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## **CHAPTER 1—ADMINISTRATION**

### **Subchapter 1 — General**

#### **§ 100. Adoption of Code**

The ordinances embraced in the following titles, chapters and sections of this code shall constitute and be designated the VILLAGE CODE OF THE VILLAGE OF LILY LAKE, ILLINOIS and may be so cited.

Ord 2009-05, 5/18/2009.

#### **§ 101. Jurisdiction**

This code applies to acts performed within the limits of the village and to those acts performed outside the village limits and up to the limits prescribed by law in those instances where the law confers power on the village to regulate such acts outside the village limits.

Ord 2009-05, 5/18/2009.

#### **§ 102. Amendments**

All ordinances passed subsequent to the adoption of this code, which amend, repeal or in any way affect this code, will be numbered in accordance with the organization and numbering system of this code, and will be included by means of supplement service to this code in all of its forms.

Ord 2009-05, 5/18/2009.

#### **§ 103. Effect of repealed and special ordinances**

(a) When any ordinance repealing a former ordinance, clause or provision shall be itself repealed, such repeal shall not be construed to revive such former ordinance, clause or provision unless it shall be therein so expressly provided. The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

(b) Nothing in this code nor in the ordinance adopting this code shall be construed to repeal or otherwise affect the validity of any of the following:

(1) Any ordinance promising or guaranteeing the payment of money for the Village, or authorizing the issuance of any bonds of the Village or any evidence of the Village's indebtedness;

(2) Any appropriation ordinance or ordinance providing for the levy of taxes, making special assessments or for an annual budget;

(3) Any ordinance creating a special service area;

(4) Any ordinance relating to boundaries, annexing territory as a part of the Village or disconnecting territory as a part of the Village, the conveyance or acceptance of real property or easements in real property;

(5) Ordinances authorizing or relating to particular public improvements;

(6) Any contract ordinance and ordinance authorizing the execution of a contract or the issuance of warrants;

(7) Ordinances relating to the municipal retirement fund and social security;

(8) Any ordinance deducting, accepting, naming, establishing, locating, relocating, opening, paving, widening or vacating any street or other public way in the city; or

(9) Any ordinance relating to municipal street maintenance agreements with the state

(10) Any ordinance other than Ord. No. 1991-01;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out as length herein.

Ord 2009-05, 5/18/2009.

#### **§ 104. Severability**

The sections, paragraphs, sentences, clauses and phrases of this code are severable, and if any phrase, clause, sentence, paragraph or section of this code is declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this code.

Ord 2009-05, 5/18/2009.

#### **§ 105. Altering or tampering with Code**

It shall be unlawful for any person to change or amend, by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with this code in any manner whatsoever which will cause the law of the village to be misrepresented thereby.

Ord 2009-05, 5/18/2009.

#### **§ 106. Rules of construction**

(a) Unless otherwise specifically defined in this code, terms used in this code shall have the meanings prescribed by the Illinois Compiled Statutes for the same terms. In the construction of this code, and of all ordinances, the rules and definitions set out in this chapter shall be observed, unless such construction would be inconsistent with the manifest intent of the board of trustees. The rules of construction and definitions set out herein shall not be applied to any section of this code which shall contain any express provision excluding such construction, or where the subject matter or context of such section may be repugnant thereto.



(b) All general provisions, terms, phrases and expressions contained in this code shall be liberally in order that the true intent and meaning of the board of trustees may be fully carried out.

(c) In the interpretation and application of any provision of this code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare. Where any provision of a code imposes greater restrictions upon the subject matter than the general provision imposed by this code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

(d) A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

(e) All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

(f) The word *may* is permissive; the word *shall* is mandatory.

(g) Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

(h) A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

(i) Whenever any officer is referred by title, such as “clerk”, “treasurer”, etc., such reference shall be construed as if followed by the words “of the village of Lily Lake”.

(j) Words used in the past or present tense include the future as well as the past and present.

Ord 2009-05, 5/18/2009.

#### **§ 107. Computation of time**

Except when otherwise provided, the time within an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is Sunday or legal holiday, in which case it shall also be excluded.

Ord 2009-05, 5/18/2009.

#### **§ 108. Delegation of authority**

Whenever a provision requires the head of a department or some other Village officer to do some act or perform some duty, it is to be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

Ord 2009-05, 5/18/2009.

## **§ 109. General definitions**

In this Code —

- (1) “*board of trustees*” means the board of trustees of the Village;
- “ (2) *clerk*” means the clerk of the Village;
- (3) “*code*” means *The Village Code*, Village of Lily Lake, Illinois;
- (4) “*corporate limits*” means the legal boundaries of the Village;
- (5) “*county*” means the county of Kane in the state of Illinois;
- (6) “*employee*” means any personnel of the Village, other than the officers thereof;
- (7) “*oath*” includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases, the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed”;
- (8) “*person*” means any natural individual, firm, partnership, corporation, company, association, club, joint venture, estate, trust or any group or combination acting as a unit and the individuals constituting such group or unit; as applied to partnerships, “person” includes the members of the partnership; as applied to corporations, it includes the officers, agents or employees responsible for the acts referred to;
- (9) “*president*” means the president of the board of trustees of the Village;
- (10) “*treasurer*” means the treasurer of the Village;
- (11) “*trustees*” means the elected members of the board of trustees of the Village;
- (12) “*Village*” means the Village of Lily Lake, Kane County, Illinois.

Ord 2009-05, 5/18/2009.

## **§ 110. Headings**

The headings of the several sections of this code are intended as mere catchwords to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of the section, nor, unless expressly so provided, shall they be so deemed when any of such sections, including such headings, are amended or reenacted.

Ord 2009-05, 5/18/2009.

## **§ 111. General penalty**

Whenever in this code or in any ordinance of the Village, any act is prohibited or is made or declared to be unlawful, or whenever in this code or any ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this code or any ordinance shall be punished by a civil fine of not

less than \$1 and not more than \$750. Each day any violation of any provision of this code or of any ordinance shall continue shall constitute a separate offense.

Ord 2009-05, 5/18/2009.

## **SUBCHAPTER 2—OFFICERS**

### **§ 115. President**

(a) The president is elected for a four-year term and serves until a successor is elected and qualified as provided by statute.

(b) Before entering upon the duties of office, the president shall take the oath of office prescribed by statute and execute a bond conditioned upon the faithful performance of the office of president in an amount not less than \$3,000 with commercial surety approved by a majority of the corporate authorities.

(c) The president is the chief executive officer of the village and shall perform those duties required by statute or village ordinance. The president has the power to inspect all books and records pertaining to village affairs and kept by any officer or employee of the village at any reasonable time.

(d) In the event of the temporary absence or disability of the president, the board of trustees may elect one of its number to act as president pro tem. During the absence or disability of the president, the president pro tem has those powers of president provided by statute.

Ord 2019-05, 4/22/2019.

### **§ 116. Board of trustees**

(a) The board of trustees of the village consists of six members elected to office as provided by statute.

(b) The board of trustees is the legislative branch of the village government and shall perform the duties and have the powers authorized by statute.

(c) Before assuming the duties of a trustee each member of the board of trustees shall qualify by taking the oath of office as prescribed by statute.

Ord 2019-05, 4/22/2019.

### **§ 117. Clerk**

(a) The clerk is appointed by the president and approved by a majority of the corporate authorities. The clerk is appointed for a four-year term beginning on April 1 and ending on March 31 and until a successor has been appointed and has qualified. The clerk may be removed from office during his term by a majority of the corporate authorities for cause.

(b) Before entering upon the duties of office, the clerk shall execute a bond conditioned upon the faithful performance of the duties of the clerk in an amount not less than \$3000 with commercial surety approved by a majority of the corporate authorities.

(c) The clerk shall keep the minutes and records of the proceedings of the board of trustees and has custody of the ordinances, resolutions, written motions, and all other documents pertaining to the business and affairs of the village, and such other records as may be required by statute or the board of trustees.

(d) The clerk shall seal and attest all contracts of the village and all licenses, permits and other documents that require this formality and keep a register of all licenses and permits issued and the payments thereon. The clerk shall keep a record showing all of the officers, committee members and regular employees of the village and the beginning and ending dates of their respective terms as applicable. The clerk shall keep an account of all money received by the clerk on behalf of the village and the source and disposition thereof and shall turn over all money received to the treasurer promptly upon receipt.

(e) The clerk is the custodian of the village seal and shall affix its impression on documents whenever this is required.

(f) The clerk is the collector of the village.

(g) The clerk may appoint one deputy clerk to assist her in the discharge of the duties of the office of clerk. The clerk may appoint additional deputy clerks only when further authorized by the corporate authorities. A deputy clerk need not be a resident of the village.

Ord 2019-05, 4/22/2019.

#### **§ 118. Treasurer**

(a) The treasurer is appointed by the president and approved by a majority of the corporate authorities of the village, for a four-year term beginning on April 1 and ending on March 31 and until a successor has been appointed and has qualified. The treasurer may be removed from office during her term by a majority of the corporate authorities for cause.

(b) Before entering upon the duties of office, the treasurer shall execute a bond conditioned upon the faithful performance of the duties of the treasurer in an amount not less than \$5000 with commercial surety approved by a majority of the corporate authorities.

Ord 2019-05, 4/22/2019.

#### **§ 119. Other officers and employees**

(a) Village attorney. The village attorney is appointed by the president and approved by a majority of the corporate authorities. The village attorney provides legal services to the village on the basis of a general retainer until such time as his services are terminated by a majority of the corporate authorities. The village attorney is the chief legal officer of the village and advises the president and

board of trustees and such officers and employees of the village as the president or board of trustees may direct concerning the legal affairs of the village.

(b) Director of Administration. The director of administration is appointed by the president and approved by a majority of the corporate authorities. The director of administration is the chief administrative officer of the village and oversees and supervises all other administrative employees and is responsible for coordinating and facilitating the functions of the various other offices of the village. The director of administration serves as an assistant to the president and shall perform such additional duties as may be assigned to the director by the president or board of trustees. The director of administration may be removed for cause by a majority of the corporate authorities.

Ord 2019-05, 4/22/2019.

### **SUBCHAPTER 3—RULES**

#### **§ 120. Meetings**

(a) The regular meeting of the board of trustees shall be held on the third Monday of each month of the year at the hour of 7:00 p.m. in the Village hall unless another site shall be specified.

(b) Any regular meeting falling upon a legal holiday shall be held on the next following secular day at the same hour and place.

(c) Special meetings may be called by the president or by any three members of the board of trustees by written request or notice being filed with the clerk at least 48 hours prior to the time specified for the meeting. At least 48 hours' written or oral notice of such special meeting shall be given or delivered to each member of the board personally if he can be found, and if he cannot be found, a copy of written notice shall be left at the home of the member in the presence of an adult member of the board member's family or in the absence of such person, shall be left at the residence. The clerk shall cause an affidavit showing service of such notice as herein provided to be filed in his/her office at the time fixed for such special meeting, together with a statement of compliance with the notices to members of the media as provided in Open Meetings Act (5 ILCS 120/1, *et seq.*) All meetings of the board, including special and adjourned meetings, except closed sessions thereof, shall be open to the public, as is required by statute.

(d) In the case of an emergency, a meeting may be called upon such notice as is practicable. The meeting may be called by the president or by any three trustees. The convening authority shall notify all other members of the board of trustees, the clerk, and members of the media who are entitled to such notice.

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

**§ 121. Presiding officer**

(a) The president shall preside at all meetings of the Board but he shall have a vote only where the state statutes or the municipal ordinances require more than a majority vote of the corporate authorities or in the event of a tie or where one-half of the trustees elected have voted in favor of an ordinance, resolution or motion, even though there is no tie vote.

(b) During the absence or disability of the president, the Board shall elect one of its number president *pro tem*, and he shall act as presiding officer of the Board. Where the absence or disability of the president is to be of a very short duration and no individual is required to be granted the powers of the president, the Board shall elect one of its members temporary chairman. The president *pro tem* or the temporary chairman, when acting as presiding officer, shall vote on all questions on which the vote is taken by *yeas* and *nays*, his name being called last. The president *pro tem* shall have all of the powers and duties of the president; the temporary chairman shall have only such powers and duties as accrue to a presiding officer.

(c) Each meeting of the Board shall convene at the time appointed for such meeting, as provided by ordinance. The clerk or, in his absence, a member of the Board or a recording secretary shall thereupon immediately call the roll of members. If no quorum is present, the Board shall not thereby stand adjourned, but the members present shall be competent, by majority vote, to adjourn or recess the Board to another time or date prior to the next regularly scheduled meeting.

(d) If no quorum is present and the members present desire to compel the attendance of absent members, they themselves, or by their agents, shall attempt to communicate the call to the session personally to the absentees. Any absent member who refuses to attend the meeting (or a new meeting to which the members present have adjourned) after personal notice to attend may be fined by the members present a sum not to exceed \$25 for each occurrence.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 122. Quorum - order of business**

(a) A quorum for the transaction of business shall consist of a majority of all the Board entitled by law to be elected.

(b) The order of business shall be as follows:

- (1) call to order by presiding officer;
- (2) pledge of allegiance to the flag;
- (3) roll call;
- (4) establishment of quorum;
- (5) adoption of agenda;
- (6) the reading and approval (with corrections and additions, if any) of the journal of the proceedings of the previous meeting or meetings;

- (7) visitor's comments;
- (8) reports and communications from president and other officers;
- (9) reports of the standing committees;
- (10) reports of special committees;
- (11) petitions, communications, orders, resolutions and ordinances by the trustees
- (12) old business;
- (13) new business;
- (14) adjournment.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 123. Duties of the presiding officer**

(a) 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. The presiding officer may speak to matters being considered by the Board without relinquishing his chair. If he refuses to allow the trustees to exercise their right to appeal a decision of the chair, the trustees may consider and pass upon the matter in spite of the chair's failure to grant them an appeal.

(b) In case of any disturbances or disorderly conduct, the presiding officer shall have the power to require the chamber to be cleared.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 124. Duties of members**

(a) While the presiding officer is putting the question, no member shall walk across or out of the Board chamber.

(b) Every member, previous to his speaking, making a motion or seconding the same, shall address himself to the presiding officer and say "Mr. President" and shall not proceed with his remarks until recognized and named by the chair. He shall confine himself to the questions under debate, avoiding personalities and refraining from impugning the motives of any other member's argument or vote.

(c) When two or more members address the chair at the same time, the presiding officer shall name the member who is first to speak. The trustees may by two-thirds vote expel a trustee for disorderly conduct. Such trustee may not be expelled a second time for the same offense.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 125. Visitors**

Except during the time allotted for public discussion and comment, no person other than a member of the Board shall address that body, except with the consent of two of the members present. The Board by a majority vote may limit the time available for public comment.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 126. Presentation of new business and deferment**

Upon the request of any two trustees present, any report of a committee of the Board, shall be deferred (for final action thereon) to the next regular meeting of the Board after the report is made.

(Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 127. Debate**

(a) No member may 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; provided, however, that the proponent of the matter under consideration or the chairman of the committee whose report is under consideration, as the case may be, shall have the right to open and close debate. No member may speak longer than 10 minutes at any one time, except by consent of the Board; and in closing debate on any questions, as above provided, the speaker will be limited to 5 minutes, except by special consent of the Board.

(b) While a member is speaking, no member shall hold any private discussion or pass between the speaker and the chair.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 128. Call of member to order**

A member, when called to order by the chair, shall thereupon discontinue speaking and take his seat, and the order of the chair shall be binding and conclusive subject only to the right of appeal.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 129. Appeals from decisions of the chair**

Any member may appeal to the Board from a ruling of the Chair. If the appeal is seconded, the member making the appeal may briefly state his reason for the same, and the Chair may briefly explain his ruling; but there shall be no debate on the appeal, and no other member shall participate in the discussion. The chair shall then put the question, "Shall the decision of the Chair be sustained?" If a majority of the members present vote "No," the decision of the Chair shall be overruled; otherwise, it shall be sustained.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.



### **§ 130. Questions of personal privilege**

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

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

### **§ 131. Voting**

Every member who is present when a question is stated from the Chair shall vote thereon or abstain at the time his name is first called. 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 a conflict of interest shall so declare.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

### **§ 132. Special order of business**

Any matter before the Board may be set down as a special order of business at a time certain if two thirds of the trustees present vote in the affirmative, but not otherwise.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

### **§ 133. Second of motions required, written motions - reading of motions, resolutions, ordinances, minutes and correspondence**

No motion shall be put or debated in the Board unless it be seconded, provided, however, that neither the maker nor seconder of a motion shall be required to vote in favor of the motion. When a motion is seconded, it shall be stated by the presiding officer before debate, and every motion in the Board, except motions of procedure must be reduced to writing if required by a member, and the member who proposed the motion shall be entitled to the floor. No resolution, ordinance or minutes need be read prior to consideration, but such items may be read in response to a motion passed seeking such reading. Copies of correspondence received by the clerk or president will be distributed before the meeting to all members of the corporate authorities. Correspondence received by municipal officials need not be read in full at Board meetings unless pertinent to a matter before discussion. Correspondence received may be summarized at Board meetings.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

### **§ 134. Withdrawal of motions**

If the maker of a motion desires to withdraw the motion, he may do so. The seconder of the motion may renew the motion as its maker and seek a new seconder. If the seconder of a motion wishes to withdraw his second, he may do so. The maker of the motion may seek an additional seconder before the motion is ruled out of order for lack of a second. Neither the maker nor seconder of a motion may withdraw the motion, except with the consent of a majority of the Board, once discussion on the motion has ceased.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 135. Division of questions**

If any question under consideration contains several distinct propositions, the Board by a majority vote of the members present may divide such questions.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 136. Record of motions**

In all cases where a resolution or motion is entered in the journal, the name of the member moving and seconding the same shall be entered.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.)

**§ 137. Taking and entering the votes; explanation of vote**

The “yeas” and “nays” upon any question shall be taken and entered in the journal. When the clerk has commenced to call the roll of the Board for the taking of a vote by “yeas” and “nays”, all debate on the question before the Board shall be deemed concluded, and during the taking of the vote a member shall be permitted briefly to explain his vote and shall respond to the calling of his name by the clerk by answering “yea” or “nay” or “abstain”, as the case may be.

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

**§ 138. Announcement and changes of votes**

The result of all votes by “yeas” and “nays” shall not be announced by the clerk but shall be handed by him to the president for announcement, and no vote shall be changed after the tally list has passed from the hands of the clerk.

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

**§ 139. Precedence of motions**

The following chart sets out commonly used motions in the order of their precedence as determined by *Robert's Rules of Order*. The main or principal motion is at the bottom in rank. The other motions may be made while the main motion is pending and must be dealt with before the main motion. They are arranged according to rank, the highest at the top of the list. Incidental motions, however, have no rank among themselves, yet take precedence over subsidiary motions. When any one motion is immediately pending, the motions above it on the list are in order and those below are out of order.

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<b>Privileged Motions</b>	Undebatable	Fix Time to Adjourn
		Adjourn
		Take Recess
		Question of Privilege

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Incidental Motions	Undebatable	Division of Assembly
		Division of a Question
		Filling Blanks
		Objection
		Parliamentary Inquiry
		Point of Information
		Point of Order
		Suspend the Rules - 2/3 vote
		Withdraw a Motion
		Debatable
Subsidiary Motions	Undebatable	Lay on the Table
		Close Debate - 2/3 vote
		Limit or Extend Debate
	Debatable	Postpone to a Definite Time
		Refer to a Committee
		Amend the Amendment
		Amendment
		Postpone Indefinitely
Main Motion		
Miscellaneous Motions	Undebatable	Take from Table
	Debatable	Rescind - 2/3 vote without notice; majority vote with notice
		Reconsider
		Ratify
After action has been taken on the main motion		

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

**§ 140. Motion to refer**

A motion to refer to a standing committee shall take a precedence over a similar motion to refer to a special committee.

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

**§ 141. Motion to amend**

(a) A motion to amend an amendment shall be in order, but one to amend an amendment to an amendment will not be entertained.

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

(c) On an amendment to “Strike out and insert,” the paragraph to be amended shall first be read as it stands, then the words proposed to be stricken out, then those to be inserted, and finally the paragraph as it will stand if so amended shall be read.

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

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

**§ 142. Filling of blanks**

When a blank is to be filled and different sums or times proposed, the question shall be taken first on the least sum or the longest time.

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

**§ 143. Motion to substitute**

A substitute for any original proposition under debate or for any pending amendment to such proposition may be entertained and, if accepted by the Board by vote, shall entirely supersede such original proposition or amendment, as the case may be.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 144. Reconsideration**

(a) A vote or question may be reconsidered at any time during the same meeting or at the first regular meeting held thereafter. A motion for reconsideration, once having been made and decided in the negative, shall not be renewed, nor shall a motion to reconsider be reconsidered. No motion to reconsider the approval of denial of the recommendation of an advisory body required to hold public hearings shall be entertained except at the same meeting at which the original action was taken or after the matter has been referred to the advisory body for a further hearing and recommendation. When a motion to reconsider such a motion is made at the same meeting as the passage of the original motion, it may be postponed to a later date certain.

(b) A motion to reconsider must be made by a member who voted on the prevailing side of the question to be reconsidered, unless otherwise provided by law, provided, however, that where a motion has received a majority vote in the affirmative but is declared lost solely on the ground that a greater number of affirmative votes are required by statute for the passage or adoption of such motion, then in such case a motion to reconsider may be made only by those who voted in the affirmative on such question. A motion to reconsider need not be seconded.

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

#### **§ 145. Standing and ad hoc committees**

(a) The Board shall by resolution, establish or abolish such standing or ad hoc committees as it may deem appropriate from time to time.

(b) Each committee shall, unless otherwise provided in the resolution under which such committee is established, consist of 3 members, one of them named as chairman, to be appointed by the president with the advice and consent of the Board. The president, ex officio, shall become a member of all committees.

(c) Any report of a committee shall be deferred for final action thereon to the next regular meeting after the report is made, upon the request of any two members of the Board.

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

#### **§ 146. Jurisdiction of committees**

Each committee shall have the jurisdiction granted to it by the Board in the resolution under which it is established.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

#### **§ 147. The journal**

The clerk shall keep the journal of the proceedings of the Board. Within no more than 10 days after each meeting of the Board, the clerk shall supply to each member at his residence a typewritten copy of the proceedings (minutes). The journal will be approved periodically. The clerk's draft of the journal of proceedings may be amended to reflect correctly the view of the legislative body as to the events which occurred.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

#### **§ 148. Style of ordinances**

The style of all ordinances will be: "Be it ordained by the President and Board of Trustees of the Village of Lily Lake..., as provided by statute.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 149. "Yea" and "nay" vote**

The "yeas" and "nays" shall be taken upon the passage of all ordinances and on all propositions to create any liability against the village, or for the expenditure or appropriation of its money, and in all other cases at the request of any member of the Board; such vote shall be entered on the journal of the proceedings, as is provided by statute.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 150. Approval or veto**

(a) All ordinances of whatever kind, and any resolution or motion creating any liability against a municipality, or providing for the expenditure or appropriation of its money, shall be deposited with the village clerk, and if the president approves thereof, he shall sign the same, and such ordinances, resolutions or motions as he shall not approve he shall return to the Board with his objections thereto in writing at the next regular meeting occurring not less than 5 days after the passage thereof. Such veto may extend to any one or more items or appropriations contained in any ordinance making an appropriation or to the entire ordinance; and in case the veto only extends to a part of such ordinance, the residue thereof shall take effect and be in force. But in case the president shall fails to return any ordinance with his objections thereto by the time aforesaid, he shall be deemed to have approved such ordinances, and the same shall take effect accordingly.

(b) Upon the return of any ordinance by the president, the vote by which the same was passed may be reconsidered by the Board at its next regular meeting after the return of the veto; and if, after such reconsideration, two-thirds of all the members elected to the Board shall agree, by "yeas" and "nays", to pass the same, it shall go into effect notwithstanding that the president may refuse to approve thereof.

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

**§ 151. Record of ordinance**

The clerk shall keep a record of all ordinances passed in an ordinance book for such purpose.

Ord 1991-01, 2/19/91; Ord 2009-05, 5/18/2009.

**§ 152. Publication**

All ordinances imposing any penalty for a violation thereof or making any appropriation shall be published as required by statute, either in a newspaper or pamphlet form, in which case the ordinance in its pamphlet form shall be displayed for a reasonable period in the village offices.

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

**§ 153. Time of taking effect**

No ordinance which must be published to comply with the foregoing section shall go into effect until 10 days after it is so published unless a statement of the urgency of the ordinance is contained in it and it achieves passage by a two-thirds vote of the all the members of the corporate authorities then

holding office. In all other cases, the ordinance shall go into effect upon the passage thereof, as provided by statute, even though the operation of the ordinance may not take effect until a later date.

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

**§ 154. Adoption of Robert's Rules of Order, Revised**

The rules of parliamentary practice contained in the latest published edition of *Robert's Rules of Order, Revised* shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with the special rules of the Board or the statutes or laws of the state.

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

**§ 155. Temporary suspension or amendment of rules**

These rules may be temporarily suspended, repealed, altered or amended by a two-thirds vote of all the corporate authorities then holding office.

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

**§ 156. Censure of members; expulsion of members**

Any member acting or appearing in a lewd or disgraceful manner, or who uses opprobrious, obscene, or insulting language to or about any member of the Board, or who does not obey the order of the Chair, shall be, on motion, censured by a majority vote of the corporate authorities and, in addition, may be fined not to exceed \$25 for each such occurrence. With the concurrence of two-thirds of the trustees elected, the Board may expel a trustee, but not a second time for the same offense.

Ord 1991-01, 2/19/1991; Ord 2009-05, 5/18/2009.

## **Subchapter 4—Ethics**

**§ 160. Adoption of Act**

(a) The regulations of §§ 5-15 (5 ILCS 430/5-15) and Article 10 (5 ILCS 430/10-10 through 10-40) of the State Officials and Employees Ethics Act, 5 ILCS 430/1-1 *et seq.*, (hereinafter referred to as the *Act* in this Section) are hereby adopted by reference and made applicable to the officers and employees of the village to the extent required by 5 ILCS 430/70-5.

(b) The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the village, is hereby prohibited.

(c) The offering or making of gifts prohibited to be offered or made to an officer or employee of the village under the Act, is prohibited.

(d) The participation in political activities prohibited under the Act, by any officer or employee of the village, is prohibited.

(e) For purposes of this section, the terms “officer” and “employee” shall be defined as set forth in 5 ILCS 430/70-5(c).

(f) The penalties for violations of this section shall be the same as those penalties set forth in 5 ILCS 430/50-5 for similar violations of the Act.

(g) This section does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of village officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this section, however, the provisions of this section shall prevail in accordance with the provisions of 5 ILCS 430/70-5(a).

(h) Any amendment to the Act that becomes effective after the effective date of this section shall be incorporated into this section by reference and shall be applicable to the solicitation, acceptance, offering, and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this section by reference without formal action by the corporate authorities of the village.

(i) If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this section is repealed without further action by the corporate authorities of the village as of the date that the Illinois Supreme Court’s decision becomes final and not subject to any further appeals or rehearings.

(j) If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this section remains in full force and effect, however, that part of this section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the corporate authorities of the village.

Ord 2004-06, 5/24/04; Ord 2009-07, 6/15/2009.

## **Subchapter 5—Compensation**

### **§ 170. President**

The Village President shall be compensated for his or her services as president at the rate of \$300 per month, payable on the day of the regular meeting of the Village Board, and shall be reimbursed for actual and reasonable out-of-pocket expenses incurred in connection with his or her duties.

Ord 1991-02, 4/2/1991 provided for reimbursement of expenses in the amount of \$30 per meeting, not to exceed \$60 per month; Ord 1995-02, 5/1/1995 raised the president’s compensation to \$100 per month; Ord 2003-01, 1/1/2003 raised the president’s compensation to \$300 per month; Ord 2008-13, 7/21/2008 maintained the president’s compensation at \$300 per month; Ord 2009-11, 7/20/2009 repealed Ord 2008-13 and set the president’s compensation at \$300 per month.



#### **§ 171. Trustees**

Each Trustee of the Village shall be reimbursed for expenses incurred in connection with his or her duties in the amount of \$30.00 for each regular or special meeting of the of the Village Board or committee thereof attended, not to exceed, however, the sum of \$60.00 per month. Said reimbursement shall be paid on a quarterly basis on the day of the regular monthly meeting of the Village Board in April, July, October and January of each year. Effective May 1, 1996, the amount of such reimbursement shall be increased to \$35.00 per meeting, not to exceed \$70.00 per month. Effective May 1, 1997, the amount of such reimbursement shall be increased to \$40.00 per meeting, not to exceed \$80.00 per month. Effective May 1, 1998, the amount of such reimbursement shall be increased to \$45.00 per meeting, not to exceed \$90.00 per month. Effective May 1, 1999, the amount of such reimbursement shall be increased to \$50.00 per meeting, not to exceed \$100.00 per month.

Ord 1991-02, 4/2/1991 provided for the reimbursement of expenses in the amount of \$30 per meeting, not to exceed \$60 per month; Ord 1995-02, 5/1/1995 provided for annual increases in compensation as shown; Ord 2008-13, 7/21/2008 maintained the trustees' compensation at \$50 per meeting, not to exceed \$100 per month; Ord 2009-11, 7/20/2009 repealed Ord 2008-13 and set the trustees' compensation at the amount shown .

#### **§ 172. Clerk**

The Village will pay the clerk an annual salary of \$4900 at the rate of \$408.33 per month payable on the first day of each month. The clerk shall work a minimum of 5 hours per week.

Ord 1991-06, 1/4/1991 provided for compensation in the amount of \$175 per month; .Ord 1995-02, 5/1/1995 raised the clerk's compensation to \$200 per month and added the hourly rate; Ord 1997-05, 7/1/1997 raised the monthly amount to \$225; Ord 2002-04, eff 3/18/2002 provided for compensation at the rate of \$13 per hour, 2 hours per day, 10 hours per week; Ord 2003-02, 5/19/2003 provided for compensation at the rate of \$15 per hour, 3 hours per day, 15 hours per week; Ord 2004-14, 7/19/2004 raised the hourly rate to \$16.50; Ord 2006-04, 5/15/2006 raised the hourly rate to \$18.25 for a maximum of 18 hours per week; Ord 2007-2003, 5/21/2007 raised the clerk's compensation to \$18,449 per year for an 18 hour workweek, to be paid at the rate of \$1537 per month; Ord 2008-13, 7/21/2008 maintained the clerk's compensation at \$18,449 per year; Ord 2009-11, 7/20/2009 repealed Ord 2008-13 and set the clerk's compensation at \$18,449 per year; Ord 2011-04, 10/3/2011 reduced the clerk's compensation to \$13, 572 per year for a minimum 18 hours per week, payable at the rate of \$1131 per month; Ord 2016-03, 4/25/2016 raised the clerk's compensation to \$18,500 per year for a minimum of 18 hours per week payable at the rate of \$1541.67 per month; Ord 2018-09, 9/24/2018.

#### **§ 173. Treasurer**

The Village Treasurer shall be compensated for his or her services as treasurer at the rate of \$250 per month, payable on the day of the regular meeting of the Village Board, and shall be reimbursed for actual and reasonable out-of-pocket expenses incurred in connection with his or her duties.

Ord 1991-07, 4/9/19, provided for the reimbursement of expenses in the amount of \$30 per meeting, not to exceed \$60 per month; Ord 1995-02, 5/1/1995 provided for annual increases in the amount per meeting; Ord 2000-04, 7/1/2000 provided for a flat rate of \$100 per month; Ord 2008-13, 7/21/2008 raised the treasurer's pay to \$250 per month; Ord 2009-11, 7/20/2009 repealed Ord 2008-13 and set the treasurer's compensation at \$250 per month .

#### **§ 174. Committee chairs**

Any committee chair of a standing committee of the Board shall be compensated for his or her services at the rate of \$100 per month, payable on the day of the regular monthly meeting of the Village Board, and shall be reimbursed for actual and reasonable out-of-pocket expenses incurred in connection with his or her duties.

Ord 1994-03, 7/1/1994 provided for compensation of chairman of Road Committee only; Ord 1995-02, 5/1/1995 provided for compensation of all committee chairs at the rate of \$100 per month; Ord 2008-13, 7/21/2008 maintained the pay of committee chairs at \$100 per month; Ord 2009-11, 7/20/2009 repealed Ord 2008-13 and set the pay of the committee chairs at \$100 per month.

#### **§ 175. Chair of plan commission**

The Chair of the Plan Commission shall be compensated for his or her services at the rate of \$250 per month, payable on the day of the regular monthly meeting of the Village Board, and shall be reimbursed for actual and reasonable out-of-pocket expenses incurred in connection with his or her duties.

Ord 1995-02, 5/1/1995 provided for \$100 per month; Ord 2006-02, 3/20/2006 raised the compensation to \$200 per month; Ord 2008-13, 7/21/2008 raised the pay to \$250 per month; Ord 2009-11, 7/20/2009 repealed Ord 2008-13 and set the pay at \$250 per month.

#### **§ 176. Building and zoning officer**

The Building and Zoning Officer of the Village shall be compensated for his or her duties at the rate of \$250 per month, payable on the day of the regular monthly meeting of the Village Board and shall be reimbursed for actual and reasonable out-of-pocket expenses incurred in connection with his or her duties.

Ord 1994-03, 7/1/1994 provided for compensation at the rate of \$100 per month; Ord 1995-02, 5/1/1995, made minor language changes; Ord 1999-07, 4/1/1999 increased compensation to \$250 per month; Ord 2008-13, 7/21/2008 maintained the pay of the building and zoning officer at \$250 per month; Ord 2009-11, 7/20/2009 repealed Ord 2008-13 and set the pay at \$250 per month.

#### **§ 177. Assistant zoning officer**

The Assistant Zoning Officer shall be paid as compensation for the performance of his or her duties the sum of \$100 per month. Payment shall be made once each month on the first day of the month for services for the preceding month.

Ord 1994-03, 7/1/1994; Ord 2009-11, 7/20/2009 repealed Ord 2008-13 and set the pay at \$100 per month.

#### **§ 178. Director of public works**

The Director of Public Works of the Village shall be compensated for his or her duties at the rate of \$250 per month, payable on the day of the regular monthly meeting of the Village Board and shall be

reimbursed for actual and reasonable out-of-pocket expenses incurred in connection with his or her duties.

Ord 2008-13, 7/21/08; Ord 2009-11, 7/20/2009 repealed Ord 2008-13 and set the pay at \$250 per month.

#### **§ 179. Director of Administration**

The position of Director of Administration is created. The director shall serve as assistant to the president and shall perform such duties as may be assigned to him or her by the president and board of trustees. The Village will pay the director an annual salary of \$19,600 at the rate of \$1633.33 per month payable on the first day of each month. The director shall work a minimum of 15 hours per week.

Ord 2018-09, 9/24/2018.

#### **§ 180. Village attorney**

The Village will pay the Village attorney on the basis of a general retainer at the rate of \$155 per hour for all matters except those for which the Village is entitled to be reimbursed by a third party, and shall be reimbursed for actual and reasonable expenses incurred on behalf of the Village. For those matters for which the Village is entitled to be reimbursed by a third party, the Village shall pay the Village attorney on the basis of a general retainer at the attorney's customary hourly rate then in effect plus reimbursement of expenses. Each month no more than \$1000 of such fees so calculated shall be invoiced to the Village.

Ord 2008-13, 7/21/2008; Ord 2009-11, 7/20/2009; Ord 2018-06, 8/27/2018.

#### **§ 181. Recording Secretaries**

Any person acting upon motion of a board, committee, subcommittee, commission or other body of the Village as recording secretary at any meeting of such body shall be compensated for such services in the amount of \$20.00.

Ord 1995-02, 5/1/1995; Ord 2008-13, 7/21/2008 made no changes; Ord 2009-11, 7/20/2009 repealed Ord 2008-13 and set the compensation as shown.

#### **§ 182. Reimbursement Policy**

The village will reimburse appropriate expenses of its officers and employees upon the following terms:

(a) **Accountable Plan.** In accordance with Illinois law and the Internal Revenue Code and regulations, the Village maintains an accountable plan which allows for reimbursement of approved business expenses to be excluded from the officer's or employee's gross income. Reimbursements or other expense allowances made under an accountable plan generally are nontaxable and do not need

to be reported by the employer on the officer's or employee's Form W-2. The following is meant to provide guidance for the majority of situations related to officer or employee travel and business expenses, but is not all-inclusive. To qualify as an accountable plan, payments for expenses must meet the requirements of the Internal Revenue Service. These requirements include:

(1) Business connection requirement: Advances, allowances or reimbursements are only for specified deductible business expenses that are paid or incurred by the officer or employee in connection with services as an officer or employee.

(2) Substantiation requirement: The officer or employee must, within a reasonable period of time, substantiate each business expense with a detailed record and documentation, such as itemized receipts or paid bills, specifying the following:

(A) The amount of each separate travel or business expense;

(B) Dates of departure and return, or dates of expense;

(C) Places traveled and time; and

(D) Business purpose.

(3) Return of funds requirement: If a cash advance was received, the officer or employee must return to the Village treasurer, any amount in excess of the expense substantiated, within 10 days from the last day of travel or the date the expense was incurred. The return of funds must be in the form of cash or money order.

(b) Definitions

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

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

(c) Timeliness of reimbursement documentation

(1) Expense reimbursements must be submitted to the Village as soon as possible after the expense was incurred or completion of travel, and within a reasonable period of time. Internal Revenue Service guidance states that reimbursements submitted within 60 days will be treated as having been accounted for within a reasonable period of time.

(2) Reimbursement requests submitted within 60 days will be considered qualified and nontaxable under the accountable plan. No expense will be reimbursed more than 60 days after the latest of the following dates: the date the expense was incurred, the last day of travel, or the date the employee received an invoice in respect of the expense. Exceptions to this policy will be not considered. No expense will be reimbursed if submitted more than 7 days following the effective date

of termination of an employee's employment (whether the termination was voluntary or involuntary), or end of the officer's term.

(d) Before incurring expenses. You are responsible for understanding the Village's policy regarding expense reimbursement.

(e) Reimbursable business expenses.

(1) All expenses must be processed for direct payment by the Village to the maximum extent practicable.

(2) All expenses must be both reasonable in amount and necessary to conduct of the business of the Village.

(3) Clearly document the business purpose of the expense using the 5 Ws — Who, What, When, Where, Why. Expenses that are unreasonable, unnecessary, or not properly documented will not be reimbursed. When it is unclear whether or not an expense is reasonable or necessary, contact your supervisor prior to making any commitment. All documents and information submitted in connection with a request for reimbursement are public records subject to disclosure under the Freedom of Information Act. Before an expense for travel, meals, or lodging may be approved, the following minimum documentation must first be submitted, in writing, to the board of trustees:

(A) An estimate of the cost of travel, meals, or lodging if expenses have not been incurred or a receipt of the cost of travel, meals, or lodging if the expenses have already been incurred;

(B) The name of the individual who received or is requesting the travel, meals, or lodging expense;

(C) The job title or office of the individual who received or is requesting the travel, meals, or lodging expense; and

(D) The date or dates and the nature of the official business in which the travel, meal, or lodging expense was or will be expended.

(f) Allowable expenses.

The following expenses are eligible for reimbursement:

(1) Admission fees for events and visits exclusively connected with Village business;

(2) Admission fees for attendance at seminars or continuing education courses directly related to the officer's or employee's job description and exclusively connected with Village business;

(3) Business travel and meals.

The Village complies with the laws of the State of Illinois regarding reimbursement for business travel, meals and lodging and the rules of the Internal Revenue Service for maintaining an accountable plan which allows for reimbursements for approved business expenses to be excluded from the officer's or employee's gross income. The following guidelines apply to each officer or

employee who seeks reimbursement for business travel, meals or lodging expenses incurred on behalf of the Village.

(A) Travel.

Expenses incurred for travel, meals and lodging are eligible for reimbursement when submitted with appropriate documentation to the Village. Requests for reimbursement must be submitted on the appropriate form available from the village treasurer and approved by the board of trustees. Modes of transportation authorized for official travel include automobiles, railroads, airlines, buses, taxicabs, and other usual means of conveyance. Consider the most economical mode of transportation. When booking airfare, compare multiple airlines to purchase airfare with the best value and be prepared to document your comparison upon request. First class and business class airfare are not reimbursable. When booking hotel accommodations, consider the most economical hotel stay; compare multiple hotels to find the best value and be prepared to document your comparison upon request. When renting a car, obtain the most economical vehicle available and suitable for the Village business being conducted. Collision damage waiver and personal accident insurance are allowed and reimbursable. Rent a GPS system only if necessary. Fill the gas tank prior to returning the vehicle to avoid rental agency charges for gasoline.

(B) Meals while in travel status.

The Village will reimburse officers and employees for reasonable, non-excessive meal expenses incurred while traveling away from home on Village business.

(i) Travel status. Travel status is achieved when there is an overnight stay and the travel is at least 18 hours in length.

(ii) Meal amounts. Specific meal amounts considered reasonable and customary for allowable reimbursable business meal expenses will be set from time to time by resolution of the board of trustees. Reimbursement for a business meal that is over the allowable amount may be allowed if there is a specific documented business purpose for the overage.

(iii) Travelers must choose one of the following methods of reimbursement — to claim actual expenses or utilize per diem — for the duration of the trip.

(a) Meal Receipts. Original itemized meal receipts and meal receipts indicating the total amount paid, are required to substantiate an expense.

(b) Per diem. Per diem applies only to employees (not guests or companions/spouses), and amounts are allowed when employee is in travel status as described above. Detailed receipts are not required if the employee is in travel status and eligible for per diem reimbursement. Rates will be set from time to time by resolution of the board of trustees.

(C) Meals not in travel status.

The Village recognizes that not every request for expense reimbursement will fall into one of the three meal categories indicated below, that is, meals between Village officers or employees only, meals

between key officers or employees and guests, or expenses associated with speaker events. When a meal expense is anticipated for a meeting event between Village officers or employees and non-employees, and the event does not fit into one of the meal categories highlighted below, advance approval must be requested of the Village board of trustees. Documentation submitted for reimbursement without advance approval will result in denial of payment. Request for approval must include documentation which states the business purpose of the meeting along with a list of attendees.

(i) Business meals or refreshments for meetings that include only Village officers or employees. Meals or refreshments with co-workers or staff meetings, where the purpose is to discuss a business topic that could be discussed in an office setting, are not eligible for reimbursement.

(ii) Business meals or refreshments for meetings that include key officers or employees and guests. Expenses related to business meals or refreshments for meetings that include key officers or employees and guests are eligible for reimbursement. There must be a documented business purpose for the attendance of key officers or employees. To seek reimbursement, provide proper documentation which includes a business purpose for the meeting, list of attendees and detailed receipts.

(iii) Business meals or refreshments for meetings for speaker events. Expenses related to business meals or refreshments for speaker events are eligible for reimbursement. In addition to village officers or employees, the intended audience must include guests, for example, members of external organizations or members of the public. To seek reimbursement, provide proper documentation of the event including the purpose of the speaking engagement, expenses related to the speaker, a meeting agenda, program, and intended guest list.

(D) Gratuity.

If not already applied by the establishment, gratuity must be calculated on the amount of the bill before sales tax. The maximum reimbursement for gratuities is 20%.

(g) Spouse, family member, or companion travel or meals.

In order to avoid any appearance of impropriety, no reimbursement is allowed for the travel, lodging or meals expenses of a spouse, other members of the family or traveling companion. This does not prohibit a spouse, family member or companion from submitting his or her own expense for reimbursement as an officer or employee of the Village.

(h) Prohibited expenses.

The following expenses are not eligible for reimbursement:

- (1) Meals or refreshments for internal Village meetings or events, for example, staff meetings or holiday parties;
- (2) Gift cards or gift certificates;
- (3) Recognition events related to an officer's or employee's employment at the Village;

(4) Retirement meals or flowers for funerals of former or current village officers or employees;

(5) Officer or employee gifts, including retirement gifts;

(6) Contributions or memorial gifts to other nonprofit organizations;

(7) Apparel for employees;

(8) Parking tickets or moving violations;

(9) Goods and services to avoid state bid processes;

(10) Purchase of alcohol, unless permitted by this policy;

(11) Payments to foreign persons;

(12) Moving expenses for new officers or employees;

(13) Entertainment expenses.

(i) Purchases.

(1) All expenses must be processed for payment through the village to the maximum extent practicable. Thereafter, expenses for purchases made by an officer or employee may be eligible for reimbursement subject to all terms and conditions of this policy.

(2) An IRS Form W-9 Request for Taxpayer Identification and Certification is required before the village can make a payment to a vendor. Request a completed IRS Form W-9 from the vendor before entering into a vendor relationship and submit it with a check request or request for reimbursement.

(3) Check request and purchase requisitions must be approved by the appropriate Village employee, officer, committee or, in some cases, the board of trustees. Check requests and purchase requisitions must be submitted on the appropriate form maintained by the village treasurer.

(4) The Village is exempt from paying sales tax. Present a copy of the village's sales tax exemption letter when making purchases. Contact the village treasurer to obtain a copy of the sales tax exemption letter.

(5) To avoid a conflict of interest, do not enter into a vendor relationship with a village officer or employee or member of his or her immediate family. A conflict of interest exists when an officer or employee or a family member is in a position to benefit personally, directly or indirectly, from his or her relationship with a person or entity conducting business with the Village.

(6) The Village does not make payments to foreign persons due to the stringent rules and regulations involved in making these types of payments. The Internal Revenue Service defines foreign person as a nonresident alien individual, foreign corporation, foreign partnership, foreign trust, foreign estate, and any other person that is not a U.S. person.



(j) 1099 reportable miscellaneous income — IRS compliance requirement policy.

(1) The IRS requires organizations to report payments on an IRS Form 1099-Misc when payments are made to a vendor that is not incorporated. These vendors typically are individuals, sole proprietorships, partnerships, and limited liability companies that are treated as a partnership for tax purposes. According to the IRS, the following must be reported on a Form 1099-Misc when the payment total is \$600 or more in a calendar year (excluding royalties; royalties are reported when they total \$10 or more):

- (A) Payments for professional services (such as attorneys, consultants, architects, contractors);
- (B) Payments for other services (such as entertainers, lecturers, speakers, caterers);
- (C) Payments to a non-employee (such as an independent contractor);
- (D) Prizes or awards; and
- (E) Royalties.

According to the IRS, the following payments are not required to be reported on a Form 1099-Misc:

- (F) Payments to corporations (in general, subject to certain exceptions); and
- (G) Payments to individuals employed by the Village. These payments constitute wages and must be reported to the IRS on a Form W-2.

(2) While reporting for the Form 1099-Misc to the IRS is the responsibility of the Village, correct reporting is a joint effort. All involved need to be aware of the following to be able to assist in compliance with the IRS:

(A) The IRS requires a completed Form W-9 to be on file with the Village as verification of filing status. The Form W-9 is filled out and supplied by the vendor. Attach this completed form to the purchase requisition or check request if you believe the vendor has not received prior payments by the Village.

(B) Any invoice voucher containing a Form 1099-Misc reportable payment must have the correct taxpayer identification number (TIN). For individuals, this number is their social security number. Without this number, 20% of the payment must be withheld and mailed to the IRS.

(C) Since 1099 reporting is generally not required for corporations, it is important to include the appropriate word or abbreviation after the vendor's name on the invoice voucher. Any of the following words or abbreviations will indicate that a vendor is not 1099-Misc reportable because of its corporation status. These include: "corporation," "incorporated," "limited," "chartered," "P.C.," or abbreviations of these terms.

(D) It is important to include a current mailing address on the invoice voucher for 1099-Misc reportable payments, because this address will be used to mail the Form 1099-Misc the following year.

(E) If the payment is not to an individual, but to a corporation or department, do not make the check payable to the individual. If you do so, the individual, representing the corporation or department, will be sent a Form 1099-Misc. which will cause taxable implications.

(F) The 1099-Misc tax forms are mailed to the vendor by January 30 of the following year. The Village is not required to mail a 1099 to individuals who received cumulative payments of less than \$600 during the calendar year.

(G) If you receive an incorrect 1099, or a 1099 was not received when it should have been, contact the Village treasurer as soon as possible and before the last week of February. This will provide time to make corrections on the IRS copy.

(k) Disclaimer.

Guidelines provided in the Village Policy for Expense Reimbursement do not supersede state or federal laws applicable to its subject matters. To the extent the Policy for Expense Reimbursement conflicts with any such laws or regulations, the applicable law or regulation is controlling.

Ord 2016-06, 10/24/2016.

## **Subchapter 6—Code Hearing Department**

### **§ 185. Adoption of Division 2.2 of the Municipal Code**

The provisions of Article 1, Division 2.2 of the Illinois Municipal Code (65 ILCS 5/1-2.2-1 through 5/1-2.2-60) are adopted and made part hereof by reference, as if fully set out in this chapter establishing a code hearing department for the village.<sup>1</sup>

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<sup>1</sup>§ 1-2.2-5. Definitions. As used in this Division, unless the context requires otherwise: “Code” means any municipal ordinance except for (i) building code violations that must be adjudicated pursuant to Division 31.1 of Article 11 of this Act and (ii) any offense under the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under Section 6-204 of the Illinois Vehicle Code.

“Hearing officer” means a municipal employee or an officer or agent of a municipality, other than a law enforcement officer, whose duty it is to:

- (1) preside at an administrative hearing called to determine whether or not a code violation exists;
- (2) hear testimony and accept evidence from all interested parties relevant to the existence of a code violation;
- (3) preserve and authenticate the transcript and record of the hearing and all exhibits and evidence introduced at the hearing; and
- (4) issue and sign a written finding, decision, and order stating whether a code violation exists.

§ 1-2.2-10. Code hearing department. The corporate authorities of any municipality may adopt this Division and establish a code hearing department within an existing code enforcement agency or as a separate and independent agency in the

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municipal government. The function of the hearing department is to expedite the prosecution and correction of code violations in the manner set forth in this Division.

The code hearing department may adjudicate any violation of a municipal ordinance except for (i) building code violations that must be adjudicated pursuant to Division 31.1 of Article 11 of this Act and (ii) any offense under the Illinois Vehicle Code or similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under Section 6-204 of the Illinois Vehicle Code.

§ 1-2.2-15. Hearing procedures not exclusive. In any municipality where this Division is adopted, this Division does not preclude the municipality from using other methods to enforce the provisions of its code.

§ 1-2.2-20. Instituting code hearing proceedings. When a police officer or other individual authorized to issue a code violation finds a code violation to exist, he or she shall note the violation on a multiple copy violation notice and report form that indicates (i) the name and address of the defendant, (ii) the type and nature of the violation, (iii) the date and time the violation was observed, and (iv) the names of witnesses to the violation.

The violation report form shall be forwarded to the code hearing department where a docket number shall be stamped on all copies of the report and a hearing date shall be noted in the blank spaces provided for that purpose on the form. The hearing date shall not be less than 30 nor more than 40 days after the violation is reported. However, if the code violation involves a municipal ordinance regulating truants, the hearing date shall not be less than 7 nor more than 40 days after the violation is reported.

One copy of the violation report form shall be maintained in the files of the code hearing department and shall be part of the record of hearing, one copy of the report form shall be returned to the individual representing the municipality in the case so that he or she may prepare evidence of the code violation for presentation at the hearing on the date indicated, and one copy of the report form shall be served by first class mail to the defendant along with a summons commanding the defendant to appear at the hearing. In municipalities with a population under 3,000,000, if the violation report form requires the respondent to answer within a certain amount of time, the municipality must reply to the answer within the same amount of time afforded to the respondent.

§ 1-2.2-25. Subpoenas; defaults. At any time prior to the hearing date, the hearing officer assigned to hear the case may, at the request of either party, direct witnesses to appear and give testimony at the hearing. If on the date set for hearing the defendant or his or her attorney fails to appear, the hearing officer may find the defendant in default and shall proceed with the hearing and accept evidence relevant to the existence of a code violation.

§ 1-2.2-30. Continuances; representation at code hearings. No continuances shall be authorized by the hearing officer in proceedings under this Division except in cases where a continuance is absolutely necessary to protect the rights of the defendant. Lack of preparation shall not be grounds for a continuance. Any continuance authorized by a hearing officer under this Division shall not exceed 25 days. The case for the municipality may be presented by an attorney designated by the municipality or by any other municipal employee, except that the case for the municipality shall not be presented by an employee of the code hearing department. The case for the defendant may be presented by the defendant, his or her attorney, or any other agent or representative of the defendant.

§ 1-2.2-35. Hearing; evidence. At the hearing a hearing officer shall preside, shall hear testimony, and shall accept any evidence relevant to the existence or non-existence of a code violation. The strict rules of evidence applicable to judicial proceedings

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shall not apply to hearings authorized by this Division.

§ 1-2.2-40. Qualifications of hearing officers. Prior to conducting proceedings under this Division, hearing officers shall successfully complete a formal training program that includes the following:

- (1) instruction on the rules of procedure of the hearing that they will conduct;
- (2) orientation to each subject area of the code violations that they will administer;
- (3) observation of administrative hearings; and
- (4) participation in hypothetical cases, including rules on evidence and issuing final orders.

In addition, every hearing officer must be an attorney licensed to practice law in the State of Illinois for at least 3 years.

§ 1-2.2-45. Findings, decision, and order. At the conclusion of the hearing, the hearing officer shall make a determination on the basis of the evidence presented at the hearing as to whether or not a code violation exists. The determination shall be in writing and shall be designated as findings, decision, and order. The findings, decision, and order shall include (i) the hearing officer's findings of fact; (ii) a decision of whether or not a code violation exists based upon the findings of fact; and (iii) an order that states the sanction or dismisses the case if a violation is not proved. A monetary sanction for a violation under this Division shall not exceed the amount provided for in Section 1-2-1 of this Act. A copy of the findings, decision, and order shall be served on the defendant within 5 days after it is issued. Service shall be in the same manner that the report form and summons are served under Section 1-2.2-20 of this Division. Payment of any penalty or fine and the disposition of fine money shall be in the same manner as set forth in the code, unless the corporate authorities adopting this Division provide otherwise.

§ 1-2.2-50. Review under Administrative Review Law. The findings, decision, and order of the hearing officer shall be subject to review in the circuit court of the county in which the municipality is located. The provisions of the Administrative Review Law, and the rules adopted pursuant thereto, shall apply to and govern every action for the judicial review of the findings, decision, and order of a hearing officer under this Division.

§ 1-2.2-55. Judgment on findings, decision, and order.

(a) 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 Administrative Review Law shall be a debt due and owing the municipality and, as such, may be collected in accordance with applicable law.

(b) After expiration of the period within which judicial review under the Administrative Review Law may be sought for a final determination of the code violation, the municipality may commence a proceeding in the circuit court of the county in which the municipality is located for purpose of obtaining a judgment on the findings, decision, and order. Nothing in this Section shall prevent a municipality from consolidating multiple findings, decisions, and orders against a person in such a proceeding. Upon commencement of the action, the municipality shall file a certified copy of the findings, decision, and order, which shall be accompanied by a certification that recites facts sufficient to show that the findings, decision, and order was issued in accordance with this Division and the applicable municipal ordinance. Service of the summons and a copy of the petition may be by any method provided for by Section 2-203 of the Code of Civil Procedure or by certified mail, return receipt requested, provided that the total amount of fines, other sanctions, and costs imposed by the findings, decision, and order does not exceed \$2,500. If the court is satisfied that the findings, decision, and order was entered in accordance with the

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requirements of this Division and the applicable municipal ordinance and that the defendant had an opportunity for a hearing under this Division and for judicial review as provided in this Division:

(1) The court shall render judgment in favor of the municipality and against the defendant for the amount indicated in the findings, decision and order, plus costs. The judgment shall have the same effect and may be enforced in the same manner as other judgments for the recovery of money.

(2) The court may also issue any other orders and injunctions that are requested by the municipality to enforce the order of the hearing officer to correct a code violation.

(c) In place of a proceeding under subsection (b) of this Section, 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 hearing officer may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

In any case in which a defendant has failed to comply with a judgment ordering a defendant to correct a code violation or imposing any fine or other sanction as a result of a code violation, any expenses incurred by a municipality to enforce the judgment, including, but not limited to, attorney's fees, court costs, and costs related to property demolition or foreclosure, after they are fixed by a court of competent jurisdiction or a hearing officer, shall be a debt due and owing the municipality and may be collected in accordance with applicable law. Prior to any expenses being fixed by a hearing officer pursuant to this subsection (c), the municipality shall provide notice to the defendant that states that the defendant shall appear at a hearing before the administrative hearing officer to determine whether the defendant has failed to comply with the judgment. The notice shall set the date for such a 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 that the notice was deposited in the mail.

Upon being recorded in the manner required by Article XII of the Code of Civil Procedure or by the Uniform Commercial Code, a lien shall be imposed on the real estate or personal estate, or both, of the defendant in the amount of any debt due and owing the municipality under this Section. The lien may be enforced in the same manner as a judgment lien pursuant to a judgment of a court of competent jurisdiction.

A hearing officer may set aside any judgment entered by default and set a new hearing date, upon a petition filed within 21 days after the issuance of the order of default, if the hearing officer determines that the petitioner's failure to appear at the hearing was for good cause or at any time if the petitioner establishes that the municipality did not provide proper service of process. If any judgment is set aside pursuant to this subsection (c), the hearing officer shall have authority to enter an order extinguishing any lien which has been recorded for any debt due and owing the municipality as a result of the vacated default judgment.

§ 1-2.2-60. Adoption of Division by municipality. This Division may be adopted by a non-home rule municipality by incorporating the provisions of this Division in an ordinance and by passing and publishing the ordinance in the manner provided in Division 2 of Article 1 of this Act.

## **§ 186. Adoption of Division 31.1 of the Illinois Municipal Code**

The provisions of Article 11, Division 31.1 of the Illinois Municipal Code (65 ILCS 5/11-31.1-1 through 5/11-31.1-14) are adopted, and made part hereof by reference, as if fully set out in this chapter establishing a code hearing department for the village.<sup>2</sup>

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<sup>2</sup>§ 11-31.1-1. Definitions. As used in this Division, unless the context requires otherwise:

- (a) “Code” means any municipal ordinance, law, housing or building code or zoning ordinance that establishes construction, plumbing, heating, electrical, fire prevention, sanitation or other health and safety standards that are applicable to structures in a municipality or any municipal ordinance that requires, after notice, the cutting of weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, or the abatement of nuisances from private property;
- (b) “Building inspector” means a full time state, county or municipal employee whose duties include the inspection or examination of structures or property in a municipality to determine if zoning or other code violations exist;
- (c) “Property owner” means the legal or beneficial owner of a structure;
- (d) “Hearing officer” means a municipal employee or an officer or agent of a municipality, other than a building inspector or law enforcement officer, whose duty it is to:
  - (1) preside at an administrative hearing called to determine whether or not a code violation exists;
  - (2) hear testimony and accept evidence from the building inspector, the building owner and all interested parties relevant to the existence of a code violation;
  - (3) preserve and authenticate the transcript and record of the hearing and all exhibits and evidence introduced at the hearing;
  - (4) issue and sign a written finding, decision and order stating whether a code violation exists.

§ 11-31.1-2. Code hearing department. The corporate authorities of any municipality may adopt this Division and establish a Code Hearing Department within an existing code enforcement agency or as a separate and independent agency in the municipal government. The function of the hearing department is to expedite the prosecution and correction of code violations in the manner set forth in this Division.

§ 11-31.1-3. Hearing procedures not exclusive. In any municipality where this Division is adopted, this Division does not preclude the municipality from using other methods to enforce the provisions of its code.

§ 11-31.1-4. Instituting code hearing proceedings. When a building inspector finds a code violation while inspecting a structure, he shall note the violation on a multiple copy violation notice and report form, indicating the name and address of the structure owner, the type and nature of the violation, the date and time the violation was observed, the names of witnesses to the violation, and the address of the structure where the violation is observed.

The violation report form shall be forwarded by the building inspector to the Code Hearing Department where a Docket number shall be stamped on all copies of the report, and a hearing date noted in the blank spaces provided for that purpose on the form. The hearing date shall not be less than 30 nor more than 40 days after the violation is reported by

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<sup>2</sup>(...continued)  
the building inspector.

One copy of the violation report form shall be maintained in the files of the Code Hearing Department and shall be part of the record of hearing, one copy of the report form shall be returned to the building inspector so that he may prepare evidence of the code violation for presentation at the hearing on the date indicated, and one copy of the report form shall be served by first class mail on the owner of the structure, along with a summons commanding the owner to appear at the hearing. If the municipality in which the structure is situated has an ordinance requiring property owners to register with the municipality, service may be made on the owner by mailing the report and summons to the owner's address registered with the municipality. If the name of the owner of the structure cannot be ascertained or if service on the owner cannot be made by mail, service may be made on the owner by posting or nailing a copy of the violation report form on the front door of the structure where the violation is found, not less than 20 days before the hearing is scheduled.

§ 11-31.1-5. Subpoenas; Defaults. At any time prior to the hearing date the hearing officer assigned to hear the case may, at the request of the building inspector or the attorney for the municipality, or the owner or his attorney, issue subpoenas directing witnesses to appear and give testimony at the hearing. If on the date set for hearing the owner or his attorney fails to appear, the hearing officer may find the owner in default and shall proceed with the hearing and accept evidence relevant to the existence of a code violation.

§ 11-31.1-6. Continuances--Representation at code hearings. No continuances shall be authorized by the hearing officer in proceedings under this Division except in cases where a continuance is absolutely necessary to protect the rights of the owner. Lack of preparation shall not be grounds for a continuance. Any continuance authorized by a hearing officer under this Division shall not exceed 25 days. The case for the municipality may be presented by the building inspector, by any other municipal employee or by an attorney designated by the municipality. However, in no event shall the case for the municipality be presented by an employee of the Code Hearing Department. The case for the dwelling owner may be presented by the owner, his attorney, or any other agent or representative.

§ 11-31.1-7. Hearing; Evidence. At the hearing, a hearing officer shall preside and shall hear testimony and accept any evidence relevant to the existence or non-existence of a code violation in the structure indicated. The strict rules of evidence applicable to judicial proceedings shall not apply to hearings authorized by this Division.

§ 11-31.1-8. Eviction--Rights of the occupants. No action for eviction, abatement of a nuisance, forcible entry and detainer or other similar proceeding shall be threatened or instituted against an occupant of a dwelling solely because such occupant agrees to testify or testifies at a code violation hearing.

§ 11-31.1-9. Defenses to code violations. It shall be a defense to a code violation charged under this Division if the owner, his attorney, or any other agent or representative proves to the hearing officer's satisfaction that:

(a) The code violation alleged in the notice does not in fact exist, or at the time of the hearing the violation has been remedied or removed;

(b) The code violation has been caused by the current property occupants and that in spite of reasonable attempts by the owner to maintain the dwelling free of such violations, the current occupants continue to cause the violations;

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<sup>2</sup>(...continued)

(c) An occupant or resident of the dwelling has refused entry to the owner or his agent to all or a part of the dwelling for the purpose of correcting the code violation.

§ 11-31.1-10. Findings, decision, order. At the conclusion of the hearing the hearing officer shall make a determination on the basis of the evidence presented at the hearing whether or not a code violation exists. The determination shall be in writing and shall be designated as findings, decision and order. The findings, decision and order shall include the hearing officer's findings of fact, a decision whether or not a code violation exists based upon the findings of fact, and an order, ordering the owner to correct the violation or dismissing the case, in the event a violation is not proved. If a code violation is proved, the order may also impose the sanctions that are provided in the code for the violation proved. A copy of the findings, decision, and order shall be served on the owner within 5 days after they are issued; service shall be in the same manner as the report form and summons are served pursuant to Section 11-31.1-4. Payment of any penalty or fine and the disposition of fine money shall be in the same manner as set forth in the code, unless the corporate authorities adopting this Division provide otherwise.

§ 11-31.1-11. Administrative review. The findings, decision and order of the hearing officer shall be subject to review in the circuit court of the county where the municipality is located, and the provisions of the Administrative Review Law, and all amendments and modifications thereto, and the rules adopted pursuant thereto are adopted and shall apply to and govern every action for the judicial review of the final findings, decision and order of a hearing officer under this Division.

§ 11-31.1-11.1. Judgment on findings, decision, order.

(a) 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 Administrative Review Law shall be a debt due and owing the municipality and, as such, may be collected in accordance with applicable law.

(b) After expiration of the period within which judicial review under the Administrative Review Law may be sought for a final determination of the code violation, the municipality may commence a proceeding in the circuit court of the county where the municipality is located for purposes of obtaining a judgment on the findings, decision and order. Nothing in this Section shall prevent a municipality from consolidating multiple findings, decisions and orders against a person in such a proceeding. Upon commencement of the action, the municipality shall file a certified copy of the findings, decision and order, which shall be accompanied by a certification that recites facts sufficient to show that the findings, decision and order was issued in accordance with this Division and the applicable municipal ordinance. Service of the summons and a copy of the petition may be by any method provided by Section 2-203 of the Code of Civil Procedure or by certified mail, return receipt requested, provided that the total amount of fines, other sanctions and costs imposed by the findings, decision and order does not exceed \$2500. If the court is satisfied that the findings, decision and order were entered in accordance with the requirements of this Division and the applicable municipal ordinance, and that the property owner had an opportunity for a hearing under this Division and for judicial review as provided in this Division: (1) the court shall render judgment in favor of the municipality and against the property owner for the amount indicated in the findings, decision and order, plus costs. Such judgment shall have the same effect and may be enforced in the same manner as other judgments for the recovery of money; and (2) the court may also issue such other orders and injunctions as are requested by the municipality to enforce the order of the hearing officer to correct a code violation.

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<sup>2</sup>(...continued)

§ 11-31.1-12. Sanctions applicable to owner--Property. The order to correct a code violation and the sanctions imposed by a municipality as the result of a finding of a code violation under this Division shall attach to the property as well as to the owner of the property, so that a finding of a code violation against one owner cannot be avoided by conveying or transferring the property to another owner. Any subsequent transferee or owner of property takes subject to the findings, decision and order of a hearing officer under this Division.

§ 11-31.1-12.1. (a) The owner of a building located in a municipality in a county having a population in excess of 100,000 inhabitants who, directly or indirectly, has collected, or caused to be collected, rentals from an occupant of that building during a period in which the number of apartments or family units in that building exceeded the number permitted for that building by an ordinance of the municipality in which the building is located, is liable to any such occupant in an amount equal to not more than 3 times the amount of any rentals paid by any such occupant, or in his behalf, after January 1, 1970, together with court costs and reasonable attorney's fees. If the occupant is a recipient of public aid under Article III, IV, or VI of "the Illinois Public Aid Code", approved April 11, 1967, as amended, in whose behalf vendor payment of the rental was made by the Illinois Department of Public Aid, the Department of Human Services (acting as successor to the Department of Public Aid under the Department of Human Services Act), or a local governmental unit, as the case may be, the liability as herein provided is to the Illinois Department of Public Aid, the Department of Human Services (acting as successor to the Department of Public Aid under the Department of Human Services Act), or the local governmental unit making the vendor payment of the rental.

(b) For the purposes of this Section:

(1) "Owner" means the legal or beneficial owner of a building.

(2) "Family unit" means a room or group of rooms used or intended to be used as a housekeeping unit for living, sleeping, cooking and eating. The fact that any such family unit is used or intended to be used with cooking or eating accommodations in common with another family unit in any such building does not affect liability hereunder.

(c) No liability accrues under this Section until 30 days after the owner of record of a building has been notified in writing that such owner is in violation of any such municipal ordinance. Such notice shall be personally served upon such owner of record or sent by registered mail to the last known address of such owner.

§ 11-31.1-12.2. (a) A person who contracts with the federal government or any of its agencies, including without limitation the Department of Housing and Urban Development, to care for vacant residential real estate shall be responsible for maintaining the property to prevent and correct municipal health and safety code violations.

(b) A person who intentionally violates this Section is guilty of a business offense and shall be fined not less than \$501 and not more than \$1,000.

§ 11-31.1-13. Adoption of Division by municipality. This Division may be adopted by a municipality by incorporating the provisions of this Division in an ordinance and passing and publishing the ordinance in the manner provided in Division 2 of Article 1 of this Act.

§ 11-31.1-14. Application for grants. Any municipality adopting this Division may make application to the Department of Commerce and Economic Opportunity for grants to help defray the cost of establishing and maintaining a code hearing  
(continued...)

Ord 2006-06, 7/24/2006; Ord 2009-15, 8/17/2009.

## **Subchapter 7—Plan Commission**

### **§ 190. Creation of Plan Commission**

A plan commission under the provisions of 65 ILCS 5/11-12-4 of the Illinois Municipal Code is hereby created.

1991-08, 5/6/1991; 2004-15, 8/16/2004, 2009-17, 9/21/2009.

### **§ 191. Composition and term of members**

(a) The plan commission consists of a chairman and 4 members, all of whom must reside within the village or within territory contiguous to the village and not more than 1½ miles beyond the corporate limits of the village and not included within any other municipality. The chairman and members are appointed by the president subject to confirmation by the board of trustees, and upon taking the oath of office are qualified and empowered to exercise the powers and authority prescribed in this subchapter.

(b) The term of the chairman and each of the members is 4 years, beginning on April 1 and ending on March 31, and until their successor is appointed and has qualified by taking the oath of office. In the event of a vacancy, the president will appoint a successor to hold office for the unexpired portion of the term. Anyone may be appointed to succeed himself or herself.

1991-08, 5/6/1991; 1996-05, 7/15/1996; 2003-03, 5/19/2003; 2003-04, 5/19/2003; 2004-15, 8/16/2004; 2009-17, 9/21/2009; 2012-05, 5/21/2012.

### **§ 192. Oath, disclosure of interest**

Each person appointed to the plan commission shall qualify by taking and subscribing to an oath to uphold the Constitution of the United States and of the State of Illinois and to well and faithfully discharge his or her duties, which oath will be filed with the clerk. If any member, or any person to whom such member is related, at any time has an interest, direct or indirect, in any property or project that comes before the commission for consideration, such member shall disclose the same in writing to the commission and such disclosure will be entered upon the minutes of the commission and such member is thereafter disqualified from participating in the consideration of such property or project and from voting thereon.

Ord 1991-08, 5/6/1991; Ord 2004-15, 8/16/2004; Ord 2009-17, 9/21/2009.

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<sup>2</sup>(...continued)  
department as provided in this Division. The application for grants shall be in the manner and form prescribed by the Department of Commerce and Economic Opportunity.

**§ 193. Powers and duties**

(a) The plan commission shall have all of the powers and discretions given to plan commissions under the Municipal Code and shall maintain and keep on file a record of its actions. At the request of the board of trustees the plan commission shall—

- (1) review the comprehensive plan for the development of the village and present it for the consideration of the board of trustees;
- (2) make recommendations to the board of trustees concerning the adoption or amendment of an official map;
- (3) make recommendations to the board of trustees concerning proposed amendments to the zoning ordinance;
- (4) promote the public interest in, and understanding of, planning and the comprehensive plan;
- (5) make recommendations to governmental, civic, and private agencies and individuals as to the effectiveness of the proposals of such agencies and individuals;
- (6) do such other acts or make such studies as may be necessary to fulfill the duties and obligations imposed by this subchapter and the Illinois Municipal Code.

Ord 1991-08, 5/6/ 1991; Ord 2004-15, 8/16/2004; Ord 2009-17, 6/21/2009.

## **Chapter 2—Streets and Rights of Way**

### **Subchapter 1—Restoration Deposits**

#### **§ 200. In general**

The owner of record of any lot or parcel of land is fully responsible for any damage to any village street, right-of-way, parkway, driveway approach, drainage swales or ditches, or sidewalk, incurred during the course of the construction of any improvement to such lot or parcel of land. In order to protect the public right-of-way and to ensure the restoration of streets, parkways, driveway approaches, drainage and sidewalks, any person applying for a building permit will be required to make the following deposits.

Ord 2009-06, 5/18/2009.

#### **§ 201. New construction**

Any person applying for a building permit for the construction of a new building shall, in addition to all applicable fees, deposit with the clerk a cash or construction bond in the amount of \$10,000 conditioned upon the satisfactory completion of the work without damage to village streets, parkways, driveway approaches, drainage swales and ditches, stormwater improvements, sidewalks, and other village property.

Ord 2009-06, 5/18/2009.; Ord 2014-08, 10/20/2014.

#### **§ 202. Permits for repairs, additions or remodeling of existing construction**

Any person applying for a well or septic permit, swimming pool permit, or for a building permit for any repair, addition or remodeling of an existing building, shall deposit with the clerk a cash or construction bond in the amount of \$3000 conditioned upon the satisfactory completion of the work without damage to village streets, parkways, driveway approaches, and drainage swales and ditches, and sidewalks.

Ord 2009-06, 5/18/2009; Ord 2012-02, 2/27/2012.

#### **§ 203. Return of deposit**

The deposit provided for in this subchapter shall be returned to the depositor, without interest, upon satisfactory completion of the work. A determination that the work has been satisfactorily completed includes, but is not limited to, a determination by the Chairman of the Public Works Committee of the Village that—

- (a) that the street or parkway has not been damaged, or, if damaged, has been satisfactorily repaired;
- (b) that a public sidewalk has been installed to connect with an existing sidewalk on adjacent property;

(c) that the sidewalk or bike path existing at the time of the issuance of the building permit is in safe condition;

(d) that a hard surfaced, all weather driveway approach serves the premises for which the building permit was issued;

(e) that no damage has been done to the existing driveway or roadway culverts or existing under drains within the right-of-way.

Ord 2009-06, 5/18/2009.

#### **§ 204. Application of deposit**

(a) If the Chairman of the Public Works Committee determines that the work has not been satisfactorily completed, the depositor shall be given written notice specifying the damage or defects complained of and a date by which the damage or defect noted shall be remedied or repaired. If the damage or defects complained of are not remedied or repaired by the date set forth in the notice, the Chairman may forfeit the amount on deposit or make a claim upon the bond. Notwithstanding the forfeiture of any deposit or payment of any bond, the owner remains fully liable for the costs of repair and the balance of such costs shall be paid within 30 days of notice to the owner of the amount that remains due.

(b) If such amount is not paid the Village may exercise any remedy available by law or under this Code for its collection, including the withholding of any building permit or certificate of occupancy.

Ord 2009-06, eff 5/18/2009.

#### **§ 205. Openings in sidewalks**

(a) All permanent openings maintained in public sidewalks or bike paths shall be securely covered when not open for use and securely guarded or barricaded when opened for use. The cover for such opening shall be constructed of a non-slip material, and shall not cause an obstruction or defect in the sidewalk.

(b) Any person maintaining an opening of any kind in a public sidewalk shall deposit with the Village clerk a bond in the amount of \$5000 in order to indemnify the Village for any liability, damage, loss, cost, or expense resulting from the existence or use of the sidewalk openings.

Ord 2009-06, 5/18/2009.

### **Subchapter 2—Objects within the Right-Of-Way**

#### **§ 206. Obstructions**

The Village is not responsible for damage to obstructions or objects placed within the right-of-way without prior written permission including, but not limited to—

- (a) concrete or brick mailboxes, or mailboxes not installed in accordance with US postal requirements;
- (b) invisible or decorative fences;
- (c) plantings or landscaping, including rock or stone;
- (d) overhanging limbs from trees located on private property;
- (e) driveway aprons;
- (f) culverts;
- (g) headwalls; and
- (h) discharge drains, such as water softener drains, underdrains, sump and gutter drains and discharges.

Ord 2009-06, 5/18/2009.

#### **§ 207. Mailbox replacement**

(a) The homeowner is responsible for the initial placement or installation of a mailbox. Claims for damage to or replacement of a mailbox must be made in writing on forms available from the Village clerk. Inspection by Village staff is necessary before any reimbursement will be made and only after the submission of paid receipts. The maximum reimbursement is \$45. Temporary mailboxes are available from the Village in the event a permanent mailbox cannot be installed as a result of weather conditions.

(b) Use of brick, masonry or concrete mailboxes, poles or other permanent structures within the Village right-of-way is prohibited. Brick, masonry, or concrete mailboxes should be set at least 3 feet from the edge of the right-of-way, and for safety reasons, should have a paved area for the mail carrier to access the box from the road edge. Such paved area must be installed by and maintained by the homeowner. The Village will not replace any mailbox with material other than a 4x4 post and a mailbox approved by the postal authorities.

Ord 2009-06, 5/18/2009.

#### **§ 208. Culvert repair and replacement**

The property owner shall repair or replace any culvert within the right-of-way when its condition is such that it may collapse or it obstructs the designed flow of water through the swale or drainageway.

Ord 2011-01, 4/18/2011.

#### **§ 209. Culvert installation, repair or replacement - inspection fee**

Prior to installing, repairing or replacing any culvert, the property owner shall obtain a permit from the village and pay the fee set forth in § 515(a) for inspection of the site before and after the work.

Ord 2011-01, 4/18/2011; Ord 2016-05, 9/26/16.

**§ 210. Prohibition of discharge - IL 47 and 64**

No person, firm, corporation, or other entity shall discharge any sanitary waste or industrial waste water into any storm sewer or drainage facility constructed as part of the FAP 307 (Illinois Route 64) at Illinois Route 47 improvement within the village.

Ord 2011-07, 10/17/2011.

**§ 211. Prohibition of encroachments - IL 47 and 64**

No person, firm, corporation, or other entity shall install, place, maintain, or construct any structure that encroaches upon the State of Illinois right-of-way on FAP 307 (Illinois Route 64) at Illinois Route 47.

Ord 2011-08, 10/17/2011.

### **Subchapter 3—Standards for Construction Within the Right-of-Way**

**§ 212. Purpose and scope**

(a) The purpose of this ordinance 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) In enacting this ordinance, the Village intends to exercise its authority over the rights-of-way in the Village and, in particular, the use of the public ways and property by utilities, by establishing uniform standards to address issues presented by utility facilities, including without limitation:

(1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;

(2) prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;

(3) prevent interference with the facilities and operations of the Village's utilities and of other utilities lawfully located in rights-of-way or public property;

(4) protect against environmental damage, including damage to trees, from the installation of utility facilities;

(5) protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;

(6) preserve the character of the neighborhoods in which facilities are installed;

(7) preserve open space, particularly the tree-lined parkways that characterize the Village's residential neighborhoods;

(8) prevent visual blight from the proliferation of facilities in the rights-of-way; and

(9) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.

(c) This ordinance 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 ordinance 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) 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 ordinance.

(e) (1) 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) In the event of any conflict with, or inconsistency between, the provisions of this ordinance 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) This ordinance supersedes all ordinances or parts of ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.

(g) In the event that applicable federal or State laws or regulations conflict with the requirements of this ordinance, the utility shall comply with the requirements of this ordinance to the maximum extent possible without violating federal or State laws or regulations.

(h) The Village shall use sound engineering judgment when administering this ordinance and may vary the standards, conditions, and requirements expressed in this ordinance 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.

Ord 2007-12, 11/19/2007.

### **§ 213. Definitions**

As used in this ordinance and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section



shall have the meaning ascribed to it in 92 Ill. Adm. Code § 530.30, unless the context clearly requires otherwise.

- (1) “*AASHTO*” - American Association of State Highway and Transportation Officials.
- (2) “*ANSI*” - American National Standards Institute.
- (3) “*Applicant*” - A person applying for a permit under this ordinance.
- (4) “*ASTM*” - American Society for Testing and Materials.
- (5) “*Backfill*” - The methods or materials for replacing excavated material in a trench or pit.
- (6) “*Bore*” or “*Boring*” - To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.
- (7) “*Cable operator*” - That term as defined in 47 U.S.C. 522(5).
- (8) “*Cable service*” - That term as defined in 47 U.S.C. 522(6).
- (9) “*Cable system*” - That term as defined in 47 U.S.C. 522(7).
- (10) “*Carrier Pipe*” - The pipe enclosing the liquid, gas or slurry to be transported.
- (11) “*Casing*” - A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.
- (12) “*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.
- (13) “*Coating*” - Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.
- (14) “*Conductor*” - Wire carrying electrical current.
- (15) “*Conduit*” - A casing or encasement for wires or cables.
- (16) “*Construction*” or “*Construct*” - The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.
- (17) “*Cover*” - The depth of earth or backfill over buried utility pipe or conductor.
- (18) “*Crossing Facility*” - A facility that crosses one or more right-of-way lines of a right-of-way.
- (19) “*Director of Public Works*” - The Village Director of Public Works or his or her designee.

(20) “*Disrupt the Right-of-Way*” - For the purposes of this ordinance, 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.

(21) “*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.

(22) “*Encasement*” - Provision of a protective casing.

(23) “*Engineer*” - The Village Engineer or his or her designee.

(24) “*Equipment*” - Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

(25) “*Excavation*” - The making of a hole or cavity by removing material, or laying bare by digging.

(26) “*Extra Heavy Pipe*” - Pipe meeting ASTM standards for this pipe designation.

(27) “*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 ordinance. For purposes of this ordinance, the term “facility” shall not include any facility owned or operated by the Village.

(28) “*Freestanding Facility*” - A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

(29) “*Frontage Road*” - Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access to a highway.

(30) “*Hazardous Materials*” - Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the Village Engineer to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

(31) “*Highway Code*” - The Illinois Highway Code, 605 ILCS 5/1-101 et seq., as amended from time to time.

(32) “*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.

(33) “*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.

(34) “*IDOT*” - Illinois Department of Transportation.

(35) “*ICC*” - Illinois Commerce Commission.

(36) “*Jacking*” - Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

(37) “*Jetting*” - Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

(38) “*Joint Use*” - The use of pole lines, trenches or other facilities by two or more utilities.

(39) “*J.U.L.I.E.*” - The Joint Utility Locating Information for Excavators utility notification program.

(40) “*Major Intersection*” - The intersection of two or more major arterial highways.

(41) “*Occupancy*” means the presence of facilities on, over or under right-of-way.

(42) “*Parallel Facility*” - A facility that is generally parallel or longitudinal to the centerline of a right-of-way.

(43) “*Parkway*” - Any portion of the right-of-way not improved by street or sidewalk.

(44) “*Pavement Cut*” - The removal of an area of pavement for access to facility or for the construction of a facility.

(45) “*Permittee*” - That entity to which a permit has been issued pursuant to this ordinance.

(46) “*Practicable*” - That which is performable, feasible or possible, rather than that which is simply convenient.

(47) “*Pressure*” - The internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

(48) “*Petroleum Products Pipelines*” - Pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry.

(49) “*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.

(50) “*Public Entity*” - A legal entity that constitutes or is part of the government, whether at local, state or federal level.

(51) “*Restoration*” - The repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

(52) “*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.

(53) “*Roadway*” - That part of the highway that includes the pavement and shoulders.

(54) “*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.

(55) “*Security Fund*” - That amount of security required pursuant to this ordinance.

(56) “*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.

(57) “*Sound Engineering Judgment*” - A decision(s) consistent with generally accepted engineering principles, practices and experience.

(58) “*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.

(A) “*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.

(B) Telecommunications shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. Telecommunications shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the

service provided by such provider to the ultimate retail consumer who originates or terminates the end-to-end communications. Telecommunications shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

(59) “*Telecommunications Provider*”- Means any person that installs, owns, operates or controls facilities in the right-of-way used or designed to be used to transmit telecommunications in any form.

(60) “*Telecommunications Retailer*”- Means and includes every person engaged in making sales of telecommunications at retail as defined herein.

(61) “*Trench*”- A relatively narrow open excavation for the installation of an underground facility.

(62) “*Utility*”- The individual or entity owning or operating any facility as defined in this ordinance.

(63) “*Vent*”- A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

(64) “*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).

(65) “*Village*”- The Village of Lily Lake.

(66) “*Water Lines*”- Pipelines carrying raw or potable water.

(67) “*Wet Boring*”- Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

Ord 2007-12, 11/19/2007.

#### **§ 214. Annual Registration Required**

Every utility that occupies right-of-way within the Village shall register on January 1 of each year with the Director of Public Works, 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 this ordinance, in the form of a certificate of insurance.

Ord 2007-12, 11/19/2007.

**§ 215. Permit Required; Applications and Fees**

(a) No person shall construct (as defined in this ordinance) any facility on, over, above, along, upon, under, across, or within any Village right-of-way which (1) changes the location of the facility, (2) adds a new facility, (3) disrupts the right-of-way (as defined in this ordinance), or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under across or within the right-of-way, without first filing an application with the Village Engineer [Director of Public Works] and obtaining a permit from the Village therefor, except as otherwise provided in this ordinance. 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) All applications for permits pursuant to this ordinance 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) The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:

(1) The utility's name and address and telephone and telecopy numbers;

(2) The applicant's name and address, if different than the utility, its telephone, telecopy 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:

(A) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and

(B) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the Village and shall promote protection of the safety and convenience of the public. Compliance with ICC regulations for emergency contingency plans constitutes compliance with this Section unless the Village finds that additional information or assurances are needed;

(6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;

(7) Evidence of insurance as required in this ordinance;

(8) Evidence of posting of the security fund as required in this ordinance;

(9) Any request for a variance from one or more provisions of this ordinance; and

(10) Such additional information as may be reasonably required by the Village.

(d) In addition to the requirements of subsection (c) of this paragraph, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:

(1) In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any “*Certificate of Public Convenience and Necessity*” or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority;

(2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;

(3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;

(4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control have been satisfied; or

(5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

(e) 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) Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this ordinance shall be accompanied by a fee in the amount established by separate ordinance. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

Ord 2007-12, 11/19/2007.

**§ 216. Action on permit applications**

(a) Completed permit applications, containing all required documentation, shall be examined by the Director of Public Works within a reasonable time after filing. If the application does not conform to the requirements of applicable ordinances, codes, laws, rules, and regulations, the Director of Public Works shall reject such application in writing, stating the reasons therefor. If the Director of Public Works is satisfied that the proposed work conforms to the requirements of this ordinance and applicable ordinances, codes, laws, rules, and regulations, the Director of Public Works shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the Director of Public Works, that the construction proposed under the application shall be in full compliance with the requirements of this ordinance.

(b) (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 ordinance 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 thirty 30 days prior to the commencement of work requiring excavation. The Director of Public Works shall specify the portion of the right-of-way upon which the facility may be placed, used and constructed.

(2) In the event that the Director of Public Works 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 ordinance.

(3) Upon the provision of such specification by the Village, where a permit is required for work pursuant to this ordinance the telecommunications retailer shall submit to the Village an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of Subsection (a) of this Section.

