

Revised Code
-of-
Ordinances
of
Loami,
Illinois

PREPARED BY:
Illinois Codification Services

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LOAMI, ILLINOIS

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
97-01	Missing		
97-02	Vacation of Right-of-Way	1997	Special Legislation
97-03	Public Safety: Hiring Standards	03/13/97	Chapter 30
97-04	Nuisances: Burning	04/17/97	Ch. 25; Art. IV
97-05	Supplemental Appropriation	1997	Special Legislation
97-06	Purchase of Property	1997	Special Legislation
97-07	Approval of Final Plat of Subdivision	1997	Special Legislation
97-08	Expend Pending Appropriation	1997	Special Legislation
97-09	Appropriation	1997	Special Legislation
97-10	Extending Expiration Date of Cable TV	1997	Special Legislation
97-11	Annexation	1997	Special Legislation
97-12	Zoning: Livestock	10/09/97	Section 40-6-11
97-13	Zoning: Definitions	10/09/97	Section 40-9-7
97-14	Taxation: Telecommunications Tax	10/09/97	Ch. 36; Art. II
97-15	Prevailing Wage	1997	Special Legislation
97-16	Zoning: Rezoning	1997	Special Legislation
97-17	Tax Levy	1997	Special Legislation
98-01	Revised Code	1998	New Code
98-03	Cable TV Lease Amendment	1998	Special Legislation
98-04	Motor Vehicles: Traffic Control Signs	04/09/98	Chapter 24
98-06	Annexation	1998	Special Legislation
98-07	Expenditures Pending Appropriation	1998	Special Legislation
98-08	Top Mop Cleaning Co Agreement	1998	Special Legislation
98-09	Prevailing Wage	1998	Special Legislation
98-10	Zoning: Rezoning: Rumble	1998	Special Legislation
98-11	Zoning: Rezoning: Blissett	1998	Special Legislation
98-12	Nuisances: Weeds, Etc.	07/09/98	Secs. 25-2-1; 25-2-7 – 25-2-14
98-13	Appropriation	1998	Special Legislation
98-14	Approval of Final Plat of Subdivision	1998	Special Legislation
98-15	Purchase Sewer Plant Property	1998	Special Legislation
98-16	Contract with Recreation Concepts	1998	Special Legislation
98-17	Tax Levy	1998	Special Legislation
98-18	Annexation: Sewer Plan	1998	Special Legislation
99-01	License Agreement in respect to Sewer Plan	1999	Special Legislation
99-02	Vacation of Coley St	1999	Special Legislation
99-03	Wireless Telecommunications Towers	03/11/99	Chapter 41
99-04	Streets: Construction of Utility Facilities	03/11/99	Chapter 33
99-05	Contract with Dept of Nat Resources	1999	Special Legislation
99-06	Lease-Purchase Caterpillar Financial Serv.	1999	Special Legislation
99-07	Taxation: Electric Tax	03/11/99	Chapter 36
99-08	Mandated Policies: Freedom of Information	04/08/99	Chapter 22

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99-09	Mandated Policies: Investment Policy	04/08/99	Chapter 22
99-10	Expenditures Pending Appropriation	1999	Special Legislation
99-11	Taxation: Electric Tax	04/08/99	Chapter 36
99-12	Vacation of Right-of-Way	1999	Special Legislation
99-13	Sewer Pump Easement	1999	Special Legislation
99-14	Zoning: Special-Use	1999	Special Legislation
99-15	Mandated Policies: Gift Ban Act	1999	Chapter 22
99-16	Manufactured Homes	06/10/99	Chapter 23
99-17	Prevailing Wage	1999	Special Legislation
99-18	Appropriation	1999	Special Legislation
99-19	Revised Code	1999	New Code
99-20	Streets	09/09/99	Secs. 33-2-16 – 33-2-19
99-21	Dedication of Roadway	1999	Special Legislation
99-22	Annexation	1999	Special Legislation
99-23	Purchase of easement	1999	Special Legislation
99-24	Utilities: Sewers	11/11/99	Ch. 38; Art. IX
99-25	Tax Levy	1999	Special Legislation
99-26	Petersburg Plumbing Agreement	1999	Special Legislation
99-27	Petersburg Plumbing Change to Order 1	1999	Special Legislation
99-28	Engineering Sewer Plan Agreement	1999	Special Legislation
00-01	Mandated Policies: Gift Ban Act	2000	Chapter 22
00-02	Annexation	2000	Special Legislation
00-03	Reciprocal Reporting w/School District	2000	Special Legislation
00-04	Mandated Policies: Sexual Harassment	01/13/00	Chapter 22
00-05	Utilities: Water Rates	04/13/00	Sec. 38-4-4; 38-4-5
00-06	Garbage: Collector License	04/13/00	Section 16-1-2
00-07	Expenditures Pending Appropriation	2000	Special Legislation
00-08	Mandatory Water Conservation Regulation	2000	Special Legislation
00-09	Zoning: Rezoning	2000	Special Legislation
00-10	Zoning: Manufactured Homes	06/08/00	Secs. 40-4-8; 40-8-4
00-11	Appropriation	2000	Special Legislation
00-12	Petition for Annexation	2000	Special Legislation
00-13	Annexation	2000	Special Legislation
00-14	Prevailing Wage	2000	Special Legislation
00-15	Relocation CIPS to certain gas mains	2000	Special Legislation
00-16	Approval of Plat	2000	Special Legislation
00-17	Water/Sewer Agreement: Mobile Home Pk	10/10/00	Special Legislation
00-18	Water/Sewer Agreement: Mobile Home Pk	11/09/00	Special Legislation
00-19	Tax Levy	2000	Special Legislation
01-01	Enage in Bond Counsel	2001	Special Legislation
01-02	Issuance of Bonds	2001	Special Legislation
01-03	Taxation: Taxpayers Rights Code	02/08/01	Chapter 36
01-04	Issuance of Sewer Revenue Bonds	2001	Special Legislation
01-05	Utilities: Sewers	03/29/01	Ch. 38; Art. X
01-06	Independent Contractor Approval	2001	Special Legislation

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01-07	Utilities: Sewer System	04/12/01	Ch. 38, Art. I; Sec. 38-2-1 – 38-2-6
01-08	Utilities: Sewer System	04/12/01	Secs. 38-9-3 - 38-9-8; 38-9-20; App "A" & "B"
01-09	Zoning: Variance	2001	Special Legislation
01-10	Liquor: Hours	05/10/01	Section 21-3-1
01-11	Expenditures Pending Appropriation	2001	Special Legislation
01-12	Loami Food Pantry Leave	2001	Special Legislation
01-13	Appropriation	2001	Special Legislation
01-14	Prevailing Wage	2001	Special Legislation
01-15	Offenses: Noise	10/11/01	Chapter 27
01-16	Tax Levy	2001	Special Legislation
02-01	Vacation of Alley	2002	Special Legislation
02-02	Motor Vehicles: Abandoned Vehicles	03/14/02	Chapter 24
02-03	Administration: Ordinance Violations	03/14/02	Section 1-1-21
02-04	Supplemental Appropriation	2002	Special Legislation
02-05	Disconnecting Certain Land	2002	Special Legislation
02-06	Expenditures Pending Appropriation	2002	Special Legislation
02-07	Zoning: Rezoning	2002	Special Legislation
02-08	Appropriation	2002	Special Legislation
02-09	Subdivision Plat Approval	2002	Special Legislation
02-10	Business: Fireworks	06/13/02	Chapter 7
02-11	Prevailing Wage	2002	Special Legislation
02-12	Annexation	2002	Special Legislation
02-13	Motor Vehicles: Abandoned Vehicles	12/12/02	Chapter 24
02-14	Tax Levy	2002	Special Legislation
02-15	Utilities: Regulations	12/12/02	Section 38-2-1(F)
03-01	Zoning: Mini Warehouse	02/13/03	Section 40-9-7
03-02	Zoning: Rezoning	2003	Special Legislation
03-03	DNR License Agreement	2003	Special Legislation
03-04	Issuance of \$350,000 Sewer Bonds	2003	Special Legislation
03-05	Expenditures Pending Appropriation	2003	Special Legislation
03-06	Issuance of G.O. Bonds	2003	Special Legislation
03-07	Animals: Dangerous	06/12/03	Chapter 3
03-08	Prevailing Wage	2003	Special Legislation
03-09	Appropriation	2003	Special Legislation
03-10	Administration: IMLRMA	2003	Chapter 1
03-11	Tax Levy	2003	Special Legislation
04-01	Utilities: Deposits	01/08/04	Section 38-2-5(A)
04-02	Flood Plain Code	04/08/04	Chapter 14
04-03	Appropriation	2004	Special Legislation
04-04	Mandated Policies: Ethics Act	05/13/04	Chapter 22
04-05	Prevailing Wage	2004	Special Legislation
04-06	Tax Levy	2004	Special Legislation

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05-01	Expenditures Pending Appropriation	2005	Special Legislation
05-02	Appropriation	2005	Special Legislation
05-03	Prevailing Wage	2005	Special Legislation
05-04	Supplemental Appropriation	2005	Special Legislation
05-05	Animals	08/11/05	Chapter 3
05-05A	Utilities: Water Rates	12/08/05	Section 38-4-4; 38-4-5
05-06	Utilities: Sewer Rates	12/08/05	Section 38-10-1
06-01	Tax Levy	2006	Special Legislation
06-02	Annexation	2006	Special Legislation
06-03	Zoning: Rezoning	2006	Special Legislation
06-04	Appropriation	2006	Special Legislation
06-05	Prevailing Wage	2006	Special Legislation
06-06	Missing		
06-07	Utilities: Water Tap Connection Fee	08/10/06	Section 38-3-19
06-08	Nuisances: Weeds	09/14/06	Ch. 25; Art. II
06-09	Property Maintenance Code	10/19/06	Chapter 29
06-10	International Property Maintenance Code	11/09/06	Chapter 29
06-11	Tax Levy	2006	Special Legislation
07-01	Missing		
07-02	Expenditures Pending Appropriation	2007	Special Legislation
07-03	Liquor: Special Events License	05/31/07	Section 21-2-6
07-04	Appropriation	2007	Special Legislation
07-05	Prevailing Wage	2007	Special Legislation
07-06	Flood Plain Code	07/12/07	Chapter 14
07-07	Letter of Intent: Water Supply	2007	Special Legislation
08-01	Administration: Attorney	04/22/08	Chapter 1
08-02	Appropriation	2008	Special Legislation
08-03	Prevailing Wage	2008	Special Legislation
08-04	Tax Levy	2008	Special Legislation
08-04A	Utilities: Water Reconnection Fee	07/10/08	Section 38-2-1(H)
08-05	Buildings: Permit Fees	07/10/08	Chapter 6
08-06	Annexation	2008	Special Legislation
08-07	Zoning: Rezoning	2008	Special Legislation
08-08	Zoning: Variance	2008	Special Legislation
08-09	Zoning: Rezoning	2008	Special Legislation
09-01	Motor Vehicles: Golf Carts	2009	Chapter 24
09-02	Expenditures Pending Appropriation	2009	Special Legislation
09-03	Administration: Meetings	06/11/09	Section 1-2-1
09-04	Appropriation	2009	Special Legislation
09-05	Prevailing Wage	2009	Special Legislation
09-06	Offenses: Curfew	08/13/09	Section 27-1-10

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09-07	Tax Levy	2009	Special Legislation
10-01	Expenditures Pending Appropriation	2010	Special Legislation
10-02	T&T Construction Contract	2010	Special Legislation
10-03	Appropriation	2010	Special Legislation
10-04	Prevailing Wage	2010	Special Legislation
10-05	Utilities: Due Date	08/12/10	Chapter 38
10-06	Franchises: Electric	09/09/10	Chapter 15
10-07	Annexation	2010	Special Legislation
10-07A	Tax Levy	2010	Special Legislation
11-01	Public Safety: Part-Time Police	01/13/11	Chapter 30
11-02	Supplemental Appropriation: Park	2011	Special Legislation
11-02A	Expenditures Pending Appropriation	2011	Special Legislation
11-03	Appropriation	2011	Special Legislation
11-04	Prevailing Wage	2011	Special Legislation
11-05	Amending Budget	2011	Special Legislation
11-06	Dedication of Street Name	10/13/11	Special Legislation
11-07	Tax Levy	2011	Special Legislation
12-01	Contract: Sale and Purchase of Water	03/26/12	Special Legislation
12-02	Intergovernmental Agreement	03/26/12	Special Legislation
12-03	Appropriation	2012	Special Legislation
12-04	Missing		
12-05	Missing		
12-06	Prevailing Wage	2012	Special Legislation
12-07	Utilities: Water Rates	10/11/12	Section 38-4-4
12-08	Utilities: Sewer Rates	10/11/12	Section 38-10-1
12-09	Tax Levy	2012	Special Legislation
13-01	Missing		
13-02	Cable TV Franchise	06/20/13	Chapter 8
13-03	Prevailing Wage	2013	Special Legislation
13-04	Motor Vehicles: Towing Fees	07/11/13	Chapter 24
13-05	Tax Levy	2013	Special Legislation
14-01	Missing		
14-02	Missing		
14-03R	Resolution Law Enforcement Mutual Aid	05/08/14	Special Legislation
14-04	Prevailing Wage	2014	Special Legislation
15-01	Franchises: Gas System	2015	Chapter 15
15-02	Expenditures Pending Appropriation	2015	Special Legislation
15-03	Annexation	2015	Special Legislation
15-03A	Appropriation	2015	Special Legislation
15-04	Prevailing Wage	2015	Special Legislation
15-05	Liquor: Licenses	08/13/15	Section 21-2-6

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15-07	Zoning: Semitrailers	11/12/15	Chapter 40
15-08	Tax Levy	2015	Special Legislation
16-01	Taxation: Utility Tax	01/14/16	Chapter 36
16-02	Vacation of Alley	2016	Special Legislation
16-03	Appropriation	2016	Special Legislation
16-04	Tax Levy	2016	Special Legislation
16-05	Prevailing Wage	2016	Special Legislation
16-06	Offenses: Possession of Cannabis	11/10/16	Chapter 27
17-01	Appropriation	2017	Special Legislation
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CHAPTER 1

ADMINISTRATION

ARTICLE I – GENERAL CODE PROVISIONS

DIVISION I - TITLE

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

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

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

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

Any person having in his custody an official copy of this Code shall make every effort to maintain said Code in an up-to-date and efficient manner. He shall see to the immediate insertion of new or replacement pages when such are delivered to him or made available to him

through the office of the Village Clerk. Said Code books, while in actual possession of officials and other interested persons, shall be and remain the property of the Village and shall be returned to the office of the Clerk upon termination of office or separation of duties.

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

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

DIVISION II - SAVING CLAUSE

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

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

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

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

consent of the party affected, applied to any judgment announced after the new ordinance takes effect.

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

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

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

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

VILLAGE CLERK'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF SANGAMON) ss. VILLAGE CLERK'S OFFICE
VILLAGE OF LOAMI)

I, Laurie Glynn, Village Clerk of the **Village of Loami, Illinois**, do hereby certify that the following **Revised Code of Ordinances of the Village of Loami, Illinois of 2017**, published by authority of the Village Board of Trustees were duly passed by the Village Board of Trustees of the **Village of Loami, Illinois**, approved by the Mayor and published in book form according to law on this date, and that these ordinances are true and perfect copies of the ordinances, as passed, approved and now of record and on file in my office as provided by law.

In witness whereof, I have set my hand and affixed the corporate seal of the **Village of Loami, Illinois**, this _____ day of _____, 2017.

**LAURIE GLYNN, VILLAGE CLERK
VILLAGE OF LOAMI**

(SEAL)

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

DIVISION III - DEFINITIONS

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

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

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

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

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

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

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

"COUNTY" shall mean the **County of Sangamon.**

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

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

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

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

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

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

"MAY" as used in this Code means permissible.

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

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

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

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

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

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

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

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

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

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

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

"PERSON" shall mean any natural individual, firm, trust, partnership, association, or corporation in his or its own capacity as administrator, conservator, executor, trustee, receiver

or other representative appointed by the Court. Whenever the word "person" is used in any section of this Code prescribing a penalty or fine as applied to partnerships or any such word as applied to corporations, it shall include the officers, agents, or employees thereof who are responsible for any violation of said section.

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

"SHALL" as used in this Code means mandatory.

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

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

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

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

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

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

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

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

DIVISION IV - GENERAL PENALTY

1-1-20 **PENALTY.**
(A) Any person convicted of a violation of any section of this Code shall be fined not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for any **one (1) offense.**

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

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

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

(E) **Guilty Plea – No Court Appearance.** All municipal ordinance offenses may be satisfied without a court appearance by written plea of guilty and payment of the minimum fine, plus court costs, unless a court appearance is required by the ordinance violated. **(65 ILCS 5/1-2-7 and 5/1-2-8)**

(F) **Community Service.** Any penalty imposed for the violation of an ordinance may include, or consist of, a requirement that the defendant perform some reasonable public service work such as but not limited to the picking up of litter in parks or along public highways or the maintenance of public facilities.

1-1-21 COMPROMISE OF ORDINANCE VIOLATION COMPLAINTS.

(A) Any person who is charged with a violation of a Village ordinance may, for the first offense, compromise the charge as follows: within **ten (10) days** of being charged on a complaint form provided by the Police Department, the person charged shall tender to the Village President or Village Clerk, funds in the amount of **one-half (1/2)** of the minimum fine established by the ordinance, together with evidence satisfactory to the Village President that the violation has ceased.

(B) Whenever a person charged with a violation of a Village ordinance complies with subsection (A) of this Section, and the Village President is satisfied, after consultation with the appropriate member of the Village Board or other Village officer initiating the charge, that the violation has ceased, the Village shall not bring an action to enforce the ordinance against such person in the Circuit Court.

(C) For a second or subsequent offense, the charged party shall not have the right to compromise the complaint, but may do so at the discretion of the Village President upon payment of **one hundred percent (100%)** of the minimum fine and presentation of evidence satisfactory to the Village President, after consultation with the appropriate member of the Village Board or other Village officer initiating the charge, that the ordinance violation has ceased.

(Ord. No. 02-03; 03-14-02)

1-1-22 SERVICE BY CERTIFIED MAIL. In all actions for violation of any municipal ordinance where the fine would not be in excess of **Seven Hundred Fifty Dollars (\$750.00)** and no jail term could be imposed, service of summons may be made by the Municipal Clerk by certified mail, return receipt requested, whether service is to be within or without the State. **(See 65 ILCS Sec. 5/1-2-9.1)**

1-1-23 APPLICATION.

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

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

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

1-1-24 LIABILITY OF OFFICERS. The failure of any officer or employee to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violation of this Code, unless a penalty is specifically provided for.

1-1-25 LICENSE. When a person is convicted of a violation of any Section of this Code, any license previously issued to him by the Village may be revoked by the court or by the Village Board.

ARTICLE II - VILLAGE OFFICIALS

DIVISION I - VILLAGE BOARD OF TRUSTEES

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

1-2-2 **REGULAR MEETINGS.** The regular stated meetings of the Village Board shall be held in the Village Hall Building on the **second (2nd) Thursday** of each month at **6:00 P.M.** When the meeting date falls upon a legal holiday, the meeting shall be held on the following Monday at the same hour and place, unless otherwise designated. Adjourned and reconvened meetings may be held at such times as may be determined by the Trustees. **(65 ILCS 5/3.1-40-25 and 5 ILCS 120/1 et seq.) (Ord. No. 09-03; 06-11-09)**

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

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

- | | | | |
|-----|-----|----------------------|-----|
| (A) | (1) | July 4 th | (5) |
| | (2) | Water and Sewer | (6) |
| | (3) | | (7) |
| | (4) | | (8) |

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

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

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

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

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

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

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

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

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

1-2-7 MEMBERS: NON-ATTENDANCE AT MEETING. Any member of the Village Board who shall neglect or refuse to attend the regular Village Board meeting such month without good and sufficient reason to be passed upon by the Board shall not receive compensation for that meeting. All members shall be allowed **two (2) absences** in each fiscal year for which compensation shall be paid. **(See Sectin 1-3-1 for salaries.) (65 ILCS 5/3.1-40-20)**

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

DIVISION II - RULES OF THE VILLAGE BOARD

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

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

- (1) Call to order by presiding officer.
- (2) Roll Call.
- (3) The reading of the journal of the proceedings of the last preceding meeting or meetings, and correction of the same, unless dispensed with by the Board of Trustees and correction of the journal of the proceedings of previous meetings.
- (4) Reports and communications from the Mayor and other Village Officers.

- (5) Visitors and public comments.*
- (6) Reports of Standing Committees.
- (7) Reports of Special Committees.
- (8) Presentation of communications, petitions, resolutions, orders, and ordinances by the Board of Trustees.
- (9) Unfinished business.
- (10) Miscellaneous business.

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

* **See Section 1-2-13**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(R) **Previous Question.** When the previous question is moved on the main question and seconded, it shall be put on this form: **"Shall the main question now be put?"**. If such motion be carried, all further amendments and all further motions and debate

shall be excluded, and the question put without delay upon the pending amendment in proper order and then upon the main question.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

made and seconded only by those who voted in the affirmative on such question to be reconsidered.

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

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

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

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

1-2-13 **ADDRESS BY NON-MEMBERS.**

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

- (1) He or she shall rise (if not physically impaired) and state his or her name for the record and unless further time is granted by the Board to limit remarks to **three (3) minutes**. All remarks shall be addressed to the Village Board, not to any member thereof.
- (2) No person other than the Board member recognizing the individual addressing the Board and the person having the floor shall be permitted to enter into any discussion directly or through a member of the Board without the permission of the Mayor. No questions shall be asked of an Trustee except through the Mayor. Any person making personal or impertinent remarks or who shall become disruptive addressing the Village Board shall be forthwith evicted from the Board room by the Mayor.

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

- (1) The Village shall furnish appropriate auxiliary aid(s) and service(s) where necessary to afford qualified individuals with disabilities including applicants, participants, companions, and members of

the public, an equal opportunity to participate in, and enjoy the benefits, of a service, program, or activity of the Village.

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

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

DIVISION III - ORDINANCES

1-2-14 ORDINANCES.

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

(B) **Introduced.** When a proposed ordinance is introduced, it shall be read one time by title only and referred to the proper committee unless the Board of Trustees shall otherwise specifically direct.

(C) **Vote required-Yeas and Nays Record.** The passage of all ordinances for whatever purpose, and of any resolution or motion (1) to create any liability against a Village or (2) for the expenditure or appropriation of its money, shall require the concurrence of a majority of all members then holding office on the Village Board, including the Mayor, unless otherwise expressly provided by the Code or any other act governing the passage of any ordinance, resolution, or motion; provided that, where the Board consists of an odd number of Trustees, the vote of the majority of the trustees shall be sufficient to pass an ordinance. The yeas and nays shall be taken upon the question of the passage of the designated ordinances, resolutions, or motions and recorded in the journal of the Village Board. In addition, the corporate authorities at any meeting may by unanimous consent to take a single vote by yeas or nays on the several questions of the passage on any **two (2)** or more of the designated ordinances, orders, resolutions or motions placed together for voting purposes in a single group. The single vote shall be entered separately in the journal under the designation "omnibus vote", and in such event the Clerk may enter the words "omnibus vote" or "consent agenda" in the journal in each case in lieu of entering names of the members of Village Board voting "yea" and of those voting "nay" on the passage of each of the designated ordinances, orders, resolutions and motions included in such omnibus group or consent agenda. The taking of such single or omnibus vote and such entries of the words "omnibus vote" or "consent agenda" in the journal shall be a sufficient compliance with the requirements of this Section to all intents and purposes and with like effect as if the vote in each case had been separately by yeas and nays on the question of the passage of each ordinance, order, resolution and motion included in such omnibus group, and separately recorded in the journal. Likewise, the yeas and nays shall be taken upon the question of the passage of any other resolution or motion at the request of any trustee and shall be recorded in the journal. **(65 ILCS 5/3.1-40-40)**

(D) **Ordinances - Approval-Veto.** All resolutions and motions (1) which create any liability against the Village, or (2) that provide for the expenditure or appropriation

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

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

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

1-2-17 **RESERVED.**

DIVISION IV - GENERAL PROVISIONS

1-2-18 **CORPORATE SEAL.**
(A) The Corporate Seal of the Village shall be the same as that heretofore provided and used by the Village. It shall be circular in form, with the words, "**Village of Loami, Sangamon County, Illinois**" in the exterior circle, and the words "**Incorporated – Seal July 30 1875**" in the interior circle. **(65 ILCS 5/2-2-12)**

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

1-2-19 **ELECTIONS.**

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

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

1-2-20 **APPOINTMENT OF ELECTED OFFICIALS.** No Trustee of this Village,

during the term of office for which he is elected, may accept or be appointed to or hold any office appointed by the Mayor except if such Trustee is granted a leave of absence from such office. However, such Trustee may serve as a volunteer fireman and receive compensation for such service. Any appointment in violation of this Section is void. **(65 ILCS 5/3.1-15-15)**

NOTE: **One (1) member may serve on the Library Board, if one exists. (75 ILCS 5/4-1 and 50 ILCS 105/2)**

1-2-21 **MUNICIPAL OFFICERS - REGULATIONS.**

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

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

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

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

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

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

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

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

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

(H) **Conservators of Peace.**

(1) After receiving a certificate attesting to the successful completion of a training course administered by the Illinois Law Enforcement Training Standards Board, the Mayor, Trustees and policemen in municipalities shall be conservators of the peace. Those persons and others authorized by ordinance shall have power:

- (a) to arrest or cause to be arrested, with or without process, all persons who break the peace or are found violating any municipal ordinance or any criminal law of the State,
- (b) to commit arrested persons for examination,
- (c) if necessary, to detain arrested persons in custody over night or Sunday in any safe place or until they can be brought before the proper court, and
- (d) to exercise all other powers as conservators of the peace prescribed by the corporate authorities.

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

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

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

The Mayor and the Clerk shall have the power to administer this oath or affirmation upon all lawful occasions.

(65 ILCS 5/3.1-15-20)

(See "Administration of Oaths", Section 1-2-63)

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

1-2-23 QUALIFICATIONS; ELECTIVE OFFICE.

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

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

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

1-2-24 BONDS OF VILLAGE OFFICERS.

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

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

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

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

1-2-25 LIABILITY INSURANCE.

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

(B) **Indemnification.** If the Village Board elects not to purchase liability insurance covering and insuring municipal officers, elected officials and employees as provided in this Section, then the Village shall indemnify and cause to defend municipal officers, elected officials and employees from any claim filed by an individual, partnership or corporation when the claim is founded on any act or omission of the municipal officers, elected officials or employees while in the performance of their official duties, except the Village shall not

indemnify, but shall defend any municipal officer, elected official or employee from any claim made by an individual, partnership or corporation wherein the claim alleges that the municipal officer, elected official or employee acted intentionally, maliciously or wantonly and further, shall not indemnify or cause to defend the officials or employees where the claim is directly or indirectly related to the negligent care or use of a vehicle as defined by the **Illinois Compiled Statutes**, and the Village shall not indemnify any municipal officer, elected official or employee from any claim made by a municipal officer, elected official or employee.

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

1-2-26 BIDDING AND CONTRACT PROCEDURES.

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

(B) **Formal Contract Procedure.** All work or other public improvement which is not to be paid for in whole or in part by special assessment or special taxation, and all purchases, orders or contracts for supplies, materials, equipment or contractual services except as otherwise provided herein, when the estimated cost thereof shall exceed **Twenty Thousand Dollars (\$20,000.00)**, shall be purchased from the lowest responsible bidder, after due notice inviting bids, unless competitive bidding is waived by a vote of **two-thirds (2/3)** of the Trustees then holding office.

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

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

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

(F) **Bid Opening Procedure.**

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

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

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

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

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

(I) **Award of Contract.**

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

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

(a) The ability, capacity and skill of the bidder to perform the contract to provide the service required;

(b) Whether the bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference;

(c) The character, integrity, reputation, judgment, experience and efficiency of the bidder;

(d) The quality of the performance of previous contracts or services;

(e) The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service;

(f) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

(g) The quality, availability and adaptability of the supplies or contractual services to the particular use required;

(h) The ability of the bidder to provide future maintenance and service for the use of the subject of the contract;

(i) The number and scope of conditions attached to the bid.

(j) Whether the bidder has furnished a Certificate of Insurance indicating Worker's Compensation and Employers' Liability coverage and the policy limits for such coverage.

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

(J) **Open Market Procedure.** All work and purchases of supplies, materials and services of less than the estimated value of **Twenty Thousand Dollars (\$20,000.00)** shall be made in the open market, without newspaper advertisement and without observing the procedure prescribed by this Section for the award of formal contracts.

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

(L) **Emergency Purchases.** In case of an apparent emergency which requires immediate work or purchase of supplies, materials or services, the Board of Trustees

shall be empowered to secure by open market procedure as herein set forth, at the lowest obtainable price, any work, supplies, materials or services regardless of the amount of the expenditure.

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

1-2-27 SALARIES REGULATION.

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

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

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

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

1-2-28 CLAIMS.

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

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

1-2-29 MUNICIPAL YEAR. The municipal year shall commence on **May 1st** and shall end on the following **April 30th**. No appointments shall be made during the last month of the municipal year in the year of a mayoral election.

1-2-30 EXPENSE REIMBURSEMENT POLICY.

(A) **Definitions.**

- (1) "Entertainment" includes, but is not limited to, shows, amusements, theaters, circuses, sporting events, or any other place of public or private entertainment or amusement, unless ancillary to the purpose of the program or event.
- (2) "Public Business" means the expenses incurred in the performance of a public purpose which is required or useful for the benefit of the Village to carry out the responsibilities of Village business.
- (3) "Travel" means any expenditure directly incident to official travel by employees and officers of the Village or by wards or charges of

the Village involving reimbursement to travelers or direct payment to private agencies providing transportation or related services.

(B) The Village shall only reimburse travel, meal, and lodging expenses incurred by its Trustees and Mayor for public business by roll call vote at an open meeting of the Board of Trustees of the Village.

(C) The Village shall only reimburse travel, meal, and lodging expenses incurred by its employees and officers (other than Trustees and Mayor) for public business up to a maximum of **Two Hundred Fifty Dollars (\$250.00)** per individual per year. Expenses for travel, meals, and lodging of exceeding **Two Hundred Fifty Dollars (\$250.00)** per individual per year may only be approved by roll call vote at an open meeting of the Board of Trustees of the Village.

(D) No reimbursement of travel, meal or lodging expenses incurred shall be authorized unless the "Travel, Meal, and Lodging Expense Reimbursement Request Form" in Addendum "C", attached hereto and made a part hereof, has been submitted. Travel, meal and lodging expenses for employees and officials other than Trustees or the Mayor shall be pre-approved by the Mayor before the expense is incurred. All documents and information submitted with the form shall be subject to disclosure under the Freedom of Information Act (**5 ILCS 140/1 et seq.**)

(E) **Non-reimbursable Expenses.**

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

(2) Alcohol shall be excluded from reimbursement.

(F) Meal expense reimbursement shall be calculated using the per diem rates on www.gsa.gov.

(G) The Mayor shall have authority and discretion to approve or deny requests for travel, meal and lodging expense reimbursement for employees and officers other than Trustees or the Mayor up to the amount allowed in paragraph (B) of this Section.

1-2-31 OFFICIAL RECORDS. All official records, including the Corporate Seal, shall be kept in the Village Hall.

1-2-32 FEDERAL OLD AGE AND SURVIVOR'S INSURANCE SYSTEM.

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

(B) **Withholdings** from salaries or wages of employees for the purpose provided in sections hereof are hereby authorized to be made in the amounts and at such times as may be required by applicable State or Federal laws or regulations, and shall be paid quarterly. (**40 ILCS 5/21-101 et seq.**)

1-2-33 **CONTROL OF PROPERTY OWNED BY VILLAGE OUTSIDE OF VILLAGE LIMITS.** All property which (1) is owned by the Village, and (2) lies outside the corporate limits of the Village, and (3) does not lie within the corporate limits of any other municipality, shall be subject to the ordinances, control, and jurisdiction of the Village in all respects the same as the property owned by the Village which lies within the corporate limits thereof. **(65 ILCS 5/7-4-2)**

1-2-34 **CERTIFICATES OF INSURANCE.** All contractors and sub-contractors doing work for the Village shall first provide a Certificate of Insurance indicating Worker's Compensation and Employers' Liability coverage and the policy limits for such coverage.

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

1-2-36 **RESERVED.**

DIVISION V - VACANCIES

1-2-37 **VACANCY BY RESIGNATION.** A resignation is not effective unless it is in writing, signed by the person holding the elective office, and notarized.

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

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

(C) **Vacancy Upon the Effective Date.** For the purpose of determining the time period that would require an election to fill the vacancy by resignation or the commencement of the **sixty (60) day** time period referred to in **Section 1-2-41**, the resignation of an elected officer is deemed to have created a vacancy as of the effective date of the resignation.

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

1-2-38 VACANCY BY DEATH OR DISABILITY. A vacancy occurs in an office by reason of the death of the incumbent. The date of the death may be established by the date shown on the death certificate. A vacancy occurs in an office by permanent physical or mental disability rendering the person incapable of performing the duties of the office. The corporate authorities have the authority to make the determination whether an officer is incapable of performing the duties of the office because of a permanent physical or mental disability. A finding of mental disability shall not be made prior to the appointment by a court of a guardian ad litem for the officer or until a duly licensed doctor certifies, in writing, that the officer is mentally impaired to the extent that the officer is unable to effectively perform the duties of the office. If the corporate authorities find that an officer is incapable of performing the duties of the office due to permanent physical or mental disability, that person is removed from the office and the vacancy of the office occurs on the date of the determination.

1-2-39 VACANCY BY OTHER CAUSES.

(A) **Abandonment and Other Causes.** A vacancy occurs in an office by reason of abandonment of office; removal from office; or failure to qualify; or more than temporary removal of residence from the Municipality, as the case may be. The corporate authorities have the authority to determine whether a vacancy under this Section has occurred. If the corporate authorities determine that a vacancy exists, the office is deemed vacant as of the date of that determination for all purposes including the calculation under **Sections 1-2-41 or 1-2-42.**

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

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

1-2-40 ELECTION OF AN ACTING MAYOR. The election of an acting Mayor pursuant to **Section 1-2-42 or 1-2-43** does not create a vacancy in the original office of the person on the Village Board, unless the person resigns from the original office following election as acting Mayor. If the person resigns from the original office following election as acting Mayor, then the original office must be filled pursuant to the terms of this Section and the acting Mayor shall exercise the powers of the Mayor and shall vote and have veto power in the manner provided by law for a Mayor. If the person does not resign from the original office following election as acting Mayor, then the acting Mayor shall exercise the powers of the Mayor but shall be entitled to vote only in the manner provided for as the holder of the original

office and shall not have the power to veto. If the person does not resign from the original office following election as acting Mayor, and if that person's original term of office has not expired when a Mayor is elected and has qualified for office, the acting Mayor shall return to the original office for the remainder of the term thereof.

1-2-41 **APPOINTMENT TO FILL TRUSTEE VACANCY.** An appointment by the Mayor or acting Mayor, as the case may be, of a qualified person as described in **Section 1-2-23** of this Code to fill a vacancy in the office of Trustee must be made within **sixty (60) days** after the vacancy occurs. Once the appointment of the qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within **thirty (30) days**. If the appointment fails to receive the advice and consent of the corporate authorities within **thirty (30) days**, the Mayor or acting Mayor shall appoint and forward to the corporate authorities a second qualified person as described in **Section 1-2-23**. Once the appointment of the second qualified person has been forwarded to the corporate authorities, the corporate authorities shall act upon the appointment within **thirty (30) days**. If the appointment of the second qualified person also fails to receive the advice and consent of the corporate authorities, then the Mayor or acting Mayor, without the advice and consent of the corporate authorities, may make a temporary appointment from those persons who were appointed but whose appointments failed to receive the advice and consent of the corporate authorities. The person receiving the temporary appointment shall serve until an appointment has received the advice and consent and the appointee has qualified or until a person has been elected and has qualified, whichever first occurs.

1-2-42 **ELECTION TO FILL VACANCIES IN MUNICIPAL OFFICES WITH FOUR (4) YEAR TERMS.** If a vacancy occurs in an elective municipal office with a **four (4) year term** and there remains an unexpired portion of the term of at least **twenty-eight (28) months**, and the vacancy occurs at least **one hundred thirty (130) days** before the general municipal election next scheduled under the general election law, then the vacancy shall be filled for the remainder of the term at that general municipal election. Whenever an election is held for this purpose, the Village Clerk shall certify the office to be filled and the candidates for the office to the proper election authorities as provided in the general election law. If a vacancy occurs with less than **twenty-eight (28) months** remaining in the unexpired portion of the term or less than **one hundred thirty (130) days** before the general municipal election, then:

(A) **Mayor.** If the vacancy is in the office of Mayor, the vacancy must be filled by the corporate authorities electing one of their members as acting Mayor. Except as set forth in **Section 1-2-40**, the acting Mayor shall perform the duties and possess all the rights and powers of the Mayor until a Mayor is elected at the next general municipal election and has qualified. However, in villages with a population of less than **five thousand (5,000)**, if each of the trustees either declines the election as acting Mayor or is not elected by a majority vote of the trustees presently holding office, then the trustees may elect, as acting Mayor, any other Village resident who is qualified to hold municipal office, and the acting Mayor shall exercise the powers of the Mayor and shall vote and have veto power in the manner provided by law for a Mayor.

(B) **Trustee.** If the vacancy is in the office of Trustee, the vacancy must be filled by the Mayor or acting Mayor, as the case may be, in accordance with **Section 1-2-41**.

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

1-2-43 **VACANCIES DUE TO ELECTION BEING DECLARED VOID.** In cases of vacancies arising by reason of an election being declared void pursuant to **Section 1-2-39(C)**, persons holding elective office prior thereto shall hold office until their successors are elected and qualified or appointed and confirmed by advice and consent, as the case may be.

1-2-44 **OWING A DEBT TO THE MUNICIPALITY.** A vacancy occurs if a municipal official fails to pay a debt to a municipality in which the official has been elected or appointed to an elected position subject to the provisions of **65 ILCS 5/3.1-10-50(C)(4)**.

(65 ILCS 5/3.1-10-50)

1-2-45 - 1-2-49 **RESERVED.**

ARTICLE III – VILLAGE OFFICIALS

DIVISION I - MAYOR

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

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

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

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

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

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

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

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

1-3-5 APPOINTMENT OF OFFICERS.

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

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

1-3-6 SUPERVISE CONDUCT OF OFFICERS; REMOVAL OF OFFICERS.

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

1-3-7 DESIGNATION OF OFFICERS' DUTIES.

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

1-3-8 FORMAL OCCASIONS.

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

1-3-9 GENERAL DUTIES.

The Mayor shall perform all the duties which are prescribed by law and shall take care that the laws and ordinances are faithfully executed.

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

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

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

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

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

- (A) Where the vote of the Trustees has resulted in a tie; or
- (B) Where **one-half (1/2)** of the Trustees elected have voted in favor of an ordinance, resolution or motion, even though there is no tie; or
- (C) Where a vote greater than a majority of the corporate authorities is required by the **Illinois Compiled Statutes** to adopt an ordinance, resolution or motion.

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

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

DIVISION II - VILLAGE CLERK

1-3-16 VILLAGE CLERK APPOINTED. The Village Clerk shall be appointed by the Mayor with the advice and consent of the Village Board for a **four (4) year term** and shall serve until a successor is appointed and has qualified. **(65 ILCS 5/3.1-25-90 and 5/3.1-30-5)**

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

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

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

(B) **Minutes; Records.**

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

(2) **Closed Meetings.** The Clerk shall prepare and preserve the minutes of closed meetings according to the provisions of the Closed Meetings Act. At least twice a year, corporate authorities shall meet to review minutes of all closed sessions and make a public statement as to whether there is still a need to maintain such matters in confidence or whether minutes or portions of minutes from closed meetings no longer require confidential treatment and are available for public inspection. **(5 ILCS 120/2.06(c))**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1-3-31 **RESERVED.**

DIVISION III - VILLAGE TREASURER

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

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

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

1-3-35 **MONEY; WARRANTS; ACCOUNTS; PAYMENTS.** The Village Treasurer shall receive all monies belonging to this Village and shall pay all warrants signed by the Mayor and countersigned by the Village Clerk and not otherwise; and shall keep a separate account of each fund or appropriation and the debits and credits belonging thereto. The

Treasurer shall give to every person paying money into the Village Treasury a receipt therefor, specifying the date of payment, and upon what account paid, and shall file copies of such receipts with the Clerk with the monthly reports. **(65 ILCS 5/3.1-35-40)**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Treasurer shall, in such report, show the aggregate income of the preceding fiscal year, from all sources, the amount of liabilities outstanding upon which interest is to be paid, the bonds and debts payable during the year, when due and when payable; and in such report,

shall give such other information to the Village Board as he or she may deem necessary to the end that the Village Board may fully understand the money exigencies and demands upon the corporation for the current year. **(65 ILCS 5/3.1-35-115)**

1-3-45 DEPOSIT OF FUNDS.

(A) **Designation by Board.** The Treasurer is hereby required to keep all funds and monies in his or her custody belonging to the Village in such places of deposit as have been designated by **Section 1-2-85(F)**. When requested by the Treasurer, the corporate authorities shall designate a bank or banks in which may be kept the funds and monies of the Village in the custody of the Treasurer. When a bank or savings and loan association has been designated as a depository, it shall continue as such depository until **ten (10) days** have elapsed after a new depository is designated and has qualified by furnishing the statements of resources and liabilities as required by this Section. When a new depository is designated, the corporate authorities shall notify the sureties of the Village Treasurer of that fact in writing at least **five (5) days** before the transfer of funds. The Treasurer shall be discharged from responsibility for all funds or money that the Treasurer deposits in a designated bank or savings and loan association while the funds and money are so deposited.

