation of the raffle, whichever is sooner.

### **29.14 PRIZES**

A. The maximum cash prize awarded in any raffle shall be two hundred fifty thousand dollars (\$250,000).

B. The maximum retail value of a noncash prize awarded in any raffle shall be one hundred thousand dollars (\$100,000).

C. The aggregate value of all prizes awarded in a single raffle shall not exceed three hundred fifty thousand dollars (\$350,000).

### **29.15 RECORDS**

A. Each organization licensed to conduct raffles shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

B. Gross receipts from the operation of raffles programs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same nonprofit organization pursuant to a license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles. The person who accounts for gross receipts, expenses and net

proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the organization;

C. Each organization licensed to conduct raffles shall report promptly after the conclusion of each raffle to its membership. Each organization licensed to conduct raffles shall report within ten (10) days to the Village of Prairie Grove its gross receipts, expenses and net proceeds from the raffle, and the distribution of net proceeds as required by this Chapter. This information shall be reported using the “Not-for-Profit Raffle License Audit Information” form as provided.

D. Records required by this Chapter shall be preserved for three (3) years, and organizations shall make available their records relating to operation of raffles for public inspection at reasonable times and places.

## **29.16 VIDEO GAMING**

See Section 14.28 of the Village Code.

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## **CHAPTER 30 FLAG AND FLAGPOLE REGULATIONS**

### **30.01 PURPOSE AND INTENT**

The purpose and intent of these regulations regarding ground-mounted flagpoles and wall-mounted flagpoles is to 1) define the relationship of the flag to the flagpole; 2) protect the public health, safety, and welfare by preventing property damage or personal injury caused by flagpoles that are improperly installed; 3) protect the public health, safety, and welfare by preventing property damage or personal injury caused by flags or flagpoles being improperly located; and 4) to preserve and enhance the image of the Village and develop a satisfactory visual appearance within the Village by preventing undesired clutter and blight.

Note that this Chapter does not supersede or pertain to signs addressed in Chapter 24, such as pennants, moving signs, banners, feather flags or any other type of sign.

### **30.02 DEFINITIONS**

The following definitions are applicable to this Chapter:

**Flag:** Any printed, painted, or woven on cloth, canvas, paper, or other light material depicting any symbols, characters, colors, designs, letters, or logos typically designed to move when subject to pressure by the wind, and that may be hung without a frame, or flown from a flagpole.

**Flagpole:** A pole specifically designed for the purpose of displaying a flag.

**Ground-mounted flagpole:** A freestanding flagpole that is specifically designed to be permanently installed in the ground.

**Wall-mounted flagpole:** A flagpole specifically designed for displaying a flag from the wall of a building or part thereof (“building”).

**Zoning lot:** The term zoning lot shall mean and include a lot of record in a recorded subdivision, or a single tract of land, or parcels described by metes and bounds, which are designated by their owners as a tract to be used, developed, or built upon as a single unit in common ownership.

### **30.03 PERMIT REQUIRED**

Ground-mounted flagpoles shall have a permit issued at no charge by the Village. The purpose of this permit requirement is to insure the proper and safe installation of ground-mounted flagpoles. Any ground-mounted flagpole installed prior to July 24, 2012, is exempt from the requirement of a permit. Flags displayed on a wall-mounted flagpole are exempt from the requirement of a permit.

### **30.04 FLAG REGULATIONS**

#### **A. GROUND-MOUNTED FLAGPOLE REGULATIONS**

1. Flags shall be displayed only on a flagpole designed and constructed specifically and exclusively for flag display.

2. Flagpoles shall be designed and constructed specifically and exclusively for permanent installation in the ground.
3. Only 1 ground-mounted flagpole shall be permitted per zoning lot.
4. Flagpoles shall be set back a minimum of 15 feet, measured from the most restrictive of either the property line, the curb line, or the ditch line if no curb line exists.
5. No more than 2 flags per ground-mounted flagpole are permitted.
6. The maximum flagpole height in those districts zoned as (R) Single Family District and (R-1) Single Family District shall be 25 feet. The maximum flagpole height in all other districts shall be 35 feet.
7. Flag size must be in proportion to the height of the flagpole. The length of the flag shall be 1/4 of the height of the flagpole as exemplified per the chart below:

Flagpole Height	Flag Size
20 feet	3 x 5 feet
25 feet	4 x 6 feet
30 feet	5 x 8 feet
35 feet	6 x 10 feet

8. A flag shall be displayed in such a manner that no portion of the flag shall project over any public right of way or property line or contact any other structure when fully extended.