(c) 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.

Ord 2007-12, 11/19/2007.



#### **§ 217. Effect of permit**

(a) A permit from the Village authorizes a permittee to undertake only certain activities in accordance with this ordinance 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) 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) 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) The issuance of a permit by the Village does not excuse the permittee from complying with other requirements of the Village and applicable statutes, laws, ordinances, rules, and regulations.

Ord 2007-12, 11/19/2007.

#### **§ 218. Revised permit drawings**

In the event that the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the Village within 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 ordinance, it shall be treated as a request for variance under this ordinance. If the Village denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

Ord 2007-12, 11/19/2007.

#### **§ 219. Insurance**

(a) Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the Village, and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in paragraphs 1 and 2 below:

(1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as *X*, *C*, and *U* coverages) and products-completed operations coverage with limits not less than:

(A) \$5,000,000 for bodily injury or death to each person;

(B) \$5,000,000 for property damage resulting from any one accident; and

(C) \$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) 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) The utility shall provide copies of any of the policies required by this Section to the Village within 10 days following receipt of a written request therefor from the Village.

(d) 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 President 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 said cancellation, the utility shall obtain and furnish to the Village evidence of replacement insurance policies meeting the requirements of this Section.

(e) A utility may self-insure all or a portion of the insurance coverage and limit requirements required by Subsection (a) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under Subsection (a), or the requirements of Subsections (b), (c) and (d) of this Section. A utility that elects to self-insure shall provide to the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under Subsection a) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

(f) 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) 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.

Ord 2007-12, 11/19/2007.

#### **§ 220. 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 ordinance 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 ordinance by the Village, its officials, officers, employees, agents or representatives.

Ord 2007-12, 11/19/2007.

#### **§ 221. Security**

(a) The permittee shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve as security for:

- (1) The faithful performance by the permittee of all the requirements of this ordinance;
- (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 ordinance; 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 ordinance including, without limitation, any damage to public property or restoration work the permittee is required by this ordinance 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 ordinance or any other applicable law.

(b) The permittee shall provide the Security Fund to the Village in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the Village, or an unconditional letter of credit in a form acceptable to the Village. Any surety bond or letter of credit provided pursuant to this Subsection shall, at a minimum:

(1) Provide that it will not be canceled without prior notice to the Village and the permittee;

(2) Not require the consent of the permittee prior to the collection by the Village of any amounts covered by it; and

(3) Shall provide a location convenient to the Village and within the State of Illinois at which it can be drawn.

(c) 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 Director of Public Works, 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 Director of Public Works may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this Subsection (c) for any single phase.

(d) The Village, upon 14 days' advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this Subsection, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the Village for such amount within the 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 ordinance that the Village determines can be remedied by an expenditure of an amount in the Security Fund.

(e) 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 Subsection (c) of this Section.

(f) The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the Village, upon written request for said withdrawal to the Village, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in Subsection (c) of this Section.

(g) 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 ordinance 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) 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 ordinance 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.

Ord 2007-12, 11/19/2007.

#### **§ 222. Permit suspension and revocation**

(a) The Village may revoke or suspend a permit issued pursuant to this ordinance 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 ordinance;

(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) The Village shall send written notice of its intent to revoke or suspend a permit issued pursuant to this ordinance stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this Section.

(c) 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 Subsection.

(d) In addition to the issuance of a notice of revocation or suspension, the Village may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within Subsection a) of this Section.

(e) If the permittee fails to comply with the provisions of Subsection (c) of this Section, the Village or its designee may, at the option of the Village: (1) correct the deficiencies; (2) upon not less than 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.

Ord 2007-12, 11/19/2007.

#### **§ 223. Change of ownership or owner's identity or legal status**

(a) 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 ordinance, with respect to the work and facilities in the right-of-way.

(b) 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) All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

Ord 2007-12, 11/19/2007.

#### **§ 224. General construction standards**

(a) 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) If a discrepancy exists between or among differing principles and standards required by this ordinance, the Director of Public Works shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Director of Public Works shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

Ord 2007-12, 11/19/2007.

#### **§ 225. Traffic control**

(a) The Village's minimum requirements for traffic protection are contained in IDOT's *Illinois Manual on Uniform Traffic Control Devices* and this Code.

(b) 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) All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

(d) 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, the utility shall provide such notice as is practicable under the circumstances.

(e) 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.

Ord 2007-12, 11/19/2007.

**§ 226. Location of facilities**

(a) In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this subsection.

(1) No utility facilities shall be placed in any location if the Director of Public Works 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) 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 utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.

(4) No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.

(5) 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) (1) 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) 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 one foot (0.3 m) of the right-of-way line or as near as practicable.

(c) (1) 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) Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.

(3) Crossing facilities shall cross at or as near to a 90 degree angle to the centerline as practicable.

(4) 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) 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) 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) The Village may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.

(e) (1) The Village may restrict the location and size of any freestanding facility located within a right-of-way.

(2) The Village may require any freestanding facility located within a right-of-way to be screened from view.

(f) 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) (1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.

(2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:

(A) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;

(B) The type, length, value, and relative importance of the highway structure in the transportation system;

(C) Alternative routes 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) (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.

Ord 2007-12, 11/19/2007.

#### **§ 227. Construction methods and materials**

(a) (1) (A) Boring or jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Director of Public Works 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 shall not be permitted under the roadway.

(C) Borings over 6" (0.15 m) in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than 1 inch (25 mm).

(D) Borings of 6 inches or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.

(E) 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 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) The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Director of Public Works.

(B) 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) The utility shall not trench within the drip line of any tree designated by the Village to be preserved.

(3) (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 Director of Public Works, 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 Director of Public Works.

(4) 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 4) is permitted, the following requirements shall apply:

(5) (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 Director of Public Works.

(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 J.U.L.I.E. locate.

(6) (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.

(7) Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

TYPE OF FACILITY	MINIMUM COVER
Electric Lines	30 Inches (0.8 m)
Communication, Cable or Video Service Lines	18 to 24 Inches (0.6 m, as determined by Village)
Gas or Petroleum Products	30 Inches (0.8 m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, or Drainage Line	Sufficient Cover to Provide Freeze Protection

(b) (1) (A) 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 Illinois Commerce Commission) entitled "*Rules for Construction of Electric Power and Communications Lines*", and the National Electrical Safety Code.

(B) Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.

(C) (i) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads.

(ii) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if:

(I) 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

(II) the installation is by the open trench method which is only permitted prior to roadway construction.

(iii) Cable shall be grounded in accordance with the National Electrical Safety Code.

(D) 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 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 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 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 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 to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending one 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 Director of Public Works. With the approval of the Director of Public Works, 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) (1) 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 *Standards*

*Specifications for Road and Bridge Construction*, the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.

(2) No material shall be stored on the right-of-way without the prior written approval of the Director of Public Works. 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 Director of Public Works when emergency work is required to restore vital utility services.

(3) Unless otherwise permitted by the Village, the hours of construction are 6:00 a.m. to 8:00 p.m.

(e) Location of Existing Facilities. Any utility proposing to construct facilities in the Village shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The Village will make its permit 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 J.U.L.I.E., 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.*)

Ord 2007-12, 11/19/2007.

**§ 228. Vegetation control**

(a) Electric Utilities – Compliance with State Laws and Regulations. An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way in accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the Village as permitted by law.

(b) Other Utilities – Tree Trimming Permit Required. Tree trimming that is done by any other utility with facilities in the right-of-way and that is not performed pursuant to applicable Illinois laws and regulations specifically governing same, shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this ordinance.

(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 Director of Public Works that such spraying is the only practicable method of vegetation control.

Ord 2007-12, 11/19/2007.

#### **§ 229. 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 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 ordinance; or

(4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

(c) Emergency Removal or Relocation of Facilities. The Village retains the right and privilege to cut or move any facilities located within the rights-of-way of the Village, as the Village may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

(d) Abandonment of Facilities. Upon abandonment of a facility within the rights-of-way of the Village, the utility shall notify the Village within 90 days. Following receipt of such notice the Village may direct the utility to remove all or any portion of the facility if the Director of Public Works determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the Village does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the Village, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

Ord 2007-12, 11/19/2007.

### **§ 230. Clean-up and restoration**

The utility shall remove all excess material and restore all turf and terrain and other property within ten (10) days after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the Village. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Director of Public Works. 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 Director of Public Works for good cause shown.

Ord 2007-12, 11/19/2007.

**§ 231. Maintenance and emergency maintenance**

(a) General. Facilities on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the Village and at the utility's expense.

(b) Emergency Maintenance Procedures. Emergencies may justify 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 Director of Public Works or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the Village police shall be notified immediately.

(3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.

(c) Emergency Repairs. The utility must file in writing with the Village a description of the repairs undertaken in the right-of-way within 48 hours after an emergency repair.

Ord 2007-12, 11/19/2007.

**§ 232. Variances.**

(a) Request for Variance. A utility requesting a variance from one or more of the provisions of this ordinance must do so in writing to the Director of Public Works as a part of the permit application. The request shall identify each provision of this ordinance from which a variance is requested and the reasons why a variance should be granted.

(b) Authority to Grant Variances. The Director of Public Works shall decide whether a variance is authorized for each provision of this ordinance identified in the variance request on an individual basis.

(c) Conditions for Granting of Variance. The Director of Public Works may authorize a variance only if the utility requesting the variance has demonstrated that:

(1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and

(2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.

(d) Additional Conditions for Granting of a Variance. As a condition for authorizing a variance, the Director of Public Works may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this ordinance but which carry out the purposes of this ordinance.

(e) Right to Appeal. Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Director of Public Works 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 Board's next regularly scheduled meeting occurring at least 7 days after the filing of the appeal. The Village Board shall timely decide the appeal.

Ord 2007-12, 11/19/2007.

#### **§ 233. Penalties**

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this ordinance shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the Village will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this ordinance. 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.

Ord 2007-12, 11/19/2007.

#### **§ 234. Enforcement**

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

Ord 2007-12, 11/19/2007.

### **Subchapter 4—Parking**

#### **§ 235. Restrictions applicable in all areas**

(a) Within the village no person may—

(1) park, store or leave unattended, any bus, commuter van, pole trailer, road tractor, tow truck, semi-trailer, camping trailer, or a vehicle having a gross weight capacity (including vehicle and

maximum load) in excess of 12,000 pounds on any street, alley or right-of-way, or private drive within the Village limits, except as may be posted to the contrary. The provisions of this subsection do not apply to any vehicle making a delivery or picking up a load or performing a requested service, in which case the vehicle may remain parked for only the minimum time required to make the delivery, or pickup or to perform the requested service.

Ord 2016-05, 10/24/2016; Ord 2016-10, 12/19/2016.

(2) park, store or leave any vehicle unattended and on any village street during or within 12 hours after a snow event defined as a snowfall of 1" or more.

Ord 2015-01, 2/23/2015; Ord 2016-05, 10/24/2016.

(3) park, store or leave any vehicle unattended in any "T" shaped cul-de-sac.

Ord 2015-01, 2/23/2015; Ord 2016-05, 10/24/2016.

(4) park, store or leave any vehicle for sale unattended on any village street.

Ord 2016-05, 10/24/2016.

(5) repair any personal vehicle on any village street.

Ord 2016-05, 10/24/2016.

(6) park, store or leave any vehicle in excess of 6 tons by registration in any village right-of-way, or on any lawn area or parkway.

Ord 2016-05, 10/24/2016.

(7) park, store or leave any vehicle so as to obstruct traffic.

Ord 2016-05, 10/24/2016.

#### **§ 236. Parking along Illinois Route 64 at Route 47**

Parking is prohibited along Illinois Route 64 at Illinois Route 47 within the village.

Ord 2011-06, 10/17/2011.

#### **§ 237. Future prohibition**

The village will prohibit parking at other locations on or immediately adjacent to Illinois Route 64 at Illinois Route 47 as may be determined and directed by the State of Illinois to be necessary to ensure the free flow of traffic and the safety of the motoring public.

Ord 2011-06, 10/17/2011.

#### **§ 238. Citation**

The code enforcement officer of the village or any Kane County Sheriff's deputy has the authority to issue citations for any violations of this subchapter. When an authorized officer, based upon personal observation or investigation, has reasonable cause to believe that a person has committed a violation of this subchapter, the officer is authorized to issue a citation by (a) personal service upon the violator, or (b) posting a copy of the citation in a conspicuous place on the vehicle and causing a copy of the citation to be mailed by regular, first class mail, postage prepaid, addressed to the owner of record of the vehicle. An officer may, in lieu of issuing a citation, give notice of the violation by any of the methods set forth in this section to remedy the violation within the time specified. If the violation is not remedied within the time specified, the officer is authorized to issue a citation.

(Ord 2015-01, 2/23/15; Ord 2016-05, 10/24/2016.)

### **Subchapter 5—Small Wireless Facilities**

#### **§ 240. Purposed and scope**

(a) Purpose. The purpose of this subchapter is to establish consistent with the Act, 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.

(b) Conflicts with other ordinances. To the extent of the conflict, this subchapter supersedes all ordinances or parts of ordinances adopted prior to June 25, 2018, that conflict with its provisions.

(c) Conflicts with State and federal Laws. If a requirement of this subchapter conflicts with an applicable federal or State law or regulation, the wireless provider shall comply with the requirement of this subchapter to the maximum extent possible without violating the federal or State law or regulation.

Ord 2018-05, 6/25/2018.

#### **§ 241. Definitions**

In this subchapter—

(1) “*Antenna*” means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

(2) “*Applicable codes*” means 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.

(3) “*Applicant*” means any person who submits an application and is a wireless provider.

(4) “*Application*” means 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 the application.

(5) “*Collocate*” or “*collocation*” means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

(6) “*Communications service*” means 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.

(7) “*Communications service provider*” means 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.

(8) “*FCC*” means the Federal Communications Commission of the United States.

(9) “*Fee*” means a one-time charge.

(10) “*Historic district*” or “*historic landmark*” means 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 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.

(11) “*Law*” means a federal or State statute, common law, code, rule, regulation, order, or local ordinance or resolution.

(12) “*Micro wireless facility*” means a small wireless facility that is not larger than 24 inches long, 15 inches wide, and 12 inches high and, if it has an exterior antenna, its antenna is no longer than 11 inches.

(13) “*Municipal utility pole*” means a utility pole owned or operated by the Village in the public right-of-way.

(14) “*Permit*” means a written authorization required by the Village to perform an action or initiate, continue, or complete a project.

(15) “*Person*” means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

(16) “*Public safety agency*” means 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.

(17) Rate means a recurring charge.

(18) Right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use but does not include aerial lines owned by the Village.

(19) "*Small wireless facility*" means 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.

(20) "*Structural engineer*" has the meaning ascribed to it in § 4 of the Structural Engineering Practice Act of 1989.

(21) "*Utility pole*" means a pole or similar structure that is used by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

(22) "*Wireless facility*" means 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.

(23) "*Wireless infrastructure provider*" means 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.

(24) "*Wireless provider*" means a wireless infrastructure provider or a wireless services provider.

(25) "*Wireless services*" means 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.

(26) “*Wireless services provider*” means a person who provides wireless services.

(27) “*Wireless support structure*” means 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.

Ord 2018-05, 6/25/2018.

**§ 242. Regulation of small wireless facilities**

(a) Permitted Use. Small wireless facilities complying with the height restrictions contained in § 242(c)(8) and 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, are permitted uses and subject to administrative review only.

(b) Permit Required. An applicant must obtain one or more permits from the Village to collocate a small wireless facility. An application will be processed and permits issued in accordance with the following conditions and requirements:

(1) Application requirements. A wireless provider shall provide the following information to the Village, together with the Village's Small Cell Facilities Permit Application, as a condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:

(A) Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer;

(B) The location of each small wireless facility or utility pole proposed to be installed and photographs of the each location and its immediate surroundings depicting the utility poles or structures on which each small wireless facility is proposed to be mounted and a depiction of the completed facility;

(C) Specifications and drawings prepared by a structural engineer 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;

(F) A certification that the collocation complies with the collocation requirements and conditions contained in § 242(c), to the best of the applicant's knowledge; and

(G) If the proposed small wireless facility is to be attached to an existing pole owned by an person other than the Village, the wireless provider shall provide legally competent evidence of the owner's consent to the proposed collocation.

(2) Application Process. The Village shall process applications as follows:



(A) Applications for collocation on the same utility pole or wireless support structure that are complete will be processed in the order received by the Village.

(B) An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or on a replacement of an existing utility pole or wireless support structure will be processed on a nondiscriminatory basis and will be deemed approved if the Village fails to approve or deny the application within 90 days after the Village's receipt of a complete application. However, if an applicant intends to proceed with the activity that is the subject of an application on a deemed-approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed-approved remedy within 15 days before the expiration of the 90 day period. The permit will be deemed approved on the 90th day after the Village's receipt of the complete application or 10 days after the Village's receipt of the deemed-approved notice, whichever is later. The receipt of the deemed-approved notice does not preclude the Village's denial of the permit request within the time limits provided in this section.

(C) An application to collocate a small wireless facility that includes the installation of a new utility pole will be processed on a nondiscriminatory basis and deemed approved if the Village fails to approve or deny the application within 120 days after the Village's receipt of a complete application. However, if an applicant intends to proceed with the activity that is the subject of an application on a deemed-approved basis, the applicant shall notify the Village in writing of its intention to invoke the deemed-approved remedy within 15 days before the expiration of the 120 day period. The permit will be deemed approved on the 120th day after the Village's receipt of the complete application or 10 days after the Village's receipt of the deemed-approved notice, whichever is later. The receipt of the deemed-approved notice does not preclude the Village's denial of the permit request within the time limits provided in this section.

(D) (i) The Village will deny an application that does not meet the requirements of this subchapter. If the Village determines that applicable codes, ordinances or regulations that concern public safety, or the collocation requirements and conditions set forth in § 242(c) require that the utility pole or wireless support structure be replaced before the requested collocation, approval will be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.

(ii) 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 application one time 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 application is resubmitted or it will be deemed approved. If the applicant fails to submit a revised application within the 30-day period, any further application will be treated as a new application and all required fees must be paid and the Village's review period will recommence.

(iii) The applicant must notify the Village in writing of its intention to proceed with the activity described in the revised application on a deemed-approved basis, which may be

submitted with the revised application. Any review of a revised application will be limited to the deficiencies cited in the denial unless the revised application requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.

(E) Pole attachment agreement. Within 30 days after an approval of a 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 subsequent approved permits to collocate a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.

(3) Completeness of Application. Within 30 days after receiving an application, the Village shall determine whether the application is complete and so notify the applicant. If an application is incomplete, the Village shall specifically identify the missing information. An application will be deemed complete if the Village fails to notify the applicant otherwise within the 30-day period. Processing deadlines are tolled from the time the Village sends the notice of incompleteness to the time the applicant provides the missing information.

(4) Tolling. The processing deadlines for the review of applications may be further tolled by:

(A) An express written agreement by both the applicant and the Village; or

(B) A local, State or federal disaster declaration or similar emergency that causes the delay.

(5) Consolidated Applications. An applicant seeking to collocate small wireless facilities within the jurisdiction of the Village may, at the applicant's discretion, 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 from the application and treat separately those small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The Village may issue separate permits for each collocation that is approved in a consolidated application.

(6) Duration of Permits. A permit is valid for 5 years and must be renewed upon application. The Village will renew the permit unless the Village finds that the small wireless facilities or the new or modified utility pole do not comply with the then applicable Village codes or any provision, condition or requirement contained in this subchapter. Renewed permits are valid for an additional 5 years. If the Act is repealed, the Village will renew the permit if it meets all applicable Village code provisions or regulations in effect at the time of renewal.

(7) Means of submitting applications. Applicants may submit applications, supporting information and notices to the Village by personal delivery to the Clerk at the Village Hall, or by first class mail, postage prepaid, postmarked on or before the date due, or by any other commonly used means, including electronic mail.

(c) Collocation Requirements and Conditions.

(1) Public Safety Space Reservation. The Village may reserve space on municipal utility poles for future public safety uses, for the Village's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the Village reasonably determines that the municipal utility pole cannot accommodate both uses.

(2) Installation and Maintenance. The wireless provider shall install, repair and modify its small wireless facilities so as to maintain them in a safe condition and good repair and in compliance with the requirements and conditions of this subchapter. 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 may not interfere with the frequencies used by a public safety agency for public safety communications. A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment. Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference with 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 regulations cited above. Failure to remedy the interference as required in this subsection is a public nuisance.

(4) The wireless provider may 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 subsection, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

(5) The wireless provider shall comply with all applicable codes and local code provisions or regulations that concern public safety.

(6) The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements

that are set forth in a Village ordinance, written policy adopted by the Village, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.

(7) Alternate Placements. Except as provided in this subsection 242(c), a wireless provider is not required to collocate small wireless facilities on any specific utility pole, or category of utility poles, or 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 must 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 why 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 is 10 feet above the utility pole or wireless support structure on which the small wireless facility is collocated. New or replacement utility poles or wireless support structures on which small wireless facilities are collocated may not exceed the higher of—

(A) 10 feet above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is (i) in place on the date the application is submitted to the Village, (ii) located within 300 feet of the new or replacement utility pole or wireless support structure; and (iii) in the same right-of-way within the jurisdictional boundary of the Village. The Village may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures will control the height limitation for such facility; or

(B) 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 variation in accordance with the procedures, terms and conditions set forth in § 2083 of the Village Code.

(10) Contractual Design Requirements. The wireless provider shall comply with requirements that are imposed by a contract between the Village and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.

(11) Ground-mounted Equipment Spacing. The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning

or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.

(12) Undergrounding Regulations. The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior approval if the requirements include a waiver, zoning or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.

(13) Collocation Completion Deadline. Collocation for which a permit is granted must be completed within 180 days after issuance of the permit, unless the Village and the wireless provider agree to extend this period or the 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, if the wireless provider has made a 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 becomes void unless the Village grants an extension in writing to the applicant.

(d) Application Fees. Application fees are imposed as follows:

(1) Applicant shall pay an application fee of \$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 will not be accepted without the payment of the required application fee. Application fees are non-refundable.

(4) The Village will not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:

(A) routine maintenance;

(B) the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the Village at least 10 days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with § 242(b)(1)(D); or

(C) the installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.

(5) Wireless providers shall secure a permit from the Village to work within rights-of-way for activities that affect traffic patterns or require lane closures.

(e) Exceptions to Applicability. Nothing in this subchapter 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 subchapter 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 subchapter may 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 subchapter.

(f) (1) 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, must comply with this subchapter.

(2) 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 subchapter 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.

(g) Annual Recurring Rate. A wireless provider shall pay to the Village an annual recurring rate to collocate a small wireless facility on a Village utility pole located in a right-of-way that equals (i) \$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 will 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.

(h) Abandonment. A small wireless facility that is not operated for a continuous period of 12 months will 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 must 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.

Ord 2018-05, 6/25/2018.

#### **§ 243. Dispute Resolution.**

The Circuit Court of Kane County, Illinois has 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 will 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.

Ord 2018-05, 6/25/2018.

**§ 244. Indemnification.**

A wireless provider shall indemnify the Village 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 subchapter and the Act. A wireless provider has no obligation to indemnify 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 waives any claims that it may have against the Village with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

Ord 2018-05, 6/25/2018.

**§ 245. Insurance.**

The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance: (i) property insurance for its property's replacement cost against all risks; (ii) workers' compensation insurance, as required by law; or (iii) commercial general liability insurance with respect to its activities on the Village improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of Village improvements or rights-of-way, including coverage for bodily injury and property damage. The wireless provider shall include the Village as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the Village in a commercial general liability policy prior to the collocation of any wireless facility. A wireless provider may self-insure all or a portion of the insurance coverage and limit requirement required by the Village. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the name of additional insureds under this Section. A wireless provider that elects to self-insure shall provide to the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage limits required by the Village.

Ord 2018-05, 6/25/2018.



## **Chapter 3—Alcoholic Liquor**

### **Subchapter 1—In General**

#### **§ 300. State law adopted**

The provisions of the Illinois Liquor Control Act (235 ILCS 5/1-1, *et seq.*), now in effect or hereafter amended are adopted by reference.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

#### **§ 301. Administration**

(a) The president is the local liquor control commissioner, and the commissioner's office is the office of the clerk.

(b) The members of the board of trustees appointed by the commissioner to assist him in the execution of his duties, are the members of the local liquor control commission.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

#### **§ 302. Records**

The commissioner shall keep a record of all of the proceedings, transactions, communications, and official acts of his or her office and those of any persons appointed by him or her, in the office of the commission.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

#### **§ 303. Compensation of commissioner and members**

Neither the commissioner nor the members of the commission will receive any additional compensation for serving on the commission.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

### **Subchapter 2—Licenses**

#### **§ 304. Applications**

All applications for a liquor license must be filed in the office of the commission, and be accompanied by the applicable fee, bond and other documentation specified in this chapter. If any information on the current license year's application changes or becomes obsolete, or if further information becomes necessary in order to answer the questions fully, the applicant or licensee must so advise the commission in writing within 21 days of such change.

**§ 305. Persons ineligible**

(a) No person under 21 years of age may receive a liquor license. In addition, no corporate or other entity is eligible for a license if it is controlled, directly or indirectly, by any persons under the age of 21.

(b) Nothing in this chapter prohibits the issuance of a liquor license to a church or private school to sell alcoholic liquor at retail, if such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale and consumption of alcoholic liquor.

(c) An individual may not receive a Class F license.

(d) The following persons are ineligible for any license:

(1) A person who has been convicted of being the keeper or is keeping a house of ill fame.

(2) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality.

(3) A person whose license issued under this chapter has been revoked for cause.

(4) A person who at the time of application for renewal of his or her license would not be eligible for such license upon a first application.

(5) A partnership, unless all of the partners are qualified to obtain a license.

(6) A corporation, if any officer, manager or director, or any stockholders owning, in the aggregate, more than 5% of the stock of such corporation, would not be eligible to receive a license for any reason.

(7) A corporation, unless it is incorporated in Illinois, or unless it is a foreign corporation that is qualified to transact business in Illinois.

(8) A person whose place of business is conducted by a manager or agent, unless the manager or agent possesses the same qualifications required of the licensee.

(9) A person who has been convicted of a violation of any federal law or the law of any state concerning the manufacture, possession or sale of alcoholic liquor, or has forfeited his or her bond to appear in court to answer charges for any such violation.

(10) A person who does not beneficially own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued.

(11) Any law enforcing public official, including members of any local liquor control commission, any mayor, alderman, or member of any city council, any president of a village board of trustees, any member of a village board of trustees, or any president or member of a county board; and no such official may be interested in any way, either directly or indirectly, in the manufacture, sale or distribution of alcoholic liquor.

(12) A person who is not a beneficial owner of the business to be operated by the licensee.

(13) A person who has been convicted of a gambling offense as proscribed by any of subsections (a)(3) through (a)(10) of § 28-1 or by § 28-3 of, the "Criminal Code of 1961", approved July 28, 1961, as heretofore or hereafter amended, or as proscribed by a statute replaced by any of the aforesaid statutory provisions.

(14) A person to whom a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period.

(15) A partnership to which a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period, or if any of the partners have been issued a federal gaming device stamp or federal wagering stamp by the federal government for the current tax period.

(16) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than 20% of the stock of such corporation has been issued a federal gaming device stamp or a federal wagering stamp for the current tax period.

(17) Any premises for which a federal gaming device stamp or a federal wagering stamp has been issued by the federal government for the current tax period.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

### **§ 306. Restrictions on issuance**

(a) No license will be issued for the sale at retail of any alcoholic liquor within 100 feet of any church, school (other than an institution of higher learning), hospital, home for the aged or for indigent persons or for veterans, their spouses or children, or any military or naval station. This prohibition does not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops, or other places where sale of alcoholic liquors is not the principal business carried on, if such place of business so exempted has been established for such purposes prior to the effective date of this chapter. Nor will this prohibition apply to the renewal of a license for the sale at retail of alcoholic liquor on premises within 100 feet of any church or school where such church or school has been established within such 100 feet since the issuance of the original license. In the case of a church, the distance of 100 feet is measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

(b) Nothing in this section prohibits the issuance of a license to a church or private school to sell alcoholic liquor at retail if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 307. Restrictions on issuance to establishments which sell school supplies, etc.**

No alcoholic liquor license will be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches or drinks for such minors.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 308. Bond**

(a) Excepting applicants for Class F licenses, each applicant must submit a bond executed by the applicant and by good and sufficient corporate surety, in the amount of \$2,500, conditioned that the licensee faithfully obey state law and all of the provisions of this chapter, and any amendments passed during the term of the license; and conditioned further upon the payment of any fine or penalty imposed against such licensee for the violation of this chapter, any amendment, or state law.

(Ord 1991-03, 3/18/1991; Ord 1996-02, 3/18/1996; Ord 2010-04, 3/15/2010; Ord 2015-08, 9/28/2015.)

(b) Such bond must be further conditioned that the licensee will pay all the necessary costs and charges incurred because of any complaint filed for the revocation of the license by the local liquor control commissioner or by any one person entitled to file such complaints before the local liquor control commission where the same is occasioned by any violation of the terms of this chapter or of state law by the licensee.

(c) The bond must have a coverage period equal to or longer than the duration of the applicant's license.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 309. Lease of premises**

(a) Each applicant must submit a copy of a fully-executed lease of the premises for which the applicant is seeking a license whenever the applicant is not the owner.

(b) The lease must have a term equal to, or longer, than the duration of the applicant's license.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 310. License year**

The license year commences on April 1 and ends on March 31 of each year. All licenses issued by the local liquor control commissioner will be annual licenses and will expire on March 31, following their issuance.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 311. Maximum number of licenses**

(a) The maximum number of allowable Class A, B, C and D licenses will be set by resolution of the board of trustees.

(b) No more than 7 Class F licenses will be issued to the same applicant in any one calendar year.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010

**§ 312. Classifications**

The following classes of licenses are hereby authorized:

(a) A Class A license authorizes the retail sale of alcoholic liquor for consumption on the premises for which the license is issued and the retail sale of alcoholic liquor by original package for consumption off the premises.

(b) A Class B license authorizes only the retail sale of alcoholic liquor by original package for consumption off the premises.

(c) A Class C license authorizes the retail sale of alcoholic liquor for consumption on the premises for which the license is issued and the retail sale of alcoholic liquor by original package for consumption off the premises. A Class C license may be issued only to "clubs" as that term is defined under state law.

(d) A Class D license authorizes the retail sale of beer and wine only for consumption on the premises for which the license is issued, provided that the licensee has obtained dram shop insurance having maximum coverage limits.

(e) A Class F license authorizes only the retail sale of alcoholic liquor for consumption on the premises for which the license is issued. Class F licenses are subject to the following additional conditions:

(1) Class F licenses are valid only for the 24 hour period specified on the license, which period will not commence more than 14 days after the license is issued.

(2) Class F licenses are not renewable.

(3) Surety bond is not required.

(f) A Sunday brunch endorsement is available to any Class A, C or D licensee operating a “restaurant” as that term is defined under state law offering a broad menu/wide-variety meal commonly referred to as “brunch” and authorizes the retail sale of alcoholic liquor for consumption on the premises for which the Class A, C or D license was issued by brunch patrons only.

Ord 1991-03, 3/18/1991; Ord 1997-03, 5/19/1997; Ord 2010-04, 3/15/2010.

**§ 313. Time limit for issuance**

The local liquor control commissioner must grant, or refuse to grant, an application for a license within 45 days of the filing of the same.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 314. Form**

A license issued pursuant to this chapter will be signed by the local liquor control commissioner and will state thereon the class or classification to which it belongs and will state thereon the name of the licensee and the address and description of the premises for which it is granted, and will state the dates of its issuance and expiration. Every renewal license will be in all respects identical with the original or first license.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 315. Display**

Every licensee must cause his or her license to be framed and hung in plain view in a conspicuous place on the licensed premises.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 316. License transfers**

The licensee may not transfer his or her license to another party.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 317. Revocation or suspension**

(a) The local liquor control commissioner may suspend for not more than 30 days, or may revoke, any liquor license issued by him or her if he or she determines that the licensee has violated any of the provisions of this chapter or any of the provisions of state law, or any rule or regulation established by the Illinois State Liquor Control Commissioner which is not inconsistent with law.

(b) All proceedings for the revocation or suspension of licenses and any appeal therefrom shall be according to state law. Any decision of the local liquor control commissioner may include an assessment of all costs, fees and of the proceedings. Any appeal taken from a decision of the local

liquor control commission shall be limited to a review of the official record of proceedings taken and prepared by a certified court reporter or certified shorthand reporter. The appellant licensee shall pay for the cost of preparing the record.

Ord 1991-03, 3/18/1991; Ord 1997-12, 11/17/1997; Ord 2010-04, 3/15/2010.

### **Subchapter 3—Operational Rules and Regulations**

#### **§ 318. Prohibited hours of sale**

It shall be unlawful for any licensee hereunder to sell or offer for sale at retail any alcoholic liquor or furnish or give away or allow or permit the same to be consumed on the licensed premises or any other premises under the control, directly or indirectly, of the licensee, during the following hours:

- (a) Except on January 1, between the hours of 1:00 AM and 6:00 AM on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays.
- (b) Except on January 1, between the hours of 2:00 AM and 6:00 AM on Saturdays, and between the hours of 2:00 AM and 12:00 noon on Sundays.
- (c) On January 1, between the hours of 2:00 AM and 6:00 AM. unless January 1 is a Sunday, and then between the hours of 2:00 AM and 12:00 noon.
- (d) The prohibitions in subparagraphs (b) and (c) above do not apply:
  - (1) During the hours specified on the Sunday brunch endorsement granted the licensee;or
  - (2) Between the hours of 9:00 AM and 12:00 noon on Sundays, if no hours are specified on the Sunday brunch endorsement.

Ord 1991-03, 3/18/1991; Ord 1991-14, 7/15/1991; Ord 1996-02, 3/18/1996; Ord 2010-04, 3/15/2010.

#### **§ 319. Occupancy during prohibited hours of sale**

It shall be unlawful to keep open for business, or to admit persons to any premises licensed under this chapter for the retail sale of alcoholic liquors during the hours within which sale of such liquor is prohibited or to permit or allow persons to remain in or about the licensed premises either before or after the hours designated within which the sale and consumption of alcoholic liquor is prohibited on the licensed premises; provided, however, that restaurants, clubs, drug stores and hotels may keep their place of business open, subject only to the provisions that no sale at retail of alcoholic liquors or the consumption by persons of alcoholic liquors is permitted on said licensed premises during the hours prohibited.

**§ 320. Sale to minors, intoxicated persons, etc.**

(a) No licensee, nor any officer, associate, member, representative, agent or employee of a licensee shall sell, give, or deliver alcoholic liquor to any person under the age of 21 years, or to any intoxicated person or to any person known by him or her to be a habitual drunkard, spendthrift, insane, mentally ill, mentally deficient or in need of mental treatment. No person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of 21 years except in the performance of a religious ceremony or service.

(b) For the purpose of preventing the violation of this section, any licensee, or his or her agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is over the age of 21 years.

(c) Adequate written evidence of age and identity of a person is a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including a driver's license, a registration certificate issued under the Federal Selective Service Act, or any identification card issued to a member of the Armed Forces. Proof that the licensee, or his or her employee or agent, demanded, was shown and reasonably relied upon such written evidence in any transaction forbidden by this section is competent evidence and may be considered in any criminal prosecution therefor or in any proceedings for the suspension or revocation of any license based thereon.

(d) Any person who sells, gives, or furnishes to any person under the age of 21 years any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of 21 years evidence of age and identification of any other person is guilty of a misdemeanor.

(e) Any person under the age of 21 years who presents or offers to any licensee, his or her agent or employee, any written, printed or photostatic evidence of age and 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, or who has in his or her possession any false or fraudulent written, printed, or photostatic evidence of age and identity, is guilty of a misdemeanor.

(f) Any person under the age of 21 years who has any alcoholic beverage in his or her possession on any street or highway or in any public place or in any place open to the public is guilty of a misdemeanor. This section does not apply to possession by a person under the age of 21 years making a delivery of an alcoholic beverage on the order of his or her parent or in the pursuit of his or her employment.



**§ 321. Employment of minors**

No licensee may employ, with or without compensation, or in any direct or indirect way use the services of, a person under 18 years of age.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 322. Reporting of incidents**

It shall be unlawful for a licensee or his, her, or its agent and/or manager to fail to report to the Kane County Sheriff's Office an act, or threats of, violence, including, but not limited to, fighting, brawling, or unwilling detention.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 323. Sound amplification**

It shall be unlawful for any licensee to permit or allow any noise or sound to be amplified outside the bounds of a structure on the premises if a residence is within 500 feet of the premises.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 324. Criminals**

It shall be unlawful for any licensee to harbor, conceal, aid or assist any fugitive from justice.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 325. Gambling, prostitutes, lewd acts, etc.**

(a) It shall be unlawful to permit or allow any lewd men or women or any prostitutes to remain in and about any licensed premises or to allow or permit any soliciting to prostitution, practices of prostitution or lewdness, idleness, gaming, gambling, fornication or other misbehavior to be conducted on said licensed premises or to permit or allow any slot machines or any vending machines where the element of chance is involved, either directly or indirectly, to be or to remain in or on or about the licensed premises.

(b) The following kinds of conduct are prohibited:

(1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts.

(2) The actual or simulated touching, caressing, or fondling of the breasts, buttocks, anus or genitals.

(3) The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva or genitals.

(4) The permitting, by a licensee, of any person to remain in or upon the licensed premises who exposes to public view his or her entire breasts or buttocks; or any portion of his or her genitals, vulva or anus.

(5) The displaying of moving pictures or photographic slide presentations depicting acts or simulated acts of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

#### **§ 326. Free dispensing**

Free dispensing of alcoholic liquor by any licensee is prohibited.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

#### **§ 327. Sales on credit**

No person shall sell or furnish alcoholic liquor at retail to any person on credit or on a pass book, or order on a store, or in exchange for any goods, wares or merchandise, or in payment for any services rendered; provided, that nothing herein contained prevents any club receiving a license under this chapter, from permitting checks or statements for alcoholic liquor to be signed by members or bona fide guests of members and charged to the account of such members or guests in accordance with the by-laws of said club; and provided further that nothing herein contained prevents any hotel from permitting checks or statements for liquor to be signed by guests and charged to their account; and provided further that nothing herein prevents payment by credit card or other credit device for the purchase of liquor in the original package or container for consumption off the premises.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

#### **§ 328. Resale**

It shall be unlawful for any licensee to sell at retail, alcoholic liquor for resale.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

#### **§ 329. Sale or termination of business**

Whenever any licensee sells or otherwise disposes of the business conducted on the licensed premises or ceases to do business thereon, the licensee shall, within 5 days thereafter, cause a notice in writing of such fact to be delivered to the local liquor control commissioner. Such statement must contain full information concerning the same, including the date of such sale or disposal of said business and the name of the purchaser, if any.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 330. Records**

It shall be the duty of every person licensed hereunder to keep complete and accurate records of all sales of liquor, wine or beer, which said records shall be produced by the person holding such a license at the request of the local liquor control commissioner.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

**§ 331. Sanitation**

All premises licensed pursuant to the provisions of this chapter shall comply with the provisions of Resolution Number 6, adopted on August 12, 1975 by the Kane County Board, as now or hereafter amended; such resolution is hereby adopted by reference and 3 copies are on file in the office of the village clerk.

Ord 1991-03, 3/18/1991; Ord 2010-04, 3/15/2010.

## **Chapter 4—Development**

### **Subchapter 1—Building Codes**

#### **§ 400. Adoption of codes**

The following codes, one copy of each being on file in the Clerk's office, as effective on the date hereof, are adopted by reference as the Building Code of the Village for the control of buildings and structures, and all of the regulations, provisions, conditions and terms of the codes are referred to, adopted and made a part of this subchapter as if fully set out, with the exceptions set forth below:

- (1) International Building Code, 2015 Ed.
- (2) International Residential Code, 2015 Ed.
- (3) International Mechanical Code, 2015 Ed.
- (4) International Fuel Gas Code, 2015 Ed.
- (5) International Property Maintenance Code, 2015 Ed.
- (6) International Fire Code, 2015 Ed.
- (7) International Urban-Wildland Interface Code, 2015 Ed.
- (8) International Existing Building Code, 2015 Ed.
- (9) International Energy Conservation Code, 2012 Ed.
- (10) International Swimming Pool and Spa Code, 2015 Ed.
- (11) International Solar Energy Provisions, 2015 Ed.
- (12) National Electric Code, 2014 Ed.
- (13) Illinois Plumbing Code, 2014 Ed.
- (14) Illinois Accessibility Code, 1997 Ed.
- (15) NFP A101 Life Safety Code, 2012 Ed.

Ord 1991-13, 6/17/1991; Ord 1994-01, 5/16/1994; Ord 2004-04, 3/15/2004; Ord 2009-21, 11/16/2009; Ord 2016-04, 8/22/2016.

#### **§ 401. Amendments applicable to all codes**

The following amendments are applicable to all codes adopted in the subchapter:

- (a) Insert "Village of Lily Lake" as the name of the jurisdiction wherever it appears.

(b) Replace "code official", "authority having jurisdiction", and fire prevention bureau" with "building official" wherever they appear.

(c) Replace "department of building inspection" with "building department" wherever it appears.

(d) Replace "International Plumbing Code" and "International Private Sewage Disposal Code" with "Illinois Plumbing Code" wherever they appear.

(e) Substitute the following for any provisions concerning appeals from a decision of the building official:

(1) Appeals

(A) An appeal may be taken to the board of trustees by any person aggrieved, from any order, requirement, decision or determination made by the building official. A notice of appeal specifying the grounds of the appeal must be filed with the building official and the clerk within 20 days of the action appealed from. The clerk shall set a reasonable date, time, and place for the hearing of the appeal, not less than 30 days from the date the notice of appeal was filed, and shall send written notice of the hearing to the building official, the appealing party and the party's attorney, if any, by first class mail.

(B) The board of trustees may reverse or affirm, wholly or partially, or may modify the order, requirement, decision or determination of the building official, and to that end has all of the powers vested in the building official.

(C) The vote of a majority of the members of the board of trustees present is required to reverse, in whole or part, or to modify, any orders, requirements, decisions or determinations of the building official. The board of trustees shall keep minutes of its proceedings, showing the vote of each member upon every question, or indicating if the member was absent or failed to vote.

(D) All decisions of the board of trustees will be reduced to writing, filed with the clerk, and a copy mailed to the appealing party and to the building official.

(f) Substitute the following for any provisions concerning violations of the codes and the penalties for such violation:

(1) Violations—penalties; remedies

(A) It is unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or to act in conflict with or in violation of any of the provisions of this code.

(B) The building official may serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, moving, removal, demolition or occupancy of a building or structure in violation of the provisions of this code, or in violation of a

permit or certificate issued under the provisions of this code, or upon the person responsible for such other violation of this code. Such order will direct the discontinuance of the illegal action or condition and the abatement of the violation.

(C) If the notice of violation is not complied with promptly, the building official is authorized to request the village attorney to institute the appropriate administrative proceeding or proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the building or structure in violation of the provisions of this code or of the order or direction made pursuant thereto, and to punish such violator in accordance herewith.

(D) Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this code, including provisions adopted by reference, or who refuses to remedy a violation of any such provision or to remedy a hazard of fire, explosion, collapse, contagion, or spread of infectious disease found to exist and duly ordered eliminated, is guilty of an offense under this code and shall pay a civil fine not to exceed \$750. Each day's continuing violation constitutes a separate offense. If it should become necessary to institute legal action to enforce the provisions of this code, or to restrain a violation hereof; or to collect any fine imposed by the building official hereunder, the village, in addition to the imposition of any such remedy, is entitled to an award of all the costs and expenses incurred in such action, including its reasonable attorney's fees.

(E) A person licensed or registered by the state, or a subdivision thereof, to do work regulated by this code or to render professional architectural or engineering service in connection therewith, who violates the law under which he or she is licensed or registered, or who violates this code while carrying out such work or rendering service in connection therewith, will be reported by the building official to the licensing authority.

(F) Where a dispute arises regarding an engineering opinion furnished by the owner of property involved in any matter covered by this code, the village may engage the services of a qualified registered engineer and the owner of the property involved by way of an increase in the application fee otherwise provided, shall reimburse the village for the reasonable customary cost of such services.

(2) Stop work order—red-tag

(A) Whenever the building official finds any work regulated by this code being performed without a permit or in a manner either contrary to the provisions of this code or dangerous or unsafe, the building official may issue a stop work order.

(B) The stop work order is in the form of a red-tag posted on the building or property involved, or given to the owner's agent, or to the person doing the work. Upon posting the red-tag, the cited work must immediately cease.

(C) Any person who continues any work after the building or property has been red-tagged, except such work as that person is directed to perform to remove a violation or unsafe condition, is subject to penalties prescribed in this code.

(g) In the event of a conflict between codes adopted by reference in this subchapter, the more strict of the requirements will control.

(h) Construction before 7:00 AM or after 7:00 PM Monday through Saturday, and before 10:00 AM or after 6:00 PM on Sundays and holidays is prohibited, unless approved in writing by the building official.

Ord 2004-04, 3/15/2004; Ord 2009-21, 11/16/2009; Ord 2016-04, 8/22/2016.

#### **§ 402. Adoption of Elburn and Countryside Fire Protection District Fire Prevention Code**

The village adopts the Elburn and Countryside Fire Protection District Fire Prevention Ordinance (Elburn and Countryside Fire Protection District Ord. No. 2005-100), as amended, by reference, as the fire prevention code of the village, except such portions as are deleted, modified or amended in the next section. In the event of a conflict between the Elburn and Countryside Fire Protection District Fire Prevention Code and the 2015 ICC Fire Prevention Code, the Elburn and Countryside Fire Protection District Fire Prevention Code applies.

Ord 2016-04, 8/22/2016.

#### **§ 403. Amendments to Elburn and Countryside Fire Protection District Fire Prevention Code**

The fire prevention code adopted in the previous section is amended in the following respects:

(a) Section 1(1)(A) is amended to substitute village of Lily Lake for Elburn and Countryside Fire Protection District.

(b) Section 1(1)(B) is amended to substitute village for District wherever it appears.

(c) Section 1(1)(C) is deleted in its entirety.

(d) Section 1(1)(D), (K), (L) and (M) are amended to substitute village for Elburn and Countryside Fire Protection District wherever it appears.

(e) Section 1(1)(E) is deleted in its entirety.

(f) Section 1(9), (10), (11), (12), (13) and §§ 2, 3, 4, 5 and 6 are deleted in their entirety.

(g) The person designated to act on behalf of the village as the fire code official under the code is the same person designated as the fire code official by the Elburn and Countryside Fire Protection District.

Ord 2016-04, 8/22/2016.

**§ 404. Elburn and Countryside Fire Protection District Fire Prevention Code –  
Offenses—penalties; remedies**

(a) Unlawful acts. It shall be unlawful for a person, firm or corporation to erect, construct, alter, repair, remove, demolish or utilize a building, occupancy, premises, or system regulated by this code, or cause same to be done, in conflict with or in violation of any of the provisions of this code.

(b) When the fire code official finds a building, premises, vehicle, storage facility, or outdoor area is in violation of this code, the fire code official is authorized to prepare a written notice of violation describing the conditions deemed unsafe and, when compliance is not immediate, specifying a time for reinspection.

(c) A notice of violation issued pursuant to this code shall be served upon the owner, operator, occupant, or other person responsible for the condition or violation, either by personal service, mail, or by delivering the same to, and leaving it with, some person of responsibility upon the premises. For unattended or abandoned locations, a copy of such notice of violation shall be posted on the premises in a conspicuous place at or near the entrance to such premises and the notice of violation shall be mailed by certified mail with return receipt requested or a certificate of mailing, to the last known address of the owner, occupant or both.

(d) A notice of violation issued or served as provided by this code shall be complied with by the owner, operator, occupant or other person responsible for the condition or violation to which the notice of violation pertains.

(e) If the notice of violation is not complied with promptly, the fire code official is authorized to request the legal counsel of the jurisdiction to institute the appropriate administrative proceeding and or proceeding at law or in equity to restrain, correct or abate such violation or to require removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant hereto, and to punish such violator in accordance herewith. In any such action, in addition to any fine or other relief, the Village may recover all costs and expenses, including reasonable attorney's fees, incurred.

(f) Signs, tags or seals posted or affixed by the fire code official shall not be mutilated, destroyed or tampered with or removed without authorization from the fire code official.

(g) Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official, or of a permit or certificate used under provisions of this code, shall be subject to a civil fine in an amount not less than \$25 and not more than \$750 for each such violation. Each calendar day during which such violation continues to exist shall constitute a separate offense.



(h) In addition to the imposition of the penalties herein described, the fire code official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

(i) In addition, the fire code official may require the person to apply "after the fact" for the appropriate permit and to pay 2 times the fee otherwise payable therefor.

Ord 2016-04, 8/22/2016.

**§ 405. Elburn and Countryside Fire Protection District Fire Prevention Code - stop work order**

(a) Whenever the fire code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the fire code official is authorized to issue a stop work order.

(b) A stop work order shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work is authorized to resume.

(c) Where an emergency exists, the fire code official shall not be required to give a written notice prior to stopping the work.

(d) Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be subject to the penalties prescribed in this ordinance.

(e) In case there shall be, in the opinion of the fire code official, actual and immediate danger to life and property from the hazards of fire and explosion arising from inadequate construction, inadequate fire protection and alarm systems, inadequate means of egress, the storage, handling and use of hazardous, explosive or toxic substances, materials and devices, and from conditions hazardous to life and property in the use or occupancy of buildings or premises, the fire code official shall order the immediate evacuation of the building or premises and shall employ such labor and machinery, equipment and devices and cause the necessary work to be done to render said occupants or property temporarily safe, whether the procedure prescribed in this section has been instituted or not.

(f) Where practical and time constraints permit, the owner, occupant, or other person responsible shall be notified of the emergency condition in writing and shall have the option of making the condition safe where practical.

(g) All owners and occupants of the premises shall be jointly and severally liable for any costs incurred by the Village and/or the Elburn and Countryside Fire Protection District in connection with the emergency condition and its mitigation.

(h) The fire code official shall cause proper action to be instituted against the owner of the premises and the occupants, if different from the owner, for the recovery of costs incurred by the Village and/or the Elburn and Countryside Fire Protection District in the performance of the emergency work.

(i) The storage, transportation, sale and the use of gasoline and volatile oils shall meet the requirements of Title 41: Fire Protection: Chapter 1: Office of the State Fire Marshall: Part 160 and Part 180.

(j) All sprinkler systems must be alarmed and the signal must be sent to an approved monitoring station.

Ord 2016-04, 8/22/2016.

#### **§ 406. Amendments to International Building Code**

(a) Section 101.1. Insert "Village of Lily Lake."

(b) Section 105.8. Insert the following as new section 105.8:

105.8. Damage to streets and public property. The owner is responsible for the repair of all damage done to village streets or public property by vehicles making deliveries to the owner's property. The owner and contractor are liable for the repair of all damage done to village streets or public property by contractors doing work on the owner's property. The owner or contractor shall immediately clean any mud or debris deposited on village streets. The owner and contractor shall keep the property and surrounding area clean of all construction debris.

(c) Section 105.9. Insert the following as new section 105.9:

105.9 Finish grade. Lawn grass must be planted within nine months after an occupancy permit has been issued and thereafter properly maintained.

(d) Section 108.4. Add the following: "A trailer may be used as a temporary building for a maximum of 60 days. The building official may approve one extension for a maximum of 60 additional days. Any fee due for such an extension must be paid before approval is granted."

(e) Section 903.2.13. Insert the following as a new section 903.2.13:

903.2.13. An automatic sprinkler system is required for the construction of or the addition to any building exceeding 3000 square feet unless this code requires an automatic sprinkler system at a lower square footage.

Ord 2016-04, 8/22/2016.

**§ 407. Amendments to the International Residential Code**

(a) Section R101.1. Insert "Village of Lily Lake."

(b) Section 301.2(1) Design Criteria

Ground Snow Load	25
Wind Speed (MPH)	3 second 90 normal 75
Topographic Effects	No
Seismic Design Category	C
Special Wind Region	No
Windborne Debris Zone	No
Seismic Design Category	A
Weathering	Severe
Frost Line Depth	42 inches
Termite	Moderate to Heavy
Winter Design Temperature	-4°
Ice Shield Underlayment	Yes
Flood Hazard	See Village of Lily Lake Stormwater Ordinance
Air Freezing Index	2000
Mean Annual Temperature	50°

(c) Section 313.2. Add the following, "Exception: An automatic sprinkler system is not required in one and two-family dwellings if the owner signs an affidavit accepting the structure as is and assuming the risk and any liability as a result of the omission of an automatic sprinkler system."

(d) Delete chapters 25 – 32 in their entirety.

(e) Adopt appendices A, B, C, F, H, and K.

Ord 2016-04, 8/22/2016.

**§ 408. Amendments to the International Mechanical Code**

- (a) Section 101.1 Insert "Village of Lily Lake."
- (b) Adopt appendix A.

**§ 409. Amendments to the International Fuel Gas Code**

- (a) Section 101.1 Insert "Village of Lily Lake."
- (b) Adopt appendix A.

Ord 2016-04, 8/22/2016.

**§ 410. Amendments to property maintenance code**

- (a) Section 101.1. Insert "Village of Lily Lake."
- (b) Section 302.4 is amended to read as follows:

(1) "All premises and exterior property shall be maintained free from weeds or grass in excess of 6 inches in height. All noxious weeds shall be prohibited. In addition to any other penalty for violation of this section and in accordance with any applicable state statute, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the noxious weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property and shall become a lien thereon in favor of the Village.

(2) Noxious weeds are those defined as such in the rules and regulations of the Illinois Department of Agriculture adopted pursuant to the Illinois Noxious Weed Law, 8 Ill. Admin. Code Ch. I, Subch. F, Pt. 220, §220.60, as the same may be amended from time to time."

- (c) Section 304.14. Insert May 1 and September 30 in the blanks provided.
- (d) Adopt appendix A.

Ord 2016-04, 8/22/2016.

**§ 411. Amendments to the International Fire Code**

- (a) Section 101.1 Insert "Village of Lily Lake."
- (b) Section 110 3.5.3 Insert date of adoption.
- (c) Section 903.2 Add the following:

“An automatic sprinkler system is required for the construction of or the addition to any building exceeding 3000 square feet unless this code requires an automatic sprinkler system at a lower square footage.”

- (d) Adopt appendices B, C, D, E, F, and G.

Ord 2016-04, 8/22/2016.

**§ 412. Amendments to the International Urban-Wildland Interface Code**

- (a) Section 101.1 Insert “Village of Lily Lake.”
- (b) Section 103.1 Insert “Building Department.”
- (c) Adopt appendix A.

Ord 2016-04, 8/22/2016.

**§ 413. Amendments to the International Existing Building Code**

- (a) Section 101.1 Insert “Village of Lily Lake.”
- (b) Section 1406.1 Add the following: “Regardless of the outcome of this, it will not change the automatic sprinkler requirements set forth in the Building Code, the Fire Code, or the amendments made in this subchapter.”

Ord 2016-04, 8/22/2016.

**§ 414. Amendments to the International Swimming Pools and Spa Code**

- (a) Section 101.1 Insert “Village of Lily Lake.”

Ord 2009-21, 11/16/2009; Ord 2016-04, 8/22/2016.

## Subchapter 2—Comprehensive Plan

### § 415. Purpose

The purpose of this subchapter is-

- (a) to adopt, establish, and assist in the implementation of an official comprehensive land use plan for the village;
- (b) to adopt and designate an official land use intensity map;
- (c) to adopt and designate other standards governing future development and redevelopment of the village; and
- (d) to provide for the recording of notice of the adoption of the comprehensive plan in the office of the Recorder of Deeds of Kane County and for the filing of copies of the plan, map, and standards in the office of the village clerk for the information of the public.

Ord 2010-05, 3/15/2010

### § 416. Public hearing

Pursuant to Section 11-12-4 of the Illinois Municipal Code (65 ILCS 5/11-12-4), the village of Lily Lake created a plan commission invested with all of the powers listed in § 11-12-5, including the power to prepare and recommend to the corporate authorities of the village a comprehensive plan for the present and future development or redevelopment of the village. The plan commission has recommended to the President and Board of Trustees for adoption as the official comprehensive land use plan and map of the Village, the plan and map presently on file with the Village clerk entitled, Village of Lily Lake Comprehensive Land Use Plan (the “*Plan*”) and the map contained therein entitled, Village of Lily Lake Comprehensive Land Use Map (the “*Map*”). Within 90 days of the date of this ordinance a public hearing on the Plan and Map was held before the plan commission. Notice of the public hearing was duly published as required by law. At the public hearing all persons wishing to be heard in support of or opposition to the Plan were afforded an opportunity to be heard and were allowed to submit their statements orally or in writing, or both. The president and board of trustees of the village have reviewed the Plan and Map, the statements, both oral and written, given at the public hearing, and the recommendations of the plan commission, and find it to be in the best interests of the Village and its residents that the Plan and the Map be adopted as the official comprehensive land use plan and map of the Village of Lily Lake, Kane County, Illinois.

Ord 2010-05, 3/15/2010.

**§ 417. Territory to which the plan and map are applicable**

This subchapter, the Plan, the Map, and all standards adopted herein shall be applicable to the land situated within the corporate limits of the Village and to the territory contiguous to the corporate limits of the Village and within 1 ½ miles thereof and not included in any other municipality.

Ord 2010-05, 3/15/2010.

**§ 418. Adoption of the plan and map**

The Plan and the Map are hereby adopted and designated as the official comprehensive land use plan and official land use map of the village.

Ord 1992-05, 11/23/1992; Ord 1996-06, 10/21/1996; Ord 2010-05, 3/15/2010.

**§ 419. Adoption of standards**

Standards for the following items as set out in the Subdivision Regulations, Zoning Ordinance and Stormwater Ordinance (Chapter 4, Subchapter 3 of this Code) of the Village, and any amendments thereto, are hereby incorporated by reference and specifically made a part of the Plan as if fully set forth therein, and shall be known as the official standards of the Village:

- (a) Streets and Sidewalks;
- (b) Sanitary sewerage;
- (c) Stormwater drainage;
- (d) Water supply;
- (e) Gas, electric and telephone and other utilities;
- (f) Streetlighting;
- (g) Land uses and lot sizes; and
- (h) Public ways, parks, playgrounds, school sites and other public grounds, or the payment of fees in lieu thereof.

Ord 2010-05, 3/15/2010.

**§ 420. Use in other ordinances**

The maps and standards adopted under §§ 416 through 419 are hereby adopted by reference to their titles in other ordinances that regulate the development of the Village without further filing or publication, except as otherwise required by statute.

Ord 2010-05, 3/15/2010.

#### **§ 421. Amendments**

(a) Either the plan commission or the corporate authorities may initiate proposed amendments to the Plan or Map.

(b) A proposed amendment initiated by the corporate authorities shall be referred to the plan commission for consideration and recommendation. The corporate authorities may require the plan commission to return its recommendation within 90 days of the date of submission. If not so returned, the corporate authorities may proceed with arrangements for holding a public hearing on the proposed amendment and its adoption in the same manner as if the plan commission had made its recommendation.

(c) The corporate authorities, upon receipt of a proposed amendment or a recommendation from the plan commission, shall schedule a public hearing before either the corporate authorities or the plan commission upon such notice as is required by law. The hearing will be informal. Proponents and opponents of the proposed amendment shall be given an opportunity to be heard. Their statements may be made orally, be submitted in writing, or both. The hearing, if not concluded, may be recessed to a time and place announced at the hearing or stated later in a notice published in the same newspaper that carried the original notice no less than 5 days before the recessed date.

(d) The corporate authorities shall consider the views expressed and information derived from the hearing along with the recommendations of the plan commission and, within 90 days after the conclusion of the hearing, shall either adopt the amending ordinance in whole or in part, or reject it. If within 90 days no formal action is taken by the corporate authorities on the amendment, the corporate authorities may not thereafter act on the amendment without again complying with the requirements of notice and hearing.

(e) The Village clerk shall keep in his or her office at least 3 copies of the Plan and the Map, and any amendment to the Plan or the Map, for inspection by interested persons.

Ord 2010-05, 3/15/2010.

### **Subchapter 3 — Stormwater Management**

#### **§ 422. Adoption of Kane County Stormwater Ordinance**

For managing and mitigating the effects of urbanization on stormwater drainage in the village through planning, appropriate engineering practices, and proper maintenance, the Kane County Stormwater Ordinance, as amended, one copy of which is on file in the office of the village Clerk, is hereby adopted and shall be known as the Stormwater Ordinance of the Village of Lily Lake. Each of the regulations, provisions, conditions and terms of the Kane County Stormwater Ordinance, as



amended, are hereby referred to, adopted, and made part of this ordinance, as if fully set out, with the changes set forth below.

Ord 1992-04, 9/21/1992; Ord 1996-07, 1/20/1997; Ord 2008-10, 6/16/2008; Ord 2008-22, 10/20/2008; Ord 2009-22, 11/16/2009.

#### **§ 423. Future amendments**

It is the specific intention of the corporate authorities of the village by the adoption of this ordinance to also adopt by reference every amendment that may be made to the Kane County Stormwater Ordinance in the future concurrently with the amendment's adoption by the Kane County Board.

Ord 1992-04, 9/21/1992; Ord 1996-07, 1/20/1997; Ord 2008-10, 6/16/2008; Ord 2008-22, 10/20/2008; Ord 2009-22, 11/16/2009.

#### **§ 424. Changes to the ordinance adopted**

The Kane County Stormwater Ordinance, as adopted by this ordinance is amended as follows:

(a) Section 104(2) is amended to read as follows:

(2) Administrator means the village engineer of the village of Lily Lake;

(b) Section 500(c) is amended to read as follows:

(c) All permit and other fees shall be paid in accordance with Chapter 5. Fees may be established based upon all costs incurred by the village in the administration of the permit, including, without limitation, the costs of review and inspections both during and after construction within the period for the establishment of permanent cover.

(c) Section 700 entitled *Inspection and maintenance authority* is amended to read as follows:

§ 700. Inspection and maintenance authority

Pursuant to the authority granted by 55 ILCS 5/5-1104 and 5-1062, the village may, upon 30 days' notice to the owner or occupant, enter upon any lands or waters within the village for the purpose of inspecting and/or maintaining any stormwater facilities and causing the removal of any obstruction to an affected watercourse.

(d) Section 703 entitled *Offenses – penalties; remedies* is amended to read as follows:

§ 703. Offenses – penalties; remedies

(a) The Administrator or Director may pursue any one or more of the following remedies against any person found by him or her to be guilty of an offense under this ordinance:

(1) The Administrator or Director may impose a civil fine upon such person in an amount not less than \$25 and not more than \$750. Each calendar day during which such violation continues to exist constitutes a separate offense.

(2) The Administrator or Director may revoke any stormwater management permit issued to that person.

(3) The Administrator or Director may issue an order requiring the suspension of any further work on the site. The stop-work order shall be in writing, shall indicate the reason for its issuance, and shall specify the action, if any, required to be taken in order to resume work. One copy of the stop-work order shall be posted on the site in a conspicuous place and one copy shall be served in the manner prescribed in §1006 upon the permittee, if any, or if none, upon the person in whose name the site was last assessed for taxes as disclosed by the records of the Supervisor of Assessments.

(4) The Administrator or Director may require that the area impacted be fully restored to its condition existing prior to the development, disturbance or impact. In the case of a wetland impact the area's pre-existing condition shall be determined by reference to a creditable wetland assessment performed within 2 years of such impact.

(5) The Administrator or Director may require the person to apply "after the fact" for the appropriate permit for an unpermitted development, disturbance or impact. In the case of a wetland impact the FQI of the wetland impact shall be determined by the Director and mitigation shall be provided accordingly.

(b) In order to enforce any of the remedies set forth in the preceding paragraph, the Administrator or Director may bring any action, legal or equitable, including an action for injunctive relief, deemed necessary. In any such action, in addition to any fine or other relief, the Administrator or Director may recover all costs and expenses, including reasonable attorneys fees and witness fees, incurred.

(e) Section 902 entitled *Application fee* is amended to read as follows:

§ 902. Application fee

With the filing of the application for a variance, the applicant shall pay the fee specified in Chapter 5.

(f) Section 1004 entitled *Oversight committee* is amended to read as follows:

§ 1004. Oversight committee

The corporate authorities of each certified community within the County shall establish an oversight committee to oversee the implementation and enforcement of this ordinance within its jurisdiction and to perform the duties assigned to the oversight committee in this ordinance. The

oversight committee for the village shall be the president and Board of Trustees. The oversight committee, when considering an appeal or request for a variance under this ordinance, may request an opinion from a qualified engineer review specialists or qualified wetland reviews specialists on technical issues.

(g) Section 1005 entitled *Decision-making authority* is amended to read as follows:

§ 1005 Decision-making authority

The corporate authorities of each certified community within the County shall designate a decision-making authority to perform the duties assigned to the decision-making authority in this ordinance. The decision-making authority for the village shall be the president and Board of Trustees. The decision-making authority, when considering an appeal or request for a variance under this ordinance, may request an opinion from a qualified engineer review specialists or qualified wetland reviews specialists on technical issues.

(h) Section 1300 entitled *Fee-in-Lieu of site runoff storage* is amended to read as follows:

§ 1300. Fee-in-Lieu of site runoff storage

(a) The Director or the administrator may require, or in the limited circumstances prescribed in Article 2 an applicant may request approval of, the payment of a fee-in-lieu of site runoff storage to fulfill all or part of the site runoff storage requirement for a development. The fee to be paid in lieu of site runoff storage shall be the verifiable cost of otherwise providing the required storage, including the value of the land required and all construction costs. For this purpose the land required shall be valued according to the use to which it will ultimately be put if not used to provide the required storage.

Ord 1992-04, 9/21/1992; Ord 1996-07, 1/20/1997; Ord 2008-10, 6/16/2008; Ord 2008-22, 10/20/2008; Ord 2009-22, 11/16/2009.

## **Subchapter 4—Historic Preservation**

### **§ 425. Adoption of historic preservation ordinance**

The village adopts the Kane County Historic Preservation Ordinance (Kane County Code, Art. IV, §§16-58, *et seq.*), as amended, by reference as the historic preservation ordinance of the village.

Ord 2008-14, 7/21/2008, Ord 2010-14, 7/26/2010.

#### **§ 426. Future amendments**

The president and board of trustees also intend to adopt by reference every amendment that may be made to the Kane County Historic Preservation Ordinance in the future concurrently with the adoption of the amendment by the Kane County Board.

Ord 2008-14, 7/21/2008; Ord 2010-14, 7/16/2010.

#### **§ 427. Amendments to the ordinance adopted**

The Kane County Historic Preservation Ordinance, as adopted by this subchapter, is amended as follows:

(a) Section 16-104(a) entitled *Penalties* is amended to read as follows:

##### **§ 16-104. Penalties, remedies**

(a) It shall be unlawful for any person, firm or corporation to alter, extend, repair, convert, or maintain any building or structure, or cause same to be done, in conflict with or in violation of any of the provisions of this subchapter.

(b) If any building or structure is reconstructed, altered, repaired, converted or maintained in violation of this subchapter, the zoning enforcement officer, in addition to any other remedy, may institute any appropriate action in the circuit court—

(1) to prevent such unlawful reconstruction, alteration, repair, conversion, or maintenance;

(2) to restrain, correct or abate such violation; or

(3) to prevent any illegal act, conduct, or business in or about the premises.

(c) The building and zoning enforcement officer is authorized to serve a notice of violation or order on the person responsible for the alteration, extension, repair, conversion, or maintenance of any building or structure in violation of the provisions of this subchapter, or in violation of a permit or certificate issued under the provisions of this subchapter directing such person to discontinue the illegal action or condition and abate the violation.

(d) If such person does not promptly comply, the zoning enforcement officer, in addition to any other remedy under this section or under the county ordinance may request the village attorney to institute the appropriate administrative, legal, or equitable proceeding to restrain, correct or abate the violation, and to punish the violator. In any such action, in addition to any fine or other relief, the violator shall pay all costs and expenses, including reasonable attorney's fees, incurred by the village.

(e) The zoning enforcement officer may require that the area impacted be fully restored to its condition prior to such reconstruction, alteration, repair, conversion, or maintenance.

(f) Any person who violates a provision of this subchapter shall pay a fine in an amount not less than \$25 and not more than \$750 for each violation. Each calendar day during which a violation continues to exist constitutes a separate offense.

Ord 2008-14, 7/21/2008, Ord 2010-14, 7/26/2010.

#### **§ 428. Approval of intergovernmental agreement**

An intergovernmental agreement in substantially the form attached as Exhibit A allowing Kane County and the Kane County Historic Preservation Commission to implement the historic preservation ordinance and the Kane County Historic Preservation Ordinance within the village is approved and the president and clerk are authorized and directed to execute the agreement on behalf of the village and to take such other actions as they may be deem necessary or desirable to further the purposes of the agreement.

Ord 2008-14, 7/21/2008, Ord 2010-14, 7/26/2010.

## **Subchapter 5—Subdivision Control**

### **Article 1—Purpose and Interpretation**

#### **§ 440. Purpose**

(a) To promote the public health, safety, and general welfare; to conserve, protect, and enhance property and property values; to secure the most efficient use of land; and to facilitate the adequate but economical provision of public improvements.

(b) To provide for orderly growth and development; to afford adequate facilities for the safe and efficient means for traffic circulation of its population; and to safeguard the public against flood damage, soil erosion, and sedimentation.

(c) To prescribe reasonable rules and regulations governing the subdivision and platting of land; the preparation of plats; the location, width and course of streets and highways; the installation of utilities, street pavements, and other essential improvements; and the provisions of necessary public grounds for schools, parks, playgrounds, and other public open space.

(d) To establish procedures for the preparation, submission, approval, and recording of plats; and to provide the means for enforcement and to provide penalties for violations.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007.

**§ 441. Short title**

This document shall be known and may be cited as the Subdivision Ordinance of the Village of Lily Lake.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007.

**§ 442. Application and authority**

These regulations shall apply to subdivisions of land as defined herein made within the corporate boundaries of Village and within 1½ miles of the corporate boundaries of the Village. All subdivisions shall comply in all respects with the applicable regulations hereinafter set forth.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007.

**§ 443. Interpretations**

In interpreting and applying the provisions of this Ordinance, they shall be held to be the minimum requirements for the promotion and effectuation of the purposes set forth herein. Nothing herein shall repeal, abrogate, annul, or in anyway interfere with any provisions of law, or any rules or regulations other than subdivision regulations adopted or issued pursuant to law relating to subdivision or development of land. Where this Ordinance imposes greater restrictions or requirements than one imposed or required by other provisions of law, rules, regulations, covenants or agreements, the provisions of this Ordinance shall control; but nothing herein shall interfere with, abrogate, or annul any easement, covenants, the restrictions or agreement between parties which impose restrictions greater than those imposed by this Ordinance.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007.

**Article 2—Definitions**

**§ 444. General application**

In the application of these regulations, the rules and definitions contained in this section shall be observed and applied except where the context clearly indicates otherwise.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007.

**§ 445. Definitions**

Whenever a word or term defined hereinafter appears in the text of this ordinance, its meaning shall be construed as set forth in the definition thereof; and any word appearing in parentheses directly after a word hereinafter defined shall be construed in the same sense as that word.

(1) *“Acceptance of the Subdivision.”* Deemed to be that formal act of transfer of a public improvement to a specific subdivision or development from private ownership and control to that of

the appropriate public agency pursuant to conditions, procedures, and terms set forth in this ordinance.

(2) “*Block*. ”A tract of land bounded by streets, or by a combination of streets, railways, right-of-ways, waterways, or limits of subdivision.

(3) “*Building Setback Line*. ”A line nearest the front of and across a lot or parcel of land establishing the minimum open space to be provided between the front line of a building or structure and the line of the fronting street right-of-way;

(4) “*Common Open Space*. ”A land unoccupied by structures, buildings, streets, right-of-way and automobile parking lots and designed and intended for the use or enjoyment of residents of a development and may contain structures for recreational use.

(5) “*Cross Walkways*. ”A strip of land dedicated to public use which is reserved across a block to prevent pedestrian access to adjacent areas.

(6) “*Cul-de-sac*. ”A street having one open end and been permanently terminated at the other end by a vehicle turnaround.

(7) “*Dead-end Street*. ”A street having only one outlet;

(8) “*Density, Gross*. ”The numerical value obtained by dividing the total dwelling units in the development by the total gross area of the tract of land on which the dwelling units are located. Dedicated streets shall be utilized in the calculation of gross density.

(9) “*Design Standards* ”or “*Design Requirements*. ”Are all requirements relating to design and layout of the subdivision.

(10) “*Easement*. ”Grant by a property owner for the use of a parcel of land by the general public, a corporation, or a certain person or persons for a specific purpose or purposes.

(11) “*Frontage Road*. ”A public or private marginal access roadway generally paralleling and contiguous to a street or highway and designed to promote safety by eliminating unlimited ingress and egress to such street or highway providing points of ingress and egress at more or less uniformly spaced intervals.

(12) “*Half-street*. ”A street bordering one or more property lines of the subdivision tract to which the subdivider has allocated only a portion of the ultimate and intended street width.

(13) “*Improvements*. ”All facilities constructed or erected by a subdivider to permit and facilitate the use of lots or blocks for a principal residential, commercial or industrial use.

(14) “*Lot*. ”A parcel of land created under the provisions of this ordinance intended to be separately owned, developed, or otherwise used as a unit.

- (15) *“Lot Depth.*”The distance between the midpoint of the front lot line and the midpoint of the rear lot line.
- (16) *“Lot, Frontage.*”That portion of the frontage which lies between the side lot lines of a single lot.
- (17) *“Lot, Double Frontage.*”A lot, two opposite lines of which abut upon streets which are more or less parallel.
- (18) *“Lot Line.*”A boundary line of a lot.
- (19) *“Lot Split.*”The dividing or redividing of a lot or lots in a recorded plat of subdivision into not more than two tracts which meet the criteria established within these regulations.
- (20) *“Lot Width.*”The distance on a horizontal plane between the side lot lines, measured at right angles to the line establishing the lot depth at the minimum building setback line as established for each district.
- (21) *“Minor Subdivision.*”Any subdivision containing not more than 5 lots not involving any new streets, roads, or extension of municipal facilities; and not adversely affecting the development of the remainder of the parcel or adjoining property; and not in conflict with any provision or portion of the Comprehensive Plan or any functional element thereof, zoning ordinance, subdivision ordinance or official map relating thereto.
- (22) *“Parcel.”* The word “parcel” shall refer broadly to a lot; tract or any other piece of land.
- (23) *“Planned Unit Development.*”A tract of land which at its time of development is developed under single ownership or unified control, which includes two or more principal buildings or uses, and is processed under the planned development procedures of the Zoning Ordinance.
- (24) *“Planned Unit Development Plat.*”A drawing or map to a measurable scale on which is presented a description and definition of the way in which the design requirements of the planned unit development are to be met and intended for recording with the County Recorder of Deeds.
- (25) *“Plat.”* A subdivision as it is represented as a formal document by drawing and writing.
- (26) *“Plat Committee.*”The committee designated by the Board to review plats.
- (27) *“Re-subdivision.”*The subdivision of a tract of land which has previously been lawfully subdivided and a plat of such prior subdivision duly recorded.



(28) *“Screening.”* Decorative fencing or evergreen vegetation maintained for the purpose of concealing from view the area behind such fencing or evergreen vegetation. When fencing is used for screening, it shall be not less than 6 nor more than 8 feet in height

(29) *“Site Development Plan for Permit .”* A plan prepared by an Illinois Registered Professional Engineer that shows the method, control, and implementation of erosion, measures, storm runoff, and/or grading of lands for the construction of improvements and shall be in compliance with the Zoning ordinance.

(30) *“Street.”* An area which primarily serves or is intended to serve as a vehicular and pedestrian access for the public to the abutting lands or to other streets. The word “street” refers to the width of the street right-of-way or easement, and shall not be considered as the width of the road-way or paving or other improvement on the street right-of-way. Such is to include, but not to be limited to, that which is named or commonly referred to as “street, avenue, road, land, boulevard, or way”.

(31) *“Street, Marginal Access.”* A local street which is parallel and adjacent to thoroughfare streets and expressways, and which provides access to abutting properties and protection to local traffic from fast, through-moving traffic on the primary streets and expressways.

(32) *“Street, Minor.”* A street intended primarily as access to abutting properties.

(33) *“Street, Private.”* An area which primarily serves or is intended to serve as a vehicular and pedestrian access to abutting lands or to other streets. The word “private street” refers to the width of the private street right-of-way or easement, and shall not be considered as the width of the road or paving or other improvement on the street right-of-way. Such is to include, but not be limited to, that which is named or commonly referred to as “street, avenue, road, lane, boulevard, way”. Private streets are located only in Planned Unit developments.

(34) *“Street Width.”* The shortest distance between the property lines abutting both sides of a street right-of-way.

(35) *“Subdivider.”* The owner, or any other person, firm or corporation, authorized by the owner, undertaking to create a subdivision under the provisions of these regulations.

(36) *“Subdivision.”* The division or redivision of land into two or more lots or tracts any one of which is less than 2½ acres in area or any division or redivision which is proposed to include the creation of a street, alley, or public way or the designation of any private easement or right-of-way which serves as the principal means of access to any adjoining properties; a tract of land, whether divided into separate lots or not, that is intended for the construction of single family residences, duplexes, multiple family dwellings, row houses, and other arrangements of attached or connected building units, or for commercial or industrial purposes and includes any planned development, whether residential, commercial or otherwise in nature, and any other development whether or not a

division under the laws 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 ordinance that it apply to all types of development, both within the Village and within the area within 1½ miles of the Village, all of which are herein collectively referred to as subdivisions.

(37) “*Subdivision Guarantee*”. A surety bond, a certificate of deposit, or an irrevocable letter of credit approved by the Village Board and payable to the Village, sufficient to cover 120% of the cost of the improvements as estimated by the engineer employed by the subdivider and approved by the Village Board to assure the satisfactory installation of improvements.

(38) “*Thoroughfare, Collector*”. A street which is used to carry traffic from minor to secondary streets.

(39) “*Thoroughfare, Primary*”. A street designed to serve as a major traffic artery for movement of vehicles through the Village or between various parts of the Village.

(40) “*Thoroughfare, Secondary*”. A street which is used to carry traffic from collector streets to thoroughfare streets.

(41) “*Turn-around*”. An area at the closed end of the dead-end street or cul-de-sac within which vehicles may reverse their direction with out any backing up.

(42) “*Village*.” The Village of Lily Lake, Kane County, Illinois.

(43) “*Village Attorney*”. The individual or firm appointed or contracted by the Village Board to provide legal services to the Village.

(44) “*Village Board*”. The President and Board of Trustees of the Village.

(45) “*Village Engineer*”. The individual or firm appointed or contracted by the Village Board to provide engineering services to the Village.

(46) “*Village Planner*”. The individual or firm appointed or contracted by the Village Board to provide land planning and landscaping services to the Village.

(47) “*Village Subdivision Enforcement Officer*”. The person appointed by the Village Board to perform all review and administrative services specified or required by this Ordinance, also referred to herein as Enforcement Officer.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007.

### **Article 3—Application Procedure and Approval Process**

#### **§ 446. General:**

All subdivision plats shall be processed in five stages leading to approval for recording. The five stages are:

- (a) Pre-application conference
- (b) Concept plan
- (c) Preliminary plan
- (d) improvement plans
- (e) Final plat

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007.

#### **§ 447. Pre-application conference**

Prior to filing a Concept Plan, the subdivider shall meet with the Village Subdivision Enforcement Officer. This conference does not require formal application, fee payment or filing of plans. At the conference the subdivider shall present a sketch plan and review with the Enforcement Officer and other Village staff, as appropriate, the following issues as they relate to the proposed subdivision.

- (a) Comprehensive Land Use Plan.
- (b) Official plan and development policies of the Village.
- (c) Existing zoning and land use in the general area of the property in question.
- (d) The Village's procedures for subdivision of land.
- (e) Other pertinent factors, such as, wetlands, floodplains, etc.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007.

#### **§ 448. Concept plan**

(a) Intent. The concept plan stage is to provide information to help a prospective applicant appraise the feasibility of a subdivision concept according to development plans and policies, existing and projected development conditions and other development activities. The concept plan stage encourages the discussion of basic problems and questions related to the development proposal prior to the expenditure of funds for more detailed plans.

(b) Filing. At least 14 days prior to the concept conference, the applicant shall submit the following to the Enforcement Officer:

## CONCEPT PLAN CHECKLIST

A current aerial photograph at a scale of 1 inch equals 400 feet, showing existing features within the proposed site's area of influence within 1½ miles. Delineate and label school, park, and fire protection district boundaries, municipal boundaries and planning jurisdiction limits, property lines, and sewer and water lines.

2 copies of Site Analysis Plan, 1 copy of which shall be a colored rendering, drawn at a scale of 100' to the inch which shall show the boundaries of the site and the existing natural and man-made conditions and shall show the following:

Topography with significant slopes designated

Wooded and natural areas, vegetation and wildlife habitats

Low areas subject to flooding, wetlands and bodies of water

Drainage patterns with all high and low elevation sites designated

Existing interior and adjacent roadways or other public ways, access driveways, railroad and utility rights-of-way, parks or other public open spaces within 100 feet adjacent to the proposed site.

Buildings, barns, bridges, historical, archaeological and architectural sites

Names of adjacent subdivisions and the owners of adjacent subdivided and unsubdivided property as well as conditions of adjacent property which may affect the proposed development

2 copies of a Concept Plan, 1 copy of which shall be a colored rendering drawn at a scale of 100 feet to the inch and shall show the following:

Name of proposed subdivision

Proposed layout of roads, land uses and general pedestrian circulation

Proposed dedication and reservations, school sites, park sites, open space and natural areas, preserved historic buildings or sites and stormwater control facilities

Existing topography with a minimum contour interval of 2 feet and with reference to National Geodetic Vertical Datum (NGVD)

Names of adjacent subdivisions and the owners of adjacent subdivided and unsubdivided property as well as conditions of adjacent property which may affect the proposed development

2 copies of soils information plan as per the requirements of the Kane County Septic Ordinance, drawn at a scale of 100 feet to the inch and accompanying data showing the following:

Existing topography with reference to National Geodetic Vertical Datum (NGVD)

The boundaries of each soil type and identification of soil types of their name and number according to the Kane County Soil Survey classification system provided by the USDA. Soil Conservation Service

A legend of each soil type listed according to their limitation as set forth in the Kane County Soil Survey

An initial determination of potential soil absorption, runoff, flooding potentials, seasonal ground water levels, the presence of unstable soils (or soils which may constitute problems for conventional construction), the presence of subsurface rock that would affect installation of underground or above ground improvements

Identification and description information to be shown shall include:

Name of Subdivision: A subdivision shall not be valid nor entitled to record if the record name or part thereof said subdivision is the same as, duplicates, closely approximates or as similar to or pronounced the same as the name of any previously approved subdivision within the same township, fire protection district or post office district. A subdivision name or part thereof shall be considered as duplicating, closely approximating, similar to or pronounced the same as the name of an existing subdivision name if it contains a proper, historical, geographical, locational, mythological, famous, fictitious, or personal name, words, or combination thereof which is the same as, similar to or pronounced the same as a word in the name of any other previously approved subdivision within the same township, fire protection district or post office district

Date and north arrow

A site data information block which shall include, but not limited to, the total number of acres, the acreage in lots, acreage in rights-of-way, acreage in open space and the existing and proposed zoning

Legal description

A location map at a scale of not less than 1 inch equals 2,000 feet showing the relationship of the subdivision to its surroundings within ½ including section lines, collector and arterial roads

Names, addresses and phone numbers of the subdivider and owner

Names, addresses and phone numbers of the site planner, designer, engineer or surveyor who prepared the subdivision layout

Trees identified by size and species

A general statement of the proposed method of stabilization to prevent soil erosion prior to and during construction

A copy of the application for land use opinion report filed by the Subdivider with the Kane-DuPage Soil and Water Conservation District

Certification of ownership of the land proposed to be subdivided. Where the subdivider does not own such land, written notarized permission from the owner shall be provided authorizing the development of such land under the provisions of this chapter

A certified list of the names and addresses of all adjacent property owners

(c) Concept Conference. After the Enforcement Officer examines the submissions in order to determine their adequacy for presentation at a concept conference, the applicant shall present the concept information form, aerial photograph, site analysis plan and soils information plan at a Plan Commission meeting in order to describe the existing conditions of the area and the conceptual development thereof. The applicant may be requested to submit additional data on existing conditions, the development concept, and the expected impacts in order to provide information for adequate review. The Planning Commission, after reviewing the plan and the subdivider's presentation, shall discuss with the subdivider the adequacy of the proposal plan and any requirements the Village may want incorporated into the Preliminary Plan.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007.

#### **§ 449. Preliminary plan**

(a) Intent. The intent of the Preliminary Plan stage is to assure that the subdivision is laid out in accordance with the land's suitability and limitations for development. At this stage the applicant is required to provide design information which will demonstrate how the subdivision will function upon its development.