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

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

(D) Each Village Treasurer may:

- (1) combine monies from more than one fund of a single municipality for the purpose of investing those funds and;
- (2) join with other municipal treasurers or municipalities for the purpose of investing the municipal funds of which the Treasurer has custody.

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

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

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

- (1) United Community Bank, Chatham, IL
- (2) Illinois State Treasurer's Investment Pool

1-3-46 - 1-3-47 RESERVED.

DIVISION IV - VILLAGE ATTORNEY

1-3-48 **APPOINTMENT OF ATTORNEY.** The Attorney shall be appointed by the Mayor, by and with the advise and consent of the Village Board for the term of **one (1) year**, unless sooner removed for cause, and until a successor shall have been appointed and qualified. The Attorney shall have full charge of the law affairs of the Village and shall be known as the Village Attorney, and shall receive reasonable fees for services rendered when, in his or her judgment, or in the judgment of the Mayor or Village Board, the same are necessary or are for the best interests of the Village. **(65 ILCS 5/3.1-30-5)**

1-3-49 **DUTIES.**

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

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

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

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

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

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

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

1-3-50 - 1-3-52 **RESERVED.**

DIVISION V - VILLAGE ENGINEER

1-3-53 **APPOINTMENT.** With the advice and consent of the Village Board, the Mayor may appoint an engineer for the Village, who shall serve for the term of the Mayor or for such period not exceeding the term of the Mayor, as may be designated by the Mayor and Village Board.

1-3-54 **DUTIES - SALARY.** The Village Engineer shall make and submit plans, estimates and specifications for any public work which may be proposed or ordered by the Village Board. The Engineer shall also examine all public works under his or her charge and see that the plans, estimates and specifications for the same are properly executed. The Engineer shall receive reasonable compensation for his services and the same will be provided for in the annual appropriation ordinance on an estimated basis. **(65 ILCS 5/3.1-30-5)**

1-3-55 - 1-3-56 **RESERVED.**

DIVISION VI - SUPERINTENDENT OF PUBLIC WORKS

1-3-57 **OFFICE CREATED.** There is hereby created the office of Superintendent of Public Works, who shall be appointed by the Mayor with the advice and consent of the Board of Trustees for a term of **one (1) year.**

1-3-58 **AUTHORITY.** The Superintendent of Public Works shall have charge of and be responsible for:

- (A) The operation and maintenance of the municipal water and sewer distribution systems as otherwise provided in this Code.
- (B) The construction and care of all public streets, alleys and driveways in the Village.
- (C) The cleaning and safekeeping of all public streets, alleys and driveways.
- (D) The construction, repair, and maintenance of all gutters and drains located within or upon public streets, alleys and driveways and elsewhere by easement or right-of-way insuring that the same are kept free from defects.
- (E) Supervise the lighting of public streets and alleys.
- (F) Such other duties and responsibilities as may be otherwise defined in other chapters of this Code.
- (G) Take custody of all Village property which is not otherwise assigned to the care and custody of any other Village officer or official.

1-3-59 **DEPARTMENT EMPLOYEES.** All officers or employees assigned to the Department of Public Works shall perform their duties subject to the directions and under the supervision of the Superintendent of Public Works.

1-3-60 **PROPERTY CUSTODIAN.** The Superintendent of Public Works shall be the custodian of all Village property which is not assigned to the care or custody of any other Village officer.

1-3-61 - 1-3-62 **RESERVED.**

DIVISION VII - CODE ENFORCEMENT OFFICER -- ZONING ADMINISTRATOR

1-3-63 **CREATION OF POSITION.** There is hereby created the position of Zoning Administrator. The Zoning Administrator shall be hired under the provisions of this Chapter. The Zoning Administrator shall also serve as the building inspector, flood plain inspector, and as the code enforcement officer. Additional duties shall be outlined in the zoning administrator's job description and may be amended from time to time by the Village Administrator.

1-3-64 **DUTIES.** The Zoning Administrator or his authorized representative shall administer and enforce the Zoning Code, as amended from time to time and is in effect, in accordance with the powers and duties therein set forth, and in furtherance of such activity shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE IV - SALARIES

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

(A) **Mayor.** The Mayor shall receive **One Thousand Two Hundred Dollars (\$1,200.00)** per year plus **Fifty Dollars (\$50.00)** for each Board meeting and **Ten Dollars (\$10.00)** for special meetings.

(B) **Trustees.** The Village Trustees shall receive **Fifty Dollars (\$50.00)** per meeting plus **Ten Dollars (\$10.00)** per each special meeting.

(C) **Clerk.** The Village Clerk shall receive a salary as provided in the annual appropriation ordinance.

(D) **Treasurer.** The Village Treasurer shall receive a salary as provided in the annual appropriation ordinance.

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

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

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

ARTICLE V - MANAGEMENT ASSOCIATION

1-5-1 PARTICIPATION. The Village Board of Trustees does hereby authorize and approve membership in the Illinois Municipal League Risk Management Association and directs the Mayor and Clerk to execute an Intergovernmental Cooperation Contract with the Illinois Municipal League Risk Management Association for membership on an annual basis and each year thereafter unless this ordinance is repealed.

1-5-2 CONTRIBUTION. Each member hereby agrees to contribute to the Association a sum of money to be determined by the Association at the time of its annual renewal based on the needs of the Association and the loss experience of the Member, which sum shall constitute the cost of the Member's contribution for membership in the Association.

(Ord. No. 17-05; 07-13-17)

ARTICLE VI – MEETING PROCEDURES

DIVISION I – RECORDING CLOSED MEETINGS

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

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

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

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

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

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

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

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

- (A) The corporate authorities of the Village have approved the minutes of the closed sessions as to accurate content, regardless of whether the minutes have been released for public review;
- (B) More than **eighteen (18) months** have elapsed since the date of the closed session;
- (C) There is no court order requiring the preservation of such recording; and
- (D) The corporate authorities of the Village have not passed a motion requiring the preservation of the verbatim recording of that meeting.

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

DIVISION II – REMOTE MEETING PARTICIPATION

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

1-6-12 **DEFINITION OF MEETING.** The term "meeting" shall mean "any gathering, whether in person or by video or audio conference, telephone calls, electronic means (such as, without limitation, electronic mail, electronic chat and instant messaging), or other

means of contemporary interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business” or such other definition as shall be contained within the state statutes.

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

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

ADDENDUM "A"

GOVERNMENTAL UNIT
REMOTE ATTENDANCE POLICY

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

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

- (1) the member must notify the recording secretary or clerk of the Covered Body at least **twenty-four (24) hours** before the meeting unless advance notice is impractical;
- (2) the member must meet one of three reasons described herein why he or she is unable to physically attend the meeting, including either: (a) that the member cannot attend because of personal illness or disability; (2) the member cannot attend because of employment purposes or the business of the Village; or (3) the member cannot attend because of a family or other emergency; and
- (3) a quorum of the Covered Body must be physically present.

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

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

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

ADDENDUM "B"

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

NAME OF APPLICANT: _____

NAME OF COMPANION: _____

ADDRESS: _____

TELEPHONE: _____ CELL NO.: _____

DATE OF NEEDED AUXILIARY AID OR SERVICE: _____

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

DATE: _____ SIGNED: _____

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

ADDENDUM "C"

**VILLAGE OF LOAMI
TRAVEL, MEAL AND LODGING EXPENSE REIMBURSEMENT REQUEST FORM**

Before an expense for travel, meals, or lodging may be approved under Village Code Section 1-2-30, the following minimum documentation must first be submitted, in writing, to the corporate authorities of the Village:

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

Name of Employee or Officer

Job Title/Office

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

Name of Event or Program

Date(s) of Event or Program

Location of Event or Program

Purpose of Event or Program

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

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

Employee/Officer Signature

Date

CHAPTER 3

ANIMALS

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CHAPTER 3

ANIMALS

ARTICLE I - GENERAL REGULATIONS

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

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

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

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

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

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

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

"COUNTY ANIMAL CONTROL PERSONNEL" means personnel who are employed by the County to take up domestic animals and transport them to the County Pound, or take up wild animals and dispose of them in accordance with the procedures of the County Animal Control Department.

"DANGEROUS DOG" means:

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

(B) a dog that, without justification bites a person and does not cause serious injury.

(510 ILCS 5/2.052A)

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

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

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

"FERAL CAT" means a cat that:

- (A) is born in the wild or is the offspring of an owned or feral cat and is not socialized,
- (B) is a formerly owned cat that has been abandoned and is no longer socialized, or
- (C) lives on a farm.

(510 ILCS 5/2.11b)

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

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

"KENNEL" means any structure or premises or portion thereof on which more than **three (3) dogs**, cats, or other household domestic animals, over **four (4) months** of age, are kept or on which more than **two (2)** such animals are maintained, boarded, bred, or cared for in return for remuneration or are kept for the purpose of sale.

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

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

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

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

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

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

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

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

"UNOWNED STRAY DOG". "Unowned stray dog" means any dog not on the premises of the owner or keeper or under control by leash or other recognized control methods, and which does not, at that time and place, bear a current rabies inoculation tag issued pursuant to the provisions of this Code, by means of which, by reference to records of current registration certificates, the Administrator or his deputies or assistants may determine the name and address of the owner or keeper thereof, or some other means of identification from which the Administrator or his deputies or assistants may directly determine the name and address of the owner or keeper thereof. **(510 ILCS 5/2)**

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

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

3-1-3 EXERCISE OF CERTAIN POWERS.

(A) The Chief of Police, police officers, and the Village President shall have the exclusive power to request County Animal Control Personnel to take up and transport animals in accordance with this Chapter and in accordance with contractual arrangements with the County.

(B) Police officers on duty shall have the additional authority to take up and temporarily detain vicious animals and animals running at large pending the arrival of County Animal Control Personnel.

3-1-4 INJURY TO PROPERTY.

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

(B) **Waste Products Accumulations.** It shall be unlawful for any person to cause or permit a dog or cat to be on property, public or private, not owned or possessed by

such person unless such person has in his immediate possession an appropriate device for scooping excrement and an appropriate depository for the transmission of excrement to a receptacle located upon property owned or possessed by such person. This section shall not apply to a person who is visually or physically handicapped.

3-1-5 MANNER OF KEEPING.

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

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

3-1-6 KEEPING BARKING DOGS AND CRYING CATS.

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

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

3-1-7 CRUELTY TO ANIMALS PROHIBITED.

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

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

3-1-8 EXHIBITING WILD OR VICIOUS ANIMALS.

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

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

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

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

3-1-9 HEALTH HAZARD. The Mayor shall have the power to issue an order prohibiting the keeping of any animal, fowl or bird which is deemed to be a nuisance or pose a health hazard to the general public.

3-1-10 LIMITATION ON NUMBER OF DOGS AND CATS KEPT.

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

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

(B) **Limitation; Exception.**

(1) It shall be unlawful for any person or persons to keep more than **three (3) dogs or cats** within the Village, with the exception that a litter of pups, a litter of kittens or a portion of a litter may be kept for a period of time not exceeding **five (5) months** from birth.

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

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

3-1-11 ANIMALS, ETC. IN VILLAGE.

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

- (1) It shall be unlawful to keep roosters within Village limits.
- (2) Allowable animals shall be deemed Hobby Animals.
- (3) The number of allowable fowl shall be no less than **two (2)**, and no more than **six (6)**.
- (4) The number of rabbits shall not exceed **ten (10)**.
- (5) Any structures housing hobby animals shall be termed an "accessory structure".
- (6) Applicants shall register with Village Hall obtaining annual permit and have proof of registration on-site. Registration fee of **Twenty-Five Dollars (\$25.00)** per year.
- (7) Care for Hobby Animals shall follow the provisions set forth in this Chapter.
 - (a) Hobby Animals shall be kept in such a way so as not to cause a nuisance.
 - (b) Hobby Animal runs, yards and coops shall be constructed and maintained to reasonably prevent the collection of standing water; and shall be cleaned of droppings, uneaten or discarded feed, feathers, and other waste with such frequency as is necessary to ensure the yard, coop and pen do not become nuisances.
 - (i) Coops, pens and yards shall be large enough to provide at least **four (4) square feet** per animal.
 - (ii) The coop must be built to provide ventilation, shade, protection from precipitation, protection from cold weather and to be secure from predators, wild birds and rodents.
 - (iii) Openings in windows and doors must be covered by wire mesh or screens to deter predators.
 - (iv) Access doors must be sized and placed for ease of cleaning.
 - (v) The enclosed run must be attached to the coop or must surround the coop. The sides of the run must be made of fencing or wire mesh that discourages predators.
 - (vi) The run must be enclosed on all sides, including the top or roof plane.
 - (vii) Odors from pens, manure or related substances shall not be detectable from property lines. Manure must be stored and disposed of. Manure may be composted. All manure not composted must be removed from property regularly.
 - (c) Licenses for coops must be obtained and shall meet the rules of this Chapter where applicable.
 - (i) Prior to a license being granted to an applicant, the applicant must show proof of notice to all adjacent landowners except landowners that are municipalities or utilities.
 - (ii) Coops over **one hundred twenty (120) square feet** will require a building permit.

- (iii) A license shall not be granted unless the applicant has obtained all necessary building permits and can show proof that a pen, yard and coop that comply with this Section have been erected.
- (iv) The chicken coop and run shall be located in the rear of the residential structure. The pen, coop and run are allowed in the rear yard, but not the side or front yards.
- (v) The coop and run shall be located at least **five (5) feet** from the property line and at least **twenty-five (25) feet** from any dwelling.
- (vi) Coop licenses shall not run with the land.
- (vii) Licenses will only be granted to persons who reside on parcels with single-family dwellings. An applicant who lives in an apartment, multi-family units or condominium building is not eligible to receive a Hobby Animal license.
- (viii) The Village may deny a license to any person who:
 - a. Owes money to the Village; or
 - b. has, in the last **five (5) years** prior to application for a license under this Section been convicted or plead guilty to any code violation of animals, nuisance, noise, property maintenance or zoning.
- (ix) If the licensee is found to be in violation of this Section or of Cruelty to Animals, the license will be immediately and permanently revoked.
- (x) Applications shall be submitted to the Village Clerk's office.
- (xi) No person shall slaughter any Hobby Animal within Village limits in view of the public.
- (xii) No Hobby Animal shall be permitted to run at large. All animals shall be kept in a designated coop or run. Hobby Animals may be allowed to exercise in a rear yard with a **six (6) foot** or higher fence with supervision.
- (xiii) No lawfully owned cat or dog shall be deemed dangerous, vicious or otherwise punished for attacking or killing any Hobby Animal allowed to run astray whether by accident or design.
- (xiv) Any resident currently owning a designated Hobby Animal shall have **ninety (90) days** from enactment of this Section to comply with all the provisions set forth.
- (xv) If the licensee is found to be in violation of these standards **three (3)** or more times, the license will be immediately and permanently revoked.
- (xvi) Pens, coops and runs not maintained according to this Section shall be deemed a public nuisance and

the license will be immediately and permanently revoked.

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

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

3-1-11 ANIMAL FEED PROHIBITED. It shall be unlawful for anyone to place or distribute any animal feed on public property, public easements and accesses to public property. It shall be unlawful for anyone to place or distribute animal feed on vacant lots or in unoccupied structures in the Village.

3-1-12 DEAD ANIMALS.

(A) The owner or keeper of an animal shall be responsible for the disposal of such animal's remains upon its death, from whatever cause, and regardless of the location of the remains of such animals.

(B) Animals remains shall be disposed of:

- (1) By burial beneath at least **eighteen (18) inches** of compacted soil on the property of the animal's owner or keeper, or any other location with the express permission of the owner of the property;
- (2) By or through the County Animal Pound;
- (3) By or through a licensed veterinarian; or
- (4) By action of the Police Department.

(C) The Police Department may issue a written notice to any owner or keeper who has failed to properly dispose of the remains of an animal as prescribed herein. Such person shall have **twenty-four (24) hours** from receipt of such notice to properly dispose of such remains. The notice shall be served on the violator personally or by leaving such notice at this usual place of abode with some person of the family, of the age of **thirteen (13) years** or upwards and informing that person of the contents thereof.

(D) The Village may dispose of any animal's remains without notice to the owner or keeper when:

- (1) Such remains are located on a public roadway;
- (2) The remains are located on the property of a person other than the owner or keeper; or
- (3) Service of a notice on the owner or keeper is refused or not readily possible within a short time.

(E) In any case where a disposal notice is required, in accordance with paragraph (C) above, on failure of a person served a notice to properly dispose of such remains within the time allowed, the remains may be disposed of by employee of the Village and all costs of such removal shall be paid by the owner or keeper of the dead animal to the Village.

(F) A minimum charge of **Fifty Dollars (\$50.00)** for each hour or part of an hour spent by police officers or other Village employees in disposing of the remains shall be levied against the owner or keeper when the Village disposes of the remains. The Village may institute legal proceedings to collect any amount owing by the owner or keeper providing that such suit is filed within **two (2) years** of the issuance of the notice or disposal of the remains if no notice is required.

3-1-13 INJURED ANIMALS; ANIMALS FOUND DEAD ON PUBLIC WAYS.

(A) Any animal discovered injured on a public way shall be impounded or picked up by the County Animal Control Personnel at the direction of a police officer and processed in accordance with the procedures of the County Pound.

(B) When a domestic animal is discovered dead on a public way, the police officer on duty shall attempt to ascertain its owner and shall request that the owner dispose of the remains. If a wild animal is discovered dead on the public way, or the officer cannot ascertain the owner of a dead domestic animal, the officer shall notify the Street Department of the animal, and the Street Department shall disposal of the remains.

3-1-14 COCK FIGHTING; DOG FIGHTING. No person shall use or keep animals or be in any way connected with the management of any place kept or used for the purpose of fighting or baiting any dogs, cocks, or other animals or permit such place to be kept or used on premises owned or controlled by such persons.

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

ARTICLE II - DOGS

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

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

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

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

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

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

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

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

3-2-7 **RESTRAINT OF DOGS.** The owner or keeper of a dog shall keep the dog under restraint at all times and shall not permit such dog to be at large, off the premises of the property of the owner or keeper, unless the dog is under complete control as defined in **Section 3-1-2. (65 ILCS 5/11-20-9)**

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

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

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

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

(D) Any impounded dog which shall not be redeemed within **seven (7) days** shall be humanely destroyed or otherwise disposed of by the poundkeeper.

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

3-2-9 NOTICE AND CITATION TO OWNER OR KEEPER OF IMPOUNDMENT.

In case of impounding and where the owner or keeper of such dog is disclosed by any tax or license tag worn by it or is otherwise known to the officers impounding the same, the designated official shall make reasonable attempts to contact the owner, informing him of the impounding of his dog and shall cite the owner or keeper of such dog to answer charges of violation of this Chapter.

3-2-10 OBSTRUCTING POUNDMASTER. Any person(s) who shall bring any dog into the Village for the purpose of causing the same to be impounded or any person who shall resist, hinder or molest the poundmaster or dogcatcher or police officer while engaged upon the duties imposed upon them by this Chapter or any person who shall break into the dog pound and release or deliver any dog therefrom without having first paid the fees herein specified, or any owner or keeper of any dog who shall permit any dog to run at large within the corporate limits of the Village, upon conviction of any part of this Chapter shall be fined according to Chapter 1-Administration of this Code.

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

If, at the expiration of the **ten (10) days** no symptoms of rabies have developed in such dog so impounded, the same may be redeemed by the owner upon payment of the redemption fees and charges specified by this Chapter; provided, however, that in case any dog so impounded for biting a person shall have previously bitten any person, such dog shall be humanely destroyed by the poundkeeper. After having been notified that his dog has bitten or otherwise injured any person, the owner or keeper thereof shall not, under any circumstances, permit such animal to be at large unless securely muzzled. **(510 ILCS 5/13)**

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

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

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

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

3-2-16 DANGEROUS DOG - FEMALE DOG AT LARGE. It shall be unlawful for the owner or keeper of any vicious or dangerous dog as defined in **Section 3-1-2** or of any female dog, while in heat, to run at large within the limits of this Village.

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

3-2-18 CONFINEMENT IN MOTOR VEHICLE. No owner or person shall confine any animal in a motor vehicle in such a manner that places it in a life or health threatening situation by exposure to a prolonged period of extreme heat or cold, without proper ventilation or other protection from such heat or cold. In order to protect the health and safety of an animal, an animal control officer, law enforcement officer, or Department

investigator who has probable cause to believe that this Section is being violated shall have authority to enter such motor vehicle by any reasonable means under the circumstances after making a reasonable effort to locate the owner or other person responsible. **(510 ILCS 70/7.1)**

3-2-19 **VICIOUS ANIMALS PROHIBITED.** It shall be unlawful for any person to bring or transfer into the unincorporated area of the Village any dog or animal that has been declared "vicious" by any unit of local government.

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

ARTICLE III - VICIOUS AND DANGEROUS DOGS

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

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

- (1) Any individual dog that when unprovoked inflicts bites or attacks a human being or other animal either on public or private property.
- (2) Any individual dog with a known propensity, tendency or disposition to attack without provocation, to cause injury or to otherwise endanger the safety of human beings or domestic animals.
- (3) Any individual dog that has a trait or characteristic and a generally known reputation for viciousness, dangerousness or unprovoked attacks upon human beings or other animals, unless handled in a particular manner or with special equipment.
- (4) Any individual dog which attacks a human being or domestic animal without provocation.
- (5) Any individual dog which has been found to be a "dangerous dog" upon **three (3)** separate occasions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

dog or other animal shall be in violation of this Act, and in addition the court shall enter an order restraining the owner from maintaining such nuisance and may order that such dog or other animal be humanely dispatched. **(510 ILCS 5/17)**

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

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

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

ARTICLE IV – TETHERING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3-4-2 VARIANCES. Any person seeking a variance from the regulations in this Article shall complete an application at the Animal Control Agency of the Village. The variance shall be reviewed by the Animal Control Committee for approval or disapproval.

(510 ILCS 70/3)

ARTICLE V – PENALTIES AND ENFORCEMENT**3-5-1 CITATIONS IN ORDINANCE VIOLATION CASES.**

(A) For violations of this Chapter other than violations relating to dangerous, vicious and biting dogs and other animals, Village police officers are authorized to issue citations. Citations shall be issued on forms approved by the Chief of Police and shall be served personally on the violator, left with a responsible family member of at least **thirteen (13) years** of age at the home of the violator, or mailed to the residence of the violator.

(B) On receipt of any citation alleging violation of any section of this Chapter, the violator may pay **one-half (1/2)** of the minimum fine provided in this Chapter at the Village Hall within **ten (10) working days** of issuance of the citation, and in such event, the Village will not prosecute the ordinance violation. After **ten (10) working days** but before filing of an action with the Circuit Court of Sangamon County, an alleged violator may avoid prosecution under this Chapter by paying the full minimum fine applicable to the violation at the Village Hall.

3-5-2 PROSECUTION OF VIOLATIONS.

(A) The Village may by its attorney file a complaint and prosecute any alleged violation of this Chapter:

- (1) where a citation has been issued, after **ten (10) working days** have elapsed from the date of issuance of a citation;
- (2) where no citation has been issued, at any time.

(B) In addition to the penalties set forth in this Chapter, the Village may pursue any and all other remedies available under State law, including but not limited to bringing actions to abate nuisances and seeking the destruction of dangerous or vicious animals.

3-5-3 FINES AND PENALTIES. Any person found to have violated this Chapter shall, in addition to boarding costs and impoundment fees required herein, be fined as follows:

(A) For any other violation of any section of this Chapter other than those pertaining to vicious, dangerous or biting animals, penalties shall be as follows:

- (1) **Fifty Dollars (\$50.00)** for the first offense;
- (2) **Seventy-Five Dollars (\$75.00)** for the second and subsequent offense.

(B) For violation of any section of this Chapter pertaining to vicious, dangerous or biting animals not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense.

(C) Each day an offense continues shall be considered a separate offense.

(Ord. No. 05-05; 08-11-05)

APPENDIX "A"

NOTICE OF IMPOUNDMENT OF ANIMAL

TO: _____
Name and address of person believed to be animal's owner

PLEASE TAKE NOTICE that the following animal has been captured and impounded:

Type of Animal: Dog Cat Other _____
Breed: _____
Color: _____
Tag No., if applicable: _____
Other identifying characteristics: _____

The animal was found running at large at _____
Loami, IL on _____, 20__ at _____ a.m./p.m.
and was therefore captured and impounded in accordance with the animal control provisions of the Village of Loami Code of Ordinances.

The Village of Loami believes that you may be the owner of the animal. The animal may be redeemed at the Sangamon County Animal Control Center, 2100 Shale Road, Springfield, IL 62703, after payment of impoundment fees, costs, and all applicable County charges to the Sangamon County Animal Control Center. You should pay all fees directly to the Sangamon County Animal Control Center. ***Please note that the Sangamon County Animal Control Center will require cash, certified check, or cashier's check.***

Dated this _____ day of _____, 20__.

Police Officer

Also, please take notice of the following:

1. *As set forth in Section 3-1-22 of the Village of Loami Code of Ordinances, the Village of Loami's impoundment fee is \$50.00. Any other violations of this Ordinance other than those pertaining to vicious, dangerous or biting animals shall be fined \$50.00 for the first offense and \$100.00 for a second and subsequent offense pursuant to Section 3-2-3.*
2. *Impoundment Checks should be paid directly to the Sangamon County Animal Control Center.*

APPENDIX "B"

HOBBY ANIMAL APPLICATION

NAME _____ **CELL NO.** _____

ADDRESS _____ **CITY** _____

PARCEL NUMBER _____

ADDRESS OF ANIMALS (IF DIFFERENT) _____

1. Nature of Request
 - A. Chickens # _____ 2-6 hens allowed
(No roosters or crowing hens)
 - B. Ducks # _____ 2 allowed
 - C. Quail # _____ 5 allowed
 - D. Rabbits # _____ 10 allowed
 - E. Pigeons # _____ 5 allowed
 - F. Pheasants # _____ 2-6 hens permitted
2. The applicant agrees to locate these animals only in SR-1 or A-1 zone districts in single-family residences.
3. The applicant agrees to comply with the regulations specified in Chapter 3 – Animal Control Code.
4. Applicant shall pay the applicable fee specified in Chapter 3 – Animal Control Code.
5. Applicant shall submit a lot diagram indicating the location of the animal enclosure or pen in relationship to all lot lines and structures.

CHAPTER 6
BUILDING REGULATIONS

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CHAPTER 6

BUILDING REGULATIONS

ARTICLE I – BUILDING FEES

6-1-1 follows: **FEES ESTABLISHED.** The fees for construction of buildings are as

House	\$100.00
Garage	\$50.00
Addition	\$50.00
Deck	\$25.00
Fence	\$25.00

(Ord. No. 2008-05; 07-10-08)

CHAPTER 7

BUSINESS

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CHAPTER 7

BUSINESS CODE

ARTICLE I - SOLICITORS

7-1-1 **DEFINITIONS.** For the purpose of this Chapter, the following words as used herein shall be construed to have the meanings herein ascribed thereto, to-wit:

"REGISTERED SOLICITOR" shall mean and include any person who has obtained a valid **Certificate of Registration** as hereinafter provided, and which certificate is in the possession of the solicitor on his or her person while engaged in soliciting.

"RESIDENCE" shall mean and include every separate living unit occupied for residential purposes by **one (1)** or more persons, contained within any type of building or structure.

"SOLICITING" shall mean and include any **one (1)** or more of the following activities:

(A) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, services of any kind, character or description whatsoever, for any kind of consideration whatsoever or;

(B) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication or;

(C) Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support or benefit of any charitable or non-profit association, organization, corporation or project.

7-1-2 **CERTIFICATE OF REGISTRATION.** Every person desiring to engage in soliciting as herein defined from persons within this Municipality is hereby required to make written application for a Certificate of Registration as hereinafter provided. All resident charitable, non-profit organizations in this Village which have been in existence for **six (6) months or longer** shall be exempt from the provisions of this Article.

7-1-3 **APPLICATION FOR CERTIFICATE OF REGISTRATION.** Applications for a Certificate of Registration shall be made upon a form provided by the Chief of Police of this Municipality and filed with such Chief. The applicant shall truthfully state in full the information requested on the application, to-wit:

(A) Name and address of present place of residence and length of residence at such address; also, business address if other than residence address; also, Social Security Number.

(B) Address of place of residence during the past **three (3) years** if other than present address.

(C) Age of applicant and marital status; and if married, the name of spouse.

(D) Physical description of the applicant.

(E) Name and address of the person, firm or corporation or association with whom the applicant is employed or represents; and the length of time of such employment or representation.

(F) Name and address of employer during the past **three (3) years** if other than the present employer.

(G) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage.

(H) Period of time for which the Certificate is applied.

(I) The date or approximate date of the latest previous application for a Certificate under this Chapter, if any.

(J) Has a Certificate of Registration issued to the applicant under this Chapter ever been revoked?

(K) Has the applicant ever been convicted of a violation of any of the provisions of this Code or the regulations of any other Illinois municipality regulating soliciting?

(L) Has the applicant ever been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States?

(M) The last **three (3) municipalities** where the applicant carried on business immediately preceding the date of application in this Municipality and the address from which such business was conducted in those municipalities.

(N) Also, such additional information as the Chief of Police may deem necessary to process the application.

All statements made by the applicant upon the application or in connection therewith shall be under oath.

The Chief of Police shall cause to be kept in his office an accurate record of every application received and acted upon, together with all other information and data pertaining thereto and all Certificates of Registration issued under the provisions of this Chapter and of the denial of applications.

Applications for Certificates issued shall be numbered in consecutive order as filed, and every Certificate issued and any renewal thereof shall be identified with the duplicate number of the application upon which it was issued.

No Certificate of Registration shall be issued to any person who has been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States within **five (5) years** of the date of the application; nor to any person who has been convicted of a violation of any of the provisions of this Chapter, nor to any person whose Certificate of Registration issued hereunder has previously been revoked as herein provided.

7-1-4 **ISSUANCE AND REVOCATION OF CERTIFICATE.** The Chief of Police, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications for such Certificate as herein required, and that the issuance of a Certificate of Registration to the applicant would not be in accord with the intent and purpose of this Code. Endorsement shall be made by the Chief of Police upon the application of the denial of the application. When the applicant is found to be fully qualified, the Certificate of Registration shall be issued forthwith.

Any Certificate of Registration issued hereunder shall be revoked by the Chief of Police if the holder of the Certificate is convicted of a violation of any provision of this Chapter, or has made a false material statement in the application or otherwise becomes disqualified for the issuance of a Certificate of Registration under the terms of this Chapter. Immediately upon such revocation, written notice thereof shall be given by the Chief of Police to the holder of the Certificate in person or by certified [return receipt requested] U. S. Mail, addressed to his or her

residence address set forth in the application. Immediately upon the giving of such notice, the Certificate of Registration shall become null and void.

The Certificate of Registration shall state the expiration date thereof.

7-1-5 POLICY ON SOLICITING. It is declared to be the policy of this Municipality that the occupant or occupants of the residences in this Municipality shall make the determination of whether solicitors shall be or shall not be invited to their respective residences.

7-1-6 NOTICE REGULATING SOLICITING. Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this Article shall comply with the following directions:

(A) Notice of the determination by the occupant of giving invitation to solicitors or the refusal of invitation to solicitors to any residence shall be given in the manner provided in paragraph (B) of this Section.

(B) A weatherproof card, approximately **three inches by five inches (3" x 5")** in size shall be exhibited upon or near the main entrance door to the residence indicating the determination by the occupant and containing the applicable words, as follows:

"ONLY REGISTERED SOLICITORS INVITED"

OR

"NO SOLICITORS INVITED"

(C) The letters shall be at least **one-third (1/3) inch** in height. For the purpose of uniformity, the cards shall be provided by the Chief of Police to persons requesting the same, at the cost thereof.

(D) Such card so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

7-1-7 COMPLIANCE BY SOLICITORS. It is the duty of every solicitor upon going onto any premises in this Municipality upon which a residence as herein defined is located to first examine the notice provided for in **Section 7-1-6** if any is attached and be governed by the statement contained on the notice.

If the notice states **"ONLY REGISTERED SOLICITORS INVITED,"** then the solicitor not possessing a valid Certificate of Registration as herein provided for shall immediately and peacefully depart from the premises; and if the notice states, **"NO SOLICITORS INVITED,"** then the solicitor, whether registered or not shall immediately and peacefully depart from the premises.

Any solicitor who has gained entrance to any residence, whether invited or not, shall immediately and peacefully depart from the premises when requested to do so by the occupant.

7-1-8 **UNINVITED SOLICITING PROHIBITED.** It is declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of **Section 7-1-6.**

7-1-9 **TIME LIMIT ON SOLICITING.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to **10:00 A.M. or after 5:00 P.M.** on any day of the week, including Saturday, or at any time on a Sunday or on a State or National holiday.

7-1-10 **SOLICITATIONS ON PUBLIC HIGHWAYS.** Charitable organizations shall be allowed to solicit upon public highways under the following terms and conditions:

(A) The charitable organization must be one that is registered with the Attorney General for the State of Illinois as a charitable organization as provided by "**An Act to Regulate Solicitation and Collection of Funds for Charitable Purposes, Providing for Violations Thereof, and Making an Appropriation Therefor,**" approved July 26, 1963, as amended.

(B) Solicit only at intersections where all traffic from all directions is required to come to a full stop.

(C) Be engaged in a state-wide fund-raising activity.

(D) Be liable for any injury to any person or property during the solicitation which is causally related to an act of ordinary negligence of the soliciting agent.

(E) Any person so engaged in such solicitation shall be at least **sixteen (16) years of age** and shall wear a high visibility vest.

(F) Solicit only during daylight hours.

(G) Any one charitable organization shall be limited to conducting no more than **two (2)** solicitations per calendar year.

(626 ILCS 5/11-1006)

7-1-11 **FEES.** Upon making an application for a Certificate, the applicant shall pay a license fee OF **Twenty-Five Dollars (\$25.00)** per day.

(65 ILCS 5/11-42-5)

ARTICLE II - PEDDLERS

7-2-1 **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefor.

7-2-2 **DEFINITION.** "**Peddle**" shall mean the selling, bartering, or exchanging or the offering for sale, barter or exchange of any tangible personal property upon or along the streets, highways, or public places of this Municipality or from house-to-house, whether at one place thereon or from place-to-place, from any wagon, truck, pushcart, or other vehicle or from movable receptacles of any kind, but shall not include the delivery of any item previously ordered or the sale of items along delivery routes where the purchaser has previously requested the seller to stop and exhibit his items. Nor shall '**peddle**' be taken to include the solicitation of orders by sample where the goods are not delivered at the time the order is taken.

7-2-3 **APPLICATIONS.** A person desiring a license may obtain the same by making application with the Clerk and providing the following information:

- (A) Name and physical description of applicant.
- (B) Permanent home and address and local address if operating from such an address.
- (C) A brief description of the business and of the goods to be sold.
- (D) Name and address of the employer, if any.
- (E) The length of time for which the right to do business is desired.
- (F) Evidence that the agent is acting on behalf of the corporation he represents.
- (G) Statement of the applicant's criminal record other than a traffic record.
- (H) The last **three (3) municipalities** where the applicant carried on business immediately preceding the date of application to this Municipality and the address from which such business was conducted in those municipalities.

7-2-4 **INVESTIGATION OF APPLICANTS.** Upon receipt of each application, it shall be referred to the Chief of Police, who shall investigate the business and moral character of the applicant. If the facts show the applicant unfit to receive the license, then it shall be denied.

7-2-5 **HOURS.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Code or not, to engage in peddling as herein defined prior to **10:00 A.M.** or after **5:00 P.M.** on any day of the week, including Saturday, or at any time on a Sunday or on a State or National holiday.

7-2-6 **FRAUD.** No licensed peddler or hawker shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee while acting as

a peddler in this Municipality, or shall barter, sell or peddle any goods or merchandise or wares other than those specified in his application for a license.

7-2-7 **PHOTOGRAPHS.** **Two (2) photographs** of the applicant and such of its employees as will be used in the peddling or merchandising, taken within **sixty (60) days** immediately prior to the filing of the application, which pictures shall be **two inches by two inches (2" x 2")**, showing the head and shoulders of the applicant or its agent(s) and/or employee(s) in a clear and distinguishing manner.

7-2-8 **UNWANTED PEDDLING.** Nothing contained in this Chapter, nor the issuance of any license hereunder shall entitle the licensee to go in or upon any private residence for the purpose of peddling if such licensee, his agents or employees are directed to depart from said private residence by the owner or person in charge thereof.

7-2-9 **PEDDLERS AS NUISANCE.** The practice of going in and upon private residences, business establishments or offices in the Municipality by peddlers, hawkers, itinerant merchants and transient vendors of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences and business establishments or offices for the purpose of disposing of and/or peddling or hawking of merchandise is hereby declared to be a nuisance and is punishable as a violation of this Code. No person shall peddle in a public square.

7-2-10 **DUTY OF POLICE TO ABATE.** The Police Department of this Municipality is hereby required and directed to suppress the same and to abate any such nuisance as described in **Section 7-2-9.**

7-2-11 **LOCAL BUSINESSES AND FARMERS EXCLUDED.** The provisions of this Article shall not apply to persons employed or representing an established merchant, business firm, or corporation located and regularly doing business in the Municipality or to farmers selling any food items raised or produced by themselves and/or to permanently established residents who are voters in the Municipality or anyone duly licensed.

7-2-12 **FEES.** The license fees per person to be charged for licenses to peddle in this Municipality, each payable in advance, are hereby fixed and established as follows:

(A) **Daily License:** **\$25.00 per person per day**

(65 ILCS 5/11-42-5)

ARTICLE III - COIN-OPERATED MACHINES

7-3-1 **DEFINITIONS.** Definitions of terms as used in this Article, unless the context otherwise clearly indicates, are as follows:

"COIN-OPERATED AMUSEMENT DEVICE" means any amusement machine or device operated by means of the insertion of a coin, token, or currency for the purpose of amusement or skill and for the playing of which a fee is charged. The term includes, but is not limited to juke boxes, electronic video games, pinball machines or other similar games. The term does not include vending machines in which there are not incorporated gaming or amusement features.

"OPERATOR" is hereby defined to be any person, firm, corporation, partnership, association or club who sets up for operation by another or leases or distributes for the purpose of operation by another, any device(s) herein defined, whether such setting up for operation, leasing or distributing be for a fixed charge or rental, or on the basis of a division of the income from such device or otherwise.

"PROPRIETOR" is hereby defined to be any person, firm, corporation, partnership, association or a club who, as the owner, lessee or proprietor has under his or its control any establishment, place or premises in or on which such device is placed or kept for use or play or on exhibition for the purpose of use or play.

7-3-2 **LICENSE REQUIRED.** No person, firm or corporation shall engage in the business of an operator of coin-operated amusement devices within the corporate limits of this Municipality without having first obtained the proper license therefor.

7-3-3 **APPLICATION.** Application for license shall be verified by oath or affidavit and contain the following information:

(A) The name, age and address of the applicant in the case of an individual and, in the case of a co-partnership, of the persons entitled to share in the profits thereof; and in the case of a corporation, the date of incorporation, the objects for which it was organized, the names and addresses of the officers and directors; and if a majority in interest of the stock of such corporation is owned by one person or his nominee(s), the name and address of such person(s).

(B) The citizenship of the applicant, his place of birth; or if a naturalized citizen, the time and place of his naturalization.

(C) The address of the place where the applicant proposes to operate.

(D) A statement whether the applicant has made a similar application for a similar license on premises other than those described in the application and the disposition of such other application.

(E) A statement that the applicant has never been convicted of a felony and is not disqualified to receive the license under this Section.

7-3-4 **PROHIBITED LICENSEES.** No license under this section shall be issued to:

(A) Any person who is not of good character and reputation in the community.

(B) Any person who has been convicted of a felony under the laws of Illinois; or of being the keeper of a house of ill-fame; or of pandering or other crime or misdemeanor opposed to decency or morality.

(C) Any person whose license issued under this Article has been revoked for cause.

(D) Any partnership, unless all of the members of the partnership are qualified to obtain such license.

(E) Any corporation if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation, would not be eligible to receive a license for any reason other than citizenship or residency within this Municipality.

(F) Any person whose place of business is conducted by a manager or agent unless the manager or agent is of legal age and possesses the same qualifications required of the licensee.

(G) Any person who does not own the premises for which a license is sought, or does not have a lease therefor for the full period for which the license is to be issued.

7-3-5 **FEES.** The annual fee for such license shall be **One Hundred Dollars (\$100.00) per year** or part thereof for each coin-operated amusement device set up for operation, leased or distributed to a proprietor; provided, however, the fee shall be **Twenty-Five Dollars (\$25.00)** per gambling machine.

(A) All operator's license fees shall be payable annually in advance and in no case shall any portion of said license fee be refunded to the licensee.

(B) The license period shall be for the fiscal year of the Municipality, and all applications for renewal shall be made to the Clerk not more than **thirty (30) days, but no less than fifteen (15) days** prior to the expiration of such license.

7-3-6 **NON-ASSIGNABILITY OF LICENSE.** The location of a license may be changed only upon the written permission of the Mayor. Any license issued hereunder shall be non-assignable and non-transferable.

7-3-7 **GAMBLING REGULATIONS.**

(A) All licensed devices shall, at all times, be kept and placed in plain view of any person or persons who may frequent or be in any place of business where such devices are kept or used.

(B) Nothing in this Article shall be construed to authorize, permit or license any gambling device of any nature whatsoever.

(C) **Prizes and Awards Prohibited.** It shall be unlawful for any person receiving a license pursuant to this Article to give or award a cash prize or equivalent to any person playing any of the tables, devices or machines enumerated hereinabove under tournament, league or any other individual or competitive play.