**B. WALL-MOUNTED FLAGPOLE REGULATIONS**

1. Flags shall be displayed only on a flagpole designed and constructed specifically and exclusively for flag display.
2. Flagpoles shall be designed and constructed specifically and exclusively for installation of the flagpole on a building.
3. Flagpoles shall not exceed 10 feet in length.
4. No portion of such flagpole shall extend above the roof line or over a property line.
5. A flag shall be displayed in such a manner that no portion of the flag shall project over any public right of way or property line or contact any other structure when fully extended.
6. Wall-mounted flagpoles shall be spaced horizontally by a minimum of 20 feet.

**30.05 PENALTIES**

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with any provision of this Chapter shall be subject to a fine of \$150.00. Each day that a violation continues shall be deemed a separate offense. Nothing in this Chapter shall be construed as limiting any additional or further remedies that the Village may have for enforcement of this Chapter.

**Appendix A**  
**PRAIRIE GROVE MUNICIPAL CODE DEFINITIONS**

In addition to the definitions found elsewhere in this Code, the following words and terms, whether capitalized or not, shall have the meanings herein after set forth, except where otherwise specifically indicated. Terms not defined within this Code shall have the meanings customarily given them.

**Abandoned vehicle:** Any vehicle in a state of disrepair rendering the vehicle incapable of being driven in its condition; or any vehicle that has not been moved or used for 7 consecutive days or more and is apparently deserted; or any unlicensed vehicle.

**Accessory structure:** A building the use of which is incidental to that of the principal building and which is located on the same lot.

**Air rifle:** Includes any air gun, air pistol, spring gun, spring pistol, BB gun, pellet gun or any implement that is not a firearm which impels a projectile constructed of hard plastic, steel, lead, brass or any other hard material with a force that is reasonably expected to cause bodily harm or property damage.

**Antique vehicle:** Any motor vehicle or other vehicle 24 years of age or older.

**Appendix A:** This Appendix A of the Prairie Grove Municipal Code.

**Appliances:** Including but not limited to ranges, refrigerators, dishwashers, washing machines, dryers, room air conditions, freezers and water heaters.

**ARC:** The Architectural Review Commission of the Village, established by Section 8.02 of this Code.

**ASTM ES 13-89:** Pursuant to Chapter 24, emergency standard performance specifications for safety covers and labeling requirements for all covers for swimming pools, spas and hot tubs.

**Barrier:** Pursuant to Chapter 24, a fence, wall, building wall or combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

**Basement:** A portion of any building located partly underground but having less than half of its clear floor to ceiling height below the average grade of the adjoining ground.

**Board of Trustees:** The President and Trustees of the Village.

**Boat:** Any device used or capable of being used for navigation on water.

**Building:** Any residential or nonresidential support, shelter or enclosure of persons, animals or movable property of any kind, and which is permanently affixed to the land.

**Building Code:** Chapter 23 of this Code.

**Building Inspector:** The Building Inspector of the Village or authorized deputy, agent or representative. The Building Inspector is also the Building Official.

**Building drain:** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 5 feet outside the inner face of the building wall.

**Building sewer:** The extension from the building drain to the septic system or other place of disposal.

**Cellar:** A portion of a building located partly or wholly underground and having half or more than half of its clear floor to ceiling height below grade.

**Chapter:** When “Chapter” appears within a chapter of this Code, it means that particular chapter.

**Chief:** Pursuant to Chapter 4 of this Code, the duly appointed Chief of Police.

**Civil emergency:** A riot or unlawful assembly characterized by the use of actual force or violence or any threat to use force if accompanied by immediate power to execute by 3 or more persons acting together without authority of law; or any natural disaster or manmade calamity, including flood, conflagration, cyclone, tornado, earthquake or explosion within the corporate limits of the Village, resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

**Clerk:** The Village Clerk of the Village of Prairie Grove.

**Code, this Code:** The Prairie Grove Municipal Code.

**Combined sewer:** A sewer receiving both surface runoff and sewage.

**Construction:** Any site preparation, assembly, erection, substantial repair, alteration or similar action, but excluding demolition.