(b) Filing. Within 1 year after presentation of the Concept Plan to the Plan Commission, and not less than 14 days prior to the next regularly scheduled Planning Commission meeting, the applicant shall submit the following information to the Enforcement Officer:

**PRELIMINARY PLAN CHECKLIST**

The Preliminary Plan, 1 copy of which shall be a colored rendering and, which shall include 1 or more drawings scaled at 100 feet to the inch unless another scale is approved or required by the Enforcement Officer, and shall show the following:

\_\_\_\_\_ North arrow, scale and date prepared

\_\_\_\_\_ Legal description of the land proposed to be subdivided and site data information block which shall include, but not limited to: the total acreage of the site, the acreage in lots, the acreage in rights-of-way, the acreage in open space and the proposed number of lots, the minimum lot size and the maximum lot size in square feet and the average lot size in square feet and the existing and proposed zoning

\_\_\_\_\_ Boundaries of the plat, as surveyed and certified by a registered Illinois Professional Land Surveyor

\_\_\_\_\_ Name of the proposed subdivision

\_\_\_\_\_ Names of proposed roads. Road names shall not be used which will duplicate, or too closely approximate phonetically, the name of any other road or subdivision in the same township, fire protection district or post office district. Roads that are extensions of, or in obvious alignment with, existing roads shall bear the name of said existing roads. The name of the primary collector road of a subdivision shall, if possible, be the same as or similar to the name of the said subdivision. A separate name shall be provided for each segment of a road that changes direction 45 degrees or more (as measured from the center line of the right-of-way), except by approval of the Village Board

\_\_\_\_\_ Names, addresses and phone numbers of the Owner, the Subdivider and the person(s) preparing the plan

\_\_\_\_\_ Locations and names of adjacent subdivisions and owners of adjoining parcels of land

\_\_\_\_\_ Allocation map at a scale of not less than 1 inch equals 2,000 feet showing the relationship of the subdivision to its surroundings within ½ mile including section lines, collector and arterial roads

\_\_\_\_\_ Existing conditions on and within 100 feet of the tract (unless a greater distance is required for review):

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Topographic data, including contours at vertical intervals of not more than 1 foot with reference to National Geodetic Vertical Datum (NGVD)

Location, width and names of all existing platted roadways or other public ways, access driveways, railroad and utility rights-of-way, parks and other public open spaces, permanent buildings or structures and section and municipal corporation lines

Location of all existing farm and storm drainage tiles which shall be located by means of slit trenching and hand probing or electronic radar tile location devices along with slit trenching and hand probing by persons qualified to do such work. All existing drain tile lines encountered during the investigation shall be repaired to their original condition. 1 Mylar and 4 copies of a topographical boundary map locating these lines must be submitted showing the following:

Location of each slit trench and each trench identified to correspond with the tile investigation report

Location of each drain tile with a flow direction arrow and tile size

A summary of the tile investigation report showing trench identification number, tile size, material and quality, percentage of tile filled with water, percentage of restricted siltation, depth of ground cover and soil texture at grade

Name, address and phone number of person conducting tile location investigation

Existing zoning classifications and planned land uses according to all official plans

The boundaries and limitations of each soil type

Water courses including base flood elevations, natural and manmade retention/detention areas

Wetlands, ponds and surface seeps

Sanitary sewers, water mains, culverts, wells, septic systems or other underground facilities

Significant historical, architectural and archaeological sites or structures

Scenic vistas, beaches, rock formations and outcroppings



\_\_\_\_\_ Wooded areas and isolated trees 6 inches or more in diameter at breast height

\_\_\_\_\_ Proposed Conditions:

\_\_\_\_\_ Proposed zoning

\_\_\_\_\_ Alignment, width and typical cross-sections of all roads and rights-of-way, highways, easements, drainage ways, sewer and water lines and other public utilities

\_\_\_\_\_ Lots, including layout, number, dimensions and area in square feet

\_\_\_\_\_ Setback lines, including front, rear and side building setback lines and dimensions

\_\_\_\_\_ Sites intended to be reserved for public use and/or for use of property owners in the subdivision, including the purpose and conditions of reservation or dedication

\_\_\_\_\_ Proposed site grading plan including building pads; top of foundation elevations, when required; proposed roadway grades and surface water drainage patterns

\_\_\_\_\_ Proposed location of the on-site disposable systems and expansion areas, areas to be filled, curtain drain locations and routing, subsurface drainage systems for each lot and well, when required. Subsurface drainage systems shall be constructed with access structures, and shall be located in a drainage easement

\_\_\_\_\_ Landscaping plan showing proposed plantings; location and description of landscaped entryway signs, if applicable, including height, size, setbacks and maintenance provisions; screening treatment on double frontage lots; landscaping of stormwater detention facilities and areas designated for restoration of disrupted site flora facilities, including storm sewers and stormwater storage facilities

\_\_\_\_\_ Location of stormwater management facilities including storm sewers and stormwater storage facilities

\_\_\_\_\_ A copy of a USGS map with an outline of the watershed area in which the subdivision is located

\_\_\_\_\_ Description of protective vegetative cover for soil erosion control purposes and schedule for establishing said vegetative cover

\_\_\_\_\_ Species list of site flora and a description or plan of the method proposed for re-establishing a vegetative system as diverse or of greater diversity than the disrupted system

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\_\_\_\_\_

Text of proposed protective covenants, deed restrictions, homeowners association agreements and contracts, easement provisions and other documents whereby the subdivider proposes to restrict improvements on private lots in the subdivision, restrict the design, development and/or use of the property and otherwise protect special areas within the proposed development

\_\_\_\_\_

Wetland delineation report

\_\_\_\_\_

Traffic study

\_\_\_\_\_

Any other information that may be requested by the Enforcement Officer

The applicant shall submit to the Enforcement Officer 20 copies of the application and preliminary plan, folded to approximately 9"x 12". If during the review process changes are made to the Preliminary Plan, which in the opinion of the Enforcement Officer, require the submittal of a revised Preliminary Plan or other Preliminary Plan documents, the applicant shall submit such revised information as required. When submitting a revised Preliminary Plan, a minimum of 10 copies of the revised plan shall be submitted.

(c) Plan Commission. At its next regularly scheduled meeting following the formulation of the recommendations by the Enforcement Officer and staff, the Plan Commission shall discuss the Preliminary Plan. After discussion with Village staff, Subdivider and residents, they shall either, continue, approve, approve with conditions, or reject the Preliminary Plan. Such time may be extended by mutual consent of the applicant and development committee. The applicant and owner shall be notified in writing of any conditions of approval or the reasons for rejection. Approval by the Plan Commission at this stage constitutes neither final approval of the subdivision nor the acceptance of required improvements.

(1) Approval. After the proposed Preliminary Plan and supporting documents have been prepared to the Planning Commission's satisfaction, they shall be approved and the original and 3 copies shall be endorsed by placing the following Approval Certificate thereon:

Planning Commission  
Preliminary Approval Certificate

The proposed subdivision, as shown on this Preliminary Plan and supporting documents, has received preliminary approval of the Planning Commission of the Village of Lily Lake, and is hereby referred to the Village Board for approval.

Dated: \_\_\_\_\_, 20\_\_\_\_

Signed By: \_\_\_\_\_  
Chairperson

(2) Disapproval. If the proposed plan of subdivision as shown by the Preliminary Plan is disapproved, the original plan shall be returned by the Planning Commission to the subdivider with a written statement of the reasons for such disapproval.

(3) Plan Commission action. The Planning Commission shall, within 93 days of the receipt of the last item of required information, consider the proposed Preliminary Plan as represented by the documents received, and shall thereupon approve or disapprove the same.

(d) Village Board of Trustees action

(1) Action. The Village Board shall approve or disapprove the Preliminary Plan within 31 days after the next regular stated meeting following the action of the Planning Commission. Preliminary approval shall not qualify a plat for recording.

(2) Approval. Upon approval by the Village Board of the Preliminary Plan and supporting documents, the original and 3 copies with the following approved certificate shown thereon shall be dated and endorsed by the Village President and attested to by the Village Clerk. The original and 1 copy, so endorsed, shall remain on file with the Village of Lily Lake and 2 copies returned to the Subdivider.

Village Board  
Preliminary Approval Certificate

The proposed subdivision as shown on this Preliminary Plan and supporting documents has received Preliminary Approval by the Village Board of Lily Lake.

Dated: \_\_\_\_\_, 20\_\_\_\_

BY: \_\_\_\_\_  
Village President

Attest:

by: \_\_\_\_\_  
Village Clerk

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007.

**§ 450. Improvement plans**

(a) Intent. The Improvement Plan stage is for the purpose of accurately showing how the improvements will be constructed in order to conform to the layout and design objectives of the Preliminary Plan. As such, the Improvement Plan process is an extension of the Preliminary Plan process. Where conditions so warrant, the Enforcement Officer may require that portions of Improvement Plans be submitted during the Preliminary Plan review process in order to determine the lands suitability for the Preliminary Plan design. Any required off-site improvements and engineering studies shall be provided upon request. Where the subdivision is to be developed in phases, and where soil and/or topographical conditions so warrant, the Enforcement Officer may require that Improvement Plans for the entire Preliminary Plan area be submitted prior to the construction of improvements.

(b) Filing. Prior to the submittal of the Final Plat, the applicant shall submit a minimum of 5 complete sets of approved plans and specifications for the construction of the proposed site improvements. Improvement Plans shall not be approved until after the site has been zoned according to the uses proposed in the approved Preliminary Plan. Said plan shall be prepared by an Illinois Registered Professional Engineer on 24" x 36" quality sheets:

(c) Final engineering plans. Shall, at a minimum, consist of the following:

**FINAL ENGINEERING PLANS CHECKLIST**

\_\_\_\_\_ Plan sheets shall include the following information:

\_\_\_\_\_ A title block that includes the project name, job number, sheet title (Geometric Grading, etc.), sheet number, date of preparation and latest revision date

\_\_\_\_\_ North arrow and scales

\_\_\_\_\_ Additional Comprehensive Plan notes and legend as may be required

\_\_\_\_\_ Title Sheet

\_\_\_\_\_ Subdivision name and unit number or phase number

\_\_\_\_\_ Location map

\_\_\_\_\_ Seal, signature, address and phone number of the registered professional engineer who prepared the plans and the person or firm who prepared the topographic surveys

\_\_\_\_\_ Subdivider's name, address and phone number

\_\_\_\_\_ Index of sheets

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_____	A minimum of 2 benchmarks
_____	Dates of preparation and any revisions
_____	Summary of quantities for each division of improvement work
_____	Standard legend
_____	Project Specifications (may be separately bound) and General Construction notes
_____	All onsite and offsite improvements shall be constructed in accordance with the requirements of the Village
_____	Permits shall be obtained from all outside governmental agencies having jurisdiction (Illinois Department of Transportation, Illinois Environmental Protection Agency) prior to initiation of construction activity (any EPA application for construction shall be completed and submitted to the Village for signature with the Final Improvement Plans
_____	All structure adjustments shall be accomplished with concrete adjusting rings
_____	Existing field tiles encountered during construction shall be either integrated into the site drainage system, removed or plugged in a manner deemed appropriate by the Village Engineer
_____	The Subdivider shall be responsible for all adjustments before and after final inspection, prior to final acceptance by the Village
_____	The Village must have 48 hours notice prior to the initiation of construction activity
_____	The testing and sterilization of all new water distribution facilities shall be completed prior to making water service taps
_____	Material specifications comply with Village standards and include
_____	_____ Paving base materials
_____	_____ Paving surface materials
_____	_____ Concrete materials
_____	_____ Pipe materials
_____	All restoration work in the public right-of-way subject to the specific approval of the Village Engineer

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Village Police Department and the Fire District shall be notified a minimum of 48 hours prior to road or water main shutdowns

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Contractor shall contact JULIE (1-800-892-4123) prior to any excavation work (include Section, Township, and Range numbers of property with note)

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Contractor shall maintain pavement crossing cuts until final pavement restoration is complete and accepted by the Village Engineer

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Water distribution plans and specifications shall conform to *Standard Specifications for Water and Sewer Main Construction in Illinois* and Village ordinances. If a conflict arises, the Village ordinances shall govern

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Pavement, curb and gutter, sidewalks, and storm sewer shall conform to *Standard Specifications for Road and Bridge Construction, IDOT*

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A reproducible Mylar set and 2 Diazo copies of *Record Drawings* shall indicate the exact final location and layout of all improvements; include verification of all building pad, top of foundation, invert, rim and spot grade elevations; and incorporate all field design changes approved by the Village

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#### Geometric Plan

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The geometric plan to show site boundaries and lot layout shall be a copy of the final plat, reduced if required, without the certificates

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All necessary geometric data required to layout the proposed improvements

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Show all streets adjacent to and within 100 feet of project site

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Show all site access roadways and driveways within 100 feet of project site

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All necessary geometric data required to show existing and proposed easements

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Street right-of-way width

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Street centerline and radii and curve data

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Right-of-way radii and curve data

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Street pavement width

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Location of curb and gutter

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_____	Intersection geometric data
_____	Parking lot dimensions and data including, lot aisle widths, space dimensions, handicap space dimensions, loading berth dimensions, curb radii, angle of parking, throat width of drives, angle of driveway at street intersection
_____	Setback lines and distances for all proposed building, parking lots, etc
_____	Proposed building footprint outlines
_____	Non-residential site area in square feet
_____	Office building area in square feet (if applicable)
_____	Warehouse building area in square feet (if applicable)
_____	Building ties:
_____	Distance to front lot line, rear lot line, interior side lot line, and exterior lot line (if applicable)
_____	Distance to all existing off-site buildings within 100 feet of the subject site
_____	Grading Plan, which includes the street paving plan, all storm sewer lines and structures, stormwater retention/detention facilities, erosion control measures, flood plain and wetland protection measures
_____	Existing and proposed finished ground topography of site at 1 foot contour intervals extending for 100 feet onto adjacent properties
_____	All existing structures located and described
_____	All streets, driveways, parking lots, and other paved areas
_____	Longitudinal slope of parkways and driveways where required
_____	Locations of all trees exceeding 6 inches in diameter
_____	Flood hazard and wetlands delineation:
_____	Floodway delineation
_____	100 year floodplain delineation
_____	Drainage watershed delineation

_____	Wetlands and other flora areas delineation
_____	Delineation of all major watercourses
_____	Curb and gutter, sidewalks
_____	Typical street cross section
_____	Transverse slope
_____	Superelevation
_____	Pavement design and structural calculations
_____	Storm and sump pump drainage appurtenances
_____	Number all storm sewer structures
_____	Rim and invert grades and pipe sizes noted for all drainage structures
_____	All elevations including contours shall be referenced to USGS datum:
_____	Existing contours to be shown as light dashed lines
_____	Proposed contours to be shown as heavy solid lines
_____	Spot elevations at break points, at all lot corners, and top curb elevation at all property lines extended to curb line
_____	Proposed building footprint with top foundation elevation and, where applicable, garage floor elevation. Basement floor elevation for proposed building with walkout basement or adjacent to flood hazard area
_____	Drainage rows around all proposed building foundations, along lot lines, swales, ditches, and wherever else required to delineate surface drainage direction and pattern
_____	Retaining wall and details
_____	Stormwater overflow routing with applicable cross-sections and profiles
_____	Stormwater retention or detention storage basin:
_____	Outline of the storage basin with finished contours at 1 foot intervals
_____	Typical cross-sections showing the degree of side slopes, top of bank elevations, bottom elevations and proposed storage elevations

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_____	Finished surface restoration including any slope stabilization or protection
_____	Inlet and release structures with details
_____	Any subsurface (bottom) drainage system
_____	Designation if a dry or wet bottom basin
_____	High and, where applicable, normal water storage elevation
_____	Calculated water storage volume in acre feet
_____	Erosion and sedimentation control measures applicable to site grading
_____	Designation of critical lots for drainage
_____	Master and Detailed Utility Plan, which shows all storm sewers, sump pump drain lines, sanitary sewers, septic fields, water main and any other public utility lines with appurtenant structures
_____	Location and size (if applicable) of all existing utility lines and their appurtenant structures located onsite or within the construction limits of proposed offsite improvements
_____	Location and size of all proposed onsite and offsite water mains, sanitary sewers, storm sewers, and sump pump drain lines, and their appurtenant structures (hydrants, valves, manholes, etc.) which shall be numbered for reference
_____	The finished frame elevation and invert elevations shall be given for all structures
_____	The plan shall indicate size, slope, purpose, length and type of material of all proposed utility lines
_____	Show all locations where granular trench backfill is required
_____	All existing structures which require adjusting, reconstruction or filling shall be noted on plan
_____	The plan shall conform to overall Village plans for any trunk lines, existing or proposed, which traverse the subdivision
_____	Depict adjacent properties for proper utility and street match
_____	Hydrant locations, dimension to the back of the nearest curb, final grade ring elevation

Valve vault and valve box locations, with description including size and type of valve, final adjusted grade

Note that thrust blocks shall be at all bends, tees and plugs for all water mains

Provide vertical and horizontal clearance between water main and sanitary/storm sewer in accordance with Standard Specifications

If the proposed development is to be served by individual sewage septic systems, then septic plans will be required meeting all the rules, regulations and requirements of Kane County for said sewage septic system. Plans shall also be subject to Kane County's approval

Lighting Plan, which includes the layout for lighting standards and underground conduits and cable for off-street parking and/or public street lighting facilities

Light pole locations, heights and spacing.

Average maintained foot candle illumination and uniformity ratio (calculated). The average-to-minimum uniformity ration shall not exceed 6 to 1

Site lighting shall be directed or shaded to avoid casting direct light upon any residential district or public right-of-way. The intensity of light shall not exceed ½ foot candle within 10 feet of a residential district

Control system and underground site wiring diagram specifying cable size, locations and material

Typical installation section showing:

Type of base and pole

Bracket or arm

Luminaries, indicating type of lamp/wattage

Mounting height

Photometrics - All off-street areas, loading facilities and driveway aisles shall be provided with a minimum average maintained horizontal illumination value of ½ foot candle. A Photometric Plan shall be submitted that designates light pole locations and displays illumination values by one of the following methods:

\_\_\_\_\_ Illumination levels verified by showing illumination values at control points spaced at 10 foot intervals superimposed by grid layout on a Geometric Site Plan

\_\_\_\_\_ Illumination values displayed as iso-illumination lines showing horizontal intensity superimposed on a Geometric Site Plan

\_\_\_\_\_ Catalog cuts and specifications from manufacturer shall be provided when requested by the Village

#### Street Plan and Profiles

\_\_\_\_\_ Plan view of all proposed street and sidewalk improvements showing, but not limited to, street name, centerlines with stationing and horizontal curve data, right-of-way lines and widths, pavement outline and widths, sidewalks, curb and gutter, return radii, all storm sewers and other drain lines with structures, and, where applicable, shoulders and drainage ditches

\_\_\_\_\_ Plan view shall show all locations where granular trench backfill is required

\_\_\_\_\_ Centerline profile of existing ground line with elevations shown at 100 foot intervals minimum

\_\_\_\_\_ Centerline profile of proposed pavement surface with grades, vertical curve data, and elevations shown at 100 foot intervals minimum

\_\_\_\_\_ Profile of all proposed storm sewers and other drain lines with structures within the plan view area showing pipe size, slope, length, type of material, and finished frame and invert elevations for structures

\_\_\_\_\_ Profile of all utility crossings where a grade conflict may occur

\_\_\_\_\_ Typical street cross-sections showing all proposed street construction within the right-of-way and the calculated pavement structural number

\_\_\_\_\_ Street cross-sections showing all proposed street construction within the right-of-way and the calculated pavement structural number

\_\_\_\_\_ Plan view scale shall be 1" = 50' minimum and profile scales shall be horizontal same as plan and vertical 1" = 5'

\_\_\_\_\_ Construction Details—All details shall be of type standard with the Village, including but not limited to:

\_\_\_\_\_ Manholes, inlets, catch basins, vaults

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Standard utility structure covers

Standard valve and hydrant installation

Drainage structures

Concrete curb and gutter

Thrust block installation

Service connections

Paving installation

Sanitary and Storm Sewer Profiles—Profiles shall be provided for all proposed sanitary sewers

Landscaping Plan—Plan shall include trees to be preserved, screening where required, the restoration of site flora and other areas to be stabilized and enriched according to this Ordinance and all other village requirements

Soil erosion and sedimentation plan—Plan shall include the location, type and details of all required site soil erosion control measures, and shall show any proposed ground cover areas such as seeding, sodding, etc.

Supplementary Documents—final studies, reports, drawings and calculations for all proposed storm water sewers, drain lines, culverts, retention or detention storage basins, flood routing, and any other site storm water management facilities

(d) Processing. The Enforcement Officer shall forward 2 sets of the improvement plans to the Village Engineer and other department heads who shall check them for conformity to the preliminary plan and the provisions of this and other applicable ordinances. Within 30 days after filing, the appropriate officials shall notify the applicant as to the acceptability of the improvement plans and in conformance with the provisions of Section 5, a pre-construction meeting shall be scheduled.

(e) Completion of land improvements. Prior to the pre-construction meeting a construction guarantee is posted in accordance with Section 4. Construction of all required improvements must be completed within 2 years from the date of final plat approval unless good cause can be shown to the Village Board for granting an extension of time. A request for an extension shall not halt the running of the 2 year period. No extension shall be granted unless adequate guarantee collateral has been received and approved by the Enforcement Officer.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007.

**§ 451. Final plat**

(a) Intent. The final plat is a record of the subdivision as surveyed in the field. It shows shapes and dimensions of the tract being subdivided and the parcels created thereby important to the public benefit to facilitate relocation of roadway lines, easements, building setbacks, open space, etc.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007; Ord 2008-07, 4/21/2008.

(b) Upon satisfaction of the conditions of preliminary plan approval, the acceptance of the Improvement Plans by the Enforcement Officer and the posting of a construction guarantee, the applicant shall cause to be prepared a Final Plat of Subdivision. The Final Plat may constitute only a portion of the approved Preliminary Plan if it is determined acceptable by the Enforcement Officer after consideration of the effect on the efficient and orderly provision of roads, drainage facilities, utilities and services.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007; Ord 2008-07, 4/21/2008..

(c) The Final Plat shall be accurately and legibly prepared by a Illinois Professional Land Surveyor, who shall certify that he has surveyed, subdivided and platted the land shown and legally described on such Final Plat. He shall further certify the number of acres being subdivided, and whether or not the tract is within a special flood hazard area designated by the Federal Emergency Management Agency, and whether or not the tract is or is not within 1½ miles of the corporate limits of a municipality that has adopted an official plan. The Final Plat shall be prepared in the following manner:

**FINAL PLAT CHECKLIST**

\_\_\_\_\_ Drawn to a scale of 100 feet to 1 inch, unless a different scale is more practicable and is approved by the Enforcement Officer

\_\_\_\_\_ With waterpn4 non-fading black ink on reproducible Mylar or other equal material no more than 30 inches by 36 inches (24"x 36" preferred)

\_\_\_\_\_ When more than one sheet is used for any plat, each sheet shall be numbered consecutively. A small scale drawing of the entire subdivision shall be shown on the first sheet, identifying portions of the subdivision according to its respective page number. Plats shall be drawn so as to be on a minimum number of sheets

\_\_\_\_\_ The final plat shall include the following information:

\_\_\_\_\_ Legal description of the land to be subdivided

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Positions of all lot corner, beginnings and ends of curves and all angle points shall be marked in the field. The material of which all markers are made shall be noted. The applicant shall conform with the following requirements concerning monuments:

\_\_\_\_\_ All federal, state, county or official bench marks, monuments, or triangulation stations in or adjacent to the subdivision shall be preserved. When a proposed improvement in a subdivision makes necessary the moving of bench marks, monuments, or triangulation stations, the authority having jurisdiction shall be notified and given sufficient time to take appropriate action

\_\_\_\_\_ Permanent monuments shall be set flush with the adjacent ground, shall have a suitable mark in the center of the top, shall be set in such manner that they will not be moved by frost; and shall be either—

\_\_\_\_\_ Iron pipe not less than  $\frac{3}{4}$  inch in diameter and not less than 22 inches in length

\_\_\_\_\_ Solid square or round iron bars,  $\frac{5}{8}$  inch thick and not less than 22 inches in length

\_\_\_\_\_ Stone or reinforced concrete, not less than 30 inches square or 5 inches in diameter

\_\_\_\_\_ Permanent monuments shall be erected at all corners or changes in direction of the exterior boundary; at points of curvature or points of tangency; at road intersections and block corners; at all lot corners and angles in lot lines; and in all places and manner as otherwise prescribed by law

\_\_\_\_\_ The exact length and relative direction of all exterior boundary lines, with reference to the boundary controlling system most prevalent in the area of the land being subdivided. All distances shown on the Final plat shall be expressed in 1/100 of 1 foot and angles shall be expressed in degrees, minutes, and seconds (if necessary). Sufficient geometrical data shall be given for all lots to enable retracement and restoration of all corner positions in the field. The Enforcement Officer may require the surveyor to submit rectangular coordinates of all positions represented on the final plat

\_\_\_\_\_ The exact width and extent of all easements, roads, alleys, and building setbacks created by said subdivision

\_\_\_\_\_ The primary and expansion area for the onsite waste disposable system on each lot and building pad location, when required

All lots consecutively numbered. In subdivisions that are improved in units or phases, the lot numbering of the next unit or phase shall begin at the next number where the previous unit or phase ended

All portions of curvilinear roads shall be tangent to adjoining elements of said roads unless so noted otherwise. Curve data shall consist of at least 2 of the following dimensions. radius, arc length, tangent length, chord or central angle

If the subdivision borders on a lake or stream, the distances and directions of the meander line established not less than 20 feet back from the average high water mark of the lake or stream, as determined from flood hazard maps or other data, with said distance noted

The locations and widths of all existing and proposed roads shall be indicated, showing the dedication of all rights-of-way required

Names of proposed roads. Road names shall not be used which will duplicate, or too closely approximate phonetically, the name of any other road or subdivision in the same township, fire protection district and post office district. Roads that are extensions of, or in obvious alignment with, existing roads shall bear the name of said existing roads. The name of the primary collector road of a subdivision shall, if possible, be the same as or similar to the name of said subdivision. A separate name shall be provided for each segment of a road that changed direction 45 degrees or more (as measured from the center line of the right-of-way)

Abutting highway and road right-of-way lines and adjacent subdivisions shown their proper location

Grantees of all lands dedicated to public use, except for roads, shall be clearly noted

Where provisions are made for access from any subdivision to any lake or stream, the Plat shall show the area over which the access is provided to the lake or stream, together with a small scale drawing clearly indicating the location of the subdivision in relation to the lake or stream, and the location of the area over which access is provided

All covenants, or references to covenants, where declared separately

Certificates and easements as required

Scale and north arrow

Seal and signature of the Illinois Professional Land Surveyor under whose direct supervision and control the subdivision survey was prepared

(d) Within 2 years after approval of the Preliminary Plan, the applicant shall submit 7 copies of the Final Plat to the Enforcement Officer. Where the subdivision is to be improved in units or phases, the Final Plat for each phase may be filed at 2 year intervals, providing however, that the Final Plats for the entire tract be filed within 6 years from the date of Preliminary Plan approval. Prior to the review of the Final Plat the applicant must have complied with the following items.

- (1) The submittal and approval of the Improvement Plans;
- (2) The submittal and approval of cost estimates for all required improvements;
- (3) The posting of a construction guarantee;
- (4) Payment of the land/cash ordinance contribution;
- (5) Payment of all fees as provided in this ordinance.
- (6) Rezoning to the appropriate classification, if necessary;

(7) Topographic and profile study overlay with the name of the subdivision clearly shown and drawn to a scale of 100 feet to 1 inch, with waterproof, non-fading black ink a reproducible Mylar or other equal material no more than 30 inches by 36 inches (24"x 36" preferred) including a properly signed certificate.

(e) The Enforcement Officer shall review the Final Plat in order to assure—

- (1) Conformance with the approved Preliminary Plan and Improvement Plans;
- (2) Conformance with the provisions of this chapter and all other applicable rules and regulations;
- (3) That all deed restrictions, protective covenants, homeowners association contacts and other agreements made by the subdivider are properly noted and described;
- (4) That there are no new development activities or traffic facilities which materially effect a change of intent from the preliminary plan either physically or practically.

(f) If found satisfactory, the Enforcement Officer shall sign the Final Plat. Where the Final Plat has been found not to conform to the above, notice of the reasons for nonconformity shall be given the applicant by the Enforcement Officer within fifteen 15 days of filing. The Enforcement Officer may submit the Final plat to the Village Board for its review prior to affixing his signature.

(g) The subdivider shall have the Final Plat recorded with the county recorder of deeds within 60 days after final approval, or approval shall be considered null and void.

(h) After recording the Final Plat, the approved text of protective covenants, deed restrictions, homeowners association agreements and contacts, easement provisions and any other documents



whereby the subdivider proposes to restrict improvements on private lots in the subdivision, restrict the design, development and/or use of the property and otherwise protect special areas within the development the subdivider shall submit a minimum of 1 copy of each of the above recorded documents to the Enforcement Officer within 15 days of recording said documents.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007.

#### **§ 452. Outside consultants**

(a) During the plan review process and during installation and acceptance of the required improvements, the Enforcement Officer may engage professional assistance other than the staff, in order to properly review or observe the improvement proposed by the applicant. Prior to such review or observation, the applicant may meet with the Enforcement Officer in order to discuss the activity. In addition, the applicant and the Village shall enter into an agreement whereby the applicant shall reimburse the Village for costs associated with such professional review assistance.

(b) Escrow deposit. The Subdivider shall deposit cash for an escrow account in an amount to be determined by the Village President OR Public Works Director to cover Village out of pocket expenses including all costs directly attributable to recording testimony of all witnesses at public hearings, reproduction costs, public notice mailing costs, newspaper publication charges and all expenses for professional consultants including, but not limited to, attorneys, engineers, traffic engineers, planners, wetland consultants or other professionals outside the employee staff. The Subdivider shall replenish the escrow account to its original amount within 30 days of written notice from the Village. If the escrow is not replenished, the Village can immediately stop the development process.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007; Ord 2008-07, 4/21/2008.

### **Article 4—Guarantee for Completion of Improvements**

#### **§ 453. Minor Subdivisions**

(a) Intent. The Village's review of a minor subdivision is intended to ensure that the subdivision complies with the Official Comprehensive Land Use Plan of the Village, the Zoning Ordinance (if applicable), and the provisions of this chapter, and that it is laid out in accordance with the land's suitability and limitations for development. At the same time the Village's review is intended to provide a faster and less expensive alternative to the review and approval regularly required of other subdivisions.

(b) Definition. A "minor subdivision" is any subdivision with up to 4 lots that (1) does not involve the construction of any new public roads or easements of access, or the extension of any municipal facilities, or the construction or installation of any substantial stormwater facilities or other substantial improvements, (2) does not adversely affect the development of adjoining property;

and (3) does not conflict with any provision of the Official Comprehensive Land Use Plan, the Zoning Ordinance or this chapter.

(c) Filing

(1) If the minor subdivision requires a map amendment or other relief under the zoning ordinance the application for approval of the minor subdivision may be filed at the same time as a petition for zoning relief. Approval of the minor subdivision may be given at the same time as approval of the zoning relief requested, or approval of the minor subdivision may be made conditional upon the later approval of the zoning relief. The applicant shall file one full copy of the preliminary plan with the clerk along with a filing fee of \$500 and an additional \$1000 as a review escrow to be held by the Village as security for the payment by the applicant of all costs incurred by the Village in connection with its review of the preliminary plan, including the fees of any retained professional or consultant.

(2) The clerk shall transmit a copy of the preliminary plan to each member of the plan commission and the Village Board and notify the applicant in writing of the date of the meeting of the plan commission at which the preliminary plan will be considered. The clerk may also transmit a copy of the preliminary plan to the Village engineer, Village planner, and Village attorney. The plan commission, Village engineer, or Village planner may ask the applicant for additional information and, if so, shall notify the applicant in writing and include a list of the additional items required. The Village may, but is not required to, suspend the approval process until the additional information is provided.

(3) If at any time during the review process the amount in escrow falls below \$500, the Village shall notify the applicant to deposit an additional amount sufficient to bring the escrow up to \$1000. The Village may suspend the review process if the applicant fails to make such a deposit. When the review process has been completed the Village shall refund any surplus over and above the cost of the review to the applicant, provided, however, that \$500 will be retained against the costs of the review and approval of the final plat.

(d) Review.

(1) The plan commission shall consider the preliminary plan at its next regular meeting that is not less than 30 days after the date of filing. The preliminary plan will be reviewed for its compliance with the Official Comprehensive Land Use Plan and this chapter. The plan commission shall recommend approval, approval with conditions, or disapproval of the preliminary plan within 60 days after the date of the initial meeting at which it was considered. The time may be extended by mutual consent of the applicant and the plan commission. If the plan commission recommends disapproval, the plan commission shall advise the applicant and the Village Board in writing of the reasons for its recommendation for disapproval.

(2) The Village Board shall consider the application at its next regular meeting that is not less than 7 days after its receipt of the plan commission's recommendation. The Village Board shall approve, approve with conditions, or disapprove the preliminary plan within 60 days after the date of the initial meeting at which it was considered. The time may be extended by mutual consent of the applicant and the Village Board.

(3) The Village shall notify the applicant in writing of any conditions of approval or reasons for disapproval of the preliminary plan. Upon approval by the Village Board, the clerk shall mark the preliminary plan "APPROVED" and distribute copies to the plan commission, Village engineer, Village attorney, Kane County Health Department, and the applicant. The clerk shall retain two copies for filing.

(4) Upon approval of the preliminary plan, the applicant may submit the final plat for approval. The final plat must conform to the requirements of § 451(c) of this chapter and must set forth on its face any soils limitations found to be present on the site and any comments or conditions made or imposed by the Village Board or the Kane County Health Department with respect to the use of on-site waste disposal systems.

(5) Approval of the preliminary plan is effective for a period of one year. Unless an extension is requested by the applicant within the one-year period and granted by the Village Board, if the final plat is not submitted for approval within the one-year period, the applicant must file a new application, pay a new filing fee and make a new deposit for the costs of review.

Ord 2019-01, 3/25/2019.

#### **§ 454. Construction guarantee**

Prior to approval of the final plat the applicant shall post with the Enforcement Officer a construction guarantee in the amount of 120% of the cost of the required improvements. The cost of each improvement shall be itemized in a plat prepared in a format acceptable to the Village Engineer and signed and sealed by the design engineer on his letterhead stationery and approved by the Enforcement Officer and Village Engineer. Such guarantee is to—

(a) assure the satisfactory installation of said improvements in accordance with the approved plans and specifications and according to good engineering and construction practices.

(b) assure the satisfactory completion of said improvements within the prescribed time limit.

Ord 1995-01, 4/17/1995.

#### **§ 455. Form**

Such guarantee shall be in one of the following formats and the form, amount and provider is subject to approval by the Enforcement Officer.

(a) A certificate of deposit with or an escrow account at a federally insured bank or savings and loan association; or

(b) An undertaking by the subdivider guaranteeing completion of the land improvements remaining to be completed, as secured by an irrevocable letter of credit certifying that adequate funds are and will be available at a sound and reputable banking or financial institution authorized to do business in the State of Illinois. Such irrevocable letter of credit shall be in effect for a period of 4 years from the date of recording of the final plat, shall run in favor of the Village and shall indicate there are sufficient funds available for 120% of the estimated cost of all the land improvements remaining to be completed, and that such funds are held for such purposes only and for no other purposes. Such undertaking and irrevocable letter of credit shall be in a form to allow the Village to procure the funds to complete the land improvements if construction of said improvements is not completed in accordance with the provisions hereof, and shall otherwise be in a form acceptable to the Village.

(c) Other good and sufficient security as approved by the appropriate legal authority of the Village to guarantee the proper installation of land improvements.

Ord 1995-01, 4/17/1995.

#### **§ 456. Reduction of security**

A construction guarantee shall be reduced only by authorization of the enforcement officer upon:

(a) Application for payout by the subdivider in amounts such that funds remaining will always equal 120% of the value of the uncompleted work, as determined by the Enforcement Officer. No more than 90% of the construction guarantee shall be released prior to one year after the satisfactory completion of the required improvements or,

(b) The unsatisfactory installation of the required improvements. Where the required improvements have not been installed in accordance with this ordinance, the Village may then declare the construction guarantee to be in default and may draw from the guarantee amount for use in matters related to insuring the satisfactory construction of said improvements, including attorneys fees and court costs incurred in the enforcement of the provisions of this section.

Ord 1995-01, 4/17/1995.

#### **§ 457. Release of security**

The Enforcement Officer shall not release a construction guarantee prior to the satisfactory installation of all required improvements, as determined:

(a) One year after the completion of all improvements required for the approved final plat;

(b) Alter the submission of the Project Engineer's certification that the project installation has been observed in the field and completed in substantial compliance with the plans and specifications and with all applicable ordinances and laws.

(c) Alter the submission of 1 reproducible print and 5 copies of record drawings. The drawings shall be prepared by the Project Engineer who shall show and certify as to the actual location of all improvements, and shall clearly designate any and all changes from the approved plans and specifications. The record drawings shall make reference to at least 2 permanent benchmark monuments, and at least 1 reference monument for each benchmark, all on NGVD datum. The benchmark shall be newly established within the subdivision for the purposes of establishing base flood elevations and/or building elevations and finished grades on individual lots after the subdivision improvements have been completed.

(d) After the acceptance of all improvements.

Ord 1995-01, 4/17/1995.

#### **§ 458. Maintenance of Improvements**

The applicant shall be responsible for the maintenance of all improvements until the release of the construction guarantee. Where a subdivision has been improved in phases, the applicant shall be responsible for the proper functioning of drainage improvements for the entire subdivision site. The applicant shall also be responsible for the following:

(a) Snow Removal. The subdivider shall be required to provide for snow removal on all roads and sidewalks until the final acceptance of said improvements.

(b) Erosion Control. All exposed earth surfaces resulting from the required improvements shall be properly protected by riprap, sod or be seeded and mulched with rapid growing grass or vegetation as soon as feasible to prevent erosion. Erosion control structures shall be maintained until the exposed earth is stabilized. At such time, the temporary structures shall be removed and the area graded and stabilized prior to final acceptance.

(c) Debris Removal. The subdivider shall clean and maintain or cause to be cleaned and maintained, all improvements until the final acceptance of said improvements. The improvements shall be kept free from all debris, sediment deposits, trash and other extraneous material prior to acceptance and at such other times during construction as the county may deem necessary to prevent the creation of a public nuisance.

(d) Three years after the date of the Village engineer's original estimate of cost and every two years thereafter if the public improvements for such phase have not been completed and accepted by the Village, a new estimate will be made and if the amount so calculated is more than 120% of the original estimate of the cost to complete the remaining improvements, the amount of the construction guarantee shall be adjusted so as to equal 120% of the new estimate.

## **Article 5—Construction and Post-Construction Requirements**

### **§ 459. General considerations**

(a) The subdivider shall be represented by a Project Engineer to observe the construction of the public improvements, to provide construction guidance, to certify construction in conformance with the approved Improvement Plans and Specifications, to review and certify the quantities of work items on any reductions in the constructing guarantee, witness required tests in the presence of the Village Engineer, and to prepare record drawings. All inspection reports of the Project Engineer and test results shall be submitted to the Village prior to final acceptance.

(b) The Village Engineer will conduct periodic observations of the public improvements, witness the tests of the public improvements, review and recommend action relative to construction guarantee, advise the Village of potential problems, conduct semifinal and final inspections of the improvements. The subdivider shall reimburse the Village for all services and costs of the Engineer for the Village incurred by the Village. If the Village determines through periodic observations of construction by the Village Engineer or unsatisfactory test results that insufficient inspections by the Project Engineer were being conducted, the Village will authorize the Village Engineer to conduct resident project representative services with all costs reimbursed by the Subdivider to the Village. Prior to initiating the resident project representative services, the subdivider and Village shall meet to discuss the procedures.

Ord 1995-01, 4/17/1995.

### **§ 460. Preconstruction meeting**

Preconstruction meeting. Prior to beginning the installation of any improvements, the subdivider, the Project Engineer, and general contractor shall attend a pre-construction meeting with Village staff, Village Engineer and the appropriate highway authorities. The purpose of the meeting is to review acceptable site development and constructing practices in accordance with the construction control plan and Village ordinances and policies. Following the pre-construction meeting and posting of construction guarantee, the subdivider may begin construction of land improvements.

Ord 1995-01, 4/17/1995.

### **§ 461. Limited completion time of public improvements**

Limited Completion Time of Public Improvements. Construction of all required improvements must be completed within 2 years from the date of final plat approval unless good cause can be shown to the Village Board for granting an extension of time. A request for an extension shall not halt the running of the two-year period. No extension shall be granted unless adequate guarantee collateral has been received and approved by the Village Board.

Ord 1995-01, 4/17/1995.

**§ 462. Construction observation of improvements**

During the course of construction, the Project Engineer shall provide construction observation of the work in order to ensure compliance with the approved plans and specifications and according to good engineering and construction practices. A diary shall be kept and field reports, as required, shall be made and copied to the Subdivision Enforcement Officer. Delegation to another engineer must be acknowledged in writing by the Subdivision Enforcement Officer. The construction observation of the work may also be done by the Village as set forth in § 459(b) of this Ordinance.

Ord 1995-01, 4/17/1995.

**§ 463. Final inspection**

The Village Engineer in the presence of the Subdivider, Project Engineer, and Contractors shall make a Final Inspection of the completed work, and shall, thereafter, report their findings and recommendations to the Enforcement Officer and Village Board.

Ord 1995-01, 4/17/1995.

**§ 464. Certifications for construction guarantee reduction**

Prior to the Village authorizing any construction guarantee reduction the Subdivider shall submit to the Village a request for said reduction along with certification from the Subdivider and his Project Engineer that the Public Improvements included under the construction guarantee have been constructed in substantial compliance with the Village approved Improvement Plans.

Ord 1995-01, 4/17/1995.

**§ 465. Testing and inspection for public improvements**

Public Improvements consisting of street's pavement structure, concrete, curb and gutter, water, and sanitary sewers shall be tested and inspected as follows:

(a) Tests regarding streets pavement structure. The following soil tests are required and must be certified by an independent soil testing service:

(1) During preparation of subgrade, compaction tests shall be performed at maximum 200' intervals to confirm proper compaction in accordance with the standards for street construction set forth in this Ordinance.

(2) During preparation of aggregate base course, compaction tests shall be performed at maximum 200' intervals to confirm proper compaction in accordance with the standards for street construction set forth in this Ordinance.

(b) Proof-rolling tests shall be conducted in the presence of the Village Engineer—

(1) After the foregoing sub-base compaction testing has been completed and prior to the time the foregoing aggregate base compaction tests are performed.

(2) After the aggregate base course has been prepared as detailed in Section 6 of this Ordinance.

(c) Any areas which, in the opinion of the Village Engineer, show a failure in the base, shall be dug out, replaced and retested (proof roll test) until approved by the Village Engineer. At the option of the subdivider, geotextile fabric can be used and may be required if satisfactory proof roll test results cannot be achieved.

(d) If, in the opinion of the Village Engineer, areas are observed which pose a significant threat of premature failure, extraction tests, as specified by the Illinois Department of Transportation may be required.

(e) Coring shall be performed at random areas selected by the Village Engineer to confirm the specified thickness of the aggregate base and binder courses. This coring shall be done in the presence of the Village Engineer and may be conducted by the contractor or an independent testing service.

(f) Nuclear density tests shall be conducted at maximum 200 feet intervals during placement of bituminous binder course and bituminous surface course.

(g) Tests regarding water improvements. The following water service tests are required and, where indicated, shall be conducted in the presence of the Village Engineer.

(1) Bacteriological test of water samples taken from completed water mains.

(2) Water main pressure test (in presence of Village Engineer).

(h) Tests regarding sanitary sewer improvements. The following sanitary sewer service tests are required and, where indicated, shall be conducted in the presence of the Village Engineer.

(1) Leakage test of completed sanitary sewer (in presence of Village Engineer).

(2) TV testing of sanitary sewer with the results recorded on a VCR/VHS cassette (in presence of Village Engineer).

(3) Mandrel deflection testing for (PVC) flexible thermoplastic pipe.

(i) Tests regarding concrete curb and gutter improvements. Compression test cylinders shall be made and tested for all Portland Cement Concrete Curb and Gutter, Sidewalks and Pavement.

(j) Notice to village engineer. Whenever testing is required by this Ordinance to be performed in the presence of the Village Engineer, Subdivider shall provide a minimum of 48 hours



notice to the Engineer of the time such tests are scheduled to take place. If such notice is not provided, retesting may be required.

(k) Delivery of test results to village engineer:

(1) Soil Test Report. Copies of all soil tests and reports required by this Ordinance and any other such reports shall be delivered to the Village Engineer at his regular place of business or at the Village Hall, as the Engineer may designate, prior to initiation of any construction.

(2) Compaction Test Reports. Copies of all compaction test reports required by this ordinance shall be delivered to the Engineer for the Village within 7 days following the completion of these tests

(3) Certified Compression Test Reports. Copies of all compression test reports required by this Ordinance shall be delivered to the Village Engineer within 7 days following the completion of these tests.

(l) Inspection and reports.

(1) The Engineer for the Subdivider shall perform such inspections of the public improvements and materials as may be necessary to allow the Engineer to certify that all public improvements and materials are constructed and supplied in accordance with the plans and specifications approved by the Village.

(2) Copies of all inspection reports prepared by the Engineer for the Subdivider and detailing the Engineer's observations and work completed during the Engineer's inspection visits and recording the date and time of those visits shall be finished to the Village.

(3) If the Subdivider's Engineer's inspection reports disclose an inadequate number and frequency of inspections is being conducted in accordance with good engineering standards and practice, then the subdivider shall become liable for all inspection fees incurred by the Village for inspections by the Village Engineer without limitation and subdivider shall be required to deposit with the Village within fourteen (14) days after invoicing, the full amount of all anticipated inspection charges yet unpaid and exceeding existing credit balance.

Ord 1995-01, 4/17/1995.

**§ 466. Record drawings**

(a) During construction a accurate record of all construction work performed shall be kept by the Contractors. Upon completion and prior to acceptance by the Village of the completed public improvements, the Subdivider shall prepare and submit to the Village "Record Drawings", showing complete "as-constructed" information for all improvements. The ends of all water, sanitary sewer and

sump pump service lines shall be accurately located so they can be located in the future. The final elevations and storage volume for storm water storage facilities shall be shown.

(b) The record drawings shall be prepared and sealed by a Registered Professional Engineer and shall contain thereon a certification that all improvements have been constructed in accordance with the approved Final Engineering plans or with approved changes thereto.

(c) The record drawings finished to the Village by the Subdivider shall consist of 1 set of reproducible Mylar drawings and 2 sets of prints or copies.

Ord 1995-01, 4/17/1995.

## **Article 6—Improvements and Standards**

### **§ 467. General provisions**

(a) Conformance to applicable rules and regulations. The design of a subdivision and improvements shall conform to the Comprehensive Plan, the Official Village Map, Village Ordinances (including, but not limited to zoning, flood plain, subdivision control, storm sewer, water, sewer, public ways and properties, and annexation ordinances), Fire Protection District Ordinances, planning and developmental policies, and all applicable rules, regulations, specifications and standards of the Village and the State of Illinois and other duly constituted agencies. No deviation from the approved plans and specifications will be made without prior approval of the Village.

(b) Character of land. Land which the Plan Commission finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the Subdivider and approved by the Planning Commission, upon recommendation of the Village Engineer, or upon recommendation of other governmental authority to solve the problems created by the unsuitable land conditions. Such land shall be set aside for uses as shall not involve such a danger.

(c) Parking. Any off-street parking improvements required to be constructed as part of the proposed subdivision improvements shall be in accordance with the requirements of the Zoning Ordinance of the Village. Depth and width of all lots shall be adequate to provide off-street parking and loading spaces as required by the Zoning Ordinance.

(d) Boundary, lot and right-of-way line monumentation. Permanent monuments shall be placed at the corners or changes in bearing of the exterior boundary; at the points of curvature or points of tangency of streets; at a minimum of 2 points, preferably along the rear lot line, of all blocks; and at such other points as shall be required to enable ready establishment of lines within the subdivision; and as provided by Chapter 109, Plats, Illinois Revised Statutes.

(1) Permanent monuments shall be of concrete having a 6" minimum diameter with one number 4 vertical bar in its center, and be at least 42" in length. Monuments shall be set flush with adjacent ground.

(2) Iron pipe markers not less than ¾" in diameter and 42" in length shall be set at lot corners and all other required points not marked by permanent monuments. The iron pipes shall be set flush with the finished ground elevation.

(3) After construction of all improvements and before final acceptance by the Village, the Subdivider shall replace or verify the existence of all monuments and markers.

Ord 1995-01, 4/17/1995; Ord 2007-05, 6/18/2007.

#### **§ 468. Required improvements**

The following improvements shall be provided as part of the development of a proposed subdivision:

(a) Street pavement structure improvements shall be bituminous concrete flexible type pavement or a Portland cement concrete rigid type payment consisting of the following:

(1) Concrete curb and gutters or aggregate shoulders with roadbed underdrains in open ditch or drainage.

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(2) Stable and compacted subgrade.

(3) Base and subbase course, as required.

(4) Bituminous concrete binder and surface courses for flexible type pavements.

(5) Portland cement concrete surface courses for rigid type pavements.

(b) Street lighting.

(c) Landscaping and trees.

(d) Street signs and pavement markings.

(e) Any traffic safety installation such as guard railing, etc.

(f) Public utilities for telephone, electric, cable television, and natural gas.

(g) Site and lot grading.

(h) Storm Sewer Systems and Sump Pump Drainage Systems.

(i) Storm Water Storage and Management.

- (j) Erosion Control.
- (k) Waste Water Facilities.
- (l) Water Facilities.
- (m) Water and Sanitary Sewer Service Lines (when applicable).
- (n) Flood Protection.

Ord 1995-01, 4/17/1995.

#### **§ 469. Minimum standards and specifications**

All construction of improvements covered by this chapter shall be in accordance with, and materials used shall be in compliance with, the methods and materials required in the appropriate sections of the latest editions, amendments or revisions of the following:

- (a) All applicable Village Ordinances, Standards, and Specifications, as adopted.
- (b) *Standard Specifications for Road and Bridge Construction*, Illinois Department of Transportation (IDOT).
- (c) *Standard Specifications for Water and Sewer Main Construction in Illinois*, Illinois Society of Professional Engineers.
- (d) *Illinois Design Standards for Sewage Works*, Illinois Environmental Protection Agency (“**IEPA**”), Division of Water Pollution Control.
- (e) *Technical Policy Statements*, IEPA, Division of Public Works.
- (f) *Recommended Standards for Water Works*, Great Lakes Upper Mississippi River Board of State Sanitary Engineers (“**10 States Standards**”).
- (g) *Illinois Urban Manual*.
- (h) *U.S. Soil Conservation Service Field Engineering Handbook*.
- (i) Municipal standards and specifications as adopted. Where standards are not specifically set forth, improvements shall comply with standards established by the Village Board.

#### **§ 470. Block standards**

- (a) Determination of block dimensions. The length, widths, and shapes of blocks shall be determined with due regard to:
  - (1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.

(2) Zoning requirements as to lot sizes and dimensions within the corporate limits of the Village.

(3) Needs for convenient access, circulation, control and safety of pedestrian and street traffic.

(b) Block dimension restrictions. The length, width and shape of blocks shall be such as are appropriate for the locality and the type of development contemplated, but block length in residential areas shall not be less than 400' nor exceed 1,200', nor have less than sufficient width to provide 2 tiers of lots of appropriate depth between street lines, except for blocks with one tier of lots which meet the double frontage requirements of this ordinance.

(c) Pedestrian crosswalks. Pedestrian crosswalk rights-of-way not less than 12 feet wide shall be required at centers of blocks having a length in excess of 800 feet and where deemed necessary by the Plan Commission to provide for pedestrian circulation or access to schools, playgrounds, shopping centers, transportation and other community facilities.

(d) Blocks Located in industrial/commercial areas. Blocks or portions thereof intended for commercial or industrial use shall be designated as such, and the plans shall show adequate off-street areas to provide for parking, loading docks, and other such facilities, as provided in the *Village Zoning Ordinance*.

#### **§ 471. Lot standards**

(a) Lot arrangement. The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography, soils, wetlands, flooding or other conditions, in securing permits to build on all lots in compliance with the *Zoning Ordinance*, the flood plain ordinance, and waste water treatment and disposal system rules and regulations. The subdivision shall contain no pieces, corners, or remnants of land.

(b) Lot size requirements. Lot dimensions and areas within the Village and within 1½ miles of the corporate limits of the Village shall conform to the requirements of the *Village Zoning Ordinance*. If the County Zoning Ordinance is more restrictive with regard to lot size outside the Village but within the 1½ mile jurisdictional boundary, then the County Zoning Ordinance shall apply. No lot shall be created for residential use that is less than 1.33 acres in size. No lot shall be created for a non-residential use that does not comply with the minimum lot area and width prescribed in the *Village Zoning Ordinance*.

(c) Depth and width of all lots shall be adequate to provide space for off-street parking and loading spaces as required by the Zoning Ordinance. Excessive depth in relation to width shall be avoided. A proportion of 2½ to 1 shall normally be considered a desirable maximum.

(d) Lots affected by surface water. Lots abutting a stormwater retention/detention pond, water course, drainage way, channel or stream shall have a minimum width or depth as required to

provide an adequate building site and to afford the minimum useable area required in this ordinance or the Village Zoning Ordinance for front, side and rear yards. Water courses, stream channels, floodways and water storage areas shall not be included in the computation of required lot areas where it is proposed that such water courses are to traverse the lot interiors. The Planning Commission, whenever possible, shall require that lot lines center on said water courses.

(e) Lot drainage. Lots shall be laid out so as to provide positive drainage away from all building sites and individual lot drainage shall be coordinated with the general storm drainage pattern for the area. Drainage shall be designed so as to avoid concentration of storm drainage water from a lot or lots to an adjacent lot or lots.

(f) Proximity to dedicated street. All lots, tracts and parcels shall front on a publicly dedicated street as required by the Village Zoning Ordinance.

(g) Double and reverse frontage. Double frontage lots are forbidden except where lots back upon a primary street, and in such instances, vehicular access between the lots and the primary street is prohibited.

(h) Side lot line. Side lot lines shall be approximately at right angles or radial to the front lot line and/or at right angles to the back lot line.

(i) Corner lots. Corner lots shall be sized to accommodate the building setbacks as set forth in the *Zoning Ordinance*. A Corner lot shall be deemed to have 2 front yards. The classification of the remaining 2 yards shall be determined by the classification of yard abutting it. If a yard abuts a side yard, it shall be deemed a side yard. If a yard abuts a rear yard, it shall be deemed a rear yard.

(j) Flag lots. Lots which meet the minimum area and dimension provisions of the Zoning Ordinance except that the buildable portion of the lot is accessible to a street Right-of-Way by means of a narrow strip of land shall be prohibited unless otherwise approved by the Village.

#### **§ 472. Easements**

(a) Utility easements. Easements for the installation, operation and maintenance of utilities shall be provided as follows:

(1) Along all boundary lines of the subdivision having a width of not less than 10 feet.

(2) Along all back lot lines having a width of not less than 10 feet.

(3) Along side and front lot lines where required. Easements for water, sanitary sewer, and storm sewer lines shall have a minimum width of 10 feet. Easements for electrical, street lighting, telephone, cable television and gas shall have a minimum width of 5 feet.

(4) On abutting lots, back of lot line and side lot line easements shall be provided on each side of the lot line of the minimum width specified above.

(5) Utility easements shall be laid out so as to provide continuity from block to block.

(6) On wooded sites, utility easements shall be located and be of sufficient width so as to minimize environmental damage.

(7) Utility easements and any easement provisions to be incorporated into the final plat or in the deed documents shall be reviewed and approved by the utility companies responsible to furnish the proposed services. Also, the wording of the utility easement certificate on the final plat shall be approved by the Village Enforcement Officer and the Village Engineer.

(b) Drainage and stormwater management easements.

(1) Drainage easements shall be provided at the side and rear of all lots to accommodate drainage from each lot. The width of drainage easements shall be not less than 10 feet wide along each rear lot line (totaling 20 feet) and 5 feet along each side lot line.

(2) Where a subdivision is traversed by a watercourse, drainageway, channel or stream, or other body of water, appropriate dedications or easements, with adequate width to accommodate observed, computed or anticipated stormwater drainage through and from the subdivision, shall be made. The width of the easement or dedication shall be dependent on the area of land drained by the water course and shall allow access for construction and maintenance equipment. In general the easement shall conform substantially with the lines of the watercourse and shall include the flood plain, where applicable, plus an additional area not less than 20 feet wide adjoining both edges of the flood plain.

(3) All permanent stormwater management facilities for a subdivision shall be protected by easements or dedications for drainage and shall permit ingress and egress for maintenance. All side lot lines shall have a minimum 10 foot easement centered on the lot line. All lot lines adjacent to non-subdivided lands shall have a 20 foot easement for drainage.

(4) No construction of structures, dams, embankments, or channels, (except as indicated on the improvement plans) and no planting of trees, shrubbery or other vegetation which hinder the flow of water or otherwise inhibit the intended purposes, shall be allowed within any drainage or stormwater management facility easement. In the event the area within such easements is obstructed, reshaped, regraded or restricted for uses other than as intended or as shown on the improvement plans, the Village will cause to have any alterations corrected at the expense of the party or parties causing said obstruction, restriction, regrading or alteration.

(5) Where possible drainage easement shall be separate and distinct from utility easements.

(6) Drainage and stormwater management easements shall be adequately maintained so as to provide for removal of accumulation of vegetation, silt, debris or other material which may interfere with the flow characteristics of drainageways or the essential features of retention or detention facilities.

(c) Landscaping and conservation easements.

(1) A screen planting easement may be required by the Village to reduce undesirable or unsightly conditions. If such easement is to be used for public utilities, the easement shall be of sufficient width to accommodate appropriate screen planting without interfering, and berming with utility service or maintenance.

(2) Easements will be required to protect areas designated for the restoration of site flora as referenced in the Village Zoning Ordinance requirements for greenbelt and open space protection.

(d) Temporary turnaround easements. Temporary easements shall be provided for construction of temporary turnarounds on streets which are designated to have a temporary terminus and are to be extended in the future. When the street is extended, said temporary easements shall be considered voided and released for other uses and purposes.

(e) Pedestrian way easements. Easements or dedications shall be provided for pedestrian ways where deemed appropriate by the Village Plan Commission. Pedestrian way easements shall be maintained to permit their continued use.

(f) Line of sight easements at intersections. At all intersections, line of sight easements shall be established to protect clear sight distance not to exceed 3 feet above centerline grade within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between said right-of-way lines at a distance along each line of 25 feet from their point of intersection. No obstructions will be permitted within said easement which exceeds 3 feet above centerline grade.

**§ 473. Streets**

(a) General Provisions:

(1) The subdivision of land, including the arrangement, character, extent, width, grade and location of all streets, alleys or other land to be dedicated for public use, shall conform to the standards of this Ordinance and shall be considered in their relations to existing and planned streets, topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses and densities of the land to be served by such streets. No extension of any existing streets or alleys shall be blocked or offset within the Village or within 1½ miles of its corporate limits. Streets shall conform to the Comprehensive Plan of the Village where possible, and shall not be planned so as to overburden existing streets by channeling excessive traffic onto existing streets. Private streets or thoroughfares shall not be permitted, Planned Developments notwithstanding, unless specifically provided by a provision of this Ordinance.

(2) In the event that it is determined by the Lily Lake Planning Commission during the course of a review procedure initiated pursuant to this ordinance that a subdivision sought to be approved will, if so approved, necessarily utilize existing streets or other public property, either during



or upon completion of construction, such public property shall be improved, at the subdivider's expense, to the standards herein contained and as determined by such use.

(3) Street alignment should respect the natural features of the site, should avoid excessive cuts or fills, and should preserve wooded area, large trees, and wetlands wherever possible.

(4) A public street or streets shall be provided to afford convenient access to all lots within the subdivision, and shall front all lots, tracts and parcels.

(5) Wherever the tract to be subdivided and/or developed borders on and will utilize existing street frontage, then said existing street frontage including the existing pavement shall be fully improved by the Subdivider in accordance with the requirements specified in this Ordinance or by the Village Board.

(6) If the tract of land proposed to be subdivided or any part thereof lies adjacent to a roadway over which the Illinois Department of Transportation, Kane County Highway Department, or a Township Highway Department has jurisdiction with respect to maintenance and upkeep thereof, and an entrance or entrances are desired from such street to lots, streets, roadways or alleys, in such proposed subdivision, the Subdivider shall prepare and submit the appropriate Permit Application to said Highway Department. The Permit Application granting permission to obtain and construct such an entrance or entrances shall be submitted to the Enforcement Officer and reviewed by the planning Commission prior to the submittal to the proper Highway Departments by the Subdivider.

(7) On primary and collector streets where traffic volume and safety considerations warrant to where required by other government authority having jurisdiction, paved acceleration, deceleration, passing and turning lanes shall be provided. Residential streets shall be laid out so that their use by through traffic will be discouraged.

(8) No street names may be used which will duplicate or be confused with the names of existing streets. Names of new streets shall be approved by the Planning Commission and the Village Board. Proposed streets which are obviously in alignment with or continuations of existing streets already named shall bear the name of such existing streets provided the continuation is in the same general direction. Street name signs of a type approved by the Village Board shall be provided at all street intersections in accordance with applicable provisions of this Ordinance.

(9) A minimum distance may be required by the Planning Commission where deemed necessary between points of ingress and egress where all property to be subdivided is under one ownership on the effective date of this Ordinance.

(10) No permanent building or structure shall be erected or constructed within a street right-of-way, extended street lines, or planed street right-of-way.

(11) Rural type streets, streets having no concrete curb and gutter and having roadway ditches for drainage are an acceptable alternative provided minimum design requirements as specified in this ordinance can be achieved.

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(b) Standard Specifications. All new streets within the corporate limits of the Village, dedicated or platted after the effective date of this ordinance, shall be improved with roadway pavement in accordance with the *Illinois Department of Transportation Design Manual* including subgrade, sub-base, base course, surface course, curb and gutter, and all other related work in accordance with this Ordinance and the latest edition of the *Standard Specifications for Road and Bridge Construction*, Illinois Department of Transportation.

(c) Location. Streets shall be located in conformity to street plans officially adopted by the Village Board of Trustees, Wherever such a planned street is located within a proposed subdivision, the street shall be designed and located in the place and with the width indicated on said official street plan. Where the street is not shown on the official street plan, the arrangement of streets in the subdivision shall—:

(A) extend to existing adjoining streets, unless extension thereof would not be practical, and shall be located to coordinate with other proposed developments.

(B) provide for the continuation or appropriate projection of existing principal streets in surrounding area.

(C) conform to a plan for the area or neighborhood approved or adopted by the Plan Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

(d) Abutting planned or existing highway or railroad.

(1) Where a subdivision borders on or contains a existing or proposed primary street or railroad, the Village Board, upon recommendation of the Planning Commission, may require a frontage or reversed frontage road with screen planting contained in a non-access reservation, which shall have a minimum width of 10 feet, but actual width may increase if determined by recommendation of the Planning Commission and approved by the Village Board in order to provide adequate separation and screening from the primary street or railroad.

(2) Should a proposed subdivision border on or contain a railroad, expressway, or other limited access right-of-way, the Village may require the location of a street approximately parallel to and on each side of such right-of-way at a distance suitable for the development of appropriate use of the intervening land, such as a park proposed in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall be determined with due consideration of the minimum distance required for approach grades to future grade separations.

(e) Reserve sites. No strip or area shall be reserved along any portion of a street half street, or alley which will prevent adjacent property owners access thereto.

(f) Half streets. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of this Ordinance, and where the Planning Commission recommends and the Village Board finds it will be practicable to require dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be planned within such tract.

(g) Dead-end streets. Permanent dead-end streets shall be designated as a cul-de-sac. Temporary dead-end streets (if approved by the Village Board) shall be designed for a temporary cul-de-sac with temporary easements. "T" turnarounds shall not be permitted.

(h) Street elevations. Street elevations shall conform to existing natural elevations wherever possible. The centerline elevation of the paved street surface shall be a minimum of 2 feet above the 100-year flood route.

(i) Alleys.

(1) Alleys in residential areas shall not be permitted.

(2) In commercial business and industrial districts, definite and assured provisions shall be made for service access such as off-street loading, unloading and parking consistent and adequate for the uses proposed. If, in the opinion of the Plan Commission such facilities are not adequate, the Plan Commission may permit or require the dedication and improvement of a public alley.

(3) The right-of-way width of an alley, where permitted or required, shall be 24 feet. Pavement width (without curbs as measured edge to edge) shall be 16 feet.

(4) Alley intersections and sharp changes in alley alignment shall be prohibited.

(5) Dead-end alleys shall not be permitted.

(j) Cul-de-sacs

(1) Cul-de-sac. A cul-de-sac designed to be permanent shall not be longer than 500 feet measured along the centerline from the centerline of the intersecting street to the center of the cul-de-sac. Curbed grass islands at the center of the cul-de-sac shall be required. Tear-shaped designed cul-de-sacs meeting the requirements herein stated will be permitted.

(A) Cul-de-sac within residential districts:

(i) Terminus of cul-de-sac shall be nearly circular shape with a right-of-way not less than 120 feet in diameter, and throat right-of-way radius of not less than 30 feet.

(ii) Paved circle shall be centered in the right-of-way and have a paved circle of not less than 100 feet in diameter and a throat pavement radius of not less than 50 feet.

(B) Cul-de-sac with business, commercial and industrial districts:

(i) Terminus of cul-de-sac shall be nearly circular shape with a right-of-way not less than 170 feet in diameter, and throat right-of-way radius of not less than 30 feet.

(ii) Paved circle shall be centered in the right-of-way and have a paved circle of not less than 120 feet in diameter and a throat pavement radius of not less than 50 feet.

(C) Cul-de-sac islands.

(i) Islands shall be centered on the cul-de-sac right-of-way and have a radius that will permit the required pavement and parkway width to be constructed around said island.

(ii) All cul-de-sac islands shall be landscaped as directed and approved by the village.

(k) Street right-of-way widths. Right-of-way widths for designated streets shall conform to the following minimum requirements or to the requirements of the appropriate authority, whichever is greater:

<b><i>Street Classification</i></b>	<b><i>Width</i></b>
Primary	80 to 100 feet
Collector	
Major Collector	80 feet
Minor Collector	70 feet
Local	
Minor & Industrial Service	66 feet
Frontage Road	50 feet
Alley	24 feet
Cul-de-Sac Turnarounds	
Residential	65 feet radius
Business, Commercial & Industrial Districts	85 feet radius

(l) Pavement widths

<b><i>Street classification</i></b>	<b><i>Minimum width as measured from back to back of curbs or edge to edge of pavement</i></b>
Primary	Per village or governing authority

Major Collector	As determined by the village, 36 foot minimum
Minor Collector	34 feet
Local Minor & Industrial Service	30 feet
Frontage Road	30 feet
Alley or Driveway	12 feet
Cul-de-sac Turnaround	
Residential	50 feet radius
Business, Commercial & Industrial Districts	60 feet radius

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(m) Geometrics. The geometric design of all street improvements shall conform to the following criteria:

(1) The grade (slope) of all streets shall not exceed the Maximum Gradient and shall not be less than the Minimum Gradient as set forth on Table 6-1, *Summary of Minimum Standards for Street Design*.

(2) The minimum clear site distance shall not be less than the distance set forth on Table 6-1.

(3) Curves in streets shall be permitted, provided, that where connecting street lines that deflect from each other at any one point by more than then 10 degrees, they shall be connected by a curve with a radius of not less than 150 local feet for “Local” streets and 250 feet for “Collector” streets as measured to the street center line.

(4) A tangent of the minimum length listed on Table 1 shall be established between reverse curves on all streets (see Illustration No. 2, Appendix “B”).

(5) The minimum center line radius shall be as set forth on Table 1.

(6) The vertical curve length required shall be calculated by multiplying the algebraic difference in grades times the 30 mph “k” factor. The minimum vertical curve for a particular street classification is set forth in Table 6-1.

(7) Street jogs with center line offsets of less than 125 feet shall be avoided.

(8) Streets shall be laid out so as to intersect as nearly as possible at right angles, unless warranted by special conditions and approved by the Village.

(9) Curved streets, intersecting with primary collector streets shall do so with a tangent section of centerline 50 feet in length measured from the right-of-way line of the primary or collector street.

(n) Street grades.

(1) The design of all new streets in the Village shall not exceed a maximum of 7%. Streets may have a minimum grade of no less than .5% provided that adequate positive drainage is provided and shall be subject to approval by the Village Engineer.

(2) Where an existing street is to be extended to the subdivision, the existing street grade shall be continued if at all possible or a vertical curve shall be provided at the change in grade.

(3) All final street grades are subject to the approval of the Village Engineer. The Final Grading Plan shall show all street grades in percentage of slope. Profiles of new streets, including vertical curve data, shall be provided as requested by the Village Engineer.

(4) All changes of grade shall be connected by a vertical curve of at least the minimum length as set in Table 6-1.

(5) Clear visibility measured along the center line of the street, shall be provided for at least 500 feet on all Primary streets, 400 feet on Collector streets, and at least 250 feet on all other streets.

(o) Pavement design and construction standards.

(1) required pavement: All streets within the subdivision shall be improved with a bituminous concrete flexible type pavement or a Portland cement concrete rigid type pavement. Pavement width shall conform to Section 3-7, Paragraph L of this Ordinance.

(2) Design. The pavement shall be designed in accordance with the *Pavement Design Section of the Design Manual* published by the Bureau of Design, Illinois Department of Transportation, as modified herein, and construed in accordance with the materials, equipment and methods covered by the Illinois Department of Transportation, *Standard Specifications for Road and Bridge Construction*, latest revision.

(3) Flexible Pavements.

(A) Pavement subgrade shall consist of a stable material having an Illinois Bearing Ratio (*IBR*) value of not less than 3.0. IBR tests will be required if, in the opinion of the Village Engineer, they are necessary to evaluate the sub-base material.

(B) Base and surface courses will be of such materials to give structural number (*Dt*) as specified for the type of pavement improvement designated below:

<b><i>Type of street</i></b>	<b><i>Minimum value (Dt)</i></b>
Primary:	Dt to be determined by traffic count and IBR tests
Major Collector	3.2
Minor Collector	2.8
Local (Minor) & Alleys	2.7
Frontage Roads	2.7
Industrial Service	3.4
Cul-de-sac	Same as connecting pavement

(C) The pavement design for local (minor) streets and alleys shall comply with the IDOT Superpave method.

Ord 2003-09, 7/21/2003.

(4) Rigid Pavement. Rigid pavement design shall be in conformance with the Structural Design of Rigid Pavements of the Illinois Department of Transportation. Design Manual.

(5) Completion of underground work. Prior to the construction of the roadway pavement, all of the underground work, including electrical, natural gas, telephone, and cable television, shall be completely installed in place. All trenches which are under proposed roadway and curb shall be backfilled under and 2 feet beyond roadway and curb with granular backfill material, jelled and/or tamped in an approved manner for settlement and compacted to not less than 95% standard laboratory density. After jetting and any subsequent settlement, additional material shall be added as required.

(6) Pavement subgrade requirements.

(A) The street subgrade shall be shaped and compacted as specified in Section 212 of the IDOT Standard Specifications. The minimum compacted density shall be 95% of its maximum density as determined by Standard Laboratory methods. The substantially completed subgrade shall be tested at minimum 300 foot intervals for compacted density and the results submitted to the Village. In addition, just prior to construction of the base course, the subgrade shall be proof-rolled with a fully loaded truck and witnessed by the Village Engineer. If precipitation occurs and the subgrade becomes saturated before the base course is constructed, then said proof-rolling shall be repeated.

(B) If the subgrade compaction testing and proof-rolling indicate unsuitable or unstable subgrade areas, then said unsuitable or unstable areas shall be removed and replaced with acceptable compacted granular material. Upon approval of the Village Engineer, large areas of unstable subgrade may be stabilized by installing the subgrade geotech fabric, by in-place lime stabilization method, or by any other approved stabilization methods.

(7) Flexible Pavement Requirements.

(A) Aggregate Base.

(i) After approval of the subgrade by the Village Engineer, the aggregate base shall be constructed in accordance with Section 301 of the IDOT *Standard Specifications for Type A or Type B Construction*. The material shall be crushed limestone or crushed gravel conforming to CA-6 gradation. The compacted base course thickness shall be as calculated by the above stated method with the minimum thickness being 12". The aggregate base course material shall be compacted to not less than 95% of the standard laboratory density. During construction of the aggregate base course and compaction density, tests shall be made as directed by the Village Engineer to verify that the required compacted density is achieved. Also, the aggregate base course shall be proof-rolled one day prior to construction of the binder course with a fully loaded truck.

Ord 2003-09, 7/21/2003.

(ii) If the base compaction testing and proof rolling indicate unstable base areas, then said unstable base areas along with any unstable subgrade shall be removed and replaced with acceptable compacted base course material, and, if required, a subgrade geotech fabric.

(B) Bituminous Prime Coat. Prior to construction of the bituminous binder course, the completed aggregate base course shall be primed with a bituminous material, MC-30 or an approved equal, at a minimum application rate of 0.30 gallon per square yard.

(C) Bituminous Concrete Binder Course. The bituminous concrete binder course shall be with Superpave, IL-19.0, N50. All work and materials shall be performed in accordance with applicable provisions of Section 406 of the IDOT Standard Specifications. The minimum thickness of the completed bituminous binder course, as measured at any point on the pavement surface, shall be as follows:

(i) 2½" for local, minor, cul-de-sac, frontage and alley streets.

(ii) 2½" for minor collector streets and minor business and commercial streets subject to light traffic.

(iii) 2½" for major collector streets and streets within business and commercial districts subject to heavy traffic.

(iv) 3" for streets within Industrial Districts.

Ord 2003-09, 7/21/2003.

(D) Stabilization Period and Core Testing. Bituminous Binder Course: The binder course shall be subject to one winter period of traffic after placement before the construction of the final surface course. Prior to November, bituminous ramps shall be installed at raised manholes, vault,



and inlet casting to facilitate snow removal from the streets. Ramps shall be removed prior to construction of the surface course. Prior to construction of the final surface course, core boring shall be made, in the presence of a representative of the Village, through the existing binder course and aggregate base course. The corings shall be spaced as directed and shall be alternately staggered on each side of the centerline of the pavement. Coring shall be measured for thickness and results of the core borings shall be submitted to the Village Engineer for approval before proceeding with the final bituminous course. Any deficiencies in thickness of base and/or binder shall be corrected by an approved thickness of surface course or other method found acceptable to the Village. All core borings shall be filled and compacted with bituminous asphalt. The cost of all borings shall be at the subdivider's expense.

(E) Bituminous Concrete Surface Course.

(i) Prior to construction of the final bituminous surface course on previously constructed bituminous binder courses subject to extended traffic use, a bituminous tack coat shall be applied to said bituminous binder course surface.

(ii) The bituminous concrete surface course shall be Superpave, Mix C, N50 constructed on previously placed bituminous binder course. The work and materials shall conform to applicable provisions of § 405 or § 406 of the Standard IDOT Specifications. The bituminous mixture shall be shown on the plans or specified in the project specification and approved by the Village Engineer. No recycled bituminous material will be permitted in the final bituminous surface course mixture unless approved by the Village Engineer

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(iii) The minimum thickness of the final completed bituminous surface course, as measured at any point on the pavement surface, shall be 1½ inches on all proposed streets within the development.

(8) P.C.C. Rigid Pavement Requirements.

(A) Portland cement concrete pavement shall be designed in accordance with the IDOT Design Manual for rigid pavement. The design data and calculations shall be submitted to the Village for approval. The minimum pavement thickness shall be 7 inches.

(B) All concrete rigid type pavement shall be constructed on a 4 inch minimum compacted aggregate subbase.

(C) Portland cement concrete pavements shall be constructed in accordance with applicable provisions of Section 420 of the IDOT Standard Specifications.

(D) Concrete curbs and gutters adjacent to the concrete pavement may be constructed integral with the pavement section.

(9) Cul-de-sac Requirements. The requirements for construction of cul-de-sacs pavements shall conform with the connecting street's pavement requirements.

(10) Frontage Roads Requirements.

(A) The complete design of frontage roads including specifications and designation of traffic ways, driving lanes, pavement widths, thickness, materials, etc., shall be submitted to the Village for review and approval.

(B) When a frontage road is to be dedicated to public use, the specifications shall be in accordance with the design requirements for streets within the district it is located.

(C) Where more than one owner or lessee are to use the same private frontage road, a covenant, whereby the owners of the property serviced thereby are jointly and severally liable for the maintenance thereof shall be recorded before approval of the proposed development as defined herein

(11) Curb and Gutter.

(A) General. A concrete curb and gutter section shall be constructed along the outside lines of all street pavements where proper open ditch or drainage cannot be achieved. A curb and gutter section shall be constructed along the outside lines of all parking lots.

Ord 2003-09, 7/21/2003.

(B) Standard Curb Section in Residential Districts. The Standard Concrete Curb and Gutter section shall be of the *Roll Curb Type*, having a minimum width of 21 inches, 10 inch gutter flag thickness, and 3½ inch maximum mountable curb height. The gutter flow line to be 11 inches from the gutter flag edge. At locations such as intersections and islands where a barrier curb is required to control traffic, a mountable type (M6.12) curb and gutter section shall be constructed.

(C) Curb Section in Commercial and Industrial Districts. The curb and gutter section in commercial and industrial districts shall consist of a combination barrier concrete curb and gutter, Type B6.12. Combination curb and gutter shall be depressed at sidewalk ramps and known driveway approaches. Where driveway approaches are not known at the time of construction, the barrier curb shall be constructed throughout with future removal of the curb by sawing at driveways and other access entrances.

(D) Reinforcing Bars. All curb and gutter shall be reinforced with two No. 4 reinforcing bars run continuously through its length, except at expansion joints.

(E) Expansion Joints. Expansion joints shall be provided at all radius points, construction joints, and when directed by the Village Engineer, 10 feet on each side of inlet structures. At expansion joints, provide 2 #6 smooth dowel bars with end caps across said joint, and 3/4 inch pre-molded, non-extruding joint filler.

(F) Contraction Joints. Contraction joints shall be sawed at a maximum of 20 foot spacing. Contraction joints shall be saw cut in the upper 1/3 of curb and gutters within seven days of placement.

(G) Standard Specifications. Concrete curb and gutter shall be constructed in accordance with Section 606 of the IDOT Standard Specifications. Concrete shall be Class SI. Test cylinders shall be taken and the certified compression test reports submitted to the Engineer for the Village. Finished surfaces of all newly constructed curb and gutter shall be coated with anti-spall and curing compound as approved by the Engineer for the Village.

(H) Base. Concrete curb and gutter shall be constructed on a compacted aggregate base course having a minimum depth of 4 inches.

(I) Curb Return Radius. All street intersections shall have a minimum curb return radius of 25 feet on local streets and 30 feet on other street classifications unless otherwise required.

(12) Open ditch drainage section.

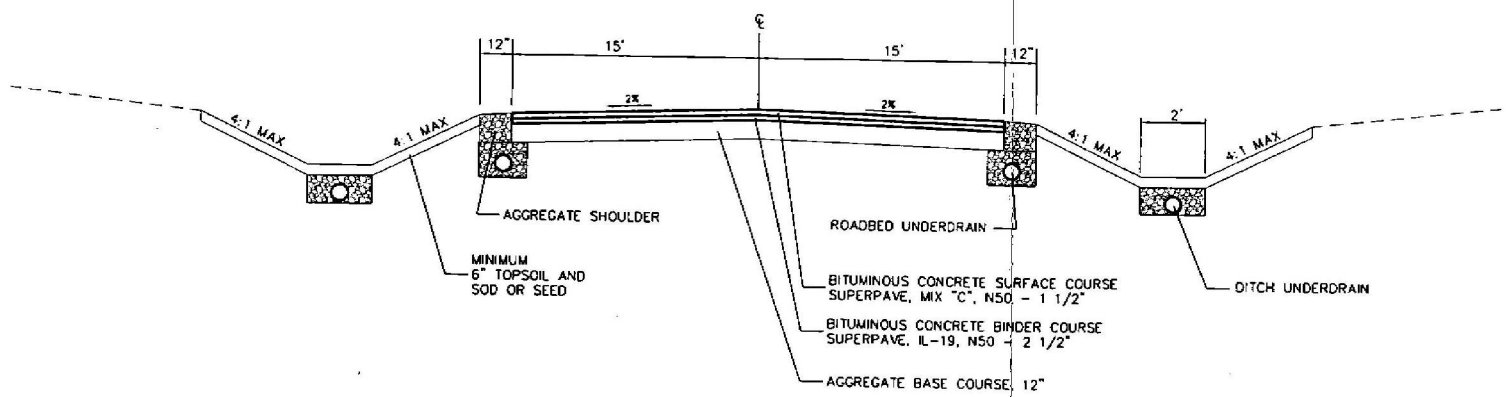
(A) General. An open ditch drainage section may be constructed along the outside lines of all street pavement and parking lots if minimum design requirements specified in this section can be achieved. Please refer to Figure6-1 for a graphical depiction of the requirements.

(B) Ditch cross-section. Maximum ditch side slopes shall be 4:1 with a 2' level trough. One-foot wide aggregate shoulders shall be provided along each edge of pavement.

(C) Longitudinal slope. Minimum slopes shall be 1.0%.

(D) Ditch underdrain. Underdrain shall be installed along the center of the roadway ditch and connected to the storm sewer/detention pond system.

(E) Roadbed underdrain. Underdrain shall also be installed along the edges of pavement located 75' upstream on either side of the low point in the roadway.



**OPEN DITCH DRAINAGE SECTION**  
**FIGURE 6-1** N.T.S.

Private drain connection. Private sump pump discharges for each property's septic curtain drain system shall be connected to the ditch underdrain system. Connections shall be made provided they are performed in a manner acceptable to the Village engineer.

(p) Pedestrian ways requirements. Pedestrian ways shall be provided as follows:

(1) Residential Subdivisions: Pedestrian ways are not required.

(2) Commercial Districts: Pedestrian ways are required on both sides of all streets.

(3) Industrial Districts: Pedestrian ways in industrial districts shall be provided as directed by the Village Board

(4) Pedestrian ways may be required by the Village through the center of blocks more than 800 feet long, where deemed essential to provide circulation of access to schools, playgrounds, shopping centers, transportation, and other community facilities. Said pedestrian ways or sidewalks shall be located within a right-of-way or easement at least 12 feet in width.

(q) Open ditch drainage section.

(1) General. An open ditch drainage section may be constructed along the outside lines of all street pavement and parking lots if minimum design requirements specified in this section can be achieved. Please refer to Figure 6-1 for a graphical depiction of the requirements.

(2) Ditch cross-section. Maximum ditch side slopes shall be 4:1 with a 2 foot level trough. 1 foot wide aggregate shoulders shall be provided along each edge of pavement.

(3) Longitudinal Slope. Minimum slopes shall be 1.0%.

(4) Ditch Underdrain. Underdrain shall be installed along the center of the roadway ditch and connected to the storm sewer/detention pond system.

(5) Roadbed Underdrain. Underdrain shall also be installed along the edges of pavement located 75 feet upstream on either side of the low point in the roadway.

(6) Private Drain Connection. Private sump pump discharges for each property's septic curtain drain system shall be connected to the ditch underdrain system. Connections shall be made provided they are performed in a manner acceptable to the Village engineer.

(7) Street Lighting. Street lighting improvements where required shall be installed to service all property developed. Such improvements shall be of the individual service utilizing the standard luminaries of the constant wattage type to provide lighting levels as hereinafter set forth. The design shall be in accordance with the "Eliminating Engineering Society's Lighting Handbook," latest edition. Fiberglass poles shall not be allowed.

Maintained (Average) Roadway & Walkway Classification	Horizontal Area		Illumination Classification			
	Commercial		Business &Industrial		Residential	
	Foot Candles	Lux	Foot Candles	Lux	Foot Candles	Lux
Vehicular Designation						
Collector	1.2	13	0.9	10	0.6	6
Major	0.8	10	0.6	6	0.4	4
Minor	0.6	6	0.4	4	0.2	2
Pedestrian Walkways	0.9	10	0.6	6	0.2	2

TABLE 6-1

Classification Street	Minimum ROW Width	Minimum Pavement Width <sup>3</sup>	Minimum Radius of Horizontal Curves	Minimum Length of Vertical Curves	Minimum Tangent between Reverse Curves	Maximum Gradient of Roadway <sup>4</sup>	Minimum Gradient of Roadway	Minimum Clear Sight Distance
Primary Collector	80-100 <sup>5</sup>	As required by village	250	200 <sup>6</sup>	200	5%	.5%	500
Major Collector	80	As required by village - 36 min	200	100 <sup>4</sup>	100	5%	.5%	400
Minor Collector	70	34	200	100 <sup>4</sup>	100	5%	.5%	400
Local, Minor & Industrial Service	66	30	150	100 <sup>7</sup>	50	7%	.5%	200
Cul-de-Sac	66	30	150	50 <sup>5</sup>	100	7%	.5%	200
Turnaround	130 diameter <sup>8</sup>	100 diameter <sup>6</sup>						
Frontage Road (Marginal Access street)	50	30	150	50 <sup>5</sup>	100	7%	.5%	200

## (r) Parkway Restoration.

(1) All parkways and cul-de-sac islands within the street's right-of-way which are to have a finished earth surface shall be graded with topsoil and seeded or sodded. All parkways between the sidewalk and curb shall be graded so as to have a minimum cross-drainage slope of 2% to the curb line.

<sup>3</sup>Pavement widths are measured back to back of curb.

<sup>4</sup>Minimum slope of drainage ditch bottom shall be 1.0%.

<sup>5</sup>Exact ROW within standards shall be decision of village board.

<sup>6</sup>50' for each 1% algebraic difference of grade but in no case less than 100'

<sup>7</sup>40' for each 1% algebraic difference of grade but in no case less than 100'

<sup>8</sup>170' diameter ROW and 120' diameter in commercial and industrial districts

(2) Unsuitable soil, stumps, boulders, and other debris, including broken or excess concrete shall be removed from the parkway as to provide an acceptable sub grade. Stumps shall be removed to a minimum of 12 inches below the proposed finished grade.

(3) After the parkway subgrade has been prepared, acceptable topsoil material shall be placed to a minimum depth of 6 inches and graded to proposed finish surface.

(s) Street Signs.

(1) Street name signs shall be furnished and installed by the Subdivider at all street intersections at the Subdivider's expense. Street name signs shall be of the type that is standard with the Village and shall be approved and installed as directed by the Village's Director of Public Works.

(2) Traffic and pedestrian control signs control signs such as stop signs, parking signs, pedestrian walk signs, etc., will be finished and installed by the Village at the expense of the Subdivider. The cost of said traffic and pedestrian control shall be included in the Subdivider's improvement security deposit.

(t) Pavement Marking. Where required for control and safety vehicular and pedestrian traffic, and as directed by the Village, pavement markings shall be placed on the pavement in conformance with the Illinois Department of Transportation's *Manual of Uniform Traffic Control Devices*.

(u) Other Traffic Control and Safety Devices.

(1) At intersections where the existing or proposed traffic warrants, traffic control signals shall be installed, at the Subdivider's expense, in accordance with the Illinois Department of Transportation requirements.