(D) **Permitting Gambling.** The gambling prohibition shall not apply to any game or gaming even for which a license or permit has been by the Illinois Gaming Board pursuant to the *Illinois Video Gaming Act*, **230 ILCS 40/1 et seq.**, provided that such game or gaming event is conducted in full and complete compliance with all requirements of such act and all rules and regulations of the Illinois Gaming Board. **(See Chapter 21, Article III – Liquor Code)**
(In Part, Ord. No. 15-06; 08-13-15)

7-3-8 DISPLAY OF LICENSE. Every licensee shall frame and hang his license in a conspicuous place in the licensed premises.

7-3-9 RIGHT OF ENTRY. The Chief of Police has the power to and shall inspect any place, building or premises in which any licensed device or devices are operated or set up for operation at such times and intervals as he may deem necessary for the proper enforcement of this Article.

7-3-10 CLOSING HOURS. No establishment operating under a license issued under this Article shall be open for use of any such devices between the hours of **12:00 Midnight and 6:00 A.M.** on any day or between **12:00 Midnight Saturday and 12:00 Noon** the following Sunday.

(65 ILCS 5/11-55-1)

ARTICLE IV – RAFFLES AND POKER RUNS

7-4-1 DEFINITIONS. The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

(A) **"Business"**: A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of a community.

(B) **"Charitable Organization"**: An organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit on the public.

(C) **"Educational Organization"**: An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

(D) **"Fraternal Organization"**: An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those that otherwise would be cared for by the government.

(E) **"Hardship"**: A non-profit fundraising organization that has not been in existence continuously for a period of **five (5) years** immediately before making application for a license that the County determines to be organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident, or disaster.

(F) **"Key Location"**: The location where the poker run concludes and the prize or prizes are awarded.

(G) **"Labor Organization"**: An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

(H) **"Licensee"**: An organization which has been issued a license to operate a raffle.

(I) **"Net Proceeds"**: The gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle or poker run.

(J) **"Non-Profit"**: An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to any one as a result of the operation.

(K) **"Poker Run"**: A prize-awarding event organized by an organization licensed under this Article in which participants travel to multiple predetermined locations, including a key location, to play a randomized game based on an element of chance. "Poker run" includes dice runs, marble runs, or other events where the objective is to build the best hand or highest score by obtaining an item or playing a randomized game at each location.

(L) **"Raffle"**: A form of lottery, as defined in Section 28-2(b) of the Criminal Code of 2012, conducted by an organization licensed under this Act, in which:

- (1) the player pays or agrees to pay something of value for a chance, represented and differentiated by as number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;

- (2) the winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

(M) **"Religious Organization":** Any church, congregation, society, or organization founded for the purpose of religious worship.

(N) **"Veterans' Organization":** An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

7-4-2 REQUIREMENT OF LICENSE.

(A) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a raffle, or to sell, offer for sale, convey, issue, or otherwise transfer for value a chance on a raffle without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

(B) It shall be unlawful for any person, firm, business, corporation, organization or other entity to conduct or operate a poker run without having first obtained a license therefore pursuant to this Article and the "Raffles and Poker Runs Act".

7-4-3 APPLICATION FOR A LICENSE FOR A RAFFLE.

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a raffle shall file an application therefore with the Village Clerk on the forms provided by the Village Clerk.

(B) Applications for licenses under this Article must contain the following information:

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle, i.e., religious, charitable, labor, fraternal, educational, veterans or other;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and date of birth of the organization's presiding officer, secretary, raffles manager and any other members responsible for the conduct and operation of the raffle;
- (5) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle;
- (6) The maximum retail value of each prize awarded by a licensee in a single raffle;
- (7) The maximum price which may be charged for each raffle chance issued or sold;
- (8) The maximum number of days during which chances may be issued or sold;
- (9) The area in which raffle chances will be sold or issued;

- (10) The time period during which raffle chances will be sold or issued;
- (11) The date, time, and name and address of the location or locations at which winning chances will be determined;
- (12) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (13) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

(C) An application for a license to conduct or operate a raffle shall be accompanied by a non-refundable **Twenty-Five Dollar (\$25.00)** filing fee. Such fee shall be paid by cash, credit card or cashier's check. The Village Clerk shall refer the application to the Mayor.

NOTE: The governing statute states that all licensing systems for raffles shall provide for limitations upon (1) the aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle, (2) the maximum retail value of each prize awarded by a licensee in a single raffle, (3) the maximum price which may be charged for each raffle chance issued or sold and (4) the maximum number of days during which chances may be issued or sold. Some counties have provided for different classes of raffle licensed based upon such factors as the value of the prizes. These licenses have certain restrictions (maximum amount charged for a raffle chance) and license fees for each class of license. Other counties have different classes of license based upon what type of raffle: general raffle license (multiple drawings on same day and at same location within confines of the same raffle event); multiple raffle license (example: multiple 50/50 drawings within 12 month period); one time emergency license; limited annual raffle license.

7-4-4 APPLICATION FOR A LICENSE FOR A POKER RUN.

(A) Any person, firm, business, corporation, organization or other entity seeking to conduct or operate a poker run shall file an application therefore with the Village Clerk on the forms provided by the Village Clerk.

(B) Applications for licenses under this Article must contain the following information:

- (1) The name and address of the applicant organization;
- (2) The type of organization that is conducting the raffle or poker run, i.e., religious, charitable, labor, fraternal, educational, veterans or other not-for-profit organization;
- (3) The length of existence of the organization and, if incorporated, the date and state of incorporation;
- (4) The name, address, telephone number, and date of birth of the organization's presiding officer, secretary, and any other members responsible for the conduct and operation of the raffle or poker run;
- (5) The name, address, and telephone number of all locations at which the poker run will be conducted;
- (6) The time period during which the poker run will be conducted;
- (7) The time of determination of winning chances and the location or locations at which the winning chances will be determined;

- (8) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and the secretary of that organization; and
- (9) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.
- (10) The purpose for which the poker run is being conducted.

(C) An application for a license to conduct or operate a poker run shall be accompanied by a non-refundable **Twenty-Five Dollar (\$25.00)** filing fee. Such fee shall be paid by cash, cashier's check, or credit card. The Village Clerk shall refer the application to the Mayor.

7-4-5 LICENSEE QUALIFICATIONS.

(A) Raffle licenses shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations that operate without profit to their members and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objects, or to a non-profit fundraising organization that the Mayor determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

(B) Poker run licenses shall be issued only to bona fide religious, charitable, labor, business, fraternal, educational, veterans', or other bona fide not-for-profit organizations that operate without profit to their members and which have been in existence continuously for a period of **five (5) years** immediately before making application for a poker run license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objects.

(C) The Mayor may waive the **five (5) year** requirement under this Section for a bona fide religious, charitable, labor, business, fraternal, educational, or veterans' organization that applies for a license to conduct a raffle or poker run if the organization is a local organization that is affiliated with and chartered by a national or State organization that meets the **five (5) year** requirement. The following are ineligible for any raffle or poker run license;

- (1) Any person who has been convicted of a felony;
- (2) Any person who is or has been a professional gambler or gambling promoter;
- (3) Any person who is not of good moral character;
- (4) Any organization in which a person defined in subsection (1), (2) or (3) of this Section has a proprietary, equitable, or credit interest or in which such person is active or employed;
- (5) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is an officer, director, or employee, whether compensated or not; and
- (6) Any organization in which a person defined in subsection (1), (2) or (3) of this Section is to participate in the management or operation of a poker run as defined in this Section.

7-4-6 LICENSE ISSUANCE.

(A) The Mayor shall review all raffle license applications and all poker run license applications. The Mayor shall, within **thirty (30) days** from the date of application, accept or reject a raffle or poker run license application. If an application is accepted, the Mayor shall forthwith issue a raffle or poker run license to the applicant.

(B) A raffle license or poker run license shall specify:

- (1) The area or areas within the County in which raffle chances will be sold or issued or a poker run will be conducted;
- (2) The time period during which raffle chances will be sold or issued or a poker run will be conducted; and
- (3) The time of determination of winning chances and the location or locations at which the winning chances will be determined.

(C) A poker run license shall be issued for the following purposes:

- (1) Providing financial assistance to an identified individual or group of individuals suffering extreme hardship as the result of an illness, disability, accident, or disaster; or
- (2) To maintain the financial stability of the organization.

(D) Any license issued under this Article shall be non-transferable.

(E) A license shall be valid for one raffle event or one poker run only, unless the Mayor specifically authorized a specified number of raffles or poker runs to be conducted during a specified period not to exceed **one (1) year**.

(F) A raffle license or poker run license may be suspended or revoked for any misrepresentation on the application, any violation of this Article or State law, or when such raffle or poker run or portion thereof is conducted so as to constitute a public nuisance or to disturb the peace, health, safety or welfare.

(G) **Prominent Display of License.**

- (1) A raffle license shall be prominently displayed at the time and location of the determination of the winning chances.
- (2) A poker run license shall be prominently displayed at each location at which the poker run is conducted or operated.

(H) **Miscellaneous Provision for Poker Run License.** Any poker run license issued shall cover the entire poker run, including locations other than the key location. Each license issued shall include the name and address of each location at which the poker run will be conducted.

7-4-7 CONDUCT OF RAFFLES AND POKER RUNS.

(A) The operation and conduct of raffles and poker runs are subject to the following restrictions:

- (1) The entire net proceeds of any raffle or poker run must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.
- (2) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle or poker run.
- (3) No person may receive any remuneration or profit for participating in the management or operation of the raffle or poker run.
- (4) A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization

which is also licensed under this Article. A premises where a poker run is held is not required to obtain a license if the name and location of the premises is listed as a predetermined location on the license issued for the poker run and the premises does not charge for use of the premises.

- (5) Raffle chances may be sold or issued only within the area specified on the raffle license and winning chances may be determined only at those locations specified on the license for a raffle. A playing card or equivalent item may be drawn only within the area specified on the poker run license and winning hands or scores may be determined only at those locations specified on said license.
- (6) A person under the age of **eighteen (18) years** may participate in the conducting of raffles or chances or poker runs only with the permission of a parent or guardian. A person under the age of **eighteen (18) years** may be within the area where winning chances in a raffle or winning hands or scores in a poker run are being determined only when accompanied by his parent or guardian.

(B) If a lessor rents premises where a winning chance on a raffle or a winning hand or score in a poker run is determined, the lessor shall not be criminally liable if the person who uses the premises for the determining of winning chances does not hold a license issued by the Village.

7-4-8 MANAGER – BOND FOR RAFFLES.

(A) All operations of and conduct of raffles shall be under the supervision of a single poker run manager designated by the organization. The manager or operator of the raffle must be a bona fide member of the organization holding the license for such a raffle and may not receive any remuneration or profit for participating in the management or operation of the raffle.

(B) The manager shall give a fidelity bond in the sum of **One Thousand Dollars (\$1,000.00)** conditioned upon his/her honesty in the performance of his duties. Terms of the bond shall provide that notice shall be given in writing to the Village not less than **thirty (30) days** prior to its cancellation.

(C) The Mayor is authorized to waive this bond requirement by including a waiver provision in the license issued to an organization under this Article provided that a license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

7-4-9 RECORDS.

(A) Each organization licensed to conduct raffles and chances or poker runs shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances in a raffle or winning hands or scores in a poker run are determined. All deductions from the gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.

(B) Gross receipts from the operation of raffles or poker runs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are also conducted by the same non-profit organization pursuant to license therefor issued by the Department of Revenue of the State of Illinois, and placed in a separate account. Each organization shall have separate records of its raffles or poker runs. The person who accounts for the gross receipts, expenses, and net proceeds from the operation of raffles or poker runs shall not be the same person who accounts for other revenues of the organization.

(C) Each organization licensed to conduct raffles or poker runs shall report promptly after conclusion of each raffle or poker run to its membership.

(D) Each organization licensed to conduct raffles shall report promptly to the Village Clerk, its gross receipts, expenses and net proceeds from raffles, and the distribution of net proceeds itemized as required by this Section.

(E) Records required by this Section shall be preserved for **three (3) years**, and the organization shall make available their records relating to operation of poker runs for public inspection at reasonable times and places.

(F) The Village shall maintain the records required by this Section in compliance with the "Raffles and Poker Runs Act" and the Local Records Act, **50 ILCS 205/1 et seq.**

7-4-10 LIMITED CONSTRUCTION. Nothing in this Article shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity, or device other than raffles or poker runs as provided for herein.

7-4-11 PRIZE LIMITATIONS; TERM.

(A) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle or poker run shall not exceed **Two Hundred Fifty Thousand Dollars (\$250,000.00)**;

(B) The maximum retail value of each prize awarded by a licensee in a single raffle or single poker run shall not exceed **Two Hundred Fifty Thousand Dollars (\$250,000.00)**;

(C) The maximum price which may be charged for each raffle chance issued or sold or each poker hand shall not exceed **One Hundred Dollars (\$100.00)**;

(D) The maximum number of days during which chances may be issued or sold or poker hands issued or sold shall not exceed **one hundred twenty (120) days**;

(E) Licenses issued pursuant to this Code shall be valid for **one (1) raffle** and may be suspended or revoked for any violation of this Code;

(F) Raffle chances shall be sold only within the boundaries of the County and the boundaries of any municipality;

(G) Licenses shall be issued to bona fide religious, charitable, labor, fraternal, educational, or veterans' organizations that operate without profit to their members, and which have been in existence continuously for a period of **five (5) years** immediately before making application for a license and which have had during that entire **five (5) year** period a bona fide membership engaged in carrying out their objectives;

(H) The above-mentioned types of organizations shall be defined pursuant to **230 ILCS 15/.01 et seq.**, being the Raffles and Poker Run Act;

(I) No person, or organization shall be issued more than **one (1) license** in a period of **one (1) week**;

(J) The manager of a raffle game or poker run shall give a fidelity bond in the sum of **One Thousand Dollars (\$1,000.00)** in favor of the organization conditioned upon his honesty in the performance of his duties. The Mayor or his designated representative is authorized to waive requirement for bond by including a waiver provision in the license issued, provided that the license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization. The terms of the bond shall provide that notice shall be given in writing to the licensing authority not less than **thirty (30) days** prior to its cancellation.

ARTICLE V – ADULT USE LICENSING AND REGULATION

7-5-1 **PURPOSE.** The purpose of this Article is to regulate adult uses to protect the community from the many types of criminal activity frequently associated with such uses. The Village recognizes that such regulation cannot effectively prohibit such uses, but can balance the competing interest of the community in reducing criminal activity and protecting property values versus the protected rights of the owners, operators, employees and patrons of adult uses.

7-5-2 **DEFINITIONS.**

(A) **Adult Bookstore.** An establishment having as a substantial or significant portion of its sales or stock in trade, books, magazines, films for sale or for viewing on premises by use of motion picture devices or by coin operated means, and periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities", or "specified anatomical areas", or an establishment with a segment or section devoted to the sale or display of such materials, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin operated booths, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(B) **Adult Entertainment Cabaret.** A public or private establishment which:

- (1) features topless dancers, strippers, "go-go" dancers, male or female impersonators, lingerie or bathing suit fashion shows;
- (2) not infrequently features entertainers who display "specified anatomical areas"; or
- (3) features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or features entertainers who engage in, or are engaged in explicit simulation of "specified sexual activities".

(C) **Adult Motion Picture Theater.** A building or area used for presenting materials distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

(D) **Adult Novelty Store.** An establishment having a substantial or significant portion of its sales or stock in trade consisting of toys, devices, clothing "novelties", lotions and other items distinguished or characterized by their emphasis on or use for "specialized sexual activities" or "specified anatomical areas" or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, exclusion of minors from the establishment's premises or any other factors showing the establishment's primary purpose is to purvey such material.

(E) **Nudity.** Nudity means the showing of the human male or female genitals, pubic area, female breasts with less than a full opaque covering below a point immediately above the top of the areola, human male genitals in a discernibly turgid state even if completely and opaquely covered or, that portion of the buttocks which would be covered by a properly worn "thong" type bikini bottom.

(F) **Public Place.** Public place means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not-for-profit and whether open to the public at large or where entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, nightclubs, country clubs, cabarets and meeting facilities utilized by social, fraternal or similar organizations. Premises used solely as a private residence, whether permanent or temporary in nature, shall not be deemed a public place. Public places shall not include enclosed single sex public restrooms, enclosed single sex functional showers, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors offices, churches, synagogues or similar places when used for circumcisions, baptisms or similar religious ceremonies, portions of hospitals and similar places in which nudity or exposure is necessarily and customarily expected outside of the home; nor shall it include a person appearing in a state of nudity in a modeling class operated by (1) a proprietary school licensed by the State; a college, junior college or university supported entirely or partly by taxation; or (2) a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college or a university supported entirely or partly by taxation or an accredited private college.

(G) **Adult Use.** Adult bookstores, adult motion picture theaters, adult entertainment cabarets, adult clubs allowing nudity at regular or frequent times, adult novelty stores and other similar uses.

(H) **Employee.** Employees, independent contractors or any other person who is retained by the licensee or subject to dismissal from working at the licensed premises.

(I) **Specified Sexual Activities.** For the purpose of this Article, "specified sexual activities" means:

- (1) human genitals in the state of sexual stimulation or arousal;
- (2) acts of human masturbation, sexual intercourse or sodomy; and
- (3) fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

(J) **Specified Criminal Activity.** For the purpose of this Article, "specified anatomical areas" means:

- (1) less than completely and opaquely covered:
 - (a) human genitals;
 - (b) pubic region;
 - (c) buttocks;
 - (d) female breasts below a point immediately above the top of the areola; and
- (2) human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(K) **Specified Criminal Activity.** Specified criminal activity means any of the following offenses:

- (1) Prostitution or promotion of prostitution; dissemination of obscenity; sale distribution or display of harmful material to a minor; sexual performance by a minor; possession or distribution of child pornography; public lewdness; public indecency; indecency with a child; engaged in organized criminal activity; sexual assault; molestation of a child; gambling; or distribution of a controlled substance; or any similar offenses to those described

- above under the criminal or penal code of other states or countries;
- (2) For which:
 - (a) less than **two (2) years** have elapsed since the date of conviction or the date of release from confinement imposed for the conviction which is the later date, if the conviction is of a misdemeanor offense;
 - (b) less than **five (5) years** have elapsed since the date of conviction or the date of release from confinement for conviction, whichever is the later date, if the conviction is a felony offense; or
 - (c) less than **five (5) years** have elapsed since the date of the last conviction or the date of release from confinement from the last conviction, whichever is the later date, if the convictions are of **two (2)** or more misdemeanor offenses or combination of misdemeanor offenses occurred within any **twenty-four (24) month** period; and
 - (3) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

7-5-3 LICENSE REQUIRED.

(A) It shall be unlawful for any person to operate an adult use without a valid adult use business license issued by the Village pursuant to this Article.

(B) An application for a license shall be made on a form provided by the Village.

(C) All applicants must be qualified according to the provisions of this Article. The application may request and the applicant shall provide such information (including fingerprints) as is needed to enable the Village to determine whether the applicant meets the qualifications established in this Article.

(D) If a person who wishes to operate an adult use is an individual, the person must sign the application for a license as applicant. If the applicant is a club, consisting of private or public membership, then such entity shall also be licensed under this Article. If a person who wishes to operate an adult use is other than an individual or club, each individual who has a **twenty percent (20%)** or greater interest in the business, including corporations, must sign the application for a license as applicant. Each applicant must be qualified under the following section and each applicant shall be considered a licensee if the license is granted.

(E) The completed application for an adult use business license shall contain the following information:

- (1) If the applicant is an individual, the individual shall state his/her legal name and any aliases and submit proof that he/she is **eighteen (18) years** of age;
- (2) If the applicant is a club, consisting of private or public membership, a copy of the by-laws of the club must be submitted with the application. In addition, a sworn statement as to the purposes, general activities and requirement for club membership must be submitted.

- (3) If the applicant is a partnership, the partnership shall state its complete name and the names of all partners, whether the partnership is general or limited, and a copy of the partnership agreement, if any; and
- (4) If the applicant is a corporation, the corporation shall state its complete name, the date of incorporation, evidence that the corporation is in good standing under the laws of its state of incorporation, the names and capacity of all officers, directors and principal shareholders, (those with a **twenty percent (20%)** or more stake) and the name and address of the registered corporate agent.

(F) If the applicant intends to operate the adult use business under a name other than that of the application, he/she must state:

- (1) the business' fictitious name and
- (2) submit any required registration documents.

(G) Whether the applicant has been convicted of any specified criminal activity as defined in this Article, and if so, the specified criminal activity involved, the date, place and jurisdiction of each.

(H) Whether the applicant has had a previous license under this Article or similar ordinances from another jurisdiction denied, suspended or revoked, including the name and location of the business which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation. If the applicant has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under this Article or similar ordinance in another jurisdiction and a license has previously been denied, suspended or revoked, include the name and location of the business for which the permit was denied, suspended or revoked, as well as the date of denial, suspension or revocation.

(I) Whether the applicant holds any other licenses under this Article or other similar ordinance from another jurisdiction and if so, the names and locations of such other licensed businesses.

(J) A sketch or diagram showing the configuration of the premises, including a statement of total floor area occupied by the business. This sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises.

7-5-4 **ISSUANCE OF LICENSE.**

(A) Within **thirty (30) days** after receipt of a completed adult use business license application, the Village shall approve or deny the issuance of a license to an applicant. The Village shall approve the issuance of a license unless it determines, by a preponderance of the evidence, any one or more of the following:

- (1) The applicant is under **eighteen (18) years** of age;
- (2) The applicant is overdue in payment to the Village of taxes, fees, fines or penalties assessed against or imposed upon him/her in relation to any business;
- (3) The applicant has failed to provide information reasonably necessary for the issuance of the license or has falsely answered a question or request for information on the application form;

- (4) The applicant has been denied a license by the Village to operate an adult use business within the preceding **twelve (12) months** or whose license to operate an adult use business has been revoked within the preceding **twelve (12) months**;
- (5) The applicant has been convicted of a specified criminal activity defined in this Article.
- (6) The premises to be used for adult use business has not been inspected and approved by the Fire Department and the Building Department as being in compliance with applicable laws and ordinances.
- (7) The license fee required by this Article has not been paid.
- (8) The applicant of the proposed establishment is in violation or in not in compliance with all of the provisions of this Article.

(B) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the adult use business. All licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(C) The Fire Department and Code Enforcement Officers shall complete their inspection certification that the premises is in compliance or not in compliance with Village codes within **twenty (20) days** of receipt of the application by the Village.

(D) No adult use business license shall be issued unless it meets all criteria set forth in the Zoning Code. However, an adult use business license may be issued for a premises which is a legal nonconforming use which has not yet been amortized or for a premises where such amortization is being challenged by litigation.

(E) No signs, advertising or other notice to the public may be given for any premises where adult use is conducted, pursuant to this Article.

7-5-5 LIQUOR. No liquor license shall be issued to a licensee or to premises where adult use is conducted, nor shall liquor be sold, given away or allowed to be consumed on the premises where any adult use is conducted.

7-5-6 FEES. Every application for an adult use business license (whether a new license or for renewal of an existing license) shall be accompanied by a **Seven Hundred Fifty Dollar (\$750.00)** non-refundable application and investigation fee.

7-5-7 INSPECTION.

(A) An applicant or licensee shall permit representatives of the Police Department, Fire Department, Building Department or other Village or Village designated departments or agencies to inspect the premises of the adult use for the purpose of ensuring compliance with the provisions of this Article at any time it is occupied or open for business.

(B) A person who operates an adult use or his agent or employee violates this Article if he/she refuses to permit such lawful inspection of the premises at any time it is occupied or open for business.

7-5-8 EXPIRATION OF LICENSE.

(A) Each license shall expire on the **January 1** after it was issued and may be renewed only by making application as provided in **Section 7-5-4**. Application for renewal shall be made at least **thirty (30) days** before the expiration date and when made less than **thirty (30) days** before the expiration date, the expiration of license will not be affected.

(B) If the Village denies renewal of a license, the applicant shall not be issued a license for **one (1) year** from the date of denial. If, subsequent to denial, the Village finds that the basis for denial of the license has been corrected or abated, the applicant may be granted a license.

7-5-9 SUSPENSION. The Village may suspend a license for a period not to exceed **thirty (30) days** if, after a hearing, it determines that a licensee or an employee of a licensee:

- (A) violated or is not in compliance with any section of this Article;
- (B) refused to allow an inspection of the adult use business premises as authorized by this Article, or
- (C) knowingly permitted gambling by any person on the adult use business premises.

If the licensee or an employee of the licensee has been found guilty in a court of law of a violation of this Article, no hearing is necessary prior to suspension of the license.

7-5-10 REVOCAION.

(A) The Village shall revoke a license if a cause of suspension in **Section 7-5-8** above occurs and the license has been suspended within the preceding **twelve (12) months** or if the licensee is convicted of any specified criminal activity.

(B) The Village may revoke a license if it determines, after a hearing, that:

- (1) A licensee gave false or misleading information in the material submitted during the application process;
- (2) A licensee or management personnel has knowingly allowed possession, use or sale of alcohol or controlled substances on the premises;
- (3) A licensee or management personnel has knowingly allowed prostitution on the premises;
- (4) A licensee or management personnel knowingly operated the adult use business during a period of time when the licensee's license was suspended;
- (5) A licensee or management personnel has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sex act to occur in or on the licensed premises;
- (6) A licensee is delinquent in payment to the Village, County or State for any taxes or fees past due;
- (7) A licensee or management personnel has knowingly facilitated another's commission of the offense of public indecency; or
- (8) The adult use is a public nuisance as defined by statute, ordinance or case law.

(C) If the Village revokes a license, the revocation shall continue for **one (1) year** and the licensee shall not be issued an adult use business license for **one (1) year** from

the date the revocation became effective. If subsequent to revocation, the Village finds that the factual basis for the revocation did not occur, the applicant may be granted a license.

(D) After denial of an application, or denial of a renewal of an application, or suspension or a revocation of any license, the applicant or licensee may seek prompt judicial review of such action in any court of competent jurisdiction.

7-5-11TRANSFER OF LICENSE. A licensee shall not transfer his/her license to another nor shall a license operate an adult use business under the authority of a license at any place other than the address on the license.

7-5-12BUSINESS RECORDS. All adult uses shall file a verified report with the Village showing the licensee's gross receipts and amounts paid to employees during the preceding calendar year. In addition, all adult uses shall maintain and retain for a period of **two (2) years**, the names, addresses and ages of all persons employed, including independent contractors, by the licensee.

7-5-13LIQUOR LICENSE. No adult use may be issued a liquor license. Nor shall any establishment with a liquor license operate as an adult use.

7-5-14ADULT ENTERTAINMENT CABARETS – RESTRICTIONS. All dancing or other performances shall occur on a stage intended for that purpose which is raised at least **two (2) feet** from the level of the floor. No dancing or other performance shall occur closer than **ten (10) feet** to any patron. In addition, no dancer or performer shall fondle, caress or otherwise touch any patron and no patron shall fondle, caress or otherwise touch any dancer or performer. No patron shall directly pay or give any gratuity to any dancer or performer and no dancer shall solicit any pay or gratuity from any patron. Gratuities may be indirectly given to dancers or performers by placing the gratuity on the stage.

7-5-15VIDEO VIEWING BOOTHS – RESTRICTIONS. No booths, stalls or partitioned portions of a room or individual rooms used for the viewing of motion pictures or other forms of entertainment shall have doors, curtains or portal partitions, but all such booths, stalls or partitioned portions or a room or individual rooms so used shall have at least **one (1) side** open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the view of the motion pictures or other offered entertainment.

7-5-16HOURS OF OPERATION. No adult use shall be open prior to **10:00 A.M.** or after **2:00 A.M.**

7-5-17INVESTIGATION. Any licensee hereunder shall permit law enforcement officials, free and unlimited access to the premises during hours of operation, upon reasonable request, for the purposes of investigating compliance with the provisions of this Article.

ARTICLE VI – FIREWORKS CODE

7-6-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Common Fireworks: Any fireworks designed primarily to produce visual or audible effects by combustion.

(A) The term includes:

- (1) Ground and hand-held sparkling devices, including items commonly known as dipped sticks, sparklers, cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, and flutter sparklers;
- (2) Smoke devices;
- (3) Fireworks commonly known as helicopters, aerials, spinners, roman candles, mines and shells;
- (4) Class C explosives classified as common fireworks by the United States Department of Transportation, by regulations found in the Code of Federal Regulations.

(B) The term does not include fireworks commonly known as firecrackers, salutes, chasers, skyrockets, and missile-type rockets.

Dangerous Fireworks: Any fireworks not defined as a “common firework”.

Fireworks: Any composition or device, in a finished state, containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and classified as common or special fireworks.

Special Fireworks: Any fireworks designed primarily for exhibition display by producing visible or audible effects. The term includes:

(A) Fireworks commonly known as skyrockets, missile-type rockets, firecrackers, salutes, and chasers; and

(B) Fireworks not classified as common fireworks.

7-6-2 **SALE OF FIREWORKS UNLAWFUL.** It is unlawful for any person to sell any fireworks within the Village other than those fireworks designated in **Section 7-6-5** of this Article, provided that this prohibition shall not apply to duly authorized public displays.

7-6-3 **POSSESSION, USE AND DISCHARGE OF DANGEROUS FIREWORKS UNLAWFUL.** It is unlawful for any person to sell, possess, use, transfer, discharge or explode any dangerous firework within the Village; provided that this prohibition shall not apply to duly authorized public displays.

7-6-4 **PERMIT REQUIRED TO SELL OR DISPLAY FIREWORKS.** It is unlawful for any person to engage in the retail sale of or to sell fireworks or to hold, conduct, or engage in a public display of fireworks within the Village without first having obtained a valid permit issued pursuant to the provisions of this Article. Vendors shall only be located in a “C” zone district. Only **three (3) permits** shall be issued at one time.

7-6-5 **TIME LIMIT SET ON SALE AND USE.** No permit holder shall offer for retail sale or sell any fireworks within the Village except from **12:00 Noon** on the **28th of June** to **12:00 Noon** on the **6th of July** of each year. No fireworks may be sold or discharged between the hours of **11:00 P.M.** and **9:00 A.M.** Provided, the sale and use of fireworks as provided in this Section shall be limited to the following:

Dipped stick, sparklers and smoke devices.

7-6-6 **PERMIT FEES.** The annual fee for a "seller's permit" for the sale of fireworks as may be authorized under this Article, shall be **One Hundred Dollars (\$100.00)** per year for each seller's permit, payable in advance. The fee for a "public display permit" for the public display of fireworks shall be **One Hundred Dollars (\$100.00)**, payable in advance, unless waived by the Village Board.

7-6-7 **ISSUANCE – NONTRANSFERABLE VOIDING.**

(A) **Sellers.** Each seller's permit issued under this Article shall be for only one retail outlet. The number of seller's permits shall not be limited as long as all conditions are met as stated in **Section 7-6-11** of this Article. Each seller's permit issued pursuant to this Article shall be valid only for the current year, shall be used only by the designated permittee and shall be nontransferable.

(B) **Public Display Permit.** Each public display permit issued pursuant to this Article shall be valid for the specific authorized public display event only, shall be used only by the designated permittee and shall be nontransferable. Any transfer or unauthorized use of a permit is violation of this Article and shall void the permit granted in addition to all other sanctions provided in this Article.

7-6-8 **APPLICATION FOR PUBLIC DISPLAY PERMIT.** Applications for a permit to conduct a public display of fireworks shall be made to the Fire Chief at least **fourteen (14) days** prior to the scheduled event. Applicants shall meet all qualifications and requirements of state law regarding public display of fireworks and all fire and safety requirements as set forth in the standards for public display, and as set forth in **Section 7-6-12** of this Article.

7-6-9 **APPLICATION FOR SELLER'S PERMIT—CONDITIONS FOR ISSUANCE.** Applications for seller's permits shall be made to the Village Clerk annually on or after **April 1st** of the year for which the permit is issued and the filing period shall close on **April 15th** of such year unless extended by action of the Village Board. Applications shall be signed by the retail seller, if an individual, or by the duly authorized officer, if an association or corporation. It is unlawful for a fireworks manufacturer, wholesaler or supplier to make application for or to obtain a retail sales permit on behalf of any retailer. Seller's permits for the sale of those fireworks allowed pursuant to **Section 7-6-4** of this Article shall be issued only to applicants meeting the following conditions:

(A) The retailer or person in charge and responsible for the retail operation shall be **twenty-one (21) years** of age or older, of good moral character and of demonstrated responsibility.

(B) The applicant shall have a valid and current license issued by the State of Illinois authorizing the holder to engage in the retail sale of fireworks. **(See 425 ILCS 35)**

(C) The applicant shall own or have the right to possess a temporary fireworks stand complying with the requirements of this Article.

(D) The applicant shall procure and maintain a policy or policies of public liability and property damage insurance issued by a company or companies authorized to do business in the State of Illinois in the following minimum amounts: **Five Hundred Thousand Dollars (\$500,000.00)** for injuries to any one person in one accident or occurrence; **One Million Dollars (\$1,000,000.00)** for injuries to two or more persons in any one accident or occurrence; **Five Hundred Thousand Dollars (\$500,000.00)** for damage to property in any one accident or occurrence; **One Million Dollars (\$1,000,000.00)** combined single limit for any one accident or occurrence. In addition, the Village is to be an additional named insured and the policy shall provide for the immediate notification of the Village by the insurer of any cancellation of any policy.

(E) The permit holder's location or place of business shall be only in those areas or zones within the Village where commercial activities are authorized under applicable zoning law; provided, that the sale of those fireworks authorized by **Section 7-6-5** of this Article shall not be deemed an enlargement of an existing nonconforming use.

(F) The applicant shall post with the Village a performance bond or a cash deposit in an amount not less than **Two Hundred Dollars (\$200.00)** conditioned upon the prompt removal of the temporary fireworks stand and the cleaning up of all debris from the site of the stand, which deposit shall be returned to the applicant only in the event that the applicant removes the temporary stand and cleans up all debris to the satisfaction of the Village. In the event the applicant fails to do so, the performance bond or cash deposit shall be forfeited. In no event shall the applicant be entitled to the return of the performance bond or cash deposit if he or she has failed to remove the stand and clean up all debris by the **tenth (10th) of July** following the sales period.

(G) No seller's permit shall be issued for a location which fails to meet the criteria set forth in **Section 7-6-11** of this Article, including the minimum stand separation requirement. When necessary, in order to determine priority as to a proposed location, the earliest date and time of filing of an application for a seller's permit with the Village Clerk shall be controlling.

7-6-10 SALE FROM STANDS – EXCEPTIONS. All approved fireworks as set forth in **Section 7-6-5** of this Article except toy paper caps containing not more than **twenty-five hundredths grain** of explosive compound for each cap and trick or novelty device not classified as common fireworks, shall be sold and distributed only from temporary stands.

7-6-11 STANDARDS FOR TEMPORARY STANDS. The temporary stands of all seller's permit holders shall conform to the following minimum standards and conditions:

(A) Temporary fireworks stands need not comply with all provisions of the Building Code; provided, however, that all such stands be erected under the supervision of the Village Building Inspector, who shall require all stands to be constructed in a safe manner ensuring the safety of attendants and patrons. In the event any temporary stand is wired for electricity, the wiring shall conform to the electrical code.

(B) No temporary fireworks stand shall be located within **fifty (50) feet** of any other building or structure, nor within **two hundred fifty (250) feet** of any gasoline station, oil storage tank or premises where flammable liquids or gases are kept or stored.

(C) Each temporary fireworks stand must have at least two exits, which shall be unobstructed at all times.

(D) Each temporary fireworks stand shall have, in a readily accessible place, at least two, **two and one-half (2½) gallon** pressurized water fire extinguishers which are in good working order.

(E) All weeds, grass, and combustible material shall be cleared from the location of the temporary fireworks stand and the surrounding area to a distance of not less than **twenty-five (25) feet**, measured from the exterior walls of the temporary fireworks stand.

(F) No smoking shall be permitted in or near a temporary fireworks stand for a distance of not less than **fifty (50) feet** measured from the exterior walls of the temporary fireworks stand. Signs stating: **"No Smoking Within 50 Feet"** shall be posted on the exterior of each wall of the temporary fireworks stand.

(G) Each temporary fireworks stand shall have a person who is **eighteen (18) years** old or older in attendance at all times the stand is stocked. Stock from the stand shall not be removed and stored in any other building during the sales period without the express approval of the Fire Chief.

(H) All unsold stock and accompanying litter shall be removed from the temporary fireworks stand by **12:00 Noon** on the **seventh (7th) day of July** of each year.

(I) No temporary fireworks stand shall be located within **five hundred (500) feet** of any other temporary fireworks stand.

(J) Each temporary fireworks stand shall have provisions for sufficient off-street parking, at least **fifteen (15) spaces**, to avoid impeding a continuous flow of traffic at entrances and exits from the premises.

(K) No person shall discharge any fireworks within **two hundred fifty (250) feet** of the exterior walls of any temporary fireworks stand. Signs stating: **"No discharge of fireworks within 250 feet."** shall be posted on the exterior of all walls of the temporary fireworks stand.

7-6-12 STANDARDS FOR PUBLIC FIREWORKS DISPLAYS. All public fireworks displays shall conform to the following minimum standards and conditions:

(A) All public fireworks displays shall be planned, organized and discharged by pyrotechnician, "Pyrotechnician" means an individual who by experience and training has demonstrated the required skill and ability for safety setting up and discharging displays of special fireworks. All individuals shall have a license under the provisions of the Pyrotechnic Distributor and Operator Licensing Act. **(225 ILCS 227)**

(B) A permit must be obtained from the Village and approved by the Fire Chief or designee prior to any display of public fireworks. The permit shall include the name of the applicant and his or her address, the name of the Pyrotechnician and his or her address; the exact location, date and time of the proposed display; the number, type and class of fireworks to be displayed the manner in which the fireworks are being stored prior to the public fireworks display; and shall include the name and address of the insurance company providing the bond required.

(C) A drawing shall be submitted to the Fire Chief showing a plan view of the fireworks discharge site and the surrounding area within a **five hundred (500) foot** radius.

The drawing shall include all structures, fences, barricades, street fields, streams and any other significant factors that may be subjected to ignition or that may inhibit firefighting capabilities.

(D) When, in the opinion of the Fire Chief, such requirement is necessary to preserve the public health, safety and welfare, the permit may require that a Fire Department pumper and a minimum of two trained firefighters shall be on site **thirty (30) minutes** prior to and after the shooting of the event. The exhibitor shall repay the Village for all costs to firefighters for such time.

(E) All combustible debris and trash shall be removed from the area of discharge for a distance of **three hundred (300) feet** in all directions.

(F) All unfired or "dud" fireworks shall be disposed of in a safe manner.

(G) A minimum of two 2A-rated pressurized water fire extinguishers and one fire blanket shall be required to be at the fireworks discharge site.

(H) The permit shall be immediately revoked at any time the Fire Chief or a designee deems such revocation is necessary due to noncompliance, weather conditions such as, but not limited to, extremely low humidity or high winds. The display shall also be cancelled by accidental ignition of any form of combustible or flammable material in the vicinity due to falling debris from the display.

(I) Areas of public access shall be determined by the Fire Chief or designer and maintained in an approved manner.

7-6-13 **USE OF FIREWORKS IN PUBLIC PARKS.** It shall be unlawful for any person to discharge or possess any fireworks upon public land or in any public park, owned by the Village, provided, however, that such use shall be permitted under the following circumstances:

(A) This provision shall not apply to possession of fireworks in the otherwise lawful use of public rights of way such as sidewalks and planting strips. This subsection shall not be a defense to a charge of obstructing traffic or otherwise obstructing a public right of way.

(B) The Fire Chief shall designate limited areas for use during the hours permitted by the Article for the discharge of fireworks as allowed by **Section 7-6-5** of this Article. Otherwise lawful discharge and possession of fireworks as allowed by **Section 7-6-5** in such areas shall not be a violation of this Section. In doing so, the Fire Chief shall consider:

- (1) The sensitivity of the area's environment, wildlife and wildlife habitat;
- (2) The inconvenience and nuisance to abutting property owners;
- (3) The safety and suitability of the area as a place for the discharge of fireworks; and
- (4) Danger of fire or other destruction of public property and improvements from the use of the fireworks.

(C) Upon designation of any area, it shall be signed and posted by **July 1st** of each year for use on **July 4th** between the hours of **9:00 A.M.** and **11:00 P.M.** Designation of any area may be appealed in writing to the Village Board by any citizen of the Village. The decision of the Village Board shall be final.

(D) Nothing in this Article shall be deemed to limit the authority of the Village Board to allow event display of special fireworks under a permit issued in accordance with the provisions of the Code and State statutes.

7-6-14 **SPECIAL EFFECTS FOR ENTERTAINMENT MEDIA.** This Code does not prohibit the assembling, compounding, use and display of special effects of whatever nature by any person engaged in the production of motion pictures, radio, or television productions, theatricals or operas when such use and display is a necessary part of the production and such person possesses a valid permit issued by the Village in accordance with **Sections 7-6-7** and **7-6-8** of this Code.

7-6-15 **NONPROHIBITED ACTS.** This Code does not prohibit the use of flares or fuses in connection with the operation of motor vehicles, railroads, or other transportation agencies for signal purposes or illumination or for use in forest protection activities.

7-6-16 **APPLICABILITY.** The provisions of this Code shall not be applicable to toy paper caps containing not more than **twenty-five hundredths grain** of explosive compound for each cap and trick nor to novelty device not classified as common fireworks.

7-6-17 **STATUS OF STATE LAW.** This Code is intended to implement applicable State law, to wit, **Chapters 225 ILCS 227 and 425 ILCS 35**, and shall be construed in connection, with that law and any and all rules or regulations issued pursuant to that law.