**Construction vehicle:** Any vehicle used in, and that is hauling, picking up or delivering materials, equipment and related apparatus then being used in the construction, remodeling, repair, replacement, enlargement or addition of or to any improvement on a lawful site within the corporate limits of the Village for which a building permit has been duly issued, and is then outstanding, by the Village under the provisions of Chapter 24 of the Code.

**County:** McHenry County.

**Criminal Code:** The Illinois Criminal Code of 1961, 730 ILCS 5/1-1 *et seq.*, as amended.

**Curbside:** Off the street and highway pavement and within 5 feet thereof.

**Curfew:** A prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the

corporate limits of the Village, except officials of any governmental unit and persons officially designated to duty in a civil emergency.

**Demolition:** Any dismantling, intentional destruction or removal of structures, utilities, public or private right-of-way surfaces or similar property.

**Deputy Clerk:** The duly appointed Deputy Clerk of the Village.

**Dwelling unit:** A single family attached and detached residence and duplex.

**Easement:** Land specifically or generally designed for public and/or quasi-public utilities and facilities, only, associated with requirements for sanitary sewer, potable water, storm drainage, gas, electric, telephone, cable television and service.

**Electrical Inspector:** The designated Village official(s) for making inspections pursuant to Chapter 24 of this code.

**EPA:** The Environmental Protection Agency; IEPA is the Illinois organization and USEPA is the federal organization

**Extermination:** The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible material that may serve as their food; by poisoning, spraying, fumigating or trapping; or by any other recognized legal pest elimination methods.

**Fence:** Any barrier either working alone or in conjunction with structures or natural features meant to so enclose an area to contain the contents within and/or prevent entry to the area so enclosed.

**Firearm:** Any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas; excluding any pneumatic gun, spring gun or BB gun which expels a single globular projectile not exceeding .18 inch in diameter.

**Fire District or Fire Protection District:** The applicable fire protection district that provides fire and ambulance service to the Village.

**Fireworks:** Any rocket, firecracker, torpedo, squib or other similar projectile, or anything containing any substance of an explosive nature, including but not limited to gun powder, gun cotton, giant powder, dynamite, nitroglycerine, fulminate of mercury or other explosives of a similar nature for blasting or other purposes. In addition, the definition for “fireworks” found in 425 ILCS 35/1, as amended, is incorporated into this definition.

**Garage sale:** For purposes of Section 31.01 of this Code, garage sales shall mean and include all sales entitled “garage sale,” “lawn sale,” “attic sale,” “rummage sale,” “flea market sale” or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of said sale.

**Garbage:** Any rejected or waste household food, offal, swill or carrion, and every accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking and dealing in, or storage of meats, fish, fowl, fruits or vegetable, and any other matter of any nature which are subject to decay, putrefaction and the generation of noxious or offensive gases or odor, or, which during or after decay, may serve as breeding or feeding material for flies or other germ-carrying insects.

**Highway or street:** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public or purposes of vehicle travel. Any street, alley or public way within the Village.

**Hot tub:** See definition for spa.

**IDOT:** Illinois Department of Transportation.

**IEPA regulations:** Illinois Environmental Protection Agency 35 Administrative Code 653.

**Illinois Compiled Statutes (ILCS):** The most current edition of the Illinois Compiled Statutes.

**Illinois Municipal Code:** 65 ILCS 5/1 *et seq.*

**Infestation:** The presence within or around a dwelling unit of any insects, rodents or other pests.

**In-ground pool:** See definition for swimming pool.

**Inoperable motor vehicle:** Any motor vehicle from which, for a period of at least seven days, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power.

The term “inoperable motor vehicle” shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own power in order to perform ordinary service or repair operations nor to any motor vehicles that are kept within a building when not in use, to historic vehicles over 25 years of age, nor to a motor vehicle on the premises of a place of business engaged in wrecking or junking of motor vehicles, nor to any motor vehicle which has been rendered temporarily incapable of being driven under its own power by authorization of the Chief of Police.

**Legal guardian:** A person appointed guardian or given custody of a minor by a Circuit Court of the State, but does not include a person appointed guardian or given custody of a minor under the Juvenile Court Act, 705 ILCS 405/1-1, as amended.