(2) Where required for vehicular safety, guardrailing, retaining walls, berms, guard posts, guard posts and turning lanes, etc., shall be installed as directed by the Village and as required by other regulatory authorities.

**§ 474. Site grading and drainage:**

(a) General Requirement. The excavation of, the filling of, or any combination thereof of any lot or parcel within any subdivision shall be in accordance with an approved grading plan submitted as part of engineering plans for said subdivision.

(b) Drainage Overlay. A reproducible Mylar drainage overlay drawing with certificate, as required by the Illinois Plat Act, shall be submitted to the Village for approval with the final engineering plans. The drainage overlay drawing shall be at the same scale as the final subdivision plat with designated critical lots noted.

(c) Contents of the Grading Plan. The grading plan shall include the following:

(1) Benchmark locations and other control elevations based on USGS Datum.

(2) Existing and finished ground contour lines at a minimum of 1 foot contour intervals.



(3) Site and any affected adjoining properties drainage showing existing and proposed channels, swales, lakes, ponds and structures with control elevations, slopes and cross-sections.

(4) Top of foundation elevations and any opening elevations below top of the foundation for any existing or proposed buildings.

(5) Finished ground surface elevations at foundation corners, lot corners, top of curbs at property lines extended, drainage inlet structures, and at other pound control points.

(6) The parcel drainage shall be designed to flow away from the top of the foundations. Storm water being directed to the side yard of the parcel shall be directed into a formed drainage swale, having a minimum slope of 1% and a maximum slope of 7%. In the event that conditions dictate that some parts of the lot be higher than the structure foundation, the grading plan must show specific drainage configurations for the parcel specifying that all drainage is to be directed to flow away from the foundation in an acceptable manner.

(7) Back lot line swales shall be graded to a positive outlet or inlet structure at a minimum flow line slope of 1% and shall have side slopes of 6:1 or less.

(8) Construction and work such as walkways, driveways, landscaping or any structure shall be installed so that the construction of same will not interfere with drainage. All sidewalks, driveways, patios and other flat work shall be at an elevation relative to the foundation wall so that water will drain away from the structure on all sides and off the lot in a manner which will provide reasonable freedom from erosion and permanently pocketed surface water.

(9) The flow from off-site tributary areas that are tributary to an intermittent stream or overflow route that must pass through the parcel must be identified on the grading plan and must be designed in such a way to adequately convey the flow of all surface water for a 100-year storm frequency without damage to adjoining structures.

(10) All overflow routes for the 100-year storm and for accumulated storm water runoff from several lots or from off-site catchment areas must be clearly designated on the grading plan with the total width of the flow route contained within an easement for drainage purposes.

(11) Critical parcels and lots shall be noted on the grading plan.

(d) Grading Classification of Lots. In a subdivision or a planned unit development, all rough grading within a given block (or area) must be completed prior to the issuance of any building permits. The Subdivider shall certify in writing that all rough grading is complete within a given block, watershed or other area in strict conformity with the grading plan as prepared and approved by the Village. Subdivision Enforcement Officer shall verify grading is complete as required and so notify the Village before building can proceed. All proposed drainageways, swales, detention facilities, lot and block grading shall be complete to insure minimum affect and disturbance upon properties adjoining said development or other portions within the development.

(1) Critical parcels.

(A) Those parcels designated as critical within said development shall have a “building spot survey” performed immediately after the foundation has been poured and backfilled to insure compliance with building setback requirements and to insure that elevations of any openings in the foundation are in conformance with the approved grading plan requirements of high water restrictions as they relate to the grading plan or storm water management plan. At the same time, the Subdivider will insure that the drainage pattern on a particular parcel has not been altered during the course of the foundation construction and backfilling so as to adversely affect the overall drainage plan. Any improper grading deemed by the code Enforcement Officer to be a potential hazard to any property shall be corrected immediately upon his direction or shall be cause for suspension of work on the parcel. After the structure on a parcel is substantially completed and final grading is completed, the Subdivider shall furnish an occupancy survey to certify that the final ground elevations are in strict compliance with the elevations indicated on the approved grading plan.

(B) The subdivider shall be responsible for the grading of each lot or parcel through all stages of construction to insure that drainage from tributary areas is not blocked or hindered and that servient property is protected from damage by providing proper grading to a storm drainage facility in accordance with the approved grading plan.

(2) Standard Parcels.

(A) Those parcels not designated as critical shall be considered as standard parcels within said development, and shall have a “building spot survey” performed immediately after the foundation has been poured and backfilled to insure compliance with building setback requirements and to insure that rough grading has been substantially completed, so that all drainage goes away from the building to side yards, front yards or rear yards in conformance with the approved grading plan. The Enforcement officer, or his designated representative, shall visually inspect all standard parcels at the time rough grading is substantially complete to insure that yard areas have been rough graded properly before work is allowed to continue beyond the foundation point.

(B) After the structure on a parcel is substantially completed and final grading is complete, the Subdivider shall finish an occupancy survey to certify that final ground elevations are in strict compliance with the elevations indicated on the approved grading plan.

(3) Exceptions. In those cases where conditions, in the opinion of the Village Engineer, do not permit compliance with the approved grading plan, a revised grading plan must be submitted to the Village in the same detail as the original submission requires. In the case of those parcels that need additional detail, the same shall be provided as required by the Village Engineer.

**§ 475. Public utilities**

All utility lines for telephone, electrical service, and cable television shall be placed underground entirely throughout a subdivided arcs. Said conduits or cables shall be placed within easements or dedicated public ways, in a inner which will not conflict with other underground services. Further, all transformer boxes shall be located so as not to be unsightly or hazardous to the public. The utility lines shall be parallel to and not less than 18 inches from the property lines. Corner property markers shall not be disturbed by the installation of utility lines.

**§ 476. Storm sewers and sump pump drains**

(a) An adequate system of storm water drainage shall be constructed and installed, consisting of pipes, storm water detention facilities, tiles, swales, manholes, inlets and other necessary facilities, that will adequately drain the subdivision and protect roadway pavements and buildings from flooding. The storm water drainage system shall be in compliance with the requirements of this Ordinance and all other ordinances enacted by the Village and subject to the approval by the Village Engineer.

(b) Computations for the storm sewer system for on-site and off-site drainage shall be presented with the preliminary plat for approval.

(c) The drainage system shall include underground piping for sump pump connections. Said piping shall extend from either the front or the rear of each building lot to the storm sewer system and include manholes and/or clean-outs for maintenance purposes. The sump pump drainage system shall be subject to the approval of the Village Engineer.

(d) All storm sewer runoff from adjacent areas shall be received and conveyed through the subdivision. Whenever any stream or important surface drainage course is located in any area which is being subdivided, the subdivider shall reserve an adequate drainage right-of-way as determined by the Village and the Illinois Department of Transportation, Division of Water Resources along each side of the stream for the purpose of widening, deepening, sloping improving or protecting the stream.

(e) The storm sewer system shall be designed in accordance with the Rational Method using a 10 year storm frequency or other methods approved by the Village Engineer. Culvert design and capabilities shall be determined according to the Illinois Department of Highways Standard Design Methods using a 25 year storm frequency.

(f) All manholes, catch basins, inlets, pipe, frame and grates shall be concrete, of the type approved by the Village Engineer. All storm sewers shall be placed within public rights-of-way or public utility easements. Storm sewers in rear and/or side yards shall be avoided if at all possible and shall be subject to approval by the Village Engineer. Lids shall have the words "Storm Sewer" cast on the top.

(g) Intercepting storm water structures, including catch basins and inlets, shall be provided at intervals not in excess of 400 feet, as measured along the flow line. The storm water drainage system shall be separate and independent of the sanitary sewer system. Storm sewers and appurtenant structures shall be constructed in accordance with the "Standard Specifications for Road and Bridge Construction," published by the Illinois Department of Transportation.

(h) Sump Pump Drains. No water from footing tiles or basement sump pumps shall be pumped or discharged onto the ground surface. Such water discharge pipes shall be discharged into secondary drainage facilities or directly into storm sewer system.

(i) Construction of discharge piping from footing tiles and sump pumps and their appurtenant structures shall be in accordance with the Standard Specifications for Road and Bridge Construction," latest edition, published by the Illinois Department of Transportation.

(2) Pipe material for discharge pipe from house and secondary drainage system shall be PVC with a minimum SDR of 35, ASTM 3034.

(3) Piping shall be laid on a uniform grade with minimum grade of 1/8" per foot and a minimum depth of cover of 3 feet.

(4) Secondary drainage service to lots shall be installed within the street right-of-way side yard easement, back lot line easement, or any other applicable utility easement provided.

(5) Secondary drainage junction box, 18 inches in diameter minimum, shall be provided approximately 2 feet behind the curb. The junction box shall have a removable concrete lid set 4 inches below the elevation of the back of curb,

(6) A minimum 3" diameter pipe shall service the house or building. The 3 " pipe maybe installed along a common lot line and service 2 houses or buildings. Said 3 inch line shall be furnished with a clean out at its terminus.

(7) A minimum 4" diameter pipe shall connect the junction box to the storm sewer system. A minimum 6" diameter pipe shall be used as secondary drainage to connect 2 junction boxes, if necessary.

(8) Where properly located, curb inlets may be used in lieu of a sump pump junction box.

(9) Dead-ends of secondary systems shall be provided with a clean out with material and design approved by the village engineer.

(10) Any connection between house sump pump discharge pipe and the secondary drainage system and between the secondary drainage system and storm sewer system shall be made with factory made fittings, wyes and tees. No cut in of piping will be allowed.

(i) Subdrainage. In areas with poorly drained soils and/or a high water table perforated pipe sub-drains, 6" minimum diameter, shall be required. The pipe shall have 2 rows of perforations and shall be laid with the perforations up. Backfill shall be clean, poorly graded crushed rock, IDOT Class C7 or equal. Minimum depth of bury shall be 42" unless circumstances disallow. Minimum trench width shall be 18". Pipe material for subdrainage pipe shall be ASTM D-3034 perforated PVC pipe, minimum SDR of 35 with 2 rows of perforations.

#### **§ 477. Storm water management**

Storm water management facilities shall be designed and constructed in accordance with provisions of Section 9 of this ordinance and as approved by the Municipal Code and as approved by the village engineer.

(a) Submission of Approval Documents. Plans, specifications and all calculations for storm water runoff control as required hereunder, shall be submitted to the Village as part of the review and approval of the Improvement Plans. Calculations of storm water detention pond required average volume shall be submitted with the preliminary plan.

(b) Sequence of Construction. The facilities for storm water runoff control shall be constructed prior to any site grading, street or drainage construction and shall include provisions for siltation control.

**§ 478. Erosion and Sedimentation Control Plan**

During the construction phase of land development, facilities shall be provided to prevent the erosion and washing away of the earth. An erosion and sediment control plan shall be submitted for review and approval along with the Improvement Plans and Specifications. The plan shall include the minimum criteria as follows:

- (a) List of type of soils as indicated on Soil Conservation Service Maps or soils report by a soils engineer.
- (b) Earth movement plan including approximate quantities of materials.
- (c) Method(s) of controlling erosion and sedimentation.

These submissions shall be prepared in accordance with the standards and requirements contained in the Illinois Urban Manual, latest edition, which standards and requirements are hereby incorporated into this Ordinance by reference. The Plan Commission may waive specific requirements for the content of submission upon finding that the information submitted is sufficient to show the work will comply with the objectives and principles of this Ordinance.

**§ 479. Flood plain regulations**

All foundation elevations, proposed grading, storm water management facilities and structures shall be designed and constructed in conformance with the Village's Flood Plain Ordinance.

**§ 480. Field drain tile survey**

The submission of engineering drawings shall include a completed survey of field drain tiles within the proposed subdivision and drawings and specifications of proposed improvements to redirect drain tiles around conflicting improvements. The survey shall include pipe sizes and depths and shall be in accordance with current Kane County ordinances.

**§ 481. Wastewater facilities**

(a) All subdivisions relying on individual on-site wastewater treatment and disposal systems (septic systems) shall comply to the requirements of the Kane County Individual Sewage Treatment and Disposal Systems Rules and Regulations. Subdivisions relying on septic systems shall have private restrictions filed with the Final Plat and incorporated in each deed which require that as soon as public sewers are available, connections to the public sewers will be made within 1 year at the owner's expense and that each owner shall bear their fair, proportionate share of the cost of the public sewer as determined by agreement, special assessment or other means authorized to finance construction of sewer systems. No septic fields may be placed below the regulatory 100 year water surface elevation.

(b) In subdivisions not relying on septic systems, there shall be provided a complete wastewater collection system, including a service connection for each lot and a sewage treatment plant, land application treatment system or other such disposal facilities. All municipal type sewerage systems shall be designed and constructed in accordance with applicable state, county and local plans, standards and regulations and in accordance with accepted modern sanitary engineering practices.

(c) No municipal-type sewerage system shall be permitted in an area to be serviced by the orderly extension of municipal sewerage facilities and no community or individual sewerage system will be permitted which will interfere with any municipal plans for the orderly extension of municipal sewerage facilities.

(d) Provision shall be made for the maintenance and operation of such treatment plant or facility and shall be stated on the Final Plat and covenants, if any, and incorporated in the deed of each lot if charges are to be made to the property owners.

#### **§ 482. Water supply and distribution**

All community water supply systems shall provide all appurtenances and stubs to each lot and shall be designed and constructed in accordance with plans and standards for the state, county or municipality. Individual water supplies may be permitted providing they meet all applicable state and county regulations. If a public water supply system is planned for the area, the subdivider shall provide that private restrictions are filed with the Final Plat and incorporated in each deed so that as soon as public water supply system is available, connections to the system will be made at the property owner's expense within 1 year and so that owners shall bear their fair, proportionate share of the cost of the public water main as determined by agreement, special assessment proceeding, or other means authorized by law to finance construction of water systems.

#### **§ 483. Off-street parking and loading**

Any off-street parking or loading facilities to be constructed as part of the proposed subdivision improvements shall conform with the requirements specified in the Village's Zoning Ordinance.

#### **§ 484. Landscaping and trees**

(a) Site Landscaping. All parkways within the dedicated street area, drainage easements, cul-de-sac islands or other public in common use areas shall be graded, seeded and planted in accordance with the Village Zoning Ordinance, this Ordinance or as directed and approved by the Village Board. After lot areas have been graded in accordance with the grading plan, the ground surface shall be temporarily seeded or planted with ground cover to control erosion.

(b) Landscaping Plan. A landscape plan, prepared by a qualified landscape architect, shall be submitted with all applications for preliminary plan review. The plan shall be subject to review and recommendation of approval by the Village Planner.

(1) All areas of the site, which are not paved, shall be landscaped with trees, shrubs, ground cover and flowers to:

(A) Slow surface water runoff.

- (B) Restrict blowing trash and litter.
- (C) Deter improper access or site use by the public.
- (D) Improve the visual quality of the site.

(2) The landscape plan shall include identification of species, size and location of plant materials and all other landscape treatments including, but not limited to:

- (A) Berms;
- (B) Fences;
- (C) Ground covers;
- (D) Ornamental or accent lighting;
- (E) Paving materials; and
- (F) Limits of seed and/or sod.

(3) Treaties and shrubs shall be keyed into a plant list.

(4) Upon installation, trees shall not be less than the following sizes:

(A) Shade Trees: 2½ inch caliper, minimum as measured 12 inches above the ground.

(B) Evergreen: 6 feet tall minimum

(C) Ornamental: 6 feet tall, minimum, if multi-stem. 2½ inches caliper, minimum if single stem.

(5) Any other information required by other Village ordinances, policies or officials

(c) Street trees.

(1) Trees shall be planted throughout the subdivision along proposed streets, cul-de-sac islands, screenings and other areas shown on the landscaping plan.

(2) Trees shall be spaced no more than 40 feet apart and shall be spaced at approximately alternate intervals on opposite sides of the street. A minimum of 2 tree species shall be planted per block.

(3) Trees shall be selected from the following recommended species:

<b>Common Name</b>	<b>Botanical Name</b>
American Linden	Tilia americana
Ginkgo	Ginkgo bioba (male & female)
Hackberry	Celtis occidentalis
Ohio Buckeye	Aesculus Glabra
Sassafras	Sassafras albidum
Sugar Maple	Acer sacchrum
Black Maple	Acer nigrurn
Red Sunset Red Maple	Acer rubrum (Red Sunset)
Northwoods Red Maple	Acer rubrum (Northwoods)
Armstrong Red Maple	Acer rubrum (Armstrong)
Sycamore	Platanus occidentalis
Butternut	Juglans cinerea
Bitternut Hickory	Cary cordifonnrs
Shagbark Hickory	Carya ovata
Hazelnut	Corylus americana
Blue Beech	Carpinus caroliniana
Kentucky Coffee Tree	Gyinnocladus dioica
White Oak	Quercus alba
Swamp White Oak	Quercus bicolor
Shingle Oak	Quercus imbricaria
Chinquapin Oak	Quercus muhlenbergil
Black Oak, Red Oak, Hills Oak, Burr Oak	Quercus valutina, Quercus rubra, Quercus ellipsoidalis, Quercus macrocarpa

(d) Trees shall be balled and burlapped and shall have a minimum trunk diameter of 2½ inches measured at 12 inches above the ground level. They shall be northern grown in a nursery, and shall have been transplanted twice, the last transplanting being not less than 4 years prior to planting. All trees shall be tagged and identified as to species, size and place of origin. Such tags shall not be removed by the Subdivider prior to inspection by the Village. All trees (original or replacement) determined by the Village to be diseased or not in vigorous growing condition after 2 growing seasons shall be replaced at the beginning of the next succeeding planting season, at no cost to the Village. Tree planting shall be done during the proper season. No planting shall be done in frozen soil or during unfavorable weather conditions.

(e) Each tree shall be planted slightly higher than where it stood in the nursery, in relation to the finished grade. Holes shall be backfilled with a planting soil mixture consisting of 3 parts friable topsoil and 1 part peat moss, and shall be thoroughly watered when the hole is ⅔ full.



(f) After watering the filling shall be completed and the soil thoroughly tamped. After planting, a 3 inch mulch of shredded hardwood bark shall be applied over the disturbed ground and a shallow watering basin provided around the tree.

(g) The petitioner shall be wholly responsible for assuming that all trees are planted in a vertical and plumb position, and remain so throughout the guarantee period. Deciduous trees may or may not be staked and guyed depending upon the individual preference of the subdivider, however, any bracing procedure(s) must be approved by the Village prior to installation.

#### **Article 7—Fees and Penalties**

##### **§ 485. Fees.**

The Board of Trustees shall, by separate ordinance, establish a schedule of fees, charges and expenses for the processing of subdivisions and other administrative matters pertaining to this ordinance.

(a) All fees and expenses incurred by the Village, including, but not limited to, engineering, planning, consultant and legal fees incurred in connection with a subdivision pursuant to the terms of this ordinance, shall be paid by the petitioner or applicant. No action shall be taken on any appeal, petition or application for a subdivision until all applicable fees, charges and expenses have been paid in full

##### **§ 486. Penalty; enforcement**

(a) Any person who violates, disobeys, omits, neglects, refuses to comply with, or who resists enforcement of any of the provisions of this Subdivision Control Ordinance shall, upon conviction, be fined not less than \$25 nor more than \$500 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(b) Any person operating a non-permitted use without securing the proper zoning or special use permit first shall, in addition to the fines imposed under the preceding paragraph, be denied eligibility to apply for such zoning or special use permit for a period of one year.

(c) The Subdivision Enforcement Officer is hereby designated and authorized to enforce this Ordinance. However, it shall also be the duty of all officers, citizens and employees of the Village to assist the Subdivision Enforcement Officer by reporting to him any new construction, reconstruction, improved land uses, or upon any seeming violation.

#### **Article 8—Dedication of Park Lands and School Sites or Payment of Fees in Lieu Thereof**

##### **§ 487. Adoption by reference**

Article V of Chapter 19 of the Kane County Code, as amended, entitled *Dedication of School/Park Sites or Payment of Fees in Lieu Thereof*, three copies of which are on file in the office of the Village Clerk of the Village of Lily Lake is hereby adopted by reference, and each and all of the regulations, provisions, conditions and terms of said Article V of Chapter 19 of the Kane County Code, as amended from time to time, are hereby referred to, adopted, and made a part hereof, as if fully set out in this ordinance, with the additions, deletions and other changes set forth below.

**§ 488. Additions, deletions and changes**

Article V of Chapter 19 of the Kane County Code, as amended, is revised in the following respects:

(a) In § 19-231, substitute *Village* for *county* wherever it appears.

(b) In § 19-232(b), substitute *Village* for *county* wherever it appears. In § 19-232(c), substitute *Village Comprehensive Land Use Plan* for *county plan*.

(c) In § 19-233(a), substitute *Village* for *county* wherever it appears. In § 19-233(b), substitute *Village Board* for *county development committee*.

(d) In § 19-235, substitute *Village Board* for *county*.

(e) In § 19-236, substitute *Village* for *county* wherever it appears.

(f) § 19-240(b) shall read, in its entirety, as follows:

(b) The hearing shall be conducted before the Village Board upon not less than 15 days' notice by first class mail, postage prepaid, to the school district and the subdivider or developer. Notice of the hearing shall be published once not less than 15 days nor more than 30 days prior to the hearing in a newspaper published within the Village, or if no newspaper is published within the Village, then in a newspaper published within Kane County and having a general circulation within the Village. The hearing shall be conducted according to rules adopted by the Village Board for such purpose.

(g) § 19-241 is deleted in its entirety.

(h) § 19-242 is deleted in its entirety.

(i) In § 19-243(a), substitute *Village Treasurer* for *plat officer*. Substitute *established by the Village* for *provided by the county treasurer of Kane County*. Substitute *Village Clerk* for *Kane County board chairman and the members of the land/cash subcommittee*. In § 19-243(b), substitute *Village of Lily Lake, the President and members of the Board of Trustees* for *County of Kane, the Kane County Board members*. Substitute *Village* for *County* in the next to the last line. § 19-243(c) shall read, in its entirety, as follows: *Upon resolution of the Village Board, the Village Treasurer shall disburse the amount of money approved to the school district.*

(j) In § 19-251, substitute *Village* for *county*.

(k) In § 19-252(b), substitute *Village* for *county*. Substitute *Village Board* for *county development committee*. In § 19-252(c), substitute *Village* for *county* wherever it appears. Substitute *Village Board* for *development committee*.

(l) In § 19-253, substitute *Village* for *county* wherever it appears. In § 19-253(b), substitute *Village Board* for *county development committee*.

(m) in § 19-255, substitute *Village Board* for *county* wherever it appears.

(n) In § 19-256, substitute *Village* for *county* wherever it appears.

(o) § 19-260 shall read, in its entirety, as follows:

§ 19-260. Distribution of Cash Contributions:

All cash contributions in lieu of actual land dedication made as a condition of approval of a final plat of subdivision, or of a final plat of a planned unit development shall be collected by the Village Treasurer and deposited in an account established by the Village. Park districts or the Kane County Forest Preserve District may apply for distribution of the cash contributions derived from subdivisions or planned unit developments within their boundaries by filing an application with the Village Clerk. Distributions of funds to a park district or the Kane County Forest Preserve District shall be authorized by a resolution adopted by the Village Board.

Ord 1995-01, 4/17/1995; Ord 2002-03, 8/19/2002.

## **Article 9—Stormwater Runoff Control**

### **§ 489. Purpose**

The basic purpose of this section is to control the storage and/or transportation of excess storm water for the safety, health and general welfare. Since political and ownership boundaries often make the use of natural flood routes difficult, the earthmoving that is accomplished to create the maximum land usage should also be planned to provide a bypass flood route for stormwater that will not create a diversion of stormwater drainage or radically change the watershed boundaries. The drainage scheme presented by those who wish to develop property within the jurisdiction of the Village should be planned to accomplish all of the following storm water controls without major loss of land use.

### **§ 490. Definitions**

As used in this section:

(1) “*Berm*” means an embankment, constructed of earth with gentle slopes used to divert stormwater flows, to protect lower lying areas or to provide a restriction to create stormwater storage areas.

(2) “*Bypass Flood Route*” means a flood route formed in the surface topography of the site to supplement or replace the natural flood route.

(3) “*Channel*” means that portion of a stream or ditch in which the flow of water is carried.

(4) “*Control Structure*” means that structure or device in the stormwater drainage system used to control the rate of flow past a specific point.

(5) “*Ditch*” means an open waterway excavated below the ground surface to convey drainage water.

(6) “*Drain*” means a conduit such as a tile, pipe or tubing, installed below the ground surface, which collects and/or conveys drainage.

- (7) *“Excess Storm Water”* means that portion of stormwater runoff which exceeds the transportation capacity of storm sewers or channels serving a specific watershed.
- (8) *“Flood Fringe”* means that area in the flood plain, either side of the floodway, where flow velocities are low or zero.
- (9) *“Flood Plain”* means the areas, adjacent to a well-defined main stream drainage system, that are submerged when the volume of stormwater exceeds the main channel capacity.
- (10) *“Flood Route”* means the overland route that flood waters would naturally follow through a site.
- (11) *“Floodway”* means that portion of flood plain adjacent to and including the main channel where flood flow velocities are greater than zero in the direction of main stream flow.
- (12) *“Land Grading”* means the shaping of the ground surface by cutting, filling and leveling to planned grades. Normally, this operation is required in order to convert a site from one land use to another.
- (13) *“Offsite”* means the area outside or beyond the limits of the site under consideration on which drainage functions occur (e.g. runoff, storage, etc.).
- (14) *“Onsite”* means the area within the limits of the site under consideration in which drainage functions occur (e.g. runoff, storage, etc.).
- (15) *“Onsite Drainage”* means the removal of excess water produced by precipitation, snowmelt, irrigation, overland flow or underground seepage from adjacent areas by means of drainage system.
- (16) *“Positive Outlet”* means the terminal point of the drainage system under consideration that is above the hydraulic gradient of the receiving drainage system under normal non-flooding conditions.
- (17) *“Recognized Agency”* means an agency or governmental unit that has statistically and consistently examined local and climatic and geologic conditions and maintained records as they apply to storm water runoff (e.g. Metropolitan Sanitary District of Greater Chicago, U. S. Weather Bureau, University of Illinois Engineering Experiment Station, Illinois State Water Survey, Soil & Water Conservation District, etc.).
- (18) *“Release Rate”* means the rate at which storm water runoff is allowed to flow from a site. This may be given in cfs (preferably), gpm or inches per hour (average).
- (19) *“Safe Storm Drainage Capacity”* means the capability of a storm water facility (e.g. drain, sewer, conduit, open channel, etc.) to function without exceeding its design capacity, so that the hydraulic gradient always remains below the adjacent ground surface.
- (20) *“Site”* means a delimited area considered for a specific use which may be part of a larger area, and which may vary in size from a one-acre parcel of land to a 1200 acre watershed.

(21) “*Stormwater Runoff*” means water that results from precipitation which is not absorbed by soil and plant materials or evaporated.

(22) “*Stormwater Storage Area*” means an area designated to store excess storm water to which storm sewer systems, flood routes or bypass flood routes are tributary.

(23) “*Stream*” means a natural waterway of continued or intermittent operation.

(24) “*Subsurface Drainage*” means the removal of excess water from below the ground surface.

(25) “*Surface Drainage*” means the removal of excess water from the ground surface.

(26) “*Tributary Watershed*” means all of the area that contributes storm water runoff to a given point.

**§ 491. Standards for storm water control inclusion**

(a) Inclusion. The controlled release and storage of excess storm water runoff shall be required in combination for all commercial and industrial developments and for all residential developments that contain an area in excess of two and one-half acres.

(b) Standards

(1) The controlled release rate of storm water runoff from all developments shall not exceed the existing safe storm drainage capacity of the natural downstream outlet channel or storm sewer system. The release rate for any one development shall be the proportionate share by area of the safe storm drainage capacity for the tributary watershed area. This value shall not exceed, however, an average runoff rate of .15" per hour, or that rate which is demonstrated to be compatible with the receiving drainage system. The rate at which storm water runoff is delivered to a designated storm water storage area shall be unrestricted.

(2) A natural flood route or bypass flood route shall be designed with adequate capacity to convey through the development the stormwater runoff from all tributary upstream areas. These flood routes shall be designed to carry the peak rate of runoff from a 100-year storm, assuming all storm sewers are blocked and that the upstream areas are fully developed and have been saturated with antecedent rainfall. No habitable structures shall be constructed within this floodway. However, streets and parking or playground areas and utility easements shall be considered compatible uses.

(A) Design of this floodway system shall also take into consideration control of stormwater velocity, to prevent erosion or other damage to the facility which will restrict its primary use. Depth of flow shall be kept to a minimum, and retention of channel configurations shall be totally under Village control. In the event that the area within these flood routes is reshaped or restricted for use as a floodway, the Village will cause any restrictions to be removed at the expense of the party or parties causing said restriction.

(B) Should the development contain an existing natural waterway, this land configuration shall be preserved or improved as part of the flood route system. Construction of a low

flow system of storm sewers, to carry the minor storm runoff, and reshaping of the stream channel with a maximum of 4 horizontal to 1 vertical side slopes and a bottom of a width adequate to facilitate maintenance and carry the flood runoff without eroding velocities, shall be included in the plans for land development.

(3) The required volume for storm water retention shall be calculated on the basis of the runoff from 100-year frequency rainfall of any duration, as published by the U.S. Department of Commerce, Weather Bureau. This volume of storage shall be provided for the fully developed watershed that is tributary to the area designated for retention purposes. The storm water release rate shall be considered when calculating the stormwater storage capacity, and the control structure shall be designed to maintain a relatively uniform flow rate, regardless of the depth of stormwater in the storage area.

(4) Dry bottom stormwater storage areas shall be designed to serve a secondary purpose for recreation, open space or other types of uses that will not be adversely affected by occasional or intermittent flooding. A method of carrying the low flow through these areas shall be provided, in addition to a system of drains, and both shall be provided with a positive outlet to a natural channel or storm sewer with adequate capacity as described herein.

(A) The combination of the storage of the water from a 100-year storm and the design release rate shall not result in a storage duration in excess of 72 hours. The maximum depth of planned storm water storage shall not exceed 4', unless the existing natural ground contours and other conditions lend a greater storage depth, which shall be approved by the Village. Minimum grades for turf areas shall be 2%, and maximum slopes shall be 6 units horizontally to 1 unit vertically. Storage area side slopes shall be kept as close to the natural land contours as practical, and a 16% slope or less shall be used wherever possible. If slopes greater than 16% are necessary to meet storage requirements or area restrictions, approval shall be obtained from the Village and suitable erosion control provided in addition to the protection required to ensure the public health, safety and welfare.

(B) Outlet control structures shall be designed as simply as possible, and shall require little or no attention for proper operation. Each stormwater storage area shall be provided with a method of emergency overflow in the event a storm in excess of the 100-year frequency storm occurs. This emergency overflow facility shall become part of the downstream flood route or bypass flood route system described herein. Hydraulic calculations shall be submitted to substantiate all design features.

(C) Both outlet control structures and emergency overflow facilities shall be designed and constructed to fully protect that public health, safety and welfare. Storm water runoff velocities shall be kept at a minimum, and turbulent conditions at an outfall control structure will not be permitted without complete protection for the public safety. The use of restrictive fences shall be kept to a minimum and used only as a last resort when no other method is feasible.

(5) Wet bottom storm water storage areas shall be designed with all of the items required for dry bottom storm water storage areas, except that flow conduit and a system of drainage with a

positive gravity outlet may be eliminated. However, the following additional conditions shall be complied with:

- (A) Water surface area shall not exceed one-tenth of the tributary drainage area.
- (B) Shoreline protection shall be provided to prevent erosion from wave action.
- (C) Minimum normal water depth shall be 4' if fish are to be used to keep the pond clean, a minimum of 25% of the pond area shall be a minimum of 10' deep.
- (D) Facilities shall be available, if possible, to allow the pond level to be lowered by gravity flow for cleaning purposes and shoreline maintenance.
- (E) Control structures for stormwater release shall be designed to operate at full capacity with only a minor increase in the water surface level. Hydraulic calculations shall be submitted to substantiate all design features.
- (F) In the event that the water surface of the pond is to be raised for purposes of storing water for irrigation or in anticipation of the evapo-transpiration demands of dry weather, the volume remaining for storage of excess water runoff shall still be sufficient to contain the 100-year storm runoff.

(6) Paved surfaces that are to serve as storm water storage areas shall have minimum grades of 1% and shall be restricted to storage depths of 9" maximum. Rooftop storage shall be prohibited. Release rates and storage volume requirements for paved storage areas remain the same as outlined herein. If a portion of an area within a storm water storage area is to be paved for parking or recreational purposes, the paved surface shall be placed at the highest elevation within the storage area as possible. Maximum parking lot grades shall not exceed normal design parameters of 3% to 5%.

(7) Where developments form only a portion of a watershed or contain portions of several watersheds, the requirement for providing storage shall be based upon the proportion of the area being developed as compared to the remaining undeveloped watershed tributary to the storage area. All existing developed areas in watershed tributary to the storage area shall be provided for pursuant to these regulations. Compensating storage will be acceptable whenever it is justified and feasible. As a watershed is developed with a series of storm water storage facilities, due consideration will be given for calculation of the allowable release rate and capacity of the "natural" flood route or bypass flood route system as described herein.

(8) Where development of a property presents the threat of flooding or damage by flash runoff to downstream residents, the facilities for storm water runoff control shall be constructed prior to any earthmoving or drainage construction on the project site.

(9) The ability to retain and maximize the ground water recharge capacity of the area being developed is encouraged. Design of the storm water runoff control system shall give consideration to providing ground water recharge to compensate for the reduction in the percolation that occurs when the ground surface is paved and roofed over. The use of natural gravel deposits for the lower

portions of storm runoff storage areas, the flattening of drainage slopes retention of existing topography are examples of possible recharge methods.

(10) During the construction phases of land development, facilities shall be provided to prevent the erosion and washing away of the earth. Silting of downstream areas can be prevented through the strategic use of silting basins, by sodding of runoff channels, and by limiting the period of time during which the earth is stripped of vegetation.

(11) The construction of the stormwater control system shall be accomplished as part of the cost of land development. If the amount of storage capacity can be increased to provide benefit to the Municipality, negotiations for public participation in the cost of development may be feasible.

#### **§ 492. Submission of plans required; easements required**

(a) Submissions. Plans, specifications and all calculations for stormwater runoff control as required herein, and such supplemental information as may be required by the Village Engineer and/or the Village Planning Commission, shall be submitted to the Enforcement Officer for review and approval prior to the approval of a Final Plat of the issuance of a building permit.

(b) Plans. Final engineering plans shall show complete details for all of the items covered in this section, and shall be submitted for review and approval by the Village Engineer prior to the start of construction.

### **Article 10—Preservation of Natural Features**

#### **§ 493. Preservation of natural features**

(a) General. Due regard shall be given to the preservation of natural features within a proposed development, such as large trees, water courses, historical and similar community assets, which, if preserved, will add attractiveness and value to the property. The subdivider shall take every precaution required to preserve said natural features in the planning and construction of said development.

(b) Preservation of existing trees. When parcels proposed for development include trees measuring 6" in caliper or larger, a tree preservation and protection plan shall be prepared and submitted to the village for review and approval, and shall include the following:

(1) Show the location, size, condition and species of all existing trees within the construction zone and within 30' of proposed construction, which are 6" in caliper or larger.

(2) Identify all existing trees, 6" in caliper or larger, proposed to be removed.

(3) Means and methods to be used for protecting and preserving trees designated to be saved.

(c) Evaluation of existing trees.



(1) The ability to save existing trees on the site shall be evaluated by the subdivider and the village to determine which trees shall be saved, and which trees may be removed due to one or more of the following conditions:

- (A) Provide essential grade changes.
- (B) Provide for surface water drainage and utility installations.
- (C) Locate proposed structures without causing unreasonable economic hardship.
- (D) Observe good forestry practices, i.e., the number of healthy trees that the parcel will support.
- (E) Pose a safety hazard to pedestrian vehicular traffic, or threaten to cause disruption of public services.
- (F) Pose a safety hazard to buildings, both existing and proposed.
- (G) Are diseased or weakened by age, storm, fire or other injury.
- (H) Are willows, silver maples, or other fast growing softwood trees determined by the village to be short lived or of poor quality.

(2) All existing trees determined to be saved shall be identified on the preservation and protection plan and shall be preserved and protected during the development.

(3) Tree replacement: In the event that a tree identified for preservation is destroyed or damaged during construction, such tree shall be replaced with a tree that is at least the same size caliper as the tree removed, or be replaced with smaller trees, each with a minimum caliper of 3", as measured 6" above grade, which add up to the caliper of the original tree.

(d) Other tree preservation requirements.

(1) Approval of a development plan shall be withheld until all of the information required by this section of the Ordinance has been submitted, and the evaluation of existing trees on the subject property has been completed by the Village.

(2) The village shall, at its discretion, have the right to retain a professional tree consultant or forester to review tree preservation plans and to submit a written report to the village. All expenses incurred by the Village for the use of the tree consultant shall be reimbursed by the Subdivider.

(3) The village shall have the right to inspect the subject property at any time during the construction process, in order to verify that the Subdivider and contractor have protected trees in accordance with the approved tree preservation plan.

(4) Any person, private or public company failing to adhere to the provisions of the approved tree preservation plan shall be subject to a fine of \$500 per tree which has been cut down, and/or termination of all construction activity, until such time as all provisions of this ordinance have met to the satisfaction of the village.



**Appendix A**

**Surveyor's Certificate**

State of Illinois )

)

County of Kane )

I, \_\_\_\_\_, Illinois Registered Land Surveyor No. \_\_\_\_\_, hereby  
certify that I have surveyed, subdivided, and platted the following described property, consisting  
of \_\_\_\_\_ acres:

(Legal Description)

as shown by the plat hereon drawn which is a correct and accurate representation of said survey and  
subdivision. Permanent monuments and iron pipes have been set in accordance with the Village of  
Lily Lake Subdivision Ordinance and all distances are shown in feet and decimals thereof. I further  
certify that all regulations enacted by the Village Board of Trustees relative to plats and subdivisions  
have been complied with in the preparation of this plat and that the property covered by this plat (is  
not) (is) located within a special flood hazard area identified by the Federal Emergency Management  
Agency

Dated at \_\_\_\_\_, Illinois, on \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Illinois Registered Land Surveyor

\_\_\_\_\_  
Number

**Owner's Certificate**

State of Illinois )

)

County of Kane )

This is to certify that the undersigned is the owner of the land described in the foregoing Surveyor's Certificate and has caused the same to be surveyed and subdivided as indicated thereon for the uses and purposes indicated therein, and does hereby acknowledge and adopt the same under the style and title hereon indicated\_\_

Dated at \_\_\_\_\_, Illinois, on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

( Owner)

\_\_\_\_\_

(Address)

I, \_\_\_\_\_, Notary Public in and for the State and County aforesaid, do hereby certify that \_\_\_\_\_, personally known to me to be the same person whose name is subscribed to the foregoing certificate, appeared before me this day in person and acknowledged the execution of the annexed plan and accompanying instruments for the uses and purposes therein set forth as his free and voluntary act.

Given under my hand and Notarial Seal this \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Notary Public

**County Clerk Certificate**

State of Illinois )

)

County of Kane )

This is to certify that I find no delinquent or forfeited taxes, no redeemable tax sale, and no unpaid special assessments against any of the real estate described and platted hereon.

Dated this \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
County Clerk

**Highway Authority Approval**

**(Required if access required onto State, County or Township maintained roads)**

\_\_\_\_\_  
(Highway Authority)

State of Illinois )

)

County of Kane )

Approved on \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(Authorized Person)

**Village Board Approval**

State of Illinois   )  
                                  )  
County of Kane   )

Approved and accepted this \_\_\_\_\_, 20\_\_\_\_.

Board of Trustees, of the Village of Lily Lake, Illinois

\_\_\_\_\_  
President

\_\_\_\_\_  
Clerk

**Recorder's Certificate**

STATE OF ILLINOIS   )  
                                  )  
COUNTY OF KANE   )

This instrument No. \_\_\_\_\_ was filed for record in the Recorder's Office of Kane County,  
Illinois on \_\_\_\_\_ at \_\_\_\_\_am/pm and recorded in the  
Plat Envelope No. \_\_\_\_\_

\_\_\_\_\_  
County Recorder

The first sheet of the Improvement Plans shall thereon show the following:

**Design Engineer's Certification**

This is to certify that all site improvement plans and specifications for the \_\_\_\_\_ Subdivision, consisting of \_\_\_\_\_ pages and dated \_\_\_\_\_, and most recently revised on \_\_\_\_\_, are in conformance with the standards of the Subdivision Ordinance of the Village of Lily Lake (with exceptions clearly noted) and are also in accordance with good engineering principles.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Illinois Registered Professional Engineer

(Seal)

**Drainage Overlay Certificate**

STATE OF ILLINOIS     )

COUNTY OF KANE     )

To the best of our knowledge and belief the drainage of surface waters will not be changed by the construction of such subdivision or any part thereof, or, that if such surface water drainage will be changed, reasonable provisions have been made for collection and diversion of such surface waters into public areas, or drains which the subdivider has a right to use, and that such surface waters will be planned for in accordance with generally accepted engineering practices so as to reduce the likelihood of damage to the adjoining property because of the construction of the subdivision.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Engineer

\_\_\_\_\_  
Owner

**Construction Guarantee Reduction**

**Project Engineer's Certification**

I, \_\_\_\_\_, (a representative of \_\_\_\_\_)  
have regularly observed the construction of the improvements included in the reduction request of the construction guarantee and the improvements have been constructed and installed in

conformance with the approved Improvement Plans and Specifications and in accordance with good engineering and construction practices.

Dated: \_\_\_\_\_

---

Illinois Registered Professional Engineer

(Seal)

### **Record Drawings**

#### **Project Engineer's Certifications**

I, \_\_\_\_\_ (a representative of \_\_\_\_\_), hereby declare that these "Record Drawings" have been prepared under my direction and are based on information obtained from observation by myself or persons under my direction or from \_\_\_\_\_, surveyor or from \_\_\_\_\_, contractor. To the best of my knowledge, these "Record Drawings" accurately depict field locations, distances, and elevations of improvements required by the Village and substantiate that the improvements constructed as part of this project will function in substantial conformance to the design as reflected in the Improvement Plans and Specifications approved by the Village of Lily Lake.

Dated: \_\_\_\_\_

---

Illinois Professional Registered Engineer

(Seal)



Prior to the release of the construction guarantee, the following certification shall be submitted to the Enforcement Officer.

**Project Engineer's Certification**

I, \_\_\_\_\_, a representative of  
\_\_\_\_\_, the subdivider's Project Engineer for  
\_\_\_\_\_, have final inspected all the completed improvements  
and said improvements have been constructed and installed in conformance with the approved  
improvement plans and specifications and all approved changes or modifications thereto.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Illinois Registered Professional Engineer

(Seal)

## Appendix B

### Street Name Sign Standard Specifications

(a) The furnishing and placement of street name signs should be in accordance with the latest edition of the *Manual on Uniform Traffic Control Devices* (“**MUTCD**”) and the latest adoption of the *IDOT Standard Specifications for Road and Bridge Construction*.

(b) Retroreflectivity is required for all signs. Engineer grade is recommended for a street name sign application.

(c) A minimum sign height of 7' to the bottom of the sign is recommended. MUTCD allows for a minimum sign height of 5'.

(d) MUTCD requires that signs be installed at a minimum lateral distance of 6' off the shoulder or pavement of the road.

(e) Village of Lily Lake street sign specifications:

- (1) Green background;
- (2) White lettering;
- (3) White outline on border of sign;
- (4) Name of street/road on both sides of sign;
- (5) 4" uppercase letters for street name;
- (6) 2" letters for *Lane, Drive* or *Road*;
- (7) Sign is 6" x 30" unless the road name is longer and requires additional length;
- (8) All road signs at an intersection give the names of both roads;
- (9) Signs to be placed on a 4" x 4" treated wooden post 10' in length, 2' in ground surrounded by concrete;
- (10) All future roadway signs will meet the *IDOT Standard Specifications for Road and Bridge Construction*, adopted January 1, 2002.

Ord 2004-03, 1/26/2004.

## Chapter 5—Fees

### Subchapter 1—Building Permits

#### § 500. Schedule of fees – building permits

The following fees are imposed:

<b>Residential construction (single family)</b>  <i>New construction</i>  \$.27 per square foot of overall area of each floor, and basement, and crawl space, \$188 minimum fee  <i>Alterations; remodels</i>  \$15 per \$1000, or portion thereof, of cost, \$150 minimum fee  <i>Accessory structures (decks, patios, sheds, detached garages, gazebos, etc.)</i>  \$.26 per square foot of overall area, \$113 minimum fee (includes plan review and 1 inspection)  <i>Pool</i> - \$128  <i>Re-roofing; re-siding; driveway</i> - \$75  <i>Early start for footing/foundation</i> - \$150
<b>Commercial; industrial; storage; business, institutional; public; multifamily (additional fees may be charged for an outside consultant for plan review authorized by the Building Officer)</b>  <i>New construction; additions; accessory structures</i>  \$.30 per square foot of overall area of each floor and basement, and crawl space, \$225 minimum fee.  <i>Alterations; remodeling; use change; re-roof; residing</i>  \$17 per \$1000, or portion thereof, of cost, \$188 minimum fee  <i>Early start for footing/foundation</i> - \$225
<b>Towers, including associated equipment cabinets</b>  <i>New towers</i>  \$25 per foot of height

<p><i>Collocation of antennas on existing towers or structures</i></p> <p>\$1,200</p>
<p><b>Sewage disposal; stormwater facilities</b></p> <p>Connection to existing public sewers or stormwater facilities</p> <p>\$25</p>
<p><b>Agricultural Buildings</b></p> <p>New construction, additions, accessory structures</p> <p>\$ 0.12 per square foot of overall area of each floor and basement and crawl space, \$90 minimum fee.</p>
<p><b>Electrical</b></p> <p>New construction, additions, remodels</p> <p>\$.12 per square foot for all habitable areas, \$90 minimum fee</p>
<p><b>Plumbing</b></p> <p>New construction, additions, remodels</p> <p>\$.14 per square foot for all habitable areas, \$105 minimum fee</p>
<p><b>Heating and Conditioning</b></p> <p>New construction, additions, remodels</p> <p>12¢ per square foot of all habitable areas, \$90 minimum fee</p>
<p><b>Moving, raising, shoring or underpinning of structure or foundation</b></p> <p>\$150.</p>
<p><b>Demolition</b></p> <p>\$.15 per square foot of all areas, \$150 minimum fee</p>
<p><b>Signs and related structures</b></p> <p>\$1.13 per square foot of all areas, \$113 minimum</p>
<p><b>Fences</b></p> <p>\$.11 per linear foot, \$90 minimum fee</p>

<p><b>Re-inspections or extra inspections requested or required</b></p> <p>\$90</p>
<p><b>Permit renewal</b></p> <p>For the first 2 renewals, 100% of the regular fee for a new permit based upon the fee schedule in effect at the time of renewal. For the next 3 renewals, 200% of the regular fee for a new permit based upon the fee schedule in effect at the time of renewal. For each renewal after 5 renewals, 300% of the regular fee for a new permit based upon the fee schedule in effect at the time of renewal. In all cases the fee for renewal will not be less than the minimum fee.</p>
<p><b>Consultant fees payable at the time of permit application (in addition to all other fees)</b></p> <p>New single family residence</p> <p>\$680 (includes site plan review, foundation plan review and as-built review with one revision or re-review of the site plan)</p> <p>Each additional revision or review of site plan, foundation plan or as-built plan, \$100 plus \$132 per hour of review time</p> <p>Each additional review if the top of foundation is different from the subdivision approved plans, \$350 plus \$132 per hour of review time</p> <p>Review of plans that deviate from the subdivision as-built plans or are changed in the field, \$250 plus \$132 per hour of review time</p> <p>Additions, alterations, remodels or new accessory buildings that require an engineering review</p> <p>\$340 (includes site plan review, foundation plan review if needed, and as-built review)</p> <p>Each additional revision or review of site plan, foundation plan or as-built plan, \$100 plus \$132 per hour of review time</p> <p>Commercial or multifamily</p> <p>New construction, additions, alterations, remodels or new accessory buildings</p> <p>All review time is reimbursable to the village based upon rates of village engineer or other consultant</p> <p>Public body or religious, educational or charitable organization for public, religious, educational, or charitable purposes</p> <p>New construction, additions, alterations, remodels or new accessory buildings</p>

All review time is reimbursable to the village based upon rates of village engineer or other consultant
<p><b>Cancellation of permit</b></p> <p>A permit will be canceled if—</p> <ul style="list-style-type: none"> <li>the applicant fails to provide sufficient information to establish that the minimum code requirements applicable to the improvement have been met within 6 months from the date of application</li> <li>an approved permit is not picked up within 12 months from the date of issue</li> <li>no inspections have been called for within 12 months of the date of issuance</li> </ul> <p>If a permit is canceled, all fees paid are forfeited</p>
<p><b>Reinspection fees (to be paid prior to reinspection)</b></p> <p>All second and subsequent re-inspections</p> <p>When the work to be inspected is incomplete at the time the Building Inspector arrives at the site for a scheduled inspection and the holder of the permit failed to provide reasonable notice of cancellation</p> <p style="text-align: center;">\$75</p>
<p><b>Commencement of work without a permit</b></p> <p>200% of the fee otherwise applicable (other fines and penalties may also apply)</p>

(Ord 2003-05, 6/16/2003; Ord 2007-02, 4/23/2007; Ord 2009-19, 10/19/2009; Ord 2010-18, 12/13/2010; Ord 2014-04, 7/21/2014; Ord 2015-04, 4/20/2015.)

## Subchapter 2—Development

### § 501. Schedule of fees – subdivisions

- (a) The following fees are imposed for the services described:
- (b) Concept review — \$150 per meeting of the Plan Commission or subcommittee thereof at which the plan is considered;
- (c) Preliminary plan review — \$150 per meeting of the Plan Commission or subcommittee thereof at which the plan is considered;
- (d) Engineering plan review — \$150 per meeting of the Plan Commission or subcommittee thereof at which the plan is considered;

(e) Final plan review — \$150 per meeting of the Plan Commission or subcommittee thereof at which the plan is considered;

(f) Amendment to approved plan — \$150;

(g) Minor subdivision — \$300;

(h) Vacation — \$300

Ord 2003-05, 6/16/2005; Ord 2009-19, 10/19/2009.

### **Subchapter 3—Liquor Licenses**

#### **§ 502. Schedule of fees – liquor licenses**

(a) The following fees are imposed for the issuance of liquor licenses:

(1) for a Class A license, the sum of \$2,500;

(2) for a Class B license, the sum of \$2,500;

(3) for a Class C license, the sum of \$2,500;

(4) for a Class D license, the sum of \$750;

(5) for a Class F license, the sum of \$25 if the applicant is a nonprofit corporation, club or other nonprofit or charitable organization and \$100 if the applicant is not;

(6) for a Sunday Brunch Endorsement, the sum of \$150 in addition to the regular license fee for that class.

(b) If an application is made and a license granted during the first 6 months of a license year, the license fee for such period shall be the entire fee required for the annual license year. Where application is made and license granted during the last 6 months of each license year, the license fee shall be one-half of the entire fee required for the annual license year, provided that the proration provided for in this section shall not be allowed to any person who is or had been a licensee for the annual license year or part thereof preceding his or her application for a license, and provided that the benefit of this subsection shall not apply to a Class F license fee.

(c) The required fee shall be deposited with the local liquor control commissioner at the time of application for the license. This shall be by certified check, cashier's check or money order made payable to the village of Lily Lake. Such fee shall be returned to such applicant if his or her application is denied.

Ord 1991-03, 3/18/1991; Ord 1995-07, 9/18/1995; Ord 1997-03, 5/19/1997; Ord 2003-05, 6/16/2003; Ord 2009-19, 10/19/2009.

## **Subchapter 4—Regional Pollution Control Facilities**

### **§ 503. Schedule of fees – Regional Pollution Control Facilities**

(a) At the time of filing its application the applicant shall pay a non-refundable fee of \$500,000 plus \$1,000 per acre for each acre, or portion thereof, in excess of 250 acres encompassed by the proposed Regional Pollution Control Facility, or expansion, which is to be used for the active storage, disposal, transfer or incineration of waste. If applying for site approval of a Hazardous Waste Disposal Site the fee shall be \$750,000 plus \$1,000 per acre for each acre, or portion thereof, in excess of 250 acres encompassed by such proposed Hazardous Waste Disposal Site or such expansion which is to be used for the active storage, disposal, transfer or incineration of Hazardous Waste. The applicable fee is intended to defray the reasonable and necessary costs or processing the application, including, but not limited to: space rental, hearing officer(s), court reporter, transcription and reproduction costs, public notice, staff review time, committee per diem, legal counsel and technical staff or consultants retained by the village (including tests, exhibits and testimony, if any, provided by said staff or consultants), any other relevant costs incident to the consideration of an application, and the costs of preparing the record for appeal if any appeal of a decision of the Board of Trustees is made to the Illinois Pollution Control Board. Should there be any additional costs incurred by the village over the fees paid, the Applicant shall bear any and all additional costs.

Ord 1991-15, 7/5/1991; Ord 2003-05, 6/16/2003; Ord 2009-19, 10/19/2009)

## **Subchapter 5—Telecommunications**

### **§ 504. Rate change**

The rate of the simplified municipal telecommunications tax imposed under the provisions of §§ 5-25 and 5-30 of the Simplified Municipal Telecommunications Tax Act, P.A. 92-0526 is hereby changed to 6%.

Ord 1997-10, 11/17/1997; Ord 2005-04, 3/21/2005; Ord 2009-19, 10/19/2009.)

## **Subchapter 6—Zoning**

### **§ 505. Schedule of fees – zoning matters**

(a) For applications for rezoning or a special use, the following fees shall be paid with the filing of the application. For applications which encompass more than one request, the highest applicable fee shall be paid.

(b) For an application which, relates to a tract of land which is less than 2 acres in size, the fee shall be \$700.

(c) For an application which relates to a tract of land which is 2 acres or more but less than 5 acres in size, the fee shall be \$800.

(d) For an application which relates to a tract of land which is 5 acres or more but less than 10 acres in size, the fee shall be \$900.



(e) For an application which relates to a tract of land which is 10 acres or more in size, the fee shall be \$1000 plus \$30 per acre, or portion thereof, in excess of 10 acres.

(f) For applications for a variation, the following fees shall be paid with the filing of the application.

(g) For an application which requests a variation of more than 10% from the standard otherwise applicable under the zoning ordinance, or which requests more than one variation, the fee shall be \$500.

(h) For an application which requests of variation of 10% or less from the standard otherwise applicable under the zoning ordinance, the fee shall be \$300.

(i) In the event the use for which the rezoning, special use or variation is sought has begun prior to approval by the village, the applicable fee shall be doubled.

(j) In addition to the above fees, the applicant shall deposit \$250 toward the cost of publication, with the excess, if any, to be refunded.

Ord 1999-01, 2/15/99; Ord 2003-05, 6/16/03; Ord 2009-19, 10/19/2009

## **Subchapter 7 — Cable/Video Service Providers**

### **§ 506. Definitions**

As used in this subchapter, the following terms shall have the following meanings:

(a) “*Cable service*” means that term as defined in 47 U.S.C. § 522(6).

(b) “*Commission*” means the Illinois Commerce Commission.

(c) “*Gross revenues*” means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder’s cable service or video service area within the village.

(d) Gross revenues shall include the following:

(1) Recurring charges for cable or video service.

(2) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.

(3) Rental of set top boxes and other cable service or video service equipment.

(4) Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.

(5) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.

(6) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.

(7) A pro rata portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the village. The allocation shall be based on the number of subscribers in the village divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

(8) 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 506(d)(9).

(9) 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.

(10) The service provider fee permitted by 220 ILCS 5/21-801(b).

(e) Gross revenues do not include any of the following:

(1) Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) Security deposits collected from subscribers.

(7) 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.

(8) 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.

(f) “*Holder*” means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

(g) “*Service*” means the provision of “cable service” or “video service” to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

(h) “*Service provider fee*” means the amount paid under this ordinance and 220 ILCS 5/21-801 by the holder to a village for the service areas within its territorial jurisdiction.

(i) “*Video service*” means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

Ord 2007-13, 11/19/2007; Ord 2009-19, 10/19/2009.

#### **§ 507. Cable/Video Service Provider Fee Imposed**

(a) A fee is hereby imposed on any holder providing cable service or video service in the village.

(b) The amount of the fee imposed hereby shall be 5% of the holder’s gross revenues.

(c) 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) 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 ordinance by the holder. This ordinance shall be sent by mail, postage prepaid, to the address listed on the holder’s application notice sent pursuant to 220 ILCS 5/21-401(b)(6) to the village

(e) 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) The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the village in which a fee is paid.

(g) 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 paragraph 507(b).

Ord 2007-13, 11/19/2007; Ord 2009-19, 10/19/2009.

#### **§ 508. Applicable principles**

All determinations and calculations under this ordinance must be made pursuant to generally accepted accounting principles.

Ord 2007-13, 11/19/2007; Ord 2009-19, 10/19/2009.

#### **§ 509. No impact on other taxes due from holder**

Nothing contained in this ordinance 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.

Ord 2007-13, 11/19/2007; Ord 2009-19, 10/19/2009.

#### **§ 510. Audits of cable/video service provider**

(a) 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 will 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) Any additional amount due after an audit shall be paid within 30 days after the municipality's submission of an invoice for the sum.

Ord 2007-13, 11/19/2007; Ord 2009-19, 10/19/2009.

#### **§ 511. Late fees and payments**

Past due fees and payments are governed by ordinances adopted by the village pursuant to the Local Government Taxpayers' Bill of Rights Act (50 ILCS 45/1, *et seq.*). (2011 Village Code.)

Ord 2007-13, 11/19/2007; Ord 2009-19, 10/19/2009.

### **Subchapter 8—Impact Fees**

#### **§ 512. Imposition of fee**

The corporate authorities of the village shall not approve or execute any annexation agreement unless it contains provisions imposing, at a minimum, the fees set forth in this subchapter for the benefit of the fire protection district within which the land proposed to be annexed is located.

(a) For a development proposed to be served by central sewer and water service, a fee of \$310 times the maximum number of dwellings permitted by the annexation agreement in any residential district; or, if proposed to be served by well and septic, a fee of \$750 times the maximum number of dwellings permitted by the annexation agreement in any residential district.

(b) For a proposed development that includes any other district, a fee of \$1240 per acre, or portion thereof, in any other district.

#### **§ 513. Time for payment**

The fees imposed under this subchapter shall be paid according to the terms of the annexation agreement, provided, however, that no building permit authorizing the construction of a building or authorizing an addition to an existing building will be issued unless the applicant has paid the fees imposed in § 512.

#### **§ 514. Administration**

(a) Fees collected under this subchapter will be deposited into one or more interest-bearing accounts to be held for the use and benefit of the governmental entities for which they were collected in accordance with the provisions of this subchapter.

(b) The village will maintain adequate records of all fees collected pursuant to the annexation agreement and this subchapter, showing the source and amount of all receipts and the payee and amount of all disbursements.

(c) Not less than annually the village will disburse all funds then on deposit representing fees collected under the annexation agreement and this subchapter to the respective governmental entities for whose benefit they were collected, less an administrative fee of \$25 for each individual fee collected. As a condition precedent to the disbursement of any such funds, the governmental entity must execute and deliver to the village an agreement, in a form acceptable to the village, under which the governmental entity agrees to indemnify the village and hold it harmless from any loss, cost, or expense (including attorneys fees), that the village may suffer or incur as a result of the passage of this subchapter, the approval or execution of the annexation agreement, or the collection or disbursement of any funds collected thereunder.

## **Subchapter 9—Miscellaneous**

### **§ 515. Schedule of fees – miscellaneous**

The following fees are imposed for the services described:

- (a) for the inspection of the repair or replacement of a culvert—\$100;

(Ord 2011-01, 4/18/2011.)

- (b) for the issuance of a permit for the operation of an overweight or over-dimension vehicle upon the streets of the village—\$25.

(Ord 2014-09, 11/17/2014.)

- (c) for the vacation of a street or alley, to be paid prior to adoption of an ordinance of vacation by the village board – \$300;

- (d) for the filing of a petition for annexation to the village, to be paid at the time of the filing of a petition – \$300;

- (e) for the review of any other plan by the village engineer, planner or other consultant retained by the village – actual cost invoiced to the village plus \$35;

- (f) for the work performed by the village that is made necessary by improper or incomplete performance on the part of any resident, contractor, or builder, in any instance where, in the sole judgment of the village, safe, normal use of, or access to, village property is affected; or when said resident, contractor, or builder leaves an unsafe or incompletely restored condition on any village property or right of way – 110% of the actual cost to the village;

- (g) for copies of documents or records – \$.25 per page;

- (h) for the establishment of a non-ad valorem special service area—\$400.

(Ord 1995-08, 9/18/1995; Ord 2003-05, 6/16/2003; Ord 2009-03, 4/20/2009; Ord 2009-19, 10/19/2009; Ord 2010-08, 5/17/2010.)

### **§ 516. Dishonored checks or drafts**

- (a) For the purposes of this section the term Dishonored Check means any check or other negotiable instrument that is received by the village, deposited by the village into one of its accounts, or is otherwise endorsed and negotiated by the village and is returned unpaid to the village for any reason including the fact that the account of the drawer or maker has been closed, there are insufficient funds in the account of the maker or drawer or a stop payment order has been requested by the drawer or maker.

(b) The drawer or maker of any Dishonored Check tendered to the village shall pay to the village a fee of \$25 plus any bank service charge incurred by the village, in addition to any other rights or remedies the village may have with respect to the instrument. (2011 Village Code.)

Ord 2003-05, 6/16/2003; Ord 2009-19, 10/19/2009; Ord 2010-08, 5/17/2010.

## **Subchapter 10—Municipal Electric Utility Tax**

### **§ 520. Definitions**

Capitalized terms in this subchapter have the meanings ascribed to them in § 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2).

(Ord 2013-01, 4/15/2013; Ord 2013-05, 8/26/2013.)

### **§ 521. Reserved**

(Ord 2013-01, 4/15/2013; Ord 2013-05, 8/26/2013.)

### **§ 522. Tax imposed — electricity**

(a) A tax is imposed upon the privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the Village at the following rates, calculated on a monthly basis for each Purchaser:

- (1) For the first 2000 kWh used or consumed in a month, 0.61 cents per kilowatt hour;
- (2) For the next 48,000 kWh used or consumed in a month, 0.40 cents per kilowatt hour;
- (3) For the next 50,000 kWh used or consumed in a month, 0.36 cents per kilowatt hour;
- (4) For the next 400,000 kWh used or consumed in a month, 0.35 cents per kilowatt hour;
- (5) For the next 500,000 kWh used or consumed in a month, 0.34 cents per kilowatt hour;
- (6) For the next 2,000,000 kWh used or consumed in a month, 0.32 cents per kilowatt hour;
- (7) For the next 2,000,000 kWh used or consumed in a month, 0.315 cents per kilowatt hour;
- (8) For the next 5,000,000 kWh used or consumed in a month, 0.31 cents per kilowatt hour;
- (9) For the next 10,000,000 kWh used or consumed in a month, 0.305 cents per kilowatt hour; and
- (10) For all electricity used or consumed in excess of 20,000,000 kWh in a month, 0.30 cents per kilowatt hour.

(b) This tax is in addition to all taxes, fees, and other revenue measures imposed by the Village, the State of Illinois, or any other political subdivision of the State.

(c) The rates set forth in subsection (a) are effective on June 1, 2013 for residential customers, and on the earlier of (i) the first bill issued on or after June 1, 2013, or (ii) the date of the first bill issued under 220 ILCS 5/16-104, for nonresidential customers.

(d) The use or consumption of electricity within the Village by units of local government or school districts is exempt from the tax imposed under this section.

(e) If the imposition or collection of the taxes imposed in this section would violate the Constitution or statutes of the United States or the Constitution of the State of Illinois, the taxes will not be imposed, any other provision of this section notwithstanding.

(Ord 2013-01, 4/15/2013.)

#### **§ 523. Collection of tax**

(a) Subject to the provisions of § 525 of this subchapter, the tax imposed under § 522 shall be collected from Purchasers by the Person Maintaining a Place of Business in this State who delivers electricity to such Purchasers. The tax constitutes a debt of the Purchaser to the Person that delivers electricity to the Purchaser and is recoverable at the same time and in the same manner as the original charge for delivering the electricity.

(b) Any tax required to be collected under this section, and any tax in fact collected, constitutes a debt owed to the Village by the Person delivering the electricity, provided, however, that the Person delivering electricity will be allowed credit for such tax related to 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 is obligated to remit such tax.

(c) 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 are authorized to add to such gross charge an amount equal to 3% of the tax they collect to reimburse them for their expenses incurred in keeping records, billing customers, preparing and filing returns, remitting the tax, and supplying data to the Village upon request. For purposes of this subchapter, any partial payment of a billed amount not specifically identified by the Purchaser is deemed to be for the delivery of utilities supplied.

(Ord 2013-01, 4/15/2013; Ord 2013-05, 8/26/2013.)

#### **§ 524. Tax remittance and return**

(a) Every person maintaining a place of business in this State who delivers electricity to a purchaser shall, on a monthly basis, file a return in a form prescribed by the Village treasurer. The return and accompanying remittance is due 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 § 522 and § 523, 532.



(b) If the Person delivering electricity fails to collect the tax from the Purchaser or is excused from collecting the tax under § 525, then the Purchaser shall file a return in a form prescribed by the Village treasurer and pay the tax directly to the Village treasurer on or before the last day of the month following the month during which the electricity is used or consumed.

(Ord 2013-01, 4/15/2013.)

#### **§ 525. Resales**

(a) Electricity that is delivered to a Person in the Village will be considered to be for use and consumption by that Person unless the Person receiving the electricity has an active resale number issued by the Village treasurer and furnishes that number to the Person who delivers the electricity, and certifies to that Person that the sale is either entirely or partially nontaxable as a sale for resale.

(b) If a Person who receives electricity in the Village claims to be an authorized reseller of electricity, that Person must apply to the village treasurer for a resale number. The applicant shall state facts showing why it is not liable for the tax imposed by this subchapter on any purchases of electricity and shall furnish such additional information as the village treasurer may reasonably require.

(c) Upon approval of the application, the village treasurer shall assign a resale number to the applicant.

(d) The village treasurer may cancel the resale number of any Person if the Person fails to pay any tax payable under this subchapter for electricity used or consumed by the Person, or if the number was either (1) obtained through misrepresentation, or (2) no longer necessary because the Person has discontinued making resales.

(e) If a reseller has acquired electricity partly for use or consumption and partly for resale, the reseller shall pay the tax imposed by this subchapter directly to the Village treasurer in accordance with § 524, 533 on the amount of electricity that the reseller uses or consumes, and shall collect and remit the tax in accordance with § 524, 533 to the Village treasurer on the amount of electricity delivered by the reseller to a Purchaser.

(f) Any Person who delivers electricity to a reseller having an active resale number and complying with all other conditions of this section is excused from collecting and remitting the tax on any portion of the electricity delivered to the reseller, provided that the Person reports the total amount of electricity delivered to the reseller, and such other information as the village treasurer may reasonably require.

(Ord 2013-01, 4/15/2013.)

#### **§ 526. Books and records**

Every Person Maintaining a Place of Business in this State who delivers electricity to a Purchaser and every taxpayer required to pay the tax imposed by this subchapter, shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that gave rise, or may have given rise, to any tax liability under this subchapter. Those

books and records are subject to and must be kept available for inspection at all times during business hours.

(Ord 2013-01, 4/15/2013.)

#### **§ 527. Credits and refunds**

Anything in this subchapter to the contrary notwithstanding, in order to permit sound fiscal planning and budgeting by the Village, no Person is entitled to a refund of, or a credit for, a tax imposed under this subchapter unless the Person files a claim for refund or credit within one year after the date on which the tax was paid or remitted.

(Ord 2013-01, 4/15/2013.)

#### **§ 528. Penalty**

Any Person who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this subchapter, will be fined not less than \$100 nor more than \$1000 and, in addition, will be ordered to file a correct return and pay the tax due.

(Ord 2013-01, 4/15/2013.)

#### **§ 529. Further remedies**

In addition to the remedies set forth in this subchapter, the Village may pursue any other remedy it may have for the enforcement of this subchapter or the collection of the tax.

(Ord 2013-01, 4/15/2013.)

### **Subchapter 11—Municipal Gas Utility Tax**

#### **§ 530. Tax imposed — natural gas**

A tax is imposed on all Persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the Village, and not for resale, at the rate of 5% of the Gross Receipts therefrom.

(Ord 2013-05, 8/23/2013.)

#### **§ 531. Exemptions**

No tax is imposed by this subchapter with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the constitution and statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing or selling gas be subject to taxation under the provisions of this subchapter for such transactions as are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1 of the Illinois Municipal Code. If the imposition or collection of the taxes imposed in this

section would violate the Constitution or statutes of the United States or the Constitution of the State of Illinois, the taxes will not be imposed, any other provision of this section notwithstanding.

(Ord 2013-05, 8/23/2013.)

**§ 532. Tax in addition**

Such tax shall be in addition to the payment of money, or value of products or services furnished to this municipality by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business.

(Ord 2013-05, 8/23/2013.)

**§ 533. Tax remittance and return**

For the purposes of this subchapter the following definitions shall apply:

(a) "Gross receipts" means the consideration received for distributing, supplying, furnishing or selling gas for use or consumption and not for resale, as the case may be; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever; provided, however that "gross receipts" shall not include any amounts specifically excluded from the definition of gross receipts in Section 8-11-2(d) of the Illinois Municipal Code.

(b) "Persons" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, guardian or other representative appointed by order of any court.

(Ord 2013-05, 8/23/2013.)

**§ 534. Effective Date of Tax**

The tax provided for in this subchapter shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after September 1, 2013.

(Ord 2013-05, 8/23/2013.)

**§ 535. Returns**

On or before the last day of September, 2013 each taxpayer shall make a return to the Village treasurer for the month of June, stating:

- (1) His name;
- (2) His principal place of business;

- (3) His gross receipts during those months upon the basis of which the tax is imposed;
- (4) Amount of tax;
- (5) Such other reasonable and related information as the corporate authorities may require.

(b) On or before the last day of every month thereafter, each taxpayer shall make a like return to the Village treasurer for a corresponding one month period.

(c) The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village treasurer, the amount of tax herein imposed; provided that in connection with any return the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts.

(Ord 2013-05, 8/23/2013.)

#### **§ 536. Credits**

If it shall appear that an amount of tax has been paid which was not due under the provisions of this subchapter, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this subchapter from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefore shall be so credited.

(Ord 2013-05, 8/23/2013.)

#### **§ 537. Actions to Recover**

No action to recover any amount of tax due under the provisions of this subchapter shall be commenced more than three years after the due date of such amount.

(Ord 2013-05, 8/23/2013.)

#### **§ 538. Penalty**

Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this subchapter is guilty of an offense under this ordinance and shall pay a civil fine not less than \$100 nor more than \$750 and, in addition, shall be liable in a civil action for the amount of tax due. In any such civil action, the taxpayer shall, in addition to the amount of tax due, pay all costs and expenses, including reasonable attorney's fees, incurred by the Village.

(Ord 2013-05, 8/23/2013.)

## Subchapter 12—Reimbursement of Costs

### § 539. All costs, expenses and fees to be reimbursed

(a) Filing an application for any permit, approval, or relief under any provision of this code constitutes the applicant's agreement to pay all fees, costs and expenses incurred by the village in connection with the application. This includes, but is not limited to, all fees, costs and expenses—

- (1) for publication,
- (2) related to the approval or disapproval, supervision, or amendment of any application, permit or request for relief,
- (3) for the construction or the inspection of the construction of any building, project, subdivision, or development,
- (4) for the operation or enforcement of any permit, approval, relief, plan, sketch plan, concept plan, preliminary plan, or final plan, or plat of subdivision, or any rule, regulation, ordinance or statute of the village or any other governmental entity or agency having or claiming jurisdiction, and
- (5) of any attorney, planner, engineer, or other professional or consultant retained by the village in connection with any of the foregoing.

(b) To secure the payment of such fees, costs, and expenses the village will require a deposit from the applicant in the amount of \$250 per acre of land under consideration, with a minimum deposit of \$500. The village shall account for the deposit separately from its other funds but no interest will be payable on the amount on deposit unless, upon the written request of the applicant for a deposit of \$5000 or more, it is held in a separate interest-bearing bank account.

(c) The village shall periodically send invoices for the payment of such fees, costs, and expenses by first-class mail, postage prepaid, to the applicant at the address set forth in the application. If the applicant does not object to any invoiced item within 20 days of the date of the invoice, it will be conclusively presumed for all purposes, including any litigation brought by or against the village, that (1) the fees, costs and expenses included in the invoice are properly chargeable to the applicant, (2) they are reasonable, (3) the applicant has no objection to their being charged to the applicant, or to their amount, and (4) the applicant is liable, without any defense, setoff, or counterclaim of any kind, to pay them. If the applicant does not object to any invoiced item within 20 days of the date of the invoice, the village will apply the amount of applicant's credit balance to pay the invoice. If the applicant does object to an invoiced item, the village will remove the item from the invoice pending a resolution, and apply the amount of the applicant's credit balance to pay the balance of the invoice.

(d) When the amount on deposit falls below 30% of the original amount, the applicant shall make an additional deposit sufficient to bring the deposit up to the original amount. If the applicant fails to make any such deposit as required, the village may refuse to issue any building, occupancy, or other permit or approval, or take any further action, or perform any further review, inspection or service in connection with the application, and may issue a stop order prohibiting all development

activity until the deposit has been made. All amounts due to village that remain unpaid after 30 days will bear interest at the rate of 18% per annum until paid.

(e) The fees set forth in this subsection are in addition to any other fee or fine set forth in this chapter or other section of this Code.

Ord 2003-05, 6/16/2003; Ord 2009-19, 10/19/2009; Ord 2010-08, 5/17/2010.

**§ 540. Acceptance of credit cards**

The fees imposed under subchapters 1, 2, 3, 6, and 9 of this chapter may be paid with a major credit card. In that event the respective fee will be increased by 3% to cover the cost incurred by the Village in accepting the credit card payment.

Ord 2015-11, 12/30/2015

## CHAPTER 6—FRANCHISES

### Subchapter 1—Electric

#### § 600. Definitions

As used in this subchapter, the following terms, phrases and words and their derivations shall have the meanings given in this section, unless the context or use clearly indicates another or different meaning is intended.

(a) *Village* is the village of Lily Lake.

(b) *Licensee* is the Commonwealth Edison Company.

(c) *Clerk* is the clerk of the village of Lily Lake.

(d) *Competent authority* means and includes any governmental body or forum vested by law with authority to do the act or make the order, rule or regulation involved.

(e) *Corporate authorities* means the president and village board of the village of Lily Lake.

(f) *Edison representative* is the person or persons designated by the licensee to be responsible for the day-to-day performance of the licensee's duties under this subchapter and who shall be available and accessible to the village for that purpose during regular office hours.

(g) *Edison emergency representative* is the person or persons designated by the licensee responsible for the performance of the licensee's duties under this subchapter during emergencies and at all times other than the licensee's regular office hours and who shall be available and accessible to the village for that purpose during emergencies and at all times other than the licensee's regular office hours. The Edison representative may also be designated as the Edison emergency representative.

(h) *Electric system* shall mean a system for the production, transmission, distribution and sale of electricity for lighting, heating, power and other purposes within and outside the corporate limits of the village.

(i) *Energy efficiency/DSM* means applications of technologies and techniques for increasing the efficiency of electric energy use or managing demand for electric energy. Such applications may be designed to achieve greater end use benefits from electric energy consumed, reductions in electric energy consumption, shifts of electric energy demand to times when it can be met more economically, or other initiatives designed to manage or reduce demand for electric energy.

(j) *FERC* means and refers to the Federal Energy Regulatory Commission or other authority succeeding to the regulatory powers of the Federal Energy Regulatory Commission.

(k) *Generating facilities* are those facilities used or constructed by the licensee for the purpose of generating or producing electric energy.

(l) *High voltage transmission lines* means power lines designed to transmit electricity at 138 kilovolts (138 kv) or more.

(m) *ICC* means and refers to the Illinois Commerce Commission or other authority succeeding to the regulatory powers of the Illinois Commerce Commission.

(n) *Liability* includes, but is not limited to: actual or claimed loss or damage to property or injury to or death of persons; actual or claimed responsibility for such loss, damage, injury or death; and any and all judgments, decrees, costs and expenses of every sort and kind incident to such loss, damage, injury, death or responsibility, including, but not limited to, court costs, fines and attorney's fees.

(o) *Municipal electric representative* is the person or persons designated by the village to be responsible for the day-to-day implementation of this Ordinance on behalf of the village during regular office hours.

(p) *Municipal emergency electric representative* is the person or persons designated by the village to be responsible for the implementation of this subchapter on behalf of the village during emergencies and at all times other than the village's regular office hours.

(q) *Other ways* means rights-of-way within the village that are under the jurisdiction and control of a governmental entity other than the village.

(r) *Overhead distribution facilities* are poles, wires, cables and other overhead apparatus used in the distribution of electricity of not to exceed 14,000 volts.

(s) *Overhead facilities* are transmission and distribution utility facilities located on or above the surface of the ground, including the underground foundations or supports for such facilities.

(t) *Person* means one or more individuals, associations, firms, partnerships, trusts, private corporations, municipal corporations, receivers, or trustees.

(u) *Public property* means all real property and all improvements thereon, owned, leased to, leased by or otherwise controlled by the village.

(v) *Public ways* means the surface, the air space above the surface and the area below the surface of any public right-of-way, including, but not limited to, any street, highway, avenue, drive, boulevard, lane, path, alley, sidewalk, waterway, bridge, tunnel, park, parkway or other public right-of-way including public utility easements or rights-of-way over which the village has jurisdiction, and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the village in which the village holds rights sufficient, without consent of any other person, to permit licensee the use thereof for the purpose of installing or maintaining licensee's electric system.

(w) *Transmission and distribution facilities* include all lines, equipment and structures used in the transmission, distribution or sale of electric energy, wherever located. Transmission and distribution facilities include high voltage transmission lines.

(x) *Underground facilities* are transmission and distribution facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.

(y) *Underground facilities* are and refer to and include, but are not limited to, property, land, structures, equipment, plants, works, systems and improvements of the licensee, such as pipes, electric



substations, conduits, wires, transformers, cables, poles and meters, used in the production, transmission, distribution or sale of electricity within the village. Utility facilities includes all generating facilities, transmission and distribution facilities, overhead facilities and underground facilities. (Ord 1991-04, 5/6/1991; Ord 1991-10, 6/17/1991; Ord 1993-01, 2/15/1993.)

#### **§ 601. Rules of construction**

This subchapter shall be construed in accordance with the following provisions.

(a) When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

(b) The words *shall* and *will* are mandatory and the words *may* is permissive.

(c) The provisions of this subchapter shall be read as a whole so as to effect the purposes of this subchapter.

(d) Section headings are descriptive and used merely for the purpose of organization. Where inconsistent with the text, section headings are to be disregarded. (Ord 1991-04, 5/6/1991; Ord 1991-10, 6/17/1991; Ord 1993-01, 2/15/1993.)

#### **§ 602. Rights granted**

(a) Grant of right to use public ways and public property. The village hereby grants to the licensee the right, permission and authority to construct, operate and maintain in and through the village its electric system and to construct, operate and maintain all such utility facilities as may be necessary or convenient for such electric system, in, upon, along, over, across, above and under the public ways and public ways in the village, for the period of time and upon the terms and conditions hereinafter specified.

(b) Emergency access to public ways and public property. In the event of an emergency which the licensee reasonably believes poses a threat of immediate harm to the public or to any of the utility facilities, the licensee is hereby granted access to the public ways and public ways, without a permit, to ameliorate the threatened harm. The licensee shall promptly advise the village of the emergency.

(c) Exemption From Parking Restrictions. While used in the course of installation, repair and maintenance work on the utility facilities, licensee's vehicles shall be exempt from parking restrictions of the village. (Ord 1991-04, 5/6/1991; Ord 1991-10, 6/17/1991; Ord 1993-01, 2/15/1993.)

#### **§ 603. Conditions of grant**

(a) Construction and location of facilities.

(1) The licensee or any person acting on its behalf may construct, repair, maintain, renew or replace utility facilities located in the public ways, on public ways, or on other ways, subject to the following conditions:

(A) The licensee shall obtain a permit in accordance with the applicable ordinances of the village. The licensee shall include with its permit application such plans and schedules for restoration of the public ways or public ways as the village may require by ordinance.

(B) The licensee shall obtain all necessary approvals from any competent authority for the performance of said work, and such work shall be performed in accordance with the plans and specifications approved or prescribed by competent authority.

(C) Except as provided in this subchapter, neither the licensee nor any person acting on its behalf shall take any action to be done which may impair or damage the public ways, any property located on the public ways, or the public ways.

(D) Neither the licensee nor any person acting on its behalf may interfere unreasonably with the use of the public ways or public ways by the general public or by other persons authorized to use or be present upon said public ways or public ways.

(E) The licensee shall provide reasonable notice to the village before beginning any work in other ways within the village.

(F) To the extent practicable, the licensee shall notify the village of plans to undertake any construction, repair, maintenance or replacement of utility facilities in conjunction with the annual planning meeting provided for in section 606(i). This notice shall be in addition to any other notice requirements imposed by other applicable ordinances. The notice requirements of this paragraph do not apply to the installation of lateral service connections to individual customers.

(G) In the event of an emergency, if prior acquisition of formal authorization is not possible, the licensee or any person acting on its behalf may undertake the work described above without first acquiring formal authorization, provided that the licensee uses its best efforts to contact the municipal emergency electric representative prior to performing such work and provided further that the licensee shall apply for such formal authorization at the earliest reasonable opportunity.

(2) All transmission and distribution facilities erected hereunder shall be placed in alleys wherever practicable so to do, and shall be so placed, wherever located, so as not to interfere unnecessarily with travel on or access to the public ways.

(3) Unless specifically permitted by the village, all utility facilities erected under this subchapter shall be located so as not to injure any drains, sewers, catch basins, water pipes, pavements or other public improvements.

(4) All poles shall be of sufficient length to be anchored substantially in the ground and to extend to a height of at least 25 feet above the surface. Poles shall be adequately braced wherever necessary.

(5) All wires, conductors, transformers and other apparatus that are attached to utility poles shall be at a sufficient height to preclude interference with free use of the public ways.

(6) Prior to filing any application with a competent authority for the construction of any generating facilities or high-voltage transmission lines within the corporate limits of the village, the licensee shall meet with the village to discuss such plans.

(7) Any utility facilities in the public ways that have been, or are at any future time acquired, leased or utilized in any manner by the licensee are thereupon to be deemed authorized by and shall be subject to all the provisions of this subchapter.

(8) Except as otherwise provided herein, the licensee shall not be required to change the location, the height above, or the depth below the public ways of those utility facilities in place as of the effective date of this subchapter.

(b) Relocation or removal of facilities.

(1) Upon receiving at least 30 days notice from the village, the licensee shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any utility facilities in public ways or public ways whenever the corporate authorities shall have determined that such removal, relocation, change or alteration: (1) is reasonably necessary for the construction, repair, maintenance, improvement or use of such public ways or public ways; (2) is reasonably necessary for the location, construction, replacement, maintenance, improvement or use of other property of the village; or (3) is reasonably necessary for the operations of the village. The village agrees to engineer the projects in the public ways or public ways either so as not to require any such removal, relocation, change or alteration or, if that is not reasonably feasible, so as to minimize the licensee's expenses in making such removals, changes or alterations. The licensee will not be responsible for the expense of removals, relocations, changes or alterations required by the village primarily for the purpose of assisting either private projects or a municipal electric utility.

(2) Whenever it shall be necessary for the village or any other person to move along or across the public ways, any vehicle, equipment, structure or other object of such height or size as will interfere with any of the licensee's overhead facilities, the licensee shall temporarily remove such overhead facilities from such place as must necessarily be crossed by such vehicle, equipment, structure or other object, provided that: (1) the licensee shall receive at least 24 hours notice thereof from the village electric representative; (2) the licensee shall have received payment for such removal, where payment is required; and (3) such temporary removal shall be done at such time of the day or night as will least interfere with the licensee's use of such wires and poles for the benefit of the inhabitants of the village and the successful operation of the licensee's electric system. It is understood that the licensee shall bear the expense of any such temporary removals for projects being undertaken by or for the benefit of the village or its agent and that the expense of all other such temporary removals shall be borne by the person requesting such removal. All questions as to the time when any of said wires and poles shall be so cut, removed or adjusted for the purpose aforesaid shall be decided by the municipal electric representative, and such decision shall be final.

(c) Restoration of public ways or public ways.

(1) When the licensee, or any person acting on its behalf, does any work in or affecting the public ways or public ways, it shall, at its own expense, remove any obstructions therefrom and restore

such public ways or public ways to as good a condition as existed before the work was undertaken, unless otherwise directed by the village.

(2) If weather or other conditions do not permit the complete restoration required by this paragraph, the licensee may temporarily restore the affected public ways or public ways upon receiving the approval of the village electric representative, provided that such approval shall not be unreasonably withheld. Such temporary restoration shall be at the licensee's sole expense and the licensee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.

(3) Upon the request of the village, the licensee shall restore the public ways or public property to a better condition than existed before the work was undertaken, provided that the village shall bear any additional costs of such restoration.

(4) If the licensee fails to restore the public ways or public property or to remove any obstruction therefrom, as required by this paragraph, the village may, after communications with the Edison representative and after affording the licensee a reasonable opportunity to correct the situation, give seven days written notice to the licensee, and thereafter restore such public ways or public property or remove the obstruction therefrom. No such prior written notice shall be required in the event that the village determines that an emergency situation exists. The licensee shall pay the village for any such restoration or removal within 14 days after receiving a bill from the village for such work.