7-6-18 **ENFORCEMENT.** The Fire Chief or designee, is authorized to enforce all provisions of this Code and, in addition to criminal sanctions or civil remedies, may revoke any permit issued pursuant to this Code upon any failure or refusal of the permittee to comply with the lawful orders and directives of the Fire Chief or designee, or to comply with any provisions of this Code or the requirements of the community development code relating to temporary structures.

7-6-19 **RECKLESS DISCHARGE OR USE PROHIBITED.** It is unlawful for any person to discharge or use fireworks in a reckless manner which creates a substantial risk of death or serious physical injury to another person or damage to the property of another.

EXHIBIT "A"

APPLICATION FOR AN OUTDOOR PYROTECHNIC DISPLAY PERMIT

PART A – DISPLAY SPONSOR INFORMATION

Display Sponsor's Name	Telephone Number
Address	Cell Phone

PART B – PYROTECHNIC DISTRIBUTOR INFORMATION

Pyrotechnic Distributor's Name	OSFM License	
Address	Telephone Number	
Location Where Fireworks Stored	Storage Dates	
Lead Pyrotechnic Operator's Name	OSFM License	
Assistant's Names	Date of Birth	License No. (if any)
<u>Liability Insurance: (not less than \$1,000,000.00)</u>		
Name and Address of Insurer	Telephone Number	
Policy Number	Coverage Dates	
Type of Coverage		
List Type, Size and Approximate Number of Fireworks to be Displayed: (if you need more space, please attach a separate sheet of paper.)		

PART C – DISPLAY INFORMATION

Display Location	
Property Owner's Name	Telephone Number
Owner's Address (if different than Display Location)	
Date of Display	Time of Display
Alternative Date	Time of Alternative Display
By signing below, the Owner of the property on which the Outdoor Pyrotechnic Display will take place, hereby authorizes the Display Sponsor and the Pyrotechnic Distributor to perform the Outdoor Pyrotechnic Display on said property.	
Signature:	

PART D – SITE INSPECTION INFORMATION

Answer the following questions	Yes	No
Is distance to any fire hydrant or water supply greater than 600'?		
Is display area clear from overhead obstructions?		
Have provisions been made to keep the public out of display area?		
Is a hospital, nursing home, or other institution within 600' of the display site?		
Have provisions been made for on-site fire protection during the display?		
Has a diagram of the display site been attached to this application?		
Identify the largest mortar size (in inches) you intend to use.		
Identify the minimum secured diameter of the display site (in feet) based on the largest mortar size.		

**PART E – FIRE DEPARTMENT AUTHORIZATION
(Completed by Fire Department)**

Department Name	Telephone Number	
Department Address		
Based on review of the Display Site, the provided Diagram, And this application:	Yes	No
Have you verified the answers the applicant has given to Part D of this application?		
Will the performance of the described Outdoor Pyrotechnic Display at the planned display site be hazardous to property or endanger any person?		
By signing below, the Fire Chief of the above-identified fire jurisdiction, or his or her designee, hereby acknowledges that he or she inspected the Display Site:		
Signature:		
Print Name:	Date	

PART F – DIAGRAM OF DISPLAY SITE (Completed by the Applicant)

In the space provided below, draw and identify the location of the following items:
Streets, Discharge Site, Fallout Area, Parking Area, Spectator Area, Buildings, Overhead Obstructions, and Spotters.
The associated separation distances must also be shown. Do not forget to identify the direction in your drawing:

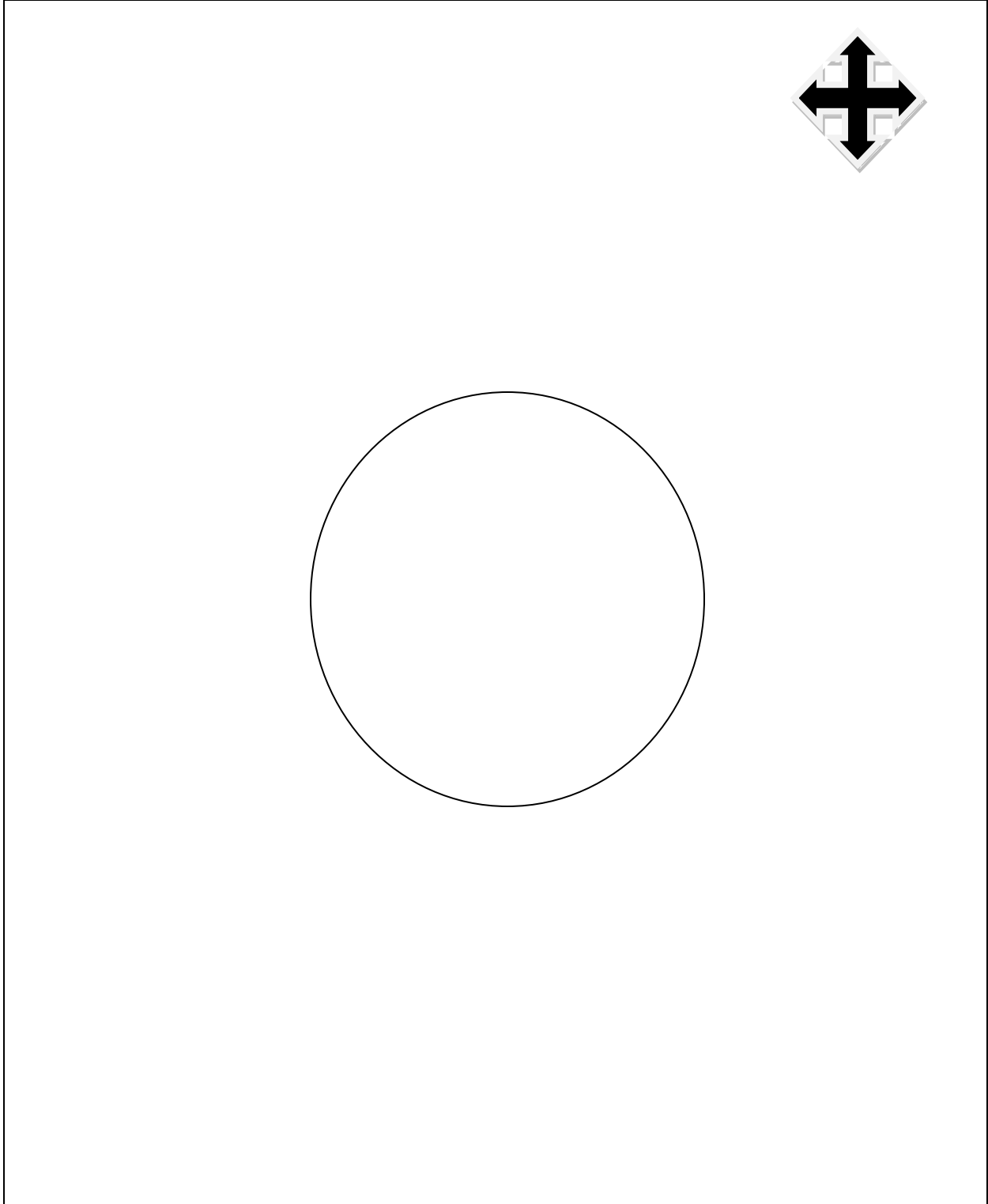


EXHIBIT "B"

OUTDOOR PROFESSIONAL DISPLAY SITE CHECKLIST

PART A – DISPLAY INFORMATION

Name of Company: _____ License No. _____

Name of Lead Operator: _____ License No. _____

Location of Display: _____

Venue Contact: (Name, Address and Telephone Number)

Date of Display: _____ Alternative Display Date: _____

<u>Assistants Names</u>	<u>Date of Birth</u>	<u>License No. (If Any)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

PART B – DISPLAY SITE SELECTION/MINIMUM DISTANCES

- Did the operator provide you a copy of the Display Site plan? The display site plan must include the dimensions and locations of the discharge site, the fallout area, and identify the spectator viewing area and parking areas which must be located outside of the display site. The associated separation distances must also be shown.
- Identify the largest mortar size in inches: ()
- The minimum display site size required to conduct the display is based on the size of the largest mortar. To determine the minimum area for the display site, go to Table 1 and read the number next to size of the largest mortar identified above:

Table 1

Mortar Size (in inches)	Minimum Secured Diameter of the Site (in feet)
<3	280
3	420
4	560
5	700
6	840
7	980
8	1120
10	1400
12	1680

Where unusual or safety-threatening conditions exist, the authority having jurisdiction shall be permitted to increase the required separation distances as it deems necessary.

- Spectators and spectator parking areas must be located outside of the display site.

- Dwellings, buildings, and structures are not permitted to be located within the display site without the approval of the authority having jurisdiction and the owner and the dwelling, building, or structure is unoccupied during the display. The building may remain occupied if the structure provides protection through substantial noncombustible or fire-resistant construction for the occupants.
- Fire protection personnel and their vehicles and other emergency response personnel and vehicles shall remain at or beyond the perimeter of the display site during the actual firing of the display.
- Review sample Display Site Plan at end of this document.

PART C – LOCATION OF DISPLAY

- Mortars shall be placed at the approximate center of the display site.
- There shall not be any overhead object over the mortars or within 25 ft of the trajectory of any aerial shells.
- Ground display pieces shall be located a minimum distance of 75 ft from spectator viewing areas and parking areas.
 - Exception: For ground pieces with greater hazard potential (such as large wheels with powerful drivers, and items employing large salutes) or all roman candles and multishot devices, the minimum separation distance shall be increased to 125 ft (38 m).

PART D - MORTARS

- Mortars shall be positioned and spaced so that shells are propelled away from spectators, over the fallout area, and to afford maximum protection to the shooter and loader. Under no circumstances shall mortars be angled toward the spectator viewing area.
- Mortar racks or bundles shall be constructed in a thorough and workmanlike manner to be capable of holding multiple mortars in position during normal functioning. Mortar racks or bundles that are not inherently stable shall be secured or braced to stabilize them. Stabilization shall be accomplished by using stakes, legs, A-frames, side-boards, or equivalent means.

PART E – GROUND DISPLAY

- To the extent that it is practical, all ground display pieces shall be positioned outside the discharge area of aerial displays.
 - Exception: Where aerial shells have been preloaded, ground display pieces shall be permitted to be located in that discharge area.
- Dry grass or combustible materials located beneath ground display pieces shall be wet down before the display if they are in sufficient quantity to be a fire hazard.
- Poles for ground display pieces shall be securely placed and firmly braced so that they do not fall over during functioning of the fireworks device.

PART F – DISPLAY SITE SAFETY

- The authority having jurisdiction and the operator shall meet and determine the level of fire protection required.
- During the period before the display, where pyrotechnic materials are present, unescorted public access to the site shall not be permitted.
- Are there enough monitors positioned around the discharge site to prevent spectators or any other unauthorized persons from entering the discharge site? The discharge site must be restricted throughout the display and until the discharge site has been inspected after the display. The authority having jurisdiction may approve delineators or barriers to be used in crowd control.

- Does the display have at least two spotters, or preferably more, assigned to watch the flight and behavior of aerial shells and other aerial fireworks to verify that they are functioning as intended. If any unsafe condition is detected, such as hazardous debris falling into the audience, the spotter shall signal the shooter to cease firing until the unsafe condition is corrected. The spotters shall be in direct communication with the shooter during the conduct of the display, with an effective means of informing the shooter of any hazardous condition.

PART G – DISCHARGE AREA SAFETY

- During the firing of the display, all personnel in the discharge site shall wear head protection, eye protection, hearing protection, and foot protection and shall wear cotton, wool, or similarly flame-resistant, long-sleeved, long-legged clothing. Personal protective equipment, as necessary, shall be worn by the operator and assistants during the setup and cleanup of the display.
- No person shall ever place any body part over the mortar during the loading and firing of a display until mortars have been checked for the absence of any shells following the display.
- Smoking materials, matches, lighters or open flame devices shall not be allowed within 50 ft (15 m) of any area where fireworks or other pyrotechnic materials are present.
 - Exception: Devices such as fuses, portfires, and torches shall be permitted to be used to ignite fireworks.
- No person shall be allowed in the discharge area while under the influence of alcohol, narcotics, or medication that could adversely affect judgment, mobility, or stability.
- The first shell fired shall be observed carefully to determine that its trajectory is such that the shell functions over the fallout area and that any hazardous debris or unexploded shells land in the fallout area. The display shall be interrupted and the mortars shall be reangled or repositioned as necessary for safety at any time during an outdoor fireworks display.

PART H – HALTING DISPLAY

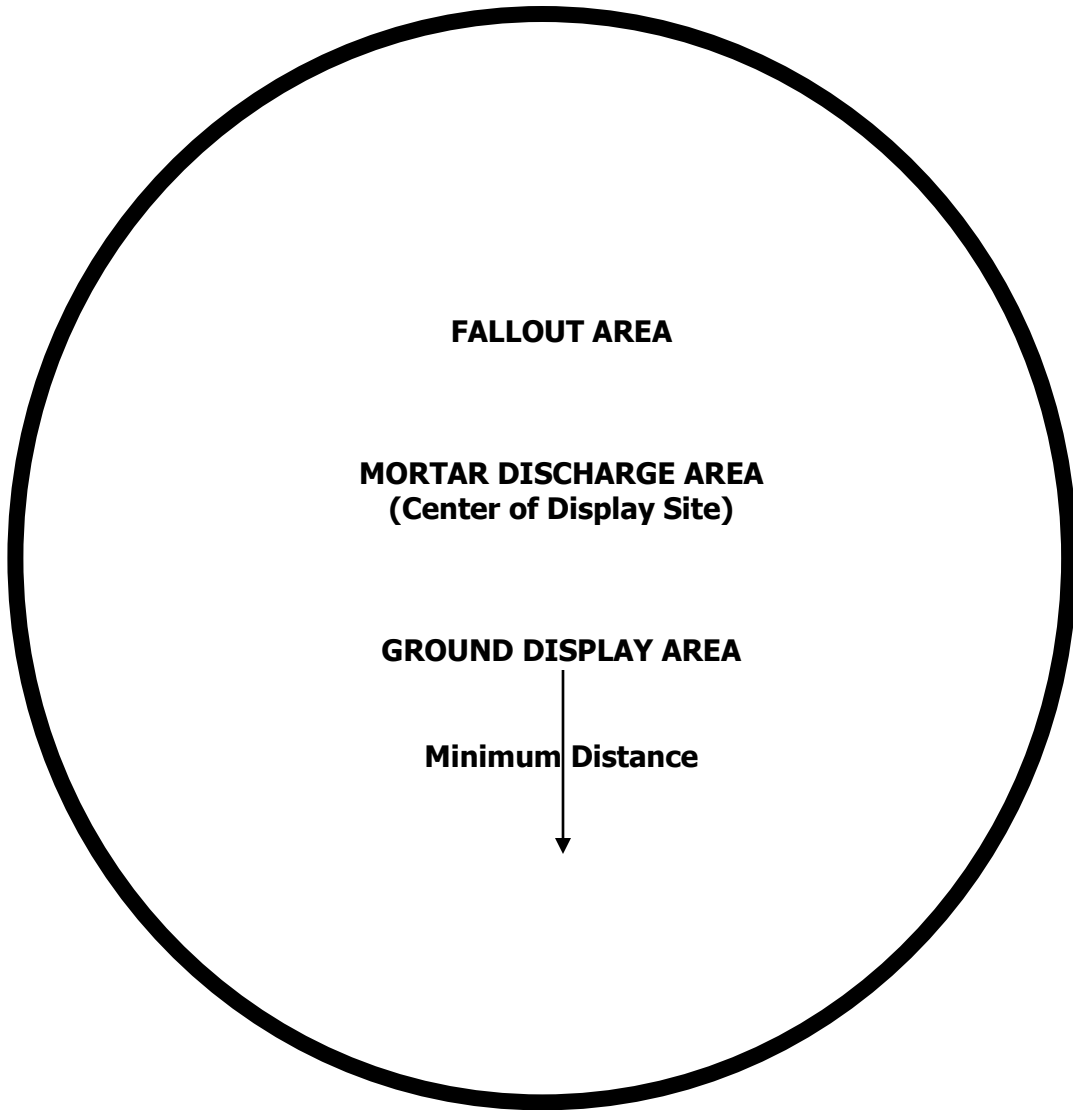
- Wherever, in the opinion of the authority having jurisdiction or the operator, any hazardous condition exists, the fireworks display shall be postponed until the condition is corrected. Such conditions include but are not limited to the following:
 - The lack of crowd control,
 - If high winds, precipitation, or other adverse weather conditions prevail, or
 - If any unsafe condition is detected, such as hazardous debris falling into the audience, the spotter shall signal the shooter to cease firing until the unsafe condition is corrected.
- In the event of a condition arising requiring the entry of fire protection or other emergency response personnel into the fallout area or security perimeter, the display shall be halted until the situation is resolved and the area is once again clear.

PART I – POST DISPLAY INSPECTION

- Following the display, the firing crew shall conduct an inspection of the fallout area for the purpose of locating any unexploded aerial shells or live components. This inspection shall be conducted before any public access to the site shall be permitted.
- Where fireworks are displayed at night, a search of the fallout area shall be made immediately after the display and at first light the following morning by the operator or designated personnel acceptable to the authority having jurisdiction.

DISPLAY SITE PLAN

← **MINIMUM SECURED DISTANCE** →



FALLOUT AREA

**MORTAR DISCHARGE AREA
(Center of Display Site)**

GROUND DISPLAY AREA

Minimum Distance

SPECTATOR VIEWING AREA

VEHICLE PARKING AREA

EXHIBIT "D"

Once the Fire Chief, or his or her designee, has signed this permit form, you must return to the local governmental authority issuing the permit to have it signed by the designated Officer in order for the permit to be valid.

OUTDOOR PYROTECHNIC DISPLAY PERMIT

Date _____ Permit No. _____

PERMITTEES:

Display Sponsor _____

Pyrotechnic Distributor _____

The above-identified permittees are hereby granted permission to conduct an Outdoor Pyrotechnic Display, using Display Fireworks, on _____,

(Month, Day, Year)

at _____ in _____, Illinois.

(Time)

(City/Village/Township/Unincorporated County)

In the event the display cannot be held on that date, the permittees are given permission to conduct said display at the above-identified location on _____,

at _____.

(Month, Day, Year)

(Time)

The Lead Pyrotechnic Operator, _____, is hereby

(Name)

designated as the supervisor of the display, and given overall responsibility for the safety, setup, discharge and supervision of the detonation, ignition, or deflagration of the Display Fireworks during the Outdoor Pyrotechnic Display.

Issuing Officer

I have reviewed the permit, inspected the site and approve this permit.

Fire Chief (or Designee)

This permit is non-transferable and must be in possession of the Lead Pyrotechnic Operator during the Outdoor Pyrotechnic Display.

VILLAGE OF LOAMI

BUSINESS LICENSE APPLICATION

APPLICATION NO. _____ **ANNUAL LICENSE FEE DUE MAY 1ST: \$** _____

(PLEASE TYPE OR PRINT)

1. Applicant's Name: _____ PHONE () _____
2. Applicant's Address _____
City _____ State _____ ZIP _____
3. Length of resident at above address _____ years _____ months
4. Applicant's Date of Birth ___/___/___ Social Security No. _____
5. Marital Status _____ Name of Spouse _____
6. Citizenship of Applicant _____
7. Business Name _____ PHONE () _____
8. Business Address _____
City _____ State _____ ZIP _____
9. Length of Employment _____ years _____ months
10. All residences and addresses for the last three (3) years if different than above:

11. Name and Address of employers during the last three (3) years if different than above:

12. List the last three (3) municipalities where applicant has carried on business immediately preceding the date of application:

13. A description of the subject matter that will be used in the applicant's business:

14. Has the applicant ever had a license in this municipality? [] Yes [] No
If so, when _____
15. Has a license issued to this applicant ever been revoked? [] Yes [] No
If "yes", explain: _____
16. Has the applicant ever been convicted of a violation of any of the provisions of this Code, etc.?
[] Yes [] No If "yes", explain: _____

17. Has the applicant ever been convicted of the commission of a felony? [] Yes [] No
If "yes", explain: _____
18. LICENSE DATA: Term of License _____

Fee for License \$ _____
Sales Tax Number _____
License Classification _____

19. LIST ALL OWNERS IF LICENSE IS FOR LOCAL BUSINESS (PERMANENT):

OFFICIAL BUSINESS LICENSE

STATE OF ILLINOIS)
COUNTY OF SANGAMON) **ss.**
VILLAGE OF LOAMI)

ILLINOIS SALES TAX NUMBER _____

TO ALL TO WHOM THESE PRESENTS SHALL BECOME GREETINGS:

WHEREAS _____
having complied with all the requirements of the laws of the State of Illinois and the ordinances of the **Village of Loami, Illinois** in this behalf made and required license is, by authority of the **Village of Loami, Illinois** given and granted to the _____
_____ to _____ at _____
_____ in the **Village of Loami, County of Sangamon, and State of Illinois**, from the _____ date hereof until the _____ day of _____, __, said _____
_____ to be subject to all laws of the State of Illinois and all ordinances of the **Village of Loami, Illinois**, not in conflict therewith, which are now or hereafter may be in force touching the premises.

(L.S.)

Given under the hand of the Mayor of the **Village of Loami, County of Sangamon, Illinois** and the seal thereof, this _____ day of _____, 20__.

MAYOR
VILLAGE OF LOAMI

COUNTERSIGNED:

VILLAGE CLERK
VILLAGE OF LOAMI

(SEAL)

VILLAGE OF LOAMI

APPLICATION FOR RAFFLE OR POKER RUN LICENSE

Organization Name: _____
Address: _____
Type of Organization: _____
Length of Existence of Organization: _____

If organization is incorporated, what is the date and state of incorporation?
Date: _____ State: _____

List the organization's presiding officer, secretary, raffle manager, and any other members responsible for the conduct and operation of the raffle.

PRESIDENT:

SECRETARY: _____ Birth Date: _____
Address: _____
Social Security No.: _____ Phone No.: _____

RAFFLE MANAGER: _____ Birth Date: _____
Address: _____
Social Security No.: _____ Phone No.: _____

List any other members responsible for the conduct and operation of the raffle on the back of this page. List name, date of birth, address, social security number, and phone number.

_____ This request is for a single raffle license.
_____ This request is for a multiple raffle license.

The aggregate retail value of all prizes to be awarded: \$ _____
Maximum retail value of each prize to be awarded in the raffle: \$ _____
The maximum price charged for each raffle chance issued: _____
The area or areas in which raffle chances will be sold or issued: _____

Time period during which raffle chances will be issued or sold: _____

The date, time and location at which winning chances will be determined: _____

Date: _____ Time: _____
Location: _____

If multiple raffles license is requested, list on a separate sheet, the date, time, and location for each raffle to be held within the one (1) year period of time from the date of the issuance of the license.

THE APPLICATION FEES ARE NONREFUNDABLE EVEN SHOULD THE APPLICATION BE REJECTED BY THE VILLAGE BOARD.

VILLAGE OF LOAMI

APPLICATION FOR RAFFLE LICENSE

SWORN STATEMENT

The following officers attest to the not-for-profit character of the applicant organization.

(NAME OF ORGANIZATION)

Dated this _____ day of _____, 20__.

MAYOR

SECRETARY

STATE OF ILLINOIS)
)
COUNTY OF SANGAMON) ss.

Signed and sworn to before me this _____ day of _____, 20__.

MAYOR

SECRETARY

NOTARY PUBLIC

VILLAGE OF LOAMI
SINGLE RAFFLE LICENSE

License No.: _____

Organization Name: _____

Address: _____

Area or areas in which raffle chances may be sold or issued: _____

Period of time during which raffle chances may be sold: _____

Maximum price charged for each raffle chance issued or sold: \$_____

Date, time and location at which winning chance will be determined:

Date: _____ Time: _____

Location: _____

THIS LICENSE SHALL BE PROMINENTLY DISPLAYED AT THE TIME AND LOCATION OF THE DETERMINATION OF THE WINNING CHANCES.

WITNESS the hand of the Mayor of the Village of Loami and the Corporate Seal thereof, this _____ day of _____, 20____.

MAYOR
VILLAGE OF LOAMI

VILLAGE CLERK
VILLAGE OF LOAMI

(SEAL)

VILLAGE OF

EXHIBIT 1

The following is the date, time and location at which winning chances will be determined for multiple raffles to be held within a maximum period of **one (1) year** from the date of issuance of this license.

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

APPLICANT/FIELD CHECK

INFORMATION CARD

Name			Location	Date	Time
Residence Address			D.L.#		
Business Address Info			Vehicle	Color	Yr. Body License
Occupation			Vehicle Modifications:		
Social Security Number					
Race	Sex	Height	Action Leading to Check:		
Weight	Eyes	Hair			
Complexion	Date of Birth				
Unusual Features:					
			Comments:		
Hat	Coat		Associates:		
Cap	Jacket				
Blouse	Dress				
Shirt	Sweater				
Skirt	Trousers				

CHAPTER 8
CABLE TELEVISION

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
<i>I</i>	<i>FRANCHISE AGREEMENT</i>	
	<i>Section 8-1-1 - Franchise Agreement</i>	<i>8-1</i>
	<i>Exhibit "A" - Franchise Agreement</i>	<i>8-2</i>

CHAPTER 8

CABLE TELEVISION

ARTICLE I – FRANCHISE AGREEMENT

8-1-1 **FRANCHISE AGREEMENT.** The Cable Television non-exclusive franchise agreement is hereby adopted by reference as found in **Exhibit "A"**. **(Ord. No. 13-02; 06-20-13)**

EXHIBIT "A"

FRANCHISE AGREEMENT

This Franchise Agreement ("Franchise") is between the Village of Loami, Illinois, hereinafter referred to as "the Franchising Authority" and Mediacom Illinois LLC, a limited liability company duly organized and validly existing under the laws of the State of Delaware, hereinafter referred to as "the Grantee."

The Franchising Authority hereby acknowledges that the Grantee has substantially complied with the material terms of the current Franchise under applicable law, and that the financial, legal, and technical ability of the Grantee is reasonably sufficient to provide services, facilities, and equipment necessary to meet the future cable-related needs of the community, and having afforded the public adequate notice and opportunity for comment, desires to enter into this Franchise with the Grantee for the construction and operation of a cable system on the terms set forth herein.

SECTION 1 – Definition of Terms

1.1 TERMS. For the purpose of this Franchise, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. 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.

(A) **"Basic Cable Service"** is the lowest priced tier of Cable Service that includes the retransmission of local broadcast television signals.

(B) **"Cable Act"** means Title VI of the Cable Act of 1934, as amended.

(C) **"Cable Services"** shall mean (1) the one-way transmission to Subscribers of (a) video programming, or (b) other programming service, and (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(D) **"Cable System"** shall mean the Grantee's facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within the Service Area.

(E) **"FCC"** means Federal Communications Commission, or successor governmental entity thereto.

(F) **"Franchising Authority"** means the Village of Loami, Illinois.

(G) **"Grantee"** means Mediacom Illinois LLC, or the lawful successor, transferee, or assignee thereof.

(H) **"Gross Revenues"** means revenues derived from Basic Cable Services received by Grantee from Subscribers in the Service Area; provided, however, that Gross Revenues shall not include franchise fees, the FCC User Fee or any tax, fee or assessment of general applicability collected by the Grantee from Subscribers for pass-through to a government agency.

(I) **"Person"** means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

(J) **"Public Way"** shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not

limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System.

(K) **"Service Area"** means the present boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means, subject to the exceptions in subsection 3.9.

(L) **"Standard Installation"** is defined as **one hundred twenty-five (125) feet** from the nearest tap to the Subscriber's terminal.

(M) **"Subscriber"** means a Person who lawfully receives Cable Service of the Cable System with the Grantee's express permission.

SECTION 2 – Grant of Franchise

2.1 Grant. The Franchising Authority hereby grants to the Grantee a non-exclusive Franchise which authorizes the Grantee to construct and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with Public Ways within the Service Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any Public Way such facilities and equipment as may be necessary or appurtenant to the Cable System for the transmission and distribution of Cable Services, data services, information and other communications services or for any other lawful purposes.

2.2 Other Ordinances. The Grantee agrees to comply with the terms of any lawfully adopted generally applicable local ordinance, to the extent that the provisions of the ordinance do not have the effect of limiting the benefits or expanding the obligations of the Grantee that are granted by this Franchise. Neither party may unilaterally alter the material rights and obligations set forth in this Franchise. In the event of a conflict between any ordinance and this Franchise, the Franchise shall control.

2.3 Other Authorizations. The Franchising Authority shall not permit any person to provide services similar to those provided by the Grantee in the Service Area without first having secured a non-exclusive franchise from the Franchising Authority. The Franchising Authority agrees that any grant of additional franchises or other authorizations including OVS authorizations by the Franchising Authority to provide services similar to those provided by the Grantee pursuant to this Agreement to any other entity shall cover the entire Service Area and shall not be on terms and conditions more favorable or less burdensome to the grantee of any such additional franchise or other authorization than those which are set forth herein. In any renewal of this Franchise, the Franchising Authority, should it seek to impose increased obligations upon the Grantee, must take into account any additional franchise(s) or authorizations previously granted and find that the proposed increased obligations in the renewal, are not more burdensome and/or less favorable than those contained in any such additional franchise(s) or authorizations.

SECTION 3 – Standards of Service

3.1 Conditions of Occupancy. The Cable System installed by the Grantee pursuant to the terms hereof shall be located so as to cause a minimum of interference with the

proper use of Public Ways and with the rights and reasonable convenience of property owners who own property that adjoins any of such Public Ways.

3.2 Restoration of Public Ways. If during the course of the Grantee's construction, operation, or maintenance of the Cable System there occurs a disturbance of any Public Way by the Grantee, Grantee shall replace and restore such Public Way to a condition reasonably comparable to the condition of the Public Way existing immediately prior to such disturbance.

3.3 Relocation for the Franchising Authority. Upon its receipt of reasonable advance written notice to be not less than **ten (10) business days**, the Grantee shall protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way, any property of the Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes, or any other type of public structures or improvements which are not used to compete with the Grantee's services. The Grantee shall in all cases have the right of abandonment of its property.

3.4 Relocation for a Third Party. The Grantee shall, on the request of any Person holding a lawful permit issued by the Franchising Authority, protect, support, raise, lower, temporarily disconnect, relocate in or remove from the Public Way as necessary any property of the Grantee, provided: (A) the expense of such is paid by said Person benefiting from the relocation, including, if required by the Grantee, making such payment in advance; and (B) the Grantee is given reasonable advance written notice to prepare for such changes. For purposes of this subsection, "reasonable advance written notice" shall be no less than **thirty (30) business days** in the event of a temporary relocation, and no less than **one hundred twenty (120) days** for a permanent relocation.

3.5 Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth in order to access and maintain the Cable System.

3.6 Safety Requirements. Construction, operation, and maintenance of the Cable System shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with generally applicable federal, state, and local regulations and the National Electric Safety Code.

3.7 Underground Construction. In those areas of the Service Area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate, and maintain its Cable System underground. Nothing contained in this subsection shall require the Grantee to construct, operate, and maintain underground any ground-mounted appurtenances.

3.8 Access to Open Trenches. The Franchising Authority agrees to include the Grantee in the platting process for any new subdivision. At a minimum, the Franchising Authority agrees to require as a condition of issuing a permit for open trenching to any utility or developer that (A) the utility or developer give the Grantee at least **ten (10) days** advance

written notice of the availability of the open trench, and (B) that the utility or developer provide the Grantee with reasonable access to the open trench. Notwithstanding the foregoing, the Grantee shall not be required to utilize any open trench.

3.9 Required Extensions of the Cable System. Grantee agrees to provide Cable Service to all residences in the Service Area subject to the density requirements specified in this subsection. Whenever the Grantee receives a request for Cable Service from a potential Subscriber in an unserved area contiguous to Grantee's existing distribution facilities where there are at least **ten (10)** residences within **one thousand three hundred twenty (1,320)** cable-bearing strand feet (one-quarter cable mile) from the portion of the Grantee's trunk or distribution cable which is to be extended, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for the Cable System extension, other than the published Standard/non-Standard Installation fees charged to all Subscribers. Notwithstanding the foregoing, the Grantee shall have the right, but not the obligation, to extend the Cable System into any portion of the Service Area where another operator is providing Cable Service, into any annexed area which is not contiguous to the present Service Area of the Grantee, or into any area which is financially or technically infeasible due to extraordinary circumstances, such as a runway or freeway crossing.

3.10 Subscriber Charges for Extensions of the Cable System. No Subscriber shall be refused service arbitrarily. However, if an area does not meet the density requirements of subsection 3.9 above, the Grantee shall only be required to extend the Cable System to Subscriber(s) in that area if the Subscriber(s) are willing to share the capital costs of extending the Cable System. Specifically, the Grantee shall contribute a capital amount equal to the construction cost per mile, multiplied by a fraction whose numerator equals the actual number of residences per **one thousand three hundred twenty (1,320)** cable-bearing strand feet from the Grantee's trunk or distribution cable, and whose denominator equals **ten (10)**. Subscribers who request service hereunder shall bear the remaining cost to extend the Cable System on a *pro rata* basis. The Grantee may require that payment of the capital contribution in aid of construction borne by such potential Subscribers be paid in advance. Subscribers shall also be responsible for any Standard/non-Standard Installation charges to extend the Cable System from the tap to the residence.

3.11 Cable Service to Public Buildings. The Grantee, upon request, shall provide without charge, a Standard Installation and one outlet of Basic Cable Service to those administrative buildings owned and occupied by the Franchising Authority, fire station(s), police station(s), and K-12 public school(s) that are passed by its Cable System. The Cable Service provided shall not be distributed beyond the originally installed outlet without authorization from the Grantee. The Cable Service provided shall not be used for commercial purposes, and such outlets shall not be located in areas open to the public. The Franchising Authority shall take reasonable precautions to prevent any inappropriate use of the Grantee's Cable System or any loss or damage to Grantee's Cable System. The Franchising Authority shall hold the Grantee harmless from any and all liability or claims arising out of the provision and use of Cable Service required by this subsection. The Grantee shall not be required to provide an outlet to such buildings where a non-Standard Installation is required, unless the Franchising Authority or building owner/occupant agrees to pay the incremental cost of any necessary Cable System extension and/or non-Standard Installation. If additional outlets of Basic Cable Service are provided to such buildings, the building owner/occupant shall pay the usual installation and service fees associated therewith.

3.12 **Emergency Alert.** Any Emergency Alert System ("EAS") provided by Grantee shall be operated in accordance with FCC regulations. Any use of such EAS by the Franchising Authority will be only in accordance with the applicable state and local plans as approved in accordance with such FCC regulations. Except to the extent expressly prohibited by law, the Franchising Authority will hold the Grantee, its employees, officers and assigns harmless from any claims arising out of use of the EAS, including but not limited to reasonable attorneys' fees and costs.

3.13 **Reimbursement of Costs.** If funds are available to any Person using the Public Way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall reimburse the Grantee in the same manner in which other Persons affected by the requirement are reimbursed. If the funds are controlled by another governmental entity, the Franchising Authority shall make application for such funds on behalf of the Grantee.

SECTION 4 – Regulation by the Franchising Authority

4.1 **Franchise Fee.**

(A) The Grantee shall pay to the Franchising Authority a franchise fee of _____ percent (___%) of annual Gross Revenues (as defined in subsection 1.1 of this Franchise). In accordance with the Cable Act, the **twelve (12) month** period applicable under the Franchise for the computation of the franchise fee shall be a calendar year. The franchise fee payment shall be due annually and payable within **ninety (90) days** after the close of the preceding calendar year. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation.

(B) **Limitation on Franchise Fee Actions.** The period of limitation for recovery by the Franchising Authority of any franchise fee payable hereunder shall be **three (3) years** from the date on which payment by the Grantee is due to the Franchising Authority.

4.2 **Rates and Charges.** The Franchising Authority may regulate rates for the provision of Basic Cable Service and equipment as expressly permitted by federal law.

4.3 **Renewal of Franchise.**

(A) The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the renewal provisions of federal law.

(B) In addition to the procedures set forth in the Cable Act, the Franchising Authority agrees to notify the Grantee of all of its assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of the Grantee under the then current Franchise term. The Franchising Authority further agrees that such assessments shall be provided to the Grantee promptly so that the Grantee has adequate time to submit a proposal pursuant to the Cable Act and complete renewal of the Franchise prior to expiration of its terms.

(C) Notwithstanding anything to the contrary set forth in this subsection 4.3, the Grantee and the Franchising Authority agree that at any time during the term of the then current Franchise, while affording the public appropriate notice and opportunity to comment in accordance with the provisions of federal law the Franchising Authority and the Grantee may agree to undertake and finalize informal negotiations regarding renewal of the then current Franchise and the Franchising Authority may grant a renewal thereof.

(D) The Grantee and the Franchising Authority consider the terms set forth in this subsection 4.3 to be consistent with the express renewal provisions of the Cable Act.

4.4 **Conditions of Sale.** If a renewal or extension of the Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable System or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at the price determined pursuant to the provisions set forth in Section 627 of the Cable Act.

The Grantee and the Franchising Authority agree that in the case of a final determination of a lawful revocation of the Franchise, the Grantee shall be given at least **twelve (12) months** to effectuate a transfer of its Cable System to a qualified third party. Furthermore, the Grantee shall be authorized to continue to operate pursuant to the terms of its prior Franchise during the period. If, at the end of that time, the Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the Franchising Authority, the Grantee and the Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law. It is further agreed that the Grantee's continued operation of the Cable system during the **twelve (12) month** period shall not be deemed to be a waiver, nor an extinguishment of, any rights of either the Franchising Authority or the Grantee.

4.5 **Transfer of Franchise.** The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without prior written notice to the Franchising Authority. No such notice shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness.

SECTION 5 – Books and Records

The Grantee agrees that the Franchising Authority, upon **thirty (30) days** written notice to the Grantee and no more than once annually may review such of its books and records at the Grantee's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure compliance with the terms of this Franchise. Such notice shall specifically reference the subsection of the Franchise that is under review so that the Grantee may organize the necessary books and records for easy access by the Franchising Authority. Alternatively, if the books and records are not easily accessible at the local office of the Grantee, the Grantee may, at its sole option, choose to pay the reasonable travel costs of the Franchising Authority's representative to view the books and records at the appropriate location. The Grantee shall not be required to maintain any books and records for Franchise compliance purposes longer than **three (3) years**. Notwithstanding anything to the contrary set forth herein, the Grantee shall not be required to disclose information that it reasonably deems to be proprietary or confidential in nature, nor disclose books and records of any affiliate which is not providing Cable Service in the Service Area. The Franchising Authority agrees to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents thereof that have a need to know, or in order to enforce the provisions hereof. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act.

SECTION 6 – Insurance and Indemnification

6.1 Insurance Requirements. The Grantee shall maintain insurance in full force and effect, at its own cost and expense, during the term of the Franchise. The Franchising Authority shall be designated as an additional insured and such insurance shall be non-cancellable except upon **thirty (30) days** prior written notice to the Franchising Authority. Upon written request, the Grantee shall provide a Certificate of Insurance showing evidence of the coverage required by this subsection.

6.2 Indemnification. The Grantee agrees to indemnify, save and hold harmless, and defend the Franchising Authority, its officers, boards and employees, from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System in the Service Area provided that the Franchising Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within **ten (10) days** of receipt of a claim or action pursuant to this subsection. Notwithstanding the foregoing, the Grantee shall not indemnify the Franchising Authority for any damages, liability or claims resulting from the willful misconduct or negligence of the Franchising Authority.

SECTION 7 – Enforcement and Termination of Franchise

7.1 Notice of Violation. In the event that the Franchising Authority believes that the Grantee has not complied with the material term of the Franchise, the Franchising Authority shall informally discuss the matter with Grantee. If these discussions do not lead to resolution of the problem, the Franchising Authority shall notify the Grantee in writing of the exact nature of such alleged noncompliance.

7.2 The Grantee's Right to Cure or Respond. The Grantee shall have **thirty (30) days** from receipt of the notice described in subsection 7.1:

- (A) to respond to the Franchising Authority, contesting the assertion of such noncompliance, or
- (B) to cure such default, or
- (C) in the event that, by the nature of such default, it cannot be cured within the **thirty (30) day** period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

7.3 Public Hearing. In the event that the Grantee fails to respond to the notice described in subsection 7.1 pursuant to the procedures set forth in subsection 7.2, or in the event that the alleged default is not remedied within **thirty (30) days** or the date projected pursuant to 7.2(C) above, if it intends to continue its investigation into the default, then the Franchising Authority shall schedule a public hearing. The Franchising Authority shall provide the Grantee at least **ten (10) days** prior written notice of such hearing, which specifies the time, place and purpose of such hearing, and provide the Grantee the opportunity to be heard.

7.4 Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after the hearing set forth in subsection 7.3, determines that the Grantee is in material default of any provision of the Franchise, the Franchising Authority may:

(A) Commence an action at law for monetary damages or seek other equitable relief; or

(B) In the case of repeated or ongoing substantial noncompliance with a material term or terms of the Franchise, seek to revoke the Franchise in accordance with subsection 7.5.

7.5 Revocation. Should the Franchising Authority seek to revoke the Franchise after following the procedures set forth in subsections 7.1 – 7.4 above, the Franchising Authority shall give written notice to the Grantee of its intent. The notice shall set forth the exact nature of the repeated or ongoing substantial noncompliance with a material term or terms of the franchise. The Grantee shall have **ninety (90) days** from such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public hearing. The Franchising Authority shall cause to be served upon the Grantee, at least **thirty (30) days** prior to such public hearing, a written notice specifying the time and place of such hearing and stating its intent to revoke the Franchise.