**Let:** To give another person the right to occupy any portion of a building or real estate or both. The act of “letting” shall be deemed to be a continuing act for so long as the person given the right to occupy the premises continues to do so. A further “letting” by any occupant or a portion of a building is, for the purpose of this Ordinance, also a “letting” by the owner or operator of the building.

**Licensee:** An organization, person or firm which has been issued a license, such as to operate a raffle.

**Liquor Control Act:** The Liquor Control Act of 1934, 235 ILCS 5/1-1 *et seq.*, as amended.

**May:** May is permissive.

**MCDH:** McHenry County Department of Health.

**Minor:** A person who is above the age of 11 years but not yet 18 years of age.

**Motor vehicle:** Any vehicle which is propelled or drawn on land by a motor, such as, but not limited to, passenger cars, trucks, truck-trailers, semi-trailers, campers, go-carts, snowmobiles, amphibious craft on land, dune buggies or racing vehicles, but not including motorcycles.

**Motorcycle:** An unenclosed motor vehicle having a saddle for the use of the operator and two or three wheels in contact with the ground, including, but not limited to, motor scooters and minibikes.

**Municipality:** The Village of Prairie Grove.

**Must:** Must is mandatory.

**Natural barrier:** A non-seasonal lake, pond or stream greater than 20 feet in width.

**Natural outlet:** Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

**Neighboring residence:** A 1-family dwelling or a single-family townhouse not more than 3 stories in height situated on improved property within 500 feet of a residential swimming pool.

**Noise:** Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

**Noise disturbance:** Any sound which endangers or injures the safety or health of humans or animals, or annoys or disturbs a reasonable person of normal sensitivities, or endangers or injures personal or real property.

**Noise sensitive zone:** Any area designated pursuant to this Code for the purpose of ensuring exceptional quiet.

**Noncombustible waste:** All other waste substance not capable of incineration or burning, including ashes, glass, metal, earthenware and the like.

**Occupant:** Any person, over 1 year of age, living in, sleeping in or having actual possession of a building or portion thereof.

**Open burning:** The burning of any materials or substances outside of the confines of the dwelling or buildings located on the premises.



**Open Meetings Act:** 5 ILCS 120/1, *et seq.*

**Operator:** Any person having charge, care, management or control of any building or part thereof.

**Owner:** Any person who alone or jointly or severally with others shall have legal or equitable title to any building, the agent of said person or any person having management or control of the building or portion thereof, including, but not limited to a purchaser, mortgagee, receiver or lessee in possession of any building or portion thereof.

**Parabolic or dish type television antenna:** Any circular or similar dish shaped transmitting or receiving antenna for communications or for transmitting or receiving television signals from a satellite.

**Parade:** Any parade, march, ceremony, show, exhibit, pageant or procession of any kind, or any similar display, in or upon any street in the Village.

**Park or parking:** For purposes of Chapter 15 of this Code, the standing of a vehicle, whether occupied or not, otherwise than when temporarily and actually engaged in loading and unloading merchandise or passengers.

**Peddling:** The selling, bartering or exchanging or the offering for sale, barter or exchange of any tangible personal property upon or along the streets, highways or public places of the Village or from house to house, whether at one place or from place to place, from any wagon, truck, pushcart or other vehicle or from movable receptacles of any kind, but shall not include the delivery of any item previously ordered or the sale of items along delivery routes where the purchaser has previously requested the seller to stop and exhibit his items. Nor shall peddle be taken to include the solicitation of orders by sample where the goods are not delivered at the time the order is taken.

**Person:** Any natural individual, firm, partnership, trust, estate, club, association, not-for-profit organization, society, taxing body or corporation. As applied to partnerships or associations the word includes the partners or members thereof; as applied to corporations it includes the officers, agents or employees thereof who are responsible for the act referred to. The singular includes the plural, and the plural includes the singular. The masculine gender includes the feminine and neuter genders.

**PIN:** Permanent Index Number assigned by the appropriate county department.

**Plumbing:** Gas pipes, gas burning equipment, water heating equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, wells, septic tanks, catch basins, drains, vents and any similar supplied fixtures, together with all connections to water, sewer or gas lines.

**Police Department:** The Prairie Grove Police Department.

**Population:** The population determined by the most recent official federal, state or Village census.

**Powered model vehicle:** Any self-propelled airborne, waterborne or land born plane, vessel or vehicle, which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.

**Premises:** Any or part of a lot, plot or parcel or tract of land, including the buildings and structures, or part of a building or structure, thereon.