(d) Trimming of Trees and Vegetation. From time-to-time, when the licensee believes it to be warranted by existing conditions, the licensee shall, at its own expense, cause the trees and vegetation growing upon or overhanging any of the public ways or public property in the village where utility facilities are erected to be trimmed in such a manner that there shall be a proper clearance between the nearest wires or equipment and any portion of the trees or vegetation. The trees and vegetation shall be trimmed so that no branches, twigs or leaves come in contact with or in any way interfere with the utility Facilities. The licensee shall notify the village Electric Representative no less than seven days before it plans to perform such work. The village Electric Representative shall approve the time, place and manner of performing such work.

(e) Tree Location Program.

(1) Tree Removal and Replacement. The licensee and the village agree to develop a cooperative program for the removal and replacement of certain municipally owned trees located in the public ways or on public ways which conflict or potentially conflict with the overhead facilities. The trees to be removed and replaced shall be designated by the village after consultation with the Edison representative. Within 30 days after receipt of a written notice from the village of trees to be removed, the licensee shall schedule a removal date acceptable to the village, and shall remove the designated trees and dispose of all tree brush except that the village shall dispose of all stumps and logs over four inches in diameter. The village shall purchase, plant and maintain all trees planted pursuant to the tree removal and replacement program, and the licensee shall reimburse the village for one-half of the village's cost of tree replacement, up to a maximum amount of \$125 per tree. The

reimbursement shall be made to the village within 60 days after the licensee's receipt of a written request for reimbursement.

(2) Tree Selection. The village agrees to implement a policy for the purpose of regulating tree planting on the public ways or public properties so as to allow only such low-growing trees species as will not attain a mature height that will conflict with primary electrical lines and thereby require line clearance maintenance. Such policy shall not preclude planting upright, columnar or pyramidal shaped trees to the side of power lines, thereby avoiding the need for severe and disfiguring line clearance tree trimming.

(3) Tree Location. The village agrees that it will attempt to locate new trees and other new vegetation on the public ways and public property so as to minimize contact with utility facilities.

(4) Duration of Program. The tree location program provided for in the foregoing paragraphs shall remain in effect for the first 10 years of this agreement, after which it shall be renewed on terms that are mutually agreeable.

(f) Use of utility Facilities. The licensee shall, when requested by the village, (1) permit its overhead facilities to be used for the suspension and maintenance of wires and (2) permit its underground facilities to be used for the running and maintenance of wires, both as may be reasonably required either by the village or by other persons holding a valid municipal license or other valid authorization to use the public ways or public property. Except as provided in the following sentence, the village shall be entitled to make such use without charge. Such use by other persons, and such use by the village for a proprietary purpose, shall be subject to such terms and conditions, including fees, as the licensee may reasonably require. Such use of the utility facilities shall be under the supervision and direction of the licensee so as not to materially interfere with the licensee's present or reasonably contemplated usage of the utility facilities. Such use may not be for the purpose of allowing any person to transmit or distribute electricity. The village agrees to save and keep harmless the licensee from any and all liability incurred by the licensee as a result of the village's use of the utility facilities pursuant to this paragraph. In no event shall the village be responsible for liability incurred by the licensee as a result of the use of the utility Facilities by other persons.

(g) Removal of Facilities. The licensee shall promptly remove from the public ways and public property all above ground wires and the supports therefor whose use is abandoned and shall either promptly remove or board up or render reasonably inaccessible all other utility facilities whose use is abandoned or discontinued. The licensee shall take reasonable steps to prevent any such non-removed utility facilities from becoming nuisances.

(h) Undergrounding of Facilities. The licensee will relocate its overhead distribution facilities in or on public ways and public property in the village, other than alleys, by placing the overhead distribution facilities underground, or rerouting them if necessary, if requested by the village. The overhead distribution facilities to be placed underground or rerouted shall not exceed 500 feet annually and will be determined by the mutual agreement of the licensee and the village; the agreement of the licensee will not be unreasonably withheld. Scheduling of the requested work to be performed will be in accordance with the licensee's normal work scheduling practices. The total cost for such work including, but not limited to, material, labor and overhead shall not exceed .40 percent

of the revenues collected by the licensee in the prior calendar year for electric service in the village; except that if, on or before November 15, 1991, the licensee had made a written offer to the village to underground its overhead distribution facilities at the rate of either 500 feet annually or 2,500 feet every five years, then the cost of such work shall not be subject to the foregoing limitation. The number of feet available to be underground or rerouted in any year which are not utilized may be carried forward for utilization in future years. (Ord 1991-04, 5/6/1991; Ord 1991-10, 6/17/1991; Ord 1993-01, 2/15/1993.)

#### **§ 604. Service considerations**

(a) Adequate Supply of Power. The licensee shall at all times take all reasonable and necessary steps to assure an adequate supply of electricity to its customers within the village at the lowest reasonable cost consistent with long term reliable supplies. The licensee shall from time-to-time make such enlargements and extensions of its Facilities as are necessary to adequately provide for the requirements of the village and its residents.

(b) Duty to Provide Electricity. The licensee shall furnish electricity within the corporate limits of the village to the village and to the inhabitants thereof, and to any person or persons or corporation doing business in the village. All such electricity shall be furnished at the rates and under the terms and conditions as provided from time-to-time by the ICC.

(c) Nondiscrimination. The licensee shall not, as to rates, charges, service, facilities, rules, regulation or in any other respect, make or grant any preference or advantages to any corporation or person or subject any person to any prejudice or disadvantage; provided that nothing in this grant shall be taken to prohibit the establishment from time-to-time of graduated scales of charges and classified rate schedules to which any customer coming within an established classification would be entitled.

(d) Maintenance of Facilities.

(1) All utility facilities shall be maintained in good condition.

(2) All utility facilities shall be maintained in such a manner that they do not create hazardous conditions for the public ways or public ways.

(e) Service Interruptions.

(1) The licensee shall make all reasonable efforts to prevent power surges and interruptions of service. When power surges or interruptions occur, the licensee shall reestablish service with the shortest possible delay consistent with general safety and public welfare.

(2) The licensee shall make all reasonable efforts to notify the municipal electric representative or the municipal emergency electric representative or major service interruptions within the village within one hour after the licensee learns of such interruption. If, at the time such notification is made, the licensee is not able to provide an estimate of when service is expected to be restored, such information shall be provided to the municipal electric representative or the municipal emergency representative as it becomes available. A major service interruption is defined as: (1) an

outage with an interrupted load of greater than 1,000 KVA and persisting for 15 minutes or more; or (2) any outage with a significant impact, as such term may be defined by agreement between the village and the Edison representative, lasting 15 minutes or more.

(3) No less than 24 hours prior to beginning scheduled maintenance, scheduled repairs or other scheduled work on its utility facilities that may result in an interruption of electric service to customers in the village, the licensee shall make a good faith effort to provide written notice to potentially affected customers and to the municipal electric representative of the scheduled time and estimated duration of the work. The licensee shall make a good faith effort to notify potentially affected customers and the municipal electric representative prior to performing any emergency work on its utility facilities that may result in an interruption of electric service to customers in the village.

(4) The licensee shall keep records of interruptions affecting service within the village. An interruption will be considered as a failure of any portion of the system or equipment whereby the voltage is reduced to less than 50 percent of the standard voltage for a period longer than one minute, except that where automatic reclosing equipment is used only "circuit breaker lockout" shall be so considered, unless the ICC promulgates a rule or regulation setting forth a different standard for defining an interruption; provided that the licensee shall notify the village of any docket opened by any Competent Authority that would change the standard, and provided further that the standard set forth herein shall remain in effect if the Competent Authority sets no standard by rule or regulation. The record shall show the date, time of day, duration, extent and cause of the interruption.

(5) The licensee shall also maintain records showing the average customer outage frequency and duration both within the village and for the licensee's system as a whole.

(6) Upon the request of the village, but no less than once a year, the licensee shall provide the village with reports providing the information contained in the records maintained pursuant to §§ 604(e)(4) and 604(e)(4).

(7) On October 23, 1991, the licensee filed with the ICC the rider set forth in Exhibit A hereto to provide for a service policy allowing customers whose electric service is interrupted because of an operating error or equipment malfunction for twelve or more consecutive hours to receive a credit against the monthly customer charge. (Ord 1991-04, 5/6/1991; Ord 1991-10, 6/17/1991, Ord 1993-01, 2/15/1993.)

#### **§ 605. Economic and technological provisions**

(a) Technological Advances. The licensee shall investigate, develop and incorporate technological advances into its equipment and service in its sole discretion and subject to order of Competent Authority. Upon the request of the village, the licensee shall , discuss such technological advances at the annual meeting provided in § 228.

(b) Cogeneration and Small Power Production Facilities. The licensee shall provide, on a timely basis, such information as may reasonably be required for interconnection with the licensee's lit system by the village, if the village desires to develop a Qualifying Facility, and by any person doing business in the village that desires to develop a Qualifying Facility related to its business in the

village. A Qualifying Facility is a cogeneration facility or small power production facility which meets the criteria for qualification set forth in subpart B of 18 C.F.R. 292, as it may be amended from time-to-time.

(c) Demand Side Management. The licensee shall make systemwide expenditures in connection with the least cost planning process of \$25,000,000 through 1996 in furtherance of its recognition of the village's strong commitment to energy conservation and compliance by the licensee with the least cost planning provisions of the Public utilities Act. In addition, to the extent that energy efficiency/DSM programs are identified during the five year period described above that are cost justified in the good faith judgment of the licensee, the licensee shall expend at least an additional \$25,000,000 in the implementation of such programs. The licensee shall implement cost-effective energy efficiency/DSM programs, consistent with the licensee's least cost planning requirements as an integral part of the licensee's provision of electricity to its customers. Examples of programs which the licensee will consider for its energy efficiency/DSM program are home weatherization and the maintenance of appliances and air-conditioning systems at peak efficiency. The licensee shall be required to implement only those energy efficiency/DSM programs that are approved by the ICC and for which the licensee can recover from its customers (i) program costs, (ii) offsets for lost revenue and stranded investment (if any) resulting from such program and (iii) any appropriate return to the licensee on such costs, lost revenues and stranded investments, as approved by the ICC. The licensee shall provide the village with notice of the specifics of the energy efficiency/DSM programs within two business days of the ICC's acceptance of the licensee's proposal for filing.

(d) Environmental Protection. The licensee shall make such efforts as it deems necessary to meet the standards required for its utility facilities in the village to meet applicable federal and state air and water pollution laws. Upon the request of the village, the licensee shall discuss such environmental matters at the annual meeting provided for in Section 7.9.

(e) Economic Sources of Power. As part of its provision of electricity to the village, the licensee shall take efforts to obtain electric power from sources other than its electric system, when it considers obtaining such power to be cost effective and as may be required by 83 Ill. Admin. Code, Part 430, as it may be amended from time-to-time. In connection therewith, the licensee shall make such adjustments to its rates as required by the ICC.

(Ord 1991-04, 5/6/1991; Ord 1991-10, 6/17/1991; Ord 1993-01, 2/15/1993.)

#### **§ 606. Administration**

(a) Representatives.

(1) The licensee agrees to maintain such local offices and facilities as it deems adequate for the purposes of providing repair and maintenance services and personnel ~ available during office hours to address concerns the village might have regarding the provision of electric service and the administration of this subchapter. The licensee shall provide the village with the Location and telephone number of the local office and the name and telephone number of the Edison Representative.



(2) The licensee further agrees to maintain such local offices and facilities as it deems adequate for the purposes of providing the village with 24-hour emergency service pertaining to the operation of the utility facilities. The licensee shall provide the village with the location and telephone number of the local office, the name of the Edison Emergency Representative and the telephone number or numbers at which the Edison emergency Representative can be reached 24 hours a day.

(3) The village agrees to provide the licensee with the name of the Municipal Electric Representative and the telephone number or numbers at which the Municipal Electric Representative can be reached during office hours.

(4) The village agrees to provide the licensee with the name of the Municipal Emergency Electric Representative and the telephone number or numbers at which the Municipal Emergency Electric Representative can be reached 24 hours a day.

(5) The village and the licensee agree that each one will promptly notify the other party in the event that any of the information required under the foregoing sections is changed, so as to keep such information current at all times while this subchapter remains in effect.

(b) Facilities Maps. Upon the request of the village, the licensee shall provide the village with a current map or set of maps, showing the location of all utility facilities installed in or under public ways within the corporate limits of the village provided that the licensee shall not be required to prepare new maps to comply with this provision if no such maps exist.

(c) Duty to Provide Information. The licensee shall, from time-to-time, furnish such additional information as the village may reasonable deem to be necessary to enable it to determine whether the licensee is complying or has complied with the provisions of this subchapter, other than those matters subject to the exclusive jurisdiction of a Competent Authority other than the village. The licensee shall not be required to provide information as to which it has a legal privilege to refuse to provide.

(d) Disclosures of Documents or Information. The village agrees that no documents or information provided to the village by the licensee in accordance with this subchapter shall be made available to the public if such documents or information are exempt from disclosure under the provisions of the Freedom of Information Act or Section 5-108 of the Public utilities Act, as such statutes may be amended from time-to-time.

(e) Inspection of Facilities. The licensee shall permit the village, at reasonable times and upon reasonable notice, to inspect the utility Facilities within the corporate boundaries of the village so as to determine whether the licensee is complying or has complied with the provisions of this subchapter, other than those matters subject to the exclusive jurisdiction of a Competent Authority other than the village.

(f) Superintendent of Public Works. The Superintendent of Public Works, or such other person as the Corporate Authorities may designate from time-to-time, is hereby designated the official of the village having full power and authority to take appropriate action for and on behalf of the village to

administer and enforce the provisions of this subchapter and to investigate any alleged violations or failures of the licensee to comply with the provisions hereof or to adequately and fully discharge its responsibilities and obligations hereunder.

(g) Notices.

(1) Notice to village. Unless otherwise specified herein, all notices from the licensee to the village under this ordinance shall be made in writing and delivered to the village Clerk at the following address: Ms. Elaine Brown village Clerk village of Lily Lake 5N565 Cochise Drive Lily Lake, Illinois 60151.

(2) Notice to the licensee. Unless otherwise specified herein, all notices from the village under this ordinance shall be made in writing and delivered to Ms. Kathryn Houtsma, Director, Regulatory Affairs, at the following address: Ms. Kathryn Houtsma Director, Regulatory Affairs Commonwealth Edison Company P. O. Box 767 Chicago, IL 60690-0767.

(3) Changes in person or Place for Notification. In the event that either the village or licensee changes the person to whom written notices are to be directed or the address to which such notices are to be sent, the party making the change shall promptly notify the other party of such change in writing.

(4) All notices shall be effective upon their receipt by the person or persons to whom they are directed.

(h) Coordination of Construction Activities. The licensee and the village agree to exercise their best efforts to coordinate to the extent practicable the timing of construction activities of each so as to minimize any public inconvenience that might otherwise occur. In conjunction with this goal, shortly after January 1 of each year, as agreed by the parties, the licensee shall meet with the village and such other users of the Public ways as may be invited by the village to discuss scheduling of construction in the public ways in that calendar year.

(i) Annual Meeting. No less than once a year, the licensee shall attend a meeting of the Corporate Authorities to provide a status report of the licensee's activities within the village during the previous year, to outline its planned activities for the next year, and to answer questions the Corporate Authorities may have I" regarding the licensee's performance under this subchapter.

(j) Notice of Boundary Changes. The village agrees to notify the licensee in writing of any ordinance, statute or court or administrative action that causes a change in the village's boundaries. Failure to give such notice excuses the licensee both from non-compliance with this subchapter and from the non-collection of municipal utility taxes within the area affected until such notice is given.

(k) Notice of Regulatory Changes. In the event that either the ICC or the FERC opens a docket or proposes an administrative rule that 1) would directly affect the licensee and 2) would, in the licensee's opinion, be inconsistent with or change any provision of or duty under this subchapter, the licensee, within seven days of determining such inconsistency, shall notify the village of such docket or proposed rule and what it thinks is the inconsistency. The licensee shall make a good faith effort to

make such determination and to give such notice prior to the expiration of any intervention period or comment period.

(l) Notice of Actions Before Competent Authorities. In the event that the licensee becomes a party to any proceedings of a Competent Authority that 1) would directly affect the licensee and , 2) would, in the licensee's opinion, be inconsistent with or change any provision of or duty under this subchapter, the licensee, within seven days of determining such inconsistency, shall notify the village of such proceeding and what it thinks is the inconsistency. The licensee shall make a good faith effort to make such . ' determination and to give such notice prior to the expiration of any intervention period or comment period.

(m) Notice of Requests for Rate Changes. The licensee shall notify the village of any applications the licensee may make to the ICC to effectuate any change in its rates, including the riders thereto. The notice shall be made in accordance with the notice provisions of this subchapter, and shall be sent no later than two business days following the date on which the rate application is accepted for filing by the ICC. For each rate or charge affected by the application, the notice shall contain a statement of the existing rates or charges and all proposed rates or charges. If the proposed rates or charges are to be phased in over a period of time, the notice shall also contain a statement of the proposed rates or charges for each increment and the time period each incremental increase is to be in effect. Upon the written request of the village, the licensee shall send the village a copy of the complete application filed with the ICC. This provision shall not apply to applications filed solely for the purpose of effectuating municipal utility taxes.

#### **§ 607. Compensation**

(a) Municipal Compensation. The licensee will during each calendar year throughout the life of the subchapter, supply without charge to the village such an amount of electric energy as may be reasonably necessary for: (1) lighting and various other uses in municipal buildings solely occupied for municipal purposes and not .. for purposes of revenue (or such part thereof as may from time-to-time be so occupied) as may be identified as eligible for such electric energy by the parties; (2) traffic signals. The foregoing arrangement shall be effective beginning with readings made after the date hereof of meters measuring electric energy for the above purposes at locations set forth in Exhibit B hereto. Exhibit B shall be amended from time-to-time during the term of this subchapter so as to maintain a current list of the locations and .. traffic signals eligible to receive service under the terms of this section. None of said electric energy so to be supplied without charge to the village shall be used by the village for heating, street lighting, water pumping or other such power purposes. Nor shall any of said energy be resold for any purpose whatsoever.

(b) Waiver of Certain Fees and Charges. The consideration provided to the village by this subchapter shall be in lieu of: (1) any permit, license, inspection or other similar fees or charges imposed by the village upon persons for use of the public ways; or (2) any permit or license fee imposed by the village upon any persons for the operation of a business similar to that conducted by the licensee.

Ord 1991-04, 5/6/1991; Ord 1991-10, 6/17/1991; Ord 1993-01, 2/15/1993.

#### **§ 608. Municipal rights reserved**

(a) Police Powers. The village expressly reserves the right to adopt, from time-to-time, in addition to the provisions contained herein, such ordinances, rules and regulations as the Corporate Authorities may deem necessary in the exercise of the police power for the protection of the health, safety and welfare of the village's citizens and their properties.

(b) Regulation of public ways and public property. The village expressly reserves the right to enforce reasonable regulations concerning access to or use of the public ways or public property, as may from time-to-time be provided by ordinance, including requirements for permit applications.

(c) Municipal Acquisition of Facilities.

(1) Purchase. At any time while this subchapter remains in effect, upon written notice from the village to the licensee, the village may offer to purchase from the licensee any or all of the utility facilities located within the village, or any lesser interest thereof, free and clear of all mortgages and other liens in any manner provided for by law.

(2) Condemnation. Nothing herein shall be deemed or construed to impair or affect, in any way or to any extent, the right of the village to acquire the property of the licensee, either by purchase or through the exercise of the right of eminent domain, and nothing herein contained shall be construed to contract away or to modify or abridge, either for a term or in perpetuity, the village's right of eminent domain.

(3) Continuation of Service. In the event the village takes any action pursuant to this Section 9.3, the licensee agrees that it shall continue to supply electric service within the village and shall continue to comply with the provisions of this subchapter until the acquisition of the utility Facilities has been finalized and the ICC has authorized the licensee to discontinue service within the village.

(4) Non Exclusive Grant.

(A) Nothing in this subchapter shall be construed to grant the licensee an exclusive franchise to operate within the corporate limits of the village.

(B) The village reserves the right to make a similar use or grant a similar use in the public ways to any other person.

(C) The village agrees to require all other contractors, subcontractors, franchisees, licensees and permittees in the public ways not to interfere unreasonably with the rights of the licensee in the public ways.

(D) Right to Compete with licensee. Nothing in this subchapter shall be construed as a waiver of the village's rights to own and operate an electric utility in competition with the licensee prior to acquire any or all of the licensee's utility Facilities in such manner as may from time-to-time be provided by law.

(E) Small Power Production and Cogeneration. The village expressly reserves the right to engage in the production of electric energy, both from conventional power plants and from cogeneration and small power production facilities. (Ord 1991-04, 5/6/1991; Ord 1991-10, 6/17/1991; Ord 1993-01, 2/15/1993.)

**§ 609. Term and termination**

(a) Term. The franchise granted by this subchapter shall last for a term of 50 years from its effective date, except that, at the sole option of the village, it may be terminated at the end of the 35th year, provided that the village notifies Edison in writing of its intent to terminate within the first three months of the 35th year.

(b) Acceptance. The licensee shall accept this subchapter by filing with the Clerk an unconditional written acceptance hereof, to be duly executed according to law, along with proof of compliance required by Sections 14.2 and 14.3. The failure of the licensee to so accept this subchapter within 30 days of enactment shall be deemed a rejection hereof by the licensee, and the rights and privileges herein granted shall absolutely cease and determine unless said period of time shall be extended by an ordinance duly passed by the Corporate Authorities for that purpose before the expiration of the 30 day period.

(c) Effective Date. This subchapter shall be in full force and effect upon the licensee's filing of its acceptance as provided hereinabove or upon its passage and publication as required by law, whichever is later.

(d) Reopener. At any time, but no more than once in any 10 year period, either party may require both parties to negotiate in good faith on any proposed amendment to this subchapter. The subject of any proposed amendment shall be set forth in written notice.

(e) Amendments. Except for the amendments to Exhibit B required under section 8.1, no revision, modification or amendment of this subchapter shall be effective unless it has been passed by the Corporate Authorities and accepted by the licensee in writing.

(f) Renewal. At any time during the first 60 days of the last year occurring prior to the expiration date of this subchapter, Edison may request the village to enter into negotiations toward renewing or extending this subchapter. Any renewal or extension shall be according to terms that are mutually agreeable and the village shall not be bound to accept any particular terms or to renew any or all of the rights granted by this subchapter.

(g) Termination. The rights and obligations of the licensee under this subchapter shall be terminated upon the end of the term, or at the end of the 35th year if the village has exercised its option to terminate under section 10.1, or upon the licensee's forfeiture as provided in Section 11.

(h) Rights Upon Termination.

(1) Upon any termination of its rights and obligations under this subchapter, the licensee shall not refuse to provide electric service to any potential customers within the village unless a petition for abandonment has been filed with and approved by the ICC.

(2) Notwithstanding the termination of the licensee's rights and obligations hereunder, by forfeiture or otherwise, the licensee shall remain subject to all other applicable regulations and authority of the village, without limitation, as long as the licensee continues to provide electrical service within the village or the licensee's utility facilities remain in the public ways or on public property.

(3) Any claims for indemnification for Liability incurred by the village, its boards, committees, commissions, officers, agents and employees arising from any incidents that occurred on or before the termination of this subchapter shall survive the termination, provided that such claims for indemnification are timely made. (Ord 1991-04, 5/6/1991; Ord 1991-10, 6/17/1991; Ord 1993-01, 2/15/1993.)

#### **§ 610. Remedies**

(a) Subject to the limitations in Sections 610(b), 610(c) and 610(d) below, in the event the licensee or the village fails to fulfill , any of their respective obligations under this subchapter the village or the licensee, whichever the case may be, will have claims for breach of contract and specific performance against the other in addition to any other remedy provided under this subchapter or otherwise provided by law, except that no remedy that would have the effect of amending the specific provisions of this subchapter shall become effective without such action as would be necessary to formally amend the subchapter.

(b) In the event that the licensee violates any terms of this subchapter for conduct that is subject to the exclusive jurisdiction of a Competent Authority other than the village, the sole remedy for such violation shall be before that other Competent Authority. For purposes of determining the applicability of this § 610(b), no provision of this subchapter may be used as the sole basis to defeat the exclusive jurisdiction of such Competent Authority.

(c) In the event that the licensee violates any term of this subchapter for conduct that is also a violation of another applicable village ordinance, the licensee shall be subject to remedies under that other ordinance plus ordinary contract remedies under this subchapter. Licensee shall not be subject to be fined under both § 610(f) of this subchapter and another ordinance of the village for the same conduct.

(d) Subject to the limitation of § 610(b), at the option of the village, upon the finding by the village that the licensee has failed or refused to observe any terms and conditions of this subchapter, the village may notify the licensee in writing of the terms and conditions which it has not observed. The notice shall inform the licensee of the actions which the licensee must take to correct the violation and shall grant the licensee a reasonable period of time to cure such failure or violation. In the case of an emergency, the notice need not be made in writing. If a Competent Authority other than the village has determined that the action giving rise to the village's notice constituted a

violation of an applicable rule, regulation or order of such Competent Authority, then the cure period granted by the village shall be no less than the cure period ordered by such Competent Authority. If the licensee does not eliminate or correct such failure or violation It in accordance with the notice, the licensee's rights under this subchapter may be forfeited or the licensee may be subjected to any other remedies afforded by this subchapter. including the assessment of fines.

(e) In the event that a Competent Authority revokes or suspends any license. certificate or other authorization held by the licensee for the purpose of either operating any portion of its utility Facilities within the village or providing electrical service within the village, then the licensee's rights under this subchapter shall likewise be revoked or suspended, without further notice from the village. The licensee's rights under this subchapter shall be reinstated (1) if the Competent Authority rescinds its revocation or suspension; (2) if the revocation or suspension order is overturned upon review by a competent Authority; (3) if the Competent Authority reinstates the licensee's license; or (4) if the suspension expires of its own terms, The original termination date of this subchapter shall not be affected if the rights forfeited under this subchapter are reinstated as provided herein.

(f) If, after failing to correct a violation of the terms and conditions of this subchapter in accordance with the notice issued to the licensee under § 610(d), the licensee is found guilty of violating any provision of this subchapter for which the village is a Competent Authority, then the licensee shall be fined not less than \$100 nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord 1991-04, 5/6/1991; Ord 1991-10, 6/17/1991; Ord 1993-01, 2/15/1993.)

#### **§ 611. Non-discrimination and equal opportunity**

(a) Non-Discrimination. The licensee represents that it will not discriminate against any person employed or seeking employment with respect to hiring, promotion or tenure, or to terms, conditions or privileges of employment, on account of race, color, sex, religion, national origin or ancestry, including, without being limited to, any employment practice whereby the licensee or any agency engaged or used by the licensee makes inquiry with respect to the race, color, sex, religion, national origin or ancestry of any applicant for employment by the licensee.

(b) Affirmative Action.

(1) The licensee shall make good faith efforts to expand opportunities for minorities and women in all areas of employment, including but not limited to: hiring, promotion, recruitment or recruitment advertising, compensation, and selection for training and apprenticeship.

(2) The licensee shall continue and expand its minority purchasing program and its efforts to promote and enhance contracting opportunities for minorities. (Ord 1991-04, 5/6/1991; Ord 1991-10, 6/17/1991; Ord 1993-01, 2/15/1993.)

#### **§ 612. Laws, rules and regulations**

(a) Compliance with Laws. Rules and Regulations. While this subchapter remains in effect, the licensee shall promptly and fully comply with all applicable statutes, ordinances, judgments, decrees, orders, rules and regulations of any Competent Authority other than the village having jurisdiction over the licensee's activities.

(b) Compliance with Municipal subchapters. Rules and Regulations. While this subchapter remains in effect, the licensee • shall promptly and fully comply with all applicable orders, rules, regulations and ordinances of the village.

(c) Violation of Laws. Rules and Regulations. Any claim by the village that the licensee has violated any provision of this Section 13, shall be subject to the procedures set forth in Section 11 of this subchapter. Ord 1991-04 , 5/6/1991; Ord 1991-10, 6/17/1991; Ord 1993-01, 2/15/1993.)

#### **§ 613. Indemnification, insurance and performance security**

(a) Indemnification. The licensee shall indemnify, become responsible for and forever save harmless the village, its boards, committees, commission, officers, agents and employees from any and all Liability incurred, by them:

(1) for loss or damage to property of the licensee, its officers, agents, employees, licensees and invitees in the public ways or on public property pursuant to this subchapter or for injury to or death of any such employee, agent or licensee while in the public ways or on public property pursuant to this subchapter, however arising; and

(2) arising directly or indirectly from any act or omission of the licensee or any person acting on its behalf done or claimed to have been done by virtue of or pursuant to this subchapter or by virtue of or pursuant to order, rule, regulation or authorization by the ICC.

(b) Comprehensive Liability Insurance or Self Insurance. At all times while this subchapter remains in effect, and in .. recognition of the indemnification provided in the foregoing Section 14.1, the licensee shall, at its own cost and expense, maintain a program of third party liability insurance and/or self-insurance to protect the village, its officers, employees and agents from any liability for bodily injury, death, and property damage occasioned by the activities of the licensee under this subchapter. As proof of compliance with this requirement. the licensee shall, during the life of this subchapter, keep on file with the Clerk a certificate of insurance and/or an affidavit of self-insurance. Said certificate and/or affidavit shall show the types and amounts of coverage. Any affidavit of self-insurance shall be signed by an employee or officer of the licensee who has knowledge of the licensee's self-insurance program and is authorized to make representations as to the scope of said program, and shall contain a statement making such representations.

(c) Indemnification Security. As security for the indemnification required in Section 14.1, the licensee shall, during the life of this subchapter, keep on file with the Clerk a good and sufficient bond in the penal sum of Five Thousand Dollars (\$5,000.00) conditioned to protect and indemnify the village as provided in Section 14.1. Said bond shall be subject to the approval of the Corporate



Authorities. The village reserves the right: (1) to require the licensee to renew said bond whenever, in the opinion of the Corporate Authorities, such action may be necessary; and (2) to require the licensee to increase the amount of said bond or to provide additional or other security in the event .. said bond is insufficient to fully cover a claim made against it, provided that the amount of the increased bond does not exceed the total amount of the claim made against it, and provided further that the value or amount of such other or additional security does not exceed Five Thousand Dollars (\$5,000.00) or the total amount of the claim made against the original bond, whichever is greater. (Ord 1991-04, 5/6/1991; Ord 1991-10, 6/17/1991; Ord 1993-01, 2/15/1993.)

#### **§ 614. Miscellaneous provisions**

(a) Transfer and Assignment.

(1) Except in the event of the merger, consolidation or reorganization of the licensee, the licensee shall not have the right to assign its rights and privileges under this subchapter or to otherwise transfer it in any manner whatsoever, without the prior written approval of the village, pursuant to an ordinance enacted by the Corporate Authorities.

(2) In the event of a transfer or assignment of the licensee's rights and privileges under this subchapter, all provisions of this subchapter which are obligatory upon, or which inure to the benefit of, the licensee shall also be obligatory upon and shall inure to the benefit of any and all successors and assigns of the licensee.

(b) Subchapter as Contract. This subchapter shall have the effect of and shall be a contract between the village and the licensee and shall be a measure of the rights and obligations of the village as well as of the licensee.

(c) Subchapter Requirements as Voluntary Undertaking. The licensee and the village understand that the general operations of the licensee are under the jurisdiction of the ICC and the FERC. The licensee has voluntarily agreed to perform the duties and obligations set forth in this subchapter, provided that such performance does not violate any applicable regulatory standard or any applicable statutes, ordinances, or judgments or decrees of administrative or judicial tribunal.

(d) Scope of subchapter. No privilege or exemption is granted or conferred to licensee by this subchapter unless specifically provided herein. The permission and authority granted by this subchapter are not intended to limit or modify any agreement, franchise, license or permit previously granted by the village to any other person for the use or occupancy of the public ways, and the licensee shall therefore exercise the rights granted by this subchapter in such a manner as shall neither unreasonably interfere with the rights, nor endanger or impair the property, of other contractors, franchisees, licensee and permittees in the public ways. The village agrees to require other contractors, franchisees, licensees and permittees of the village to exercise their rights under such agreements, franchises, licenses and permits in such a manner as shall neither unreasonably interfere with the rights nor endanger or impair utility facilities of the licensee located in the public ways.

(e) Expenses To Be Borne By licensee. Unless specifically provided to the contrary, the licensee shall be responsible for ~ procuring, through rates or otherwise, the revenues necessary to meet the expenses of its performance under and its compliance with this subchapter.

(f) Most Favored Nations Provisions.

(1) In the event that the licensee accepts from any Illinois municipality, other than the City of Chicago, an electric ordinance or amendments to an electric ordinance containing terms, conditions or provisions different from those contained in this subchapter, or if any other arrangement is at any time made with any municipality other than the City of Chicago, the licensee shall inform the village in writing of such fact and provide a copy of such ordinance or other arrangement to the village. If, within 90 days of such notice, the village adopts such other electric ordinance or other arrangement of such other municipality, the licensee agrees it will accept such ordinance or other arrangement. In such event, the term of the new ordinance will expire at the time the original ordinance was scheduled to expire, unless otherwise agreed by the parties. Changes in the term of the subchapter or arrangement shall be subject to the provisions of this Section, unless the change in the term is for a period of more than 50 years.

(2) In the event that the village grants any benefit to any other electric utility regarding the use of the public ways, such benefit shall be offered in writing to the licensee, under the same terms and conditions, within 30 days after it has been granted to such other electric utility. If the licensee requests the extension of the benefit to it, the village will take such steps as to provide such benefit to the licensee under the same terms and conditions, including amending this subchapter accordingly.

(g) Severability. If any section, paragraph, clause or provision of this subchapter shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this subchapter.

(h) Repealer. All ordinances, resolutions or orders, or parts thereof, in conflict with the provisions of this subchapter, or containing provisions granting any right, privilege or license to the licensee or to any of its predecessor companies, including an Ordinance Authorizing Commonwealth Edison Company, Its Successors and Assigns, to Construct, Operate and Maintain an Electric System in and Through the village of Lily Lake, Kane County, Illinois, passed June 17, 1991, are hereby repealed. However, any claims for indemnification timely and properly made under that last named ordinance survive this repeal.

(i) Force Majeure. The licensee shall not be deemed in violation of this subchapter for the delay in performance or failure to perform in whole or in part its obligations under this subchapter due to strike, war or act of war (whether an actual declaration is made or not), insurrection, riot, act of public enemy, fire, flood or other act of God or by other events to the extent that such events are caused by circumstances beyond the licensee's control and are not caused by negligence on the part of the licensee or any person acting on its behalf. In the event that the delay in performance or failure to perform affects only part of the licensee's capacity to perform its obligations under this subchapter, the licensee shall perform such obligations to the extent it is able to do so in as expeditious a manner as possible. licensee shall promptly notify the village Electric Representative in writing of any event

covered by this Section and the date, nature and cause thereof. Furthermore, licensee, in such notice, shall indicate the anticipated extent of such delay and the obligations under this subchapter to be affected thereby. (Ord 1991-04, 5/6/1991; Ord 1991-10, 6/17/1991; Ord 1993-01, 2/15/1993.)

## **EXHIBIT A**

The customer will be entitled to a reduction in charges for service equal to the Monthly Customer Charge for any month in which service to the customer is interrupted for a period of 12 consecutive hours or more due to any of the following conditions: (i) company equipment malfunction not caused by weather; (ii) Commonwealth Edison employee or contractor error; (iii) accident involving Commonwealth Edison employee or contractor; (iv) damage to company equipment caused by Commonwealth Edison employee, agent or contractor; or (v) overloaded company distribution equipment not caused by customer negligence. If the duration of any service interruption resulting from any of the causes referred to in items (i) through (v) is equal to or exceeds 24 consecutive hours, or if there is more than one such service interruption of 12 consecutive hours in a month, the customer will be entitled to an additional reduction in charges equal to the Monthly Customer Charge for such month multiplied by the number of increments of 12 consecutive hours of interruption in excess of the first such 12 consecutive hours. In applying this provision to any outage in a month in which the Customer Charge changes, the Customer Charge in effect at the start of the outage in question shall be used .

## **Subchapter 2—Natural Gas**

### **§ 615. Natural gas franchise**

The right, permission and authority are hereby granted to Northern Illinois Gas Company, an Illinois corporation, its successors and assigns, (“**NICOR**”), to construct, operate and maintain within the village for a term of 50 years, a system for the production, distribution and sale of natural gas for fuel, heating, power, processing and any other purposes within and outside the corporate limits of the village, and to construct, lay, maintain and operate such gas pipes, mains, conductors and other devices, apparatus and equipment as may be necessary or convenient for such system in, under, along, and across any of the streets, alleys, avenues and other public places in the village, subject to the conditions and regulations hereinafter set forth.

Ord 1991-11, 6/17/1991; Ord 2010-16, 10/18/2010.

### **§ 616. Construction**

(a) All pipes, mains, conductors and other appliances, including connections with service pipes, hereafter laid in streets, alleys, avenues or other public places, must be laid under the supervision of the office of the building official of the village, or such other duly authorized agent as the board of trustees may from time to time designate. All pipes, mains, conductors and other appliances must be so located as not to injure unnecessarily any drains, sewers, catch basins, water pipes, pavements, or other like public improvements, but should any drain, sewer, catch basin, water pipe, pavement or

other like public improvement be injured by such location, NICOR shall immediately repair the damage caused by such injury to the satisfaction of the building official, or such other duly authorized agent, and in default thereof the village may repair such damage and collect the cost thereof from, NICOR.

(b) NICOR is subject to all reasonable regulations which may now or hereafter be prescribed by general ordinances of the village with respect to the use of the public streets, alleys, avenues and other public places of the village.

Ord 1991-11, 6/17/1991; Ord 2010-16, 10/18/2010.

#### **§ 617. Indemnification**

NICOR shall indemnify the village from any judgments, damages, decrees, costs and expenses, including attorneys' fees, which the village may suffer or incur or which may be obtained against the village on account of the use and occupation of any street, alley, avenue or other public place in the village by NICOR pursuant to the terms of this subchapter or resulting from the exercise by NICOR of any of the privileges herein granted.

Ord 1991-11, 6/17/1991; Ord 2010-16, 10/18/2010.

#### **§ 618. Acceptance by NICOR**

Within 30 days after its passage, NICOR must accept this subchapter by filing an unconditional written acceptance with the village clerk. NICOR's failure to accept this subchapter within said 30 days constitutes a rejection, and the rights and privileges herein granted will cease unless the time is extended by the village by ordinance duly passed before the expiration of said 30 days.

Ord 1991-11, 6/17/1991; Ord 2010-16, 10/18/2010.

#### **§ 619. Successors and assigns**

All provisions of this subchapter which are obligatory upon, or which inure to the benefit of, NICOR are also obligatory upon and inure to the benefit of any successors and assigns of NICOR; and the word "NICOR" wherever appearing in this subchapter includes not only NICOR, but also each of its successors and assigns.

Ord 1991-11, 6/17/1991; Ord 2010-16, 10/18/2010.

#### **§ 620. Effective date**

This subchapter, if accepted by NICOR, is effective after its passage and approval, and after the effective date will supersede and repeal any other grant of right, permission and authority to NICOR or any predecessor companies or any assignee of NICOR, to construct, operate, and maintain any system for the production, distribution, and sale of natural gas for fuel, heating, power, processing, and any other purposes within this village.

Ord 1991-11, 6/17/1991; Ord 2010-16, 10/18/2010.

## Subchapter 3—Telephone

### § 621. Franchise

That the Illinois Bell Telephone Company, (the *company*), its lessees, successors and assigns, are hereby granted the right to construct, erect, renew, maintain and operate in, upon, along, across, under and over the streets, alleys and public ways of the village of Lily Lake, Kane County, Illinois (the *municipality*), lines of poles, anchors, wires, cables, conduits, vaults, laterals and fiber optics other fixtures and equipment, and to use the same for the transmission of sounds and signals by means of electricity or light, and especially for the conduct of a general telephone business for the period of 10 years from and after the effective date of this ordinance and thereafter until terminated by 60 days written notice either by the municipality to the company, or by the company to the municipality. The provisions of this agreement shall be renegotiated upon written notice from one party to the other at any time after July 1, 2000. Any new terms and conditions agreed to as a result of such renegotiation shall be effective upon the expiration of this agreement in accordance with the terms contained herein unless the parties agree otherwise.

Ord 1992-02, 5/28/1992.

### § 622. Existing facilities; permit requirements

(a) The location and height above or the depth below the public thoroughfares of the existing lines of poles, anchors, wires, cables, conduits, vaults, laterals and other fixtures and equipment of the company (hereinafter referred to as *structures*), within the municipality are hereby approved, and the same shall be maintained and operated under and subject to the provisions of this ordinance. Any change in or extension of any of said structures or the construction of any additional structures, in, upon, along, across, under or over the streets, alleys and public ways of the municipality shall be made under the direction of the individual designated by the municipality or such officer as may be designated from time-to-time by the governing body of the municipality for that purpose, (hereinafter referred to as *municipal telecommunications representative* or *MTR*). The height above public thoroughfares of all aerial wires and cables hereafter constructed shall conform to the requirements of the Illinois Commerce Commission or other regulatory body having jurisdiction thereof. All structures hereafter installed shall be so placed, and all work in connection with such installation shall be so performed, as not to interfere unreasonably with ordinary travel on the highways of the municipality or with any municipal water or sewer pipes then in place, and in case of bringing to grade or change of grade, or change of width of any street or alley, the company, provided it is notified thereof in writing at least 30 days prior to the commencement thereof, shall change its structures so as to conform thereto, except where such change of grade or width of any street or alley is made in connection with the rearrangement, separation or alteration of railroad crossings or is incident to any such rearrangement, separation or alteration. The tops of all vaults constructed by the company within the municipality shall present an even surface with the pavement at the point where laid, and, subject to the exception contained in the last preceding sentence, shall be lowered or raised by the company to conform to the top of paving or improvement as required by the governing body of

the municipality whenever the grade of the street or alley in which any such vault is located may be at any time hereafter lowered or raised.

(b) Permit Required. The construction and installation of said facilities or any change thereof including extension, reduction or removal of the telecommunications systems shall be subject to the issuance of a permit therefore by the MTR. No telecommunications facility shall be laid or installed in or Under any streets, alleys or other public way until a permit therefore is issued by the MTR. Said permit shall indicate the time, manner and place of laying or installing each telecommunications facility. Permit approval shall be granted if the proposed improvements are consistent with the use of the public way granted by this Agreement. Each application for a permit shall be accompanied by prints, plans and maps showing the proposed location of each telecommunications facility to be laid or installed, the location of each conduit to be entered, and the number of manholes or other openings to gain access to said conduit. In the event of an emergency which the company believes poses a threat of immediate harm to the public or to any of the company's facilities, the company shall be permitted access to the public way to ameliorate the threatened harm without the benefit of a permit, provided however, the company shall advise the municipality of the emergency at its earliest opportunity and seek a proper permit within a reasonable period of time thereafter.

(c) Noncompliance of facilities. The municipality reserves the right to make physical on-site inspections of the telecommunications systems at its discretion. The company shall correct or substantially correct any default or nonconformance with the municipality's written, publicly available installation standards, weather or conditions beyond the reasonable control of the company permitting, within thirty (30) days of receipt of written notification (hereinafter "the 30-day correction period") from the MTR. If the MTR determines that the company has not corrected or substantially corrected the default or nonconformance and has so advised the company in writing, the company must submit a time table within five (5) days of the lapse of the 30-day correction period to the municipality specifying the anticipated date of completion. In an emergency, affecting the public health, safety and welfare in the public way as determined by the MTR, the company shall immediately correct the default or nonconformance. If the municipality, in the exercise of its reasonable discretion, determines that the company has not substantially corrected the emergency within five (5) days of such an order, the company shall be in default and shall pay the municipality liquidated damages of \$500 per day, each day after the five-day period that the company fails to substantially correct the default or noncompliance.

(d) Maps. Upon request by the municipality, the company shall file with the MTR a map which details existing and new facilities. Subject to the provisions of the Illinois Freedom of Information Act, Ill. Rev. Stat. Ch. 116, par. 201 et. seq. (1989), any maps, plans or drawings depicting company facilities that have been properly designated *Confidential* shall be regarded by the municipality as proprietary and confidential as to third parties. The foregoing shall not apply to any information which the municipality can demonstrate is in the public domain through no breach of this Agreement by the municipality. The company and municipality agree, to the extent practicable to exercise their best efforts to coordinate the timing of the construction activities of each, so as to minimize any public inconvenience. On or about January 1, of each year, or as otherwise agreed to by

the parties, the company shall meet with the municipality to detail, to the extent possible, its currently planned construction activities within the municipality.

Ord 1992-02, 5/28/1992.

**§ 623. Repair of company work sites**

The company, after doing any excavating or construction work shall, at its sole cost and expense, promptly repair and restore the site including all sidewalks, parkways or pavements disturbed by the company to the condition in which it existed prior to the performance of the work, or nearly as practicable as determined by the municipality in the exercise of its reasonable discretion. In the event that any such sidewalk, parkway or pavement shall become uneven, unsettled, or otherwise requires repairing, because of such disturbance by the company, then the company, as soon as climatic conditions will permit, shall promptly, upon receipt of notice from the municipality so to do, cause such sidewalk, parkway or pavement to be repaired or restored to the condition in which it existed before said sidewalk, parkway or pavement was disturbed by the company. Such restoration shall be completed within 10 days after the date of commencement of such restoration work. In the event that the company fails to commence and complete the restoration work in the manner and within the time periods prescribed herein, the municipality may, but shall have no obligation to, perform such work and recover from the company any costs and expenses the municipality incurs. In the event that such public way or improvement cannot be so repaired, replaced or restored, the company shall justly compensate the municipality. All excavations in lawns or grassy parkways shall be immediately backfilled, tamped and then restored within a reasonable time thereafter to the original condition with sod or hydroseed in accordance with the applicable provisions of this agreement. The company shall keep all structures which it shall construct by virtue of this ordinance, in a reasonably safe condition at all times, and shall maintain such barriers and danger signals during the construction, repair or renewal work performed hereunder as will reasonably avoid danger to life, limb and property.

Ord 1992-02, 5/28/1992.

**§ 624. Defense, indemnification of municipality**

(a) The company shall, at its own expense, defend all suits that may be brought against the municipality on account of or in connection with the violation by the company of any of the obligations hereby imposed upon or assumed by it, or by reason of or in connection with any damage to life, limb or property connected with its failure to meet its obligation hereunder or any of the structures constructed or maintained by it under or by virtue of this Agreement, and hold and save the municipality harmless from any and all liability and expense as herein defined. As used in this Section, liability and expenses shall include judgments, costs and damage for or associated with removal, relocation, alteration, repair maintenance and restoration of the structures or appliances herein authorized, and for any and all damages hereto and on account of the location, construction, alteration, repair or maintenance of any public ways, including bridges, tunnels, vaults, sewers, water mains, conduits, pipes, poles and other public utilities.

(b) The governing body of the municipality may, under the direction of the company or its attorneys, assist in defending any such claim or suit. The company shall not be required to reimburse the municipality for expenses incurred by it in case of the election so to assist.

(c) The company shall, at its own expense, indemnify and hold harmless the municipality and its officers, agents and employees, from liability, arising out of all judgments or settlements, including reasonable attorney fees, whether for personal injury, bodily injury, property damage or loss or interruption of utility service arising out of the reconstruction, installation, maintenance or other operations of the company.

Ord 1992-02, 5/28/1992.

#### **§ 625. Use of poles by municipality**

During the term of this Agreement and while the company is using any pole or poles erected or maintained hereunder, it will permit the municipality the use of space, if such space is not required for company needs, for attaching the municipality's police and fire alarm signal wires, provided that the police and fire alarm system is provided to the public without charge. Any such attachments are to be in accordance with specifications designated by the company and all work will be performed by the municipality at its expense at the top of the space available for the use of the company on any of said poles, it being understood that the poles upon which space is permitted for use by the municipality shall be considered, for the purpose of this agreement, as personal property; provided that such wires shall be so placed and maintained by the municipality that the use of the same will not interfere with the operation and maintenance of the company's equipment or its use of said poles, and provided further that a 30 inch climbing space shall be maintained between the pole pins on poles jointly used with another public utility. All such police and fire alarm signal wires shall be attached and maintained under the direction and supervision of the company's authorized representatives and only in compliance with any rules for construction and maintenance of electric power and communication lines as may be ordered by the Illinois Commerce Commission. The municipality shall, at its own expense, defend all claims, demands, or suits on account of any injury to life, limb or property that may result by reason of or in connection with the presence, use, maintenance, erection or removal of the municipality's police and fire alarm signal wires that their appurtenances pursuant hereto, and hereby agrees to save and keep harmless the company from any and all damages, judgments, costs and expenses of any kind which may arise by reason thereof.

Ord 1992-02, 5/28/1992.

#### **§ 626. Compensation for use of right of way**

(a) So long as the company exercises and enjoys the rights granted to it hereunder, it shall pay to the municipality for each Access line that the company maintains and operates within the municipality: \$0.38 per Access Line per month for the calendar year 1991, and thereafter retroactive to January 1, 1991. In no event shall the payments for any year be less than the amounts the municipality received in cash for the calendar year 1991. The company shall make said payments on a monthly basis, due the last day of the succeeding calendar month. "Access Line" as used in this



Section shall mean “the connecting facility between a customer's premise and the company's serving central office that provides customer access to the dial network for placing and receiving calls.”

“Within the municipality” means within the corporate boundaries of the city, village or incorporated town named in Section 1 of this Ordinance as recorded with the appropriate county recorder and as provided to the company. The municipality agrees to notify the company of any ordinances annexing to or disconnecting from such corporate boundaries and agrees to provide to the company an accurate map of such changes showing, if available, street name and number detail.

(b) The company shall, within 45 days of the effective date of this Ordinance, make an appropriate adjustment between payments to which the municipality is entitled under this Ordinance and payment that the municipality is entitled to or has received under a prior Interim agreement dated for the period commencing January 1, 1991.

(c) The company agrees to provide annually, within a reasonable time from municipality's request, the names, addresses and number of Access Lines for each of its customers within the municipality, subject to the municipality's agreement not to disclose said information, which municipality agrees shall be used solely for the purposes of verifying the number of the company's Access Lines within the municipality. The company further agrees to substantiate, upon request the contents of such report and all records and other documents required for such verification shall, upon reasonable advance notice, be subject to inspection by the municipality. In compiling such report the company shall be permitted to delete the names of those customers subscribing to the company's non-published listing service.

(d) The payments due hereunder shall be in lieu of any permit, license, inspection or other similar fees or charges customarily assessed by the municipality to businesses operating in the publicway or operating in a similar business as that conducted by the company including, but not limited to, all general business license fees.

(e) The company shall, without charge and when directed by the chief executive officer of the municipality, move within the same premises the customer premise wire associated with each access Line provided to the municipality by the company, provided that not more than one such change of location in any one year per Access Line shall be made by the company without expense to the municipality. “Customer premise wire” is defined as any wire beginning on the customer's side of the network interface or equivalent and ending at the registration jack or connecting block, exclusive of wiring associated with key or PBX systems and their serving terminals or main distribution frames.

Ord 1992-02, 5/28/1992.

#### **§ 627. Underground installation**

(a) Newly constructed distribution lines shall be placed underground to the extent required by the Illinois Commerce Commission. The company shall not be required to bury any existing aerial facilities. However, if a municipal construction project to the public way, such as a road widening or other improvement, would require that existing aerial facilities be relocated, the company agrees that

if requested by the municipality, such facilities will be buried, provided the cost to the company of burial does not exceed the cost of an aerial relocation.

(b) If during the term of this Ordinance, the company shall receive authority from the ICC to undertake a systemwide program or programs of undergrounding its existing transmission facilities, the company will budget and allocate to the program of undergrounding in the municipality such amount as may be determined and approved by the ICC.

Ord 1992-02, 5/28/1992.

#### **§ 628. Maintenance of trees**

The company is authorized and directed to trim trees upon and overhanging the streets, avenues, alleys, highways and other public places or grounds of the municipality, so as to prevent the branches of such trees from coming into contact with the wires and cables of the company. All such trimming shall be in accordance with standard local arboricultural practices, if established. All trimming debris shall be removed from the work area on a daily basis. The municipality may, if it so elects, specify times, methods and standards for the company's tree trimming operations.

Ord 1992-02, 5/28/1992.

#### **§ 629. Moving of buildings**

The company after 5 days written notice from the governing body of the municipality to do so, shall remove, raise, or lower its structures temporarily to permit the moving of a building, or any other object, along a highway, provided the benefitted party or parties shall agree to pay the company an amount equal to the actual cost of effecting such temporary changes in its structures; and provided further that, pending the determination of such actual cost, the benefitted party or parties shall have deposited with the company an amount equal to the cost as estimated by the company. Should any amount of such deposit remain unexpended, after deducting the actual cost involved, said amount shall be returned to the party making the deposit. (Ord 1992-02, 5/28/1992.)

#### **§ 630. Right to repeal ordinance; validation**

In case the company shall fail or neglect to comply with any or all of the provisions of this ordinance (unless by order of the Illinois Commerce Commission or of any other body, board, commission or court of competent jurisdiction, the company is otherwise directed, or unless compliance by the company with such provision is prohibited or adjudged unlawful by an order of the Illinois Commerce Commission or by an order of any other body, board, commission or court of competent jurisdiction), the municipality reserves the right to repeal this ordinance or rescind this contract, and forfeit the rights hereby created or sought to be created, provided that no such repeal, rescission or forfeiture shall exist or be claimed because of such failure or neglect, until written notice of such failure or neglect so claimed shall have been given to the company, and a reasonable opportunity afforded it to comply with the provisions hereof or to prove that such compliance already exists. In the event that the Illinois Commerce commission or any other body, board, commission or court of competent jurisdiction shall adjudge any provision or provisions hereof invalid or illegal, or direct a change by

the Companion any matter or thing herein contained, such invalidity or illegality or change shall in no way affect the remaining provisions of this ordinance, or their validity or legality and this ordinance in all other respects shall continue in full force and effect, as if said provision or provisions hadn't been so adjudged invalid or illegal or such change directed. (Ord 1992-02, 5/28/1992.)

**§ 631. Agreement nonexclusive**

(a) Nothing contained in this Agreement shall prohibit the municipality from entering into an agreement with any other entity similar to the one granted herein to construct, install, maintaining operate in the public way. The municipality agrees that it will use its best efforts to obtain appropriate compensation from any and all entities that seek to use the public way to provide telecommunication services similar to the telecommunication services provided by the company, it being the intent of the parties that all entities using the public way to provide competing services be treated fairly.

(b) The permission and authority herein granted are not intended to limit or modify any agreement, franchise, license or permit previously granted by the municipality to any other occupant of the public way. Therefore, the company, recognizing the prior rights of other contractors, franchisees, licensees and permittees in the public way, shall exercise the rights granted herein in such a manner as not unreasonably to interfere with the prior or future rights of other such contractors, franchisees, licensees or permittees in the public and so as not to endanger or impair the facilities of any other such contractor, franchise, licensee or permittee. The municipality covenants that it shall require prior contractors, franchisees, licensees or permittees, in like manner, to respect the rights and not interfere with the rights of the company granted herein.

Ord 1992-02, 5/28/1992.

**§ 632. Company defined**

Whenever the word "company" or the words "Illinois Bell Telephone company" are used in this ordinance, they shall be construed to mean the Illinois Bell Telephone company, its lessees, successors and assigns, and this ordinance shall be binding upon and inure to the benefit of the company, its lessees, successors and assigns. (Ord 1992-02, 5/28/1992.)

**§ 633. Severability**

If any provision of this Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into or taken thereunder, or any application of such provision, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into, or taken, each of which shall be construed and enforced as if such illegal or invalid portion were not contained herein. Such illegality or invalidity of any application thereof shall not affect any legal and valid application thereof, and each such provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, assumed entered into or taken in the manner and to the full extent permitted by law. (Ord 1992-02, 5/28/1992.)

#### **§ 634. Notice and mailing of addresses**

Unless otherwise specified herein, all notices, requests, designations, deliveries, approvals, consents, demands and waivers required or provided hereunder or desired by the parties hereto shall be in writing and shall be deemed properly served if hand delivered to the parties at the following addresses (effective on delivery) or if sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the parties at the following addresses (effective on mailing): If to company, Area Manager Community Relations, 20 N. Main St., Lombard, IL 60148. If to the municipality: Village of Lily Lake, P.O. Box 296, Wasco, Illinois 60183, or to such other parties at other addresses as either party may designate by notice to the other. (Ord 1992-02, 5/28/1992.)

#### **§ 635. Effective date**

This ordinance shall be in full force upon receipt by the Clerk of the municipality of the company's written and unconditional acceptance of all the provisions of this ordinance executed by its proper officers hereunto duly authorized, under the corporate seal of the company attested to by its Secretary or Assistant Secretary. (Ord 1992-02, 5/28/1992.)

### **Subchapter 4—Cable**

#### **§ 636. Definitions.**

For the purposes of this Ordinance following terms, phrases, words and derivations have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number; and words in the singular number include the plural number. The word *shall* is always mandatory and not merely directory.

(a) FCC means Federal Communications Commission.

(b) Broadband telecommunications network (BTN or system) means a system of antennas, cables, fiber, amplifiers, towers, microwave links, cable casting studios and any other conductors, converters, equipment or facilities, designed and constructed for the purpose of distributing video programming to home subscribers or producing, receiving, amplifying, storing, processing or distributing audio, video, digital or other forms of electronic electrical signals sold or distributed to subscribers.

(c) Operator is Multimedia Cablevision, Inc., a South Carolina corporation.

(d) *Person* is any person, firm partnership, corporation, company or organization of any kind.

(e) *Service* means cable television service.

(f) *Utility* means any public utility doing business in the village of Lily Lake.

(g) *Village* is the village of Lily Lake, Illinois, and where applicable shall be construed to mean the areas covered by the grant of authority.

(h) *Village Board* is the village board of Lily Lake. Any act required of the village board may be performed by the president or designated trustee of the village board.

(Ord 1994-04, 11/21/1994.)

**§ 637. Compliance with Ordinance**

Prior to the commencement of Service any Operator, the requirements and regulations as herein or hereafter provided shall be complied with to the satisfaction of the Village Board. Approval to commence Service shall be in the form of a Franchise issued by the Village.

(Ord 1994-04, 11/21/1994.)

**§ 638. Grant of authority.**

There is hereby granted to Operator the non-exclusive right and privilege to construct, erect, install, operate and maintain in, upon, along, above, over and under, the streets, alleys, public ways and public places (and all extensions thereof and additions thereto) in the village and by reference made a part of this ordinance, wires, fibers, poles, cables, underground conduits, conductors and fixtures necessary for the maintenance and operation in the Village of a BTN for the receiving and distributing of television signals, energy, radio signals and any visual, aural signals which are not otherwise herein prohibited; provided, however, the operator, at its own expense, shall place its facilities underground in those areas of the village where all utilities are underground. This grant extends to the leased or rented use of poles and other facilities of any utility now or in the future operating in the village. The right to use and occupy said streets, public ways and places for the purposes herein set forth shall not be exclusive; and the village reserves the right to grant a similar use of said streets, alleys, public ways and places to any person, firm or corporation at any time during the period of this franchise.

(a) Should operator use any poles or other facilities of any utility, the following provisions shall be met:

(1) Operator and the utility shall execute a written agreement covering the terms of such usage, and

(2) a certified copy of such agreement shall be filed in the office of the village clerk.

(b) The village, through its authorized agents, because of the importance of its services, reserves the right to inspect each new installation of the operator on its poles and in space reserved for its use on poles belonging to others and in the vicinity of its line or appliances and to make periodic inspections at reasonable intervals, semi-annually or more often, as plant conditions may reasonably warrant, of the entire plan of the operator. Such inspections, whether made or not, shall not operate to relieve the operator of any responsibility, obligation or liability assumed under this agreement.

(c) The operator shall at all times, during the life of this franchise, be subject to a lawful exercise of the police powers by the village and to such reasonable regulations of general application as the village is allowed and shall hereafter provide.

(Ord 1994-04, 11/21/1994.)

**§ 639. Operator liability and indemnification**

(a) The operator shall pay and by acceptance of this franchise the operator specifically agrees that it will pay all damages and penalties, including costs and attorneys' fees, which the village may legally be required to pay as a result of granting this franchise. These damages or penalties shall include, but shall not be limited to, damages arising out of the installation, operation or maintenance of the system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this franchise.

(b) The operator shall pay and by its acceptance of this franchise specifically agrees that it will pay all expenses incurred by the village in defending itself with regard to all damages and penalties mentioned in subsection (a) above. These expenses shall include all out-of-pocket expenses, such as cost and attorneys' fees, and shall also include the reasonable value of any services rendered by the village attorney or his or her assistants or any employees of the village.

(c) The operator shall maintain and by acceptance of this franchise specifically agrees that it will maintain throughout the terms of this franchise liability insurance insuring the village and the operator with regard to all damages mentioned in subsection (a) above in the minimum amounts of:

(1) \$500,000 for bodily injury or death to anyone person within the limit, however, of \$1,000,000 for bodily injury or death resulting from anyone accident.

(2) \$400,000 for property damage resulting from anyone accident.

(d) There shall be filed in the office of the village clerk a certificate of insurance naming the village as additional insured under the liability insurance required by this ordinance. The insurance company writing such insurance and certificate shall carry a "Triple A" financial rating in the then current edition of Best's Insurance Guide. The policy required herein shall include a provision prohibiting termination of the coverage herein within 10 days written notice to the village.

(Ord 1994-04, 11/21/1994.)

**§ 640. Performance by operator**

(a) At the request of the Village, Operator hereby agrees to provide Service (at no charge other than the direct charge, if any, which Operator pays a Utility in connection with the provision of such Service under an agreement of the type contemplated by Section 3 hereof) to all municipal buildings in the areas covered by the grant of authority. Operator's obligation under this Section shall be limited to providing the Service to one matching transformer in each such building. It is agreed that the village may make such use of the dropline into its municipal buildings as it shall deem desirable.

(b) Operator agrees that all rates charged its subscribers to its Service shall be standard, uniform and reasonable; a copy of the Operator's scale of charges for installation and furnishing of

service shall be filed with the village Clerk not less than 30 days prior to the effective date of such charges.

(Ord 1994-04, 11/21/1994.)

**§ 641. Condition of street occupancy and system construction**

(a) Use. All structures, lines and equipment erected or installed by operator within the village shall be so located as not to cause unreasonable interference with the proper use of streets, alleys and other public ways and places and to avoid unreasonable inconvenience of property owners who adjoin any of said streets, alleys or other public ways and places.

(b) Restoration. In case of any disturbance by Operator of pavement, sidewalks, driveways or other surfacing, Operator shall, at its own expense and in a manner approved by the village, replace and restore such places so disturbed in as good condition as before said work was commenced and shall maintain the restoration in a good condition approved by the village for the full period of one year.

(c) Relocation. In the event that at any time, during the term of this Ordinance, the village shall lawfully elect to alter or change the grade of any street, alley or other public way, Operator, upon reasonable notice by the village, shall (except to the extent that Operator's equipment is located in private property) remove, relay and relocate its equipment at its own expense.

(d) Placement of fixtures. The location by operator of its lines and equipment shall be in such manner as not to interfere with the normal travel on said streets, alleys and public ways and normal use of the same by Utility, water and sewer lines and equipment.

(e) Temporary removal of wires for building moving. Operator shall, on the request of the village, temporarily raise or lower its wires to permit the moving of buildings. This work shall be at the expense of the Person moving the building, and the Operator shall be given at least 48 hours notice of such request.

(f) Tree trimming. When necessary for the installation of poles, cables, conduit, hose connections or other structures, Operator is hereby authorized to trim trees located on village property. Such trimming shall be done in a workman-like manner, in such a way as to preserve the beauty and balance of the tree, and under the supervision of properly designated village personnel.

(g) Non-liability of village. The village, its officials and employees shall not be liable for any damage occurring to the property of Operator caused by employees of the village in the performance of their duties; nor shall the village, its officers and employees be held liable for the interruption of service by actions of village employees in their performance of their duties; nor shall the village be held liable for the failure of Operator to be able to perform normal services due to acts of God.

(h) Permits from others. Operator shall be responsible for securing any rights-of way, easements, permits or agreements from any other Persons or Utilities that may be needed by Operator for any reason.

(Ord 1994-04, 11/21/1994.)

**§ 642. Construction approval by village.**

Except for individual service drops, Operator shall not erect any pole, run any line, make any attachment, nor shall construction of any kind be commenced without the prior approval (which shall not be unreasonably withheld) of the village, in the form of a permit issued by the village, upon approval of layout maps showing the location of the facility or equipment to be installed. The village shall have and maintain the right to inspect the construction, operation and maintenance of the System by Operator to insure the proper compliance with the terms of this Ordinance. In the event Operator should violate any of the terms of this Section or the terms of any permit granted under authority of this Section or any rules and regulations that may be from time to time lawfully adopted by the village, the village may give to Operator written notice to correct such violation. In the event corrections have not been completed or commenced to be completed within sixty (60) days from the receipt of such written notice, the village may make such correction itself and charge the cost of the same to Operator.

Ord 1994-04, 11/21/1994.

**§ 643. Customer service.**

(a) In general. The System shall carry commercial television stations in accordance with applicable FCC rules.

(b) Educational service. The Operator shall reserve at least one television channel for the use of educational institutions within the village for the origination of educational television telecasts and the interconnection of all said educational institutions.

Ord 1994-04, 11/21/1994.

**§ 644. Service standards.**

(a) The System shall be maintained in accordance with applicable FCC standards for the delivery of cable service and shall be equipped, designed and rated for 24- hour per day continuous operation.

(b) Operator shall provide accurately calibrated test equipment for the testing of all service and operational standards outlined in this Ordinance and shall conduct these test in accordance with applicable FCC rules.

Ord 1994-04, 11/21/1994.

**§ 645. Defaults.**

Operator shall not be deemed nor declared to be in default under any of the conditions, provisions, requirements or limitations of this Ordinance in any case in which the performance of any such condition, provision, requirement or limitation is prevented by reason of strikes, injunctions or any other cause, including any lawsuit or administrative agency proceedings, reasonably beyond the



control of Operator. In the event that Operator's performance is prevented by any such cause, the time for performance shall be extended by the period during which such cause was in effect.

Ord 1994-04, 11/21/1994.

**§ 646. Payments to village.**

(a) Payment. The Operator shall pay to the village for the privilege of operating the System under this Franchise an annual franchise fee in the maximum amount approved by the FCC, but not to exceed five percent (5%) of the annual gross revenue from all sources. Such payments shall be in addition to any other payment, charge, permit or bond owed to the village by the Operator and shall not be construed as payment in lieu of real or personal property taxes levied by the state, county or local authorities.

(b) Manner of payment. All payments of such tax or fee shall be made to the village semi-annually and shall be due on or before August 1 and February 1 of each year, commencing on the 1st day of January, 1995. Operator shall provide an unaudited report of gross revenues with each payment.

(c) Increase in payment. Subject to federal regulation, the amount of the franchise fee set forth in this Section shall increase to the highest rate that the Operator is paying any municipality or county located within fifty (50) miles of the village. For the purposes of this Section, any affiliated Person, subsidiary, partnership or majority-owned corporation related to the Operator shall qualify as an Operator, which will trigger an increase in the amount of franchise fee paid to the village. Any transferee or assignee shall be bound by all rate increases and by the provisions of this Section. The change in the amount of the franchise fee shall go into effect on the date of passage of the ordinance in the other municipality or county where the Operator is paying a higher franchise fee.

Ord 1994-04, 11/21/1994.

**§ 647. Records and reports.**

On or before March 1 of each year, commencing with the year following the approval of this Ordinance, Operator shall submit to the village a summary report, prepared by a competent firm of Certified Public Accountants, showing gross revenue received by Operator from the operation of the System within the village during the preceding year.

(Ord 1994-04, 11/21/1994.)

**§ 648. Term of ordinance.**

This Ordinance shall remain in full force and effect until January 1, 2015.

(Ord 1994-04, 11/21/1994.)

**§ 649. Regulation.**

The Franchise herein granted shall be subject to and controlled by all of the provisions of the laws of the State of Illinois and of the United States and State and Federal regulations now existing or hereafter enacted.

(Ord 1994-04, 11/21/1994.)

**§ 650. Penalties.**

Should Operator violate any of the material provisions of this Ordinance or any rules and regulations lawfully adopted by the village or any other laws or fail to perform any of the material provisions hereof, Operator shall forfeit all of its rights hereunder to the village upon the continuation of such violation or failure to correct or commence to correct the violation for a period of more than sixty (60) days from the date Operator receives written notice from the village of such violation or failure. In the event of the bankruptcy or receivership of Operator, all rights herein given to Operator shall, at the option of the village, be forfeited and terminated.

(Ord 1994-04, 11/21/1994.)

**§ 651. Sale or transfer without approval prohibited.**

Except to an entity controlling, controlled by or under common control with Operator, Operator shall not sell or transfer its plan or System nor transfer any rights under this Franchise without approval of the village Board, which shall not be unreasonably withheld. Provided, however, that no sale or transfer shall be effective until the vendee or transferee has filed in the office of the village Clerk an instrument, duly executed, reciting the fact of such sale or transfer and accepting the terms of the Franchise and agreeing to perform all the conditions thereof.

(Ord 1994-04, 11/21/1994.)

**§ 652. Service protection.**

The System shall be installed, operated and maintained in such a manner that no interference will be caused to the reception of signals from standard television broadcast stations or to the reception of signals transmitted by any communications service authorized by any Federal agency. Both parties agree that compliance with this Ordinance in no way is intended to be a condemnation of air space.

(Ord 1994-04, 11/21/1994.)

**§ 653. Final termination of the ordinance.**

Upon termination of the Ordinance, the Operator shall remove its cables, wires and equipment from all poles of the village and all space reserved for the village's use on poles belonging to others. If not so removed, the village shall have the right to remove or have its contractor remove them at the risk, cost and expense of the Operator and without any liability therefor.

(Ord 1994-04, 11/21/1994.)

**§ 654. Separability.**

In the event any section or part of this Ordinance shall be held invalid, such invalidity shall not affect the remaining sections or portions of this Ordinance.

(Ord 1994-04, 11/21/1994.)

**§ 655. Adoption of Cable and Video Customer Protection Law (220 ILCS 5/70-501)**

(a) The regulations of 220 ILCS 5/70-501 are hereby adopted by reference and made applicable to the cable or video providers offering services within the Village's boundaries.

(b) Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this ordinance shall be incorporated into this ordinance by reference and shall be applicable to cable or video providers offering services within the municipality's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this ordinance by reference without formal action by the corporate authorities of the Village.

**§ 656. Enforcement**

The Village does hereby pursuant to law declare its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the Village.

**§ 657. Penalties**

The Village, pursuant to 220 ILCS 5/70-501(r)(1), does hereby provide for a schedule of penalties for any material breach of the Cable and Video Protection Law by cable or video providers in addition to the penalties provided in the law. The monetary penalties shall apply on a competitively neutral basis and shall not exceed \$750.00 for each day of the material breach, and shall not exceed \$25,000.00 for each occurrence of a material breach per customer.

(a) Material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.

(b) The Village shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least 30 days from the receipt of the notice to remedy the specified material breach.

(c) A material breach, for the purposes of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice in 4(b).

**§ 658. Customer credits**

The Village hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of 220 ILCS 5/70-501(s) and applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The cable or video provider is responsible for providing the credits and the customer is under no obligation to request the credit.

**§ 659. Severability**

If any provision of this ordinance, or the application of any provision of this ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this ordinance, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this ordinance.

## CHAPTER 7— PUBLIC SAFETY

### Subchapter 1— Traffic

#### § 700. Adoption of Illinois Vehicle Code

The Illinois Vehicle Code (625 ILCS 5/1-100 *et seq.*), except as specifically modified by this Subchapter, is hereby adopted by reference in its entirety. It is the specific intention of the corporate authorities of the village to adopt not only the Illinois Vehicle Code in its present form but to adopt by reference all amendments to the Code that may be passed by the legislature in the future so that the current version of the Illinois Vehicle Code will at all time be effective within the village.

Ord 1994-05, 12/21/1994; Ord 2010-06, 4/19/2010.

#### § 701. Speed limits

The following speed limits are hereby adopted:

- (a) For the length of Hanson Road and IC Trail within the village, the maximum allowable speed is 30 mph.
- (b) For the length of all other streets within the jurisdiction of the village, the maximum allowable speed is 25 mph.
- (c) The village shall post the speed limits established in this section on all of the roads affected.

Ord 1991-17, 6/8/1992; Ord 1994-05, 12/21/1994; Ord 2004-07, 5/24/2007; Ord 2004-13, 7/19/2004; Ord 2010-02, 1/25/2010; Ord 2010-06, 4/19/2010.

#### § 702. Weight limits<sup>9</sup>

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<sup>9</sup>Former §702 provided as follows:

##### Purpose

This ordinance is enacted pursuant to §15-316 of the Illinois Vehicle Code (625 ILCS 5/1-100, *et seq.*) in order to maintain the highways for which the village has maintenance responsibility in as good a condition as can be reasonably be maintained and to prevent unwarranted damage as a result of their use by vehicles which exceed the weight which such highways can reasonably be expected to bear. Ord 1991-18, 6/8/1992; Ord 2010-02, 1/25/2010.

Former § 703 provided:

##### Engine braking prohibited

Engine braking is hereby declared to be a nuisance and prohibited on all streets within the jurisdiction of the Village. Any person found guilty of violating this section shall be fined the sum of \$75. Ord 2004-13, 7/19/2004.

(a) The limits established in this section are enacted pursuant to §15-316 of the Illinois Vehicle Code (625 ILCS 5/1-100, *et seq.*) in order to maintain the highways for which the village has maintenance responsibility in as good a condition as can reasonably be maintained and to prevent unwarranted damage as a result of their use by vehicles which exceed the weight that such highways can reasonably be expected to bear.

(b) (1) With the exception of IC Trail and Hanson Road, the following maximum gross vehicle weights are established for vehicles operating on highways within the village and for which the village has maintenance responsibility in lieu of the limits established under §§ 15-111(a) and (b) of the Illinois Vehicle Code:

2 axle vehicles shall be limited to 10 tons gross vehicle weight;  
3 axle vehicles shall be limited to 22 tons gross vehicle weight;  
5 axle vehicles shall be limited to 36 tons gross vehicle weight;  
Tag trailers shall be limited to 30 tons gross vehicle weight.

(2) For vehicles operating on IC Trail and Hanson Road within the village the maximum gross vehicle weight is established at 6 tons registered gross weight regardless of the number of axles a vehicle may have. The restriction established in this section will become effective when signs bearing the operative provisions of this section are erected and maintained at each and of the highways affected.

(c) Pursuant to §15-316(a) and (b) of the Illinois Vehicle Code, the village may, by resolution, prohibit for a period or periods not to exceed 90 days within any calendar year, the operation of vehicles upon any highway within its jurisdiction, or impose restrictions on the weight of vehicles to be operated upon any such highway whenever in the judgment of the corporate authorities such use, by reason of deterioration, rain, snow, or other climate conditions, will seriously damage or destroy it. The restrictions established in this section will become effective when signs bearing the operative provisions of the resolution are erected and maintained at each end of the portions of the highway.

(d) With the issuance of any permit under § 705, the village may require the applicant to deposit cash with the clerk or a good and sufficient bond in an amount calculated to protect the village against damage to village streets, parkways, driveway approaches, drainage swales and ditches, storm water improvements, sidewalks, and other village property, not to exceed, however, \$10,000.

Ord 1991-18, 6/8/1992; Ord 1994-05, 12/21/1994; Ord 2010-02, 1/25/2010; Ord 2010-06, 4/19/2010; Ord 2014-09, 11/17/2014.

### **§ 703. Definitions**

In this subchapter-

(1) *axle load* means the total load transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart extending across the full width of the vehicle;

(2) *commercial vehicle* means any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise, For-Hire or Not-For-Hire, but not including a commuter van, a vehicle used in a ridesharing arrangement when being used for that purpose, or a recreational vehicle not being used commercially;

(3) *construction vehicle* means any vehicle over 10,000 pounds actual weight, registered gross weight or GVWR that is required to comply with 625 ILCS 5/12-712 and 12-713 on identification required to be displayed;

(4) *gross vehicle weight rating (GVWR)* means the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single vehicle;

(5) *gross combination weight rating (GCWR)* means the GVWR of the power unit plus the GVWR of the towed unit or units; in the absence of a value specified by the manufacturer, GCWR is determined by adding the GVWR of the power unit and the total weight of the towed unit and any load on the unit;

(6) *gross weight* means the weight of a vehicle whether operated singly or in combination without load plus the weight of the load thereon;

(7) *highway* means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel;

(8) *implement of husbandry* means every vehicle designed and adapted exclusively for agricultural, horticultural, or livestock raising operations, including farm wagons, wagon trailers or like vehicles used in connection therewith, or for lifting or carrying an implement of husbandry;

(9) *motor vehicle* means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails, except for vehicles moved solely by human power and motorized wheelchairs. For this ordinance, motor vehicles are divided into two divisions:

(A) First Division: Those motor vehicles, which are designed for the carrying of not more than 10 persons; and

(B) Second Division: Those motor vehicles which are designed for carrying more than 10 persons, those motor vehicles designed or used for living quarters, those motor vehicles which are designed for pulling or carrying freight, cargo or implements of husbandry, and those motor vehicles of the First Division remodeled for use and used as motor vehicles of the Second Division.

(10) *“permit route”* means the route authorized by the issuing authority with proper jurisdiction over the roadway(s) for which permission has been granted to move a vehicle or combination of vehicles that is in itself indivisible or carrying an indivisible load that exceeds normal dimensions or weight or a combination thereof;

(11) “*semitrailer*” means every vehicle without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle;

(12) “*tandem axles*” means any two or more single axles whose centers are more than 40 inches and not more than 96 inches apart, measured to the nearest inch between extreme axles in the series, except as provided in Section 15-111 (625 ILCS 5/15-111) for special hauling vehicles;

(13) “*trailer*” means every vehicle without motive power in operation, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle;

(14) “*truck tractor*” means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn;

(15) “*village*” means the village of Lily Lake.

Ord 2004-19, 12/27/2004.

#### **§ 704. Overweight or over-dimension vehicles**

(a) It is unlawful for any person to be in control of, to drive, to park, or move on, upon or across or for the owner to cause or knowingly permit to be parked, driven, or moved upon or across, any street or highway under the jurisdiction of the village, any vehicle or combination of vehicles exceeding the size and weight limitations stated in the 625 ILCS 5/15-102 (width), 625 ILCS 5/15-103 (height), 625 ILCS 5/15-107 (length), and 625 ILCS 5/115-111 (weight).

(b) Size and weight limitations while operating on village streets do not apply to fire apparatus or equipment for snow or ice removal operations owned or operated by or for any governmental body or to implements of husbandry temporarily operated or towed in a combination in the furtherance of a farm or agricultural endeavor and to any vehicle or combination of vehicles operating under the terms of a valid oversize and or over-dimension permit issued by the village under the authority of § 705 hereof.

(c) Where lower size and weight limits or other restrictions are imposed in this subchapter under authority of 625 ILCS 5/15-111, 15-316 and 15-317, and signs indicating such limitations or restrictions are posted, it is unlawful to operate any vehicle or combination of vehicles in excess of such size or weight limitations or in violation of such restrictions.

(d) Whenever any vehicle or combination of vehicles is operated in violation of this section, the owner and driver of such vehicle will be deemed guilty of such violation and either or both the owner and driver of such vehicle may be prosecuted for such violation.

Ord 2004-19, 12/27/2004; Ord 2014-09, 11/17/2014.



#### **§ 705. Permits for overweight or over-dimension vehicles**

(a) A permit is required for the movement of any vehicle or combination of vehicles with a non-divisible load on roadways and bridges within the jurisdiction of the village which exceeds the dimensions or weights permitted for the particular roadways to be traversed whether they be non-designated or designated roadways.

(b) The village with respect to any street or highway under its jurisdiction may, upon application to the village clerk on forms provided by the clerk and good cause being shown therefor, issue a special permit authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in § 704.

(c) In this section—

(1) “*one-way or single trip movement*” means one move from the point of origin to the point of destination. Any additional stops between the point of origin and the point of destination are expressly prohibited. Single trip permits are effective for 7 consecutive days from the date of issuance unless otherwise indicated on the permit;

(2) “*round trip movement*” means two trips over the same route in opposite directions. Round trip permits are effective for 14 consecutive days from the date of issuance;

(3) “*multiple moves*” means those in such close proximity to each other in distance or in time, that the village would consider incorporating two or more permit moves within one permit application. Multiple move permits when granted will expire on the date set forth in the permit, not to exceed 90 days from the date of issuance.

(d) The applicant shall pay the fee prescribed in § 515(b) for each permit issued under this section. Permits may be issued for a maximum of 4 consecutive permit periods within any calendar year. Permits are valid only for the period(s) and for the specific vehicle, load and routing specified therein. No substitution of vehicle, load or routing is permitted unless the permit is so amended. The permit shall be carried in the vehicle to which the permit applies and shall be exhibited upon demand to any law enforcement officer or authorized agent of the village.

(e) It is the duty of the applicant to read and familiarize himself or herself with the conditions and provisions of the permit. By undertaking the permitted move the applicant and owner of the vehicle, if different, jointly and severally, agree, acknowledge and represent—

(1) that each of them shall comply with all applicable laws, rules, and regulations of any governmental authority having jurisdiction over the move;

(2) that the dimension and weight limitations specified in the permit will not be exceeded;

(3) that the village assumes no responsibility for any loss, injury or damage to any person or property, including the person or property of the applicant or owner, caused directly or indirectly by the move which is the subject of the permit;

(4) that the applicant and owner, if different, shall indemnify and hold the village harmless from all liability, damage, loss, cost or expense (including attorneys fees), arising out of or occasioned by the move which is the subject of the permit; and

(5) both the applicant and owner, if different, will be deemed guilty of any violation of this subchapter.

Ord 2004-19, 12/27/2004; Ord 2014-09, 11/17/2014.

#### **§ 706. Vehicles prohibited on certain streets**

(a) As provided under the authority of 625 ILCS 5/15-111 and 15-316, it is unlawful to operate any vehicle upon any street where the operation of that vehicle is prohibited by ordinance and where signs of such prohibition are posted. Vehicles operating under the authority of 625 ILCS 5/15-111 or 15-316 while utilizing village streets under “reasonable access” rules will be considered in violation of this section if they are not utilizing the most direct route to points of loading and unloading.

(b) It shall be unlawful to operate any construction vehicle on any street in the village when signs are posted on that street prohibiting construction vehicles. Where a truck route is established by the corporate authorities of the village, construction vehicles will use only those established routes to service those areas of the village under construction.

Ord 2004-19, 12/27/2004; Ord 2014-09, 11/17/2014.

#### **§ 707. No parking**

Parking is prohibited along Illinois Route 64 at Illinois Route 47 within the village.

Ord 2011-06, 10/17/2011.

#### **§ 708. Future prohibition**

The village will prohibit parking at other locations on or immediately adjacent to Illinois Route 64 at Illinois Route 47 as may be determined and directed by the State of Illinois to be necessary to ensure the free flow of traffic and the safety of the motoring public.

Ord 2011-06, 10/17/2011.

#### **§ 709. Other provisions apply**

Except as specifically modified by this subchapter the provisions of Chapter 15 of the Illinois Vehicle Code, including the schedules of fines and penalties and fees for permits, shall apply within the village and with respect to highways within the village for which the village has maintenance responsibility.

Ord 1991-18, 6/8/1992; Ord 2010-02, 1/25/2010.

## **SUBCHAPTER 2—OPEN BURNING**

### **§ 710. Open fires**

No person shall cause, suffer or permit the burning of rubbish, refuse, plastic of any kind, cut grass, preservative treated wood, garbage, metal salvage, or any other material, in open fires. This section does not apply to the open burning of charcoal, leaves, uncut grass, brush or untreated wood or paper.

Ord 1991-12, 7/15/1991, Ord 1992-01, 4/20/1992; Ord 2010-02, 1/25/2010.

### **§ 711. Limited burning**

Upon specific request, controlled burning on a limited basis for school, governmental or other institutional functions, may be allowed by the board of trustees; provided, that the board finds that such burning will pose no danger or inconvenience to adjoining property owners, and will not be detrimental to the general public health and safety of the community.

Ord 1991-12, 7/15/1991, Ord 1992-01, 4/20/1992; Ord 2010-02 eff 1/25/2010.

### **§ 712. Burning of leaves, etc.**

No person shall cause, suffer or permit the open burning of leaves, uncut grass, brush, or untreated wood or paper, except on the following conditions:

(a) All such fires must be extinguished prior to dusk.

(b) Exception: Campfires are permitted any time.

(c) Exception: Fires of wood or paper only (other than campfires) are permitted after dusk from November 1 through March 31.

(d) No fire shall be permitted on the paved areas of public streets, sidewalks or alleys within the village.

(e) No fire shall be left unattended and no fire shall be permitted during periods of high wind or atmospheric inversions.

Ord 1991-12, 7/15/1991; Ord 1992-01, 4/20/1992; Ord 2010-02, 1/25/2010.

## **Subchapter 3 — Video Gaming**

### **§ 750. Allowance of video gaming**

Video gaming, as defined in the Video Gaming Act (230 ILCS 40/1 *et seq.*), is expressly permitted within the corporate limits of the Village of Lily Lake in accordance with and subject to all of the restrictions set forth in the Act.

Ord 2009-18, 10-19-2009; Ord 2013-08, 1/27/2014.

#### **§ 751. Notice to Illinois Gaming Board**

The clerk shall file a certified copy of this ordinance with the Illinois Gaming Board in its role as being responsible for implementing and regulating video gaming In Illinois.

Ord 2009-18, 10-19-2009; Ord 2013-08, 1/27/2014.

### **Subchapter 4—Nuisances**

#### **§ 760. Scope and intent**

This ordinance is passed pursuant to the powers delegated to the village under the Illinois Municipal Code, as amended (65 ILCS 5/1-1-1, et seq.) including, but not limited to: §11-19-5, §11-20-5, §11-20-13, §11-60-2, and §11-80-2. It is the express intent of the village in enacting this ordinance to exercise the powers given to it thereunder to the fullest extent available. Ord 1999-05, 5/17/1999; Ord 2010-03, 2/22/2010.