At the designated hearing, Grantee shall be provided a fair opportunity for full participation, including the right to be represented by legal counsel, to introduce relevant evidence, to require the production of evidence, to compel the relevant testimony of the officials, agents, employees or consultants of the Franchising Authority, to compel the testimony of other persons as permitted by law, and to question witnesses. A complete verbatim record and transcript shall be made of such hearing.

Following the hearing, the Franchising Authority shall determine whether or not the Franchise shall be revoked. If the Franchising Authority determines that the Franchise shall be revoked, the Franchising Authority shall promptly provide Grantee with its decision in writing. The Grantee may appeal such determination of the Franchising Authority to an appropriate court which shall have the power to review the decision of the Franchising Authority *de novo*. Grantee shall be entitled to such relief as the court finds appropriate. Such appeal must be taken within **sixty (60) days** of Grantee's receipt of the determination of the Franchising Authority.

The Franchising Authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce the Franchising Authority's rights under the Franchise in lieu of revocation of the Franchise.

7.6 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default, where such noncompliance or alleged defaults occurred or were caused by circumstances reasonably beyond the ability of the Grantee to anticipate and control. This provision includes work delays caused by waiting for utility providers to service or monitor their utility poles to which the Grantee's Cable System is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

Furthermore, the parties hereby agree that it is not the Franchising Authority's intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for violations of the Franchise where the violation was a good faith error that resulted in no or

minimal negative impact on the Subscribers within the Service Area, or where strict performance would result in practical difficulties and hardship to the Grantee which outweigh the benefit to be derived by the Franchising Authority and/or Subscribers.

SECTION 8 – Miscellaneous Provisions

8.1 Actions of Parties. In any action by the Franchising Authority or the Grantee that is mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious, and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

8.2 Entire Agreement. This Franchise constitutes the entire agreement between the Grantee and the Franchising Authority and supersedes all other prior understandings and agreements oral or written. Any amendments to this Franchise shall be mutually agreed to in writing by the parties.

8.3 Reservation of Rights. Acceptance of the terms and conditions of this franchise will not constitute, or be deemed to constitute, a waiver, either expressly or impliedly, by Grantee of any constitutional or legal right which it may have or may be determined to have, either by subsequent legislation or court decisions. The Franchising Authority acknowledges that Grantee reserves all of its rights under applicable Federal and State Constitution and laws.

8.4 Notice. Unless expressly otherwise agreed between the parties, every notice or response required by this Franchise to be served upon the Franchising Authority or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party when placed in a properly sealed and correctly addressed envelope:

- (A) upon receipt when hand delivered with receipt/acknowledgement,
- (B) upon receipt when sent certified, registered mail,
- (C) within **five (5) business day** after having been posted in the regular mail or
- (D) the next business day if sent by express mail or overnight air courier.

The notices or responses to the Franchising Authority shall be addressed as follows:

Village of Loami
P.O. Box 226
Loami, IL 62661

The notices or responses to the Grantee shall be addressed as follows:

Mediacom Illinois LLC
100 Crystal Run Road
Middletown, NY 10941
Bruce Gluckman, Group Vice President, Legal and
Regulatory Affairs, Deputy General Counsel

With a copy to:

Mediacom Illinois LLC
409 Massey Lane
Jacksonville, IL 62651
Esther C. Viles, Senior Manager, Government Relations

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other in the manner provided for in this subsection.

8.5 **Descriptive Headings.** The captions to sections and subsections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

8.6 **Severability.** If any section, subsection, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, subsection, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the Franchise.

8.7 **Term and Effective Date.** The effective date of this Franchise is the date of final adoption by the Franchising Authority as set forth below subject to Grantee's acceptance by countersigning where indicated below. This Franchise shall be for a term of **fifteen (15) years** from such effective date and shall expire on _____.

(Ord. No. 13-02; 06-20-13)

CHAPTER 11
EMPLOYEE POLICIES

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CHAPTER 11

EMPLOYEE POLICIES

ARTICLE I – PURPOSE

11-1-1 **PURPOSE.** The purpose of the Employee Code is to implement and maintain a uniform system of employment within all departments of the Village and shall hereinafter be referred to as the "**Code**". The Code is designed to provide employees and management with information pertaining to the employment policies and procedures applicable to all Village employees.

All policies and procedures contained in this Code shall go into effect **January 1, 2018**, immediately upon passage by the Village Board and approved by the Mayor.

All employees shall be required to adhere to the policies and procedures as they are outlined in this Code.

Upon adoption by the Village Board, this Code shall be the nonexclusive policy of all departments of the Village concerning terms and/or conditions of employment.

In order to implement and carry out the express provisions and the intent of this Code, all Superintendents may pronounce policies consistent with this Code. A copy of any such policy shall be distributed to the Mayor and the Village Board.

Nothing in this Code shall in any way affect the Village's and Superintendent's right to develop and disseminate information concerning the operations of any department and employee's job functions, duties and job position description.

All employees shall sign the Employee Notification Letter found in **Appendix "A"** of this Chapter.

ARTICLE II - GENERALLY

11-2-1 **DEFINITIONS.** The following words shall have the following meanings when used in this Code:

(A) **Employer.** The term employer, as used in this Code, means the Village.

(B) **Employee.** The term employee, as used in this Code, means a person working as a volunteer or for remuneration for services rendered to the Village. For purposes of this Code, an Elected Official is not an employee whose personal rights are affected by the Code.

(C) **Full-Time.** Those employees scheduled to work a minimum of **forty (40) hours** per work week on a continuous basis. Full-time employees are eligible for overtime pay and compensatory time.

(D) **Employee - Permanent Part-Time.** The term shall mean any person working over **one thousand (1,000) hours** per year.

(E) **Part-Time.** Those employees scheduled to work less than **forty (40) hours** per work week on a continuous basis. Part-time employees are eligible for overtime pay.

(F) **Department.** The term department, as used in this Personnel Code, shall mean the governmental unit for whom the employee is directly working for and rendering services.

(G) **Superintendent.** The term Superintendent, as mentioned in this Code, means the one individual ultimately responsible for all operations of the department.

(H) **Immediate Supervisor.** The term immediate supervisor, as used in this Code, shall mean the individual to whom the employee shall immediately report and be responsible for his work. An immediate supervisor may be the Mayor or the Superintendent.

(I) **Special Assignment, Professionals.** Professionals and those employees hired for a specific project for a limited period and may include those hired to fill in summer vacations, illness and the like. Such employees are hired with the understanding that their employment is to terminate upon completion of the project or at the end of the period. Special Assignment may be either full-time or part-time as determined by the requirements of the job. Professional employees are not entitled to overtime and compensatory time, but are entitled to other benefits.

(J) **Special Assignment, Nonprofessional.** Nonprofessional employees are like the special assignment, professional employees except that nonprofessional are entitled to overtime and compensatory time, but not to benefits.

(K) **Volunteers.** Those individuals who accept on an unpaid basis various work assignments for any department. These individuals receive no wages or benefits.

ARTICLE III – PRE-EMPLOYMENT VERIFICATION POLICY

11-3-1 PRE-EMPLOYMENT VERIFICATION POLICY. This policy is intended to serve as a guide relating to the hiring of permanent full and part-time employees.

11-3-2 GENERAL POLICY. The Village has elected to institute a pre-employment verification process. Other information may also be gathered as part of the pre-employment verification process. Each employee is subject to a **six (6) month** probationary period and results of the pre-employment verification process may impact permanent employment. Results of this process will remain completely confidential.

11-3-3 REQUIRED VERIFICATIONS.

(A) **Identity and Criminal Record Check.** The Mayor or a person designated by the Mayor shall verify the personal identity of each employee with the Social Security Administration to ensure valid social security numbers. Criminal record checks shall also be reviewed by the corporate authorities.

(B) **Motor Vehicle.** A motor vehicle check is required for all employees who driving during working hours or drive municipal vehicles. This check includes the verification that the employee has a valid driver’s license and other accident and conviction history. Motor vehicle information shall be reviewed annually as long as the employee’s job duties include operating a motor vehicle.

11-3-4 OPTIONAL VERIFICATIONS.

(A) **Employment.** The Mayor or a person designated by the Mayor shall verify past employment at the request of the Village Board. All information on the application MUST be LEGIBLE. The following fields are required: Employer name, address, city, state and Start Date.

(B) **Licenses, Certifications, Degrees.**

(1) **Education Verification.** To verify education, the following fields shall be completed: College name, address, city and state and degree received.

(2) **Transcript.** If needed, applicant must provide directly from the institution.

(C) **Certification Verification/Professional License.** If needed, applicant shall provide a copy of a professional license so it may be verified.

(D) **Credit Report.** A credit report shall be required for all employees involved in accounting or cashing functions. Other employment positions susceptible to collusion or fraudulent activities may also be considered as a basis for a credit report. These positions requiring a credit report shall be documented and shall be filed with the Village Clerk. A credit report may also be requested if an employee changes their job duties to a position that requires a credit check.

A credit report request requires the approval of the employee or potential employee. *The Request, Consent and Authorization for Release of Personal Information* and the *Disclosure* document (all three) must include their signature.

If available, please submit a job description to accompany the application and verification request.

ARTICLE IV - HIRING POLICY

11-4-1 REQUIREMENTS. Employment is based on each applicant's qualifications as compared with the requirements of the available position. Consideration is given to ability, experience, education, training and character.

No consideration shall be given to the applicant's political party affiliation or support in regard to any decisions on hiring, promotion, transfer, or recall.

11-4-2 RESIDENCY REQUIREMENTS. All employees of the Village shall reside within the corporate limits. All applicants for employment with the Village at the time of their initial interview with Village officials, shall be notified of this Village policy. All applicants shall become a resident as set forth therein within **one hundred eighty (180) days** of accepting employment with the Village and shall remain on probationary status with the Village until they have satisfied this requirement or condition of employment. Failure to satisfy this condition of employment shall be grounds for automatic dismissal from employment with the Village, unless waived by the Village Board.

11-4-3 APPLICATION FORMS. Applications for positions with the Village shall be filed on forms furnished by the Village Clerk. All successful applicants shall produce an original social security card. The Superintendent may require certificates of competency, licenses, medical examinations, post-offer medical examination, drug and alcohol tests, background investigations, references, police checks, motor vehicle reports/driving history, oral interviews, or other evidence of special qualifications. The Superintendent may reject applications of persons who are found to lack any of the requirements established for the position. The Mayor with the advice and consent of the Village Board shall appoint all employees. In considering applications of various individuals, length of service shall be used as a factor in the selection of applicants, but will not be considered the sole or even the predominant factor. No employee shall be hired and placed on the payroll and receive fringe benefits until all employment related forms, including but not limited to the employment application form, are filled out and forwarded to the Village Clerk.

11-4-4 PROMOTIONS. Employees are encouraged to apply for job openings in higher classifications and will be considered for promotion for job openings upon written application. All full-time employees may be considered for promotions. Probationary employees may apply, but do not have to be considered, depending upon the discretion of the Superintendent.

When an employee is promoted, the employee will be placed on probation. At the end of the probationary period, the employee's performance will be formally evaluated and one of the following actions shall be taken by the Village or Superintendent based upon employee's performance and conduct:

- (A) The employee may assume the new position having successfully completed the probationary period.
- (B) The probationary period may be extended.
- (C) The employee may be demoted to a position commensurate with the employee's ability, if the lower position is available.

11-4-5 PROBATIONARY PERIOD. All full-time employees of the Village shall be probationary employees for **six (6) months** commencing their first working day as full-time employees. The probationary period may be extended by the Village Board. During said probation period, such employees shall not be entitled to any sick or personal leave with pay. After the successful completion of the probationary period, said employees will be entitled to **five (5) sick** and **two (2) personal days**.

If an employee of the Village changes job classifications then he or she shall be required to commence a subsequent **six (6) month** probationary period to commence the **first (1st) day** after all required off-site training has been completed. If off-site training is required, then the employee shall successfully complete the off-site training before the **six (6) month** probationary period shall commence.

ARTICLE V - COMPENSATION

11-5-1 **PAYCHECKS.** Employees shall receive their paycheck on a biweekly basis. Employees shall work at least **two (2) weeks** before being paid, creating a **two (2) week** lag, which will be paid upon termination of employment. The paycheck actually issued will be for the preceding pay period.

11-5-2 **COMPENSATION.** The basic rate of pay shall be set forth by the Village Board.

11-5-3 **OVERTIME.** Overtime at **one and one-half (1 1/2) times** the regular rate of pay is available to employees working in excess of a **forty (40) hour** work period.

11-5-4 **SALARY INCREASES.** Employees are eligible for a salary increase after the completion of the probationary period.

ARTICLE VI - HOURS OF WORK

11-6-1 **WORK WEEK.** The following shall be the parameters for the work week:

(A) **Street Department.** The work week for the employees of the Street Department shall be from **8:00 A.M.** to **5:00 P.M.** No person employed by the Street Department shall work for more than **sixteen (16) hours** in any **twenty-four (24) hour** period.

(B) **Water and Sewer Department.** The work week for the employees of the Water Department shall be from **8:00 A.M.** to **5:00 P.M.**

(C) **Continuous Operation.** Whenever necessary, each Superintendent shall provide for the continuous operation of the Department.

(D) No work shall be performed at home, without prior approval of the Superintendent.

(E) Prior approval of immediate supervisors is necessary for any employee to work early or stay late to do work related activity.

11-6-2 **LUNCH.** The following shall apply for lunches:

Each Superintendent shall establish the lunch schedule for their own department.

Travel time to and from any eating place is included in the lunch period. The lunch break cannot be used for compensatory time or as a substitute for tardiness. Lunch periods may not be taken at the end of the day or in conjunction with a rest period unless the employee has obtained written approval from his or her immediate supervisor.

11-6-3 **TIME AND ATTENDANCE.** Each Superintendent shall maintain accurate

daily attendance records. An employee shall be at their places of work in accordance with the attendance rules. Tardiness or other abuse of regular attendance will not be tolerated. The attendance records will indicate information in order to properly pay employees for actual work performed. An employee shall have the right to review his attendance record on file in the department.

No one will be permitted to sign in or out for another employee.

An employee shall, whenever possible, provide advance notice of absence from work.

When Village offices and buildings are open, but inclement weather prevents employees from reaching the buildings, employees may account for such absences by using accrued time, such as vacation and compensatory time earned, or the employee may elect to be docked for time off. Sick leave may not be used to cover absence due to inclement weather.

11-6-4 **HOLIDAY PAY.** All full-time and salaried exempt employees shall have time off with full salary payment on the day designated as a holiday by the Village Board.

If a Holiday falls on an employee's regularly scheduled day off, the employee shall be entitled to an additional day off. Employees cannot use sick leave in lieu of scheduled holidays.

All full-time employees covered by this Code, who are required to work on an official Holiday, shall receive a rate of **one and one-half (1 1/2) times** the regular rate of pay for the hours work on such holiday. The Superintendent shall approve the use of time with pay.

The term "last schedule work day" means the employee's full day of work.

To be eligible for holiday pay, the employee must work both the day before and the day after the holiday. The exception allows for absences for good cause that are approved by the Superintendent or Mayor. Samples of this exception include the holiday, the Superintendent or Mayor approving for good cause hospitalization the day before or the day after the holiday, and a Superintendent/Mayor approving for good cause an employee calling in sick the day before or the day after a holiday, and placing the call at the last minute. In each of these examples, the Superintendent or Mayor shall exercise judgment as to whether the sickness or hospitalization is for "good cause".

ARTICLE VII - LEAVES

11-7-1 VACATION PAY SCHEDULE. The following shall be the vacation benefits for full-time employees:

One (1) week vacation for employee after **one (1) year** of continuous work.

Two (2) weeks vacation for employee for service of **two (2) years** and up to **six (6) years** of service.

Three (3) weeks' vacation after employee has completed **six (6) years** or more of service.

Four (4) weeks' vacation after employee has completed **twenty (20) years** or more of service.

Earned vacations must be taken during each calendar year, or otherwise with approval of the Village Board.

11-7-2 PAID HOLIDAYS.

(A) New Year's Day plus previous day.

(B) Martin Luther King Day.

(C) President's Day.

(D) Memorial Day.

(E) Independence Day.

(F) Labor Day.

(G) Thanksgiving Day plus following day.

(H) Veteran's Day.

(I) Christmas Day plus previous day.

(J) If a paid holiday falls on a full-time employee's day off, that employee will be paid **eight (8) hours** straight time in the paid holiday category.

(K) If a full-time employee works on a paid holiday those hours worked, which are scheduled, or unscheduled, will be paid at **time and one-half (1 1/2)**. The holiday will be paid at **eight (8) hours** straight time.

(L) If a paid holiday falls on a shift of a full-time employee of the Police Department, that employee will be allowed to take a vacation day on that holiday. The employee shall be paid **eight (8) hours** straight time for the vacation day and **eight (8) hours** straight time for the paid holiday.

(M) If a full-time employee must be called back to work, for an emergency situation, while on vacation or while taking a personal day, the vacation or personal day shall cease. That employee will be paid for the number of hours worked at their normal rate of pay. The employee's remaining vacation or personal time will be rescheduled.

11-7-3 BEREAVEMENT PAY. Each employee will be allowed **three (3) days** off with pay when a death occurs to a member of their immediate family. These members include mother, father, sister, brother, wife, children, or stepchildren, stepfather, stepmother, stepbrother, or stepsister, mother-in-law or father-in-law. These days must be workdays and they end at the day of the funeral, unless other arrangements are approved in advance.

11-7-4 **PERSONAL LEAVE.** Each employee will be allowed to take off **three (3) days** each calendar year for personal reasons, and the employee will be paid his regular pay for these days. However, personal days must be taken each year or forfeited.

11-7-5 **SICK LEAVE.**

(A) Each employee will be entitled to **ten (10) sick days** per calendar year.

(B) After **three (3) consecutive days** off due to illness, a doctor's verification shall be obtained and provided to the Village in order for the employee to be credited for the sick days utilized.

(C) Each employee will be entitled to unlimited accumulated sick days.

Each employee is entitled to up to **three (3) weeks (fifteen (15) days)** recuperation leave with pay for confinement under doctor's care, in the hospital or at home, following release from the hospital under doctor's care. This benefit can be used only after all sick days, vacation and personal days an employee is otherwise entitled to have been used. Request for recuperation leave must be supported by a doctor's written permission or authorization to receive approval. After this benefit is used there will be no more paid days off excluding paid holidays.

(D) **Notification.** The Superintendent shall establish notification requirements for taking sick leave.

The employee shall state the nature of the illness or injury, location of confinement and the telephone number where the employee can be reached. The employee must also state whether the absence is claimed to be from a previous injury sustained while on duty. Supervisors are to be kept informed daily, whenever possible, of the employee's condition. Upon return to work, employees will inform their supervisor or Superintendent as to the cause of illness and indicate whether a continuing impairment might have occurred.

(E) **Resumption of Work.** In order to continue active work assignments or to resume work after an illness or injury or disability, employees shall provide the department with a written physician's statement releasing employee to assume activities within their position responsibility if:

- (1) Upon returning to work after prolonged illness for **five (5) consecutive days** or more;
- (2) Upon returning to work from an extended leave of absence;
- (3) After the employee has a potentially disabling illness, injury or condition; or
- (4) Upon returning to work after a diagnosed communicable disease.

11-7-6 **ILLNESS OR INJURY AT WORK.** Any employee who is ill or injured on the job shall immediately notify the Superintendent who may require the employee to be transported to a hospital for examination by a physician or surgeon.

For employees on an **eight (8) hour** work schedule, if an employee becomes ill while at work after the first **two (2) hours** of work, the employee shall lose **one-half (1/2) day** of accumulated sick time. For employees on a **twelve (12) hour** work schedule, if an employee becomes ill at work after the first **three (3) hours** of work, the employee shall lose **one-half (1/2) day** of accumulated sick time.

11-7-7 MATERNITY AND REASONABLE ACCOMMODATION. Pregnancy shall be considered the same as any short-term disability, and request for pregnancy leave shall be made through the disability leave clause. Request for parental leave following child birth shall be made through the Leave of Absence clause, **Section 11-7-8(G), Family and Medical Leave Act**.

If you are pregnant, recovering from childbirth, or have a condition related to pregnancy, you have the right to ask for a reasonable accommodation. This includes bathroom breaks, assistance with heavy lifting, a private space for expressing milk, or time off to recover from your pregnancy. For more information regarding your rights on Pregnancy in the Workplace, download the Illinois Department of Human Rights fact sheet at www.illinois.gov/dhr, or refer to the posted "Pregnancy Rights Notice."

11-7-8 LEAVE OF ABSENCE. No employee on leave of absence may earn vacation, or sick leave, except when the leave was for the purpose of accepting a temporary work assignment in another office.

All types of leave of absence do not earn vacations or sick leave while the employee is on leave of absence.

While the employee is on leave of absence, the length of service still continues to accumulate except for special leave situations under this Section (1) Special Leave, and for (7) Family and Medical Leave Act situations. Length of service is specifically prohibited from accumulating on Special Leave cases and on Family and Medical Leave Act situations. The prohibition on length of service accumulation is not contained in any other type of leave of absence situation. Therefore, the Code should be construed to allow accumulation of length of services while on leave of absence other than "special leave" and the "Family and Medical Leave Act".

Employee shall be granted an excused leave of absence for the following:

(A) **Special Leave.** All full-time and salary exempt employees who have completed **one (1) full year** of continuous service may request a special leave. Special leave will only be granted for personal reasons, and must be approved by employee's Superintendent. Special leave shall be granted without pay. The period for special leave shall not exceed **six (6) months**. An extension may be granted up to a maximum of **six (6) months** for a total of **one (1) year**. In order to continue to receive medical and insurance benefits during a special leave, the employee shall contribute both the employee and the employer's share of IMRF and insurance costs. Length of service or benefits shall not accrue or accumulate during a special leave. A person either hired or promoted to fill the position vacated by the person on leave shall be considered in that position temporarily and shall relinquish it upon the employee's return.

If a special leave is approved by the Village Board, coverage under Illinois Municipal Retirement Fund may be maintained pursuant to IMRF rules and regulations. A request form for special leave is found in **Appendix "E"** at the conclusion of this Chapter.

(B) **Military.** Any full-time, salaried exempt, or part-time employee who is a member of a Reserve component of the Armed Services, the Illinois National Guard or the Illinois Naval Militia, shall be allowed annual leave with pay for **fifteen (15) days** and the Village shall pay the difference in salary and any additions or extensions thereof without pay as may be necessary for the employees to fulfill the military reserve obligation. Such leaves will be granted without loss of length of service or other accrued benefits.

In case of an emergency call up (or order to state active duty) by the Governor, the leave shall be granted for the duration of said emergency with pay and without loss of length of service or other accrued benefits.

Military earnings during the military reserve obligation or for the emergency call shall be submitted and assigned to the Village, and the Village shall return it to the payroll fund from which the employee's payroll check was drawn. If military pay exceeds the employee's earning for the period, the Village Board shall return the difference to the employee.

To be eligible for military reserve leave or emergency call up pay, the employee shall provide the Village with a certificate from the commanding officer of the employee's unit that the leave taken was for either such purpose.

Full-time employees entering into military service as a result of voluntary enlistment, induction into the service by draft, or conscription will be afforded all of the privileges provided by the **Illinois Compiled Statutes, Chapter 330, Section 60/1 et seq.**

(C) **Jury Duty.** An employee shall be excused from work for days in which the employee serves on Jury Duty. The employee shall receive his regular pay for jury service. The employee shall present proof of jury service and the amount of pay received shall be turned over to the Village Treasurer. The employee shall also turn over to the Village any expense allowances paid by the court, if the jury duty is located at the County Courthouse. If an employee is given an early release from jury duty, the employee shall then report to his or her regular work assignment.

(D) **Witness.** An employee shall be excused from work when lawfully subpoenaed to serve as a witness. The employee must present written proof of the summons to testify to qualify for an excused absence. Notice to employee's supervisor should be made in advance of appearing in court. An employee's excused absence from work shall be on an unpaid basis, unless the employee's witness activity is work related and the witness activity is requested by the Village. The employee shall turn over to the Village any witness fee when the employee's witness activity is work related. The employee may choose to use a vacation day, if the witness activity is not work-related.

(E) **Village Disability Leave.** To be eligible for Village Disability Leave, the employee must submit to the Village Board a medical opinion that the employee cannot work in his normal job position, and a medical opinion that the employee may possibly be able to return to work within the next **six (6) months**. Employees are not eligible for disability benefits until they have been employed at least **one (1) year**. Employees may be required to use their accrued sick or vacation time to continue regular wages.

Employees shall submit a letter requesting disability leave to their Superintendent within a reasonable amount of time before disability leave is taken. Upon return to work, employees shall submit a release statement from their physician to the Superintendent. If the Superintendent has reason to believe that the employee is unable to perform the normal duties or the employee is able to perform duties and is still absent, they may seek and rely upon the decision of an impartial physician. The Village Board shall select a physician who is not a Village employee to act as an impartial physician.

(F) **Educational Leave.** The Village Board may grant an employee an educational leave of absence for the purpose of engaging in a training course. No educational leave may be granted unless in the judgment of the Village Board the training course would benefit the Village by improving the employee's qualifications to perform the duties of the employee's position or by qualifying the employee for advancement in rank or grade to another position in the Village service. Employee shall receive his regular pay during an education leave of absence for training courses when so authorized by the Village Board.

Employees may request an educational leave without pay to seek further professional training in specialty fields. Such leave may be up to **ten (10) months** in duration and requires the approval of the Village Board. An employee on education leave without pay does not accrue vacation or sick leave credit for the period of leave. When ready to return to work, the employee will be offered the first available full-time position at the same job level the employee held prior to departing on educational leave without pay.

(G) **Family and Medical Leave Act.** An employee is eligible for a leave of absence through the Family and Medical Leave Act of 1993. In order to be eligible for leave, an employee must have worked for the employer at least **twelve (12) months** and must have worked at least **one thousand two hundred fifty (1,250) hours** over the previous **twelve (12) months** prior to the leave. Eligible female and male employees are allowed up to **twelve (12) weeks** of leave per **twelve (12) month period** following the birth of a child, the placement of a child for adoption or foster care, or the serious health condition of the employee or an immediate family member (defined for purposes of this Family and Medical Leave Act situation as including the employee's child, spouse or parent). The leave for birth or placement must take place within **twelve (12) months** of the birth or placement of the child.

The employee's leave shall be unpaid. The employee may, upon approval of the Village Board, use accumulated sick leave and/or vacation leave. During the leave, the Village shall continue to provide coverage under its group health plan. Following return upon leave, the employee shall be returned to a position with equivalent pay, benefits and other terms and conditions of employment.

In order to utilize leave of absence pursuant to the Family Medical Leave Act, the employee should give **thirty (30) day** notice.

For leave based upon serious health conditions, the employer may require certification from the employee's health care provider for leave. Employer reserves the right to require a second medical opinion at the employee's own expense. The request form is found in **Appendix "D"** at the conclusion of this Chapter.

(H) **Expiration of Leave.** When an employee returns from a leave of **six (6) months** or less, the Superintendent shall return the employee to the same or similar position in the same class in which the employee was incumbent prior to commencement of such leave.

An employee's same or similar position will not be protected for reductions in force or where the position has been eliminated. Employees are subject to termination if they are absent from work for more than **six (6) months**. No employee may be absent without permission of the supervisor to which assigned. In the absence of extenuating circumstances, an employee who is absent from work for any reason and fails to notify his or her supervisor within **two (2) working days** will be considered to have resigned.

No employee on leave of absence may earn vacation, or sick leave, except when the leave was for the purpose of accepting a temporary working assignment in another office.

ARTICLE VIII - MISCELLANEOUS BENEFITS

11-8-1 **INSURANCE.** Insurance will be provided on the following basis:

(A) **Life, Medical and Dental Care Insurance.** All full-time employees are covered by a medical and dental plan funded by the Village.

All full-time employees are covered by life insurance and accidental death and dismemberment policy. A manual is provided to employees at the time of hiring which further explains the policy. The manual is obtained from the Village Clerk's Office.

The Village Clerk's Office shall be notified of a divorce or legal separation of the covered employee, and further must be notified when a child is no longer eligible as a covered dependent of the employee.

(B) **Legal Defense and Liability Insurance.** In any claim or action instituted against an employee, or former employee, where such claim or action arises out of any act or omission, made in good faith, occurring within the scope of employment of the employee, or former employee, the Village shall, upon written request of the employee or former employee, appear and defend the employee or former employee, against any such claim or action, including the process of appeal. The Village Attorney shall appear for and defend the employee. This Section excludes disciplinary proceedings or criminal proceedings.

(C) **Other Insurance Types.** All Village employees are additionally covered by the following:

- (1) Social Security legislation and salary deductions shall be made for Social Security purposes in accordance with the law.
- (2) Workers' Compensation Act, **(820 ILCS Sec. 305/1 et seq.)** Any work-related injury or illness must be reported to the employee's supervisor within **twenty-four (24) hours** of the injury or onset of illness.
- (3) Unemployment Insurance, the costs of which shall be paid by the Village.

11-8-2 **TRAINING.** For meetings and seminars, employees may be granted leave with pay to attend meetings, seminars and conventions of professional and technical organizations, when such attendance would benefit the employee's ability to perform the job, and is approved in advance by the Village Board.

For any training programs conducted after regular working hours, such training shall be voluntary unless arrangements for such training includes the granting of overtime.

All employees shall be reimbursed for mileage expenses incurred while attending assigned schools outside the County. Upon receipt of a notice to attend the training school, the employee will request the use of a departmental vehicle to transport those attending to and from school. If a departmental vehicle is not available, reimbursement shall be made for the employee's use of their personal vehicle. When **two (2)** or more persons attend the same school at the same time the Superintendent may require that only **one (1) person** will be eligible to receive reimbursement for travel. The rate of reimbursement shall be established by the Village Board.

11-8-3 **DEATH BENEFITS.** Each employee shall fill out a designation of beneficiary form. Upon the death of an employee, the designated beneficiary shall be entitled to

receive from the appropriation for personal services theretofore available for payment of the employee's compensation, such sums for any accrued vacation period to which the employee was entitled to at the time of death. Such payment shall be computed by multiplying the employee's daily rate of pay by the number of days of accrued vacation at the time of death.

Upon the death of an employee, the estate shall receive any unpaid compensation, accrued overtime, or other benefits the employee would have been allowed had the employee survived.

Family members of deceased employees should contact the Village Clerk's Office for explanation of any further benefits the family members or the estate of the deceased employee may be entitled to.

11-8-4 TRAVEL. Staff vehicles are to be used only for activities directly related to the conduct of business. Under no circumstances are the vehicles to be used for personal activities. Reimbursement is provided for the use of employee's private vehicles for official business at the rate designated by the State of Illinois for actual mileage traveled. Private vehicles will only be used when Department vehicles are not available and prior approval is given by the Mayor. Use of staff vehicles are restricted to employees who have a valid drivers' license with current liability insurance. Employees are not permitted to use Village vehicles without the knowledge of their supervisor or Superintendent. All employees using staff or private vehicles must record mileage on the expense log along with the destination and purpose of the trip. The log is to be returned with the vehicle's keys. Expense claims for private vehicle usage will be honored only if the listed trip is initialed by the immediate supervisor. Any malfunctions or damages must be reported to the immediate supervisor. Travel in any vehicle will always be by the most direct route unless otherwise approved by the Mayor or Superintendent.

If the most economical means of travel available is by some type of transportation other than an automobile, the mode selected shall be approved by the employee's supervisor and Mayor before departure. Travel by either airplane or train shall be by coach class.

Reimbursements for first class accommodations may be permitted only when coach class is not available.

Employees who take staff vehicles home are not considered on official business during the commute unless they must regularly perform duties during that commute.

11-8-5 REIMBURSEMENT OF OTHER EXPENSES. An employee shall be allowed reimbursement for the actual cost of meals in accordance with these rules but not to exceed the rates indicated in the reimbursement schedule. It is not necessary to submit receipts when receiving per diem. It is necessary to submit receipts when receiving reimbursement for individual meals.

For breakfast, an employee only will receive reimbursement if the employee is on travel status and leaves headquarters or residence at or before **7:00 A.M.**

For lunch, travel within **fifty (50) miles** of the Village is not reimbursed.

For dinner, an employee must be on travel status and arrive back at the headquarters or residence at or after **8:00 P.M.** For employees commencing travel after the close of business but before **6:00 P.M.**, reimbursement for dinner is allowed.

Advance per diem checks must be requested a minimum of **three (3) days** in advance. A per diem allowance is available only when overnight lodging is obtained or when the travel assignment is **eighteen (18) hours** or more. A per diem allowance provided in the

reimbursement schedule represents the maximum daily amount allowable and is given in lieu of a meal allowance. Receipts must be submitted to support allowances other than meals when on per diem.

(A) **Reimbursement Schedule.**

Automobile Mileage - State of Illinois rate (Proof of automobile liability insurance is required to obtain automobile mileage reimbursement).

Per diem allowance/IRS per diem rate for various cities, as published in the GSA Publication (with receipts, per them allowance is **\$40.00**).

Breakfast	-	20% of IRS published rate
Lunch	-	30% of IRS published rate
Dinner	-	50% of IRS published rate

If a conference fee includes a meal, the per diem allowance shall be reduced by the amount of the particular meal included in the reimbursement schedule.

In order to be reimbursed for business expenses, the employee shall submit an expense log. This log shall be signed by the employee submitting the expense claim and approved by the Mayor or Finance Committee. An expense log should be submitted to the accounts payable clerk and will be paid on the appropriate disbursement date. Liable expenses include but are not limited to meals, conference fees, hotel and motel accommodations, taxi fares, parking and toll fees. Personal expenses, such as personal phone calls, in-room movies and bars, or other entertainment will not be reimbursed. Receipts must accompany travel requests for reimbursement.

Non-reimbursable expenses include, but are not limited to, alcoholic beverages, personal entertainment, valet service, magazines and newspapers.

Gratuities shall be reimbursed to a maximum of **fifteen percent (15%)** except for those departments, programs, or projects which are prohibited by Federal or State rules or regulations from making reimbursements for gratuities.

Employees traveling overnight shall be reimbursed for **one (1) phone call** to their home phone number with a **Five Dollar (\$5.00)** limit for the call. When a delay occurs in traveling, then the employee shall be reimbursed for **one (1) additional phone call** to their home phone with a **Five Dollar (\$5.00)** limit for reimbursement.

ARTICLE IX - REGULATIONS AND RESTRICTIONS

DIVISION I - GENERAL

11-9-1 ACCIDENTS/INJURIES. Anytime an employee is involved in an automobile accident with a Village automobile or in a personal automobile while on Village business, the employee shall notify his or her Superintendent immediately with all pertinent information including whether personal injury is involved and whether any traffic citations were issued. All Superintendents shall within **twenty-four (24) hours** notify the Village Attorney if any traffic citations were issued to a Village employee and shall provide the Village Attorney with a copy of the citations. An employee is obligated to cooperate with the Village and any of the Village's legal representatives regarding the accident and any citations that may have been issued.

11-9-2 APPEARANCE. Neatness and good taste in dress, as well as care toward personal hygiene, are expected of all employees. For safety and hygienic purposes, employees may be required to comply with any appropriate dress code that is set forth by the Superintendent or Village Board during the performance of their duties.

Employees may be requested to change inappropriate dress, and work lost while doing so will not be compensated by the department. Employees may be evaluated on their dress and appearance. The Superintendent is the only individual of each department who may make exceptions to the dress code.

11-9-3 USE OF DEPARTMENT PROPERTY. All department property and equipment entrusted to any employee will be used in accordance with the property's prescribed function. All damage through recklessness, gross negligence, intentional act, deliberate misuse, or theft shall be replaced and paid for by the employee committing the violation. Such replacement of property by the employee shall not be considered the exclusive remedy against the employee, and the employee may still be subject to discipline. All department property, personal lockers, and personal offices are subject to search and seizure. All department property shall be inspected by the employee's immediate supervisor prior to issuance of the property.

No department property shall be used for private or unauthorized purposes. All employees are required to return all department property or equipment in their possession upon separation, promotion, and/or transfer.

11-9-4 TELEPHONE USAGE. Good telephone habits are an indication that the department is interested in serving the public. At all times, answer promptly and courteously. Identify yourself by name and section, be friendly and helpful. Write time and date of any message from the caller, transfer calls tactfully, give accurate information, do not keep the caller waiting and hang up carefully.

All personal telephone usage, including cellular telephones, whether incoming or outgoing, shall be kept to a minimum. Employees shall be charged and accountable for such usage. Employees shall also be responsible for the care of the cellular units to avoid

misplacement and theft. All pagers assigned to the employees shall remain "on" during working hours.

Employees shall keep incoming and outgoing personal calls to a minimum.
(See Division II for computer usage.)

11-9-5 CORRESPONDENCE AND COMMUNICATIONS. No employee shall use their official position, engage in official transactions or business to harass any individual or to secure a benefit for himself or other individuals. Courtesy should be given in all communications and correspondence, and all employees should refrain from unnecessarily criticizing any individuals or agencies concerning official transactions or business.

11-9-6 SMOKING. Smoking by Village employees shall not be allowed during working hours.

11-9-7 PHOTO I.D.'S. The Village Board may issue a photo I.D. card for employees. All employees who are issued a shield badge and/or photo I.D. are required to be in possession of the badge and/or photo I.D. on and off duty. Employees shall not use their shield or identification card for personal business or personal gain. If a shield or identification card is lost or stolen, it must be reported in writing to the Superintendent without delay.

11-9-8 SPEECH AND DISSEMINATION OF INFORMATION. Employees are encouraged to appear before civic organizations, fraternal organizations or any other group in an official capacity. Employees shall notify the Superintendent prior to accepting such speaking engagements.

Employees are cautioned against making statements or giving impressions regarding official agency policy or position without prior expressed authority being granted. Normally, the Village Board has the sole right to adopt and interpret the policies of the organization. If in doubt, it is always preferable to consult the Superintendent before making any statements that might possibly be misinterpreted or misconstrued by the general public or press.

The Superintendent shall make all news releases concerning the department.

The Village shall comply with the **Illinois Freedom of Information Act**, and employees are allowed to disseminate information pursuant to the Act. However, employees are not allowed to disclose any information that is exempted by **Illinois Freedom of Information Act** or prevented from disclosure by any other state statutes. Employees who receive Freedom of Information Act requests shall notify the Mayor, who may consult with the Municipal Attorney to ensure timely compliance. **(See Chapter 22 - Freedom of Information)**

11-9-9 RELATIONS WITH CREDITORS. The Village shall charge employees any authorized costs when making wage deduction pursuant to court order or State or Federal statutes.

11-9-10 POSSESSION OF FIRE ARMS. Unless authorized by the Chief of Police, and unless authorized by the appropriate Superintendent, no employee of any department has legal authority to carry weapons while in the performance of their official duties.

11-9-11 ETHICS. Employees shall not recommend or promote the sale of any specific brand name product or equipment.

Many employees in the course of their work have access to medical information about patients, clients, employees, or other individuals. This may be medical, legal or job related information. Such information is not to be repeated or discussed outside the department or with other personnel unless such information is a necessary part of the employee's assigned duty.

Employees shall inform the Superintendent or Mayor of any possible conflict of interest situations they may have.

Employees are prohibited from accepting gifts, gratuities, or any item of value for work performed on behalf of the Village. **(See Chapter 22 - Ethics Code)**

11-9-12 OTHER EMPLOYMENT. Employees are prohibited from having conflicting employment while having a full-time position. An employee may not be paid by another employer for the same **forty (40) hour** period employee is being paid by the department. If a full-time employee performs outside services or employment, such services or employment shall be reported to the Superintendent for prior approval, and advance notification shall be given by the employee to the Village Clerk.

Fees earned by an employee for serving as an instructor for a class during other than normal working hours which is not sponsored by the Village in another village agency, shall be dealt with as follows:

- (1) No overtime shall be earned and the fee retained, or;
- (2) Overtime shall be earned and the fee surrendered to the Village Clerk and recorded as miscellaneous income.

Employees who are injured while engaging in other employment shall notify the Superintendent and the Village Clerk.

11-9-13 PHYSICAL EXAMINATIONS. Each applicant for employment may be required to successfully complete a post-offer physical examination by a doctor of the employer's choice, including a drug screen upon the request of the Village. At any time, employees may be required to submit to a physical examination. As a condition of their employment, the employees of the department shall authorize the release of medical testing information including drug screens to the Village for departmental use only.

Each employee authorized to carry and use a gun while at work for the Village, and all employees engaging in heavy manual labor as their principal form of job activity for the Village may be required to submit to an annual physical exam and/or drug screens by a doctor of the employer's choice.

Drug screens can be conducted on a random basis for any security personnel employed by the Village, except those under police personnel contract, for any employee authorized to carry and use a gun while performing work related activities for the Village and for any

employee that is required to hold other than a Class A driver's license for work related purposes. For all other employees, drug screens shall be conducted upon probable cause.

The term "drug screens", as used throughout and disclose to the Superintendent, any drug or alcohol problem that the employee may currently have.

11-9-14 REIMBURSEMENT OF COST OF TRAINING. If an employee leaves the department's employment before the completion of **three (3) years** from the initial date of employment, that employee will be liable for all costs incurred in the employee's selection, background investigation, equipment issue and training, prorated over a **three (3) year** period. Incurred training costs will be deducted from any remaining paychecks.

11-9-15 PRESCRIPTION DRUG USE. Any employee who is taking prescription or over-the-counter drugs or medication which may impact on abilities to perform work shall report the use of the drugs or medications to the immediate supervisor, along with the name and address of any medical doctors prescribing the medication.

11-9-16 - 11-9-19 RESERVED.

DIVISION II - DRUG FREE WORKPLACE POLICY

11-9-20 DRUG FREE WORKPLACE. All employees, as a condition of employment, shall comply with the Village's Drug Free Workplace Policy that is found in this Division.