**Property:** Any real property within the Village which is not a street of highway.

**Public employee or employee:** Any individual employed by the Village but shall not include elected officials, members of boards, authorities and commissions, management employees who are involved directly in the determination of policy or who responsibly directed implementation thereof, supervisors, or any employee who acts as a representative of the Village and any employee who, in the interest of the Village has access to confidential collective bargaining information or who, as determined by the Village Board, is a confidential employee.

**Public place:** Except as set forth in Section 9.21 of this Code, public place shall mean any area used by and open to the public, a substantial group of the public has access, or where a person could reasonably be expected to be observed by others, regardless of whether the building or vehicle is owned in whole or in part by private persons or entities, the Village, or any other public entity and regardless of whether a fee is charged for admission, including, but not limited to, parks, streets, highways, sidewalks, parking lots, schools, apartment houses, transport facilities, places serving as a place of work including, but not limited to, restaurants, retail stores, offices, commercial establishments, public conveyances, educational facilities, meeting rooms, polling places, private clubs, gaming facilities, and all government owned vehicles and facilities, including buildings and vehicles owned, leased or operated by the Village, healthcare facilities or clinics, retail service establishments, educational facilities, public hearing facilities, public restrooms, waiting areas, lobbies, bars, taverns, reception areas. A public place does not include a private residence. *Amended, 715*

**Public right-of-way:** Any street, avenue, boulevard, highway, sidewalk or alley or similar place which is owned or controlled by a government entity.

**Public safety emergency:** Any condition wherein the service offered by a public utility or a unit of government has been interrupted, curtailed or damaged, an immediate, substantial and harmful threat to the public health and safety exists, and will continue if such condition is not immediately repaired. Without limiting the generality thereof, a threat to the public health and safety includes damage to telegraphic, telephonic, heating, cooling, lighting, power, electrical, water, sewerage, oil or gas equipment facilities, machinery or property of a hospital or other building providing inpatient health care services, a school, a nursing home or a government building.

**Public sewer:** A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

**Public space:** any real property or structures thereon which are owned or controlled by a government entity.

**Public utility:** Any corporation, company, association, joint stock company or association, firm, partnership or individual, their lessees, trustees or receivers appointed by any court whatsoever that owns, controls, operates or manages, with the State of Illinois, directly or indirectly, for public use, any plant, equipment or property used or to be used for or in connection with, or owns or controls any franchise, license, permit or right to engage in:

1. The transmission of telegraph or telephone messages between points within the State of Illinois;
2. The production, storage, transmission, sale, delivery or furnishing of heat, cold, light, power, electricity or water;
3. The conveyance of oil or gas by pipeline; and
4. The disposal of sewerage.

**Public Works:** The Public Works Department of the Village.

**Real property boundary:** A line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intrabuilding real property divisions.

**Recreation vehicle:** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel, recreational and vacation uses and/or vehicles with “RV” license plates. A recreation vehicle shall include, but not be limited to, the following: travel trailer, pick-up camper, motorized home, camping trailer.

**Registered solicitor:** Any person who has obtained a valid certificate of registration as provided in this Code, and which certificate is in the possession of the solicitor on his person while engaged in soliciting.

**Residence:** Every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

**Residential:** That which is situated on the premises of a detached single or a one-family townhouse, not more than three stories in height.

**Restaurant:** Any public place kept, used and maintained, advertised and held out to the public as a place where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests.

**Sanitary landfill:** A type of operation in which refuse is deposited by plan in a pit or excavation of open land, is compacted by force applied by mechanical equipment and then is covered by a layer of earth, ashes or suitable covering material to a depth of at least two feet.

**Sanitary sewer:** A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

**Section:** Whenever “Section” appears within a particular section number of this Code, it means that particular section. For example, if “Section” appears within Section 1.01 of this Code, Section means Section 1.01. Whenever a number is included with the word “Section,” it shall mean that section number of the Code.

**Sewage:** A combination of the water carried wastes from business buildings, residences, institutions and industrial establishments, together with such ground, surface and storm waters as may naturally be present.

**Shall:** Shall is mandatory.

**Sign Regulations:** Chapter 24 of this Code.

**Snowmobile:** A self-propelled device designed for travel on snow or ice or natural terrain, steered by skis or runners, and supported in part by skis, belts or cleats.