#### **§ 761. Definitions**

In this ordinance—

(a) *demolition materials* means the wastes resulting from the destruction or demolition of structures or buildings and includes materials such as concrete blocks, broken concrete, plaster, wire and wood lath, timbers and wood building products and other similar non-putrescible materials;

(b) *garbage* means waste resulting from the handling, processing, preparation, cooking and consumption of food, and wastes from the handling, processing, storage and sale of produce, and includes any nauseous or offensive matters of any kind;

(c) *inoperable motor vehicle* means any motor vehicle from which, for a period of more than 14 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;

(d) *landscape waste* refers to all accumulations of grass or shrubbery, cuttings, mulch, wood chips or bark, leaves, tree limbs, tree trunks and other materials accumulated as the result of the care or removal of lawns, shrubbery, vines, and trees;

(e) *noncombustible refuse* consists of refuse materials that are will not burn at ordinary incinerator temperatures such as metals mineral matter, large quantities of glass or crockery, metal furniture, auto bodies or pans, and other similar material or refuse not usual to housekeeping or to the operation of stores or offices;

(f) *“rubbish”* or *“trash”* refers to refuse accumulations of paper, excelsior, rags, wooden or paper boxes or containers, sweepings and all other accumulations of a nature other than garbage which are

usual to housekeeping and to the operation of stores, offices or other business places but not including non-combustible refuse.

(g) “*unimproved surface*” means any surface other than one improved as a driveway or for parking purposes by the addition of gravel, asphalt, or concrete in accordance with the subdivision regulations and zoning ordinance of the village.

Ord 1999-05, 5/17/1999; Ord 2010-03, 2/22/2010; Ord 2019-06, 7/29/2019.

#### **§ 762. Dumping, etc. prohibited**

(a) No person shall dump, deposit throw, discard, leave, store, bury, or cause or permit the dumping, depositing, discarding, leaving, storing or burying of any garbage, demolition materials, landscape waste, rubbish, trash or noncombustible refuse upon any public road or upon public or private property or into any river, lake, pond, stream or any other body of water within the village. Any such activity is hereby declared to be a nuisance.

(b) The prohibition of subsection (a) does not apply to—

(1) property which has been designated by the unit of local government as a proper site for the temporary or permanent disposal of such materials and which has been duly licensed and permitted to accept such materials and such materials are disposed of on that property in accordance with all applicable rules and regulations of the United States, the State of Illinois, the Illinois Environmental Protection Agency, the Illinois Pollution Control Board and any other federal, state, or local authority having jurisdiction;

(2) material which is placed into a receptacle or other container intended by the owner or tenant in lawful possession of that property for the temporary deposit of such materials until the same are removed for permanent disposal at a facility described in subsection (1) above;

(3) material which is temporarily deposited by a person who is acting under the direction of proper public officials during special clean-up days pending their removal for permanent disposal at a facility described in subsection (1) above;

(4) the temporary deposit of landscape waste by the property owner or tenant in lawful possession of the property generated by the owner's or tenant's care of that property and no other property pending its prompt disposal or removal for disposal at a facility described in subsection (1) above;

(5) a person who is lawfully acting in, or reacting to, an emergency situation where the health or safety of the public is threatened and removes said materials for permanent disposal at a facility described in subsection (1) above when the emergency situation no longer exists;

(6) property which is zoned "A" Agriculture and which is actually used for agricultural purposes.

The exemption set forth in the preceding subsection is limited only to the application of this ordinance and is not intended to imply any exemption from any other ordinance of the village or permission to do any act or thing which may be prohibited by any rule or regulation of the United States, the State of Illinois, the Illinois Environmental Protection Agency, the Illinois Pollution Control Board or any other federal, state or local authority having jurisdiction.

Ord 1999-05, 5/17/1999; Ord 2010-03, 2/22/2010.

#### **§ 763. Misuse of public trash and recycling receptacles**

No person shall transport by any means demolition materials, garbage, landscape waste, rubbish, trash, or other noncombustible refuse, from any dwelling, residence, place of business, farm or other site to and deposit such materials in or around trash or recycling barrels, containers, or other receptacles placed in or along public roads, rest areas, or public places (other than materials intended to be deposited in such receptacles for recycling).

Ord 1999-01, 5/17/1999; Ord 2010-03, 2/22/2010.

#### **§ 764. Inoperable motor vehicles**

(a) The storing, parking or placing of inoperable motor vehicles on public or private property is hereby declared a nuisance.

(b) Exempt from the provisions of this section is any motor vehicle that is kept within a building when not in use, any motor vehicle on the premises of a place of business engaged in the wrecking or junking of motor vehicles, any motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations, or any motor vehicle stored, parked or place on property exempted under §762(b)(6).

Ord 1999-05, 5/17/1999; Ord 2008-19, 6/15/2008; Ord 2010-03, 2/22/10.

#### **§ 765. Parking of any vehicle on unimproved surface**

Parking any vehicle on an unimproved surface in the front yard of any lot or parcel of land for more than 10 days is declared a nuisance. Parking any vehicle on an unimproved surface in the front yard or side yard adjacent to a street of any corner lot for more than 10 days is declared a nuisance.

Ord 2019-06, 7/29/2019.

#### **§ 766. Noise**

The following are prohibited—

(a) Construction. To make, or permit to be made, noise from construction, repair or remodeling that can be heard within 100 feet from its source, between the hours of 10:00 PM and 6:00 AM on Monday through Friday and between the hours of 12:00 AM and 8:00 AM on Saturdays, Sundays and legal holidays.

(b) Sound amplification. After a written or verbal warning from a police officer or the Code Enforcement Officer of the village, to operate any sound amplification system in a vehicle or on property so as to unreasonably disturb, injure or endanger the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity.

(c) Vehicles. After a verbal or written warning from a police officer or the Code Enforcement Officer of the village, to operate any off-road vehicle, including any off-highway motorcycle, mini-bike, all-terrain vehicle (ATV), snowmobile or other similar vehicle, on public or private property so as to unreasonably disturb, injure or endanger the comfort, repose, health, peace or safety of reasonable persons of ordinary sensitivity. The terms “motorcycle”, “off-road motorcycle”, and “all-terrain vehicle” have the same meaning as in the Illinois Motor Vehicle Code. “Snowmobile” has the same meaning as in the Illinois Snowmobile Registration and Safety Act.

(d) Lawn equipment and tools. To operate a power lawn mower or other power lawn or landscaping equipment or other power tools between the hours of 8:00 PM and 7:00 AM.

(e) Raucous noise. To make, continue, or cause to be made or continued, any loud or raucous noise.

(f) Harsh, prolonged or unusual noise. To make, continue, or cause to be made or continued, any noise that is harsh, prolonged, unnatural, or unusual in time or place so as to cause unreasonable discomfort to any person or so as to unreasonably interfere with the peace and comfort of neighbors or their guests or operators or customers in places of business, or so as to detrimentally affect such residences or places of business.

(g) Illinois Motor Vehicle Code. To violate §§ 12-602 or 12-602.1 of the Illinois Motor Vehicle Code.

(h) Modifications to equipment. To remove or modify the sound suppression equipment of any vehicle or snowmobile.

(i) Factors. Factors to be considered in determining whether a sound is unreasonably loud or raucous may include, but are not limited to, the following:

(1) The proximity of the sound to sleeping facilities;

(2) The land use, nature and zoning of the area from which the sound emanates and the area where it is received or perceived;

(3) The time of day the sound occurs;

(4) The duration of the sound; and

(5) Whether the sound is recurrent, intermittent, or constant.

(j) Proof of violation of this section does not require the use of any decibel meter or other measuring device.

(k) **Free Speech.** No one shall construe anything in this section as preventing the lawful exercise of the right of free speech protected by the constitutions of the United States or the State of Illinois.

(l) **Exemptions.** This section does not apply to noise generated by agricultural equipment on land zoned and actually used for agricultural purposes and more than 40 acres in size. This section does not apply to work performed for or on behalf of a public body.

(Ord 2017-03, 9/25/2017.)

#### **§ 767. Penalty**

A violation of this ordinance is punishable by the imposition of civil fine in an amount not to exceed \$750. Each day that a violation is permitted to exist shall constitute a separate offense. In addition, the court may order that the person found to have committed such a violation remove and properly dispose of the materials or vehicles; may employ special bailiffs to supervise such removal and disposal and may tax the cost of such supervision as costs against that person. The penalties prescribed in this section are in addition to and not in lieu of any penalties, rights, remedies, duties, or liabilities otherwise imposed or conferred by law.

(Ord 1999-01, 5/17/1999; Ord 2010-03, 2/22/2010.)

### **Subchapter 5—Hazard Mitigation Plan**

#### **§ 770. Adopting Kane County Hazard Mitigation Plan**

The Kane County Hazard Mitigation Plan dated August 2009, one copy of which is on file in the office of the village clerk and available for public inspection, is adopted by reference in its entirety as the Hazard Mitigation Plan of the village as though fully set forth herein.

Ord 2009-31, 12/21/2009.

### **Subchapter 6—Animal Control**

#### **§ 771. Definitions**

In this subchapter—

(a) *abuse* means an overt act that continually causes an animal to be overloaded or forced to work in a manner unsuitable to its species, breed, condition or health;

(b) *animal* means all vertebrates of species kept as household pets and all individual animals kept as household pets regardless of whether the species has been domesticated or is generally kept as livestock, except that animal does not include tropical fish, wildlife that is under the control of the state fish and wildlife agency, animals kept in licensed research facilities, facilities operated by government agencies, or licensed animal dealers regulated by the USDA under the provisions of US Public Laws 89544, 91579, 94279, 99198, and 101624.



(c) “*at large*” means an animal when off the property of the owner and not under restraint or control.

(d) “*cruelty*” means an overt act committed with the intent to harm or needlessly kill an animal or committed out of depraved indifference for the animal's well-being, including torture, maiming, beating, or otherwise committing violence that causes injury or death;

(e) “*Department*” means the Kane County Department of Animal Control;

(f) “*enclosure*” means a fence or structure suitable to prevent the escape of the animal or the entry of young children;

(g) “*exotic animal*” means an animal of a non-domesticated species not commonly kept as a household pet or for food and fiber production and may or may not be native to the area and may or may not be governed by existing wildlife regulations;

(h) “*household*” means a property where animals are kept, including buildings used as residences, kennels, barns, sheds, and other structures and pens, corrals, or other enclosures;

(i) “*neglect*” means an overt act involving failure to provide for animal health or safety, including failure to provide adequate food, water, shelter, exercise, or necessary veterinary care to an animal or to adequately confine an animal in a manner appropriate to its species, breed, age, and condition;

(j) “*owner*” means a person having the right of property or custody of an animal or who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied, owned, or controlled by that person.

(k) “*person*” means any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.

(l) “*vaccination*” means the inoculation of an animal against rabies in accordance with state law and the *Compendium of Animal Rabies Prevention and Control* published by the National Association of State Public Health Veterinarians and published annually in the Journal of the American Veterinary Medical Association.

Ord 2012-09, 9/24/12.

#### **§ 772. Administration**

(a) Administration of this subchapter will be coordinated by the animal control officer of the village with oversight by the Department.

(b) Kane County will provide a facility and equipment for impounding stray animals and housing animals confiscated in cruelty or neglect cases pursuant to the intergovernmental between the village and the county.

Ord 2012-09, 9/24/12.

**§ 773. Animal control—dogs**

(a) Dog licensing and rabies vaccination.

(1) All dogs over the age of 3 months must be individually licensed according to law.

(2) All dogs over the age of 3 months must be vaccinated for rabies and a copy of the vaccination certificate or tag must be presented at the request of the animal control officer.

(3) Licensed dogs must wear tags when in public.

(4) A pet picked up at large will be returned to the owner upon payment of all charges made by the Department for the pickup. If the pet is picked up running at large on a second occasion, it will be returned to the owner upon payment of all such charges and a citation for violation will be issued to the owner. Penalties will be increased for subsequent violations.

(b) Confinement.

(1) Dogs must be securely confined, leashed, or under the control of a competent person at all times. When off the owner's property, the dog must be kept on a secure leash and under the control of a competent person at all times.

(c) Transportation.

(1) Dogs traveling in vehicles must be confined to prevent escape and to prevent children from placing fingers or hands in the dog's space.

(d) General

(1) Animal control personnel have the authority to remove a dog or cat from a vehicle if the animal's health is endangered by such confinement in hot weather.

(e) Nuisances

(1) Frequent running at large, excessive noise, soiling of public property and of private property not owned or rented by the pet owner, and noxious odors or unsanitary conditions caused by failure to clean the dog's resident property are declared to be nuisances under this subchapter.

(2) Barking, howling, or yelping in an habitual, consistent, or persistent manner that continually disturbs the peace of the neighborhood constitute excessive noise under this subchapter.

(3) Owners must remove feces deposited by their dogs on public property, public and private rights-of-way, and private property not owned or rented by the animal owner and prevent pets from continually spraying or depositing urine on lawns and landscaping that causes damage to grasses, flowers, shrubs, and other cultivated plants.

(4) The animal control officer shall investigate each complaint and issue a warning letter to the dog owner on the first offense. A citation may be issued on subsequent offenses.

(5) Dog owners who repeatedly violate the nuisance provisions of the subchapter will be subject to increased fines and required to provide a remedy for the offending behavior or activity. If the violation involves sanitation on the property, health inspectors may make periodic visits to assure that sanitation is maintained.

(f) Animal control: at risk behavior.

(1) A dog displays at risk behavior when it:

(A) menaces, chases, displays threatening or aggressive behavior or otherwise threatens or endangers the safety of any person, or

(B) causes physical injury to any domestic animal while at large.

(2) Procedure for classifying a dog as at risk.

(A) The animal control officer shall investigate the circumstances of any complaint filed against a dog alleged to have displayed at risk behavior and notify the dog owner of the charge. If the animal control officer determines that the allegations of the complaint are more probably true than not, he shall issue a citation to the owner. If the allegations of the complaint are found to be true at the hearing on the citation, the owner shall be fined not less than \$100 nor more than \$750. If the allegations of the complaint are found to be true, the results of the hearing will be reported to the Department.

(B) Notwithstanding the above, it is not at risk behavior if the animal control officer determines that the behavior was (i) the result of the victim abusing or tormenting the dog, (ii) was directed towards a trespasser or a person committing or attempting to commit a crime, or (iii) involved other similar mitigating or extenuating circumstances.

(3) In addition to the fine, the owner of a dog that has displayed at risk behavior must provide secure fencing to keep the dog confined on his own property. When off the owner's property, the dog must be kept on a secure leash of no more than four feet in length and under control of a legally responsible person. The owner must also microchip the dog for identification.

(4) Repeated violations will result in increased fines and 3 violations will result in the dog being classified as dangerous.

(5) If there have been no further incidents for a period of 18 months and the owner can provide proof of obedience training at a reputable club or business, he may ask that the dog be removed from the at risk list.

(g) Animal control: dangerous dogs.

(1) A dog exhibits dangerous behavior when it:

(A) has previously been classified as at risk and exhibits escalating aggressive behaviors that result in further complaints;

(B) without provocation, inflicts severe injury on a human being;

(C) menaces, maims, or kills domestic animals when off its owner's property;

(D) is used in the commission of a crime, including animal fighting, menacing, or guarding illegal operations.

(2) Notwithstanding the above, it is not dangerous behavior if the animal control officer determines that the behavior was (i) the result of the victim abusing or tormenting the dog, (ii) was directed towards a trespasser or a person committing or attempting to commit a crime, or (iii) involved other similar mitigating or extenuating circumstances.

(3) The animal control officer shall investigate the circumstances of any complaint filed against a dog alleged to have displayed dangerous behavior and notify the dog owner of the charge. If the animal control officer determines that the allegations of the complaint are more probably true than not, he shall issue a citation to the owner and report the incident to the Department to take such further action as it may deem necessary. If the allegations of the complaint are found to be true at the hearing on the citation, the owner shall be fined not less than \$250 nor more than \$750.

(A) Notwithstanding the above, it is not dangerous behavior if the animal control officer determines that the behavior was (i) the result of the victim abusing or tormenting the dog, (ii) was directed towards a trespasser or a person committing or attempting to commit a crime, or (iii) involved other similar mitigating or extenuating circumstances.

(4) A dangerous dog may be returned to the owner or may be euthanized depending on the outcome of the Department's investigation. If the dog is returned to the owner, it must be micro-chipped, confined in a locked pen with a top when not in a home or other building. When off the owner's property, a dangerous dog must be restricted by a leash of no more than four feet in length, must be under the control of a legally responsible person, and may be required to wear a muzzle. Depending on the outcome of the investigation, the Department or court may require a behavioral evaluation of the dog and sentence the owner to attend a responsible ownership class.

(5) Repeated violations will result in increased fines and may result in the dog being euthanized.

(6) Dogs that have been adjudicated as dangerous when transported, must be confined in a crate in a closed, locked vehicle to prevent opportunities for escape and in a manner sufficient to prevent children from coming into contact with the dog through an open window in the vehicle.

Ord 2012-09, 9/24/12.

#### **§ 774. Animal control: cats**

(a) Cat licensing and rabies vaccination.

(1) Cat licensing is voluntary and is tied to the implantation of microchips for permanent identification.

(2) All cats over the age of 3 months must be vaccinated for rabies and a copy of the vaccination certificate or tag must be presented at the request of the animal control officer.

(3) Licensed cats must wear tags when in public.

(b) Nuisances

(1) Nuisances include excessive noise, soiling of public property and of private property not owned or rented by the pet owner, and noxious odors or unsanitary conditions caused by failure to clean the cat's resident property.

(2) Cats must be prevented from causing a nuisance by howling in a habitual, consistent, or persistent manner that repeatedly disturbs the peace of the neighborhood.

(3) Owners must take steps to prevent feces deposits by their cats on public property, public and private rights-of-way, and private property not owned or rented by the animal owner and prevent them from continually spraying or depositing urine on lawns and landscaping that causes damage to grasses, flowers, shrubs, and other cultivated plants.

(4) The animal control officer shall investigate each complaint and issue a warning letter to the cat owner on the first offense. A citation may be issued on subsequent offenses.

(5) Cat owners who repeatedly violate the nuisance provisions of this subchapter will be subject to increased fines and required to provide a remedy for the offending behavior or activity. If the violation involves sanitation on the property, health inspectors may make periodic visits to assure that sanitation is maintained.

Ord 2012-09, 9/24/12.

**§ 775. Cruelty, abuse and neglect**

(a) Complaints of cruelty, abuse, or neglect will be investigated by the animal control officer and referred for further action to the Department and Sheriff control if grounds are found to exist.

(b) Traditional animal husbandry practices such as tail docking, declawing, dehorning, branding, and ear cropping are exempt from charges of cruelty, abuse, or neglect when humanely performed by a competent practitioner.

(c) Training methods using a broad spectrum of equipment and practices are exempt when used according to accepted practices.

Ord 2012-09, 9/24/12.

## Subchapter 7—Soliciting

### § 776. General

It is the policy of the village that the residents should have the right to decide whether solicitors will be invited to their residences and that solicitors should be required to register with the village. This subchapter does not apply to any officer or employee of any city, county, or the federal government when on official business. Section 780 does not apply to volunteers seeking donations for a generally recognized not-for-profit organization, nor to any person under the age of 16 soliciting for the benefit of the Boy Scouts, Girl Scouts, school, or other similar organization.

Ord 2010-13, 7/26/2010.

### § 777. Definitions

In this subchapter,

- (1) “*occupant*” means any person who is the lawful owner, resident, or the lawful tenant of a residence;
- (2) “*residence*” means every separate living unit occupied for residential purposes;
- (3) “*soliciting*” means—
  - (A) the following activities without prior consent of the occupant:
    - (i) seeking to obtain orders for the purchase of real or personal property or services of any kind.
- (4) “*solicitor*” means a person engaged in the act of soliciting.

Ord 2010-13, 7/26/2010.

### § 778. Posting of notice

Any resident may post on or near the front door of the residence a sign, at least 3" x 4" in size, that says “NO SOLICITORS” or similar.

Ord 2010-13, 7/26/2010.

### § 779. Duty to comply

- (a) Any solicitor entering any residential property shall look for a “NO SOLICITORS” sign. If the sign is present the solicitor shall immediately and peacefully leave the premises without ringing the doorbell, knocking on the door, or making any other sound intended to attract the attention of the occupant.
- (b) Regardless of the presence of a sign, any solicitor shall immediately and peacefully leave the premises when requested to do so by the occupant.

Ord 2010-13, 7/26/2010.

**§ 780. Registration**

(a) Any solicitor before soliciting within the village shall register with the village clerk. The solicitor shall provide his or her complete name, address, date of birth, and drivers license number, a recent picture, employer's name and address, and the nature of the solicitation.

(b) A solicitor shall carry the certificate of registration upon his or her person at all times while soliciting within the village and shall exhibit it upon the request of any sheriff's deputy, the zoning officer, or the person being solicited.

(c) A certificate of registration may be revoked for a violation of this subchapter, or any other regulation of the village, or upon a finding or plea of guilty to any violation of any state or federal law involving dishonesty or moral turpitude.

(d) Soliciting before 11:00 AM or after 7:00 PM on Monday through Saturday, or any time on Sunday or a state or national holiday is prohibited.

(e) The zoning officer or any sheriff's deputy may enforce this subchapter.

Ord 2010-13, 7/26/2010.

## Chapter 9—Solid Waste

### Subchapter 1—Regional Pollution Control Facility—Siting

#### § 900. Short title

The Illinois Environmental Protection Act (Illinois Revised Statutes, Chapter 111½, Paragraph 1001 et. seq.) has provided for approval by the board of trustees of a village as to the suitability of the site location for each new Regional Pollution Control Facility to be located within the village, the following ordinance is intended to delineate the substance and procedure for the application and hearing upon such proposed site locations, and shall be called *The Regional Pollution Control Facility Siting Ordinance*. (Ord 1991-15, 7/15/1991.)

#### § 901. Definitions

In this subchapter—

(a) “*Act*” means the Illinois Environmental Protection Act, as amended (Ill. Rev. Stat. Ch. 111½, Paragraph 1001 et seq. (1987);

(b) “*Applicant*” means any person, firm or partnership, association, corporation, company or organization of any kind;

(c) “*Board of trustees*” is the board of trustees of the village of Lily Lake, Kane County, Illinois;

(d) “*Hazardous waste disposal site*” is a site at which hazardous waste is disposed;

(e) “*hazardous waste*” is defined as set forth in the Act.

(f) “*regional pollution control facility*” is any waste storage site, sanitary landfill, waste disposal site, waste transfer station or waste incinerator that accepts waste from or that serves an area that exceeds or extends over the boundaries of any local general purpose unit of government which, for purposes of this ordinance, is the village of Lily Lake, and includes all of the property comprising said site, including any boundary or buffer zone, whether or not used or to be used for the actual storage, disposal, transfer or incineration of waste. A regional pollution control facility is also any facility defined as such in the Act.

(g) “*IEPA*” is the Illinois Environmental Protection Agency.

(h) “*village*” is the village of Lily Lake, Kane County, Illinois.

All other words used in this subchapter and defined in the Act shall have the same definition and meaning as found in the Act.

Ord 1991-15, 7/15/1991.



#### **§ 902. Village approval required**

No regional pollution control facility may be developed or constructed, nor shall any existing regional pollution control facility be expanded, any portion of which is or will be within the village, unless an application for approval of such site is filed and is submitted for consideration to the board of trustees. An application for site approval need not be submitted if:

- (a) The proposed facility is completely within the boundaries of the village and is intended to serve only the village; or
- (b) The proposed facility will be a storage site for certain PCS-containing materials regulated by Federal regulations 40 CFR, Part 761.42; or
- (c) The proposed facility is a site or facility used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled or operated by such person, or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person; or
- (d) The proposed facility is a site or facility at which the State of Illinois is performing removal or remedial action pursuant to §22.2 of the Act.

Ord 1991-15, 7/15/1991.

#### **§ 903. Committee and committee chairman**

- (a) A regional pollution control facility committee (the *committee*) shall be appointed by the president of the board of trustees and shall consist of 2 members of the board of trustees. Each member of the committee shall serve for a two-year term.
- (b) The chairman of the regional pollution control facility committee shall be the president of the board of trustees who shall be the third member of the committee. One member of the committee shall be designated acting chairman in the event of the chairman's absence. The chairman shall vote only in the event the vote is otherwise tied.
- (c) All meetings and hearings of the regional pollution control facility committee shall be at the call of the committee chairman, or in his or her absence, the acting chairman, at such times as may be required.
- (d) The committee shall select a hearing officer or officers to serve during any public hearing concerning an application for site approval. The hearing officer(s) shall serve at the pleasure of the committee. Compensation for the service of the hearing officer shall be mutually agreed upon before the hearing. The duties of the hearing officer shall be provided for in the *Rules and Procedures - Regional Pollution Control Facility Committee - Village of Lily Lake, Kane County, Illinois* to be adopted by the committee (the *rules and procedures*).

**§ 904. Filing an application**

(a) In order to request approval of a proposed regional pollution control facility or an expansion of an existing regional pollution control facility, any portion of which is or will be within the village, an applicant must file an application with the village clerk, with a minimum of 20 copies of the application and the substance of the applicant's proposal with sufficient details describing the proposed facility to demonstrate compliance with the Act, all rules and regulations thereunder, this ordinance and the rules and procedures, including all site plans, exhibits and maps, and all documents, if any, submitted as of that date to the IEPA pertaining to the proposed facility in connection with said applicant's application except trade secrets as determined under §7.1 of the Act (Ill. Rev. Stat., Ch. 111½, par. 1007.1). Said application may be obtained from the clerk of the village.

(b) In addition, the applicant must pay at the time of filing its application a non-refundable fee of \$500,000 plus the sum of \$1,000 per acre for each acre, or portion thereof, in excess of 250 acres encompassed by such proposed regional pollution control facility, or such expansion, which is to be used for the active storage, disposal, transfer or incineration of waste. If applying for site approval of a hazardous waste disposal site the fee shall be \$750,000 plus the sum of \$1,000 per acre for each acre, or portion thereof, in excess of 250 acres encompassed by such proposed hazardous waste disposal site or such expansion which is to be used for the active storage, disposal, transfer or incineration of hazardous waste. The applicable fee is intended to defray the reasonable and necessary costs or processing the application, including, but not limited to: space rental, hearing officer(s), court reporter, transcription and reproduction costs, public notice, staff review time, committee per diem, legal counsel and technical staff or consultants retained by the village (including tests, exhibits and testimony, if any, provided by said staff or consultants), any other relevant costs incident to the consideration of an application, and the costs of preparing the record for appeal if any appeal of a decision of the board of trustees is made to the Illinois Pollution Control Board. Should there be any additional costs incurred by the village over the fees paid, the applicant shall bear any and all additional costs.

(c) The application must be answered completely with information provided for each question, accompanied by all site plans, exhibits, maps, and documents as specified in Section 904(a) above. The date the applicant files an application with the office of the clerk shall be considered the official filing date for all time limit purposes. At any time prior to completion by the applicant of the presentation of the applicant's factual evidence and an opportunity for cross-examination by the committee and any participants, the applicant may file not more than one amended application upon payment of an additional fee pursuant to Section 39.2(k) of the Act in the amount of \$10,000. Provided, however, that the time limitation for final action set forth in section 39.2(a) of the Act and §7(b) of this Subchapter shall be extended for an additional period of 90 days.

(d) Upon receipt of a completed application, and payment of all fees, the village clerk shall date stamp all the copies and immediately deliver one copy to the chairman of the regional pollution

control facility committee, one copy to the building and zoning administrator and one copy to the clerk of each municipality within 1½ miles of the proposed facility.

(e) In order to develop a record sufficient to form the basis of an appeal of its decision, the board of trustees may retain such technical staff or consultants on behalf of the village as it may deem appropriate. Such technical staff or consultants shall then commence a study of the application. The applicant shall cooperate fully with such staff and consultants in their review of the application.

(f) A copy of the application and all related documents or other materials on file with the board of trustees shall be made available for public inspection in the office of the village clerk. Any member of the public affected by the application shall be allowed to obtain a copy of said request or any part thereof free of charge, the costs of such reproductions to be paid from the application fee. Any other member of the public shall be allowed to obtain a copy of said request or any part thereof upon payment of the actual costs of reproduction.

(g) The applicant shall meet all notice requirements required by Illinois Revised Statutes, Chapter 111½, Paragraph 1001 et. seq., to wit:

(1) The applicant shall cause to be published no sooner than thirty (30) days nor later than 14 days prior to a request for location approval, a written notice of such request to be served either in person or by registered mail, return receipt requested, on the owners of all property within the subject area not solely owned by the applicant, and on the owners of all property within 250 feet in each direction of the lot line of the subject property, said owners being such persons or entities which appear from the authentic tax records of the county in which such facility is to be located; provided that the number of all feet occupied by all public roads, streets, alleys, and other public ways shall be excluded in computing the 250 feet requirement; provided, further, that in no event shall this requirement exceed 400 feet, including public streets, alleys and other public ways.

(2) The applicant shall also serve, within 14 days prior to a request for location approval, written notice upon members of the General Assembly from the legislative district in which the proposed facility is located and this notice shall be published in a newspaper of general circulation published in the village, or if no such newspaper is published in the village, then in a newspaper having a general circulation within the village. Such notice shall state the name and address of the applicant, the location of the proposed site, the nature and size of the development, the nature of the activity proposed, the probable life of the proposed activity, the date when the request for site approval will be submitted to the board of trustees, a description of the right of persons to comment on such request as hereafter provided and any other information as may be required by the Rules and Procedures.

(3) The applicant shall file proof of all notice requirements with the village clerk within 14 days of their publication.

Ord 1991-15, 7/15/1991.

#### **§ 905. Filing written comments**

(a) Any person may file written comments with the board of trustees concerning the appropriateness of the proposed site for its intended purpose. The board of trustees shall consider any comment received or postmarked from the date of acceptance of the application through and until 30 days after the date of the last public hearing in making its final determination. Said written comments shall be sent or delivered to the village of Lily Lake, PO Box 296, Wasco, Illinois 60183. Upon receipt, the village clerk shall date stamp the comment.

(b) These comments shall become a part of the record of the proceedings of the committee.

Ord 1991-15, 7/15/1991.

#### **§ 906. Hearings on applications**

(a) At least one public hearing shall be held by the regional pollution control facility committee no sooner than 90 days but no later than 120 days from the receipt of the request for site approval.

(b) The applicant shall cause a notice of said hearing to be published in a newspaper of general circulation published in the village, or if no such newspaper is published in the village, then in a newspaper having a general circulation within the village, not later than 14 days before said hearing, and shall send notice by certified mail to all members of the General Assembly from the district in which the proposed site is located and to the Illinois Environmental Protection Agency. The public hearing shall develop a record sufficient to form the basis of any appeal.

(c) The chairman of the committee shall notify the applicant in writing of the date of the public hearing before the Committee, at least 21 days before the hearing, in order that the applicant may publish notice of that hearing.

(d) During the course of the public hearing before the committee, the committee shall receive testimony, such testimony to be recorded, from the applicant and witnesses the applicant may call, any village witnesses, and other witnesses or objectors, and shall recommend approval only if the proposed facility meets the following criteria:

(1) The facility is necessary to accommodate the waste needs of the area it is intended to serve.

(2) The facility is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.

(3) The facility is located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property.

(4) The facility is located outside the boundary of the 100 year flood plain or the site is flood-proofed.

(5) The plan of operations for the facility is designed to minimize the danger to the surrounding area from fire, spills or other operational accidents.

(6) The traffic patterns to or from the facility are so designed as to minimize the impact on existing traffic flows.

(7) If the facility will be treating, storing or disposing of hazardous waste, an emergency response plan exists for the facility which includes notification, containment and evacuation procedures to be used in case of an accidental release.

(8) If the facility will be located within a regulated recharge area, any applicable requirements specified by the Illinois Pollution Control Board for such areas have been met.

(9) The facility is consistent with any current solid waste management plan adopted by the county and any other applicable planning jurisdiction.

The committee and the board of trustees may also consider as evidence the previous operating experience and past record of convictions or admissions of violations of the applicant (and any subsidiary or parent corporation of the applicant or any lessee or sublessee of the applicant) in the field of solid waste management when considering criteria 2 and 5 above and (ii) and (v) of §39.2(a) of the Act.

(e) A hearing officer or officers, appointed by the committee, shall preside at the public hearing and shall make any decisions concerning the admission of evidence and the manner in which the hearing is conducted subject to this subchapter and the rules and procedures of the committee. However, the hearing officer shall make all rulings and decisions in accordance with fundamental fairness. No ruling of the hearing officer shall be appealable to the board of trustees.

(f) The decision of the committee on the application is to be in writing, specifying the reasons for the decision, such reasons to be in accordance with subsection (d) of this section. The committee shall submit its report to the board of trustees as soon as practicable.

(g) The siting approval, procedures, criteria and appeal procedures provided for in the Act for new regional pollution control facilities as set forth in this subchapter shall be the exclusive siting procedures and rules and approval procedures. Local zoning or other local land use requirements shall not be applicable to such siting decisions.

Ord 1991-15, 7/15/1991.

#### **§ 907. Decisions**

(a) Once the committee has made its recommendation and reduced its recommendation to writing, the written recommendation shall be submitted to the full board of trustees for their decision as to the ultimate approval or disapproval of the proposed site location. 7 copies of the record of the public hearing shall also be made available to the full board of trustees as soon as said transcript becomes available.

(b) The board of trustees shall make a decision based upon the record of the public hearing and review of the recommendation of the Committee. The decision of the board of trustees shall be in writing, specifying the reasons for the decision, such reasons to be in conformity with section 39.2(a)

of the Act (Ill. Rev. Stat., Ch. 111½, Par. 1039.2(a)). In granting approval for a site, the board of trustees may impose such conditions as may be reasonable and necessary to accomplish the purposes of the Act and as are not inconsistent with regulations promulgated by the Illinois Pollution Control Board. Such decision shall be available for public inspection at the office of the village clerk and may be copied upon payment of the actual cost of reproduction. If there is no final action by the board of trustees within 180 days after the filing of the request for site approval, the applicant may deem the request approved.

(c) Whether the board of trustees approves or disapproves of the proposed site location, a resolution shall be passed to that effect, stating the reasons for the decision.

(d) An applicant may not file a request for local siting approval which is substantially the same as a request which was disapproved, pursuant to a finding against the applicant under any of criteria 1 through 9 of §6(d) above and (i) through (ix) of §39.2(a) of the Act, within the preceding 2 years.

Ord 1991-15, 7/15/91.

#### **§ 908. Articles of rules and procedures**

The committee shall establish rules and procedures for the application and hearing process governing regional pollution control facilities. Any additional information or requirements mandated by said rules and procedures must be submitted or followed by said applicant.

Ord 1991-15, 7/15/1991.

#### **§ 909. Severability clause**

If any section, subsection, sentence, clause, phrase or portion of this subchapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

Ord 1991-15, 7/15/1991.

#### **§ 910. Ordinance repealed**

All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

Ord 1991-15, 7/15/1991.

## **Chapter 20—Zoning**

### **Subchapter 1—Purpose, intent, definitions**

#### **§ 2000. Purpose and intent**

(a) This ordinance is adopted for the following purposes:

- (1) promoting the public health, safety, comfort, morals, convenience and general welfare;
- (2) securing adequate natural light, pure air and safety from fire and other dangers;
- (3) lessening or avoiding the hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters;
- (4) lessening or avoiding congestion in the public streets and highways;
- (5) conserving the value of land and buildings throughout the Village; and
- (6) preserving and enhancing aesthetic values throughout the Village.

(b) To these ends this ordinance is intended to establish and accomplish certain standards and objectives by—

- (1) dividing the entire Village into districts and regulating therein the location, construction, reconstruction, alteration and use of buildings, structures and land, whether for agriculture, residence, business, manufacturing or other specified uses;
- (2) avoiding or lessening congestion in the public streets by adequate requirements for off-street parking and loading facilities;
- (3) preventing the overcrowding of land by regulating and limiting the height and bulk of buildings hereafter erected;
- (4) establishing, regulating and limiting the building or setback lines along streets, alleys and property lines;
- (5) regulating and limiting the intensity of the use of lot areas, and regulating and determining the area of open spaces surrounding buildings;
- (6) establishing standards to which buildings or structures therein shall conform;
- (7) permitting in each zoning district only those uses, buildings and structures that are compatible with the character of each district;
- (8) preventing additions to, and alterations or remodeling of, existing buildings or structures, in such a way as to avoid the restrictions and limitations imposed under this ordinance; providing controls governing the continuation of those existing uses, buildings and structures, which are incompatible with the character of the districts in which they are located;

(9) providing for the gradual elimination of structures and uses which are incompatible with the character of the districts in which they are located;

(10) defining the powers and duties of the administrative officers and bodies as provided in this ordinance; and

(11) prescribing penalties for the violation of the provisions of this ordinance or of any amendment thereto.

Ord 1993-01, 10/18/1993.

#### **§ 2001. Interpretation**

In their application, the provisions of this ordinance shall be held to be the minimum requirements for the promotion and protection of the public health, safety, comfort, morals, convenience and general welfare, and the provisions shall be interpreted in accordance with the following:

(a) Where the conditions imposed by any provision of this ordinance are either more restrictive or less restrictive than comparable standards imposed by any other provision of this ordinance or of any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements, shall govern;

(b) This ordinance is not intended to abrogate any easement, covenant or other private agreement; provided, that where the regulations of this ordinance are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements, the requirements of this ordinance shall govern; and

(c) No building, structure or use not lawfully existing on the effective date hereof shall become or be made lawful solely by reason of the adoption of this ordinance; and to the extent that, and in any manner that said unlawful building, structure or use are in conflict with the requirements of this ordinance, said building, structure or use remains unlawful under the provisions of this ordinance.

Ord 1993-01, 10/18/1993.

#### **§ 2002. Separability**

It is hereby declared to be the intention of the Board of Trustees that the several provisions of this ordinance are separable, in accordance with the following:

(a) If any court of competent jurisdiction shall adjudge any provision of this ordinance or amendment thereto to be invalid, such judgment shall not affect any other provision of this ordinance or amendment thereto not specifically included in said judgment; and

(b) If any court of competent jurisdiction shall adjudge invalid the application of any provision of this ordinance or amendments thereto to a particular property or structure, such judgment shall not affect the application of said provision to any other property or structure not specifically included in said judgment.



### § 2003. Rules and definitions

(a) In the construction of this subchapter, the rules and definitions contained in this section must be observed and applied, except when the context clearly indicates otherwise.

(1) Words used in the present tense include the future tense and the future the present; words used in the singular number include the plural number, and the plural the singular where the context requires.

(2) The word *lot* includes the words *piece*, *parcel* and *tract*; the phrase *used for* includes the phrases *arranged for*, *designed for*, *intended for*, *maintained for* and *occupied for*.

(3) All distances must be to the nearest integral foot.

(4) Any words not defined below must be construed in their generally accepted meaning as defined in the most recent publication of Webster's Dictionary.

(b) In this subchapter

(1) "*abuts*" or "*abutting*" means to have a common property line or district line;

(2) "*adjacent*" means to lie near or close to; in the neighborhood or vicinity of;

(3) "*adjoining*" means touching or contiguous, as distinguished from lying near;

(4) "*agriculture*" means land, or land, buildings and structures, the principal use of which is the growing of farm or garden crops or one or more of the following: dairying, pasturage, agriculture, horticulture, floriculture, viticulture or animal and poultry husbandry, and accessory uses customarily incidental to agricultural activities including but not limited to the farm dwelling, dwellings for tenants and full-time hired farm workers and dwellings or lodging rooms for seasonal workers;

(5) "*alley*" means a right-of-way which affords a secondary means of vehicular access to abutting properties;

(6) "*alteration*" means a change in size, shape, occupancy or use of a building or structure;

(7) "*animal hospital*" means a building or portion thereof designed or used for the care, observation or treatment of domestic animals;

(8) "*automobile service station*" means a building or lot or portion thereof where fuels, oils and accessories for motor vehicles are offered for sale at retail to the public; where repair service is incidental, where no storage or parking is offered for rent and where no motor vehicles or boats are offered for sale or rent;

(9) “*automobile wrecking yard*” means an area of land where 3 or more motor vehicles, or vehicles, machinery or equipment drawn or operated by attaching to motor vehicles (not in or being restored to running or operable condition), or parts thereof are stored in the open and any land, building or structure used for wrecking or storing prior to wrecking of such motor vehicles, vehicles, machinery or equipment or parts thereof;

(10) “*basement*” means an area having more than ½ of its floor to clear ceiling height below grade and which is not counted as a story;

(11) “*billboard*” means a non-point-of-sale sign which advertises a business, service, organization, event, person, place, or thing, unless such sign is more specifically defined herein.

(12) “*block*” means a tract of land bounded by streets, or by a combination of streets and public parks, railroad rights of way, or other lines of demarcation.

(13) “*Board of Trustees*” means the President and Board of Trustees of the Village of Lily Lake, Kane County, Illinois.

(14) “*boarding house*” means a residential building or portion thereof (other than a motel, apartment hotel or hotel) containing lodging rooms for accommodation of three but not more than ten persons who are not members of the keeper’s family and where lodging or meals or both are provided.

(15) “*buildable area*” means that portion of a lot bounded by the required rear yard, side yards and front yard and other regulated non-buildable areas.

(16) “*building*” means a structure built for the support, enclosure, shelter or protection of persons, animals, chattels or property of any kind, and which is permanently affixed to the land. When any portion thereof is completely separated from every other portion by a party wall, then such portion shall be deemed to be a separate building.

(17) “*building, accessory*” means a subordinate building or a portion of a principal building, the use of which is incidental and customary to that of the principal building. Where an accessory building is attached to and made a part of the principal building such accessory building shall comply in all respects with the requirements of this ordinance applicable to the principal building.

(18) “*building, detached*” means a building surrounded by vacant spaces on the same lot.

(19) “*building, principal*” means a non-accessory building in which is conducted the principal use of the lot.

(20) “*building, temporary*” means any building not designed to be permanently located at the place where it is, or where it is intended to be temporarily placed or affixed.

(21) “*building façade*” means the face of a building from grade to the top of the roof or parapet in height, and from side wall to side wall in width.

(22) “*building height*” means the limit to the vertical extent of a building and may be prescribed as a maximum number of stories or as a dimension from sidewalk grade to the eave.

Ord 2008-02, 2/11/2008.

(23) “*bulk*” means the term used to indicate the size and setback of buildings or structures, and the location of same with respect to one another, and includes the following: (a) size and height of buildings; (b) location of exterior walls; (c) floor area ratio; (d) open space allocated to buildings; and (e) lot area and lot width provided per dwelling unit.

(24) “*business*” means an occupation, employment or enterprise which occupies time, attention, labor and materials or wherein merchandise is exhibited or sold or wherein services are offered.

(25) *car wash* means a building or portion thereof containing facilities for washing more than two motor vehicles, using production-line methods.

(26) *carport* means a roofed automobile shelter, with two or more open sides.

(27) *clinic, medical or dental* means a building or portion thereof, the principal use of which is for offices of physicians or dentists or both, for the examination and treatment of persons on an outpatient basis.

(28) *closed cup flash point* means the lowest temperature at which a combustible liquid under prescribed conditions will give off a flammable vapor which will propagate a flame. The Tag closed cup tester shall be authoritative for liquids having a flash point below 175° F. The Pensky-Martens tester shall be authoritative for liquids having flash points between 175° F. and 300° F.

(29) *club, private* means a nonprofit association of persons who are bona fide members and whose facilities are restricted to members and their guests. Service of food and alcoholic beverages may be permitted on the premises provided they are secondary and incidental to the principal use.

(30) *conforming building, conforming structure* means a building or structure which: (a) complies with all the regulations of this ordinance or of any amendment hereto governing bulk of the district in which said building or structure is located; or (b) is designed or intended for a permitted or special use as allowed in the district in which it is located.

(31) *decibel* means a unit of measurement of the intensity of loudness of sound. Sound level meters employed to measure the intensity of sound are calibrated in decibels. A decibel is technically defined as 20 times the logarithm to the base ten of the ratio of the sound pressure in microbars to a reference pressure of 0.0002 microbar.

(32) *displacement (earth)* means the amplitude or intensity of an earthborn vibration measured in inches. The displacement or amplitude is ½ the total earth movement.

(33) *district* means a section or part of the Village within which certain uniform regulations and requirements or various combinations thereof apply under the provisions of this ordinance.

(34) *drive-in establishment* means an establishment or part thereof where the service or consumption of commodities is intended to occur primarily in patrons' automobiles parked on the premises.

(35) *dwelling* means a building or portion of a building designed or used exclusively for residential purposes, including single-family, two-family and multiple-family dwellings, but not including motor homes or trailers, or lodging rooms in hotels, motels or lodging houses.

Ord 2018-03, 5/21/2018.

(36) *“dwelling, attached”* means a dwelling joined to two other dwellings by party walls or vertical cavity walls, and above ground physically unifying horizontal structural elements.

(37) *“dwelling, detached”* means a dwelling which is surrounded on all sides by open space on the same lot.

(38) *“dwelling, multiple-family”* means a building or portion thereof containing three or more dwelling units.

(39) *“dwelling, semi-detached”* means a dwelling joined to one other dwelling by a party wall, or vertical cavity wall and above ground physically unifying horizontal structural elements.

(40) *dwelling, single-family* means a dwelling containing one dwelling unit in a detached building unless otherwise specified.

(41) *dwelling, two- family detached* means a dwelling containing two dwelling units only, one above the other.

(42) *dwelling unit* means one or more rooms which are used for living quarters for one family only. Individual bathrooms and complete kitchen facilities, permanently installed to serve the entire family, shall always be included within each dwelling unit.

(43) *earthborn vibrations* means a cyclic movement of the earth due to the propagation of mechanical energy.

(44) *efficiency unit* means a dwelling unit consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room.

(45) *electric distribution center* means a terminal at which electric energy is received from the transmission system and is delivered to the distribution system only.

(46) *electric substation* means a terminal at which electric energy is received from the transmission system and is delivered to other elements of the transmission system and, generally, to the local distribution system.

(47) *establishment, business* means a structure, or lot used in whole or in part as a place of business, the ownership or management of which is separate and distinct from the ownership or management of any other place of business located on the same or another lot.

(48) *equivalent opacity* means the shade on the Ringelmann Chart that most closely corresponds to the density of smoke, other than black or gray.

(49) *family* means one person or two or more persons each related to the other by blood, marriage or legal adoption, or a group of not more than four persons not all so related, together with his or their domestic servants, maintaining a common household in a dwelling unit. A family may include, in addition thereto, not more than two roomers, boarders or permanent guests, whether or not gratuitous.

(50) *"fence"* means a structure, or hedge of trees and shrubs, which is a barrier and used as a boundary or means of protection or confinement.

(51) *flood plain* means that land typically adjacent to a body of water with ground surface elevations at or below the base flood or the 100-year frequency flood elevation. Flood plains may also include detached Special Flood Hazard Areas (SFHAs), ponding areas, etc. The flood plains are those lands within the jurisdiction of the Village that are subject to inundation by SFHAs of the Village and are generally identified as such on the Flood Insurance Rate Map of the Village prepared by the Federal Emergency Management Agency (or the U.S. Department of Housing and Urban Development) and dated June 16, 1992. The SFHAs of those parts of unincorporated Kane County that are within the extraterritorial jurisdiction of the Village or that may be annexed into the Village are generally identified as such on the Flood Insurance Rate Map prepared for Kane County by the Federal Emergency Management Agency (or the U.S. Department of Housing and Urban Development) and dated March 1, 1982.

(52) *"flood protection elevation" (fpe)* means the elevation of the base flood or 100-year frequency flood plus 2 feet of freeboard at any given location in the Special Flood Hazard Area.

(53) *floor area* (for determining floor area ratio) means the sum of the gross horizontal areas of the several floors, measured from the exterior faces of the exterior walls, or from the center lines of walls separating two buildings. The floor area includes the horizontal areas on each floor devoted to: (a) elevator shafts and stairwells; (b) mechanical equipment, except if located on the roof, when either open or enclosed (e.g. bulkheads, water tanks and cooling towers); (c) habitable attic space as permitted by the Building Code of the Village; (d) interior balconies and mezzanines; (e) enclosed porches; and (f) accessory uses. The horizontal area of the floor of structures used for bulk storage of materials (e.g. grain elevators, petroleum tanks) shall also be included in the floor area and such floor area shall be determined on the basis of the height of such structures with one floor for each ten feet of structure height and if such structure measures less than ten feet but not less than five feet over such floor height intervals, it shall be construed to have an additional floor.

The horizontal area in each floor of a building devoted to off-street parking and off-street loading facilities and the horizontal area of a cellar floor shall not be included in the floor area.

(54) “*floor area*” (for determining off-street parking and off-street loading requirements). Floor area when prescribed as the basis of measurement for off-street parking spaces and off-street loading spaces for any use shall be the sum of the gross horizontal area of the several floors of the building, excluding areas used for accessory off-street parking facilities and the horizontal areas of the basement and cellar floors that are devoted exclusively to uses accessory to the operation of the entire building. All horizontal dimensions shall be taken from the exterior of the walls.

(55) “*floor area ratio*” means the numerical value obtained by dividing the floor area within a building or buildings on a lot by the area of such lot. The floor area ratio as designated for each district when multiplied by the lot area in square feet shall determine the maximum permissible area for the building or buildings on the lot.

(56) “*foot candle*” means a unit of illumination, equivalent to the illumination at all points which are one foot distant from a uniform point source of one candle power.

(57) “*foot-lambert*” means a unit of brightness, usually of a reflecting surface. A diffusion surface of uniform brightness reflecting or emitting the equivalent of the light from one candle at one foot distance over one square foot has a brightness of one foot-lambert.

(58) “*freeboard*” means an increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, unknown localized conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

(59) “*free burning*” means the rate of combustion of a material which burns actively, and easily supports combustion.

(60) “*freight terminal*” means a building or area in which freight brought by motor truck or railroad is assembled or stored for routing in intra-state or interstate shipment by motor trucks or railroad.

(61) “*frequency*” means the number of oscillations per second in a sound wave and is an index of the pitch of the resulting sound.

(62) “*garage, private*” means an accessory building designed and used for the storage of motor vehicles owned and used by the occupants of the building to which it is accessory and in which no occupation or Business for profit is carried on. Not more than one of the motor vehicles may be a commercial vehicle of not more than 1 ½ ton capacity.

(63) “*garage, public*” means a building or portion thereof other than a private or storage garage, designed or used for equipping, servicing or repairing motor vehicles. Hiring, selling or storing of motor vehicles may be included.

(64) “*garage, storage*” means a building or portion thereof designed or used or land used exclusively for storage of motor vehicles, and in which motor fuels and oils are not sold, and motor vehicles are not equipped, repaired, hired or sold.

(65) “*grade*” means the established grade of the street or sidewalk. Where no such grade has been established, the grade shall be the elevation of the sidewalk at the property line. Where no sidewalks exist, the grade shall be the average elevation of the street adjacent to the property line, except in cases of unusual topographic conditions as determined by the building and Zoning Officer, grade shall be the average elevation of the finished surface of the ground adjoining the exterior walls of a building at the base of a structure.

(66) “*gross density*” means the ratio between total number of dwelling units on a lot and total lot area in acres.

(67) “*ground floor area*” means the lot area covered by a principal building, measured at highest ground grade, adjacent to the building, from the exterior faces of the exterior walls, but excluding open porches or terraces, and garages or carports.

(68) “*guest, permanent*” means a person who occupies or has the right to occupy a lodging house, rooming house, boarding house, hotel, apartment hotel or motel accommodation as his domicile and place of permanent residence.

(69) “*home occupation*” means any gainful business, occupation or profession conducted within a dwelling unit by a member of the family residing in the dwelling unit which is incidental and secondary to the use of the dwelling unit for dwelling purposes.

(70) “*hotel*” means an establishment containing lodging rooms, for occupancy by transient guests in contradistinction to a lodging house, boarding house or a rooming house, and which provides customary hotel services such as maid, telephone and secretarial, bellboy and desk services; and the use and upkeep of furnishings and the laundering of linens.

(71) “*hotel, apartment*” means a hotel in which at least 80% of the hotel accommodations are occupied by permanent guests.

(72) “*impact noise*” means a sound of short duration which is incapable of being accurately measured on a sound level meter.

(73) “*impulsive*” means discrete vibration pulsations occurring no more often than one per second.

(74) “*incombustible*” means a material which will not ignite or actively support combustion during an exposure for five minutes to a temperature of 1,200° F.

(75) “*intense burning*” means the rate of combustion described by a material that burns with a high degree of activity and is consumed rapidly. Examples: sawdust, magnesium (powder, flaked or strips) and rocket fuels.

(76) “*institution*” means a building occupied by a not-for-profit corporation wholly for public or semi-public use

(77) “*junkyard*” means an open area of land and any accessory building or structure thereon which is used primarily for buying, selling, exchanging, storing, baling, packing, disassembling or handling waste or scrap materials, including vehicles, machinery and equipment not in operable condition or parts thereof, and other metals, paper, rags, rubber tires and bottles. A junkyard includes an automobile wrecking yard, but does not include an establishment located in the applicable manufacturing district, engaged exclusively in processing of scrap iron or other metals to be sold only to establishments engaged in manufacturing of steel or metal alloys.

(78) “*kennel*” means any premise or portion thereof on which more than three dogs, cats or other household domestic animals over one year of age are kept, or on which more than two such animals are maintained, boarded, bred or cared for, in return for remuneration, or are kept for the purpose of sale.

(79) “*laboratory*” See research laboratory.

(80) “*lambert*” means 1/929 of a foot-lambert, usually used to designate intrinsic brightness of light sources.

(81) “*landing strip, private*” means a strip of land used or intended for use for the landing and take-off of the private aircraft of the owner or lessee of the landing strip and his guests and such accessory structures customarily incidental to the operations which may include one building for the storage and maintenance of not more than two such private aircraft.

(82) “*laundromat*” means a business that provides coin-operated self-service type washing, drying, dry cleaning and ironing facilities, provided that: (a) not more than four persons, including owners, are employed on the premises; and (b) no pick-up or delivery service is maintained.

(83) “*loading space*” means a space within the principal building or on the same lot as the principal building for the standing, loading or unloading of trucks and with access to a street or alley.

(84) “*lodging house*” means a building originally designed for and used as a single or two-family dwelling, all or a portion of which contains lodging rooms which accommodate persons who are not members of the keeper's family. Lodging or meals, or both are provided for compensation for three or more but not more than ten persons.

(85) “*lodging room*” means a room or suite of rooms rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms, each room which provides sleeping accommodations shall be counted as one lodging room for the purpose of this ordinance.

(86) “*lot*” means a single parcel of land which is legally described and recorded as such, or which is one or more numbered lots or parts of such lots legally described and recorded as a part of a recorded subdivision plat, and in any case is located within a single block and having its principal frontage on a street or an easement or other right of way, and which is designated by the owner at the time of application for a building permit as the site to be used, developed or built upon as a unit under single ownership or control. Therefore, a lot may or may not coincide with a single lot of record.



(87) “*lot, corner*” means a lot of which at least two adjacent sides abut for their full length upon streets; provided, that the interior angle at the intersection of such two sides is less than 135°.

(88) “*lot, interior*” means a lot that is not a corner lot.

(89) “*lot, reversed corner*” means a corner lot, the street side lot line of which is substantially a continuation of the front lot line of the first lot to its rear.

(90) “*lot, through*” means a lot having a pair of opposite lot lines along two more or less parallel streets, and which is not a corner lot. Both street lines shall be deemed front lot lines.

(91) “*lot area*” means the area of a horizontal plane bounded by the front, side and rear lines of a lot.

(92) “*lot coverage*” means the area of a lot occupied by buildings or structures, including accessory buildings or structures.

(93) “*lot depth*” means the mean distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

(94) “*lot line*” means a line bounding a lot.

(95) “*lot line, front*” means the lot line which abuts a street. On a corner lot, either lot line may be construed to be the front lot line.

(96) “*lot line, interior*” means a lot line which does not abut a street.

(97) “*lot line, rear*” means an interior lot line which is most distant from and is almost parallel to the front lot line, and in the case of an irregular or triangular shaped lot at a line ten feet in length within the lot, which is parallel to and maximum distance from the front lot line.

(98) “*lot line, side*” means any boundary of a lot which is not a front lot line or a rear lot line.

(99) “*lot of record*” means a single lot which is part of a subdivision, the plat of which has been legally recorded in the office of the Recorder of Deeds of Kane County, Illinois.

(100) “*lot width*” means the minimum distance between the side lot lines of a lot measured at the narrowest point within the front 30 feet of the buildable area.

(101) “*manufacturing establishment*” means an establishment, the principal use of which is manufacturing, fabricating, processing, assembly, repairing, storing, cleaning, servicing or testing of materials, goods or products.

(102) “*marquee*” means a roof-like structure or canopy of a permanent nature which projects from the wall of a building.

(103) “*micron*” means a unit of length, equal to .001 of one millimeter.

(104) *motor home* means a motor vehicle or trailer designed and constructed for dwelling purposes which contains cooking, sanitary and electrical facilities and has a gross floor area of 240 square feet or more.

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(105) *motor home park* means a lot, parcel or tract of land developed with facilities for accommodating two or more motor homes. A lot, parcel or tract of land on which motor vehicles or motor homes or trailers are parked for the purpose of inspection or sale is not a motor home park.

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(106) *"moderate burning"* implies a rate of combustion described by a material which supports combustion and is consumed slowly as it burns. Examples: wood, timber and logs.

(107) *"motel"* means an establishment of rooms with bathrooms, and where more than 50% of the lodging rooms are used for occupancy by transient automobile tourists. Cooking facilities shall not be included in any of the lodging rooms, but one dwelling unit may be included for occupancy by the owner or manager of the motel.

(108) *"motor freight terminal"* means a building or area in which freight brought by routing interstate shipment by motor truck. motor truck is assembled stored for in intra-state

(109) *motor vehicle* means any vehicle propelled by mechanical power.

Ord 2018-03, 5/21/2018.

(110) *"nameplate"* means a sign indicating the name and address of a building, or the name of an occupant thereof, and the practice of a permitted occupation therein.

(111) *"no-access strip"* means a strip of land within and along a rear lot line of a through lot adjoining a street which is designated on a recorded subdivision plat or property deed as land over which motor vehicular travel shall not be permitted.

(112) *"nonconforming"* is used to describe any building or structure lawfully established which: (a) does not comply with all the regulations of this ordinance or of any amendment hereto governing bulk of the district in which such building or structure is located; or (b) is designed or intended for a nonconforming use.

(113) *"nonconforming use"* means any building or structure and the use thereof or the use of land that does not conform with the regulations of this ordinance or any amendment thereto governing use in the district in which it is located but which conformed with all of the codes, ordinances and other legal requirements applicable at the time such building or structure was erected, enlarged or altered, and the use thereof or the use of land was established.

(114) *"nursery school"* means an establishment for the part-time care of five or more children of pre-elementary school age in addition to the members of the family residing therein.

(115) “*nursing home*” mean a home for aged, chronically ill, care of children, infirm or incurable persons, or a place of rest for those persons suffering bodily disorders, in which three or more persons not members of the family residing on the premises are received, and provided with food, shelter and care, hut not including hospitals clinics or similar institutions devoted primarily to the diagnosis and treatment of disease or injury, maternity cases or mental illness.

(116) “*octave band*” means a prescribed interval of sound frequencies which classifies sound according to its pitch.

(117) “*octave band filter*” means an electronic frequency analyzer designed according to standards of the American Standards Association and used in conjunction with a sound level meter to take measurements of sound pressure level in specific octave bands.

(118) “*odorous matter*” is any material that produces an olfactory response among human beings.

(119) “*odor threshold*” is the lowest concentration of odorous matter in air that will produce an olfactory response in a human being. Odor thresholds shall be determined in accordance with ASTM Method D 1391-57, *Standard Method for Measurement of Odor in Atmospheres (Dilution Method)*.

(120) “*off-street parking*” See garage, storage.

(121) “*off-street parking area or lot*” means land which is improved and used or a structure which is designed and used exclusively for the storage of passenger motor vehicles, either for off-street parking spaces or commercial off-street parking spaces when permitted herein by accessory district regulations.

(122) “*open sales lot*” means land used or occupied for the purpose of buying, selling or renting merchandise stored or displayed out-of-doors prior to sale. Such merchandise includes automobiles, trucks, motor scooters, motorcycles, boats or similar commodities.

(123) “*parking space*” means an area, enclosed in a building or unenclosed, reserved for the parking of one motor vehicle and which is accessible to and from a street or alley.

(124) “*particulate matter*” means material other than water which is suspended in or discharged into the atmosphere in a finely-divided form as a liquid or solid at outdoor ambient conditions.

(125) “*party wall*” is a common wall which extends from its footing below grade to the underside of the roof and divides buildings.

(126) “*performance standard*” is a criteria established to control smoke and particulate matter, noise, odorous matter, toxic matter, vibration, fire and explosion hazards, glare and radiation hazards generated by or inherent in uses of land or buildings.

(127) “*plan commission*” means the Plan Commission of the Village of Lily Lake.

(128) “*planned unit development*” means a parcel of land or contiguous parcels of land of a 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.

(129) “*pre-1960 octave bands*” means the frequency intervals prescribed by the American Standards Association in ASA Standard A24, 10-1953, Octave Band Filter Set.

(130) “*preferred frequencies*” means a set of octave bands described by the band center frequency and standardized by the American Standards Association in ASA Standard N. S1.6-1960, Preferred Frequencies for Acoustical Measurements.

(131) “*radiation hazards*” means the deleterious and harmful effects of all ionizing radiation, which shall include all radiation capable of producing ions in their passage through matter. Such radiations shall include, but are not limited to, electromagnetic radiations such as X-rays and gamma rays and particulate radiation such as electrons or beta particles, protons, neutrons and alpha particles.

(132) “*railroad right of way*” means a strip of land containing railroad tracks and auxiliary facilities for track operations, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops or car yards.

(133) “*recreational vehicle*” means a self-contained motor vehicle, not used commercially, designed or permanently converted to provide living quarters for recreational, camping or travel use, with direct walk-through access to the living quarters from the driver's seat.

Ord 2018-03, 5/21/2018.

(134) “*refuse*” means all waste products resulting from human habitation, except sewage.

(135) “*research laboratory*” means a building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

(136) “*reservoir parking spaces*” means those off-street parking spaces allocated for temporary standing of automobiles awaiting entrance to a particular establishment.

(137) “*Ringelmann Chart*” means the chart described in the U.S. Bureau of Mines Information Circular 6888, on which are illustrated graduated shades of gray for use in estimating the light-obscuring capacity of smoke (smoke density).

(138) “*Ringelmann Number*” means the number of the area of the Ringelmann Chart that coincides most nearly with the visual density or equivalent opacity of the emission of smoke observed.

(139) “*roadway*” means that portion of a street which is used or intended to be used for the travel of motor vehicles.

(140) “*satellite antenna*” means any parabolic or spherical antenna which receives television or other signals from orbiting satellites or other devices. The height of a ground-mounted antenna shall be the total maximum to which it is capable of being raised and shall be measured from the highest point of the finished grade adjacent to the structure. The height of a roof-mounted antenna shall be the total maximum to which it is capable of being raised and shall be measured from the highest point of the finished grade of the roof adjacent to the structure. A satellite antenna shall be considered as an accessory structure when it is not part of a public utility.

(141) “*setback*” means the minimum horizontal distance between a street line and the nearest wall of a building or side of a structure facing such street line, or edge of the area of operation of a principal use when no building or structure is involved.

(142) “*setback, established*”. When 40% or more of the lots fronting on one side of a street within a block are improved, the existing setbacks of such improved lots shall be the established setback for determining the depth of the required front yards for the remainder of the lots along such street frontage, as regulated in this ordinance.

(143) “*sign*” means a name, identification, description, illustration, display or device which is affixed to, painted or represented upon a building, structure or land and which directs attention to a product, place, activity, person, institution or Business. For purpose of definition, a sign structure may be single-face or double-face. However, a sign shall not include any display of any court, public or official notice, nor shall it include the flag, emblem, insignia of a nation, political unit, school, religious or charitable institution or organization. A sign shall also include a permanent sign located within an enclosed building in such a manner as to be viewed or intended for view primarily from the exterior of the building.

(144) “*sign, advertising*” means a structure including a billboard on which is portrayed information which directs attention to a business, commodity, service or entertainment or other activity not related to use on the lot upon which the sign structure is located.

(145) “*sign, business*” means a sign which directs attention to a business, commodity, service, entertainment or other activity conducted on the lot upon which such sign is located.

(146) “*sign, flashing*” means an illuminated sign on which the artificial light is not main-mined constant or stationary in intensity or color at all times when such sign is in use. For the purpose of this ordinance, a revolving sign, or any advertising device which attracts attention by moving parts, operated by mechanical equipment or movement is caused by natural sources, whether or not illuminated with artificial lighting, shall be considered a flashing sign.

(147) “*sign, gross surface area of*” means the entire area within a single continuous perimeter enclosing the extreme limits of a sign.

(148) “*sign, ground*” means a sign which is supported by one or more uprights or braces in or upon the ground.

(149) “*sign, projecting*” means a sign which is affixed to any building wall or structure and extends beyond the building wall or parts thereof or structure more than 12 inches.

(150) “*Sign, roof*” means a sign erected, constructed and maintained above the roof of any building.

(151) “*sign, wall*” means a sign attached or erected against the wall of a building with the sign surface in a parallel plane to the plane of the building wall, and not extending above the building face or parapet, or projecting more than 12 inches from the wall.

(152) “*sign area*” means 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 not bearing sign copy shall not be included in gross surface area; however, if any portion of the required structural supports become enclosed 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 graphic elements, the area shall be deemed to be the smallest rectangular figure which can separate encompass all of the letters or elements.

(153) “*smoke*” means the visible discharge from a chimney, stack, vent, exhaust or combustion process which is made up of particulate matter.

(154) “*smoke unit*” means the number obtained when the smoke density in the Ringelmann Number is multiplied by the time of emission in minutes. For the purpose of this calculation: (a) a Ringelmann density reading shall be made at least once a minute during the period of observation; (b) each reading is then multiplied by the time in minutes during which it is observed; and (c) the various products are then added together to give the total number of smoke units observed during the entire observation period.

(155) “*sound level*” means the intensity of sound of an operation or use as measured in decibels.

(156) “*sound level meter*” means an instrument for the measurement of sound pressure levels constructed in accordance with the standards of the American Standards Association and calibrated in decibels.

(157) “*sound pressure level*” means the intensity of sound or noise in decibels.

(158) “*Stable, private*” means a building or structure which is located on a lot on which a dwelling is located, and which is designed, arranged, used or intended to be used for housing horses for the private use of occupants of the dwelling, but in no event for hire.

(159) “*Stable, public*” means a building where horses are kept for remuneration, hire or sale.

(160) “*Story*” means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it. The floor of a story may have split levels, provided that there are not more than four feet difference in elevation between the different levels of the floor. A basement shall be counted as a story, except when used for storage, garages for use of occupants of a building or other facilities common for the rest of the building. A mezzanine floor shall be counted as a story when it covers over ½ the area of the floor next below it, or if the vertical distance from the floor next below it to the floor next above it is 24 feet or more.

(161) “*Story, half*” means a partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than 3 feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

(162) “*Street*” means a public or private right-of-way or easement which is designated as a permanent right of way or easement for common use as the primary means of vehicular access to properties abutting on it.

(163) “*Street, frontage*” means all of the property fronting on one side of a street between two intersecting streets, or in the case of a dead-end street, all of the property along one side of the street between an intersecting street and the end of such dead-end street.

(164) “*Street, line*” means the street right-of-way line abutting a property line of a lot.

(165) “*Structure*” means anything constructed or erected, 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 without limiting the generality of the foregoing, advertising signs, backstops for tennis courts and pergolas.

(166) “*Structural alteration*” means any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial change in the roof or in the exterior walls, excepting such repair or replacement as may be required for the safety of the building.

(167) “*Tavern*” means an establishment where liquors are sold to be consumed on the premises but not including restaurants where the principal business is the serving of food.

(168) “*Three-component measuring system*” consists of instruments which simultaneously measure earthborn vibrations in horizontal and vertical planes.

(169) “*Tourist home*” means a building which contains a single dwelling unit and in which meals or lodging or both are provided or offered to transient guests for compensation. Tourist home does not include a hotel, apartment hotel or motel.

(170) “*Tourist park*” means a lot, parcel or tract of land containing facilities for accommodating three or more motor homes, travel trailers or camping trailers for use by transients

remaining less than three months, whether or not a charge is made. A lot, parcel or tract of land on which motor vehicles or trailers are parked for the purposes of inspection or sale is not a tourist park.

Ord 2018-03, 5/21/2018.

(171) “*Toxic matter*” or “*toxic material*” means those materials which are capable of causing injury to living organisms by chemical means.

(172) *Trailer* means any vehicle without motive power in operation, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle.

Ord 2018-03, 5/21/2018.

(173) *Trailer, camping* means a trailer designed and constructed for temporary dwelling purposes and has a gross floor area of less than 130 square feet.

Ord 2018-03, 5/21/2018.

(174) “*Trailer, travel*” means a trailer designed and constructed for dwelling purposes which may contain cooking, sanitary and electrical facilities, and has a gross floor area of 130 square feet or more, but less than 240 square feet.

(175) “*Use*” means the purpose or activity for which the land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained, and shall include any manner of performance of such activity with respect to the performance standards of this ordinance.

(176) “*Use, accessory*” means a use which is incidental to the dominant use of the premises.

(177) “*Use, lawful*” means the use of any building, structure or land that conforms with all of the regulations of this ordinance or any amendment hereto and which conforms with all of the codes, ordinances and other legal requirements, as existing at the time of the effective date hereof or any amendment thereto, for the structure or land that is being examined.

(178) “*Use, permitted*” means 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 ordinance for the district in which such use is located.

(179) “*Use, principal*” means the dominant use of land or buildings as distinguished from a subordinate or accessory use.

(180) “*Use, special*” means a use that has unusual operational, physical or other characteristics that may be different from those of the predominant permitted uses in a district, but which is a use that complements and is otherwise, or can be made, compatible with the intended over-all development within a district. Compliance with special standards not necessarily applicable to other permitted uses or special uses in the district shall be required for a special use, as regulated in this ordinance.



(181) “*Vending Machine*” A machine for dispensing merchandise or services designed to be operated by the customer.

(182) “*Vibration*” The periodic displacement, measured in inches, of earth at designated frequency (cycles per second).

(183) “*Village*” The Village of Lily Lake, Kane County, Illinois.

(184) “*Yard*” An open area on a lot which is unobstructed from its lowest level to the sky, except as otherwise provided in this ordinance.

(185) “*Yard, Front*” A yard which is bounded by the side lot lines, front lot line and the front yard line.

(186) “*Yard, Rear*” A yard which is bounded by side lot lines, rear lot line and the rear yard line.

(187) “*Yard, Side*” A yard which is bounded by the rear yard line, front yard line, side yard line and side lot line.

(188) “*Yard, Side - Adjoining a Street*” A yard which is bounded by the front lot line, side yard adjoining a street line and rear lot line.

(189) “*Yard, Interior Side*” A side yard which adjoins another lot or an alley separating such side yard from another lot.

(190) “*Yard Line*” A line in a lot that is parallel to the lot line along which the applicable yard extends and which is not nearer to such lot line at any point than the required depth or width of applicable yard. A building, structure or other obstruction shall not encroach into the area between the “*yard line*” and such adjacent lot line, except for such permitted obstruction in yards as are set forth in this ordinance.

(191) “*Zoning Office*” The Zoning Office is the office of the Zoning Officer of the Village from which the Zoning Officer, and such deputies or assistants as may be duly appointed by the Board of Trustees, shall administer and enforce the provisions of this ordinance and make such determinations, interpretations and orders as are necessary therefor, and require such plats, plans and other descriptive material in connection with applications for permits as are necessary for him to judge compliance with this ordinance in accordance with regulations set forth in this ordinance.

(192) “*Zoning Districts*” The districts into which the Village has been divided for zoning regulations and requirements as set forth on the Zoning Map.

## **Subchapter 2 - General Zoning Provisions**

### **§ 2004. Control over use**

The use of land and the erection, alteration and use of buildings or structures is limited to:

(a) Uses lawfully established and existing on October 18, 1993, except uses lawfully established and existing on October 18, 1993 and rendered nonconforming by the provisions of this Chapter are subject to the regulations of Subchapter 9 of this Chapter;

(b) Uses permitted or specially permitted in the zoning district in which the land, building or structure is to be located;

(c) Uses existing on October 18, 1993 that were classified as special uses by this Chapter;

(d) Buildings or structures, the construction of which was begun prior to October 18, 1993 and prosecuted to completion;

(e) Buildings or structures, the plans for which had been filed with the Village within 10 days after October 18, 1993, and the construction of which was commenced within 6 months of filing and completed within one year.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

### **§ 2005. Control over bulk**

(a) New buildings or structures must conform with the bulk regulations established by this Chapter for the district in which the building or structure is to be located. No existing building or structure may be enlarged, reconstructed, structurally altered, converted or relocated in such a manner as to conflict or to increase any existing conflict, with the bulk regulations of this Chapter for the district in which such building or structure is located;

(b) A lot of record on October 18, 1993 in a residence district that does not meet the area or yard requirements of this Chapter may be used for a single-family detached dwelling if it meets all the other requirements of this Chapter and other applicable Village ordinances, regulations and codes. A lot of record on October 18, 1993, is—

(1) a lot, parcel or tract of land in a residence district that was recorded in the office of the Recorder of Deeds of Kane County prior to October 18, 1993; or

(2) a lot in a subdivision in a residence district that was recorded after October 18, 1993, if a preliminary plat for such subdivision had been given tentative approval under the subdivision ordinance of the Village before October 18, 1993 and a final plat of such subdivision had been approved by the Village and thereafter recorded in the office of the recorder of deeds of Kane County within the time required by the subdivision ordinance.

(c) The Building Officer shall issue a zoning certificate for erecting a single-family detached dwelling on a lot of record upon compliance with all of the foregoing provisions.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

#### **§ 2006. Number of buildings on lot**

In any residence district, every single-family detached dwelling erected or structurally altered after October 18, 1993 must be located on a lot, and not more than one such dwelling is permitted on a lot.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

#### **§ 2007. Lot division**

No lot may be divided in order to secure one or more additional lots unless each lot resulting from the division and the remainder of the original lot meet the minimum lot area, lot width and yard requirements of this Chapter for the district in which the lot is located.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

#### **§ 2008. Yards**

(a) Yards and other open spaces required by this Chapter must be located on the same lot as the principal building, structure or use.

(b) On through lots, the Building Officer shall designate the front lot line. If a front lot line has already been established for any lot in the same block, the Building Officer shall designate the same front lot line for all other through lots in that block. On a through lot only those obstructions permitted in front yards are permitted in that part of a rear yard adjoining a street that is equivalent in depth to a required front yard, except where a no-access strip has been provided for such lots on the recorded plat.

(c) No legally required yards, open space or lot area for any use or structure may be used to satisfy yard, open space or lot area requirements for any other structure or use.

(d) No yards allocated to a building, structure or use existing on October 18, 1993 may be subsequently reduced or further reduced below the yard requirements of this Chapter, except a yard adjoining a street may be reduced in depth if the right-of-way of the street is subsequently increased.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

#### **§ 2009. Setbacks along streets**

Setbacks on lots abutting a street must minimally be the distance required for a front yard, or side yard adjoining a street, in the districts where such lots are located. The setback distance is measured from the line of the existing right-of-way or from the proposed line of the right-of-way as designated on the Official Map of the Village, or as established by other ordinances of the Village, or the Kane County or State of Illinois highway authorities, whichever requires the widest right-of-way.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

**§ 2010. Accessory buildings, structures and uses**

(a) Accessory buildings, structures and uses—

- (1) must be compatible with the principal use;
- (2) may not be erected or altered in required yards except those that are permitted as obstructions in yards (see Appendix A);
- (3) may not be established prior to the establishment of the principal use; and
- (4) must comply with all applicable provisions of the Building Code.

(b) Accessory uses do not include the keeping, propagation or culture of pigeons, bees, livestock or other non-household animals, except on conforming lots zoned A-Agriculture, and except as permitted in § 2032.

(c) Except as may be otherwise required for a specific accessory use, detached accessory buildings and structures erected or altered after October 18, 1993, at any location on a lot—

- (1) may not be more than one story or 15 feet in height, whichever is lower;
- (2) together with all other accessory buildings, structures, and impervious surfaces, may not cover more than 1½ % of the area of the lot;
- (3) may not be located less than 10 feet from any lot line of an adjoining lot except—
  - (A) on a corner lot, not nearer to the side street than the distance required in the district in which the lot is located for a side yard adjoining a street;
  - (B) on a through lot that does not have a rear lot line adjoining a no-access strip, not nearer to the rear lot line adjoining a street than the distance required for a front yard; and
  - (C) on a lot abutting a public alley, not nearer to the center line of the alley than 11 feet;
- (4) may not be nearer than 10 feet from the principal building on the lot; and
- (5) must be architecturally compatible with the principal building on the lot if it exceeds 200 square feet in floor area.

(d) Temporary storage structures (PODS and the like) are designed and intended for the temporary storage of property. In addition to all of the other requirements of this section, the following requirements are applicable to temporary storage structures:

- (1) The property owner must notify the Village at least 7 days in advance of the arrival of a temporary storage structure.
- (2) Temporary storage structures must be placed on the driveway or other improved surface adjacent to the driveway.

(3) Temporary storage structures must be removed after 30 days.

(4) Shipping containers and the like are not temporary storage structures and are not permitted.

(e) Temporary accessory structures are accessory buildings and structures designed to be used for a limited period of time. Tents, marquees, relocatable buildings, farmstands, food stands, concert stands and bleachers, and the like are temporary accessory structures. The list is not intended to be exhaustive and the Building Official may designate any other structure as temporary and subject to the requirements of this subsection. In addition to all of the other requirements of this section, the following requirements are applicable to temporary accessory structures:

(1) If a building permit is required under the Building Code, a building permit must be obtained prior to the construction or placement of the temporary structure. If a building permit is not required under the Building Code, a temporary structure permit must be obtained from the village prior to the construction or placement of the temporary structure. Any temporary structure for which a building permit or temporary structure permit has not been obtained must be removed.

(2) In order to obtain a temporary structure permit the applicant must submit a site plan for engineering review. The site plan must be no more than six months old and must show all existing structures and include a statement of the procedures to be followed in the construction or placement of the temporary structure.

(3) Temporary structure permits will be issued only for structures that are commercially produced or manufactured.

(4) Temporary structures are limited to a maximum of 10 feet x 24 feet.

(5) Farmstands may be located in the front yard and must be at least 10 feet from any easement or right-of-way. All other temporary structures must be located in the rear yard and may not protrude beyond the width of the primary structure on the lot.

(6) A temporary structure must be removed after six months from the date of the permit. No more than one permit will be issued for the same structure within any 12-month period.

Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018; Ord 2019-04, 4/22/2019.

#### **§ 2011. Permitted accessory buildings, structures, uses in required yards**

For accessory buildings, structures and uses which are permitted and may be obstructions in yards see Appendix A.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

## **§ 2012. Vision clearance for corner lots**

On corner lots within that part of a yard located within a radius of 25 feet from the point of intersection of the two street right-of-way lines forming the lot corner, no structures or shrubs permitted as obstructions in front yards or side yards adjoining a street, may be erected, altered or planted which are more than 30 inches above grade, and any trees planted in such areas must be maintained in a manner so that no branches are lower than 8 feet above grade.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

## **§ 2013. Motor homes, trailers, boats and recreational vehicles in residential districts**

(a) Motor Homes. One Class A, Class B or Class C motor home owned by the resident, not exceeding 20,000 lbs. per axle, may be parked on a gravel, asphalt or concrete surface in the front or side yard of a lot in any residential district.

(b) Trailers.

(1) A trailer permanently affixed to the ground as a principal or accessory building is not permitted on any lot in any district.

(2) A trailer or other portable building or structure is not permitted in any district as the principal or an accessory building except—

(A) in a lawfully established motor home park or tourist park, or

(B) when used as a temporary building for offices or storage of material and equipment incidental to and on the same lot or on a lot adjacent to construction operations of a principal use and when removed at the time of first occupancy or operation of the principal use.

(3) Up to three trailers (four if no motor home or recreational vehicle is also parked on the same lot), owned by the resident and currently registered as TA (up to 3,000 lbs. GVWR), TB (3,000 to 5,000 lbs. GVWR), or TC (5,000 to 8,000 lbs. GVWR), may be parked in the side or rear yard of a lot in any residential district. If no motor home or recreational vehicle is parked on the same lot and parking in the side or rear yard is not possible, one qualifying trailer may be parked on a gravel, asphalt or concrete surface in the front yard.

(c) Boats, snowmobiles, all terrain vehicles. Boats, snowmobiles, all terrain vehicles, jet skis and the like, owned by the resident, may be stored in the rear yard of a lot in any residential district and must be covered or screened from view of other dwellings. No major repair, disassembly or rebuilding operations are permitted.

(d) Recreational vehicles. One recreational vehicle owned by the resident may be parked on a gravel, asphalt or concrete surface in the front or side yard of a lot in any residential district.

(e) Parking surfaces must be maintained and surrounding areas mowed and kept free of noxious weeds in accordance with this Code.

(f) Parking or storage of construction, excavation or agricultural vehicles or equipment beyond its temporary use for property improvements is not permitted in any residential district.

Ord 1993-01, 10/18/1993; Ord 2018-03, 5/21/2018.

#### **§ 2014. Sewerage and water systems**

(a) A lot that was not a lot of record on October 18, 1993 that is to be used for a single-family detached dwelling served with an individual sewerage disposal system must have an area of not less than 1 acres and a width of not less than 150 feet.

(b) Installation of individual sewage disposal systems and private wells or community sewerage and water systems must conform with the standards and specifications set forth in the applicable laws of Kane County, the State of Illinois, and the Village.

(c) All buildings, other than single-family detached dwellings located on lots less than 1 acres in area, may be served with individual sewage disposal systems and individual wells if the lot conforms with the area and width requirements of the district where such uses are located, provided:

(1) Greater lot areas and widths will be required when necessary to provide areas of adequate size, that are not covered by buildings, structures and pavements, to conform with State of Illinois and Kane County standards for installation of individual sewage disposal systems and individual wells; and

(2) The construction of such building complies in all respects with the Chapter 4, Subchapter 3 of this Code.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

#### **§ 2015. Flood plain**

Construction within the flood plain must comply in all respects with the Chapter 4, Subchapter 3 of this Code.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

#### **§ 2016. Building height**

No building may be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit for the district in which the building is located, except that structures housing elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building and fire or parapet walls, skylights, towers, steeples, flagpoles, chimneys, antennae, water tanks, silos, storage hoppers, or similar structures may be erected above the height limits when recommended by the Plan Commission and approved by the Board of Trustees.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

## **§ 2017. Exemptions**

The regulations of this Chapter will not be exercised so as to deprive the owner of any existing property of the use to which it is lawfully devoted on October 18, 1993 or on the date of any subsequent amendment of this Chapter.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

## **SUBCHAPTER 3—ZONING DISTRICTS, MAPS**

### **§ 2018. Establishment of districts**

In order to carry out the purposes and intent of this Chapter, the Village is divided into the following districts:

- A - Agricultural District
- E1 - Estate Residence District
- E2 - Estate Residence District
- R1 - Single-family Detached Residence District
- R2 - Single-family Detached Residence District
- R3 - Single-family Attached and Multiple-family Residence District
- B1 - Business District
- B2 - Commercial District
- M1 - Manufacturing District
- M2 - Manufacturing District
- TND - Traditional Neighborhood Development District

Ord 1993-01, 10/18/1993; Ord 2008-02, 2/11/2008; Ord 2008-11, 7/16/2008; Ord 2018-01, 4/23/2018; Ord 2019-03, 4/22/2019 (repealed Subchapter 8 - Historic Preservation District).

### **§ 2019. Zoning map - boundaries of districts**

(a) Zoning Map. The zoning districts and their boundaries are as shown on the zoning map entitled Zoning Map, Village of Lily Lake, Kane County, Illinois. The map and all amendments to the map and all notations, references and other information shown on the map are incorporated into and made a part of this Chapter, with the same force and effect as if fully set forth. The original map, properly attested, will be filed with the Village Clerk.

(b) Boundaries of Districts. Where uncertainty exists with respect to the boundaries of the various zoning districts as shown on the map, the following rules apply:

- (1) District boundary lines are either:
  - (A) the center lines of railroads, highways, streets, alleys, easements or waterways,
  - (B) the boundary lines of sections, quarter sections and divisions of sections,



(C) property lines of record on October 18, 1993 for tracts and lots, or

(D) such lines extended unless otherwise indicated.

(2) Where a district boundary line divides a lot in single ownership, the regulations for the more restrictive district extend to the entire lot.

(3) The Board of Trustees will resolve questions concerning the exact locations of zoning district boundary lines after receiving recommendations from the Plan Commission.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

#### **§ 2020. Annexed territory**

On land hereafter annexed to the Village, no structures shall be erected, enlarged or moved and no change in use of land or existing structures shall be made until an amendment to this ordinance designating the zoning district classification of such annexed land is duly adopted by the Board of Trustees. The Plan Commission shall, either before or not later than 60 days after any land is annexed, file in the office of the Village Clerk an application for an amendment to this ordinance establishing zoning district classifications for such land.

(Ord 1993-01, 10/18/1993.)

### **SUBCHAPTER 4—AGRICULTURAL DISTRICT**

#### **§ 2021. Preamble**

The regulations of the Agriculture District are designed to regulate the use of land, buildings and structures within the areas of the Village where soil and topographic conditions are best adapted to the pursuit of agriculture and utilization of other natural land resources, and preservation of land for further nonagricultural uses.

(Ord 1993-01, 10/18/1993.)

#### **§ 2022. Permitted uses**

Permitted uses in the Agricultural District are those marked with the letter “P” in Appendix D.

(Ord 1993-01, 10/18/1993.)

#### **§ 2023. Accessory uses**

Uses, buildings and structures, accessory to agricultural uses:

(a) Those customarily accessory to the pursuit of agriculture; provided, that buildings and structures for the shelter of farm animals are set back no less than 100 feet from a property line.