11-9-21 PURPOSE OF POLICY. Drug abuse affects all aspects of our lives - it threatens the workplace as well as the home, the school, and the community. The Village must take a firm stance against illicit drug use. The use of drugs, which term for the purposes of this policy shall include alcohol in the workplace, is unacceptable since it can adversely affect health, safety, and productivity, as well as public confidence and trust. When drug use and/or involvement interferes with an employee's efficient and safe performance of work responsibilities and/or reduces the employee's dependability and accountability, it creates a problem for the whole organization.

Drug abuse inflicts notable human expense. Personal tragedies, feelings of anxiety and depression, and diminishing coping skills are reflected on an individual level. Dysfunctional and strained relationships mark the heavy burden felt by the families of the drug and alcohol abuser.

The cost of drug abuse, both on a personal and organizational level, is unacceptable. The rising incidence in substance abuse makes it imperative that the Village combat this issue by implementing a zero tolerance policy of drug use in the workplace.

11-9-22 DRUG FREE WORKPLACE STATEMENT. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance, including cannabis, is prohibited in the workplace. Controlled substance means a controlled substance as defined in the Illinois Controlled Substances Act or cannabis as defined in the Cannabis Control Act. Disciplinary action, up to and including dismissal can be taken against employees for drug violations.

All employees will, as a condition of employment:

(A) Agree not to manufacture, distribute, dispense, or possess controlled substances or alcohol in the workplace.

(B) Notify their respective Superintendent of any arrest or conviction of any local, state or federal criminal drug statute no later than **twenty-four (24) hours** after such arrest or conviction.

(C) Abide by the conditions set forth in this statement.

11-9-23 VIOLATIONS.

(A) Employees are subject to discipline, including discharge for violation of the above policy.

(B) Require the satisfactory participation and completion of a State licensed drug rehabilitation program, as sanctioned by the employer.

(C) The Village shall notify the appropriate State Agency from which grant funds were received of the employee's conviction within **ten (10) days** after receiving notice from an employee of any criminal drug statute conviction for a violation in the workplace.

11-9-24 EMPLOYEE ASSISTANCE. A referral network to assist those who may be experiencing problems with drugs and/or alcohol will be established for all Village employees.

11-9-25 STATUS OF EMPLOYMENT; REHAB COSTS. There is no requirement by the employer to keep an employee on active employment status who is receiving rehabilitative treatment if it is determined that the employee's current use of drugs prevents the individual from performing work related duties or whose continuance on active status could constitute a threat to the property and/or safety of others. **The employee shall pay for all costs of rehabilitation.** The employee may use accumulated paid leave, and take unpaid leave pending treatment, at the discretion of the employer, and so long as the employee advised the Superintendent of use or abuse of drugs prior to occurrence of reasonable suspicion.

11-9-26 - 11-9-29 RESERVED.

DIVISION III – COMPUTER USAGE POLICY

11-9-30 COMPUTER USAGE PROCEDURE. Routinely all personnel will have access to a computer. The following procedures must be adhered to:

(A) All employees will only use the "Log-in ID", "User ID" and "Passwords" assigned to them, i.e. use of a supervisor "User ID" and "Passwords" by a line officer is prohibited unless authorized by the Administration. Use is a privilege, not a right, which may be suspended or terminated by Mayor when, in his/her judgment, this policy has been violated by the user.

No employee is authorized to share their "password" with anyone except the Supervisor assigned to overlook all passwords in the department.

(B) It is not permissible to use village computers and equipment in any inappropriate manner, such as to disgrace the department or a fellow employee. It is forbidden to use profanity or vulgar language on any department computer equipment.

(C) Only floppy disks which are requisitioned from the storerooms and the data processing department are authorized to be used in department computers. No outside floppy disks will be authorized to be used except with permission from Administration.

(D) No employee shall be allowed to do personal work at his or her village computer. This is with or without the use of any floppy disk.

(E) No employee shall be allowed to copy any village or department document to a floppy disk and use it outside the office without permission from Administration.

(F) No employee shall be allowed to have any unauthorized programs, utilities, games or files on their village PC.

(G) Any variance from the above procedures shall have prior Administration permission.

Information and data maintained in the electronic media on village computer system are protected by the same laws and policies, and are subject to the same limitations, as information and communications in other media. Said information and data are the property of the Village.

Before storing or sending confidential or personal information, users should understand that most materials on Village system are, by definition, public records. As such, they are subject to laws and policies that may compel the Village to disclose them. The privacy of the materials kept in electronic data storage and electronic mail is neither a right nor is it guaranteed.

11-9-31 - 11-9-34 RESERVED.

DIVISION IV – ELECTRONIC COMMUNICATIONS

11-9-35 POLICY; INTRODUCTION/PURPOSE. This policy is intended to serve as a guide on the proper use of the municipal electronic communication systems. This policy covers the use of all forms of electronic communications, including but not limited to e-mail, voice mail, fax machines, external bulletin boards, Intranet and the Internet, and applies to all users. Users are expected to read, understand and follow the provisions of this policy and will be held responsible for knowing its contents. Use of the electronic communication system constitutes acceptance of this policy and its requirements.

The Village provides electronic mail (e-mail) and/or Internet access to Elected Officials and Staff who need it to perform the functions of their position. The purpose of this document is to communicate to all personnel their responsibility for acceptable use of the Internet and e-mail (whether sent over the Internet or over the Village's own network). Policies and

procedures are also outlined for the disclosure and monitoring of the contents of e-mail messages stored in the system when required.

The Village's objectives for Employees to use e-mail and/or the Internet include:

- (A) exchanging information more efficiently than by telephone or written memorandum;
- (B) gathering information and performing research for departments; and
- (C) reducing the handling of paper copy.

11-9-36 POLICY DEFINITIONS. As used in this Policy, the terms listed below shall be defined as follows:

(A) **Electronic Mail (E-Mail).** Electronic mail may include non-interactive communication of text, data, image, or voice messages between a sender and designated recipient(s) by systems utilizing telecommunications links. It may also include correspondence transmitted and stored electronically using software facilities called "mail", "facsimile", "messaging" systems or voice messages transmitted and stored for later retrieval from a computer system.

(B) **Encryption Software.** Proprietary software that changes information from its native state to an unrecognizable coded state that can only be returned to its native state with special software.

(C) **Internet.** A worldwide network of networks, connecting informational networks communicating through a common communications language or "Protocol".

(D) **Intranet.** An in-house web site that serves the users of the Village. Although Intranet pages may link to the Internet, an Intranet is not a site accessed by the general public.

(E) **World Wide Web.** An Internet client-server distributed information and retrieval system based upon hypertext transfer protocol (http) that transfers hypertext documents that can contain text, graphics, audio, video, and other multimedia file types across a varied array of computer systems.

(F) **Users.** Elected Officials, Department Heads, Employees, Volunteers, Contractors and Consultants.

(G) **Firewall.** An electronic device used to protect private networks from unauthorized access from users on the Internet.

11-9-37 OWNERSHIP. The electronic communication system is the property of the Village. All computer equipment, computer hardware and computer software provided by the Village are the property of the Village. All communications and information transmitted by, received from, or stored in these systems are the property of the Village.

11-9-38 USE OF ELECTRONIC COMMUNICATIONS. The Village's electronic communications systems, including e-mail and the Internet, are intended for Village business use only. Personal uses of the Internet and e-mail systems are prohibited. The Village reserves the right to use filtering software to block access to Internet sites that are considered inappropriate or non-productive. The filtered sites shall be reviewed and approved by the Mayor.

Before using these systems, all users shall understand that any information that is created, sent, received, accessed or stored in these systems shall be the property of the Village

and shall not be private. If a User is permitted to use electronic communication systems, such use shall not violate any section of this policy or interfere with user's work performance.

Users shall use the same care and discretion when writing e-mail and other electronic communications as they would with any formal written communication. Any messages or information sent by users to other individuals via electronic communication systems, such as the Internet or e-mail, are statements identifiable and attributable to the Village. Consequently, all electronic communications sent by users shall be professional and comply with this policy.

11-9-39 PROHIBITED COMMUNICATIONS. Under no circumstances may any user operate the Village's electronic communications systems for creating, possessing, uploading, downloading, accessing, transmitting or distributing material that is illegal, sexually explicit, discriminatory, defamatory or interferes with the productivity of coworkers. Specifically prohibited communications include, but are not limited to, communications that promote or transact the following: illegal activities; outside business interests; malicious use; personal activities (including chat rooms); jokes; political causes; football pools or other sorts of gambling; recreational games; the creation or distribution of chain letters; list servers for non-work purposes; "spams" (mailing to a large number of people that contain unwanted solicitations or information); sexual or any other form of harassment; discrimination on the basis of race, creed, color, gender, religion or disability; or for solicitations or advertisements for non-work purposes. Users may not engage in any use that violates copyright or trademark laws.

Also prohibited is any activity that could negatively impact public trust and confidence in the Village or create the appearance of impropriety.

Users are also prohibited from posting information, opinions or comments to Internet discussion groups (for example: news groups, chat, list servers or electronic bulletin boards). Under no circumstances may any user represent their own views as those of the Village.

Users may not disclose confidential or sensitive information. Personal information such as the home addresses, phone numbers, and social security numbers of Elected Officials or Employees should never be disclosed on the Internet.

11-9-40 NO PRESUMPTION OF POLICY. Although users may use passwords to access some electronic communication systems, these communications should not be considered private. Users should *always assume* that any communications, whether business-related or personal, created, sent, received or stored on the Village's electronic communication systems may be read or heard by someone other than the intended recipient.

Users should also recognize that e-mail messages deleted from the system may still be retrieved from the computer's back-up system when requested by authorized personnel. Consequently, messages that were previously deleted may be recreated, printed out, or forwarded to someone else without the user's knowledge.

11-9-41 VILLAGE'S RIGHT TO MONITOR USE. Under authorization of the Mayor, the Village may monitor, intercept, access, and disclose all information created, sent, received, or stored on its electronic communication systems at any time, with or without notice to the user. The contents of computers, voice mail, e-mail and other electronic communications will be inspected when there are allegations that there have been breaches of confidentiality,

security, or violations of this Electronic Communications Policy. These inspections will also be conducted when it is necessary to locate substantive information that is not readily available by less intrusive means. Before providing access to store electronic communications such as e-mail messages, written authorization will be required from the Mayor.

The contents of the computers, voice mail, e-mail and other electronic communications may be turned over to the appropriate authority when there are allegations that there have been violations of law.

In addition, the Village will regularly monitor and maintain a log of the user's Internet access, including the type of sites accessed, the name of the server, and the time of day that access occurs. The Mayor will have access to this log upon request. They may use this information that was obtained through monitoring as a basis for employee discipline.

The Mayor may authorize individuals for investigative purposes to engage in activities otherwise prohibited by this policy.

11-9-42 PROHIBITED ACTIVITIES. Users shall not download software programs of any kind. No software is to be installed on Village computers without the approval of the Village Board. Users may not upload, download, or otherwise transmit copyrighted, trademarked, or patented material; trade secrets; or confidential, private or proprietary information or materials. Users may not use the Village's electronic communication systems to gain unauthorized access to remote computers or other systems or to damage, alter, or disrupt such computers or systems in any way, nor may users use someone else's code or password or disclose anyone's code or password including their own. It is a violation of this policy for users to intentionally intercept, eavesdrop, record or alter another person's Internet and e-mail messages. Users may not allow unauthorized individuals to have access to or use the Village's electronic communication systems, or otherwise permit any use that would jeopardize the security of the Village's electronic communication systems. Also, users may not post an unauthorized home page or similar web site.

Users may not make unauthorized commitments or promises that might be perceived as binding the Village. Users must use their real names when sending e-mail messages or other electronic communications and may not misrepresent, obscure or in any way attempt to subvert the information necessary to identify the actual person responsible for the electronic communication. Sending an e-mail message under a fictitious or false name is a violation of this policy. Likewise, using another user's account or login ID constitutes a violation of this policy.

11-9-43 PASSWORDS. Each user will maintain a unique password. Users must keep their passwords confidential and must never leave their computers unattended when logged into the system. Passwords shall be changed whenever a password may have been compromised or revealed or when the computer security system requests a new password.

Directories of user e-mail addresses may not be made available for public access. No visitors, contractors or temporary employees may use the Village's e-mail without prior written authorization from the Mayor.

11-9-44 INTERNET USAGE. Access to the Internet from any PC connected to the Village's network is only allowed in accordance with this policy. Alternate methods of Internet access, such as using a modem to access a personal dial-up Internet account is

prohibited as it may compromise the Village's network security exposing it to potential harm from computer hackers.

Sessions on the Internet are logged automatically in exactly the same way that phone numbers are logged in the phone system. Do not use the Internet for tasks that you would not want to be logged.

Web browsers leave "footprints" providing a trail of all site visits. Do not visit any site where you would be reluctant to leave your name and work locations.

Use appropriate judgment before filling out a form included in a Web page. The form shall pass through many interconnecting computers and networks before reaching its destination. Other individuals will be able to eavesdrop on it. Personal or valuable information on the form may not remain confidential. Under no circumstances should you ever put a Social Security number on the Internet.

An Internet message sent from the Village's address constitutes a Village communication; therefore, it should be composed and structured correctly. Whenever possible, spell check messages prior to transmission, especially when sending to a non-Village address.

Sending e-mail from the Village's address can be likened to sending a letter on Village letterhead. Messages may be forwarded by the recipient to others, printed in a location where others may view the message, and/or directed to the wrong recipient. Also, computer forensic experts can often retrieve e-mail previously deleted. An ill-considered remark can return to haunt the sender later.

Be courteous and follow generally accepted standards of etiquette. Protect others' privacy and confidentiality. Consider the Village's needs before sending, filing, or destroying e-mail messages. Remove personal messages, temporary records and duplicate copies in a timely manner.

11-9-45 RECORDS RETAINED. Certain significant types of e-mail messages or their attached files may be considered records and should be retained if required by the Village's record-retention policies. Examples of messages sent by e-mail that may constitute records include:

- (A) policies and directives;
- (B) correspondence or memoranda related to official business;
- (C) work schedules and assignments;
- (D) agendas and minutes of meetings;
- (E) drafts of documents that are circulated for comment or approval;
- (F) any document that initiates, authorizes, or completes a business transaction; and
- (G) final reports or recommendations.

11-9-46 RECORDS DISPOSAL. The content and maintenance of a user's electronic mailbox are the user's responsibility. The content and maintenance of a user's disk storage area are the user's responsibility. Each user should review his/her electronic records for deletion every **thirty (30) days**.

Messages of transitory or little value that are not normally retained in record-keeping systems should be regularly deleted. Informational messages, such as meeting notices, reminders, informal notes, and telephone messages should be deleted once the administrative purpose is served. If it is necessary to retain any e-mail message for an extended period, transfer it from the e-mail system to an appropriate electronic or other filing system. With the

approval of the Mayor, the Village Clerk or one of his/her staff members designated by him/her is permitted to remove any information retained in an e-mail system for more than **thirty (30) days**.

11-9-47 ACCESSING USER E-MAIL DURING ABSENCE. During a user's absence, the Mayor may authorize the Village Clerk to access the user's e-mail messages and electronic Internet records without the consent of the user when necessary to carry out normal business functions.

11-9-48 FIREWALLS AND NETWORK PROTECTION. Firewalls and other devices to ensure the safety of the Village private network will be installed to protect all Village Electronic Communication Systems. Local governments are often targets of hackers and unauthorized intrusions because of the unique types of information stored on their systems. For this reason, the Village takes a *very cautious* approach to security regarding the Internet and e-mail. Policies to ensure the security of the system include, but are not limited to: blocking access to certain Internet sites; filtering out potentially threatening e-mail attachments; filtering out dangerous types of web pages including Java Script, and ActiveX programs. Other methods of security may be deployed as new threats are discovered.

Any attempts to bypass or disable the security features installed by the Village will be in violation of this policy and may result in disciplinary action.

11-9-49 PASSWORD PROTECTION. Users should use caution when using encryption software or password protecting their files. Password protected files cannot be retrieved without the necessary password. The Village is not responsible for any lost, damaged or inaccessible files that result from password protection.

11-9-50 VIRUSES AND TAMPERING. Any files downloaded from the Internet must be scanned with virus detection software before installation and execution. All computers designated as having access to the Internet and e-mail must have virus detection software installed on them. Users may not deliberately disable the virus protection capabilities of these systems. The intentional introduction of viruses, attempts to breach system security, or other malicious tampering with any of the Village's electronic communication systems is expressly prohibited. Users must immediately report any viruses, tampering or other system breaches to the Mayor or a designated officer.

Many viruses are transmitted through the e-mail system as attachments. Caution should be practiced prior to the accessing of any attachments to e-mail messages. Never access any unexpected attachments without verifying the source and reason for it, even if you recognize the sender of the e-mail. It is common practice for hackers to alter the source of an e-mail in an attempt to spread a virus.

11-9-51 DISCLAIMER OF LIABILITY FOR USE OF THE INTERNET. The Village is not responsible for material viewed or downloaded by users from the Internet. The

Internet provides access to a significant amount of information, some of which contains offensive, sexually explicit and inappropriate material. It is difficult to avoid contact with this material; therefore, users of the Internet do so at their own risk.

11-9-52 DUTY NOT TO WASTE ELECTRONIC COMMUNICATIONS RESOURCES. Users must not deliberately perform actions that waste electronic communication resources or unfairly monopolize resources to the exclusion of other users. This includes, but is not limited to, subscribing to list servers, mailing lists or web sites not directly related to the user's job responsibilities; spending nonproductive time on the Internet; and doing large non-work related file downloads or mass mailings. Electronic communication resources are limited and users have a duty to conserve these resources.

11-9-53 E-MAIL ADDRESSES. The Village reserves the right to keep a user's e-mail address active for a reasonable period of time following the user's departure to ensure that important business communications reach their respective department.

11-9-54 FREEDOM OF INFORMATION ACT REQUESTS. The Village will not accept Freedom of Information Act (F.O.I.A.) requests from the public via the Internet. If a citizen e-mails a F.O.I.A. request to a user, the employee should notify the citizen that these requests must be made in writing in compliance with the Freedom of Information Code. **(See Chapter 22)**

11-9-55 USE OF CREDIT CARDS ON THE INTERNET. Before making purchases on the Internet, users who are authorized to use Village credit cards must ensure that they are using a secured site. The Village recommends that users do not use their credit cards over the Internet and expressly disclaims responsibility for any loss or damages that results from credit card usage over the Internet.

11-9-56 VIOLATIONS. Violations of this policy may subject employees to disciplinary action ranging from the removal of electronic communication privileges to dismissal from employment. Village employees who observe violations of this policy are obligated to report the violations to the Mayor or Village Clerk.

11-9-57 POLICY CHANGES. The Village reserves the right to change this policy at any time with notice. Nothing in this policy is intended or should be construed as an agreement and/or a contract expressed or implied. Policy changes will be disseminated electronically or in written form within **forty-eight (48) hours** of taking effect after an ordinance has been adopted.

ARTICLE X - RIGHTS OF EMPLOYEES

11-10-1 **PERSONNEL FILE.** Employees are allowed to look at their own personnel files during normal business hours. Persons wishing to view their own file shall file a written request with the Mayor or the Village Clerk. A copy of the request shall be placed in the employee's personnel file. Nothing should be placed in an employee's personnel file nor shall anything be removed from the file without the consent of the Mayor and Village Board. Records of prior grievances and discipline action shall be maintained in the employee's personnel file. The final decision to remove items lies within the discretion of the Mayor and the Village Board.

11-10-2 **REFERENCES.** Employees or former employees have the right to obtain references or recommendations. Such references shall provide the applicable date of hire and the last date employed, and a general description of the applicable job duties. Additional comments concerning the employee or former employee's job performance dependabilities lies within the sound discretion of the Superintendent.

11-10-3 **SAFETY.** The Superintendent shall implement any safety procedures adopted by the Village, and employees shall comply with any of the safety procedures.

All employees are directed to report any hazardous conditions to their supervisor immediately.

Due to the open-office design of many department buildings, it is impossible to provide security for personal belongings left unattended. Employees are advised to keep their wallets, purses, etc. in their possession at all times. The Municipality cannot be responsible for losses due to theft.

ARTICLE XI - RIGHTS OF EMPLOYER

11-11-1 VILLAGE'S RIGHTS. The employee recognizes that the Village possesses the exclusive right to operate and direct the employees of the Village in all aspects, including, but not limited to, all rights and authority granted by law.

The employee further recognizes that this Code is not a binding contract between the Village and the employee. Nothing contained in this Code shall be construed as creating an employment agreement between the Village and its employees from time to time.

11-11-2 NEW REGULATIONS. The Village has the right to unilaterally create new employment policies and regulations not mentioned in this Code, and to change provisions of this Code without approval or consent of the employees of the Village.

11-11-3 MANAGEMENT RESPONSIBILITIES. The employer has the ultimate responsibility for proper management including but not limited to responsibilities and the right for the following:

(A) To maintain executive management and administrative control of the department and its property, facilities and staff.

(B) To hire all employees and to determine their qualifications and the conditions for their continued employment or their dismissal or demotion.

(C) To direct, supervise, promote, suspend, discipline, terminate, assign and schedule employees.

(D) To relieve employees from duties because of a lack of work or funds, or under conditions where continued work would be inefficient or nonproductive or under conditions as may be deemed necessary or advisable by the department.

(E) To determine services to be rendered, operations to be performed, utilization of technology and budgetary matters.

(F) To determine the methods, processes, means, job classifications and personnel by which the operations of the department are to be conducted.

It is recognized that the employer normally exercises most of the powers, rights, authorities, duties and responsibilities through and with the cooperation of the administrative staff.

11-11-4 LENGTH OF SERVICE. Length of service is defined as the length of continuous service of an employee since the employee's last date of hire with the Village within the employee's department. In the event an employee is transferred from or to another department of the Village, the employee's total continuous employment with the Village will be used as the basis for vacation and sick leave only.

An employee's continuous service record shall be broken by voluntary resignation or discharge. If such continuous service is broken due to curtailment of operation, said employee shall be considered on layoff.

11-11-5 EXEMPTIONS TO LABOR AGREEMENTS. All sections and subsections of this Code shall not apply to the employees governed by a collective bargaining agreement provided the subject matter in the Collective Bargaining Agreement sections are the same.

ARTICLE XII - SEXUAL HARASSMENT POLICY

11-12-1 **PURPOSE.** The purpose of this policy is to (1) more clearly define sexual harassment, and (2) more clearly state the policy of the Village regarding such behavior. Sexual harassment is illegal and is a violation of basic human rights fully recognized by the State of Illinois. Sexual harassment is a special form of illegal sex-based discrimination as determined by state and federal courts under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991 and the Illinois Human Rights Act.

11-12-2 **POLICY.** It is the responsibility of each individual employee to refrain from sexual harassment and it is the right of each individual employee to work in an environment free from sexual harassment. No employee – male or female – should be subjected to unsolicited or unwelcome overtures or conduct in the workplace. The Village will not tolerate sexual harassment in any form, nor will it tolerate false or malicious accusations of sexual harassment. The Village will remain uncompromising in its responsibility to provide a professional atmosphere free from sexual harassment of any kind. It is the responsibility of all supervisors and managers to ensure that the work environment is free from sexual harassment. All forms of discrimination and conduct which can be considered harassing or which create a hostile or offensive environment must be eliminated. Reports of sexual harassment will be investigated in a prompt and effective manner.

11-12-3 **DEFINITION OF SEXUAL HARASSMENT.** According to the Illinois Human Rights Act, Illinois Compiled Statutes, Chapter 775, Act 5, Section 2-101(E), sexual harassment is defined as:

Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature where:

- (A) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or
- (C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

An example of sexual harassment is a case where a qualified individual is denied employment opportunities and benefits that are, instead, awarded to an individual who submits (voluntarily or under coercion) to sexual advances or sexual favors. Another example is where an individual must submit to unwelcome sexual conduct in order to receive an employment opportunity. Yet another example is where a qualified individual is denied employment opportunities and benefits after rejecting the supervisors' sexual advances or request(s) for sexual favors.

Other conduct commonly considered to be sexual harassment includes but is not limited to:

- Verbal: Sexual innuendoes, suggestive comments, insults, humor and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside their presence, of a sexual nature.

- Non-verbal: Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.
- Visual: Posters, signs, pin-ups or slogans of a sexual nature.
- Physical: Touching, unwelcome hugging or kissing, pinching, brushing the body, coerced sexual intercourse, or actual assault.
- Textual/Electronic: "Sexting" (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking, and threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/online posting, blogs, instant messages, and social network websites such as Facebook and Twitter).

While the most commonly recognized forms of sexual harassment involve the type of conduct described above, non-sexual conduct can also constitute a violation of the applicable laws when that conduct is directed at the victim because of his or her gender (for example, a female employee who reports to work every day and finds her tools stolen, her work station filled with trash and her equipment disabled by her male co-workers because they resent having to work with a woman). Sexual harassment most frequently involves a man harassing a woman. However, it can also involve a woman harassing a man or harassment between members of the same gender.

The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends to some extent on individual perception and interpretation. The trend in the courts is to assess sexual harassment by a standard of what would offend a "reasonable woman" or a "reasonable man", depending on the gender of the alleged victim.

An example of the most subtle form of sexual harassment is the use of endearments. The use of terms such as "honey", "darling", and "sweetheart" is objectionable to any woman who believes that these undermine their authority and their ability to deal with men on an equal and professional level.

Another example is the use of a compliment that could potentially be interpreted as sexual in nature. Below are three statements that might be made about the appearance of a woman in the workplace.

"That's an attractive dress you have on."

"That's an attractive dress, it really looks good on you."

"That's an attractive dress. You really fill it out well."

The first statement appears to be simply a compliment. The last is the most likely to be perceived as sexual harassment, depending on the individual perceptions and values. To avoid the possibility of offending an employee, it is best to follow a course of conduct above reproach, or to err on the side of caution.

11-12-4 RESPONSIBILITY OF INDIVIDUAL EMPLOYEES. Each individual employee has the responsibility to refrain from sexual harassment in the workplace.

(A) An individual employee who sexually harasses a fellow worker is, of course, liable for his or her individual conduct.

(B) The harassing employee will be subject to disciplinary action up to and including discharge in accordance with the Village's policy or a bargaining agreement, as appropriate.

An employee who either observes or believes herself/himself to be the object of sexual harassment is responsible for reporting the incident(s) to his/her supervisor or the Mayor.

11-12-5 RESPONSIBILITY OF SUPERVISORY PERSONNEL. Each supervisor is responsible for maintaining the workplace free of sexual harassment. This is accomplished by promoting a professional environment and by dealing with sexual harassment as you would deal with other forms of employee misconduct.

(A) The courts have found that the organization as well as supervisors can be held liable for damages related to sexual harassment by a manager, supervisor, employee, or third party (an individual who is not an employee but does business with an organization, such as a contractor, customer, sales representative, or repair person).

(B) Liability is either based on an organization's responsibility to maintain a certain level of order and discipline, or on the supervisor acting as an agent of the organization. As such supervisors must act quickly and responsibly, not only to minimize their own liability but also that of the Village.

(C) Specifically, a supervisor shall address an observed incident of sexual harassment or a complaint with seriousness, take prompt action to investigate it, report it and end it, implement appropriate disciplinary action, and observe strict confidentiality. This also applies to cases where an employee tells the supervisor about behavior considered sexual harassment but does not want to make a formal complaint. The Equal Employment Opportunity (EEO) Officer will consult with the Village Attorney on the proper procedures to follow.

(D) Supervisors must report any incidents or complaints of sexual harassment to the Village's EEO Officer on the date of the alleged occurrence, or the very next business day. In addition, supervisors must ensure that no retaliation will result against an employee making a sexual harassment complaint.

11-12-6 PROCEDURES FOR FILING A COMPLAINT. An employee who either observes or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to both the supervisor and offending employee. It is not necessary for sexual harassment to be directed at the person making the complaint.

(A) The following steps may also be taken: document or record each incident (what was said or done, the date, the time, and the place, the names of witnesses, if any). Documentation can be strengthened by written records such as letters, notes, memos, and telephone messages.

No one making a complaint will be retaliated against even if the complaint made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

(B) The process for making a complaint about sexual harassment falls into several stages:

- (1) **Electronic/Direct Communication.** If there is sexually harassing behavior in the workplace, the harassed employee should directly and clearly express her/his objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- (2) **Contact with Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor or the EEO Officer.

If the harasser is the immediate supervisor, the problem should be reported to the next level of supervisor or the EEO Officer.

- (3) **Formal Written Complaint.** An employee may also report incidents of sexual harassment directly to the EEO Officer. The EEO Officer will counsel the reporting employee and be available to assist with filing a formal complaint. The EEO Officer will fully investigate the complaint and advise the complainant and the alleged harasser of the results of the investigation.
- (4) **Penalties.** Any Village employee who is determined, after an investigation, to have engaged in sexual harassment in violation of this policy shall be subject to disciplinary action up to and including discharge. At any stage of the disciplinary process, the Village retains the right to terminate an employee without utilization of previous disciplinary steps if it deems such to be an appropriate disposition. Penalties and the procedures involved therein are specifically described in Article XVII – Discipline and are incorporated herein by reference.
- (5) **False Accusations** regarding sexual misconduct shall not be tolerated, and any person knowingly making a false accusation shall likewise be subject to disciplinary action up to and including discharge, with regard to employees or volunteers.
- (6) The Village shall discipline any individual who retaliates against any person who reported alleged sexual misconduct or who retaliates against any person who testifies, assists or participates in an investigation, a proceeding or a hearing relating to a sexual misconduct complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.
- (7) **Resolution Outside the Village.** It is hoped that most sexual harassment complaints and incidents can be resolved within the Village. However, an employee has the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) about filing a formal complaint. An IDHR complaint must be filed within **one hundred eighty (180) days** of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must be filed within **three hundred (300) days**. In addition, an appeal process is available through the Illinois Human Rights Commission (IHRC) after IDHR has completed its investigation of the complaint. Where the employing entity has an effective sexual harassment policy in place and the complaining employee fails to take advantage of that policy and allow the employer an opportunity to address the problem, such an employee may, in certain cases, lose the right to further pursue the claim against the employer.

CONTACT INFORMATION

Illinois Department of Human Rights

Chicago Office

100 West Randolph Street
10th Floor
Intake Unit
Chicago, IL 60601

(312) 814-6200
(866) 740-3953 (TTY)

(312) 814-1436
(FAX – Administration)

(312) 814-6251
(FAX – Charge Processing)

Springfield Office

222 South College
Room 101A
Intake Unit
Springfield, IL 62704

(217) 785-5100
(866) 740-3953 (TTY)
(217) 785-5106 (FAX)

Marion Office

2309 West Main Street, Suite 112
Intake Unit
Marion, IL 62959

(618) 993-7463 or (886) 740-3953 (TTY)

Illinois Human Rights Commission

James R. Thompson Center

100 W. Randolph Street
Suite 5-100
Chicago, Illinois 60601

Tel: (312) 814-6269
TDD: (312) 814-4760
Fax: (312) 814-6517

William G. Stratton Office Building

Suite 802
Springfield, Illinois 62706

Tel: (217) 785-4350
TDD: (217) 557-1500
Fax: (217) 524-4877

In addition to the above, directions on how to contact the U.S. Department of Justice Office for Civil Rights (OCR) and related state and federal agencies is found on the internet. At the bottom of the page, click on the "State of Illinois" icon and under "State Required Posting", click on "Discrimination Complaint Policy" (PDF). A list of offices, their addresses and phone numbers is provided.

11-2-7 RETALIATION. Illinois law protects employees against retaliation as provided for in the Illinois Human Rights Act, **775 ILCS 5/6-101.**

(A) It is a civil rights violation for a person, or for two or more persons to conspire, to:

- (1) retaliate against a person because he or she has opposed that which he or she reasonably and in good faith believes to be unlawful discrimination, sexual harassment in employment, discrimination based on citizenship status in employment, because he or she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Illinois Human Rights Act, or because he or she has requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by the Illinois Human Rights Act; or
- (2) aid, abet, compel or coerce a person to commit any violation of the Illinois Human Rights Act, **775 ILCS 5/6-101(A) and (B)**.

(B) An employee who is suddenly transferred to a lower paying job or passed over for promotion, after filing a complaint with IDHR or EEOC, may file a retaliation charge, also due within **one hundred eighty (180) days** (IDHR) or **three hundred (300) days** (EEOC) of the alleged retaliation.

(C) An employee who has been physically harassed or threatened while on the job may also have grounds for criminal charges, including but not limited to, assault and battery.

11-12-8 TRAINING. The EEO Officer is responsible for ensuring that supervisors and staff are trained and made aware of the full range of practices that might constitute sexual harassment.

11-12-9 FALSE AND FRIVOLOUS COMPLAINTS. False and frivolous charges refer to cases where the accuser is using a sexual harassment complaint to accomplish some end other than stopping sexual harassment. It does not refer to charges made in good faith which cannot be proven. Given the seriousness for the accused, a false and frivolous charge is a severe offense that can itself result in disciplinary action.

ARTICLE XIII - SEXUAL MISCONDUCT POLICY

11-13-1 SEXUAL MISCONDUCT POLICY STATEMENT. The Village will not tolerate and will seek to eradicate any behavior by its employees, volunteers or students which constitutes sexual misconduct toward another employee, volunteer or student. "Sexual misconduct" means any actual, attempted or alleged sexual molestation, assault, abuse, sexual exploitation or sexual injury. "Sexual misconduct" does not include "sexual harassment".

11-13-2 REPORTING PROCEDURES AND DESIGNATED SEXUAL ABUSE COORDINATOR. It is the express policy of the Village to encourage victims of sexual misconduct, and their parents or guardians in the case of minors, to come forward with such claims. The Village shall designate a Sexual Abuse Coordinator, who hereinafter shall be referred to as "Coordinator", who shall remain accountable for the implementation and monitoring of this policy. The identity of the Sexual Abuse Coordinator shall remain on file with the Village. In order to conduct an immediate investigation, any incident of sexual misconduct shall be reported as quickly as possible in confidence, as follows:

(A) **Employees and Volunteers.** Employees and volunteers are required to report any known or suspected incidents of sexual misconduct. They must also report to their supervisor or the Coordinator. If the person to whom an employee or volunteer is directed to report is the offending person, the report should be made to the next higher level of administration or supervision.

(B) **Investigation and Confidentiality.** All formal complaints will be given a full impartial and timely investigation. During such investigation, while every effort will be made to protect the privacy rights of all parties' confidentiality cannot be guaranteed.

(C) **Discipline.** Any Village employee or volunteer who is determined, after an investigation, to have engaged in sexual misconduct in violation of this policy will be subject to disciplinary action up to and including discharge.

False accusations regarding sexual misconduct will not be tolerated, and any person knowingly making a false accusation shall likewise be subject to disciplinary action up to and including discharge, with regard to employees or volunteers.

The Village shall discipline any individual who retaliates against any person who reports alleged sexual misconduct or who retaliates against any person who testifies, assists or participates in an investigation, a proceeding or a hearing relating to a sexual misconduct complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

11-13-3 CHILD ABUSE. Sexual abuse of a minor is a crime.

(A) **Child Abuse Incident Reporting and Follow-Up.** Any case of known or suspected child abuse of a minor must be reported immediately in compliance with Illinois mandatory reporting guidelines and to the Coordinator and the Village Attorney's Office.

In the event that the Coordinator is first notified of an incident of known or suspected child abuse, the Coordinator shall immediately notify the child's parent or legal guardian as the case be, and the appropriate legal authorities as required by state or local law. The Coordinator shall prepare a Suspected Child Abuse Standard Report and immediately follow-up to investigate the incident and to ascertain the condition of the child. The Coordinator shall communicate any questions or concerns about any incident with the State's Attorney.

Any employee or volunteer involved in a reported incident of sexual misconduct or child abuse shall be immediately relieved of responsibilities that involve interaction with minors or shall be suspended, as determined by the employee's supervisor. Reinstatement of employees or volunteers involved in a reported incident of child abuse shall occur only after all allegations of child abuse have been cleared by the County.

(B) **Maintenance of Records and Documents.** The Coordinator shall maintain all records and documentation required by law or otherwise required by this and other such related policies of the Village including all documents related to procedures for hiring-screening, employee/volunteer code of conduct, training, sign-in/sign-out, pick-up and release procedures, incident reporting follow-up and disciplinary action.

ARTICLE XIV – SOCIAL MEDIA POLICY

11-14-1 **MISSION STATEMENT.** It shall be the mission of the Village to ensure its employees maintain professional conduct in their on and off work lives. This shall include the image an employee portrays of themselves on the internet and computer related media.

11-14-2 **PURPOSE.** The purpose of this policy is to outline the expectations of employees with respect to their use of social media and social networking and the direct effect such use has upon the reputation and perception of the Village.

11-14-3 **POLICY.** Employees shall not use any form of social media or social networking, including but limited to: Facebook, Twitter, MySpace, LinkedIn, Tumblr, YouTube, Google+, Pinterest, Instagram, Foursquare, The Squad Room, usenet groups, online forums, message boards or bulletin boards, blogs, and other similarly developed formats, in any way so as to tarnish the Village’s reputation. Employees of the Village are embodiments of our mission. It is vital that each employee accept their role as ambassadors of the department, striving to maintain public trust and confidence, in not only their professional actions but also in their personal and online actions. Any online activity that has the effect of diminishing the public’s trust and/or confidence in the Village will hinder the efforts of the Village to fulfill its mission. Any online actions taken that detract from the mission of the Village, or reflects negatively on the position of the Village will be viewed as a direct violation of this policy. For police officers: by virtue of the position of peace officer, they are held to a higher standard than general members of the public and their online activities should reflect such professional expectations and standards.

11-14-4 **RULES AND REGULATIONS.**

(A) Employees are prohibited from using Village computers or cell phones/devices for any unauthorized purpose, including the participating in social media or social networking.

(B) Employees are prohibited from using any social media or social networking platform while at work. Police officers may seek permission from the Mayor to use social media or networking for investigative or for public information purposes.

(C) Unless granted explicit permission, employees including police officers of the Village are prohibited from posting any of the following in any social networking platform, either on their own sites, the sites of others known to them, the sites of others unknown to them, news media pages, or other information exchange forums:

- (1) Any text, photograph, audio, video, or any other multimedia file related to any investigation of the police department, both current and past.
- (2) Any text, photograph, audio, video, or any other multimedia file related to any past or current action of the Village police department, either in homage or critique.
- (3) Any text, photograph, audio, video, or any other multimedia file that is related to any Village department business or event.

(D) Employees who choose to maintain or participate in social media or social networking platforms while off work shall conduct themselves professionally and in such a manner that will not reflect negatively upon the Village or its mission. In the course of operating or participating in such venues, the following rules shall apply:

- (1) Employees will be held responsible for the content that appears on their maintained social media or social networking sites and will be obligated to remove any posting or material contributed by others that reflects negatively upon the Village.
- (2) Sexually graphic or explicit material, of any kind, shall not be posted by the employee on any form of social media or social networking sites.
- (3) Sexually graphic or explicit material posted by others to the employee's social media or social networking sites shall be immediately removed.
- (4) Weaponry, owned by the Village, shall not be displayed or referenced to, in any multimedia format, on social media or social networking sites.
- (5) Weaponry, privately owned by any police officer, shall not be displayed or referenced to, in any multimedia format, on social media or social networking sites if such displays or depictions promote a disparaging image to the Village.
- (6) Any text, photograph, audio, video, or any other multimedia file included on a social media or social networking site that infers, implies, states, opines or otherwise expresses the employee's views on the public shall not be detrimental to the Village's mission now shall it, in any way, undermine the public's trust or confidence of the Village departments.
- (7) Any text, photograph, audio, video, or any other multimedia file included on a social media or social networking site that infers, implies, states, opines or otherwise expresses the employee's views on the legal, judicial or criminal systems shall not, in any way, undermine the public's trust and confidence of the Village departments.
- (8) Any posting that detracts from the Village department's mission will be considered a direct violation of this policy.

(E) Employees who are brought under administrative or internal investigation related to their performance, functionality or duties may be ordered to provide the Village, or its designated investigator, with access to the social media and social networking platforms in which they participate or maintain.

(F) Employees who are brought under administrative or internal investigation related to the Village's operation, productivity, efficiency, morale or reputation, may be ordered to provide the Village, or its designated investigator, with access to the social media and social networking platforms in which they participate or maintain.

(G) If requested, any employee shall complete an affidavit attesting to all the social media and social networking platforms in which they mail or participate.

(H) Any candidate seeking employment with the Village shall complete an affidavit attesting to all the social media and social networking platforms in which they maintain or participate.

ARTICLE XV – ANTI-BULLYING POLICY

11-15-1 APPLICATION OF POLICY. The Village finds a safe work environment is beneficial for employees and promotes productivity. Workplace bullying has been linked to absenteeism, drug and alcohol use, and sexual violence. The Village considers workplace bullying unacceptable and will not tolerate it. The anti-bullying policy shall apply to all individuals who are employees, volunteers and contractors. For purposes of this policy:

- (A) **"Employee"** is defined as an individual working for the Village for remuneration;
- (B) **"Volunteer"** is defined as an individual who volunteers services to the Village without remuneration;
- (C) **"Contractor"** is defined as an individual who contracts with the Village to provide services, or an individual who works for a contractor of the Village.

11-15-2 DEFINITION. Bullying is defined as any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a person that has or can be reasonably predicted to have the effect of one or more of the following:

- (A) placing the person in reasonable fear of harm to the person or the person's property;
- (B) causing a substantially detrimental effect on the person's physical or mental health;
- (C) substantially interfering with the person's productivity; or
- (D) substantially interfering with the person's ability to participate in or benefit from the opportunities offered by the employer.

Bullying may be intentional or unintentional. The Village considers the following types of behavior illustrative examples of bullying: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying.