**Soliciting:** Any one or more of the following activities:

1. Seeking to obtain orders for the purpose of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatever, for any kind of consideration whatever; or
2. Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or
3. Seeking to obtain information on the background, occupation, economic status, social status, religious status, political status, attitude, viewpoints, occupants of a residence, telephone numbers, address furnishings, or the like of another person for the purpose of compiling information as raw data or refined data into a document, record book or directory to be sold or to be used wholly or in part for a commercial purpose; or
4. Seeking to obtain gifts for contributions of money, clothing, or any other valuable thing for the support or benefit of any charitable or non-profit association, organization, corporation, or project.

**Solicitor:** Any person who has obtained a valid license as provided in Chapter 17 of this Code, and which license is in the possession of the solicitor and on his person while engaged in soliciting. *Amended, 500*

**Spa - portable, non-portable, hot tub:** A non-permanent structure intended for recreational bathing, in which all controls, water heating and water circulating equipment are an integral part of the product.

**State:** State of Illinois.

**Storm sewer or storm drain:** A sewer which carries storm and surface waters and drainage, but excludes sewage and polluted industrial wastes.

**Subdivision Code:** Chapter 22 of this Code.

**Street or highway:** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public or purposes of vehicle travel.

For purposes of Chapter 15 of this Code, that portion of the roadway or highway that is improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder.

**Strike:** Any concerted action in failing to report for duty, the willful absence from one's position, the stoppage of work (including a stoppage by reason of the expiration of a collective bargaining agreement), the interruption or interference with operation of the Village, slow downs or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment.

**Supervisor:** Any individual who has authority to recommend hiring, firing, transferring, suspending, promoting and discharging employees; those who have authority to assign employees; and those who direct work, as well as adjust compensation of employees.

**Supplied:** Paid for, installed, furnished or provided by and under the control of the owner or operator at its own expense.

**Swimming pool:** Any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs and spas.

**Swimming pool - indoor:** A swimming pool which is totally contained within a structure and surrounded on all four sides by walls of said structure.

**Swimming pool - outdoor:** Any swimming pool which is not an indoor pool.

**Taxicab:** For purposes of Chapter 36, any vehicle used to carry passengers for hire but not operating on a fixed route.

**Temporary parking:** With respect to Section 15.07 of this Code, the stationary placement of any mobile home, boat, trailer or recreation vehicle for a continuous period of less than 48 hours.

**Through vehicle:** Any vehicle that traverses the roads of the Village from the point of entrance to the point of exit without providing a legitimate service as described in Section 15.13 to a lawful location within the corporate limits of the Village during the course of such traverse, other than a public utility vehicle engaged in a public service emergency.

**Topping:** The severe cutting back of limbs of a tree to stubs larger than 3 inches in diameter within the tree's crown, and shall mean such cutting as would remove the tree's normal canopy and disfigure the tree.

**Townhouse:** A single family dwelling having one or more common wall with another single family dwelling, oriented so all exits open directly to the outside.

**Trailer:** With respect to Section 15.07 of this Code, every vehicle designed or utilized for the transportation of any boat, auto, snowmobile and the like, which does not have motor power but is designed to be drawn by another vehicle.

**Treasurer:** The duly appointed Treasurer of the Village of Prairie Grove appointed pursuant to Section 3.03 of this Code.

**Vehicle:** A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.

**Vehicle:** Every device, in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power, devices used exclusively upon stationary rails or tracks and snowmobiles as defined in the Illinois Snowmobile Registration and Safety Act (625 ILCS 40/1-1).

**Village:** Village of Prairie Grove, Illinois.

**Village Attorney:** The duly appointed Village Attorney pursuant to Section 3.04 of this Code.

**Village Board:** The President and Board of Trustees of the Village of Prairie Grove.

**Village Engineer:** The duly appointed Village Engineer pursuant to Section 3.06 of this Code.

**Watercourse:** A channel in which a flow of water occurs, either continuously or intermittently.

**Zone Code:** Chapter 21 of this Code, which is the zoning ordinance of the Village, as amended.

**Zoning Official:** The individual that has been, or will be duly appointed by the Village Board, who is in charge of the administration and enforcement of the Zoning Code.

**Zoning Ordinance:** Chapter 21 of this Code, which is the Zoning Code of the Village, as amended.

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