(b) Roadside stands for the sale of farm products grown and raised on the farmer's land, but not including live animals, and provided that such stand shall contain not more than 600 square feet of floor area. The stand, and items on sale, shall not be located nearer than 50 feet from a street or highway right-of-way line, except a temporary roadside stand may be within ten feet of a street or highway right-of-way line, provided the stand shall be at such location only during the selling period. There shall be provided with each roadside stand facilities approved by the Zoning Officer for vehicular ingress and egress and adequate off-street parking facilities for the customers.

(Ord 1993-01, 10/18/1993.)

#### **§ 2024. Special uses**

Special uses in the Agricultural District are those marked with the letter "S" in Appendix D. The operations of all special uses shall, unless otherwise provided in Appendix D, conform with the performance standards set forth in this ordinance for the MI Manufacturing District. The setback areas bordering the property lines shall be landscaped and so maintained as permanent open areas but may contain driveways, walks, fences and buildings or structures for admission controls. Each of the special uses hereunder shall be on a lot which is located no nearer than 500 feet from a residence district boundary line. On such lots no building, structure or use of land, including off street parking and loading spaces, but not including growing of farm crops, floriculture or horticulture, shall be located nearer than 100 feet from a lot line except as set forth in Appendix A for excavations.

Ord 1993-01, 10/18/1993.

#### **§ 2025. Lot area**

The required lot area shall be not less than five acres, except as otherwise provided herein for a specific permitted or special use.

Ord 1993-01, 10/18/1993.

#### **§ 2026. Lot width**

The required lot width shall be not less than 330 feet except as otherwise provided herein for a specific permitted or special use.

Ord 1993-01, 10/18/1993.

#### **§ 2027. Floor area ratio**

The floor area ratio shall not exceed 0.1.

Ord 1993-01, 10/18/1993.

#### **§ 2028. Yards**

Yards shall be as provided in Appendix B.

(Ord 1993-01, 10/18/1993.)

## § 2029. Signs

Non-illuminated signs are permitted under the conditions specified below:

(a) Nameplate and identification signs.

(1) Agricultural use, area and content. There shall be not more than one nameplate, not exceeding ten square feet in area, for each principal farm dwelling, indicating the name of the occupant and specialized agricultural activities except, on a corner lot, two such nameplates for each dwelling unit shall be permitted. Signs required for crop identification during the growing seasons shall be permitted.

(2) Nonagricultural use, area and content. A single identification sign, not exceeding 16 square feet in area. On a corner lot, two such signs, one facing each street, shall be permitted.

(3) Location. No sign shall be nearer than 15 feet from a lot line adjoining a street.

(4) Height. No sign shall be higher than 10 feet above curb level.

(b) *For Sale* and *For Rent* Signs.

(1) Number. There shall be not more than one sign facing each street.

(2) Area. No sign shall exceed 12 square feet in area.

(3) Projection. No sign shall project beyond the property line.

(4) Height. No sign shall be higher than 10 feet above curb level.

(c) Advertising signs.

(1) Restrictions. Advertising signs shall be permitted on tracts of land where the principal use is agriculture, provided such signs have no moving parts.

(2) Number. One advertising sign shall be permitted on a tract of land having not less than 1,000 lineal feet of frontage on a county, State or Federal highway, and one additional advertising sign shall be permitted for each additional 1,000 lineal feet of highway frontage, provided that not more than two sign structures are joined together and there is an interval of at least 1,000 feet between a single-sign or double-sign structure.

(3) Area. Each advertising sign structure shall contain not more than two display surfaces and shall not exceed 16 square feet in area.

(4) Height. Such sign structure shall not be higher than 10 feet above average ground grade at the sign structure or above grade of the near edge of the roadway pavement at a point directly opposite the sign structure, whichever is higher.

(5) Location. Location of advertising signs shall be not less than 15 feet from a property line; and not less than 15 feet from a residence district boundary line.

(6) Compliance With Other Regulations. Advertising signs shall comply with all other Federal, State or Village regulations and ordinances.

**§ 2030. Off-street parking and loading.**

In accordance with the regulations set forth in Subchapter 10 of this Chapter.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

## **SUBCHAPTER 5—RESIDENCE DISTRICTS**

**§ 2031. Preamble**

The regulations for residence districts are designed to conserve existing residential areas and to regulate the efficient use and orderly development of vacant land designated for residential uses. It is essential that areas be designated and regulations imposed for the various kinds of residential developments in order that the Village and other governing bodies can plan ahead for services, future schools, parks, streets and utilities.

(Ord 1993-01, 10/18/1993.)

**§ 2032. General provisions applicable to all residence districts**

Unless otherwise provided in this ordinance, the following provisions shall apply to all residence districts:

(a) Signs

(1) *For Sale* and *For Rent* signs; number, area, height, location and duration. Not more than one *For Sale* and *For Rent* sign pertaining to the sale or rental of the property on which it is located shall be permitted on any lot, except on a corner lot or through lot, in which case one such sign facing each street shall be permitted. Such a sign shall not be illuminated. No such sign shall have more than 6 sq. ft. of area, nor project higher than 10 feet above grade when affixed to a building wall or 5 feet above grade when affixed to the ground. No such sign shall be located less than 8 feet from the nearest lot line. All such signs shall be removed within 5 days after the closing of the sale or rental of the property.

(2) Identification signs; number, area, height and location. Not more than one development identification sign for nonresidential uses shall be permitted on any lot, except on a corner lot or through lot, in which case one such sign facing each street shall be permitted. Such a sign may be illuminated by non-flashing direct or indirect illumination arranged in a manner such that direct rays of light are not beamed onto adjoining lots and streets. No such sign shall have more than 16 sq. ft. of area, nor project higher than 10 feet above the grade of the floor at the entrance doorways or 10 feet above grade when affixed to the ground. No such sign shall be located less than 8 feet from the nearest interior lot line nor less than one half the depth of the required yard from the nearest lot line adjoining a street.

(3) Temporary Signs.

(A) Definition. Any sign or advertising device made of cloth, canvas, fabric, wood, plywood, cardboard or other light material, not permanently attached to a permanent structure such as, but not limited to, a building, bench, or land, that can be moved from place to place by any means of conveyance attached thereto.

(B) Size. Temporary signs shall not exceed 6 sq. ft. in area. Political signs, separate from all other types of temporary signs shall not exceed 16 sq. ft. in area. The total cumulative area of all temporary signs on any single residential lot shall not exceed 22 sq. ft. (6 sq. ft. +16 sq. ft.).

(C) Duration. No temporary sign shall be displayed for more than 5 days during any 30-day period. No more than 4 5-day display periods will be permitted per year.

(i) Personal sale signs may be erected no more than 1 day prior to the sales event and shall be removed no later than 1 day following the sales event.

(ii) Political signs may be erected no more than 30 days prior to the date of the election and shall be removed within 24 hours after the election.

(D) Placement. Temporary signs shall not be attached to utility poles, trees, mailboxes or other structures. Temporary signs shall not be erected on private property without the consent of the property owner. Temporary signs shall be self-supporting. Temporary signs shall not exceed 42 inches in height above ground and shall not be erected less than 15 feet from adjacent lot lines nor less than 10 feet from the public right-of-way.

(E) Directional signs. Directional signs are temporary signs and are the only temporary signs allowed within the public right-of-way. Directional signs are limited to a simple "arrow" design only to direct the public. The regulations set forth in subsection 3(c) above are applicable to directional signs.

(i) Directional signs must be at least 5 feet from the curb or edge of pavement.

(ii) Directional signs shall not exceed 30 inches in height above ground and must be self-supporting.

(iii) Directional signs may not exceed 4 sq. ft. in area.

(iv) Balloons, flags or other types of attention-getting devices are prohibited within the public right-of-way.

(v) A limit of 3 directional signs per event location may be used.

(F) Removal. Any sign deemed unsafe, improper or in violation of this or any other Village ordinance shall be removed, and if removed by the Village, the expense thereof may be included in the amount of any judgment entered in any proceeding brought to enforce the provisions of this ordinance.

(b) Home Occupations

In all residence districts, home occupations shall be permitted, provided all of the following conditions are met:

- (1) It is conducted entirely within the dwelling or an attached or detached accessory building.
- (2) Both the dwelling and the attached or detached accessory building (if such home occupation is to be conducted therein), were constructed prior to November 6, 1990 pursuant to a valid permit issued by Kane County.
- (3) It is conducted only by members of the family residing in the dwelling and only when such home occupation is incidental and secondary to the use of the premises as a dwelling.
- (4) It does not require any external alteration or equipment inconsistent with the principal use of the premises as a dwelling and does not occupy more than one-fourth of the combined floor area of the dwelling and the attached or detached accessory building (if such home occupation is to be conducted therein).
- (5) There is no display or activity visible from the outside of any of the buildings on the premises that any of them is being used for any use other than a dwelling or an attached or detached building accessory to the dwelling, except one nameplate shall be permitted provided it is attached to the building, is no more than one square foot in area and contains only the name of the occupant of the dwelling and the home occupation conducted therein. The nameplate shall not be illuminated.
- (6) No deliveries related to the home occupation shall be made to and from the premises other than by United States mail, parcel post, Federal Express or other recognized courier services, or private passenger automobile.

Ord 2005-07, 11/21/2005.)

(c) (1) In this subsection—

- (A) “*apiary*” means a place where bee colonies are kept.
- (B) “*bee*” means any stage of the common domestic honey bee, *Apis Mellifera* species.
- (C) “*beekeeper*” means a person who keeps bees.
- (D) “*beekeeping*” means the raising or producing of bees, beeswax, honey, and by-products and the transporting of bees, colonies or items of bee equipment.
- (E) “*colony*” means a hive and its equipment and appurtenances, including bees, comb, honey, pollen, and brood.

(F) “*hive*” means a structure intended for the housing of a bee colony.

(2) Hive. Bees shall be kept in an Illinois Department of Agriculture apiary-approved inspectible type hive with removable combs and kept in sound and usable condition.

(3) License required.

(A) A license from the village is required to keep bees within the village limits. Persons having an existing bee colony shall apply for a license within 14 days of the effective date of this ordinance.

(B) In addition to the license application the beekeeper shall submit —

(I) proof of registration with the Illinois Department of Agriculture;

(ii) evidence that the beekeeper’s apiary is in compliance with all of the requirements of this subsection;

(iii) a plat of survey of the property showing the location of the apiary in relation to property lines and distance from adjoining properties and permanent structures; and

(iv) a non-refundable application fee of \$20.

(C) The license shall be renewed annually. Proof of registration with and inspection of the apiary by the Illinois Department of Agriculture must accompany the application for renewal. Applications for renewal submitted prior to the expiration of the annual license will be processed free of charge. Applications for renewal submitted after the expiration of the license will be processed as a new application and require payment of the non-refundable \$20 application fee.

(4) Requirements.

(A) Location. Apiaries must be located in rear yards only not less than 15 feet from the property line.

(B) Signage. Signage warning of the presence of beehives must be placed at the location of the apiary.

(C) Water. A source of fresh water within 50 feet of the hive area must be available to the bees at all times in order to deter bees from congregating at swimming pools, hose bibs, dog bowls and bird baths or other domestic water sources where they may come into contact with humans, birds, or domestic pets. Water must not be allowed to become stagnant.

(D) Maintenance. Bee combs or other materials that might encourage “robbing” must be promptly removed from the apiary and disposed of in a sealed

container or placed within a bee-proof enclosure. If the colony exhibits unusually aggressive behavior by stinging or attempting to sting without due cause or exhibits a disposition towards swarming, the beekeeper shall re-queen the colony. Queens must be selected from stock bred for gentle this and non-swarming characteristics.

(E) Density. Bees may not be kept on any property less than 1 acre in size. No more than 4 hives may be kept for every full acre of land with a maximum of 20 hives.

(5) Violation. Any beekeeper who fails to comply with the requirements of this subsection is guilty of a violation of this subsection. Any person who keeps any other nest or colony of stinging insects such as yellow jackets, hornets, or other varieties of bees including *Vespidae*, in trees, buildings, underground, or in any other space is guilty of a violation of this subsection. Any person who keeps a diseased colony of honeybees is guilty of a violation of this subsection. Any violation of this subsection is punishable by a civil fine of not less than \$10 nor more than \$750. Each day's continuing violation constitutes a separate offense.

(Ord 2015-02, 4/20/2015.)

(d) Landscaping. Landscaping shall be required according to the policies of the Village. Required landscaping may include, but is not limited to the following: street trees, building foundation plantings, parking lot landscaping, screening and berming. Proposed landscaping shall be reviewed by the Zoning Officer, Zoning Board of Appeals and/or Plan Commission, as applicable, and forwarded with recommendations to the Village Board as part of the approval process. To evaluate any proposed landscaping the Village may require preliminary and final landscape plans including: details of location, species, size and quantities of plant materials; planting specifications; and other information required to evaluate the proposed project or application.

(Ord 1993-01, 10/18/1993.)

(e) Raising of domestic hens.

(1) Keeping poultry for private use is permitted under the following conditions:

(A) No more than 8 domestic hens may be kept on a property that is less than 1 acre in size. No more than 12 domestic hens may be kept on a property equal to or larger than 1 acre.

(B) Roosters are prohibited.

(C) Slaughtering of hens within the village limits, other than for humane reasons, is prohibited.

(D) Hens must be kept within a covered inside enclosure, not less than 2' x 2' x 2' per hen, with an adjacent outside fenced area, not less than 32 square feet in size.

(E) The enclosure and adjacent fenced area must be in the rear yard and set back—



(i) 30 feet from any adjacent occupied residential structure, other than that of the owner; but

(ii) not less than the minimum property line setback required for accessory structures in the zoning district.

(F) All enclosures must be constructed and maintained in a neat and clean manner such as to be free of infestation by rodents or other vermin and odors detectable on adjacent properties.

(G) Hens must be maintained so as not to produce noise loud enough to disturb the peace of persons of reasonable sensitivity. Failure to do so is declared to be a nuisance.

(H) A building permit may be required for certain enclosures. No permit is required for an enclosure no larger than 4' x 4' x 8' without utilities. A determination for all other enclosures will be made by the building officer at the time of application. If a permit is required, the fee will be determined under the residential construction, accessory structures portion of the permit fee schedule (§ 501 of the Village Code, as amended).

(I) Using an extension cord to provide electrical service to the enclosure is prohibited.

(2) All persons wishing to keep hens within the village shall register with the building and zoning officer prior to their acquisition. Registration forms may be obtained from the village clerk. If a permit is required, registration forms will not be accepted until the enclosure has passed a final inspection by the building inspector.

(3) The registration form will include a statement that the property owner gives permission for the building and zoning officer, or agent, to access the rear yard of the residence periodically during business hours for the purpose of verifying compliance with this ordinance.

(4) A fee of \$25 will be charged for registration.

(5) Violation of this ordinance is punishable by a civil fine of no more than \$100 plus the costs and attorneys fees incurred by the Village for any required hearing. Each day a violation continues constitutes a separate offense.

(6) Registration and permission to keep hens will be automatically revoked if 3 violations of this ordinance occur with respect to the same property within any 12-month period. A further violation of this ordinance, after registration and permission have been revoked, is punishable by a fine of not more than \$750, plus the costs and attorneys fees incurred by the Village for any required hearing. Each day such a violation continues constitutes a separate offense.

(7) Nothing in this ordinance permits the keeping of such animals when such activity is prohibited by private covenants, conditions, or restrictions governing the use of the property, or by rules, regulations, or orders issued by the Illinois Department of Public Health or the Kane County Health Department.

Ord. 2013-07, 11/18/2013.

### **§ 2033. E1 Estate residence district**

(a) Permitted Uses. Uses permitted in the E1 Estate Residence District are those marked with the letter “P” in Appendix D.

(b) Special Uses. Special uses in the E1 Estate Residence District are those marked with the letter “S” in Appendix D.

(c) Lot Area. Single family detached dwellings, not less than five acres. Non-residential uses, unless otherwise specified herein, not less than ten acres.

(d) Lot Width. Single family detached dwellings, not less than 250 feet. Non-residential uses, unless otherwise specified herein, not less than 400 feet.

(e) Building Height. Single family detached dwellings, not more than 21/2 stories or 30 feet, whichever is lower. Non-residential uses, unless otherwise specified herein, not more than three stories or 35 feet, whichever is lower.

(f) Ground Floor Area Per Dwelling. One story dwellings, not less than 1,800 square feet. One and one-half story dwellings, not less than 1,400 square feet. Two story and 21/2 story dwellings, not less than 1,300 square feet.

(g) Floor Area Ratio. Single family detached dwellings, not applicable. Non-residential uses, not more than 0.1.

(h) Yards. Yard requirements in the E1 Estate Residence District are as shown in Appendix B.

(i) Off-Street Parking and Off-Street Loading. In accordance with the regulations set forth in Subchapter 10 of this Chapter.

(Ord 1993-01, 10/18/1993; Ord 2008-11, 7/16/2008; Ord 2018-01, 4/23/2018.)

### **§ 2034. E2 Estate Residence District**

The E2 Estate Residence District is intended as a transitional buffer between the R1 Single Family Detached Residential District and the E1 Estate Residence District.

(a) Permitted uses. Uses permitted in the E2 Estate Residence District are those marked with the letter "P" in Appendix D.

(b) Special uses. Special uses in the E2 Estate Residence District are those marked with the letter "S" in Appendix D.

(c) Lot area. Single family detached dwellings, not less than 2 ½ acres. Nonresidential uses, unless otherwise specified herein, not less than 10 acres.

(d) Lot width. Single family detached dwellings, not less than 200 feet, or 150 feet if no single boundary line is longer than 500 feet. Nonresidential uses, unless otherwise specified herein, not less than 400 feet.

(e) Building height. Single family detached dwellings, not more than 2 ½ stories or 30 feet, whichever is lower. Nonresidential uses, unless otherwise specified herein, not more than 3 stories or 35 feet, whichever is lower.

(f) Ground floor area per dwelling. One-story dwellings, not less than 1800 square feet. 1½ story dwellings, not less than 1400 square-feet. Two-story and 2 ½ story dwellings, not less than 1300 square-feet.

(g) Floor area ratio. Single family detached dwellings, not applicable. Nonresidential principal uses, not more than 0.1.

(h) Yards. Yard requirements in the E2 Estate District are shown in Appendix B.

(i) Off-street parking and loading. In accordance with the regulations set forth in Article VIII of this ordinance.

(Ord 2008-11, 7/16/2008; Ord 2018-01, 4/23/2018.)

#### **§ 2035. R1 Single-family detached residence district**

(a) Permitted Uses. Uses permitted in the R1 Residence District are those marked with the letter “P” in Appendix D.

(b) Special Uses. Special uses in the R1 Residence District are those marked with the letter “S” in Appendix D.

(c) Lot Area. Single family detached dwellings, not less than 1 ⅓ acres. Non-residential uses, unless otherwise specified herein, not less than five acres.

(d) Lot Width. Single family detached dwellings, not less than 150 feet. Non-residential uses, unless otherwise specified herein, not less than 300 feet.

(e) Building Height. Single family detached dwellings, not more than 2½ stories or 30 feet, whichever is lower. Non-residential uses, unless otherwise specified herein, not more than three stories or 35 feet, whichever is lower.

(f) Ground Floor Area Per Dwelling. One story dwellings, not less than 1,400 square feet. One and one-half story dwellings, not less than 1,000 square feet. Two story and 2½ story dwellings, not less than 900 square feet.

(g) Floor Area Ratio. Single family detached dwellings, not applicable. Non-residential uses and detached accessory buildings and structures in the aggregate, not more than .015.

(Ord 1998-01, 12/21/1998.)

(h) Yards. Yard requirements in the R1 Residence District are as shown in Appendix B.

(i) Off-Street Parking and Off-Street Loading. In accordance with the regulations set forth in Subchapter 10 of this Chapter.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

**§ 2036. R2 Single-family detached residence district**

(a) Permitted uses. Uses permitted in the R2 Residence District are those marked with a letter “P” in Appendix D.

(b) Special uses. Special uses in the R2 Residents District are those marked with the letter “S” in Appendix D.

(c) Lot area. Single-family detached dwellings, not less than 12,500 square feet. Nonresidential uses, unless otherwise specified herein, not less than 1 acre.

(d) Lot width. Single-family detached dwellings, not less than 100 feet. Nonresidential uses, unless otherwise specified herein, not less than 100 feet.

(e) Building height. Single-family detached dwellings, not more than 2½ stories or 40 feet, whichever is lower. Nonresidential uses, unless otherwise specified herein, not more than 2½ stories or 40 feet, whichever is lower.

(f) Ground floor area per dwelling. One-story dwellings, not less than 1400 square feet. 1½ story dwellings, not less than 1000 square feet. Two-story and 2½ story dwellings, not less than 900 square feet.

(g) Floor area ratio. Single-family detached dwellings, not applicable. Nonresidential principal uses, not more than 0.30.

(h) Yards. Yard requirements in the R2 Residence District are shown in Appendix B.

(i) Off-street parking and loading. In accordance with the regulations set forth in Subchapter 10 of this Chapter.

(j) Central sewer and water. Central sewer and water service is required.

(Ord 2008-02, 2/11/2008; Ord 2018-01, 4/23/2018.)

**§ 2037. R3 Single-family attached and multiple family residence district**

(a) Permitted Uses. Uses permitted in the R3 Residence District are those marked with the letter “P” in Appendix D.

(b) Special Uses. Special uses permitted in the R3 Residence District are those marked with the letter “S” in Appendix D.

(c) Lot Area per Dwelling. Minimum lot sizes should be as stated herein, unless approved by the Board of Trustees and processed under the requirements of the Village’s Planned Unit Development regulations.

(1) Single family detached dwelling, not less than 1 ⅓ acres.

(2) Single family semi-detached dwelling (duplex), not less than one acre per dwelling unit.

(3) Single family semi-detached dwelling having a party wall common with a single family attached dwelling, single family attached dwelling, and multiple family dwelling, as follows:

Type of Dwelling Unit	Minimum Lot Area per Dwelling Unit in Acres
4 bedroom and over	.50
3 bedroom	.40
2 bedroom	.30
1 bedroom and efficiency	.25

(4) Two family detached dwellings, not less than .75 acres.

(5) Nonresidential uses, unless otherwise specified herein, not less than one acre.

(6) All residential uses permitted in this district shall be served by public or community water and sanitary systems.

(d) Lot Width.

(1) Single family detached dwelling, not less than 150 feet.

(2) Two family detached dwelling, not less than 150 feet.

(3) Single family semi-detached dwelling (duplex), not less than 150 feet and not less than 75 feet per dwelling unit.

(4) Two single family semi-detached dwellings and one single family attached dwelling (row house building), not less than 150 feet plus not less than an additional 50 feet for each additional single family attached dwelling in a building.

(5) Multiple family dwelling, not less than 150 feet.

(e) Building Height.

(1) Single family detached, attached and semi-detached dwellings, not more than 21/2 stories or 30 feet, whichever is lower. Non-residential uses, unless otherwise specified herein, not more than three stories or 35 feet, whichever is lower.

(2) Two family detached dwellings, not more than two stories or 24 feet, whichever is lower.

(3) All other dwelling types, not more than two stories or 24 feet, whichever is lower.

(f) Ground Floor Area Per Dwelling. One story dwellings, not less than 1,400 square feet. One and one-half story dwellings, not less than 1,000 square feet. Two story and 2½ story dwellings, not less than 900 square feet.

(g) Floor Area Ratio.

- (1) Single family detached dwelling, not applicable.
- (2) Multiple family dwelling and non-residential uses:
  - (A) For one story structures, not more than .3;
  - (B) For structures having two stories or more, not more than .5.
- (h) Yards. Yard requirements in the R2 Residence District are as shown in Appendix B.
- (i) Spacing Between Structures. When two or more structures which contain single-family detached dwellings, single-family attached dwellings, single-family semi-detached dwellings or two or more multiple-family dwelling structures, or combinations thereof are on a lot or on contiguous lots comprising a unified development under the same ownership or control, the distance between the structure walls shall be as follows:
  - (1) When the front wall of a structure faces the front wall of the nearest structure, the distance between the two structure walls shall be not less than 80 feet.
  - (2) When the rear wall of a structure faces the rear wall of the nearest structure, the distance between the two structure walls shall be not less than two times the building height or 60 feet, whichever greater.
  - (3) When the side wall of a structure faces the front or rear wall of the nearest structure, the distance between the two structure walls shall be not less than 50 feet.
  - (4) When the side wall of a structure faces the side wall of the nearest structure, the distance between the two structure walls shall be not less than 30 feet.
  - (5) From any corner of a structure to any corner of the nearest structure, the distance between the two corners shall be not less than 30 feet.
- (j) Off-Street Parking and Off-Street Loading. In accordance with the regulations set forth in Subchapter 10 of this Chapter.

(Ord 1993-01, 10/18/1993; Ord 2008-02, 2/11/2008; Ord 2018-01, 4/23/2018.)

## **SUBCHAPTER 6—BUSINESS DISTRICTS**

### **§ 2038. Preamble**

Business district regulations are intended to govern the locations and uses of a full range of business and commercial establishments needed to serve the citizens of the Village and its trade area. The regulations of the various business districts are designed to provide for groupings of business and commercial establishments that are compatible in scope of services and method of operations.

(Ord 1993-01, 10/18/1993.)

## **§ 2039. General provisions**

The following provisions apply to all business districts:

(a) Dwelling units. Dwelling units and lodging rooms are not permitted on the ground floor level in any business district except in a permitted hotel, motel or as a lawful nonconforming use existing on October 18, 1993.

(b) Enclosure of operations. All business, servicing or processing must be completely enclosed within a building except—

(1) Off-street parking or off-street loading;

(2) Drive-in type operations when conducted as a permitted or special use;

(3) Open sales lots when operated as a permitted use;

(4) Contractors offices and shops and machine, sheet-metal or welding shops when operated as a special use in the B1 Business District and then only in strict compliance with the ordinance approving the special use; and

(5) Sales of fuel.

(c) Performance standards. All activities must conform with the performance standards established for the M1 Manufacturing District, in every case measured at the boundaries of the lot on which any such activities take place.

(d) Parking limitations. Truck parking when accessory to the conduct of a permitted use is limited to vehicles having a capacity not exceeding 1½ tons except for pickup or delivery services during normal business hours.

(e) Landscaping and screening. Landscaping and screening will be required. Required landscaping may include, but is not limited to, street trees, foundation plants, parking lot landscaping, screening and berming. Proposed landscaping will be reviewed by the Hearing Officer and Plan Commission and forwarded with recommendations to the Board of Trustees as part of the approval process. To evaluate any proposed screening and landscaping the Village may require preliminary and final site plans and landscape plans including details of proposed screening and location, species, size and quantities of plant materials, planting specifications, and other information required to evaluate the proposed project or application.

Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.

## **§ 2040. B1 Business District**

The B 1 Business District regulations are designed to accommodate prime retail trade activities of the Village and environs significant thereto as designated by the Zoning Map. Regulations provide for a wide variety of related shopper type business establishments along with personal service and other complementary uses.

(a) Permitted Uses. Uses permitted in the B1 Business District are those marked with the letter "P" in Appendix D.

(b) Accessory Uses. Accessory uses are those customarily incidental to permitted uses, including but not limited to off-street parking, off-street loading and business signs as herein regulated and dwelling units or lodging rooms when above the first story.

(c) Special uses. Special uses in the B1 Business District are those marked with the letter "S" in Appendix D.

(1) Certain special uses. Contractor's and landscape contractor's offices and shops, feed, fertilizer and seed stores, retail and wholesale greenhouses and garden centers, live bait shops, and machine, sheet-metal or welding shops permitted as special uses in the B1 Business District are subject to additional restrictions. Outside storage of vehicles, equipment, or other property may be restricted by location, type, and duration or prohibited altogether. Number, type, weight, capacity and hours of operation of vehicles to be parked on the property or used in the operation of the special use may be restricted. Certain activities may be required to be completely enclosed within a building or screened from view. Hours of operation may be restricted. Additional screening and noise regulations may be imposed.

Ord 2018-01, 4/23/2018.

(d) Lot Area. Minimum lot area shall be in accordance with bulk and off-street parking and loading requirements of the district and specifically required for a special use.

(e) Building Height. 30 feet or three stories, whichever is lower.

(f) Floor Area Ratio. Not to exceed 1.0.

(g) Yards. Yard requirements in the B1 Business District are as shown in Appendix B.

(h) Awnings, Marquees and Signs. Awnings, marquees and non-flashing illuminated business signs with no moving parts are permitted subject to applicable regulations set forth in other ordinances of the Village and the following:

(1) Number. There shall be a maximum of one wall sign for each business establishment provided, however, that:

(A) A maximum of two such wall signs shall be permitted for each business establishment when:

(i) The establishment to which the sign refers is located on a corner lot.

(ii) The establishment to which the sign refers has more than one business frontage. For the purposes of this ordinance, a business frontage means a public right-of-way, a customer access drive, or a parking lot which serves the business establishment.

(B) When more than one business is located in a building, each establishment shall be permitted to display a wall sign on the front façades of a building and corner side façades if applicable.



(C) In addition to signs otherwise permitted in business districts, one ground sign may be permitted where it is determined by the Zoning Officer that otherwise permitted signage would be inadequate in identifying the business use, and that one of the following conditions are met:

- (i) The use is a restaurant or automobile service station or service store.
- (ii) The business use is located on a parcel which, by virtue of topographic conditions, substantially restricts the visibility of the premises. Required landscaping or building setbacks shall not be deemed to be an obstruction to visibility.
- (iii) The use is an office building or office complex provided, however, not more than one ground sign is installed in lieu of any wall signage otherwise permitted under the terms of this ordinance.

(2) Area. The maximum size of business identification wall signs shall not exceed five percent of the building façade area upon which the sign is to be located, to a maximum of 100 square feet. The maximum size of ground signs shall not exceed 40 square feet per side, limited to two sides, or 80 square feet total.

(3) Projection. All signs affixed to the building walls shall not extend therefrom more than 12 inches.

(4) Height. The total height, including the base of a ground sign shall not exceed 12 feet.

(5) Location. All signs shall be affixed to the building walls. In a planned unit development a ground sign shall be not less than ten feet from any lot line.

(6) Color Restriction. A sign in direct line of vision of any traffic signal shall not have red, green or amber illumination.

(i) Off-Street Parking and Off-Street Loading. In accordance with regulations set forth in Subchapter 10 of this Chapter.

Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.

#### **§ 2041. B2 Business District**

The B2 Business District classification is established to accommodate a wide range of specialized commercial uses including highway oriented service and commercial types of establishments to serve the needs of the motorists. A B2 Business District may be located adjacent to one or more B1 Business Districts to form a complete business center, or may be commercial areas consisting entirely of specialized commercial activities.

(a) Permitted Uses. Uses permitted in the B2 Business District are those marked with the letter "P" in Appendix A.

(b) Accessory Uses. Accessory uses are those customarily incidental to permitted uses, including but not limited to off-street parking, off-street loading and signs as herein regulated.

(c) Special Uses. Special uses in the B2 Business District are those marked with the letter "S" in Appendix D.

(d) Lot Area. Except as may herein otherwise be required for a specific permitted or special use, not less than .75 acres.

(e) Lot Width. Except as may herein otherwise be required for a specific permitted or special use, not less than 100 feet.

(f) Floor Area Ratio. Not to exceed 1.0.

(g) Yards. Yard requirements in the B2 Business District are as shown in Appendix B.

(h) Awnings, Marquees and Signs. As and when permitted in the B1 Business District, ground signs shall be permitted as accessory to any use allowed in this district, provided such sign shall not extend into a street right of way and it shall be located not less than 15 feet from the nearest interior lot line.

(i) Off-Street Parking and Off-Street Loading. In accordance with regulations set forth in Subchapter 10 of this Chapter.

Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.

## SUBCHAPTER 7—MANUFACTURING DISTRICTS

### § 2042. Preamble

The regulations for manufacturing districts are designed to provide for the establishment of a full range of industrial and allied activities and to govern their operations in a manner that will not have a deleterious effect on agricultural, residential and business areas. It is essential that there are adequate provisions for the expansion of industry, both those existing today and for attracting a diversification of new industry. Adequate industrial sites and industrial expansion will create growth and development of the Village's economic and tax base and provide a variety of employment for its labor force.

(Ord 1993-01, 10/18/1993.)

### § 2043. General provisions

(a) Prohibited Uses. No activities involving the manufacture of materials or products which decompose by detonation shall be permitted in the MI and M2 Districts. Such materials shall include, but shall not be limited to, all primary explosives such as lead azide, lead styphnate, fulminates and tetracene; all high explosives such as TNT, RDX, HMX, PETN and picric acid; propellants and components thereof such as nitrocellulose, black powder, boron hydrides, hydrazine and its derivatives; pyrotechnics and fireworks such as magnesium powder, potassium chlorate and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, tetrazoles and ozonides; strong oxidizing agents such as liquid oxygen, perchloric acid,

perchlorates, chlorates and hydrogen peroxide in concentrations greater than 35 %; and nuclear fuels, fissionable materials and products, and reactor elements such as Uranium 235 and Plutonium 239.

(b) Operations Within Enclosed Buildings.

(1) M1 Manufacturing District. All activities involving the manufacturing, fabricating, processing, assembling, disassembling, repairing, cleaning, servicing, testing and storing of materials, products and goods shall be conducted within completely enclosed buildings.

(2) M2 Manufacturing District. Within 500 feet of any residence district, all activities involving the manufacturing, fabricating, processing, assembling, disassembling, repairing, cleaning, servicing, testing and storing of materials, products and goods shall be within completely enclosed buildings, or if outdoors, effectively screened by a solid wall, uniformly painted solid fence or chain link fence with dense plantings of trees and shrubs; and provided, the open storage is not of a greater height than that of the enclosing fence or wall. Outdoor storage of uncontained bulk materials capable of becoming airborne such as coal, sand, sulfur, etc., is prohibited.

(3) Performance Standards.

(A) Compliance With Standards. Any use established in the manufacturing districts after the effective date hereof shall be so operated as to comply with the performance standards governing: (a) noise; (b) vibration; (c) smoke and particulate matter; (d) toxic matter; (e) odorous matter; (f) fire and explosive hazards; (g) glare; and (h) radiation hazards, as set forth hereinafter for the district in which such use shall be located.

(B) Existing Uses. Uses already established on the effective date hereof shall be permitted to be altered, enlarged, expanded or modified, provided that the additions or changes comply with said performance standards.

(C) Noise.

(i) For the purpose of measuring the intensity and frequency of sound, the sound level meter, the octave band analyzer and the impact noise analyzer shall be employed.

(ii) The flat network and the fast meter response of the sound level meter shall be used. Sounds of very short duration, as from forge hammers, punch presses and metal shears which cannot be measured accurately with the sound level meter shall be measured with the impact noise analyzer.

(iii) Octave band analyzers calibrated in the Preferred Frequencies (American Standards Association S1.6 - 1960, Preferred Frequencies for Acoustical Measurements) shall be used in the table headed "Octave Band, Preferred Frequencies". Octave band analyzers calibrated with the pre-1960 octave bands (American Standards Association Z24.10 - 1953, Octave Band Filter Set) shall be used with the tables headed "Octave Band, Pre-1960".

(iv) The following uses and activities shall be exempt from the noise level regulations:

(I) Noises not directly under the control of the property user.

(II) Noises emanating from construction and maintenance activities between 7:00 A.M. and 9:00 o'clock P.M., Monday through Friday.

(III) The noises of safety signals, warning devices and emergency pressure relief valves.

(IV) Transient noises of moving sources such as automobiles, trucks, airplanes and railroads.

(v) The decibel values specified for residence districts shall be reduced by six decibels between the hours of 9:00 P.M. and 7:00 A.M.

(vi) In the M1 District, the generation of noise shall not exceed the decibel limits set forth in Appendix C, Table 4.

(vii) Impact noises measured on an impact noise analyzer shall not exceed the peak intensities set forth in Appendix C, Table 5.

(viii) In the M2 District, the generation of noise shall not exceed the decibel limits set forth in Appendix C, Table 6.

(ix) Impact noises measured on an impact noise analyzer shall not exceed the peak intensities set forth in Appendix C, Table 7.

(D) Vibration.

(i) Compliance with Standard. In all manufacturing districts, no activity or operation shall cause or create earthborn vibrations in excess of the displacement values given below.

(ii) Measurements. Measurements shall be made at or beyond the adjacent lot line or the nearest residence district boundary line, as described below. Vibration displacements shall be measured with an instrument or complement of instruments capable of simultaneously measuring in three mutually perpendicular directions. The maximum vector resultant shall be less than the vibration displacement permitted.

(iii) Formula. The maximum permitted displacements shall be determined in each district by the formula:  $D=K/F$  where D = displacement in inches; K = a constant to be determined by reference to the tables in Appendix C; and f = the frequency of transmission.

(iv) M1 Manufacturing District. The maximum earth displacement permitted at the points described in Appendix C, Table 8 shall be determined by use of the formula in the preceding subsection (c) and the appropriate K constant shown in Table 8.

(v) M2 Manufacturing District. The maximum earth displacement permitted at the points described in Appendix C, Table 9 shall be determined by use of the formula in subsection (c) and the appropriate K constant shown in Table 9.

(E) Smoke and Particulate Matter.

(i) The emission of smoke or particulate matter in such manner or quantity as to endanger or be detrimental to the public health, safety, comfort or welfare is hereby declared to be a public nuisance and shall not be permitted in the manufacturing districts.

(ii) For the purpose of grading the density or equivalent opacity of smoke, the Ringelmann Chart described in the U.S. Bureau of Mines Information Circular 6888 shall be employed. The emission of smoke or particulate matter of a density or equivalent opacity greater than No. 2 on the Ringelmann Chart is prohibited at all times otherwise hereinafter.

(iii) Dust and other types of air pollution borne by the wind from such sources as storage areas, yards, roads and the like within lot boundaries shall be kept to a minimum by appropriate landscaping, paving, oiling, fencing, wetting or other acceptable means.

(iv) The open burning of refuse, paint, oil, debris and any other combustible material is prohibited in all manufacturing districts.

(v) No operation shall cause or allow to be emitted into the open air from any process or control equipment or to pass any convenient measuring point in a stack, particulate matter in the gases that exceeds six-tenths (0.60) pounds per thousand pounds of gases during any one hour.

(vi) Particulate matter loadings in pounds per acre described below shall be determined by selecting a continuous four hour period which will result in the highest average emission rate.

(I) MI Manufacturing District.

- 1) The emission of smoke having a density or equivalent opacity in excess of Ringelmann No. 1 is prohibited. However, for two minutes in any four hour period, smoke up to and including Ringelmann No. 2 shall be permitted.
- 2) The rate of emission of particulate matter from all vents and stacks within the boundaries of any lot shall not exceed  $\frac{1}{2}$  pound per acre of lot area per hour.

(II) M2 Manufacturing District.

- 1) The emission of smoke having a density or equivalent opacity in excess of Ringelmann No. 2 is prohibited. However, for two minutes in any four hour period, smoke up to and including Ringelmann No. 3 shall be permitted.
- 2) The rate of emission of particulate matter from all stacks and vents within the boundaries of any lot shall not exceed three pounds per acre of lot area per hour.

(F) Toxic Matter.

- (i) M1 and M2 Manufacturing Districts.

(I) The release of airborne toxic matter (including radioactive matter) shall not exceed one-thirtieth (1/30) of the maximum permissible concentration allowed an industrial worker when measured by any point beyond the lot line, either at ground level or habitable elevation, whichever is more restrictive. Concentrations shall be measured and calculated as the highest average that will occur over a continuous twenty-four (24) hour period.

(II) If a toxic substance is not contained in the most recent listing of threshold limit values published by the American Conference of Governmental Industrial Hygienists, the applicant shall satisfy the Kane County Health Department that the proposed levels will be safe and not detrimental to the public health or injurious to plant and animal life.

(G) Odorous Matter. The release of materials capable of becoming odorous, either by bacterial decomposition or chemical reaction, shall meet the standards of the district in which the odor is created.

(i) M1 Manufacturing District. When odorous matter is released from any operation, activity or use in the M1 Manufacturing District, the concentration of such odorous materials shall not exceed the odor threshold when measured beyond the lot line, either at ground level or habitable elevation.

(ii) M2 Manufacturing District. When odorous matter is released from any operation, activity or use in the M2 District, the concentration of such odorous materials shall not exceed the odor threshold when measured beyond the M2 District boundary line.

(H) Fire and Explosion Hazards.

(i) Code Compliance. All flammable solid, liquid and gaseous substances shall be manufactured, stored and utilized in accordance with all applicable codes.

(ii) Incombustible and Moderate Burning Materials. In all manufacturing districts the storage, utilization or manufacture of solid materials or products ranging from incombustible to moderate burning is permitted.

(iii) Free and Intense Burning Materials. In MI and M2 Manufacturing Districts the storage, utilization or manufacture of solid materials or products ranging from free or active burning to intense burning is permitted, provided either of the following conditions is met:

(I) Said materials or products shall be stored, utilized or manufactured within Completely Enclosed Buildings having no less than two hour fire resistant exterior walls and protected with an automatic fire extinguishing system, or

(II) Said material, if stored outdoors, will be no less than 50 feet to the nearest lot line.

(iv) M1 Manufacturing District.

(I) The storage, utilization or manufacture of flammable liquids shall be permitted in accordance with Appendix C, Table 10, exclusive of storage of finished products in

original sealed containers, which shall be unrestricted. Flammable liquid and gas storage tanks shall not be less than 50 feet from all lot lines.

(II) When flammable gases are stored, utilized or manufactured and measured in cubic feet, the quantity in cubic feet at standard temperature and pressure shall not exceed thirty (30) times the quantities listed above.

(v) M2 Manufacturing District.

(I) The storage, utilization or manufacture of flammable liquids shall be permitted in accordance with Appendix C, Table 11, exclusive of storage of finished products in original sealed containers, which shall be unrestricted. Flammable liquid and gas storage tanks shall not be less than 50 feet from all lot lines.

(II) The quantity of flammable liquids or materials stored below ground shall be unrestricted.

(III) When flammable gases are stored, utilized or manufactured and measured in cubic feet, the quantity in cubic feet at standard temperature and pressure shall not exceed 30 times the quantities listed above.

(I) Glare.

(i) Any operation or activity producing glare shall be conducted so that direct and indirect illumination from the source of light shall not cause illumination in excess of ½ foot candle when measured in a residence district.

(ii) Flickering or intense sources of light shall be controlled or shielded so as not to cause a nuisance across lot lines.

(iii) When street lighting produces illumination in excess of one foot candle at any point in a residence district, the contribution by light sources from within any of the manufacturing districts measured at the same point shall not exceed 50% of the street lighting.

(J) Radiation Hazards.

(i) Release Outside Property Lines. In all manufacturing districts, the release of radioactive materials or the emission of ionizing radiation outside of property lines shall be in accordance with the rules and regulations of the State of Illinois.

(ii) Unsealed Radioactive Materials. In all manufacturing districts, unsealed radioactive materials shall not be manufactured, utilized or stored (except when such materials are stored in a fireproof container at or below ground level) in excess of the following multiples of the quantities set forth in Appendix C, Table 11.

(4) Landscaping. Landscaping shall be required according to the policies of the Village. Required landscaping may include, but is not limited to the following: street trees, building foundation plantings, parking lot landscaping, screening and berming. Proposed landscaping shall be reviewed by the Zoning Officer, Zoning Board of Appeals and/or Plan Commission, as applicable, and

forwarded with recommendations to the Village Board as part of the approval process. To evaluate any proposed landscaping the Village may require preliminary and final landscape plans including: details of location, species, size and quantities of plant materials; planting specifications; and other information required to evaluate the proposed project or application.

(Ord 1993-01, 10/18/1993.)

#### **§ 2044. M1 Manufacturing District**

(a) Permitted Uses. Uses permitted in the M1 Manufacturing District are those marked with the letter “P” in Appendix D.

(b) Special Uses. Special uses in the M1 Manufacturing District are those marked with the letter “S” in Appendix D.

(c) Floor Area Ratio. Not to exceed .6.

(d) Yards. Yards required in the M1 Manufacturing District shall be those set forth in Appendix B.

(e) Signs. Signs are permitted, subject to the following conditions:

(1) Illumination. Signs may have constant illumination, provided that such a sign located in direct line of vision of any traffic-control signal shall not have illumination of red, green or amber color. Where a sign is illuminated by light reflected upon it, direct rays of light shall not beam upon any part of any existing residential building, nor into a residence district nor into a street.

(2) Number. There shall be a maximum of one wall sign for each manufacturing establishment provided, however, that:

(A) A maximum of two such wall signs shall be permitted for each manufacturing establishment when:

(i) The establishment to which the sign refers is located on a corner lot.

(ii) The establishment to which the sign refers has more than one business frontage. For the purposes of this ordinance, a business frontage means a public right-of-way, a customer access drive, or a parking lot which serves the manufacturing establishment.

(B) When more than one business is located in a building, each establishment shall be permitted to display a wall sign on the front façades of a building and corner side facades if applicable.

(C) In addition to signs otherwise permitted in manufacturing districts, one ground sign may be permitted where it is determined by the Zoning Officer that otherwise permitted signage would be inadequate in identifying the manufacturing use, and the following condition is met:

(i) The manufacturing use is located on a parcel which, by virtue of topographic conditions, substantially restricts the visibility of the premises. Required landscaping or building setbacks shall not be deemed to be an obstruction to visibility.



(3) Area. The maximum size of manufacturing identification wall signs shall not exceed five percent of the building facade area upon which the sign is to be located, to a maximum of 100 square feet. The maximum size of ground signs shall not exceed 40 square feet per side, limited to two sides, or 80 square feet total.

(4) Height. The total height, including the base of a ground sign shall not exceed 12 feet.

(5) Industrial Parks. For industrial parks one additional sign on each street frontage, other than those regulated above, shall be permitted, subject to the following:

(A) Setback. Such a sign shall be set back a minimum of 10 feet from the front lot line of such industrial park.

(f) Off-Street Parking and Off-Street Loading. In accordance with regulations set forth in Article 8 of this ordinance.

(Ord 1993-01, 10/18/1993.)

#### **§ 2045. M2 Manufacturing District**

(a) Permitted Uses. Uses permitted in the M2 Manufacturing District are those marked with the letter “P” in Appendix D.

(b) Special Uses. Special uses in the M2 Manufacturing District are those marked with the letter “S” in Appendix D.

(c) Floor Area Ratio. Not to exceed .65.

(d) Yards. Yards required in the M2 Manufacturing District shall be those set forth in Appendix B.

(e) Signs. Signs are permitted as in the M1 Manufacturing District.

(f) Off-Street Perking and Off-Street Loading. In accordance with regulations set forth in Article 8 of this ordinance.

(Ord 1993-01, 10/18/1993.)

### **SUBCHAPTER 8—TRADITIONAL NEIGHBORHOOD DEVELOPMENT DISTRICT**

#### **§ 2046. General Provisions**

(a) Purpose. The purpose of this ordinance is to allow the optional development and redevelopment of land in the Village consistent with the design principles of traditional neighborhoods. A traditional neighborhood—

- (1) is compact;
- (2) is designed for the human scale;
- (3) provides a mix of uses, including residential, commercial, civic, and open space uses in close proximity to one another within the neighborhood;
- (4) provides a mix of housing styles, types, building materials and sizes to accommodate households of all ages, sizes, and incomes;
- (5) incorporates a system of relatively narrow, interconnected streets with sidewalks, bikeways, and transit that offer multiple routes for motorists, pedestrians, and bicyclists and provides for the connections of those streets to existing and future developments;
- (6) retains existing buildings with historical features or architectural features that enhance the visual character of the community;
- (7) incorporates significant environmental features into the design;
- (8) is consistent with the Village's comprehensive plan.

(b) Fees. The Village Board may, by separate ordinance, establish fees for the administration of this ordinance.

Ord 2008-01, 2/11/2008.

#### **§ 2047. Definitions**

In this ordinance—

- (a) ADT means average daily traffic volumes of vehicles on a street;
- (b) affordable housing means housing in which mortgage, amortization, taxes, insurance, and condominium and association fees, if any, constitute no more than 30% of the annual gross household income (the total income of all adults over 18 years of age and said household), for a household of the size which may occupy the unit. In the case of dwelling units for rent, housing that is affordable means housing for which the rent and utilities constitute no more than 30% of gross annual household income for a household of the size that may occupy the unit;
- (c) arterial means a major street for carrying a large volume of through traffic in the area, normally controlled by traffic signs and signals;
- (d) building scale means the relationship between the mass of a building and its surroundings, including the width of street, open space, and mass of surrounding buildings;
- (e) building mass means the three-dimensional bulk of a structure: height, width, and depth;
- (f) collector means a street designed to carry moderate volumes of traffic from local streets to arterial streets or from arterial to arterial;

(g) common open space means squares, greens, neighborhood parks, village parks, and linear environmental corridors;

(h) curb radius means the curved edge of streets at an intersection measured at the outer edge of the street curb or of the parking lane;

(i) net acre means an acre of land excluding street rights-of-way and other publicly-dedicated improvements such as parks, open space, and stormwater detention and retention facilities;

(j) principal building means a building in which the primary use of the lot on which the building is located is conducted;

(k) queuing means the use of one travel lane on local streets with parking (usually an intermittent parking pattern) on both sides;

(l) secondary dwelling unit means an additional dwelling unit located within the principal dwelling on the lot, in a freestanding building or above a residential garage;

(m) traditional neighborhood means a compact, mixed use neighborhood where residential, commercial and civic buildings are within close proximity to each other.

Ord 2008-01, 2/11/2008.

#### **§ 2048. Application procedure and approval process**

Prior to the issuance of any permits for development within a traditional neighborhood development district, the following steps shall be completed according to the procedures outlined in this section:

(a) The applicant shall have had an initial conference;

(b) A general implementation plan and a zoning map amendment to a traditional neighborhood development district shall be approved by the village board; and

(c) a specific implementation plan shall be approved by the village board.

Ord 2008-01, 2/11/2008.

#### **§ 2049. Initial conference**

Before submitting an application for a traditional neighborhood development project, the applicant shall schedule an appointment and meet with the president, village planner, chairman of the plan commission, village director of public works, and village attorney to discuss the procedure for approval of a traditional neighborhood development project, including submittal requirements and design standards.

Ord 2008-01, 2/11/2008.

## **§ 2050. General implementation plan**

(a) General implementation plan process. Following the initial conference, the applicant shall submit 25 copies of a general implementation plan along with the required fee to the village clerk together with an application for a zoning map amendment to a traditional neighborhood development district. After certifying that the submission is complete in accordance with §2051, the clerk shall forward copies to the members of the plan commission, zoning board of appeals, village board, village engineer, village planner, village director of public works, and village attorney.

(b) Within 60 days, the plan commission shall conduct a public hearing to consider a recommendation for approval or disapproval of a general implementation plan. At this public hearing, the plan commission shall receive a report from the village planner, village engineer, or municipal staff. The hearing may be continued from time to time with the consent of the applicant. Within 30 days of the conclusion of the hearing, the plan commission shall recommend the village board either—

- (1) approve the general implementation plan;
- (2) approve the general implementation plan with modifications or conditions, or
- (3) deny the general implementation plan.

(c) Within 30 days of the plan commission's recommendation, the zoning board of appeals shall conduct a public hearing to consider the zoning map amendment. The hearing may be continued from time to time with the consent of the applicant. Within 30 days of the conclusion of the hearing, the zoning board of appeals shall recommend the village board—

- (1) approve the zoning map amendment;
- (2) approve the zoning map amendment with modifications or conditions, or
- (3) deny the zoning map amendment.

(d) The village board shall receive the recommendations from the plan commission and the zoning board of appeals and a report from the planner, village engineer or municipal staff. At its next regular meeting that is not less than 30 days after receipt of the recommendation of the zoning board of appeals, upon due consideration, the village board shall either—

- (1) a approve the general implementation plan and zoning map amendment,
- (2) approve the general implementation plan and zoning map amendment with modifications or conditions, or
- (3) deny the general implementation plan and zoning map amendment.

Ord 2008-01, 2/11/2008.

## § 2051. General implementation plan submittal requirements

The purpose of the general implementation plan is to establish the intent, density, and intensity for a proposed development. The general implementation plan shall include the following:

Document <sup>10</sup>	Description
General location map of suitable scale, but no less than one inch = 200 feet	Show location of the property within the community and adjacent parcels including locations of any public streets, railroads, major streams or rivers and other major features within 1000 feet of the site
Site inventory and analysis	Identify site assets or resources, and constraints, including but not limited to floodplains, wetlands and soils classified as “poorly drained” or “very poorly drained,” soils with bedrock at or within 42 inches of the surface, utility easements for high-tension electrical transmission lines (>69KV), steep slopes greater than 15%, and brownfields
Conceptual site plan, at a scale of no less than one inch = 100 feet which indicates topography in 2 foot contours for sites with 15 feet or more of local relief, or 1 foot contours for local sites with less than 15 feet of local relief	Map with proposed features and existing site features and uses that will remain. These features should include building outlines, location of streets, transit stops, drives and parking areas, pedestrian and bicycle paths, service access areas for receiving material and trash removal, and other impervious surfaces.
	The location of existing trees and proposed and existing to remain trees shrubs and ground cover should also be included, along with any other significant features.
Conceptual storm water management plan	See the Kane County Stormwater Ordinance for requirements
Conceptual development plan	Identify architectural style(s) of the traditional neighborhood development and the accompanying site design style(s). PROVIDE A PATTERN BOOK WITH 360 DEGREE ARCHITECTURE. The design style of the traditional neighborhood development shall be conveyed with drawings or computer simulations of typical proposed building elevations (including dimensions of building height and width, and facade treatment).

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<sup>10</sup>25 copies plus 1 reduced set 11 x 17 inches.

Written report	Provide general information about the covenants, conservation easements, or agreements which will influence the use and maintenance of the proposed development. The report shall also describe the site conditions and the development objectives
Any other information deemed necessary by the village in order to evaluate plans	

Ord 2008-01, 2/11/2008.

#### **§ 2052. Specific implementation plan**

The purpose of the specific implementation plan is to establish a detailed development proposal. The specific implementation plan can be proposed, reviewed, and acted upon as whole or in part or phases.

(a) Specific implementation plan process. Following approval of the general implementation plan, the applicant shall submit 20 copies a specific implementation plan to the clerk. After certifying that the submission is complete in accordance with §2053, the clerk shall forward copies to the members of the plan commission, village board, village engineer, village planner, village director of public works, and village attorney.

(b) Within 60 days following receipt of the specific implementation plan, the plan commission shall receive a report from the village planner, village engineer, or municipal staff recommending approval, disapproval or approval with specified conditions or modifications. The plan commission shall determine that the proposed specific implementation plan is in substantial conformance with the approved general implementation plan. The meeting may be continued from time to time with the consent of the applicant. Within 30 days of the conclusion of the meeting, upon due consideration, the plan commission shall recommend that the village board either—

(1) approve the specific implementation plan as being in substantial conformance with the general implementation plan;

(2) approve the specific implementation plan as being in substantial conformance with the general implementation plan with specified modifications or conditions; or

(3) deny the specific implementation plan.

(c) Following plan commission recommendation, the village board shall review the recommendation from the plan commission and the reports from the village planner and village engineer. Upon due consideration, the village board shall either—

(1) approve the specific implementation plan as being in substantial conformance with the general implementation plan;

(2) approve the specific implementation plan as being in substantial conformance with the general implementation plan with specified modifications or conditions; or

(3) deny the specific implementation plan.

Ord 2008-01, 2/11/2008.

**§ 2053. Specific implementation plan submittal requirements**

The applicant shall submit a series of plans, maps, and written materials which include the following information:

Document <sup>11</sup>	Description
General location map of suitable scale	Show the boundaries and dimensions of the property within the context of the village and adjacent parcels, including locations of any public streets, railroads, major streams or rivers and other major features within 1000 feet of the site, along with a legal description of the property
Site inventory and analysis	Identify site assets or resources, and constraints, including but not limited to floodplains, wetlands and soils classified as “poorly drained” or “very poorly drained,” soils with bedrock at or within 42 inches of the surface, utility easements for high-tension electrical transmission lines (>69KV), slopes greater than 15%, and brownfields
Site plan, including proposed topographic contours at 1 foot intervals	Show location of proposed structures and existing structures that will remain, with height and gross floor area noted
	Show location of street and pedestrian lighting, including lamp intensity and height
	Show the location of proposed open space
	Show circulation system indicating pedestrian, bicycle, and motor vehicle movement systems, including existing and proposed public streets or right-of-ways; transit stops; easements or other reservations of land on the site; the location and dimensions of existing and proposed curb cuts, off-street parking and loading spaces, include service access for receiving and trash removal; sidewalks and other walkways

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<sup>11</sup>20 copies plus 1 reduced set 11 x 17 inches.

	The location of existing trees and all trees, shrubs, and ground cover proposed or existing to remain on the site, along with any other significant features.
Stormwater management plan for the site	See the Kane County Stormwater Ordinance for requirements.
Detailed elevations of all proposed commercial buildings and typical elevations of residential buildings	Scaled elevations should identify all signs, building materials and percentage of ground floor commercial facade in windows; the location, height and material for screening walls and fences, including outdoor trash storage areas, electrical, mechanical and gas metering equipment, storage areas for trash and recyclable materials, and rooftop equipment
Utilities plan	Show underground and above ground lines and structures for sanitary sewers, electricity, gas, telecommunications, etc.
Written report	Completely describe the proposal and indicate covenants or agreements that will influence the use and maintenance of the proposed development. The report also shall describe the analysis of site conditions and the development objectives
Phasing plans, where applicable	
Any other information deemed necessary by the village	

Ord 2008-01, 2/11/2008.

#### **§ 2054. Amendments to the specific implementation plan**

Changes to the specific implementation plan approved by the village board require approval by a majority vote of all members of the village board.

Ord 2008-01, 2/11/2008.

#### **§ 2055. Subdivision of land**

If the traditional neighborhood development involves the subdivision of land as defined in the village's subdivision ordinance, the applicant shall submit all required land division documents in accordance with the requirements of the subdivision ordinance. If there is a conflict between the design standards of the subdivision ordinance and the design guidelines of this ordinance, the provisions of this ordinance shall apply.

Ord 2008-01, 2/11/2008.



## **§ 2056. Ownership and maintenance of public space**

Provision shall be made for the ownership and maintenance of streets, squares, parks, open space, and other public spaces in a traditional neighborhood development by dedication to the village or other approved method.

Ord 2008-01, 2/11/2008.

## **§ 2057. Traditional neighborhood development design standards and guidelines**

In order to achieve the proximity necessary to make neighborhoods walkable, it is important to mix land uses. A traditional neighborhood development should consist of a mix of residential uses, a mixed use area, and open space as provided below:

(a) **Residential mix.** A mix of residential uses of the following types can occur anywhere in the traditional neighborhood development. For infill development, the mix of residential uses may be satisfied by existing residential uses adjacent to the traditional neighborhood development.

- (1) single-family detached dwellings, rowhouses;
- (2) single-family attached dwellings, including duplexes, townhouses;
- (3) multifamily dwellings, including senior housing;
- (4) secondary dwelling units ("granny flats"), secondary to single-family detached dwellings on lots large enough to make such secondary dwelling units practicable;
- (5) "special needs" housing, such as community living arrangements and assisted living facilities.

(b) **Mixed use.** Mixed use area, of commercial, residential, civic or institutional, and open space uses as identified below. All residents should be within approximately 1/4 mile from existing or proposed commercial, civic, and open space areas. Generally, individual businesses shall not exceed 6000 square feet in size, provided, however, that one or more businesses as large as 12,000 square feet in size may be permitted if they do not overwhelm or destroy the character of the area as a traditional neighborhood.

### **(1) Commercial uses**

(A) food services (neighborhood grocery stores; butcher shops; bakeries; restaurants, not including conventional drive-throughs<sup>12</sup>; cafes; coffee shops; neighborhood bars or pubs);

(B) retail uses (florists or nurseries; hardware stores; stationery stores; book stores; studios and shops of artists and artisans);

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<sup>12</sup>Drive-throughs designed so as not to intrude upon or detract from the traditional neighborhood may be permitted.

(C) services (day care centers; music, dance or exercise studios; offices, including professional and medical offices; barber; hair salon; dry cleaning);

(D) accommodations (bed and breakfast establishments, small hotels or inns).

(2) **Residential uses**

(A) single-family attached or detached dwellings, including duplexes, townhouses, rowhouses;

(B) multifamily dwellings, including senior housing;

(C) residential units located on upper floors above commercial uses or to the rear of storefronts;

(D) “live/work” units that combine a residence and the resident’s workplace;

(E) “special needs” housing, such as community living arrangements and assisted living facilities.

(3) **Civic or institutional uses**

(A) municipal offices, fire stations, libraries, museums, facilities, community meeting facilities and post offices;

(B) transit shelters;

(C) places of worship;

(D) educational facilities.

(4) **Open space uses**

(A) central square;

(B) neighborhood park;

(C) playground.

(c) **Open space.** Open space uses identified below should be incorporated in the traditional neighborhood development as appropriate. Large outdoor recreation areas should be located at the periphery of neighborhoods rather than central locations.

(1) environmental corridors;

(2) protected natural areas;

(3) community parks;

(4) streams, ponds, and other water bodies;

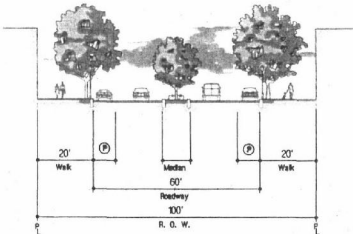



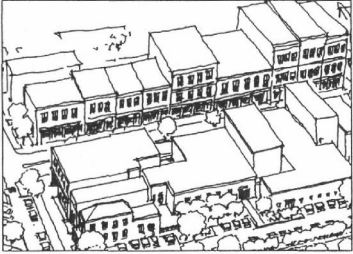
(d) **Design guidelines.** To the extent appropriate the traditional neighborhood development should incorporate the following design elements:

(1) turn of the 20<sup>th</sup> century look; attached buildings with some breaks for access, two-story maximum; architecturally compatible; apartments or offices on second floors; brick or natural material façades, no vinyl or vertical siding; roofline overhangs; green roofs encouraged; rear or side delivery;

### Traditional Commercial Districts

People continue to be attracted to traditional commercial streets for many reasons: one-of-a-kind stores and restaurants, window shopping, the historic architecture, and perhaps most importantly, the people. Main streets are great public gathering places; one of the things that makes these streets so special is their intimate character. The street-space is well defined by the building facades which are lined up along the edge of the sidewalk, enclosing the street like the walls of a great outdoor room. The visual interest is created by the large shop windows, the architectural details, the signs and awnings, the streetscape, the outdoor dining areas, and the people on the street.

New, infill development and major renovations on traditional, commercial streets should enhance the "Main Street" feeling by maintaining the street wall and by following the scale and articulation of the closest historic buildings.



Built to the property line, buildings create a street wall

Window shopping on High Street

Typical traditional commercial street

(2) diagonal parking on street; rear parking for employees or tenants; rear one-way alleys for service or as appropriate; provision for motorcycle parking; separate bike paths and bike racks;

(3) wide sidewalks; awnings; combination of brick/concrete; patio landscaping and plantings; café seating; courtyards; curbside planters; street furniture as approved;

(4) no self illuminated signs; signs to be flat to building; shingle type signs permitted protruding less than 4 feet; minimize light pollution; the lintel, which separates the upper façade and the storefront's display windows, is the best possible location for business identification signs;

(5) large display windows; within the architectural frame established by the piers and the sign frieze, the largest possible amount of window display area should be provided to attract customers by maximizing the visibility of goods and services; a large amount of transparent window area also creates a strong contrast to the mass of the building's upper architecture; display windows

should never be filled or covered; those which have been altered should be restored to their original size and configuration;

(6) provision for horse traffic, hitching posts adjacent to approved rural areas; access to forest preserves; public squares;

(7) rowhouses with alleys; small lots in mixed use areas; maximum two/two-and-one-half-story (brownstone-like) apartment buildings and townhouses; maximum four apartments/townhomes per building; no cul-de-sacs; short blocks; narrow streets; provision for architectural review by village.

Ord 2008-01, 2/11/2008.

#### **§ 2058. Uses permitted**

Only the uses set forth in the following Table 2058 are permitted uses (P), special uses (S), or temporary uses (T), as indicated, in the traditional neighborhood district.

**Table 2058 - Uses Permitted in the Traditional Neighborhood Development District**

<b>Agricultural Uses</b>	
Farming (cultivation of field and garden crops only)	P
Flower farm	P
Nursery/seasonal plant sales	T
Seasonal sale of farm products (both imported and produced on premises)	T
Veterinary clinic, small animals only	P
<b>Business Uses</b>	
Advertising agency	P
Antique sales	P
Art gallery	P
Art supplies	P
Artist/Artisan studio/shop	P
Auction house (indoor)	P
Bakery	P
Bank/Savings and Loan	P

Bed-and-breakfast	P
Barber shop	P
Beauty shop/hair salon	P
Bicycle shop	P
Blueprint/copy/print shop	P
Bookshop	P
Butcher shop	P
Café	P
Camera shop	P
Card Store	P
Carryout food service	P
Catering service	P
Clothing store	P
Club, (indoor) nationally recognized fraternal or social organization	S
Coffee Shop	P
Coin/stamp shop	P
Credit union	P
Day care/nursery school/home day care	P
Dry cleaners (drop-off only; no plant on premises)	P
Exercise studio	P
Fire station	P
Florist	P
Garden store	P
Gift shop	P
Grocery store, neighborhood	P
Gymnasium, combined health club and gymnasium	S

Hardware store	P
Health food store	P
Hobby shop/craft store	P
Home occupations	P
Hotel/inn, small	P
Ice cream shop	P
Jewelry store	P
Laundry (retail)	S
Liquor/wine store	S
Locksmith	P
Mirror and glass supply	P
Music/dance studio/school	P
Real estate office	P
Restaurant, no drive-through	P
Seasonal Christmas sales	P
Secondhand shop	S
Soft drink stand	P
Stationery store	P
Tailor	P
Tavern/pub, neighborhood	S
Taxidermist (home occupation only)	P
Theater (indoor) live theater/plays only	P
Tobacco store	P
Toy store	P
Wait station, bus	P

<b>Office Uses</b>	
Bookkeeping service	P
Doctor/dentist office/lab	P
Counseling services	P
Employment office	P
Engineering (office only)	P
Income tax service	P
Insurance agency	P
Law offices	P
Title Company	P
Travel agency	P
Utility offices	P
<b>Public Recreation</b>	
Arboretum	P
Community Center	P
Forest Preserve	P
Park, public	P
Playground	P
Tennis courts, public -- outdoor (accessory to a public park)	P
<b>Religious Uses</b>	
Church/Temple	P
Convent/monastery	P
<b>Residential Uses</b>	
Apartments (above 1st floor in business or office uses	P
Assisted living/group homes -- limited number of people	P
Apartments (2/2½ story/4 flat maximum)	P

Rowhouses	P
Townhouses (2/2½ story/4 maximum per bldg)	P
Single family detached dwelling	P
<b>Temporary Uses</b>	
Christmas tree sales	T
Contractor's office and equipment shed/trailer	T
Garage sale	T
Real estate sales office/trailer	T
Sale of food and nonalcoholic beverages	T

Ord 2008-01, 2/11/2008.

#### **§ 2059. Development units**

The number of residential dwelling units and the amount of nonresidential development (excluding open spaces) shall be determined as follows:

(a) In areas devoted to mixed residential uses:

(1) The number of single-family attached and detached dwelling units permitted shall be 4.5 per net acre;

(2) The number of multi-family structures shall not exceed 2 per net acre and 8.0 dwelling units per net acre.

(3) Secondary dwelling units shall be permissible in addition to the number of dwelling units authorized under this section. However, the total number of secondary dwelling units shall not be more than 10% of the total number of single-family attached and detached units.

(4) For each affordable housing unit provided under this section, one additional dwelling unit shall be permitted, up to a maximum 10% increase in dwelling units.

(b) In mixed use areas:

(1) The number of single-family and multi-family dwelling units permitted shall be calculated the same as above plus an additional number of units not to exceed 10% of the amount permitted above.

(2) All dwelling units constructed above commercial uses shall be permissible in addition to the number of dwelling units authorized under this section. However, the total number of dwelling units shall not be increased by more than 10 dwelling units or 5%, whichever is greater.



(3) The total ground floor area of nonresidential development uses, including off-street parking areas, shall not exceed 20% per cent of the traditional neighborhood development.

Ord 2008-01, 2/11/2008.

#### **§ 2060. Open Space**

At least 20% of the gross acreage of the traditional neighborhood development must be open space, excluding the area devoted to stormwater management facilities. At least 25% of the open space must be common open space dedicated to the public for parkland. 90% of the lots within the areas devoted to mixed residential uses shall be within 1/4 mile from common open space.

Ord 2008-01, 2/11/2008.

#### **§ 2061. Stormwater Management**

Stormwater management facilities within the traditional neighborhood development shall be designed and constructed in accordance with the Kane County Stormwater Ordinance. The design and development of the traditional neighborhood development should minimize off-site stormwater runoff, promote on-site filtration, and minimize the discharge of pollutants to ground and surface water. Natural topography and existing land cover should be maintained and protected to the maximum extent practicable. Additionally, new development and redevelopment shall meet the following requirements:

- (a) Untreated, direct stormwater discharges to wetlands or surface waters are not allowed.
- (b) Post-development peak discharge rates should not exceed pre-development peak rates.
- (c) Erosion and sediment controls must be implemented to remove 80% of the average annual load of total suspended solids.
- (d) Areas for snow storage should be provided unless the applicant provides an acceptable snow removal plan.
- (e) Redevelopment stormwater management systems should improve existing conditions.

Ord 2008-01, 2/11/2008.

#### **§ 2062. Lot and block standards**

(a) **Lot and block design.** Lot and block design should promote development that is compatible with natural features, minimizes pedestrian and vehicular conflict, promotes street life and activity, reinforces public spaces, promotes public safety, and visually enhances development. Lot design should allow for passive solar designs. Lots within mixed residential use areas and residential lots within mixed use areas should vary in size from 8,000 to 12,500 square feet.

(b) **Block and lot size diversity.** Street layouts should provide for perimeter blocks that are generally in the range of 200-400 feet deep by 400-800 feet long. A variety of lot sizes should be provided within the development and within each block to facilitate housing diversity and choice and meet the projected requirements of people with different housing needs.

(c) **Lot widths.** Lot widths should create a relatively symmetrical street cross section that reinforces the public space of the street as a simple, unified public space.

(d) **Building setback, front - mixed use area.** Structures in the mixed use area have no minimum front setback. Commercial and civic or institutional buildings should abut the sidewalks in the mixed use area.

(e) **Building setback, front - areas of mixed residential uses.** Single-family detached dwellings shall have a building setback in the front between 10 and 25 feet consistently applied. Single-family attached dwelling and multifamily dwellings shall have a building setback in the front between 10 and 25 feet consistently applied.

(f) **Building setback, rear - areas of mixed residential uses.** The principal building on lots devoted to single-family detached dwellings shall be setback no less than 30 feet from the rear lot line.

(g) **Side setbacks.** Single-family detached dwellings shall have a building setback on each side no less than 6 feet. Single-family attached dwellings or multi-family buildings shall not occupy more than one half of a block and shall have a building setback on each side no less than 10 feet.

Ord 2008-01, 2/11/2008.

#### **§ 2063. Circulation Standards**

The circulation system shall allow for different modes of transportation. The circulation system shall provide functional and visual links within the residential areas, mixed use area, and open space of the traditional neighborhood development and shall be connected to existing and proposed external development. The circulation system shall provide adequate traffic capacity, provide connected pedestrian and bicycle routes (especially off street bicycle or multi-use paths or bicycle lanes on the streets), control through traffic, limit lot access to streets of lower traffic volumes, and promote safe and efficient mobility through the traditional neighborhood development.

(a) **Pedestrian circulation.** Convenient pedestrian circulation systems that minimize pedestrian-motor vehicle conflicts shall be provided continuously throughout the traditional neighborhood development. Where feasible, any existing pedestrian routes through the site shall be preserved and enhanced. All streets, except for alleys, shall be bordered by sidewalks on both sides in accordance with the specifications listed in Table 2063. The following provisions also apply:

(1) **Sidewalks in residential areas.** Clear and well-lighted sidewalks, 5 feet in width, depending on projected pedestrian traffic, shall connect all dwelling entrances to the adjacent public sidewalk.

(2) **Sidewalks in mixed use areas.** Clear and well-lighted walkways shall connect building entrances to the adjacent public sidewalk and to associated parking areas. Such walkways shall be a minimum of 5 feet in width.

(3) **Disabled accessibility.** Sidewalks shall comply with the applicable requirements of the Americans with Disabilities Act.

(4) **Crosswalks.** Intersections of sidewalks with streets shall be designed with clearly defined edges. Crosswalks shall be well lit and clearly marked with contrasting paving materials at the edges or with striping.

(b) **Bicycle circulation.** Bicycle circulation shall be accommodated on streets and/or on dedicated bicycle paths. Where feasible, any existing bicycle routes through the site shall be preserved and enhanced. Facilities for bicycle travel may include off-street bicycle paths (generally shared with pedestrians and other non motorized users) and separate, striped, 4 foot bicycle lanes on streets. If a bicycle lane is combined with a lane for parking, the combined width should be 14 feet. The preferred circulation is a network of Off-street paths interconnecting neighborhood and mixed use areas.

(c) **Public transit access.** Where public transit service is available or planned, convenient access to transit stops shall be provided. Where transit shelters are provided, they shall be placed in highly visible locations that promote security through surveillance, and shall be well-lighted.

(d) **Motor vehicle circulation.** Motor vehicle circulation shall be designed to minimize conflicts with pedestrians and bicycles. Traffic calming features such as “queuing streets,” curb extensions, traffic circles, and medians may be used to encourage slow traffic speeds.

(1) **Street hierarchy.** Each street within a traditional neighborhood development shall be classified according to the following (arterial streets should not bisect a traditional neighborhood development):

(A) **Collector.** This street provides access to commercial or mixed-use buildings, but it is also part of the village’s major street network. On-street parking, whether diagonal or parallel, helps to slow traffic. Additional parking is provided in lots to the side or rear of buildings.

(B) **Subcollector.** This street provides primary access to individual residential properties and connects streets of lower and higher function. Design speed is 20 mph.

(C) **Local Street.** This street provides primary access to individual residential properties. Traffic volumes are relatively low, with a design speed of 20 mph.

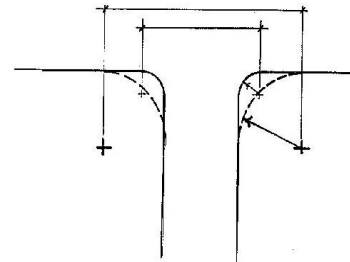
(D) **Alley.** These streets provide secondary access to residential properties where street frontages are narrow, where the street is designed with a narrow width to provide limited on-street parking, or where alley-access development is desired to increase residential densities. Alleys may also provide delivery access or alternate parking access to commercial properties.

**Table 2063: Attributes of streets in a traditional neighborhood development**

	<b>Collector</b>	<b>Subcollector</b>	<b>Local Street</b>	<b>Alley</b>
<b>Average daily trips</b>	750-1500	Less than 750	Less than 250	Not applicable
<b>Right-of-way</b>	66-100 feet	66-80 feet	50-66 feet	16-20 feet
<b>Auto travel lanes</b>	2 or 3 12-foot lanes; one-way boulevard 14 foot minimum	2 11-foot lanes; one-way boulevard 14 foot minimum	2 10-foot lanes, or 1 14-foot (queuing) lane	2 8-foot lanes for two-way traffic, or 1 12-foot lane for one-way traffic
<b>Bicycle lanes</b>	2 6-foot lanes combined with parking lanes	4-foot lanes with no parking, or 6-foot lanes combined with parking lanes	None	None
<b>Parking</b>	Both sides, 8 feet	None, one, or both sides, 8 feet	None or one side, 8 feet	None (access to individual drives & garages outside right-of-way)
<b>Curb and gutter</b>	Required	Required	Required	
<b>Planting strips</b>	Minimum 6 feet	Minimum 6 feet	Minimum 6 feet	None
<b>Sidewalks</b>	Both sides, 5 feet minimum	Both sides, 5 feet	Both sides, 5 feet	None

(2) **Street Layout.** The traditional neighborhood development should maintain the existing street grid, where present, and restore any disrupted street grid where feasible. In addition:

(A) **Intersections.** Intersections shall be at right angles whenever possible, but in no case less than 75 degrees. Low volume streets may form three-way intersections creating an inherent right-of-way assignment (the through street receives precedence) which significantly reduces accidents without the use of traffic controls.



(B) **Curb radii.** The roadway edge at street

intersections shall be rounded by a tangential arc with a maximum radius of 15 feet for local streets and 20 feet for intersections involving collector or arterial streets. The intersection of a local street and an access lane or alley shall be rounded by a tangential arc with a maximum radius of 10 feet.

(C) Curb cuts for driveways to individual residential lots shall be prohibited along arterial streets. Curb cuts shall be limited to intersections with other streets or access drives to parking areas for commercial, civic or multifamily residential uses. Clear sight triangles shall be maintained at intersections, as specified below, unless controlled by traffic signal devices:

**Minimum clear sight distances**

Intersection of:	Minimum clear site distance:
Local street and collector	120 feet
Collector and collector	130 feet
Collector and arterial	50 feet

(3) The orientation of streets should enhance the visual impact of common open spaces and prominent buildings, create lots that facilitate passive solar design, and minimize street gradients. All streets shall terminate at other streets or at public land, except local streets may terminate in stub streets when such streets act as connections to future phases of the development. Local streets may terminate other than at other streets or public land when there is a connection to the pedestrian and bicycle path network at the terminus.

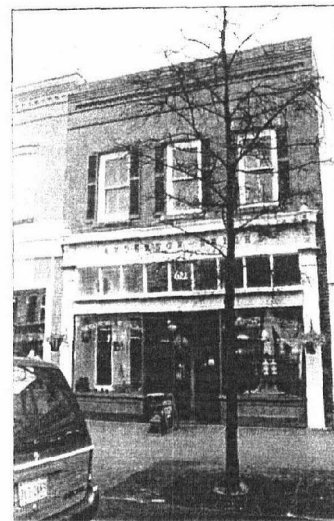
(e) **Parking requirements.** Parking areas for shared or community use should be encouraged. In addition:

(1) In the mixed use area, any parking lot shall be located at the rear or side of a building. If located at the side, screening shall be provided as specified in §2065.

(2) A parking lot or garage may not be adjacent to or opposite a street intersection.

(3) In the mixed use area, a commercial use must provide one parking space for every 500 square feet of gross building area with a minimum of 4 spaces.

(4) Parking lots or garages must provide not less than



one bicycle parking space for every 10 motor vehicle parking spaces.

(5) Adjacent on-street parking may apply toward the minimum parking requirements.

(6) In the mixed residential areas, parking may be provided on-site. One off-street parking space with unrestricted ingress and egress shall be provided for each secondary dwelling unit.

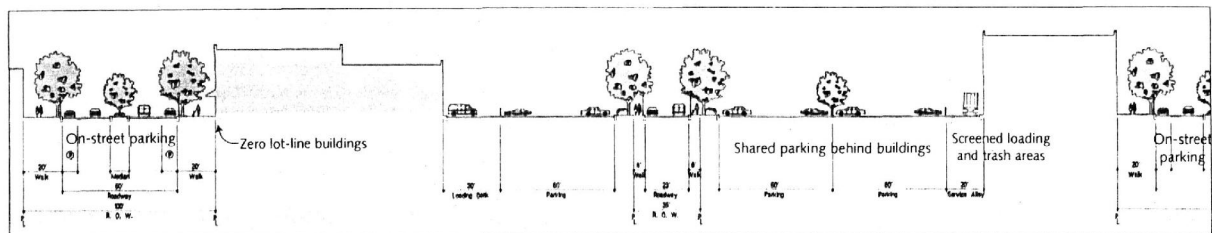
(7) Multi-family uses must provide one parking space for every dwelling unit and one half of a parking space for each additional bedroom.

(f) **Service access.** Access for service vehicles should provide a direct route to service and loading dock areas, while avoiding movement through parking areas.

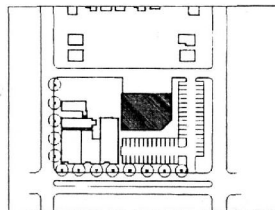
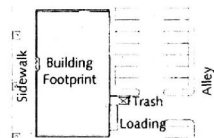
(g) **Paving.** Reduction of impervious surfaces through the use of interlocking pavers is strongly encouraged for areas such as remote parking lots and parking areas for periodic uses.

Ord 2008-01, 2/11/2008.

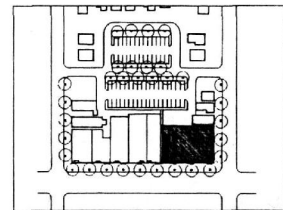
#### Traditional Commercial Districts



Section through two blocks



Inappropriate setback and orientation



Appropriate setback and orientation

### Placing the Building on the Site

In order to maintain the traditional commercial street character, the following guidelines should be followed when placing a building on a site.

**Zero Lot Line:** The main building facade must be placed on the front property line.

**Parking In the Rear:** On-site parking must be located behind the building. (Portsmouth blocks are the ideal size for creating shared parking areas behind buildings – for example, the 600 block of High and London.) Wherever possible parking areas should be shared. Parallel parking on-street is provided for customers.

**Loading/Trash Areas:** Loading areas and dumpsters must be located in the rear of the building and screened from view from alleys or side streets.

**Large Lots:** If a portion of the building is set back, a low screen wall along the front property line must be provided.

**Side-Yard Parking:** Side-yard parking is discouraged. Where it is permitted, it must be screened from the street by a low screen-wall.

**Walkways:** Paved paths between rear parking areas and the main street are highly recommended.

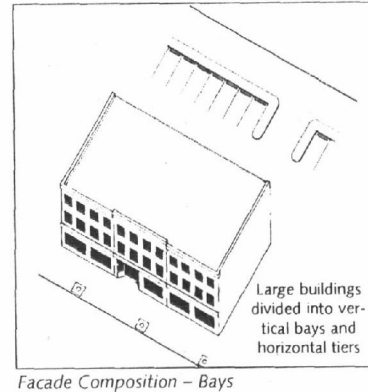
## § 2064. Architectural standards

A variety of architectural features and building materials is encouraged to give each building or group of buildings a distinct character.

### (a) Guidelines for existing structures

(1) Existing structures, if determined to be historic or architecturally significant, shall be protected from demolition or encroachment by incompatible structures or landscape development.

(2) The U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Properties shall be used as the criteria for renovating historic or architecturally significant structures.



### (b) Guidelines for new structures

(1) **Height.** New structures within a traditional neighborhood development shall be no more than 2 stories and 25 feet in height measured from the ground to the eave, or 2½ stories and 40 feet in height for commercial, multifamily residential, or mixed uses. The number of dwelling units within multi-family structures should vary with no more than 4 dwelling units allowed within any one structure.

### (2) Entries and façades

(A) The architectural features, materials, and the articulation of a façade of a building shall be continued on all sides visible from a public street.

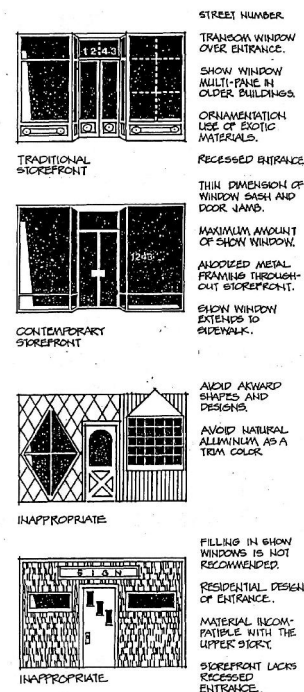
(B) Steeper roof pitches with overhangs are preferred.

(C) The front façade of the principal building on any lot in a traditional neighborhood development shall face onto a public street.

(D) The front façade shall not be oriented to face directly toward a parking lot.

(E) Porches, pent roofs, roof overhangs, hooded front doors or other similar architectural elements shall define the front entrance to all residences.

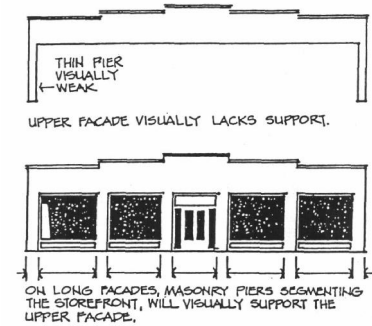
(F) For commercial buildings, a minimum of 50



percent of the front façade on the ground floor shall be transparent, consisting of window or door openings allowing views into and out of the interior.

(G) New structures on opposite sides of the same street should follow similar design guidelines. This provision shall not apply to buildings bordering civic uses.

(H) Outbuildings are not allowed. Additional storage, if needed, should be provided for in the garage or principal building.



(3) **Guidelines for garages and secondary dwelling units.** Garages and secondary dwelling units may be placed on a single-family detached residential lot within the principal building or detached garage provided that the secondary dwelling unit shall not exceed 1000 square feet. Detached garages shall not exceed 1000 square feet nor 25 feet in height. Garages shall not face the street but shall be side loaded or rear loaded from an alley. Garages shall be set back a minimum of 2 feet from the main building.

(4) **Guidelines for exterior signage.** A comprehensive sign program is required for the entire traditional neighborhood development which establishes a uniform sign theme. Signs shall share a common style (e.g., size, shape, material). In the mixed use area, all signs shall be wall signs or cantilever signs. Cantilever signs shall be mounted perpendicular to the building face and shall not exceed 8 square feet.

(5) **Guidelines for lighting.**

(A) Street lighting shall be provided along all streets. Generally more, smaller lights, as opposed to fewer, high-intensity lights, should be used. Street lights should be sized and positioned not to interfere with residential uses. Street lights shall be installed on both sides of the street at intervals of no greater than 75 feet. Street lighting design shall meet the minimum standards developed by the Illumination Engineering Society.

(B) Exterior lighting shall be directed downward in order to reduce glare onto adjacent properties.

Ord 2008-01, 2/11/2008.