11-15-3 BULLYING PROHIBITED. Bullying on the basis of actual or perceived race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, sexual orientation, gender-related identity or expression, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, and any other distinguishing characteristic is prohibited in all places of employment, and an employer shall prevent bullying in its place of employment.

- (A) No person shall be subjected to bullying:
 - (1) during any period of employment activity;
 - (2) while working, on property of the employer, or at employer-sponsored or employer-sanctioned events or activities; or
 - (3) through the transmission of information from an employment utilized telephone, computer, computer network, or other similar electronic employer-utilized equipment.

(B) Nothing in this policy is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment of the United States Constitution.

11-15-4 DISCIPLINARY ACTION. Any employee or volunteer who is determined, after an investigation, to have engaged in bullying in violation of this policy shall be subject to disciplinary action up to and including immediate discharge. Any contractor found to be in violation of this policy may be subject to contract cancellation.

(A) **False Accusations.** False accusations regarding bullying against employees, volunteers, contractors, or elected officials shall not be tolerated, and any person knowingly making a false accusation shall be subject to disciplinary action up to and including immediate discharge.

(B) **Retaliation for Reporting Bullying.** The Village shall discipline any employee or volunteer who retaliates against any person who reports who reports alleged bullying, or who retaliates against any person who testifies, assists or participates in an investigation, a proceeding or a hearing relating to bullying complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment. Contractors are likewise prohibited from retaliating.

11-15-5 REPORTING AND COMPLAINT PROCEDURE. The Village encourages all employees, volunteers or contractors to promptly report any instance of bullying behavior. Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of bullying. Therefore, while no fixed reporting period has been established, prompt reporting of complaints or concerns is encouraged so that rapid and constructive action can be taken. The Village shall make every effort to stop alleged workplace bullying before it becomes severe or pervasive, but can only do so with the cooperation of its employees.

Reports of bullying will be treated seriously, and investigated promptly and impartially. The Village further encourages all individuals to whom this policy applies to formally report any concerns of assault, battery, or other bullying behavior of a criminal nature to the Village Attorney's office. The Village Board requires any supervisor who witnesses bullying, irrespective of reporting relationship or his/her responsibility to address it, to promptly report this conduct to the Police Chief or the Mayor.

Individuals who believe they have experienced conduct that they believe violates this policy, or who have concerns about such matter, should report their complaints or concerns verbally or in writing to his or her supervisor, or the Village Attorney, before the conduct becomes severe or pervasive. If a verbal report is made, it shall be documented in writing by the official to whom it is reported. Individuals should not feel obligated to report their complaints to their immediate supervisor first before bringing the matter to the attention of one of the other designated Village representatives identified above.

The availability of this complaint procedure does not preclude individuals who believe they are being subjected to bullying conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that such behavior immediately stop.

ARTICLE XVI – DOMESTIC AND SEXUAL VIOLENCE POLICY

11-16-1 **PURPOSE OF POLICY.** Domestic violence can permeate the lives and compromise the safety of employees with tragic, destructive and often fatal results. Domestic violence occurs within a wide spectrum of relationships, including married and formerly married couples, couples with children in common, couples who live together or have lived together, gay, lesbian, bisexual and transgender couples, and couples who are dating or who have dated in the past. Domestic violence represents a pattern of coercive tactics which can include physical, psychological, sexual, economic and emotional abuse perpetrated by one person against another in an intimate relationship or in the same household, with the goal of establishing and maintaining power and control over the victim. In addition to exacting a tremendous toll from the individuals it directly affects, domestic violence often spills over into the workplace, compromising the safety of both victims and co-workers and resulting in lost productivity, increased health care costs, increased absenteeism, and increased employee turnover. The Village will take appropriate actions to promote safety in the workplace and respond effectively to the needs of victims of domestic violence.

11-16-2 **DEFINITION.** For purposes of this policy and pursuant to the Illinois Victims' Economic Security and Safety Act (VESSA), the following terms are defined as follows:

(A) **"Abuser":** A person who perpetrates a pattern of coercive tactics which can include physical, psychological, sexual, economic, and emotional abuse against an adult intimate partner, with the goal of establishing and maintaining power and control over the victim.

(B) **"Domestic Violence":** Domestic violence means abuse by a family or household member, as defined by this policy pursuant to Section 103 of the Illinois Domestic Violence Act of 1986. Domestic violence includes sexual assault or stalking.

(C) **"Employee":** A person working for the Village for remuneration for services.

(D) **"Family or Household Member":** For employees with a family or household member who is a victim of domestic or sexual violence, this means spouse, parent, son, daughter, other person related by blood or by present or prior marriage, another person who shares a relationship through a son or daughter, and persons jointly residing in the same household.

(E) **"Parent"** means biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter as defined herein.

(F) **"Son or Daughter"** means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under **eighteen (18) years** of age, or is **eighteen (18) years** of age or older and incapable of self-care because of a mental or physical disability.

11-16-3 **VICTIMS' ECONOMIC SECURITY AND SAFETY ACT (VESSA).** The person against whom an abuser directs coercive and/or violent acts, including an employee who is a victim of domestic or sexual violence, or an employee's family or household member who is a victim of domestic or sexual violence, and whose interests are not adverse to the employee as it related to domestic or sexual violence.

11-16-4 POLICY.

(A) **Employee Awareness.** The Village shall take reasonable actions to educate employees regarding the effects of domestic violence and methods to report such violence to authorities. It is the policy of the Village that information on domestic violence and available resources shall be available to employees through the Village Board and by this written policy, which shall be disseminated to employees.

(B) **Non-Discriminatory Policy.** Non-Discriminatory and Responsive Personnel Policies for Victimized Employees of the Village shall ensure that personnel policies and procedures do not discriminate against victims of domestic violence and are responsive to the needs of victims of domestic violence.

- (1) Illinois law prohibits employers from interfering with, restraining, or denying the exercise of any right provided under VESSA. This law requires employers, when given **forty-eight (48) hours** prior notification, to allow time off for employed victims of domestic or sexual violence and employees with a family or household member who is a victim of domestic or sexual violence, to take unpaid leave to seek medical help, legal assistance, counseling, safety planning, and other assistance without penalty from the employer for the employee or the family or household member who is a victim.
- (2) Illinois law prohibits employers from discriminating against any employee who is a victim of domestic or sexual violence or any employee who has a family or household member who is a victim of domestic or sexual violence.
- (3) An employee who is a victim of domestic or sexual violence, or has a family or household member who is a victim of domestic or sexual violence and whose interests are not adverse to the employee as it relates to domestic or sexual violence, may take unpaid leave from work to address domestic or sexual violence by:
 - (a) seeking medical attention for, or recovering from, physical or psychological injuries caused by domestic or sexual violence to the victim;
 - (b) obtaining services from a victim services organization for the victim;
 - (c) obtaining psychological or other counseling for the victim;
 - (d) participating in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the victim;
 - (e) seeking legal assistance or remedies to ensure the health and safety of the victim, including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence.
- (4) The employee shall be entitled to a total of **twelve (12) workweeks** of leave during any **twelve (12) month** period. This policy does not create a right for an employee to take an unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to, the unpaid leave time permitted by the federal Family Medical Leave Act. Leave may be taken intermittently or

on a reduced work schedule. An employee may substitute accumulated paid leave for unpaid leave; however, the paid leave will count toward the number of workweeks used for purposes of this policy. The employee shall provide at least **forty-eight (48) hours** advance notice of the employee's intention to take leave, unless providing such notice is not practicable. No action will be taken against an employee for failing to provide **forty-eight (48) hours** advance notice if the employee provides certification that leave was used for the purposes outlined in **Section 11-16-4(B)(2)** of this Section and can demonstrate that advance notice was not practicable.

- (5) During a leave taken pursuant to this policy, the Village shall maintain coverage under its group health plan for the duration of such leave at the level and under the conditions coverage would have been provided if the employee had continued in employment for the duration of such leave. If the employee fails to return from leave, however, the Village may recover any premium costs it paid for such coverage if the reason for the employee not returning is other than the continuation, recurrence, or onset of domestic or sexual violence or circumstances beyond the control of the employee. Neither seniority nor leave benefits will accrue to the employee during unpaid leave.
- (6) The Village, upon request, will assist the employee in determining the best use of his/her attendance and leave benefits when an employee needs to be absent as a result of being a victim of domestic violence. If an employee requests time off to care for and/or assist a family or household member who has been a victim of domestic violence, the employee's supervisor or the Village Board (or their designee) will evaluate the employee's request for leave for eligibility under existing law and collective bargaining agreements applicable to the employee and the attendance rules.
- (7) The Village requires certification from an employee for leave under this policy. The employee shall certify that the leave is for one of the purposes enumerated in **Section 11-16-4(B)** of this Section. Certification shall be provided to the employer within a time period set by the employer.
- (8) The Village understands that victims of domestic violence may lack the required documentation or have difficulty obtaining the required certification to justify absences without compromising their safety. Therefore, the Mayor or his designee shall consult with the employee to identify what documentation she/he might have, or be able to obtain, that will not compromise his/her safety-related needs and will satisfactorily meet the documentation requirement of the employer.
- (9) All information provided to the employer pursuant to notification and certification requirements of this policy, and the purposes for which leave may be requested pursuant to this policy, shall be retained in strictest confidence by the employer, except to the

extent that disclosure is requested or consented to in writing by the employee, or otherwise required by applicable federal or State law. Reported information shall be kept private to the greatest extent possible by Federal law, State law, and Village policy; however, information may have to be disclosed pursuant to a subpoena, Illinois Supreme Court Rules, a court of law, or where otherwise required by law. Where medical information is received by the Village from an employee who is the victim of domestic violence, such medical information shall be kept confidential.

- (10) Employees who are victims of domestic violence and who are legally separated from a covered spouse or civil-union partner, shall be allowed to make reasonable changes in benefits at any time during the calendar year, provided the change is requested within **thirty (30) days** of the separation and is in accordance with the Village policies, rules, and regulations.
- (11) The Village will not make inquiries about a job applicant's current or past domestic violence victimization, and employment decisions will not be based on any assumptions about or knowledge of such exposure.

(C) **Accountability for Employees Who are Abusers.** The Village will hold employees, individuals who volunteer services to the Village without remuneration (hereafter "volunteers"), and individuals who contract with the Village or work for contractors of the Village (hereafter "contractors"), accountable for engaging in the following behavior: (i) using Village resources to commit an act of domestic violence; (ii) committing an act of domestic violence from or at the workplace or from any other location while on official Village business; or (iii) using their job-related authority and/or Village resources in order to negatively affect victims and/or assist perpetrators in locating a victim and/or in perpetrating an act of domestic violence.

Any physical assault or threat made by an employee, volunteer, or contractor, while on Village premises, during working hours, while representing the Village, or at a Village-sponsored event, is a serious violation of this policy. This policy applies not only to acts against employees, but to acts against all other persons. Those found to have violated this policy will be subject to corrective or disciplinary action, up to and including discharge.

- (1) In cases in which the Village has found that an employee, volunteer, or contractor, has threatened, harassed, or abused an intimate partner at the workplace using Village resources such as work time, workplace telephones, facsimile machines, mail, e-mail or other means, said employee shall be subject to corrective or disciplinary action.
- (2) In cases in which the Village has verification that an employee, volunteer, or contractor is responsible for a domestic violence-related offense, or is the subject of any order of protection, including temporary, final or out-of-state order, as a result of domestic violence, and said employee, volunteer or contractor has job functions that include the authority to take actions that directly impact victims of domestic violence and/or actions that may protect abusers from appropriate consequences for their behavior, the Mayor shall determine if corrective action is warranted.

- (3) In cases in which any employee, volunteer, or contractor intentionally uses his/her job-related authority and/or intentionally uses Village resources in order to negatively impact a victim of domestic violence, assist an abuser in locating a victim, assist an abuser in perpetrating acts of domestic violence, or protect an abuser from appropriate consequences for his/her behavior, said individual may be subject to corrective or disciplinary action.

ARTICLE XVII - DISCIPLINE

11-17-1 **PROCEDURE.** The formal disciplinary process is a five step procedure, but dismissal may occur at any step in the process. Superintendents may use the Discipline Form attached as **Appendix B** for documentation purposes. Under normal circumstances, these steps are outlined in the following sections.

11-17-2 **VERBAL REPRIMAND.** A verbal reprimand informs an employee of unsatisfactory conduct, attitude or performance, and acknowledges that continued such actions will result in more severe disciplinary actions. The reprimand should be done in private, and should be documented with the date and nature of the problem and placed in the employee's personnel file.

11-17-3 **WRITTEN REPRIMAND.** A written reprimand informs an employee of unsatisfactory conduct, attitude or performance. Written reprimand is more severe than a verbal reprimand, but serves the same purpose to acknowledge further unsatisfactory conduct, attitude, or performance will result in more severe disciplinary action. A copy of the written reprimand will be sent to the employee, the Superintendent, Mayor and employee's personnel file.

11-17-4 **PROBATION.** Employee may be placed on probation by the Superintendent and/or the Mayor if the employee's performance is substandard and/or the employee's conduct and behavior are inappropriate and not condoned by management. Employee may be placed on probation not to exceed **six (6) months**. At the end of **three (3) months**, an informal evaluation of the employee's performance will be conducted. At the end of the probationary period, the employee's performance will be formally evaluated. Evaluations will determine if the employee should be retained. If the employee violates the conditions of the probation, the employee may be subject to termination. Removal from probationary status is based upon satisfactory completion of the probationary period, recommendation from the employee's immediate superintendent, and approval of the Mayor.

11-17-5 **ADMINISTRATIVE LEAVE.** An Employee may be placed on administrative leave by the Mayor with or without pay and benefits pending an investigation based on alleged violation of the municipal policies and procedures. The administrative leave may be extended for the period of time the investigation continues but no longer than **thirty (30) days**.

11-17-6 **SUSPENSION.** Suspension of an employee would be at the discretion of the Superintendent. The suspension will result in a loss of salary for the period of the suspension. Upon return to work the suspended employee will be placed on probationary status for a period not to exceed **six (6) months**. If the employee violates the conditions of the probation, the employee may be subject to termination. Removal from probationary status is based upon satisfactory completion of a probationary period, a recommendation from the

employee's immediate superintendent, and the approval the Mayor and Village Board. The period of suspension may be up to but not exceeding **thirty (30) days** off without pay in one calendar year. The suspension may include demotion, and is within the discretion of the Superintendent.

11-17-7 DISMISSAL. Dismissal shall be used as a disciplinary action of last resort at the discretion of the Mayor and the Village Board. All employees are subject to discharge by the Mayor with the advice and consent of the Village Board during any of the disciplinary steps.

11-17-8 CODE OF CONDUCT. Disciplinary action may be brought against an employee for the following, including but not limited to:

- (A) Violating any provisions of this Personnel Code.
- (B) Knowingly falsifying a report.
- (C) Being insubordinate to or showing disrespect towards superiors.
- (D) Neglecting to perform the job or performing the job inefficiently.
- (E) Engaging in any conduct unbecoming of a Village employee or that discredits the Village.
- (F) Leaving the assigned job without permission.
- (G) Absence from work without leave or permission.
- (H) Willfully destroying or damaging any property of the Village.
- (I) Taking or giving bribes.
- (J) Being under the influence of intoxicating beverages while at work.
- (K) Using, manufacturing, distributing, dispensing, or possessing any statutorily defined illegal drugs, narcotics, or controlled substances, or failing to report to the employee's Superintendent any arrest or conviction for using, manufacturing, distributing, dispensing, or possessing any statutorily defined illegal drugs, narcotics, or controlled substance.
- (L) Failure of any employee to notify their Superintendent within **five (5) days** after an arrest or conviction of a violation of any local, state, or federal criminal drug statute.
- (M) Using a Village vehicle without the knowledge of the immediate supervisor.
- (N) Improperly operating a Village vehicle or permitting an unauthorized person to operate a Village vehicle.
- (O) Excessive unexcused absence from work or tardiness.
- (P) Possession of explosives, firearms or other dangerous weapons on Village premises, unless otherwise permitted.
- (Q) Use of overtime for other than work purposes.
- (R) Failure to follow any safety rules, regulations, or manuals.
- (S) Gambling during working hours around Village premises.
- (T) Sleeping on the job.
- (U) Being discourteous to the public.
- (V) Engaging in or instigating or causing an interruption or impeding work.
- (W) Substantial misrepresentation of facts in obtaining employment with the Village.

- (X) The use or consumption of Village property for personal or private purposes, or the use of Village employees during working hours for such purposes.
- (Y) Disorderly conduct during working time or on Village premises, including fighting, interfering with work of another, or threatening or abusing any person by word or act.
- (Z) Unauthorized use of Village property such as Village owned vehicles, equipment and materials.
- (AA) Abuse of sick leave by misrepresentation of the leave request
- (BB) Violation of a written order of a Superintendent.
- (CC) Failure to pay legitimate debts, thus exposing the Village to harassment by creditors.
- (DD) Using profanity on the job.
- (EE) Releasing confidential information.
- (FF) Using or attempting to use an official position to secure special privileges, exemptions, or personal gain except as may be otherwise provided by law.
- (GG) Engaging in disreputable acts and not conducting themselves with "good moral character".
- (HH) Abuse of telephone usage.
- (II) Theft of any Village or employee property.
- (JJ) Discriminating against any person, individual, entity, co-employee, on the basis of race, color, religion, sex, national origin, age, handicap or disability, ancestry, marital status, sex harassment or any other prohibited form of discrimination under federal or state law or government contract or grantee regulations.
- (KK) Failure to perform essential functions of his/her position.
- (LL) Abusing Village computer equipment.
- (MM) Charged with misdemeanor or felony.
- (NN) Allowing drug and/or alcohol in or on machinery and/or vehicles.

11-17-9 POLITICAL ACTIVITIES. No form of discipline can occur because of any employee's political activity or political beliefs. This prohibition on discipline does not apply to individuals in policy making or confidential positions or where an overriding interest or vital importance exists which requires that an employee's political beliefs and activities conform to those of the Superintendent or the Corporate Authorities.

The Village also recognizes that false accusations can have serious affects on innocent men and women. We trust that all employees will continue to act in a responsible and professional manner to establish a pleasant working environment free of discrimination.

ARTICLE XVIII - MISCELLANEOUS

11-18-1 GRIEVANCE PROCEDURE. The purpose of a grievance procedure is to establish and maintain harmonious and cooperative working relationships between the Village and its employees, to assure equitable treatment of employees, and to provide expeditious means of resolving employee dissatisfaction over circumstances or conditions of employment.

Strict adherence to the grievance procedures and time limits is mandatory, except that the time limits may be extended for good cause.

A grievance is defined as a dispute, disagreement, complaint, or any matter concerning any terms or conditions of employment, or concerning the application of any departmental policy, or concerning any employee relationship, or work related issue.

As used in this Article, the term days shall mean working days of the employee filing the grievance.

At any step, if a written response is not provided to the grieving employee within the **ten (10) day** time frame, the grievance will be considered denied at that step, and the employee may proceed to the next step.

If any Superintendent is disciplined and/or discharged by the Mayor with the advice and consent of the Village Board, the discipline and/or discharge shall constitute the final resolution of the matter and there shall be no access in this instance to the various steps of the grievance procedure. The failure of a reappointment of a Superintendent by the Mayor shall not be interpreted to constitute discipline and/or discharge of an ongoing employment relationship with the Village.

Steps:

(A) A grieving employee shall within **five (5) days** after he learns of the circumstances or conditions which prompted the grievance, submit the grievance to the employee's Superintendent, in writing, informing such Superintendent of the grievance and the particulars concerning the same. The Superintendent shall provide a written response to the grieving employee within **ten (10) days** after receiving the grievance.

(B) If the grievance is not resolved to the employee's satisfaction, the employee may submit the grievance to the Mayor by summarizing the grievance in writing.

The grievance must be submitted to the Mayor within **five (5) days** of the decision of the Superintendent.

For all other employees, the grievance shall be before the Mayor.

(See Appendix "C" for Disability Act Procedure.)

11-18-2 LAYOFFS. In the event it becomes necessary to layoff employees for any reason, employees will be laid off based on the following criteria: Employee's knowledge, skills, and abilities in relation to positions available, lack of work, lack of funds, the employee's length of service, the employee's work record including commendations as well as disciplinary action, the employee's attitude and relations with other employee's as well as other agencies and change in duties of the department. The employee shall receive **two (2) weeks'** notice.

11-18-3 RESIGNATION. Sick leave, vacation, and retirement fund benefits cease at midnight on the date of termination. Life and health insurance will cease at the end of the month of the termination. Employees may elect to continue participation in the plan on a self-pay basis as provided by federal statutes. The employee will be paid for each day of accrued and unused vacation time. Monies accumulated in the employee's retirement account may be refundable, according to IMRF Rules. Forms required to request this refund are available from the Village Clerk's office.

APPENDIX A

**EMPLOYEE NOTIFICATION OF PERSONNEL CODE
DRUG FREE WORKPLACE POLICY, SEXUAL MISCONDUCT POLICY AND DISCLAIMER
OF EMPLOYMENT**

The Employee Code of the Village is not intended to create any employment relationship with any employees that is contractual in nature. All employees are employed at the will of the Village, and employees can be terminated at will. All employment policies of the Village are subject to change without notice and/or approval of any employee. Any and all discipline and/or discharge procedures contained in this Code are illustrative in nature, and only provide examples of the manner in which employees may be disciplined or terminated. Any and all such procedures are not meant to be the sole or exclusive way in which discipline or discharge could occur.

By signing this disclaimer, the employee understands that the employment relationship between the employee and the Village is NOT contractual in nature; that employment can be terminated at the will of the Village, that all employment policies are subject to change without notice and/or approval of the employee; and that any and all discipline and/or discharge procedures contained in the Code are merely illustrative in nature, and are not meant to be the sole or exclusive manner in which discipline and/or discharge could occur.

I have been given a copy of the Village's Employee Code, originally adopted _____
_____, 20__.

I understand that contained within the Employee Code is the Drug Free Workplace Policy. I have read and understood the Drug Free Workplace Policy, and agree to abide by its terms and conditions.

Name _____

Date _____

This form is to be retained by the Village Clerk.

APPENDIX B

EMPLOYEE CODE: DISCIPLINE FORM

Date _____

Employee Name _____

Employee's Job Position _____

Village Department _____

Superintendent _____

Type of Discipline (Check One):

- _____ Verbal Reprimand
- _____ Written Reprimand
- _____ Probation
- _____ Suspension
- _____ Dismissal

State the Section of the Employee Code violated:

Section _____ Subsection _____ Page Number _____

State any Code of Conduct violation, listing the Code of Conduct Subparagraph Number

State the facts which support the violation _____

DATE _____

Superintendent/Mayor

DATE _____

(Signature of Employee)

APPENDIX C

AMERICANS WITH DISABILITY ACT GRIEVANCE PROCEDURE

1. All complaints regarding access or alleged discrimination should be submitted in writing to the American Disabilities Act Coordinator for resolution. A record of the complaint and action taken will be maintained. A decision by the ADA Coordinator will be rendered promptly.
2. If the complaints cannot be resolved to the satisfaction of the complainant by the ADA Coordinator, then for building accessibility issues, the matter shall be turned over to the Village Board for consideration. For employment and public service issues, the matter will be forwarded to the Village Board for consideration.
3. If the complaint cannot be resolved to the complainant's satisfaction by the Village Board, the complaint will be reviewed and decided upon by the Mayor. The decision of the Mayor shall be considered final.
4. A record of action taken on each request or complaint shall be maintained as a part of the records or minutes at each level of the grievance process.
5. The individual's right to prompt and equitable resolution of the complaint shall not be impaired by his/her pursuit of other remedies, such as the filing of a complaint with the U.S. Department of Justice or any other appropriate federal agency. Furthermore, the filing of a lawsuit in state or federal district court can occur at any time. The use of this grievance procedure is not a prerequisite to the pursuit of other remedies.

APPENDIX D

REQUEST FOR FAMILY OR MEDICAL LEAVE

Request for Family or Medical Leave must be made, if practical, at least **thirty (30) days** prior to the date the requested leave is to begin.

Name _____ Date _____

Department _____ Title _____

Status Full-Time Part-Time Temporary

Hire Date: _____ Length of Service _____

I request Family or Medical Leave for one or more of the following reasons:

Because of the birth of my child and in order to care for him or her*

Expected date of birth _____ Actual date of birth _____

Leave start _____ Expected return date _____

Because of the placement of a child with me for adoption or foster care**

Leave start _____ Expected return date _____

In order to care for my spouse, child, or parent who has a serious health condition*

Leave start _____ Expected return date _____

For a serious health condition that makes me unable to perform by job*

Describe: _____

Leave start _____ Expected return date _____

* A physician's certification will be required for leave due to a serious health condition.

** Certification will be required for leave due to adoption or foster care.

[] For other reasons. Describe: _____

Leave start _____ Expected return date _____

[] Requested intermittent leave schedule (if applicable; subject to employer's approval).

Have you taken a Family or Medical Leave in the past **twelve (12) months**?

[] Yes [] No If yes, how many workdays? _____

I understand and agree to the following provisions:

I have worked for the Village of _____ at least **one (1) year** and at least **one thousand two hundred fifty (1,250) hours** in the previous **twelve (12) months**.

If I fail to return to work after the leave for reasons other than the continuation, recurrence, or onset of a serious health condition that would entitle me to Medical Leave or other circumstances beyond my control, I may be financially responsible for the medical insurance premiums the Village paid while I was on leave.

This leave will be unpaid, unless under the Village Policy, I would be eligible for sick leave or have accrued vacation or comp time; or in the case of my own disability, payment will occur under a disability program with IMRF, if I am so covered.

I may be required to exhaust my vacation, comp time, or sick leave as part of my **twelve (12) weeks** of leave.

After **twelve (12) weeks** of leave, if I do not return to work or contact my supervisor or Mayor on the date intended, it will be considered that I abandoned my job.

Employee Signature _____

Date _____

Address _____

Phone _____

LEAVE APPROVAL

For full day leave:

Superintendent/Mayor _____
Signature Date

For intermittent or reduced day leave:

Superintendent/Mayor _____
Signature Date

Notes: _____

PAYROLL INSTRUCTIONS

[] With pay from _____ to _____ Employee # _____

[] Without pay from _____ to _____

Comments: _____

PLEASE FORWARD COMPLETED REQUEST TO THE VILLAGE CLERK FOR FURTHER PROCESSING.

APPENDIX E

REQUEST FOR SPECIAL LEAVE

Request for Special Leave must be made at least **thirty (30) days** prior to the date the requested leave is to begin.

Name _____ Date _____

Department _____ Title _____

Hire Date: _____ Length of Service _____

All full-time and salary exempt employees who have completed **one (1) full year** of continuous service may request a special leave. Special leave will only be granted for personal reasons, and shall be recommended by employee's Superintendent and approved by the corporate authorities. Special leave shall be granted without pay. The period for special leave shall not exceed **six (6) months**. An extension may be granted up to a maximum of **six (6) months** for a total of **one (1) year**. In order to continue to receive medical and insurance benefits during a special leave, the employee shall contribute both the employee and the employer's share of IMRF and insurance costs.

I wish to request a Special Leave for the following reasons:

Employee Signature _____ Date _____

Address _____ Phone _____

LEAVE APPROVAL

Superintendent _____
Signature _____ Date _____

PLEASE FORWARD COMPLETED REQUEST TO THE MUNICIPAL CLERK FOR FURTHER PROCESSING.

CHAPTER 14
FLOODPLAIN AREAS

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CHAPTER 14

FLOOD PLAIN CODE

ARTICLE I – GENERALLY

14-1-1 **PURPOSE.** This Code is enacted pursuant to the police powers granted to this Village by the Illinois Municipal Code (**65 ILCS 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8, and 5/11-31-2**) in order to accomplish the following purposes:

- (A) To prevent unwise developments from increasing flood or drainage hazards to others;
- (B) To protect new buildings and major improvements to buildings from flood damage;
- (C) To promote and protect the public health, safety and general welfare of the citizens from the hazards of flooding;
- (D) To lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations;
- (E) To maintain property values and a stable tax base by minimizing the potential for creating blight areas;
- (F) To make federally subsidized flood insurance available; and
- (G) To preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

14-1-2 **DEFINITIONS.** For the purposes of this Code, the following definitions are adopted:

BASE FLOOD: The flood having a **one percent (1%)** probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in **Section 14-1-3** of this Code.

BASE FLOOD ELEVATION (BFE): The elevation in relation to mean sea level of the crest of the base flood.

BASEMENT: That portion of a building having its floor sub-grade (below ground level) on all sides.

BUILDING: A walled and roofed structure, including gas or liquid storage tank, that is principally above ground, including manufactured homes, prefabricated buildings and gas or liquid storage tanks. The term also includes recreational vehicles and travel trailers installed on a site for more than **one hundred eighty (180) days** per year.

CRITICAL FACILITY: Any facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. Damage to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk.

Examples of critical facilities where flood protection should be required include: emergency services facilities (such as fire and police stations), schools, hospitals, retirement homes and senior care facilities, major roads and bridges, critical utility sites (telephone switching stations or electrical transformers, and hazardous material storage facilities (chemicals, petrochemicals, hazardous or toxic substances).

DEVELOPMENT: Any man-made change to real estate including, but not necessarily limited to:

- (A) Demolition, construction, reconstruction, repair, placement of a building, or any structural alteration to a building;
- (B) Substantial improvement of an existing building;
- (C) Installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than **one hundred eighty (180) days** per year;
- (D) Installation of utilities, construction of roads, bridges, culverts or similar projects;
- (E) Construction or erection of levees, dams, walls, or fences;
- (F) Drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
- (G) Storage of materials including the placement of gas and liquid storage tanks, and channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include maintenance of existing buildings and facilities; resurfacing roads; or gardening, plowing, and similar practices that do not involve filling, grading, or construction of levees.

EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA: Federal Emergency Management Agency.

FLOOD: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

FLOOD FRINGE: That portion of the floodplain outside of the regulatory floodway.

FLOOD INSURANCE RATE MAP: A map prepared by the Federal Emergency Management Agency that depicts the floodplain or special flood hazard area (SFHA) within a community.

This map includes insurance rate zones and may or may not depict floodways and show base flood elevations.

FLOOD INSURANCE STUDY: An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

FLOODPLAIN AND SPECIAL FLOOD HAZARD AREA (SFHA): These two terms are synonymous. Those lands within the jurisdiction of the Village, the extraterritorial jurisdiction of the Village or that may be annexed into the Village that are subject to inundation by the base flood. The floodplains of the Village are generally identified as such on panel number(s) 0400F of the countywide Flood Insurance Rate Map of **Sangamon County** prepared by the Federal Emergency Management Agency and dated **August 2, 2007**. Floodplain also includes those areas of known flooding as identified by the community.

The floodplains of those parts of unincorporated **Sangamon 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 **Sangamon County** by the Federal Emergency Management Agency and dated **August 2, 2007**.

FLOODPROOFING: Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.

FLOODPROOFING CERTIFICATE: A form published by the Federal Emergency Management Agency that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.

FLOOD PROTECTION ELEVATION (FPE): The elevation of the base flood plus **one (1) foot** of freeboard at any given location in the floodplain.

FLOODWAY: That portion of the floodplain required to store and convey the base flood. The floodway for any floodplains of the Village shall be according to the best data available from Federal, State, or other sources.

FREEBOARD: An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, future watershed development, unknown localized conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

HISTORIC STRUCTURE: Any structure that is:

(A) Listed individually in the National Register of Historic Places or preliminary determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.

(B) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.

(C) Individually listed on the state inventory of historic places by the Illinois Historic Preservation Agency.

(D) Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.

IDNR/OWR: Illinois Department of Natural Resources/Office of Water Resources.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor. Provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of **Section 14-1-7** of this Code.

MANUFACTURED HOME: A structure transportable in **one (1)** or more sections, that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

NEW CONSTRUCTION: Structures for which the start of construction commenced or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements of such structures.

NEW MANUFACTURED HOME PARK OR SUBDIVISION: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

NFIP: National Flood Insurance Program.

RECREATIONAL VEHICLE OR TRAVEL TRAILER: A vehicle which is:

- (A) built on a single chassis;
- (B) **four hundred (400) square feet** or less in size;
- (C) designed to be self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

REPETITIVE LOSS: Flood related damages sustained by a structure on two separate occasions during a **ten (10) year** period for which the cost of repairs at the time of each such flood event on the average equals or exceeds **twenty-five percent (25%)** of the market value of the structure before the damage occurred.

SFHA: See definition of floodplain.

START OF CONSTRUCTION: Includes substantial improvement and means the date the building permit was issued. This, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement, was within **one hundred eighty (180) days** of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or placement of a manufactured home on a foundation. For a substantial

improvement, actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building.

STRUCTURE: See "Building".

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cumulative percentage of damage during the life of the building equals or exceeds **fifty percent (50%)** of the market value of the structure before the damage occurred regardless of actual repair work performed. Volunteer labor and materials must be included in this determination. The term includes "Repetitive Loss Buildings" (see definition).

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition or improvement of a structure taking place during the life of the building in which the cumulative percentage of improvements:

equals or exceeds **fifty percent (50%)** of the market value of the structure before the improvement or repair is started, or

increases the floor area by more than **twenty percent (20%)**.

Substantial Improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done.

This term does not include:

- (A) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
- (B) any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

VIOLATION: The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the required federal, state, and/or local permits and elevation certification is presumed to be in violation until such time as the documentation is provided.

14-1-3 BASE FLOOD ELEVATION. This Code's protection standard is the base flood. The best available base flood data are listed below. **Whenever a party disagrees with the best available data, the party shall finance the detailed engineering study needed to replace the existing data with better data and submit it to the Federal Emergency Management Agency and Illinois Department of Natural Resources/ Office of Water Resources for approval prior to any development of the site.**

- (A) The base flood elevation for the floodplains of applicable rivers, creeks and streams shall be as delineated on the 100-year flood profiles in the countywide Flood

Insurance Study of **Sangamon County** prepared by the Federal Emergency Management Agency in 2007.

(B) The base flood elevation for each floodplain delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the countywide Flood Insurance Rate Map of **Sangamon County, Illinois**.

(C) The base flood elevation for each of the remaining floodplains delineated as a "A Zone" on the countywide Flood Insurance Rate Map of **Sangamon County** shall be according to the best data available from federal, state or sources. Should no other data exist, an engineering study must be financed by the applicant to determine base flood elevations.

(D) The base flood elevation for the floodplains of those parts of unincorporated **Sangamon County** that are within the extraterritorial jurisdiction of the Village or that may be annexed into the Village shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of **Sangamon County** prepared by the Federal Emergency Management Agency and dated **August 2, 2007**.

14-1-4 DUTIES OF THE ZONING ADMINISTRATOR. The Zoning Administrator shall be responsible for the general administration of this Code and ensure that all development activities within the floodplains under the jurisdiction of the Village meet the requirements of this Code. Specifically, the Zoning Administrator shall:

- (A) Process development permits in accordance with **Section 14-1-5**;
- (B) Ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of **Section 14-1-6**;
- (C) Ensure that the building protection requirements for all buildings subject to **Section 14-1-7** are met and maintain a record of the "as-built" elevation of the lowest floor (including basement) or floodproof certificate;
- (D) Assure that all subdivisions and annexations meet the requirements of **Section 14-1-8**;
- (E) Ensure that water supply and waste disposal systems meet the Public Health standards of **Section 14-1-9**;
- (F) If a variance is requested, ensure that the requirements of **Section 14-1-11** are met and maintain documentation of any variances granted;
- (G) Inspect all development projects and take any and all penalty actions outlined in **Section 14-1-13** as necessary to ensure compliance with this Code;
- (H) Assure that applicants are aware of and obtain any and all other required local, state and federal permits;
- (I) Notify IDNR/OWR and any neighboring communities prior to any alteration or relocation of a watercourse;
- (J) Provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- (K) Cooperate with State and Federal floodplain management agencies to coordinate base flood data and to improve the administration of this Code;
- (L) Maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this Code;
- (M) Perform site inspections to ensure compliance with this Code and make substantial damage determinations for structures within the floodplain, and

(N) Maintain the accuracy of floodplain maps including notifying IDNR/OWR and/or submitting information to FEMA within **six (6) months** whenever a modification of the floodplain may change the base flood elevation or result in a change to the floodplain map.

14-1-5 DEVELOPMENT PERMIT. No person, firm, corporation, or governmental body not exempted by law shall commence any development in the floodplain without first obtaining a development permit from the Zoning Administrator. The Zoning Administrator shall not issue a development permit if the proposed development does not meet the requirements of this Code.

- (A) The application for development permit shall be accompanied by:
- (1) drawings of the site, drawn to scale showing property line dimensions;
 - (2) existing grade elevations and all changes in grade resulting from excavation or filling;
 - (3) the location and dimensions of all buildings and additions to buildings,
 - (4) the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of **Section 14-1-7** of this Code; and
 - (5) cost of project or improvements as estimated by a licensed engineer or architect. A signed estimate by a contractor may also meet this requirement.

(B) Upon receipt of an application for a development permit, the Zoning Administrator shall compare the elevation of the site to the base flood elevation. Any development located on land that can be shown by survey data to have been higher than the base flood elevation and which has not been filed after the date of the site's first Flood Insurance Rate Map is not in the floodplain and therefore not subject to the requirements of this Code. Conversely, any development located on land shown to be below the base flood elevation and hydraulically connected, but not shown on the current Flood Insurance Rate Map, is subject to the provisions of this Code.

The Zoning Administrator shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map identification.

The Zoning Administrator shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or permit-not-required letters that may be required for this type of activity. The Zoning Administrator shall not issue a permit unless all other federal, state, and local permits have been obtained.

14-1-6 PREVENTING INCREASED FLOOD HEIGHTS AND RESULTING DAMAGES. Within any floodway identified on the countywide Flood Insurance Rate Map, and within all other floodplains where a floodway has not been delineated, the following standards shall apply:

(A) Except as provided in **Section 14-1-6(B)**, no development shall be allowed which, acting in combination with existing and anticipated development, will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:

- (1) Bridge and culvert crossings of streams in rural areas meeting the following conditions of the Illinois Department of Natural Resources, Office of Water Resources Statewide Permit Number 2:
 - (a) the crossing will not result in an increase in water surface profile elevation in excess of **one (1) foot**, and
 - (b) the crossing will not result in an increase in water surface profile elevation in excess of **one-half (1/2) foot** at a point **one thousand (1,000) feet** upstream of the proposed structure.
 - (c) There are no buildings in the area impacted by the increases in water surface profile.
 - (d) The proposed bridge or culvert crossing will not involve straightening, enlarging, or relocating the existing channel.
 - (e) The design must be certified by a licensed professional engineer in the State of Illinois and the designs must meet the conditions of an IDNR/OWR permit.
 - (f) The design must be certified by a second licensed professional engineer.
- (2) Barge fleeting facilities meeting the conditions of IDNR/OWR Statewide Permit No. 3:
 - (a) The permit is only applicable when deadmen, pier cells, or other similar anchorage devices have been permitted by the U.S. Army Corps of Engineers.
- (3) Aerial utility crossings meeting the conditions of IDNR/OWR Statewide Permit No., 4;
 - (a) The utility line must be constructed above the existing 100-year flood elevation or attached to an existing bridge.
 - (b) A utility line attached to an existing bridge shall be constructed above the low cord elevation of the bridge.
 - (c) No supporting towers or poles shall be located in a river, lake or stream.
 - (d) Supporting towers including foundation and poles shall be designed and located so as to not cause an obstruction of flood flows by trapping debris.
 - (e) All disturbed areas shall be returned to pre-construction grades and re-vegetated.
 - (f) All Illinois Commerce Commission, National Electrical Safety Code, and federal requirements must be met.
- (4) Minor boat docks meeting the following conditions of IDNR/OWR Statewide Permit No. 5:
 - (a) The boat dock must not extend more than **fifty (50) feet** into a waterway and no more than **one-quarter (1/4)** of the width of the waterway and shall not extend beyond the navigational limited established by the IDNR and Corps of Engineers.
 - (b) The width of the boat dock shall not be more than **ten (10) feet**.
 - (c) For L-shaped or T-shaped docks, the length of that portion parallel to the shoreline must not exceed **fifty percent**

- (50%)** of the landowner's shoreline frontage nor **fifty (50) feet**.
- (d) Docks must be aligned so as not to cross the projection of property lines into the waterway or come within **ten (10) feet** of the projected property line.
 - (e) Dock posts must be marked by reflective devices.
 - (f) The boat dock must be securely anchored to prevent detachment during times of high wind or water.
 - (g) Metal drums or containers may not be used as buoyancy units unless they are filled with floatation foam. Containers which previously stored pesticides, herbicides, or any other toxic chemicals are not permissible.
 - (h) This permit does not authorize any other related construction activity such as shore protection or fill.
 - (i) Non-floating boat docks must be constructed in a manner which will minimize obstruction to flow.
 - (j) At any future date, the permittee must agree to make necessary modifications to the dock as determined by the IDNR or Corps of Engineers.
- (5) Minor, non-obstructive activities meeting the following conditions of IDNR/OWR Statewide Permit No. 6:
- (a) the following activities (not involving fill or positive change in grade) are covered by this permit:
 - (i) The construction of underground utility lines, wells, or septic tanks not crossing a lake or stream.
 - (ii) The construction of light poles, sign posts, and similar structures.
 - (iii) The construction of sidewalks, driveways, athletic fields (excluding fences), patios, and similar structures.
 - (iv) The construction of properly anchored, unwalled, open structures such as playground equipment, pavilions, and carports.
 - (v) The placement of properly anchored buildings not exceeding **seventy (70) square feet** in size, nor **ten (10) square feet** in any dimension. Only one such building on a property is authorized by this statewide permit.
 - (vi) The raising of existing buildings, provided no changes are made to the outside dimensions of the building and the placement of fill is not involved.
- (6) Outfall structures and drainage ditch outlets meeting the following conditions of IDNR/OWR Statewide Permit No. 7:
- (a) Any outfall structure, including any headwall or end-section, shall not extend riverward or lakeward of the existing adjacent natural bank slope or adjacent bank protection.