**§ 2065. Landscaping and screening standards**

Overall composition and location of landscaping shall complement the scale of the development and its surroundings. In general, larger, well-placed contiguous planting areas shall be preferred to smaller, disconnected areas. Where screening is required by this ordinance, it shall be at least 3 feet in height, unless otherwise specified. Required screening shall be at least 50% opaque throughout the



year. Required screening shall be satisfied by one or some combination of: a decorative fence not less than 50% opaque behind a continuous landscaped area, a masonry wall, or a hedge. Chain link fences are not allowed. Fences in residential areas shall not exceed 3 feet in height unless located in the rear.

(a) **Street trees.** A minimum of one deciduous canopy tree per 35 feet of street frontage, or fraction thereof, shall be required. Trees can be clustered and do not need to be evenly spaced. Trees should preferably be located between the sidewalk and the curb, within the landscaped area of a boulevard, or in tree wells installed in pavement or concrete. If placement of street trees within the right-of-way will interfere with utility lines, trees may be planted within the front yard setback adjacent to the sidewalk.

(b) **Parking area landscaping and screening.**

(1) All parking and loading areas fronting public streets or sidewalks, and all parking and loading areas abutting residential districts or uses, shall provide:

(A) A landscaped area at least 5 feet wide along the public street or sidewalk.

(B) Screening at least 3 feet in height and not less than 50% opaque.

(C) One tree for each 25 linear feet of parking lot frontage.

(2) **Parking area interior landscaping.** The corners of parking lots, “islands,” and all other areas not used for parking or vehicular circulation shall be landscaped. Vegetation can include turf grass, native grasses or other perennial flowering plants, vines, shrubs or trees. Such spaces may include architectural features such as benches, kiosks or bicycle parking.

(3) In large parking lots containing more than 100 spaces, an additional landscaped area of at least 300 square feet shall be provided for each 20 spaces or fraction thereof, containing one canopy tree. The remainder shall be covered with turf grass, native grasses or other perennial flowering plants, vines or shrubs.

(c) **Installation and Maintenance of Landscaping Materials.**

(1) All landscape materials shall be installed to current industry standards.

(2) Maintenance and replacement of landscape materials shall be the responsibility of the property owner. Landscape maintenance should incorporate environmentally sound management practices, including the use of water- and energy-efficient irrigation systems such as drip irrigation, and pruning primarily for plant health and public safety, replacing dead materials annually.

(d) **Materials.** All plant materials must meet the minimum standards set by the American National Standards Institute in ANSI Z60.1 American Standard for Nursery Stock. Landscape species shall be indigenous or proven adaptable to the climate, but shall not be invasive species. Plant materials shall comply with the following standards:

(1) Minimum plant size shall be as specified as follows (for the purpose of determining tree trunk size, the diameter shall be measured 6 inches above ground level):

Plant Type	Minimum Size
Evergreen tree	6 feet in height
Deciduous canopy tree	3 inch caliper
Small deciduous tree	2½ inch caliper
Evergreen or deciduous shrubs	24-30 inches in height

(2) Landscape materials shall be tolerant of specific site conditions, including but not limited to heat, thought and salt.

(3) Existing healthy plant material may be utilized to satisfy landscaping requirements, provided it meets the minimum plant size specified above.

(4) Landscape materials that are used for screening shall be of a size that allows growth to the desired height and opacity within 2 years. Landscaping required by this ordinance shall be preserved. If it becomes necessary to remove dead or diseased plantings, all materials shall be replaced with materials of like kind. Covenants applicable in residential areas shall provide that foundation landscaping is required using materials compatible with the traditional neighborhood.

Ord 2008-01, 2/11/2008.

## **SUBCHAPTER 9—OFF-STREET PARKING AND LOADING**

### **§ 2066. Accessory off-street parking and off-street loading**

(a) Accessory off-street parking and off-street loading facilities shall be provided as required by the regulations of this Article for all buildings and structures erected and all uses of land established in each district after the effective date hereof.

(b) When the intensity of use of any building, structure or premises shall be increased through the addition of dwelling units, gross floor area, seating capacity or other units of measurement in the amount specified herein requiring parking or loading facilities, such additional parking and loading facilities as required herein shall be provided.

(c) Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking or loading facilities shall be provided as required for such new use. However, if the said building or structure was erected prior to the effective date hereof, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use would exceed those for the existing use, if the latter were subject to the parking and loading provisions of this ordinance.

(Ord 1993-01, 10/18/1993.)

#### **§ 2067. Permissive parking and loading facilities**

Nothing in this ordinance shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings; provided, that all regulations herein governing the location, design and operation of such facilities are adhered to.

(Ord 1993-01, 10/18/1993.)

#### **§ 2068. Damage or destruction**

When any conforming or nonconforming building, structure or use which is in existence on the effective date hereof, which is restored and continued in operation after being damaged or destroyed by fire, collapse, explosion or other cause, to the extent that the cost of restoration does not exceed 60% of the assessor's valuation, there may be provided only the off-street parking or loading facilities equivalent to any maintained at the time of such damage or destruction. However, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this ordinance for equivalent new uses or construction.

(Ord 1993-01, 10/18/1993.)

#### **§ 2069. Off-street parking**

Off-street parking facilities for motor vehicles shall be provided in accordance with additional regulations set forth hereinafter.

(a) Existing Parking Facilities. Accessory off-street parking facilities in existence on the effective date hereof and located on the same lot as the building or use served shall not hereafter be reduced below, or if already less than, shall not be further reduced below the requirements for a similar new building or use under the provisions of this ordinance.

(b) Use. Accessory off-street parking facilities required as accessory to uses listed herein, shall be solely for the parking of automobiles of patrons, occupants or employees. When bus transportation is provided for patrons, occupants or employees of a specific establishment, additional open or enclosed off-street parking spaces for each bus to be parked on the premises shall be provided in accordance with regulations set forth in this Article.

(c) Computation. When determination of the number of off-street parking spaces required by this ordinance results in a requirement of a fractional space, any fraction of  $\frac{1}{2}$  or less may be disregarded while a fraction in excess of  $\frac{1}{2}$  shall be counted as one parking space.

(d) Collective Provisions. Off-street parking facilities for separate uses may be provided collectively if the total number of spaces so provided is not less than the sum of the separate requirements for each such use and provided that all regulations governing location of accessory parking spaces, in relation to the use served, are adhered to, and provided it is authorized by the Zoning Board of Appeals in accordance with procedures set forth in this Article.

(e) Size. A required off-street parking space shall have a width and length, exclusive of access drives or aisles, ramps, columns or office and work areas in accordance with standards set forth in Figure 3. Enclosed parking spaces shall have a vertical clearance of at least seven feet.

(f) Access. Each required off-street parking space shall open directly upon an aisle or driveway of width and design in accordance with standards set forth in Figure 3. All off-street parking facilities shall be provided with appropriate means of vehicular access to a street or alley with location and design of intersection of parking area access driveway and the street or alley in accordance with regulations set forth in Section 7 of this Article.

(g) In Yards. Off-street parking spaces, open to the sky, may be located in required interior side yards and rear yards, not less than 20 feet from the nearest lot line. In the business districts, the required off-street parking spaces may be located in a front yard or side yard adjoining a street, not less than five feet from a street right-of-way.

(h) Design and Maintenance.

(1) Open Air Spaces. Accessory off-street parking spaces located on the same lot as occupied by the use served may be open to the sky or enclosed in a building. Accessory off-street parking spaces that may be permitted elsewhere than on the same lot occupied by the use shall be open to the sky.

(2) Surfacing. All open off-street parking areas containing more than four parking spaces shall be improved with a compacted base, and curb and gutter, bituminous or concrete, as approved by the Zoning Officer.

(3) Lighting. Any lighting used to illuminate off-street parking areas shall be arranged so as not to reflect direct rays of light into streets or adjacent residence districts.

(4) Repair and Service. No motor vehicle repair work or service of any kind shall be permitted in off-street parking areas. No gasoline or motor oil shall be sold in conjunction with any accessory parking facilities.

(i) Location. After the effective date hereof, required accessory off-street parking spaces shall be located on the same lot as the building or use served, except when the Plan Commission recommends and the Board of Trustees authorizes, for a specific use, the location of all or part of the required off-street parking spaces on a lot that does not contain the principal use or structure. However, there shall be compliance with regulations set forth in Subsection 4.j. below.

(j) Control of Off-Site Parking Facilities. In cases where parking facilities are permitted on a lot other than the lot on which the structure or use served is located, the owner of record of such lot shall be the same as the owner of record of the lot occupied by the structure or use in which the parking facilities are accessory. A covenant running with the land must be recorded in the office of the Recorder of Deeds on the lot upon which the accessory off-street parking is located which prohibits any other use on that lot, and a copy of the recorded covenant certified by the Recorder of Deeds must be deposited with the Zoning Officer. The covenant shall not be released until such time as either one of the following conditions occur:

(1) The structure on the lot containing the principal use is removed and the principal use terminated.

(2) Another lot of the required size within the required distance is properly developed and used for the required accessory off-street parking in place of and in lieu of the initial lot used for accessory off-street parking with the same requirements, covenants and conditions attached to such substitute accessory use lot as approved by the same authority as required for approval of such initial lot.

(k) Employee Parking. Parking spaces required on an employee basis shall be based on the maximum number of employees on duty or residing, or both, on the premises at any one time.

(l) Required Spaces. There shall be provided for each building, structure and use hereafter erected, structurally altered or enlarged, the minimum number of accessory off-street parking spaces in accordance with the following:

(1) Dwelling and Lodging Uses.

(A) Hotels and Motels. One parking space for each room or suite of rooms comprising a lodging unit, one parking space for each two employees, and one parking space for each 100 square feet of retail sales and dining area.

(B) Lodging Houses and Apartment Hotels. One parking space for each lodging room and one parking space for each dwelling unit, and one parking space for each two employees.

(C) Multiple-Family Dwellings. Two external spaces for each dwelling unit.

(D) Single-Family Dwellings. One parking space for each dwelling, plus one additional parking space for each two roomers or lodgers accommodated; but no more than four parking spaces for each single-family dwelling.

(E) Single-Family Semi-Detached or Attached Dwellings. Two parking spaces, but not more than three, for each dwelling.

(F) Two-Family Dwellings. One parking space, but not more than two, for each dwelling unit.

(2) Schools, Institutions and Auditoriums or Other Places of Assembly.

(A) Auditoriums, Meeting Halls, Exhibition Halls and Auditoriums as Accessory to Churches, Schools and Other Institutional Establishments. One parking space for each four seats, or for each 90 lineal inches of seating space.

(B) Churches, Chapels, Temples and Synagogues. One parking space for each four seats, or for each 90 lineal inches of seating space.

(C) Colleges, Junior Colleges and Universities. One parking space for each six students, based upon the maximum number of students that can be accommodated in accordance with design capacity plus one parking space for each two employees.

(D) Hospitals. One parking space per bed.

(E) Libraries, Museums and Art Galleries. One parking space for each 800 square feet of floor area.

(F) Nursing Homes and Similar Types of Establishments. One parking space for each two beds, plus one parking space for each two employees.

(G) Private Clubs and Lodges. One parking space for each lodging room and one parking space for each five seats in accordance with design seating capacity of the main meeting room.

(H) Schools. When the number of parking spaces as required herein is provided for an auditorium or other places of public assembly accessory to a school, and when recommended by the Plan Commission and approved by the Board of Trustees, additional parking spaces need not be provided when the number of parking spaces for such auditorium or other places of public assembly is equal to or in excess of the applicable requirements set forth below:

(i) Commercial Or Trade, Music, Dance or Business. One parking space for each employee, plus one space for each two students, based on the maximum number of students that can be accommodated in accordance with design capacity.

(ii) High, Public Or Private. One parking space for each seven students based on the maximum number of students that can be accommodated in accordance with design capacity.

(iii) Nursery, Elementary or Junior High. One parking space for each faculty member and each other full-time employee.

(3) Recreational Uses, Commercial or Noncommercial.

(A) Bowling Alleys. Seven parking spaces for each lane plus such additional spaces as may be required herein for affiliated uses such as restaurants and the like.

(B) Parks, Recreation Centers and Community Centers - Private, Semi-Public or Public.  
One parking space for each two persons, based upon the maximum number of persons that can be accommodated at the same time in accordance with such design capacity, and one parking space for each two employees.

(C) Theaters. One parking space for each four seats.

(D) Theaters (Automobile Drive-In). Reservoir standing spaces equal in number to 10% of the vehicle capacity of such theaters.

(4) Business, Commercial and Industrial Uses.

(A) Car Washes. One parking space for each employee, and in addition, reservoir standing spaces to accommodate automobiles awaiting entrance to the car wash equal in number to five times the maximum capacity of the car wash. Maximum capacity shall mean the greatest possible number of automobiles undergoing same phase of washing at the same time.

(B) Automobile Service Stations and Service Stores. One parking space for each island of gasoline pumps, plus two for each service stall.

(C) Banks and Other financial Institutions. Two parking spaces for each 300 square feet of floor area plus one for each employee.

(D) Restaurants, Not Including Drive-In Establishments. One parking space for each 100 square feet of floor area plus one for each employee.

(E) Furniture and Appliance Stores, Motor Vehicle Sales Establishments, and Establishments for Repair of Household Equipment or Furniture. One parking space for each 400 square feet of floor area.

(F) Manufacturing, Fabricating, Processing, Storing, Cleaning, Testing, Assembling, Repairing or Servicing Establishments as Permitted in the Manufacturing Districts. One parking space for each 1 ½ employees as related to the working period when the maximum number of persons are employed on the premises, or one for each 800 square feet of floor area, whichever is greater.

(G) Medical and Dental Clinics. Two parking spaces for each office, examining room and treatment room, plus one space for each 50 square feet of floor area contained in the reception room or waiting lobby.

(H) Offices - Business, Professional and Public Ministration or Service Buildings.  
One parking space for each 250 square feet of floor area.

(I) Undertaking Establishments and Funeral Parlors. One parking space for each 100 square feet of floor area, plus one parking space for each of the funeral parlor's official vehicles.

(J) Warehouse, Storage, Wholesale and Mail Order Establishments. One parking spaces plus one parking space for each 1,500 square feet of floor space over 4,500 square feet of when the number of employees is specifically indicated, one parking space for each 1 ½ employees employed on the premises.

(K) Public Utility and Public Service Uses. One parking space for each employee.

(L) All Other Business and Commercial Establishments. One parking space for each 200 square feet of floor area.

(M) Uses in Shopping Center Under Unified Control or Ownership. The required number of parking spaces shall be equal to the required number of parking spaces as heretofore set forth for the individual uses located in the center.

(Ord 1993-01, 10/18/1993.)

#### **§ 2070. Off-street loading.**

There shall be provided off-street loading spaces not less than the minimum requirements specified in this Article in connection with any building, structure or use which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles in accordance with the following:

(a) Location. Accessory off-street loading spaces shall be located on the same lot as the principal use. Open off-street loading spaces which abut a residence district boundary line shall be completely screened therefrom by a fence, wall or door, or any combination thereof, of an architectural design approved by the Zoning Officer, not less than six feet nor more than eight feet in height, or a densely planted tree or shrub hedge maintained to not less than six feet in height. No permitted or required loading space shall be located within 40 feet of the nearest point of intersection of any two streets. No loading space shall be located in a required front or side yard, and any loading space located in a required rear yard shall be open to the sky.

(b) Size. Unless otherwise specified in this ordinance or approved by the Board of Trustees, a required off-street loading space shall be at least 14 feet in width and at least 65 feet in length,



exclusive of access drive, aisles, ramps and maneuvering space, and shall have a vertical clearance of not less than 15 feet.

(c) Access. Each required off-street loading space shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movements. Access drives and intersection of driveways with streets shall be in accordance with regulations set forth in Section 7 of this Article.

(d) Surfacing. All open off-street loading spaces, access drives, aisles and maneuvering spaces shall be improved with a compacted base and curb and gutter, bituminous or concrete, as approved by the Zoning Officer.

(e) Repair and Service. No storage of any kind nor motor vehicle repair work or service of any kind shall be permitted within any required loading space.

(f) Utilization. Space allocated to any off-street loading spaces shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

(g) Off-Street Loading Space Requirements. The minimum number of off-street loading spaces accessory to building structures and uses hereafter erected, structurally altered or enlarged in all Business and manufacturing districts shall be in accordance with the following schedule:

Gross Floor Area of Establishment	Required Number
5,000 to 10,000	1
10,000 to 25,000	2
25,000 to 40,000	3
40,000 to 100,000	4

For each additional 100,000 square feet of gross floor area, or fraction thereof over 100,000 square feet of gross floor area: one additional loading space.

(Ord 1993-01, 10/18/1993.)

#### **§ 2071. Minimum standards of parking spaces, aisles, parking bays**

Specifications set forth in Figure 3 shall apply.

(Ord 1993-01, 10/18/1993.)

#### **§ 2072. Access driveways from streets to off-street parking and loading spaces**

(a) Width of Driveways (Measured at the Lot Line Adjoining a Street).

(1) Residential Uses. Not less than 10 feet wide nor more than 22 feet wide.

Minimum Standards of Parking spaces, Aisles, and Parking Bays							
Parking Space and Aisle Dimensions				Width of Parking Bays*			
Angle of Parking	Width of Space	Width of Space Parallel to Aisle	Depth of Space Perpendicular to Aisle	Width of Aisle	Intermeshing	Head-In to Curb	Back-In to Curb
	8'6"	12'0"	17'0"	11'6"	43'0"	43'10"	49'0"
45°	9'0"	12'9"	17'0"	11'0"	42'10"	43'8"	49'2"
	8'6"	9'10"	18'0"	18'0"	53'5"	52'7"	57'8"
60°	9'0"	10'5"	18'0"	17'0"	52'8"	51'10"	57'2"
	8'6"	8'6"	18'0"	29'0"		65'0"	65'0"
90°	9'0"	9'0"	18'0"	27'0"		63'0"	63'0"
					*Parking bay consists of 2 rows of parking spaces and on aisle.		
(Adopted from Traffic Design of Parking Garages, The ENO Foundation for Highway Traffic Control, 1957)							

Figure 3

(2) Nonresidential Uses.

(A) Not less than 14 feet wide nor more than 20 feet wide for a one-way driveway.

(B) Not less than 24 feet wide nor more than 35 feet wide for a two-way driveway.

(b) Radius Connecting Street Pavement Edge and Driveway Edge.

(1) In Residence Districts. Not less than five feet (except driveways more than 20 feet in width, not less than eight feet.

(2) Business and Manufacturing Districts.

(A) Not less than 15 feet at the intersection of a driveway and street pavement in a street having a right of way more than 66 feet wide.

(B) Not less than eight feet at the intersection of a driveway and a street pavement in a street having a right of way of 66 feet or less in width.

(C) Angle at Intersection of a Driveway and Street. The acute angle formed at the intersection of driveway and street pavement edges shall be not less than 60 degrees.

(D) Spacing Between Separate Driveway Entrances on a Lot (Measured at the Lot Line Adjoining a Street).

(3) Not less than 20 feet on streets having rights of way more than 66 feet in width.

(4) Not less than ten feet on streets having rights of way 66 feet or less in width.

(5) On Corner Lots, Spacing Between Driveway Entrance and Right-of-Way Line of an Adjacent intersecting Street (Measured From the Nearest Edge of the Driveway Pavement at its intersection with the Street Right-of-Way Line of an Adjacent Intersecting Street).

(A) Not less than 15 feet to an adjacent intersecting street having a right of way more than 66 feet in width.

(B) Not less than eight feet to an adjacent intersecting street having a right of way 66 feet or less in width.

(Ord 1993-01, 10/18/1993.)

## **SUBCHAPTER 10—NONCONFORMING USES**

### **§ 2073. Preamble**

The purpose of this Article is to provide for the regulation of nonconforming uses, Buildings and structures, and to specify those circumstances and conditions under which those nonconforming Buildings, structures and uses may be continued.

(Ord 1993-01, 10/18/1993.)

### **§ 2074. Authority to continue nonconformance**

Any building, structure or use that lawfully existed on October 18, 1993, and became nonconforming upon the enactment of the Village's Zoning Ordinance on October 18, 1993, or on the effective date of any subsequent amendment to this Chapter, may be continued only in accordance with the following regulations.

(a) Nonconforming building or structure.

(1) Repairs and alterations. Only ordinary repairs and alterations required by law or required to make the building or structure and its use conform to the regulations of the district in which it is located may be made to a lawfully nonconforming building or structure. The Building Officer shall determine what repairs and alterations are ordinary.

(2) Additions and enlargements.

(A) A lawfully nonconforming building or structure may not be added to or enlarged in any manner unless the building or structure and its use, including all additions and enlargements, are made to conform to all of the regulations of the district in which it is located.

(B) A lawfully nonconforming building or structure that is nonconforming only as to bulk may be added to or enlarged if such additions or enlargements conform to all regulations of the district in which it is located.

(3) Moving. No lawfully nonconforming building or structure may be moved in whole or in part to any other location unless every portion of the building or structure and its use, are made to conform to all regulations of the district to which the building or structure is to be moved.

(4) Restoration or repair. If the cost of restoration or repair will exceed 60% of the cost of reconstructing the entire building or structure, a lawfully nonconforming building or structure that is damaged or destroyed by fire or other casualty may not be restored or repaired unless the building or structure and its use conforms to all regulations of the district in which it is located. If the damage is less than 60% of the cost of reconstruction, no repairs or restoration may be made unless the work is started within one year from the date of the occurrence.

(5) Change of use. The lawful nonconforming use of all or part of a lawfully nonconforming building or structure may be continued. The use may be changed at any time to a use permitted in the district in which the building or structure is located. Once the use is changed to a conforming use, the building or structure may not again be used for a nonconforming use.

(b) Nonconforming use of conforming building or structure.

(1) Expansion. The nonconforming use of a portion of a conforming building or structure may not be expanded or extended to any other portion, nor changed to any other nonconforming use.

(2) Abandonment. If a nonconforming use is discontinued for a period of 6 consecutive months it may not be renewed, and any subsequent use of the building or structure must conform to the use regulations of the district in which the building or structure is located.

(3) Any nonconforming use in a residence district must be discontinued within 10 years from October 18, 1993, or the effective date of the amendment to this Chapter making such use nonconforming, as the case may be.

(c) Nonconforming use of land.

(1) Expansion. The nonconforming use of land may not be expanded or extended to any other portion of the land or changed to another nonconforming use.

(2) Abandonment. If a nonconforming use of land is discontinued for a period of 6 consecutive months, it may not be renewed, and any subsequent use of the land must conform to the regulations of the district in which the land is located.

(3) Duration of accessory use. Where the nonconforming use of land is accessory to the nonconforming use of a building or structure, it must be discontinued on the same date as the nonconforming use of the building or structure.

(Ord 1993-01, 10/18/1993; Ord 2018-01, 4/23/2018.)

## **SUBCHAPTER 11—ADMINISTRATION AND ENFORCEMENT**

### **§ 2075. Organization**

The administration of this ordinance is hereby vested in:

The Office of the Zoning Officer  
The Hearing Officer  
The Plan Commission  
The Board of Trustees

(Ord 1993-01, 10/18/1993; Ord 1998-04, 12/21/1998.)

### **§ 2076. Zoning officer**

The Zoning Officer shall enforce this ordinance and in furtherance of his authority shall:

(a) Determine conformance of applications for zoning certificates with regulations of this ordinance.

(b) Issue all zoning certificates, following approval as required in this ordinance, and maintain records thereof.

(c) Conduct inspections of buildings, structures and uses of land to determine compliance with the terms of this ordinance.

(d) Maintain permanent and current records of the administration and enforcement of this ordinance, including, but not limited to, all maps, amendments, variations, special uses, appeals and applications therefor and records of hearings thereon, and designate on the Zoning Map each amendment thereto.

(e) Decide or make recommendations on all other manners under this ordinance upon which the Zoning Officer is required to act.

(f) Receive from the Village Clerk copies of all appeals and applications for variations, amendments and special use permits which have been referred by the Village Clerk to the Hearing Officer or other appropriate reviewing body.

(g) Provide and maintain public information facilities relative to all matters pertaining to this ordinance.

(Ord 1993-01, 10/18/1993; Ord 1998-04, 12/21/1998.)

#### **§ 2077. Zoning certificates**

(a) No permit pertaining to the use of land or buildings shall be issued by an officer or employee of the Village, unless the application for such permit has been examined by the Zoning Officer and has affixed to it a certificate of the Zoning Officer that the proposed building or structure and uses comply with all the provisions of this ordinance. Any certificate issued in conflict with the provisions of this ordinance shall be null and void.

(b) An application for a zoning certificate for a use of land, buildings or structures, which requires compliance with performance standards as set forth in the manufacturing district regulations, shall have affixed to it a certification of a professional engineer, licensed by the State of Illinois, whose qualifications pertinent to engineering aspects of the various performance standards regulations have previously been approved by the Board of Trustees. The Zoning Officer shall, upon receipt of such application, approve and authorize the issuance of a zoning certificate, provided there is compliance with all other provisions of this ordinance. Within 15 days after the date of issuance of such zoning certificate, the Zoning Officer shall examine said application and if he finds the proposed use of land, building or structure does not comply with such performance standards or other applicable regulations of this ordinance, he shall notify the professional engineer and person filing the application, in writing, of his finding. Failure of the professional engineer to show that such application is in compliance or for the applicant to submit a revised application which shows compliance within 30 days of such notification shall be cause for revocation of the zoning certificate.

(Ord 1993-01, 10/18/1993.)

#### **§ 2078. Filing plans**

All applications for zoning certificates shall be accompanied by plans in triplicate, drawn to scale, showing the actual shape, area and dimensions of the lot to be built upon, the exact size and location on the lot of the existing buildings and accessory buildings, and the lines within which the new buildings or structures shall be erected, the existing and intended use of each building or structure, the number of dwelling units or lodging rooms a building is designed to accommodate, location and number of off-street parking and off-street loading spaces, and such other information with regard to

the lot and neighboring lots and performance standards as may be necessary to determine, and provide for the enforcement of this ordinance. One copy of such plans shall be returned to the owner when such plans shall have been approved by the Zoning Officer. The lot and location of the building thereon shall be staked out on the ground before construction is started.

(Ord 1993-01, 10/18/1993.)

#### **§ 2079. Certificate of occupancy**

(a) No land shall be occupied or used in a manner different than that existing on the effective date hereof, and no building or structure hereafter erected or altered shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy shall have been issued by the Building Officer<sup>13</sup> stating that the building, structure or land improvement complies with all the building and health laws and the provisions of this ordinance. No change of use shall be made in any building, structure or land improvement or part thereof, now or hereafter erected or altered, without an occupancy permit having been issued by the Building Officer, and no permit shall be issued to make such change unless it is in conformity with the provisions of this ordinance and amendments thereto. Nothing in this Article shall prevent the continuance of the present occupancy or use of any existing building, structure or lane improvement, except as may be necessary for the safety of life and property.

(b) No certificate of occupancy permit for a change of use in an existing building, structure or and improvement shall be issued until the premises have been inspected and certified by the Zoning Officer to be in compliance with applicable requirements for the zoning district in which it is located.

(Ord 1993-01, 10/18/1993.)

#### **§ 2080. Variations**

(a) The Board of Trustees shall decide all applications for variations of the provisions of this ordinance after a public hearing held before the Hearing Officer. The Hearing Officer shall hold public hearings upon all applications for variations and shall report his recommendations to the Board of Trustees. The Hearing Officer shall recommend a variation only after he has made a finding of fact specifying the reason or reasons for recommending the variation. Such findings shall be based upon the standards prescribed in subsection (d) of this section. No variation shall be granted by the Board of Trustees without such findings of fact. When the Hearing Officer fails to recommend a variation, it may only be approved by a favorable vote of of the Board of Trustees.

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<sup>13</sup>Certificates of occupancy are issued by the Kane County Development Department pursuant to an intergovernmental agreement with the Village.

(b) An application for a variation may be made by any governmental body, department, board, bureau or commission or by any person having the fee interest, a possessory interest entitled to exclusive possession, a contractual interest which may become a fee interest, or an option to purchase the land described in the application for a variation.

(c) An application for a variation shall be filed with the Village Clerk, who shall forward a copy of the same to the Hearing Officer. The application shall contain such information as the Board of Trustees may from time to time by resolution provide. Not more than 90 days after the filing of such application, a hearing shall be held on the application. Notice of such hearing shall be published at least once, not more than 30 days nor less than 15 days before the hearing, in a newspaper of general circulation within the Village and sent via first-class mail to those persons in whose name the taxes were last assessed on all properties located within 500 feet of the property for which a variation is sought as disclosed by the records maintained by the Kane County Supervisor of Assessments.

Ord 2007-07, 8/20/2007.

(d) (1) The Hearing Officer shall not recommend a variation of the regulations of this ordinance, as authorized herein unless he shall have made findings of fact based upon the evidence presented to him in each specific case that—

(A) The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the district in which it is located;

(B) The plight of the owner is due to unique circumstances;

(C) The variation, if granted, will not alter the essential character of the locality; and

(D) for the purpose of implementing the above rules, the Hearing Officer shall also, in making his determination whether there are practical difficulties or particular hardships, take into consideration the extent to which the following facts favorable to the applicant have been established by the evidence:

(i) the particular physical surroundings, shape or topographical condition of the specific property involved would result in a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;

(ii) The conditions upon which the petition for variation is based would not be applicable, generally to other property within the same zoning classification;

(iii) The purpose of the variation is not based exclusively upon a desire to make more money out of the property;

(iv) The alleged difficulty or hardship has not been created by the owner of the property, or by a previous owner;



(v) The granting of the variation will not be detrimental to the public welfare or injurious to either property or improvements in the neighborhood in which the property is located; and

(vi) 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 within the neighborhood.

(2) The Hearing Officer may recommend and the Board of Trustees may require such conditions and restrictions upon the premises benefitted by a variation as may be necessary to comply with the standards set forth in this section to reduce or minimize the injurious effect of such variation upon other property in the neighborhood, and better to carry out the general intent of this ordinance

(3) The Hearing Officer shall file his written recommendations on each application for variation with the Village Clerk. The Village Clerk shall forward a copy of the written recommendations to the Board of Trustees and the applicant.

(e) Variations from the regulations of this ordinance shall be granted by the Hearing Officer only in accordance with the standards set out in this section and may be granted only in the following instances, and in no others:

(1) To permit any yard or setback less than a yard or a setback required by the applicable regulations;

(2) To permit the use of a lot or lots of record on the effective date hereof for a use otherwise prohibited solely because of insufficient area or width of the lot or lots;

(3) To permit the same off-street parking facility to qualify as required facilities for 2 or more uses, provided that substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week; and

(4) To reduce the applicable off-street parking or loading facilities required by 10% of the applicable regulations.

(Ord 1993-01, 10/18/1993; Ord 1998-04, 12/21/1998.)

## **§ 2081. Appeals**

An appeal to the Hearing Officer may be made by any person or by any office, department, board or bureau aggrieved by a decision of the Zoning Officer under this ordinance in accordance with Illinois Statutes and the following:

(a) An application for an appeal shall be filed with the Village Clerk within 20 days of the date of the action from which the appeal is being filed, and thereafter the Village Clerk shall forward such application to the Hearing Officer for processing. The Village Clerk shall forward to the Zoning Officer a notice of appeal specifying the grounds thereof and he shall forthwith transmit to the Zoning Board of Appeals all the papers constituting the record upon which the action appealed from was taken.

(b) An appeal stays all the proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Hearing Officer, after the notice of appeal has been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Hearing Officer or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.

(c) The Hearing Officer shall fix a reasonable time, not to exceed 90 days, for the hearing of the appeal and give due notice thereof to the parties and decide the same within a reasonable time. The Hearing Officer may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as in his opinion ought to be made on the premises and to that end shall have all the powers of the officer from whom the appeal was taken.

(Ord 1993-01, 10/18/1993; Ord 1998-04, 12/21/1998.)

#### **§ 2082. Amendments**

(a) The regulations imposed and the districts created under the authority of this ordinance may be amended, from time to time, by ordinance in accordance with applicable law. An amendment shall be made by the Board of Trustees only after a public hearing before the Hearing Officer and a report of his findings and recommendations has thereafter been submitted to the Board of Trustees.

(b) Amendments may be proposed by the Board of Trustees, Plan Commission and by any person having the fee interest, a possessory interest entitled to exclusive possession, a contractual interest which may become a fee interest, or an option to purchase the land which is described in the application for an amendment.

(c) (1) An application for an amendment shall be filed with the Village Clerk and thereafter entered into the records of the first meeting thereafter of the Board of Trustees. The application shall contain such information as the Board of Trustees may from time to time by resolution provide.

(2) A copy of such application shall thereafter be forwarded by the Village Clerk to the Hearing Officer with a request to hold a public hearing and submit to the Board of Trustees a report of his findings and recommendations. Notice of such hearing shall be published at least once, not more than 30 days nor less than 15 days before the hearing, in a newspaper of general circulation within the Village and sent via first-class mail to those persons in whose name the taxes were last

assessed on all properties located within 500 feet of the property for which an amendment is sought as disclosed by the records maintained by the Kane County Supervisor of Assessments.

Ord 2007-07, 8/20/2007.

(3) The Village Clerk shall also transmit a copy of the application to the Plan Commission. The Plan Commission shall submit an opinion relative to such proposed amendment to the Hearing Officer and Board of Trustees.

(d) (1) The Board of Trustees, upon report of the Hearing Officer and without further public hearing, may make any proposed amendment in accordance with applicable law, or may refer it back to the Hearing Officer for further consideration.

(2) In case a written protest against any proposed amendment is signed and acknowledged by owners of 20% of the frontage proposed to be altered, or by the owners of 20% of the frontage immediately adjoining or across the alley therefrom, or by owners of 20% of the frontage directly opposite the frontage to be altered, is filed with the Village Clerk, the amendment may not be made except on the favorable vote of of all members of the Board of Trustees.

(Ord 1993-01, 10/18/1993, Ord 1998-04, 12/21/1998.)

#### **§ 2083. Special uses**

(a) Purpose. The formulation and enactment of a comprehensive ordinance is based on the division of the entire Village into districts in each of which are permitted specified uses that are mutually compatible. In addition to such permitted, compatible uses, however, it is recognized that there are other uses which it may be necessary or desirable to allow in a given district but which, on account of their potential influence upon neighboring uses or public facilities, need to be carefully regulated with respect to location or operation for the protection of the community. Such uses are classified in this ordinance as "Special Uses" and fall into two categories:

(1) Uses either municipally operated or operated by publicly regulated utilities, or uses traditionally affected by public interest;

(2) Uses entirely private in character which, on account of their peculiar locational need, the nature of the service they offer to the public, and their possible damaging influence on the neighborhood, may have to be established in a district or districts in which they cannot reasonably be allowed as an unrestricted permitted use under the zoning regulations.

(3) To qualify for a special use permit, the use cannot already be in operation, the petitioner must demonstrate that the proposed use will not impair the use, enjoyment and property values of properties in the immediate vicinity, will not impede the orderly development of property in the area and, in general, will blend with and meet the requirements of the zoning district in which it is located.

(b) Initiation of Special Use. Special uses may be proposed by the Board of Trustees, Plan Commission and by any person having a freehold interest, a possessory interest entitled to exclusive possession, a contractual interest in which may become a freehold interest, an option to purchase or any exclusive possessory interest which is specifically enforceable on the land which is described in the application for a special use.

(c) Application for Special Use and Notice of Hearing.

(1) An application for a special use shall be filed with the Village Clerk and thereafter entered into the records of the first meeting thereafter of the Board of Trustees.

(2) A copy of such application shall thereafter be forwarded by the Village Clerk to the Hearing Officer with a request to hold a public hearing and submit to the Board of Trustees a report of his findings and recommendations. Notice of such hearing shall be published at least once, not more than 30 days nor less than 15 days before the hearing, in a newspaper of general circulation within the Village and sent via first-class mail to those persons in whose name the taxes were last assessed on all properties located within 500 feet of the property for which a special use is sought as disclosed by the records maintained by the Kane County Supervisor of Assessments.

Ord 2007-07, 8/20/2007.

(d) Decisions.

(1) The Board of Trustees, upon report of the Plan Commission and without further public hearing, may grant or deny any proposed special use in accordance with applicable Illinois Statutes, or may refer it back to the Plan Commission for further consideration.

(2) In case a written protest against any proposed special use signed and acknowledged by owners of 20% of the frontage proposed to be altered, or by the owners of 20% of the frontage immediately adjoining or across the Alley therefrom, or by owners of 20 % of the frontage directly opposite the frontage to be altered, is filed with the Village Clerk, the special use cannot be passed except on the favorable vote of two-thirds of all members of the Board of Trustees.

(Ord 1993-01, 10/18/1993.)

#### **§ 2084. Plan commission, jurisdiction with respect to zoning**

The Plan Commission shall have the following duties under this ordinance:

(a) To receive copies of all applications for proposed amendments and special uses and thereafter submit an opinion thereon to the Hearing Officer and to the Board of Trustees.

(b) To initiate, direct and review, from time to time, a study of the provisions of the text and map comprising the zoning regulations, and to make reports of its recommendations to the Board of Trustees not less frequently than annually.

(Ord 1993-01, 10/18/1993, Ord 1998-04, 12/21/1998.)

**§ 2085. Fees**

(a) The Board of Trustees shall, by separate ordinance, establish a schedule of fees, charges and expenses for the processing of zoning certificates, occupancy certificates, appeals, applications for variations, amendments, planned unit developments, annexations, special uses, site plan review, and other administrative matters pertaining to this ordinance.

(b) All fees and expenses incurred by the Village, including, but not limited to, engineering, planning, consultant and legal fees incurred in connection with a petition or application for a variation, amendment, special use permit, planned unit development, annexation or site plan review pursuant to the terms of this ordinance, shall be paid by the petitioner or applicant.

(c) No action shall be taken on any appeal, petition or application for a variation, amendment, special use permit, planned unit development, annexation, or site plan review until all applicable fees, charges and expenses have been paid in full.

(Ord 1993-01, 10/18/1993.)

**§ 2086. Penalty, enforcement**

(a) Any person who violates, disobeys, omits, neglects, refuses to comply with, or who resists enforcement of any of the provisions of this Zoning ordinance shall, upon conviction, be fined not less than \$25.00 nor more than \$500.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(b) Any person operating a non-permitted use without securing the proper zoning or special use permit first shall, in addition to the fines imposed under the preceding paragraph, be denied eligibility to apply for such zoning or special use permit for a period of one year.

(c) The Zoning Officer is hereby designated and authorized to enforce this ordinance. However, it shall also be the duty of all officers, citizens and employees of the Village to assist the Zoning Officer by reporting to him any new construction, reconstruction, improved land uses, or upon any seeming violation.

(Ord 1993-01, 10/18/1993.)

## SUBCHAPTER 12—SATELLITE ANTENNA

### § 2087. Satellite antenna

(a) In all zoning districts the following requirements apply:

(1) Guy wires and satellite antennas shall be considered an accessory structure and shall meet setbacks for accessory structures except where it is a part of a public utility.

(2) Satellite antennas shall meet all manufacturer's specifications. The mast or tower shall be of noncombustible and corrosive-resistant materials. The miscellaneous hardware, such as brackets, turnbuckles, clips and similar type equipment subject to rust or corrosion, shall be protected with a zinc or cadmium coating by either galvanizing or sherardizing process after forming. These finishes are selected to guard against corrosion and to protect the elements against electrolytic action due to the use adjoining dissimilar metals.

(3) Any part of the satellite antenna, including but not restricted to the reflector, probe, guy wires, and signal transmission cable, shall have vertical and horizontal clearance from any electric lines which conform to the latest edition of the National Electrical Safety Code.

(4) All signal transmission cable, control wires, and electrical lines shall be buried in accordance with National Electrical Code.

(5) Every satellite antenna must be adequately grounded for protection against a direct strike of lightning, with an adequate ground wire. Ground wires shall be of the type approved by the latest edition of the Electrical Code for grounding masts and lightning arrestors, and shall be installed in a mechanical manner with as few bands as possible, maintaining a clearance of at least two inches from combustible materials. Lightning arrestors shall be used, which are approved as safe by the Underwriters Laboratories, Inc., and both sides of the line must be adequately protected with proper arrestors to remove static charges accumulated on the line. When lead-in conductors of polyethylene ribbon-type are used, lightning arrestors must be installed in each conductor. When coaxial cable or shielded twin lead is used for lead in, suitable protection may be provided without lightning arrestors by grounding the exterior metal sheath.

(6) Satellite antennas shall be nonreflective and their color shall blend in with the surroundings.

(7) The satellite antenna shall be installed and maintained in compliance with the requirements of the Building Code. A building permit shall be required prior to construction.

(8) No advertising or signage of any type is permitted on a satellite antenna.

(b) In the E and R1 residence districts the following requirements shall apply:

(1) Satellite antennas are permitted only within the rear yard buildable area for a principal or accessory structure. The locations shall be a fixed point on the ground.

(2) Satellite antennas of three feet in diameter are permitted on the roof. No satellite earth station exceeding three feet in diameter shall be mounted on any roof. Any dish of less than three feet in diameter may be mounted upon a roof of a primary or accessory structure on the lot but shall not be mounted on chimneys, towers, trees, poles or spires. A roof-mounted dish shall be mounted directly to the part of the roof not visible from the street immediately in front of the structure or from the side street in case of a corner lot. Roof mounted dishes may only be mounted on the rear portion of any roof and not on the front side of any roof. Any roof-mounted dish must be designed to withstand a wind support of 85 miles per hour.

(3) No ground-mounted satellite antenna shall be higher than nine feet, including base, and there shall be no more than one satellite antenna per lot. The antenna shall be shielded from any abutting single-family zoning district, residence, or public street by a six foot high solid wall or fence or landscape screening.

(c) In the R2 and B1 zoning districts the following requirements shall apply:

(1) Satellite antennas are permitted anywhere on a lot within the buildable area for a principal or accessory structure; however, not in the area to the front of the main structure. The location shall be at a fixed point on the ground or on a structure.

(2) Satellite antennas are permitted on the roof subject to approval; but shall be no higher than four feet, including base. The purpose of the review is to insure contiguous uses are not visually impacted by the satellite antennas.

(3) No ground-mounted satellite antenna shall be higher than 12 feet, including base, and there shall be no more than one satellite antenna per lot. The antenna shall be shielded from any abutting single-family zoning district, residence, or public street by a six foot high solid wall or fence or landscape screening.

(d) In the B2 zoning district, the following requirements shall apply:

(1) Satellite antennas are permitted anywhere on a lot within the buildable area for a principal or accessory structure; however, not in the area to the front of the structure. The location shall be at a fixed point on the ground or on a structure.

(2) Satellite antennas are permitted on the roof subject to approval of the Village Board; but shall be no higher than ten feet, including base. The purpose of this approval is to insure that contiguous uses are not visually impacted by the satellite antennas.

(3) No ground mounted satellite antenna shall be higher than 15 feet, including base, and there shall be no more than one satellite antenna per lot. The antenna shall be shielded from any

abutting single-family zoning district, residence, or public street by a six foot high solid wall or fence or landscape screening.

(e) In manufacturing districts MI and M2, the following requirements shall apply:

(1) Satellite antennas are permitted anywhere on a lot within the buildable area for a principal or accessory structure. The location shall be at a fixed point on the ground or on a structure.

(2) Satellite antennas are permitted on the roof but shall be no higher than 15 feet, including base.

(3) No ground-mounted satellite antenna shall be higher than 25 feet, including base. The antenna shall be shielded from any abutting single family zoning district, or residence by an eight foot high solid wall or fence or landscape screening.

(4) Satellite antennas legally in existence at the time of the passage of this Article shall be considered “grandfathered” for a period of six months from the effective date of this Article. At the end of the six month period the antenna must be in compliance with the provisions of this Article.

(5) No variances may be granted which would allow satellite antennas in the required front yard setback.

(Ord 1993-01, 10/18/1993.)

## **SUBCHAPTER 13—HEARING OFFICER**

### **§ 2088. Creation**

Pursuant to 65 ILCS 5/11-13-14.1 of the Illinois Municipal Code, there is hereby created the position of hearing officer. The Zoning Board of Appeals of the Village is hereby created in accordance with the Illinois Municipal Code.

(a) conduct any public hearing—other than a public hearing provided for in § 11-13-2 of the Illinois Municipal Code—required to be held under this ordinance in connection with applications for any special use, variation, amendment or other change or modification of this ordinance; and

(b) hear and decide appeals from and review any order, requirement, decision or determination made by the Zoning Officer or other authorized official of the Village having jurisdiction under this ordinance.

(Ord 1993-01, 10/18/1993, Ord 1998-04, 12/21/1998.)



#### **§ 2089. Jurisdiction**

The Hearing Officer is hereby vested with the following jurisdiction and authority:

(a) To hear and decide an appeal from any order, requirement, decision or determination made by the Zoning Officer or other authorized official of the Village having jurisdiction under this ordinance.

(b) To hear applications for variations from the terms provided in this ordinance in the manner and subject to the standards set forth in this ordinance.

(c) To hear applications for special uses under ordinance in the manner and subject to the standards set forth in this ordinance.

(d) To hear applications for amendments to this ordinance in the manner and subject to the standards set forth in this ordinance.

(e) To hear and decide upon all matters referred to him or upon which he is required to pass under this ordinance, in accordance with applicable law.

(Ord 1993-01, 10/18/1993, Ord 1998-04, 12/21/1998.)

#### **§ 2090. Rules**

All testimony by witnesses at any hearing provided for in this ordinance shall be given under oath. The Hearing Officer may administer oaths and compel the attendance of witnesses. All hearings shall be open to the public. The Hearing Officer shall keep minutes of all proceedings and records of his examinations and other official actions. Every rule, regulation, every amendment or repeal thereof and every order, requirement, decision or determination of the Hearing Officer shall immediately be filed in the office of the Village Clerk and shall be a public record. In the performance of his duties, the Hearing Officer may incur such expenditures as shall be authorized by the Board of Trustees.

(Ord 1993-01, 10/18/1993; Ord 1998-04, 12/21/1998.)

### **SUBCHAPTER 14—WIRELESS TELECOMMUNICATIONS TOWERS**

#### **§ 2091. Purpose**

The purpose of this ordinance is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this ordinance are to—

(a) protect residential areas and land uses from potential adverse impacts of towers and antennas;

(b) encourage the location of towers in non-residential areas;

- (c) minimize the total number of towers throughout the community;
- (d) strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- (e) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- (f) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
- (g) enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- (h) consider the public health and safety of communication towers; and
- (i) avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

In furtherance of these goals, Village of Lily Lake shall give due consideration to the Village's Comprehensive Plan, Zoning Map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

(Ord 1998.03, 12/21/1998.)

#### **§ 2092. Definitions**

As used in this ordinance—

- (1) alternative tower structure means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers;
- (2) antenna means any 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 telecommunications signals or other communication signals;
- (3) backhaul network means the lines that connect a provider's towers/cell sites to one or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network;
- (4) FAA means the Federal Aviation Administration;
- (5) FCC means the Federal Communications Commission;

(6) height means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna;

(7) preexisting towers and preexisting antennas mean any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this ordinance, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired;

(8) tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like, and includes the structure and any support thereto; and

(9) tower center means to center of the tower as calculated from the engineering drawings.

(Ord 1998.03, 12/21/1998.)

#### **§ 2093. Applicability**

All new towers or antennas in the Village shall be subject to these regulations, except—

(a) this ordinance 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 amateur radio station operator or is used exclusively for receive only antennas;

(b) preexisting towers and preexisting antennas shall not be required to meet the requirements of this ordinance, other than the requirements of § 2094(f) and § 2094(g); and

(c) for purposes of implementing this ordinance, an AM array, consisting of one or more tower units and supporting ground system which functions as one AM broadcasting antenna, shall be considered one tower; measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array; and additional tower units may be added within the perimeter of the AM array by right.

(Ord 1998.03, 12/21/1998.)

#### **§ 2094. General requirements**

(a) Antennas and towers may be considered either principal or accessory uses. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

(b) For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage

requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

(c) Each applicant for an antenna and/or tower shall provide to the Zoning Officer an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Village or within 1½ miles of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Officer may share such information with other applicants applying for administrative approvals or special use permits under this ordinance or other organizations seeking to locate antennas within the jurisdiction of the Village, provided, however that the Zoning Officer is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(d) Towers and antennas shall meet the following requirements:

(1) All towers shall be of a monopole design. Windmill or open lattice type tower designs are not permitted.

(2) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color, with a strong preference for a mottled sky-blue color so as to reduce visual obtrusiveness.

(3) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.

(4) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(e) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(f) All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this ordinance shall bring such towers and antennas into compliance with such revised standards and regulations within 6 months of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(g) To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Village concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. Failure to bring such tower into compliance within 30 days shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(h) For purposes of measurement, tower setbacks and separation distances shall be calculated and applied to facilities located in the Village irrespective of municipal and county jurisdictional boundaries.

(i) Towers and antennas shall be regulated and permitted pursuant to this ordinance and shall not be regulated or permitted as essential services, public utilities, or private utilities.

(j) Owners and/or operators of towers or antennas shall certify that all franchises required by law for the construction and/or operation of a wireless communication system in the Village have been obtained and shall file a copy of all required franchises with the Zoning Officer.

(k) For purposes of this ordinance, any special use request, variance request, or appeal of an administratively approved use or special use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in Table 2, in addition to any notice otherwise required by the Zoning Ordinance.

(l) No signs shall be allowed on an antenna or tower.

(m) Buildings and support equipment associated with antennas or towers shall comply with the requirements of Section 2098.

(n) The Village encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

(Ord 1998.03, 12/21/1998.)

#### **§ 2095. Permitted uses**

(a) The uses listed in this section are deemed to be permitted uses and shall not require administrative approval or a special use permit.

(b) The following uses are specifically permitted:

(1) Antennas or towers located on property owned, leased, or otherwise controlled by the Village provided a license or lease authorizing such antenna or tower has been approved by the Village.

(Ord 1998.03, 12/21/1998.)

**§ 2096. Administratively approved uses**

(a) The following provisions shall govern the issuance of administrative approvals for towers and antennas.

(1) The Zoning Officer may administratively approve the uses listed in this section.

(2) Each applicant for administrative approval shall apply to the Zoning Officer providing the information set forth in Sections 2097(b) and 2097(d) of this ordinance and paying the fee established under this ordinance.

(3) The Zoning Officer shall review the application for administrative approval and determine if the proposed use complies with §§ 2094, 2097(e) and 2097(f) of this ordinance.

(4) The Zoning Officer shall respond to each such application within 60 days after receiving it by either approving or denying the application. If the Zoning Officer fails to respond to the applicant within 60 days, then the application shall be deemed to be approved.

(5) In connection with any such administrative approval, the Zoning Officer may, in order to encourage shared use, administratively waive any zoning district setback requirements in § 2097(e) or separation distances between towers in § 2097(f) by up to 50%.

(6) In connection with any such administrative approval, the Zoning Officer may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.

(7) If an administrative approval is denied, the applicant shall file an application for a special use permit pursuant to § 2097 prior to filing any appeal that may be available under the Zoning Ordinance.

(b) The following uses may be approved by the Zoning Officer after conducting an administrative review:

(1) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any B-2 zoning district.

(2) Locating antennas on existing structures or towers consistent with the terms of the following requirements.

(A) Any antenna which is not attached to a tower may be approved by the Zoning Officer as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of eight or more dwelling units, provided—

- (i) The antenna does not extend more than 30 feet above the highest point of the structure;
- (ii) The antenna complies with all applicable FCC and FAA regulations; and
- (iii) The antenna complies with all applicable building codes.

(B) An antenna which is attached to an existing tower may be approved by the Zoning Officer and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:

(i) A tower which is modified or reconstructed to accommodate the collocation of an additional antenna shall be of the same tower type as the existing tower, unless the Zoning Officer allows reconstruction as a monopole.

(ii) (I) An existing tower may be modified or rebuilt to a taller height, not to exceed 30 feet over the tower's existing height, to accommodate the collocation of an additional antenna.

(II) The height change referred to in the preceding § 2096(b)(2)(B)(ii)(I) may only occur one time per communication tower.

(III) The additional height referred to in § 2096(b)(2)(B)(ii)(I) shall not require an additional distance separation as set forth in § 2097. The tower's pre-modification height shall be used to calculate such distance separations.

(iii) (I) A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within 50 feet of its existing location.

(II) After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.

(III) A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to § 2097(f). The relocation of a tower hereunder shall in no way be deemed to cause a violation of § 2097(f).

(IV) The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in § 2097(f) shall only be permitted when approved by the Zoning Officer.

(3) Locating any new tower in a non-residential zoning district other than industrial or heavy commercial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Officer concludes the tower is in conformity with the goals set forth in § 2091 and the requirements of § 2094; the tower meets the setback requirements in § 2097(e) and separation distances in § 2097(f); and the tower meets the following height and usage criteria:

- (A) for a single user, up to 90 feet in height;
- (B) for two users, up to 120 feet in height; and
- (C) for three or more users, up to 150 feet in height.

(4) Locating any alternative tower structure in a zoning district other than industrial or heavy commercial that in the judgment of the Zoning Officer is in conformity with the goals set forth in § 2091 of this ordinance.

(5) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

(Ord 1998.03, 12/21/1998.)

#### **§ 2097. Special Use Permits**

(a) The following provisions shall govern the issuance of special use permits for towers or antennas by the Board of Trustees:

(1) If the tower or antenna is not a permitted use under § 2095 of this ordinance or permitted to be approved administratively pursuant to § 2096 of this ordinance, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.

(2) Applications for special use permits under this section shall be subject to the procedures and requirements of Article X, § 9 of the Zoning Ordinance, except as modified in this section.

(3) In granting a special use permit, the Board of Trustees may impose conditions to the extent the Board of Trustees concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.

(4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a registered professional engineer.



(5) An applicant for a special use permit shall submit the information described in this section and pay the fee established by this ordinance.

(b) In addition to any information required for applications for special use permits pursuant to Article X, § 9 of the Zoning Ordinance, applicants for a special use permit for a tower shall submit—

(1) a scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), Comprehensive Plan classification of the site and all properties within the applicable separation distances set forth in § 2097(f), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information deemed by the Zoning Officer to be necessary to assess compliance with this ordinance;

(2) legal description of the parent tract and leased parcel (if applicable);

(3) the setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties;

(4) the separation distance from other towers described in the inventory of existing sites submitted pursuant to § 2094(c) shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the existing tower(s), if known;

(5) a landscape plan showing specific landscape materials;

(6) method of fencing, and finished color and, if applicable, the method of camouflage and illumination;

(7) a description of compliance with §§ 2094(c), (d), (e), (f), (g), (j), (l), and (m), 2097(e), 2097(f) and all applicable federal, state or local laws;

(8) a notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users;

(9) identification of the entities providing the backhaul network for the tower(s) described in the application and other cellular sites owned or operated by the applicant in the municipality;

(10) a description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower; and

(11) a description of the feasible location(s) of future towers or antennas within the Village based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

(c) In addition to any standards for consideration of special use permit applications pursuant to Article X, § 9 of the Zoning Ordinance, the Board of Trustees shall consider the following factors in determining whether to issue a special use permit, although the Board of Trustees may waive or reduce the burden on the applicant of one or more of these criteria if the Board of Trustees concludes that the goals of this ordinance are better served thereby:

- (1) height of the proposed tower;
- (2) proximity of the tower to residential structures and residential district boundaries;
- (3) nature of uses on adjacent and nearby properties;
- (4) surrounding topography;
- (5) surrounding tree coverage and foliage;
- (6) design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (7) proposed ingress and egress; and
- (8) availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in § 2097(d) of this ordinance.

(d) No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Trustees that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's a proposed antenna. An applicant shall submit information requested by the Hearing Officer related to the availability of suitable existing towers, other structures or alternative technology. 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:

- (1) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- (2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (4) 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.

(5) 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.

(6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(7) 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 wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(e) The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Board of Trustees may reduce the standard setback requirements if the goals of this ordinance would be better served thereby:

(1) Towers must be set back a distance equal to at least 75% of the height of the tower from any adjoining lot line.

(2) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.

(f) The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Board of Trustees may reduce the standard separation requirements if the goals of this ordinance would be better served thereby.

(1) (A) Tower separation shall be measured from the tower center to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided 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 residential units <sup>14</sup>	200 feet or 300% height of tower whichever is greater
Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired	200 feet or 300% height of tower <sup>15</sup> whichever is greater
Vacant unplatted residentially zoned lands <sup>16</sup>	100 feet or 100% height of tower whichever is greater
Existing multi-family residential units greater than duplex units	100 feet or 100% height of tower whichever is greater
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

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<sup>14</sup>Includes modular homes and motor homes used for living purposes.

<sup>15</sup>Separation measured from base of tower to closest building setback line.

<sup>16</sup>Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

(2) (A) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting 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) shall be as shown in Table 2.

Table 2 - Existing Towers - Types

	<b>Lattice</b>	<b>Guyed</b>	<b>Monopole 75' in Height or Greater</b>	<b>Monopole Less Than 75' in Height</b>
Lattice	5000	5000	1500	750
Guyed	5000	5000	1,500	750
Monopole 75' in Height or Greater	1,500	1500	1,500	750
Monopole Less Than 75' in Height	750	750	750	750

(g) Towers shall be enclosed by security fencing not less than 6 feet in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Board of Trustees may waive such requirements, as it deems appropriate.

(h) The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Board of Trustees may waive such requirements if the goals of this ordinance would be better served thereby.

(1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least 4 feet wide outside the perimeter of the compound. Non-invasive native plant species are preferred.

(2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.

(3) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

(Ord 1998.03, 12/21/1998.)

**§ 2098. Buildings or other equipment storage**

(a) The equipment cabinet or structure used in association with antennas shall comply with the following:

(1) The cabinet or structure shall not contain more than 450 square feet of gross floor area or be more than 15 feet in height. In addition, for buildings and structures which are less than 65 feet in height, the related unmanned equipment structure, if over 150 square feet of gross floor area or 10 feet in height, shall be located on the ground and shall not be located on the roof of the structure.

(2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than 200 square feet, not to exceed 25% of the roof area.

(3) Equipment storage buildings or cabinets shall comply with all applicable building codes.

(b) The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

(1) In residential districts, the equipment cabinet or structure may be located:

(A) In a front or side yard provided the cabinet or structure is no greater than 4 feet in height or 24 square feet of gross floor area and the cabinet/structure is located a minimum of 6 feet from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least 48 inches and a planted height of at least 36 inches.

(B) In a rear yard, provided the cabinet or structure is no greater than 6 feet in height or 240 square feet in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 36 inches.

(2) In commercial or industrial districts the equipment cabinet or structure shall be no greater than 6 feet in height or 64 square feet in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 36 inches. In all other instances, structures or cabinets shall be screened from view of all residential properties which abut or are directly across the street from the structure or cabinet by a solid fence 6 feet in height or an evergreen hedge with an ultimate height of 8 feet and a planted height of at least 36 inches.

(c) The related unmanned equipment structure shall not contain more than 240 square feet of gross floor area or be more than 10 feet in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

(d) The requirements of this section may be modified by the Zoning Officer in the case of administratively approved uses or by the Board of Trustees in the case of uses permitted by special use to encourage collocation.

(Ord 1998.03, 12/21/1998.)

#### **§ 2099. Removal of abandoned antennas and towers**

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the Village notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within 90 days of such notice shall be grounds to remove the tower or antenna at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Ord 1998.03, 12/21/1998.)

#### **§ 2100. Nonconforming uses.**

(a) Towers that are constructed, and antennas that are installed, in accordance with the provisions of this ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.

(b) Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this ordinance.

Notwithstanding § 2099, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the setback and separation requirements set forth §§ 2097(e) and 2097(f). The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within 180 days from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in Section 2099.

(Ord 1998.03, 12/21/1998.)

#### **§ 2101. Annual reporting**

Each owner of an antenna, antenna structure or tower regulated under this ordinance, including those existing facilities which would have been regulated under this ordinance, shall seasonably notify the Village of any change in the availability of space or plans to change the availability of space on a tower which may permit or facilitate the collocation of another antenna.

(Ord 1998.03, 12/21/1998.)

**§ 2102. Fees**

(a) Each application for a new tower or antenna shall be accompanied by a non-refundable fee of \$1,500 or 2% of the estimated cost of construction of all facilities, as certified by the applicant's registered professional engineer and confirmed by the Village engineer, whichever is greater.

(b) After approval, for the issuance of a building permit, each applicant shall pay a fee of \$1,500 or 2% of the estimated cost of construction of all facilities, as certified by the applicant's registered professional engineer and confirmed by the Village engineer, whichever is greater.

(c) Annually, on or before April 30, of each year, each owner of a tower regulated under this ordinance and of any preexisting tower shall pay a fee of \$500 to the Village to be used to defray the costs of administering this ordinance.

(d) In addition to the fees established above, each owner of a tower or preexisting tower shall indemnify and hold the Village harmless from any loss, cost or expense, including reasonable attorneys fees, incurred by the Village in any litigation to which the Village is made a party as a result of having approved or failed to approve any application hereunder.

(Ord 1998.03, 12/21/1998.)



## APPENDIX A - Obstructions Permitted in Yards

Accessory buildings, structures and used are permitted and may be obstructions in yards as follows:

“F” denotes permitted obstruction in yards and side yards adjoining streets.

“S” denotes permitted obstruction in interior side yards.

“R” denotes permitted obstruction in rear yards.

✓ denotes permitted.

	F	S	R
Awnings or canopies (projecting not more than 3 feet into a required yard)	✓	✓	✓
Arbors or trellises			
*Where trellises are attached to principal building, they may also project into front yards and side yards	✓*	✓*	✓
Air conditioning equipment shelters		✓	✓
Balconies		✓	✓
Bay windows (projecting not more than 3 feet into required yard)	✓	✓	✓
Chimneys, attached (projecting not more than 2 feet into required yard)	✓	✓	✓
Eaves and gutters (projecting not more than 4 feet into a front yard and rear yard and not more than 2 feet into a side yard)	✓	✓	✓
Fences—not more than 8 feet in height in business and manufacturing districts; may be open or opaque in type; finished or "good" side as determined by the Building Officer must face adjoining properties	✓	✓	✓
Fences—not more than 6 feet in height in residence districts; may be open or opaque in type; finished or "good" side as determined by the Building Officer must face adjoining properties		✓	✓
Fences—not more than 4 feet in height in residence districts; may be open or opaque in type; finished or "good" side as determined by the Building Officer must face adjoining properties	✓		

	<b>F</b>	<b>S</b>	<b>R</b>
Fire escapes (projecting not more than 5 feet into a front yard and not more than 3 feet into a side yard)	✓	✓	✓
Flagpoles	✓	✓	✓
Growing of garden crops in the open		✓	✓
Lawn furniture, benches, sundials bid baths and the like	✓	✓	✓
Open off-street loading spaces			✓
Open off-street parking spaces (see Article VIII)			
Playground equipment		✓	✓
Clotheslines, clothes trees, etc.			✓
Playhouses, gazebos, summer houses			✓
Porches, decks, terraces, and patios	Not allowed in yards		
Satellite dishes			✓
Sheds and storage buildings for garden equipment and household items		✓	✓
Signs nameplates and light standards	✓	✓	✓
Swimming pools, private			✓
Outdoor fireplaces			✓
Tennis courts, private			✓
Trees, shrubs and other plants	✓	✓	✓
Other accessory buildings, structures and uses	Not allowed in yards		

(Ord 1993-01, 10/18/1993; Ord 1997-08, 7/3/2008, Ord 1997-11, 11/17/1997; Ord 2018-01, 4/23/2018.)

## APPENDIX B - YARD REQUIREMENTS

YARDS	ZONING DISTRICT								
	A	E1	E2	R1	R2	B1	B2	M1	M2
Front	50	50	50	50	25 <sup>17</sup>	40	40	40	40
Side – Interior	30	30	30	20	20 <sup>18</sup>	15	15	15	15
Side – Adjacent to street	50	50	50	50	20 <sup>19</sup>	40	40	40	40
Side – Adjacent to residential district	50	N/A	N/A	N/A	N/A	40	40	40	40
Rear	100	100	75	40	40	40	40	40	40
Rear – Adjacent to street	100	100	75	50	40	40	40	40	40
Rear – Adjacent to residential district	100	N/A	N/A	N/A	N/A	40	40	40	40
	R3 DISTRICT								
	1 Family Detached	2 Family Detached	Multi-Family	1 Family Semi-detached	1 Family Attached				
Front	25	25	25	25	25				
Side – Interior	10% of Lot Width	10% of Lot Width	12	10	N/A				
Side – Adjacent to street	25	25	25	25	N/A				
Rear	25	25	40	40	40				
Rear – Adjacent to street	25	25	40	40	40				

Ord 1993-01, 10/18/1993; Ord 2008-02, 2/11/2008; Ord 2008-11, 7/16/2008.

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<sup>17</sup>30 feet for garage

<sup>18</sup> or 40 feet combined with a 15 foot minimum.

<sup>19</sup> or 40 feet combined with a 15 foot minimum.

## APPENDIX C - STANDARDS IN MANUFACTURING DISTRICTS

**APPENDIX C - Standards in Manufacturing Districts****Table 3 - Noise Limits in the M1 Manufacturing District**

Maximum Permitted Sound Levels Decibels (Re .0002 Microbar)		
Octave Band Pre 1960 (Cycles/Second)	Neighboring Lot	Residence District
20 - 75	79	72
75 - 150	74	67
150 - 300	66	59
300 - 600	59	52
600 - 1200	53	46
1200 - 2400	47	40
2400 - 4800	41	34
Over 4800	39	32
Octave Band Preferred Frequencies (Cycles/Second)	Neighboring Lot	Residence District
31.5	83	76
63	78	71
25	72	65
250	64	57
500	57	50
1000	51	45
2000	46	39
4000	41	34
8000	38	32

**Table 4 - Noise Limits in the M1 Manufacturing District**

Maximum Permitted Sound Levels Decibels (Re .0002 Microbar)		
Octave Band Pre 1960 (Cycles/Second)	Neighboring Lot	Residence District
20 - 75	79	72
75 - 150	74	67
150 - 300	66	59
300 - 600	59	52
600 - 1200	53	46
1200 - 2400	47	40
2400 - 4800	41	34
Over 4800	39	32
Octave Band Preferred Frequencies (Cycles/Second)	Neighboring Lot	Residence District
31.5	83	76
63	78	71
25	72	65
250	64	57
500	57	50
1000	51	45
2000	46	39
4000	41	34
8000	38	32

**Table 5 - Noise Limits in the M1 Manufacturing District - Peaks**

	Neighboring Lot	Residence District
Overall Peak	86	80

**Table 6 - Noise Limits in the M2 Manufacturing District**

Maximum Permitted Sound Levels Decibels (Re .0002 Microbar)		
Octave Band Pre 1960 (Cycles/Second)	Neighboring Lot	Residence District
20 - 75	82	72
75 - 150	77	67
150 - 300	69	59
300 - 600	62	52
600 - 1200	56	46
1200 - 2400	50	40
2400 - 4800	44	34
4800 - 10000	42	32
Octave Band Preferred Frequencies (Cycles/Second)	Neighboring Lot	Residence District
31.5	86	76
63	81	71
25	75	65
250	67	57
500	60	50
1000	54	45
2000	49	39
4000	44	34
8000	41	32



**Table 7 - Noise Limits in the M2 Manufacturing District - Peaks**

	Neighboring Lot	Residence District
Overall Peak	90	80

**Table 8 - Values of K in the M1 Manufacturing District**

Values of K to be Used in Vibration Formula	
<u>Location</u>	<u>K</u>
<i>In any neighboring lot</i>	
Continuous	0.008
Impulsive	0.015
Less than 8 pulses per 24-hour period	0.037
<i>In any residence district</i>	
Continuous	0.003
Impulsive	0.006
Less than 8 pulses per 24-hour period	0.015

**Table 9 - Values of K in the M2 Manufacturing District**

Values of K to be Used in Vibration Formula	
<u>Location</u>	<u>K</u>
<i>In any neighboring lot</i>	
Continuous	0.030
Impulsive	0.060
Less than 8 pulses per 24-hour period	0.150
<i>In any residence district</i>	
Continuous	0.003
Impulsive	0.006
Less than 8 pulses per 24-hour period	0.015

**Table 10 - Flammables - Capacity Permitted in the M1 Manufacturing District**

<b>Total Capacity of Flammable Materials Permitted (In Gallons)</b>		
	<b>Above Ground within <u>Enclosed Building</u></b>	<b><u>Underground</u></b>
Materials having a closed cup flash point over 187° F. but less than 300° F.	20,000	100,000
From and including 105° F. to and including 187° F.	10,000	100,000
Materials having a closed cup flash point of less than 105° F.	3,000	100,000

**Table 11 - Flammables - Capacity Permitted in the M2 Manufacturing District**

<b>Total Capacity of Flammable Materials Permitted (In Gallons)</b>	
<u>Industries Engaged in Storage for Resale</u>	<u>Above Ground</u>
Materials having a closed cup flash point over 200° F. but less than 350° F.	400,000
From and including 105° F. to and including 200° F.	200,000
Materials having a closed cup flash point of less than 105° F.	<u>100,000</u>
Total	700,000
<u>Industries Engaged in Utilization and Manufacture of Flammables Materials Where Storage is an Ancillary Use</u>	<u>Above Ground</u>
Materials having a closed cup flash point over 200°F but less than 350°F.	200,000
From and including 105° F. to and including 200° F.	100,000
Materials having a closed cup flash point of less than 105°F.	<u>50,000</u>
Total	350,000

Table 12

Quantities of Radioactive Materials			
RADIOACTIVE MATERIAL		UNSEALED, CURIES	
Antimony (Sb <sup>124</sup> )		1	
Arsenic (As <sup>76</sup> )		10	
Arsenic (As <sup>77</sup> )		10	
Barium-lanthanum 140 (BaLa <sup>140</sup> )		1	
Beryllium (Be <sup>7</sup> )		50	
Cadmium-silver 109 (CdAg <sup>109</sup> )		10	
Calcium 45 (Ca <sup>45</sup> )		10	
Carbon 14 (C <sup>14</sup> )		50	
Cerium-praseodymium 144 (CePr <sup>144</sup> )		1	
Cesium-barium (CeBa <sup>137</sup> )		1	
Chlorine 38 (Cl <sup>38</sup> )		1	
Chromium 51 (Cr <sup>51</sup> )		50	
Cobalt 60 (Co <sup>60</sup> )		1	
Copper 64 (Cu <sup>64</sup> )		50	
Europium 154 (Eu <sup>154</sup> )		1	
Fluorine 18 (F <sup>18</sup> )		50	
Gallium 72 (Ga <sup>72</sup> )		10	
Germanium 71 (Ge <sup>71</sup> )		50	
Gold 198 (Au <sup>198</sup> )		10	
Gold 199 (Au <sup>199</sup> )		10	
Hydrogen 3 (tritium) (H <sup>3</sup> )		250	
Indium 114 (In <sup>114</sup> )		1	
Iodine 131 (I <sup>131</sup> )		10	
Iridium 192 (Ir <sup>192</sup> )		10	
Iron 55 (Fe <sup>55</sup> )		50	
Iron 59 (Fe <sup>59</sup> )		1	
Lanthanum 140 (La <sup>140</sup> )		10	
Manganese 52 (Mn <sup>52</sup> )		1	
Manganese 56 (Mn <sup>56</sup> )		50	
Molybdenum 99 (Mo <sup>99</sup> )		10	
Nickel 59 (Ni <sup>59</sup> )		1	
Nickel 63 (Ni <sup>63</sup> )		1	
Niobium 95 (Nb <sup>95</sup> )		10	
Palladium 109 (Pd <sup>109</sup> )		10	
Palladium-rhodium 103 (PdRh <sup>103</sup> )		50	
Phosphorus 32 (P <sup>32</sup> )		10	
Polonium 210 (Po <sup>210</sup> )		0.1	
Potassium 42 (K <sup>42</sup> )		10	
Praseodymium 143 (Pr <sup>143</sup> )		10	
Promethium 147 (Pm <sup>147</sup> )		10	
Radium 226 (Ra <sup>226</sup> )		0.1	
Rhenium 186 (Re <sup>186</sup> )		10	
Rhodium 105 (Rh <sup>105</sup> )		10	
Rubidium 86 (Rb <sup>86</sup> )		10	
Ruthenium - rhodium 106 (RuRh <sup>106</sup> )		1	
Samarium 153 (Sm <sup>153</sup> )		10	
Scandium 46 (Sc <sup>46</sup> )		1	
Silver 105 (Ag <sup>105</sup> )		1	
Silver 111 (Ag <sup>111</sup> )		10	
Sodium 22 (Na <sup>22</sup> )		10	
Sodium 24 (Na <sup>24</sup> )		10	
Strontium 89 (Sr <sup>89</sup> )		1	
Strontium - yttrium 90 (SrY <sup>90</sup> )		0.1	
Sulfur 35 (S <sup>35</sup> )		50	
Tantalum 182 (Ta <sup>182</sup> )		10	
Technetium 98 (Tc <sup>98</sup> )		1	
Technetium 99 (Tc <sup>99</sup> )		1	
Tellurium 127 (Te <sup>127</sup> )		10	
Tellurium 129 (Te <sup>129</sup> )		1	
Thallium 204 (Tl <sup>204</sup> )		50	
Tin 113 (Sn <sup>113</sup> )		10	
Tungsten 185 (W <sup>185</sup> )		10	
Vanadium 48 (V <sup>48</sup> )		1	
Yttrium 90 (Y <sup>90</sup> )		1	
Yttrium 91 (Y <sup>91</sup> )		1	
Zinc 65 (Zn <sup>65</sup> )		10	
Beta and/or gamma emitting radioactive material not listed above		1	

## Appendix D - Table of Uses

<b><i>P = Permitted Use</i></b> <b><i>S = Special Use</i></b> <b><i>T = Temporary Use</i></b>	<b>5 Acres</b>										
		<b>2½ Acres</b>									
			<b>1⅓ Acres</b>								
				<b>12500 Sq ft</b>							
				<b>Multi-family</b>							
	<b>E1</b>	<b>E2</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>B1</b>	<b>B2</b>	<b>M1</b>	<b>M2</b>	<b>A</b>	
Agriculture								P	P	P	
Air, rail or motor truck freight terminals, cartage facilities, railroad facilities									P		
Airports, public and private								S	S	S	
Amusement establishments, indoor - bowling alleys, swimming pools, gyms, rec centers							P				
Amusement establishments, outdoor - miniature golf, driving ranges							S				
Animal hospitals						S	S			S	
Antique shop						P					
Archery ranges										S	
Art and school supply stores						P					
Art galleries						P					
Auction house							P				
Automobile and truck sales establishment						S	P				
Automobile accessory stores						P	P				
Automobile service stations						S	P				
Bakeries, retail						P					
Bakeries, wholesale							P				
Banks and financial institutions						P					
Barber shops and beauty parlors						P					
Battery and tire sales and service establishments							P				

<i>P = Permitted Use</i> <i>S = Special Use</i> <i>T = Temporary Use</i>	<b>5 Acres</b>									
		<b>2½ Acres</b>								
			<b>1⅓ Acres</b>							
				<b>12500 Sq ft</b>						
				<b>Multi-family</b>						
	<b>E1</b>	<b>E2</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>B1</b>	<b>B2</b>	<b>M1</b>	<b>M2</b>	<b>A</b>
Bed and Breakfast homes having not more than 5 rooms for transient guests	S	S								
Boat sales, rentals, storage and repair							P			
Body shop							P			
Book stores						P				
Building material sales with outdoor storage							P	P	P	
Bus transit facilities								S	S	
Business machine sales and service						P				
Camera and photographic supply stores						P				
Candy and ice cream stores						P				
Car washes						S	S			
Cartage, express & parcel delivery establishment not including freight terminals							S			
Catalogue sales stores and mail order service stores						P				
Catering establishments						S	P			
Cemeteries, including crematories and mausoleums					S	S	S	S	S	S
China and glassware stores						P				
Churches, temples or synagogues on not less than 2 acres	S	S	S	S	P	S	S			S
Clothing stores						P				
Clubs or lodges, private, fraternal or religious							P			
Clubs or lodges, when located above the ground floor						P				
Coin and philatelic stores						P				
Colleges, junior colleges and universities	S	S	S	S	S					S



<i>P = Permitted Use</i> <i>S = Special Use</i> <i>T = Temporary Use</i>	5 Acres									
		2½ Acres								
			1⅓ Acres							
				12500 Sq ft						
				Multi-family						
	E1	E2	R1	R2	R3	B1	B2	M1	M2	A
Community centers						S	S			S
Conservation clubs										S
Contractor's offices and shops (Outdoor storage of material, merchandise or equipment may be limited in B1 District.)						S	P	P	P	
Currency exchange						P				
Department stores							P			
Drive-in establishments, except theaters							S			
Drug stores						P				
Dry goods stores						P				
Dry cleaning and laundry establishments other than self-service							S			
Retail dry cleaning and laundry establishments, self-service						P	P			
Dwelling units for watchmen and operating personnel and families								S	S	
Electric substations	S	S	S	S	S	S	S	P	P	S
Equestrian sports clubs	S									S
Fair grounds						S	S			S
Feed, fertilizer and seed stores (Outdoor storage or display of material, merchandise or equipment may be limited in B1 District.)						S	P			P
Fishing ponds										S
Flea market						S	S			S
Flower and gift shops						P				
Forest preserves and recreational areas, publicly owned passive	S	S	S	S	S	S	S	S	S	S
Fraternal, philanthropic and eleemosynary (supported by gifts, charity) institutions						P	P			

<i>P = Permitted Use</i> <i>S = Special Use</i> <i>T = Temporary Use</i>	<b>5 Acres</b>									
		<b>2½ Acres</b>								
			<b>1⅓ Acres</b>							
				<b>12500 Sq ft</b>						
				<b>Multi-family</b>						
	<b>E1</b>	<b>E2</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>B1</b>	<b>B2</b>	<b>M1</b>	<b>M2</b>	<b>A</b>
Frozen food stores, including locker rental						P	P			
Fruit and vegetable stands including seasonal sales	T	T				T	P	T	T	T
Furniture stores, including upholstering when conducted as part of the retail operation						P	P			
Furrier shops, including incidental storage and conditioning of furs						P				
Garages, storage or off-street parking lots or structures						S	S			
Garden supply store with no outdoor storage or display of merchandise						P				
Gas stations, self and full service						P	P	P	P	
Golf Courses, regulation or executive size	S	S	S	S	S					S
Governmental Offices						S	S			
Greenhouses, garden centers, wholesale or retail (Outdoor storage or display of merchandise may be limited in the B1 District.)						S	P	P	P	P
Grocery stores, supermarkets, meat and fish markets and delicatessens						P	P			
Hardware stores, retail and wholesale						P				
Heliports, public and private								S	S	S
Highway maintenance shops and yards							P			
Hobby shops						P				
Home Occupations	P	P	P	P	P					P
Horse shows and trails	S									S
Hospitals	S	S	S	S	S	S	S			S

<i>P = Permitted Use</i> <i>S = Special Use</i> <i>T = Temporary Use</i>	5 Acres									
		2½ Acres								
			1⅓ Acres							
				12500 Sq ft						
				Multi-family						
	E1	E2	R1	R2	R3	B1	B2	M1	M2	A
Household appliance stores, including radio and TV sales and repair						P				
Hunt clubs and gun clubs										S
Interior decorating shops, including upholstery and making of draperies						P				
Jewelry stores						P				
Kennels										S
Laboratories, medical, dental or optical						S	S			
Landscaping contractor (Outdoor storage of material, merchandise or equipment may be limited in B1 District.)						S	P	P	P	
Leather goods and luggage stores						P				
Libraries, public and private						P				
Linen, towel or diaper service establishments							S			
Liquor stores, package						P				
Live bait stores (Outdoor storage or display of material, merchandise or equipment may be limited in B1 District.)						S	P			
Loan offices						P				
Locksmith shops						P				
Machine, sheet metal or welding shops (Outdoor storage or display of material, merchandise or equipment may be limited in B1 District.)						S	P	P	P	
Machinery and equipment sales establishments							P			
Magazine and news stores						P				
Mail order houses							P			
Manufacturing, fabricating, processing or assembling								P	P	

<i>P = Permitted Use</i> <i>S = Special Use</i> <i>T = Temporary Use</i>	5 Acres										
		2½ Acres									
			1⅓ Acres								
				12500 Sq ft							
				Multi-family							
	E1	E2	R1	R2	R3	B1	B2	M1	M2	A	
Marinas, including boat storage and incidental service facilities							S			S	
Meat Markets						P	P				
Medical and dental clinics	S	S			S	P	P				
Meeting halls, convention or exhibition halls						P	P				
Meeting halls, when located above the ground floor						S	P				
Milk depots											P
Millinery shops						P					
Monument sales							P	P	P		
Motels and hotels							P				
Multiple-family dwellings					P						
Music stores - phonographs, records, sheet music, instrument sales and repair						P					
Natural gas distribution facilities	S	S	S	S	S	S	S	S	S	S	S
Newspaper distribution agencies, for home delivery and retail trade							P				
Newspaper offices, including printing							P				
Newsstands						P	P				
Nurseries, wholesale or retail							P	P	P	P	
Office supply stores						P					
Offices, professional or business						P	P	P	P		
Other public utility and government service uses	S	S	S	S	S	S	S	S	S	S	S
Open sales lots							P				
Packing and crating establishments							P				

<i>P = Permitted Use</i> <i>S = Special Use</i> <i>T = Temporary Use</i>	5 Acres									
		2½ Acres								
			1⅓ Acres							
				12500 Sq ft						
				Multi-family						
	E1	E2	R1	R2	R3	B1	B2	M1	M2	A
Paint and wallpaper stores						P				
Parcel delivery stations							P			
Parking lots and storage garages							S	P	P	
Parks, athletic fields, stadiums, arenas or recreation buildings							P			S
Pawnshops						P				
Pet service, domestic						P	P			
Pet shops						P	P			
Photography studios, including developing and printing of photographs						P				
Picnic and camping grounds										S
Picture framing						P				
Plumbing, electrical or heating, fixture and equipment - sales, service, repair						P	P			
Police and Fire station	S	S	S	S	S	S	S	S	S	S
Post offices						P	P			
Printing, publishing or lithography establishments						S	P	P	P	
Private recreational areas or camps, not for profit	S	S			S					S
Radio and television towers, transmitting and receiving							S	P	P	
Radio and television studios						P	P			
Railroad rights of way and trackage	S	S			S	S	S	S	S	S
Real estate sales buildings - for not more than 2 years as part of ongoing development	P	P	P	P	P					
Research laboratories							P	P	P	

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		2½ Acres									
			1⅓ Acres								
				12500 Sq ft							
		Multi-family									
	E1	E2	R1	R2	R3	B1	B2	M1	M2	A	
Resorts, privately owned containing dwelling units and lodging rooms										S	
Rest homes, nursing homes, sanitariums and institutions							S				
Restaurants, including entertainment, dancing and serving alcohol						P	P				
Restricted production & repair, clothing; jewelry; watches; denture; optical lenses						S	P	P	P		
School, commercial or trade, teaching music, dancing, business, commercial or tech						S	P	P	P		
School, public or private, day or nursery, elementary, junior high and high	S	S	S	S	S	S	S			S	
Self-service stores, coin-operated vending machines						P	P				
Seminaries, convents, monasteries and similar religious residences	S	S	S	S	S						
Sewage treatment plant, lift stations, mains and other facilities	S	S	S	S	S	S	S	S	S	S	
Shoe and hat repair stores						P					
Shoe stores						P					
Single-family detached dwelling	P	P	P	P	P					P <sup>20</sup>	
Single-family dwellings when designed as an integral part of a business use						S					
Single-family semi-detached dwellings					P						
Sporting goods stores						P					

<sup>20</sup>See text of ordinance for restrictions.

<i>P = Permitted Use</i> <i>S = Special Use</i> <i>T = Temporary Use</i>	5 Acres											
		2½ Acres										
			1⅓ Acres									
				12500 Sq ft								
					Multi-family							
	E1	E2	R1	R2	R3	B1	B2	M1	M2	A		
Stable, private (not more than 1 horse per acre, not to be stabled, kept or pastured within 100 feet of any other residence or within 10 feet of any septic area	P	P <sup>21</sup>	P <sup>22</sup>							P		
Stable, public (not more than 1 horse per acre, not to be stabled, kept or pastured within 100 feet of any other residence or within 10 feet of any septic area										P		
Stationery stores						P						
Storage and utilization of flammable liquids or materials						S	S	S	S	S		
Swimming and tennis clubs	S	S	S	S	S					S		
Tailor shops						P						
Taverns						S	S					
Taxidermists							P					
Telephone exchange	S	S			S	P	P	P	P			
Telecommunications towers, on property owned, leased or controlled by the Village, provided license or lease approved by Village	P	P			P	P	P	P	P	P		
Telecommunications towers, if license or lease not been approved by Village <sup>23</sup>	S	S			S	S	S	S	S	S		
Temporary buildings for construction purposes	T	T	T	T	T	T	T	T	T	T		
Theaters (less than 6000 sq ft)						P	P					
Theaters (more than 6000 sq ft)							P					

<sup>21</sup>Permitted only on lots with a minimum 5 acres existing on January 1, 2008.

<sup>22</sup>Permitted only on lots with a minimum 5 acres existing on January 1, 2008.

<sup>23</sup>See text of ordinance for restrictions.

<i>P = Permitted Use</i> <i>S = Special Use</i> <i>T = Temporary Use</i>	<b>5 Acres</b>										
		<b>2½ Acres</b>									
			<b>1⅓ Acres</b>								
				<b>12500 Sq ft</b>							
				<b>Multi-family</b>							
	<b>E1</b>	<b>E2</b>	<b>R1</b>	<b>R2</b>	<b>R3</b>	<b>B1</b>	<b>B2</b>	<b>M1</b>	<b>M2</b>	<b>A</b>	
Tobacco shops						P					
Toy stores						P					
Training centers, engineering or sales							P	P	P		
Travel bureaus and ticket offices						P					
Two-family detached dwellings					P						
Undertaking establishments and funeral parlors						P					
Veterinary						S	S				S
Water well, filtration plant, pumping station, storage, mains and other facilities	S	S	S	S	S	S	S	S	S	S	S
Wholesale and warehouse establishments, except sales/storage flammables							P	P	P		

(Ord 1993-01, 10/18/1993; Ord 1999-08, 9/20/1999; Ord 2007-07, 8/20/2007; Ord 2008-02, 2/11/2008; Ord 2008-11, 7/16/2008; Ord 2018-01, 4/23/2018.)