- (b) The velocity of the discharge shall not exceed the scour velocity of the channel soil, unless channel erosion would be prevented by the use of riprap or other design measures.
 - (c) Outlets from drainage ditches shall not be opened to a stream until the ditch is vegetated or otherwise stabilized to minimize stream sedimentation.
 - (d) Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.
- (7) Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit No. 8:
- (a) In all cases, the crossing shall be placed beneath the bed of the river, lake or stream and, unless the crossing is encased in concrete or entrenched in bedrock, a minimum of **three (3) feet** of cover shall be provided. The river, lake or stream bed shall be returned to its original condition.
 - (b) Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.
 - (c) Any utility crossing carrying material which may cause water pollution, as defined by the Environmental Protection Act (**415 ILCS 5**), shall be provided with shut-off valves on each side of the body of water to be crossed.
 - (d) If blasting is to be utilized in the construction of the crossing, the permittee shall notify the IDNR/OWR at least **ten (10) days** prior to the blasting date to allow monitoring of any related fish kills.
- (8) Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit No. 9:
- (a) Only the following materials may be utilized in urban areas: stone and concrete riprap, steel sheet piling, cellular blocks, fabric-formed concrete, gabion baskets, rock and wire mattresses, sand/cement filled bags, geotechnical fabric materials, natural vegetation and treated timber. Urban areas are defined as: areas of the State where residential, commercial, or industrial development currently exists or, based on land use plans or controls, is expected to occur within **ten (10) years**. (The Department should be consulted if there is a question of whether or not an area is considered urban).

- (b) In addition to the materials listed in **Section 14-1-6(A)(8)(a)**, other materials (e.g. tire revetments) may be utilized in rural areas provided all other conditions of this permit are met.
- (c) The following materials shall **not** be used in any case: auto bodies, garbage or debris, scrap lumber, metal refuse, roofing materials, asphalt or other bituminous materials, or any material which would cause water pollution as defined by the Environmental Protections Act **(415 ILCS 5)**.
- (d) The affected length of shoreline, stream bank, or channel to be protected shall not exceed, either singularly or cumulatively, **one thousand (1,000) feet**.
- (e) All material utilized shall be properly sized or anchored to resist anticipated forces of current and wave action.
- (f) Materials shall be placed in a way which would not cause erosion or the accumulation of debris on properties adjacent to or opposite the project.
- (g) Materials shall not be placed higher than the existing top of the bank.
- (h) Materials shall be placed so that the modified bank full-width and cross-sectional area of the channel will conform to or be no more restrictive than that of the natural channel upstream and downstream of the site.
For projects involving continuous placement of riprap along the bank, toe of the bank or other similar applications, in no case shall the cross-sectional area of the natural channel be reduced by more than **ten percent (10%)** nor the volume of material placed exceed **two (2) cubic yards** per lineal foot of the stream bank or shoreline. The bank may be graded to obtain a flatter slope and to lessen the quantity of material required.
- (i) If broken concrete is used, all protruding materials such as reinforcing rods shall be cut flush with the surface of the concrete and removed from the construction area.
- (j) Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of construction.
- (k) In the case of seawalls and gabion structures on lakes, the structure shall be constructed at or landward of the water line as determined by the normal pool elevation, unless:
 - (i) It is constructed in alignment with an existing seawall(s) or gabion structure(s), and
 - (ii) the volume of material placed, including the structure, would not exceed **two (2) cubic yards** per lineal foot.
- (l) Excess material excavated during the construction of the bank or shoreline protection shall be placed in accordance

- with local, state, and federal laws and rules, shall not be placed in a floodway.
- (9) Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit No. 10:
- (a) The accessory structure or building addition must comply with the requirements of the local floodplain Code.
 - (b) The principle structure to which the project is being added must have been in existence on the effective date of this permit **(July 25, 1988)**.
 - (c) The accessory structure or addition must not exceed **five hundred (500) square feet** in size and must not deflect floodwaters onto another property, and
 - (d) must not involve the placement of any fill material.
 - (e) No construction shall be undertaken in, or within **fifty (50) feet** of the bank of the stream channel.
 - (f) The accessory structure or addition must be properly anchored to prevent its movement during flood conditions.
 - (g) Only one accessory structure or addition to an existing structure shall be authorized by this permit; plans for any subsequent addition must be submitted to IDNR/OWR for review.
 - (h) Disturbances of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas shall be seeded or otherwise stabilized upon completion of construction.
- (10) Minor maintenance dredging activities meeting the following conditions of IDNR/OWR Statewide Permit No. 11:
- (a) The affected length of the stream shall not either singularly or cumulatively exceed **one thousand (1,000) feet**.
 - (b) The project shall not include the construction of any new channel; all work must be confined to the existing channel or to reestablishing flows in the natural stream channel, and
 - (c) the cross-sectional area of the dredged channel shall conform to that of the natural channel upstream and downstream of the site.
 - (d) Dredged or spoil material shall not be disposed of in a wetland and shall be either:
 - (i) removed from the floodway;
 - (ii) used to stabilize an existing bank provided no materials would be placed higher than the existing top of bank and provided the cross-sectional area of the natural channel would not be reduced by more than **ten percent (10%)**, nor the volume of material placed exceed **two (2) cubic yards** per lineal foot of streambank;

- (iii) used to fill an existing washed out or scoured floodplain area such that the average natural floodplain elevation is not increased;
 - (iv) used to stabilize and existing levee provided the height of the levee would not be increased nor its alignment changed;
 - (v) placed in a disposal site previously approved by the Department in accordance with the conditions of the approval, or
 - (vi) used for beach nourishment, provided the material meets all applicable water quality standards.
 - (e) Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be seeded or otherwise stabilized upon completion of construction.
- (11) Bridge and culvert replacement structures and bridge widening meeting the following conditions of IDNR/OWR Statewide Permit No. 12:
- (a) A licensed professional engineer shall determine and document that the existing structure has not been the cause of demonstrable flood damage. Such documentation shall include, at a minimum, confirmation that:
 - (i) No buildings or structures have been impacted by the backwater induced by the existing structure, and
 - (ii) there is no record of complaints of flood damages associated with the existing structure.
 - (b) A licensed professional engineer shall determine that the new structure will provide the same or greater effective waterway opening as the existing structure. For bridge widening projects the existing piers and the proposed pier extensions must be in line with the direction of the approaching flow upstream of the bridge.
 - (c) The project shall not include any appreciable raising of the approach roads. (This condition does not apply if all points on the approaches exist at an elevation equal to or higher than the 100-year frequency flood headwater elevation as determined by a FEMA flood insurance study completed or approved by IDNR/OWR).
 - (d) The project shall not involve the straightening, enlargement or relocation of the existing channel of the river or stream except as permitted by the Department's Statewide Permit No. 9 (Minor Shoreline, Channel and Streambank Protection Activities) or Statewide Permit No. 11 (Minor Maintenance Dredging Activities).

- (e) The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above conditions.
- (12) Temporary construction activities meeting the following conditions of IDNR/OWR Statewide Permit No. 13:
- (a) No temporary construction activity shall be commenced until the individual permittee determines that the permanent structure (if any) for which the work is being performed has received all required federal, state and local authorizations.
 - (b) The term "temporary" shall mean not more than one construction season. All temporary construction materials must be removed from the stream and floodway within **one (1) year** of their placement and the area returned to the conditions existing prior to the beginning of construction. Any desired subsequent or repetitive material placement shall not occur without the review and approval of the IDNR/OWR.
 - (c) The temporary project shall be constructed such that it will not cause erosion or damage due to increases in water surface profiles to adjacent properties. For locations where there are structures in the upstream floodplain, the temporary project shall be constructed such that all water surface profile increases, due to the temporary project, are contained within the channel banks.
 - (d) This permit does not authorize the placement or construction of any solid embankment or wall such as a dam, roadway, levee, or dike across any channel or floodway.
 - (e) No temporary structure shall be placed within any river or stream channel until a licensed professional engineer determines and documents that the temporary structure will meet the requirements of Special Condition Number 3 of this Statewide Permit. Such documentation shall include, at a minimum, confirmation that no buildings or structures will be impacted by the backwater induced by the temporary structure.
 - (f) The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above condition.
 - (g) Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of the removal of the temporary construction.
 - (h) Materials used for the project shall not cause water pollution as defined by the Environmental Protection Act **(415 ILCS 5)**.

- (13) Any development determined by IDNR/OWR to be located entirely within a flood fringe area shall be exempt from State Floodway permit requirements.
- (B) Other development activities not listed in (A) may be permitted **only** if:
 - (1) A permit has been issued for the work by IDNR/OWR (or written documentation is provided that an IDNR/OWR permit is not required); or
 - (2) Sufficient data has been provided to FEMA when necessary, and approval obtained from FEMA for a revision of the regulatory map and base flood elevation.

14-1-7 PROTECTING BUILDINGS.

(A) In addition to the damage prevention requirements of **Section 14-1-6**, all buildings to be located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the following situations:

- (1) Construction or placement of a new building or alteration or addition to an existing building valued at more than **One Thousand Dollars (\$1,000.00) or seventy (70) square feet;**
- (2) Substantial improvements or structural alterations made to an existing building that increase the floor area by more than **twenty percent (20%)** or equal or exceed the market value by **fifty percent (50%)**. Alteration shall be figured cumulatively during the life of the building. If substantially improved, the existing structure and the addition must meet the flood protection standards of this Section.
- (3) Repairs made to a substantially damaged building. These repairs shall be figured cumulatively during the life of the building. If substantially damaged the entire structure must meet the flood protection standards of this Section.
- (4) Installing a manufactured home on a new site or a new manufactured home on an existing site. (The building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage).
- (5) Installing a travel trailer or recreational vehicle on a site for more than **one hundred eighty (180) days** per year.
- (6) Repetitive loss to an existing building as defined in **Section 14-1-2.**

(B) **Residential or non-residential buildings** can meet the building protection requirements by one of the following methods:

- (1) The building may be constructed on permanent landfill in accordance with the following:
 - (a) The lowest floor (including basement) shall be at or above the flood protection elevation;
 - (b) The fill shall be placed in layers no greater than **six (6) inches** before compaction and should extend at least **ten**

- (10) feet** beyond the foundation before sloping below the flood protection elevation;
- (c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure;
 - (d) The fill shall be composed of rock or soil and not incorporated debris or refuse materials; and
 - (e) The fill shall not adversely affect the flow of surface drainage from or onto neighboring properties and when necessary stormwater management techniques such as swales or basins shall be incorporated.
- (2) The building may be elevated on solid walls in accordance with the following:
- (a) The building or improvements shall be elevated on stilts, piles, walls, crawlspace, or other foundation that is permanently open to flood waters;
 - (b) The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation;
 - (c) If walls are used, all enclosed areas below the flood protection elevation shall address hydrostatic pressures by allowing the automatic entry and exit of flood waters. Designs must either be certified by a licensed professional engineer or by having a minimum of **one (1)** permanent opening on each wall no more than **one (1) foot** above grade with a minimum of **two (2)** openings. The openings shall provide a total net area of not less than **one (1) square inch** for every **one (1) square foot** of enclosed area subject to flooding below the base flood elevation, and
 - (d) The foundation and supporting members shall be anchored, designed, and certified so as to minimize exposure to hydrodynamic forces such as current, waves, ice and floating debris;
 - (i) All structural components below the flood protection elevation shall be constructed of materials resistant to flood damage.
 - (ii) Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed.
 - (iii) The area below the flood protection elevation shall be used solely for parking or building access and not later modified or occupied as habitable space, or
 - (iv) in lieu of the above criteria, the design methods to comply with these requirements may be certified by a licensed professional engineer or architect.

- (3) The building may be constructed with a crawlspace located below the flood protection elevation provided that the following conditions are met:
- (4) The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- (5) Any enclosed area below the flood protection elevation shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit of floodwaters. A minimum of one opening on each wall having a total net area of not less than **one (1) square inch** per **one (1) square foot** of enclosed area. The openings shall be no more than **one (1) foot** above grade.
- (6) The interior grade of the crawlspace below the flood protection elevation must not be more than **two (2) feet** below the lowest adjacent exterior grade.
- (7) The interior height of the crawlspace measured from the interior grade of the crawl to the top of the foundations wall must not exceed **four (4) feet** at any point.
- (8) An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event.
- (9) Portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage, and
- (10) utility systems within the crawlspace must be elevated above the flood protection elevation.

(C) **Non-residential buildings** may be structurally dry floodproofed (in lieu of elevation) provided a licensed professional engineer or architect certifies that:

- (1) Below the floor protection elevation the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood.
- (2) The building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and the impact from debris and ice.
- (3) Floodproofing measures will be incorporated into a building design and operable without human intervention and without an outside source of electricity.
- (4) Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.

(D) **Manufactured homes or travel trailers** to be permanently installed on site shall be:

- (1) elevated to or above the flood protection elevation in accordance with **Section 14-1-7(B)**; and
- (2) anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the Rules and Regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 IL Adm. Code § 870.

(E) **Travel trailers and recreational vehicles** on site for more than **one hundred eighty (180) days** per year shall meet the elevation requirements of **Section 14-1-7(D)** unless the following conditions are met:

- (1) The vehicle must be either self-propelled or towable by a light duty truck.
- (2) The hitch must remain on the vehicle at all times.
- (3) The vehicle must not be attached to external structures such as decks and porches.
- (4) The vehicle must be designed solely for recreation, camping, travel, or seasonal use rather than as a permanent dwelling.
- (5) The vehicles largest horizontal projections must be no larger than **four hundred (400) square feet**.
- (6) The vehicle's wheels must remain on axles and inflated.
- (7) Air conditioning units must be attached to the frame so as to be safe for movement of the floodplain.
- (8) Propane tanks as well as electrical and sewage connections must be quick-disconnect and above the 100-year flood elevation.
- (9) The vehicle must be licensed and titled as a recreational vehicle or park model, and
- (10) must either:
 - (a) entirely be supported by jacks, or
 - (b) have a hitch jack permanently mounted, have the tires touching the ground and be supported by block in a manner that will allow the block to be easily removed by use of the hitch jack.

(F) **Garages, sheds or other minor accessory structures** constructed ancillary to an existing residential use may be permitted provided the following conditions are met:

- (1) The garage or shed must be non-habitable.
- (2) The garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into another use.
- (3) The garage or shed must be located outside of the floodway or have the appropriate state and/or federal permits.
- (4) The garage or shed must be on a single family lot and be accessory to an existing principle structure on the same lot.
- (5) Below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage.
- (6) All utilities, plumbing, heating, air conditioning and electrical must be elevated above the flood protection elevation.
- (7) The garage or shed must have at least one permanent opening on each wall not more than **one (1) foot** above grade with **one (1) square inch** of opening for every **one (1) square foot** of floor area.
- (8) The garage or shed must be less than **Ten Thousand Dollars (\$10,000.00)** in market value or replacement cost whichever is greater or less than **five hundred (500) square feet**.
- (9) The structure shall be anchored to resist flotation and overturning.

- (10) All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation.
- (11) The lowest floor elevation should be documented and the owner advised of the flood insurance implications.

14-1-8 SUBDIVISION REQUIREMENTS. The Village shall take into account hazards, to the extent that they are known, in all official actions related to land management use and development.

(A) New subdivisions, manufactured home parks, annexation agreements, planned unit developments, and additions to manufactured home parks and subdivisions shall meet the damage prevention and building protection standards of **Sections 14-1-6** and **14-1-7** of this Code. Any proposal for such development shall include the following data:

- (1) The base flood elevation and the boundary of the floodplain, where the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation;
- (2) The boundary of the floodway when applicable; and
- (3) A signed statement by a Registered Professional Engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (**765 ILCS 205/2**).

Streets, blocks, lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.

14-1-9 PUBLIC HEALTH AND OTHER STANDARDS.

(A) Public health standards must be met for all floodplain development. In addition to the requirements of **Sections 14-1-6** and **14-1-7**, the following standards apply:

- (1) No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation unless such materials are stored in a floodproofed and anchored storage tank and certified by a professional engineer or floodproofed building constructed according to the requirements of **Section 14-1-7** of this Code.
- (2) Public utilities and facilities such as sewer, gas and electric shall be located and constructed to minimize or eliminate flood damage.
- (3) Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
- (4) New and replacement on-site sanitary sewer lines or waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.

Manholes or other above ground openings located below the flood protection elevation shall be watertight.

- (5) Construction of new or substantially improved critical facilities shall be located outside the limits of the floodplain. Construction of new critical facilities shall be permissible within the floodplain if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor (including basement) elevated or structurally dry floodproofed to the 500-year flood frequency elevation or **three (3) feet** above the level of the 100-year flood frequency elevation whichever is greater. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities.

(B) All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

14-1-10 CARRYING CAPACITY AND NOTIFICATION. For all projects involving channel modification, fill, or stream maintenance (including levees), the flood carrying capacity of the watercourse shall be maintained.

In addition, the Village shall notify adjacent communities in writing **thirty (30) days** prior to the issuance of a permit for the alteration or relocation of the watercourse.

14-1-11 VARIANCES. Whenever the standards of this Code place undue hardship on a specific development proposal, the applicant may apply to the Village for a variance. The Zoning Board of Appeals shall review the applicant's request for a variance and shall submit its recommendation to the Village Board. The Village Board may attach such conditions to granting of a variance as it deems necessary to further the intent of this Code.

(A) No variance shall be granted unless the applicant demonstrates that all of the following conditions are met:

- (1) The development activity cannot be located outside the floodplain;
- (2) An exceptional hardship would result if the variance were not granted;
- (3) The relief requested is the minimum necessary;
- (4) There will be no additional threat to public health, safety, or creation of a nuisance;
- (5) There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities;
- (6) The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP; and
- (7) All other state and federal permits have been obtained.

(B) The Zoning Board of Appeals shall notify an applicant in writing that a variance from the requirements of the building protection standards of **Section 14-1-7** would lessen the degree of protection to a building will:

- (1) Result in increased premium rates for flood insurance up to **Twenty-Five Dollars (\$25.00)** per **One Hundred Dollars (\$100.00)** of insurance coverage;
- (2) Increase the risks to life and property; and
- (3) Require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

(C) Variances to the building protection requirements of **Section 14-1-7** of this Code which are requested in connection with reconstruction, repair, or alteration of a historic site or historic structure as defined in "Historic Structures", may be granted using criteria more permissive than the requirements of **Sections 14-1-6** and **14-1-7** of this Code subject to the conditions that:

- (1) The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure.
- (2) The repair or rehabilitation will not result in the structure being removed as a certified historic structure.

14-1-12 DISCLAIMER OF LIABILITY. The degree of protection required by this Code is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This Code does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This Code does not create liability on the part of the Village or any officer or employee thereof for any flood damage that results from reliance on this Code or any administrative decision made lawfully thereunder.

14-1-13 PENALTY. Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this Code. Upon due investigation, the Zoning Board of Appeals may determine that a violation of the minimum standards of this Code exist. The Zoning Board of Appeals shall notify the owner in writing of such violation.

- (A) If such owner fails, after **ten (10) days'** notice, to correct the violation:
- (1) The Village shall make application to the Circuit Court for an injunction requiring conformance with this Code or make such other order as the court deems necessary to secure compliance with this Code.
 - (2) Any person who violates this Code shall, upon conviction thereof, be fined not less than **Fifty Dollars (\$50.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense.
 - (3) A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues, and
 - (4) The Village shall record a notice of violation on the title of the property.

(B) The Zoning Board of Appeals shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

The Zoning Board of Appeals is authorized to issue an order requiring the suspension of the subject development. The stop-work order shall be in writing, indicate the reason for the issuance, and shall order the action, if necessary, to resolve the circumstances requiring the stop-work order. The stop-work order constitutes a suspension of the permit.

No site development permit shall be permanently suspended or revoked until a hearing is held by the Zoning Board of Appeals. Written notice of such hearing shall be served on the permittee and shall state:

- (1) The grounds for the complaint, reasons for suspension or revocation, and
- (2) the time and place of the hearing.

At such hearing the permittee shall be given an opportunity to present evidence on their behalf. At the conclusion of the hearing, the Zoning Board of Appeals shall determine whether the permit shall be suspended or revoked.

(C) Nothing herein shall prevent the Village from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

14-1-14 ABROGATION AND GREATER RESTRICTIONS. This Code repeals and replaces other Chapters adopted by the Village to fulfill the requirements of the National Flood Insurance Program. However, this Code does not repeal the original resolution or Code adopted to achieve eligibility in the Program. Nor does this Code repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this Code and other Code easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 07-06; 07-12-07)

CHAPTER 15
FRANCHISES

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CHAPTER 15

FRANCHISES

ARTICLE I – ELECTRIC FRANCHISE

15-1-1 **RURAL ELECTRIC CONVENIENCE COOPERATIVE CO.** The electric franchise granted to Rural Electric Convenience Cooperative Co., is hereby included as **Appendix "A"** by reference. **(Ord. No. 10-06; 09-09-10)**

ARTICLE II – GAS FRANCHISE

15-2-1 **AMEREN GAS FRANCHISE.** The natural gas franchise granted to Ameren Illinois is hereby included as **Appendix "B"** by reference. **(Ord. No. 15-01; 03-12-15)**

FRANCHISES

APPENDIX "A"

AN ORDINANCE GRANTING THE RIGHT, PERMISSION, AND AUTHORITY TO RURAL ELECTRIC CONVENIENCE COOPERATIVE CO., AN ILLINOIS CORPORATION, AND ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, MAINTAIN, AND OPERATE A SYSTEM FOR THE TRANSMISSION, DISTRIBUTION, AND SALE OF ELECTRIC ENERGY FOR LIGHTING, HEATING, AND POWER PURPOSES IN THOSE AREAS OF THE VILLAGE OF LOAMI, COUNTY OF SANGAMON, STATE OF ILLINOIS, WHICH HAVE BEEN ANNEXED OR WHICH MAY HEREAFTER BE ANNEXED TO SAID VILLAGE AND IN WHICH SUCH ANNEXED PREMISES RURAL ELECTRIC CONVENIENCE COOPERATIVE CO. HAS AN EXISTING LINE OR LINES OR HAS BEEN OR SHALL BE AT THE TIME OF ANNEXATION FURNISHING ELECTRIC ENERGY TO THE PREMISES AND/OR RESIDENCES OR OTHER ESTABLISHMENTS ON THE PREMISES SO ANNEXED, OR IS ENTITLED TO SEVE IN SUCH PREMISES IN ACCORDANCE WITH THE ILLINOIS ELECTRIC SUPPLIER ACT AND AMENDMENTS THERETO OR ANY APPILCABLE SERVICE AREA AGREEMENT BETWEEN RURAL ELECTRIC CONVENIENCE COOPERATIVE CO. AND ANY ELECTRIC SUPPLIER OR MUNICIPALITY.

WHEREAS, Rural Electric Convenience Cooperative Co., a corporation organized under the General Not-For-Profit Corporation Act of the State of Illinois, hereinafter also designated as "Grantee", has petitioned the VILLAGE Board of said VILLAGE of Loami, hereinafter designated Municipality, asking the right, privilege, and authority be granted it and its successors and assigns by ordinance to construct, maintain, and operate a system for the transmission, distribution, and sale of electric energy for lighting, heating, and power purposes in said area described herein of said Municipality; and

WHEREAS, the Municipality recognizes that Grantee possesses entitlements, rights, duties and obligations pursuant to the Electric Supplier Act to serve certain territory currently located or that may hereafter be located within the corporate boundaries of the Municipality as now established or as may hereafter be established and that granting the authority requested herein allows Grantee to properly fulfill such entitlements, right, duties and obligations;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND VILLAGE BOARD OF THE VILLAGE OF LOAMI, COUNTY OF SANGAMON, STATE OF ILLINOIS,

SECTION 1. That the right, permission, and authority be, and the same hereby granted to said Grantee, to construct, maintain and operate a system for the transmission, distribution, and sale of electrical energy for lighting, heating, and power purposes in those areas of the Municipality which have been heretofore annexed or which may hereafter be annexed to the Municipality and in which such annexed premises Rural Electric Convenience Cooperative Co. or its successors and assigns has an existing line or lines or has been or shall be at the time of annexation furnishing electric energy to the premises and/or residences or other establishments on the premises so annexed or is entitled to serve such premises in accordance with the Illinois Electric Supplier Act and amendments thereto or any applicable Service Area Agreement between Rural Electric Convenience Cooperative Co. and any electric supplier or municipality.

SECTION 2. The Grantee may construct, maintain, and operate all necessary poles, conductors, wires, conduits, trenches, underground cables, and apparatus necessary or convenient for such system in, upon, over, across, and under each and all of the streets, alleys, avenues, bridges, and other public places for such purposes and may, upon notification to the Municipality, trim trees or control brush and weeds where necessary in said areas in said Municipality as Grantee may from time to time determine necessary subject to the conditions and regulations hereinafter set forth. Grantee shall further have the right and privilege to re-enter from time to time for the purpose of making such additions, extensions, connections, repairs, installations, renewals, substitutions and alterations as may be necessary for proper maintenance and operation of such systems.

SECTION 3. All electrical distribution service to the extent required under various ordinances of the Municipality shall be placed underground. All electrical distribution service and all equipment placed or installed under this Ordinance shall be so placed, whether in streets, alleys, avenues, or other public places, as not to interfere unnecessarily with travel on such streets, alleys, avenues, and other public places. Wherever possible, any equipment placed or installed after the passage of this Ordinance shall be placed or installed in public alleys, rather than in public streets, or, if there be no public alleys in new additions to or subdivisions of said Municipality, such equipment shall be placed or installed in utility easement strips to be provided by the subdivider in such addition or subdivision. All such equipment shall be so located as not to injure unnecessarily any sewers, drains, pipes, conduits, or other like public improvements and said Grantee shall forthwith repair any damage caused to such improvements to the satisfaction of the official or officials of the Municipality having charge of the supervision thereof and in default thereof said Municipality may, repair such damage and charge the cost thereof to, and collect the same from said Grantee. There shall be no unnecessary obstruction of any street, alley, avenue, or public place of the Municipality by said Grantee in the construction, installation, operation, and maintenance of any equipment constructed, installed, operated, and maintained under authority granted by this Ordinance, and said Grantee shall give prior notification to the Municipality before, constructing, installing, operating and maintaining any and all such facilities and equipment and save and keep harmless the Municipality from any loss or damage to life or property occasioned by reason thereof.

SECTION 4. As consideration for the rights, privileges, and authorities granted by this Ordinance, Grantee agrees to pay annually to the Municipality the sum of **Five Hundred Dollars (\$500.00)** as a franchise fee during the term or any extended term of at least **one (1) year** or more of the Ordinance. Such franchise fee shall be payable on the annual anniversary date of the acceptance of this franchise by Grantee. The franchise fee shall be pro-rated for any period of time which is less than a year. Provided that Grantee shall charge to those member consumers of Grantee residing within the Municipality a monthly charge on each such member's monthly electric bill representing the amount of such annual franchise fee which is in excess of **Five Hundred Dollars (\$500.00)** annually and identified as the Village of Loami Franchise Fee.

SECTION 5. During the terms of this Ordinance Grantee shall make available rates for electric service for residential and commercial enterprises or business customers requiring not more than 50 kVA of transformer capacity served by Grantee within the corporate limits of the Municipality in accordance with the attached rate schedule entitled Rural Electric Convenience Cooperative Loami Municipal Rate Schedule. Such rate schedule shall be subject to such

adjustment and revisions as determined from time to time by Grantee's Board of Directors, provided that the percentage increase in such Rate Schedule, shall be no greater than the from time to time percentage increase in Grantee's Residential and Farm Service Schedule 1 Rate or comparable rate if such rate be no then in effect.

SECTION 6. All poles, conductors, conduits and equipment placed in the streets or public places in that part of the Municipality hereinbefore described shall be exempt from any special tax, assessment, license or rental charge during the term of this Ordinance.

SECTION 7. All provisions of this Ordinance which are obligatory upon and which inure to the benefit of said Grantee shall also be obligatory upon and shall inure to the benefit of Grantee's successor or assigns, and the word "Grantee" whenever used in this Ordinance shall mean and include not only Rural Electric Convenience Cooperative Co., but also its successor and assigns.

SECTION 8. Upon acceptance by Grantee of this Ordinance as hereinafter provided, this Ordinance shall become effective and the term of the ordinance shall commence and the right, privilege, and authority to operate an electric light, heat, and power system in the Municipality as hereinbefore provided shall be and remain in full force and effect for the benefit of the Grantee, its successors and assigns, for a **ten (10) year** period commencing with the effective date hereof. Upon expiration of the initial term of this Agreement, this Ordinance and its terms shall automatically be renewed with each renewal term being for **one (1) year** in duration unless canceled by either Grantee or the Municipality by providing written notice of intent to cancel at not more than **ninety (90) days** prior to the date of expiration of the initial term or any renewal term.

SECTION 9. The Municipality acknowledges that Grantee is vested in rights, permissions and authority independent of this Ordinance and neither acceptance of this Ordinance nor compliance with its provisions shall impair or waive any right, permission or authority which Grantee may possess independent of this Ordinance. Neither use by Grantee of public property or places as authorized by this Ordinance nor service rendered by Grantee in the Municipality shall be treated as use solely of the right, permission and authority provided for by this Ordinance and in no way shall indicate non-use of any permission or authority vested in the Grantee independent of this Ordinance. In the event the Municipality vacates any streets, avenues, alleys, easements, rights of way, bridges or other public places during the term of this Ordinance, Municipality agrees to reserve unto Grantee and its successors the rights, privileges and authority herein given and granted to Grantee in, upon, along, over and across each and all such vacated premises which are at the time in use by the Grantee.

SECTION 10. This Ordinance shall be in full force and effect from and after its passage, approval and acceptance by Grantee and, if necessary, its recordation. Provided that no right, privilege, or authority given or granted by this Ordinance shall become effective until acceptance of said Ordinance by Rural Electric Convenience Cooperative Co. Such acceptance shall be filed within **sixty (60) days** from the passage and approval of this Ordinance, and when so filed, shall, together with operation by the Grantee, or its successors or assigns, under the terms of said Ordinance, constitute full consideration for the rights, privilege, and authority hereby granted as provided for in Section 10 and in **35 ILCS 645/5-4**.

FRANCHISES APPENDIX "A"

SECTION 11. All ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 12. This Ordinance shall be available to the general public at the offices of the Village of Loami and if desired may be distributed in such form as deemed appropriate by the Rural Electric Convenience Cooperative Co.

(Ord. No. 10-06; 09-09-10)

SCHEDULE 1-D

LOAMI MUNICIPAL RATE

Availability

Available to consumers located in the Cooperative's service area, which is annexed into Loami – provided the Cooperative holds a valid and enforceable franchise.

Electricity shall be for all uses, including lighting, heating and power, subject to established rules and regulations of the Cooperative. Service under this schedule is limited to installations requiring not more than 50 kVA of transformer capacity. Approval of the Cooperative must be obtained prior to installation of any motor requiring starting current in excess of 260 amperes.

Type of Service

Single-phase, 60 hertz, at available voltages.

Rate

Facilities Charge:
\$22.00 per meter

Energy Charge:
First 3,000 kWh 10.33 cents per kWh
Over 3,000 kWh 8.00 cents per kWh

Facility Charge

The minimum monthly charge shall be the facilities charge in the above rate, where not more than 15 kVA of transformer capacity is required. Where service requires more than 15 kVA of transformer capacity, the minimum charge will be increased by \$1.00 for each additional kVA or fraction thereof. When the minimum charge is increased in accordance with the foregoing terms, additional kilowatt-hours will be included therein.

Temporary Service

Temporary single-phase service will be supplied in accordance with this rate schedule, except that the Consumer shall pay, in addition to the above charges, the total cost of constructing and retiring the service less the value of material returned to stock. A deposit, payable in advance, may be required for the full amount of the estimated bill for service, including the cost of construction and retirement.

Utility Taxes

Any tax levied on the Cooperative under the Illinois Public Utilities Revenue Act shall be added to the rates and minimum charges specified in this schedule. Any additional taxes that may be imposed by taxing authorities on the Consumer shall also be added to the above rates and minimum charges.

Terms of Payment

The NET BILLING CHARGES are due upon receipt of the bill by the member. Gross charges of an additional **five percent (5%)**, or **Five Dollars (\$5.00)**, whichever is greater, will be added if the current monthly bill is not paid by the "Gross Due Date".

A **one and one-half percent (1.5%)** additional charge shall be assessed each month on any unpaid balance in the event any portion of the bill is not paid within **thirty (30) days** from the date of the bill.

Local Government Fees and Adjustments

RECC will recover additional or excess costs that Local Government entities may impose on the Cooperative from time to time. These fees and adjustments shall be applicable to Members taking service under the Loami Municipal Rate.

1. Electricity Infrastructure Maintenance Fee

The Electricity Infrastructure Maintenance Fee Law is intended to create a uniform system for the imposition and collection of fees associated with the privilege of using the public right-of-way for delivery of electricity. Pursuant to **35 ILCS 645/5-5**; RECC shall, when directed by any municipality, impose an electricity infrastructure maintenance fee on members receiving service in said municipality imposing the fee, authorized by the law. Any municipality that, as of December 16, 1997, had in effect a franchise agreement with the Cooperative may impose an infrastructure maintenance fee upon the Cooperative, as compensation for granting the privilege of using public right-of-way.

The fee will be calculated pursuant to Section 5-5 of the Electricity Infrastructure Maintenance Fee Law for kwh of electricity delivered to each purchaser, based upon a 10 tier declining block structure. A municipality that imposes an Electricity Infrastructure Maintenance Fee waives its right to receive any other compensation from the Cooperative for use of public right-of-way during the time the infrastructure maintenance fee is imposed.

The fee will be separately shown on each Member's bill and designated "Infrastructure Maintenance Fee" or by a similar legend. RECC will recover the cost of the said infrastructure maintenance fee by applying the per kWh additions to the kwh of energy delivered to each Member within the corporate limits of each such municipality.

2. Excess Municipal Franchise Compensation Adjustment

The purpose of this adjustment is to recover franchise costs imposed upon RECC that or over and above the compensation normally paid by the cooperative to similar municipalities. The excess Municipal Franchise Compensation Adjustment will be recovered solely from those Members taking service from the Cooperative within the boundaries of each such municipality imposing such costs.

Franchise costs include franchise fees, paid to municipalities under franchise ordinances granted to the Cooperative. To recover excess franchise costs imposed upon the Cooperative by municipalities, RECC will increase the bills of those Members taking service from the Cooperative within the boundaries of each such municipality by the applicable adjustment.

Effective Date: January 1, 2009

APPENDIX "B"

AN ORDINANCE RENEWING AN EXISTING FRANCHISE AND GRANTING FOR A PERIOD OF 20 YEARS TO AMEREN ILLINOIS, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE FRANCHISE, RIGHT, PERMISSION AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, EXCAVATE FOR, PLACE, REMOVE, EXTEND, MAINTAIN, AND OPERATE A GAS UTILITY SYSTEM IN THE VILLAGE OF LOAMI, COUNTY OF SANGAMON, AND STATE OF ILLINOIS.

BE IT ORDAINED BY THE PRESIDENT AND THE BOARD OF TRUSTEES OF THE VILLAGE OF LOAMI, COUNTY OF SANGAMON, AND THE STATE OF ILLINOIS, AS FOLLOWS:

SECTION 1. It is the intent of the parties by this Chapter to extend for an additional term, subject to the terms and conditions here stated, the authorization to Ameren Illinois, its successors and assigns, to construct, operate and maintain a gas utility system within the Village as originally authorized by Ordinance No. 4-7-65 approved on April 6, 1965. The parties acknowledge that by so doing they are continuing an existing relationship authorizing the services of a utility for the provision of gas energy and other purposes within the Village for the benefit of its citizens and residents as well as other consumers of gas energy located within its corporate limits.

SECTION 2. There is hereby given and granted to Ameren Illinois, its successors and assigns (hereinafter referred to as the "Company"), the right privilege and authority to construct, operate, maintain and/or extend within the corporate limits, as the same now exists or may hereafter be extended, of the Village of Loami (hereinafter referred to as "Municipality"), a gas utility system for the transmission, distribution and/or sale of gas energy and other purposes (the "System"), together with the right, privilege and authority to lay, erect, construct, install, operate and/or maintain all necessary mains, pipes, valves, equipment and/or other apparatus as may be necessary or convenient for the System, in, upon, along, over, under, through and/or across each and all of the streets, avenues, alleys, bridges, easements, rights of way and/or other public places as agreed upon by both parties.

SECTION 3. All mains, pipes, valves and apparatus shall, so far as practicable, be placed underground and shall be so located and laid as not to interfere unnecessarily with any pipes, conduits, sewers, drains, pavements, public places, or right-of-way existing at the time of such location, and said Company shall forthwith repair any damage caused to such improvements to the satisfaction of the official or officials of said Municipality having charge of the supervision thereof. There shall be no unnecessary obstruction to the streets, avenues, alleys, public places and right-of-way of said Municipality in the laying, installation, operation or maintenance of any of said mains, pipes, valves or other equipment. All facilities of Company in said Municipality shall be installed and maintained in accordance with the applicable rules and regulations of the Illinois Commerce Commission.

When any roadway within a right-of-way shall be graded, curbed, paved or otherwise changed or when there is a relocation of such right-of-way, so as to make the resetting or relocation of any mains, pipes, valves or other equipment placed or installed under this Chapter necessary, the Company shall make such resetting or relocation, at the Company's cost and expense. Municipality shall provide the Company with a suitable location for the resetting or relocation of such mains, pipes, valves or other equipment, and the Company's obligation shall be limited to resetting or relocating mains, pipes, valves or other equipment of the same type

and configuration as the displaced mains, pipes, valves or other equipment. Company shall make such resetting or relocation within a reasonable time after receiving written notice of the need for the same from the authorized representative of the Municipality, and the establishment by the Municipality of the permanent grade at the new location. Except as expressly stated, nothing in this Section requires the Company to bear responsibility for any costs or expenses to relocate its mains, pipes, valves or other equipment for any other reason or cause.

SECTION 4. When any street, avenue, alley, bridge, easement, right of way and/or other public place, upon which or in which any facilities of Company have been placed, shall be graded, curbed, paved or otherwise changed by the Municipality so as to make the resetting or reconstruction of such facilities necessary, Company shall make such necessary change in construction at no cost to Municipality. Should it become necessary or should the Company desire to use conduits or other similar fixtures, Company shall make application to the Municipality for the establishment of permanent grades and such conduits or other similar fixtures shall not be installed until such permanent grades have been established. The Municipality agrees to establish promptly such permanent grades upon such application.

SECTION 5. The rates to be charged by the Company for gas service rendered under this Chapter shall be such as are approved from time to time by the Illinois Commerce Commission of the State of Illinois and/or such other duly constituted governmental authority as shall have jurisdiction thereof. All Rules and Regulations of the Illinois Commerce Commission of the State of Illinois applicable to the rights, privileges and authority granted by this Chapter, in the event of conflict herewith, shall govern.

SECTION 6. As a further consideration for the rights, privileges and authorities granted by this Chapter, the Company shall, throughout the period in which Company shall exercise the rights, privileges and authority granted by this Chapter furnish to the said Municipality, compensation in the amount of **One Thousand Nine Hundred Forty-Five Dollars (\$1,945.00)**, payable annually, within **thirty (30) days** of the anniversary date. Municipality may request a revision to the compensation amount after **five (5) years** from the date of passage of this Chapter if Municipality has a reasonable belief that its population has increased or decreased by **three percent (3%)** or more. Municipality must request the revision at least **sixty (60) days** prior to the next anniversary date. If Company confirms that the number of customers served by the System within Municipality's corporate limits has increased or decreased by **three percent (3%)** or more, the compensation amount will be revised by that percentage for the next and succeeding payments. Municipality may request similar revisions to compensation amounts under these criteria in additional **five (5) year** periods throughout the term of this Chapter.

SECTION 7. The rights, privileges and authority hereby granted shall inure to and be vested in Company, its successors and assigns, successively, subject to all of the terms, provisions and conditions herein contained, and each of the obligations hereby imposed upon Company shall devolve and be binding upon its successors and assigns, successively, in the same manner.

SECTION 8. The Company shall indemnify and save harmless the Municipality and all contractors, officers, employees and representatives thereof from all claims, demands, causes of action, liability, judgments, costs and expenses or losses for injury or death to persons or damage to property owned by, and Worker's Compensation claims against any parties

indemnified herein, arising out of, caused by, or as a result of the Company's construction, erection, maintenance, use or presence of, or removal of any mains, pipes, valves or other appurtenances thereto, or equipment or attachments thereto. The foregoing indemnification shall not apply to the extent any such claim, demand, cause of action, liability, judgment, cost, expense or loss arises out of, is caused by, or results from the negligent or wrongful willful act or omission of the Municipality or any contractor, officer, employee or representative thereof.

SECTION 9. This Chapter shall confer no right, privilege or authority on Company, its successors or assigns, unless Company shall within **ninety (90) days** after due notice to the Company of the enactment of this Chapter, file with the Village Clerk an acceptance of the terms and provisions hereof; provided, however, that if such acceptance be not so filed within said period of **ninety (90) days**, all rights, privileges, and authority herein granted shall become null and void.

SECTION 10. All rights, privileges and authority given and granted by this Chapter are granted for a term of **twenty (20) years** from and after the acceptance of this Chapter as hereinafter provided (the "Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either the Company or Municipality notifies the other in writing of its desire to terminate this Chapter at least **six (6) months** prior to the expiration of the Initial Term or any Subsequent Term.

SECTION 11. The Municipality acknowledges that Company is vested in rights, permissions and authority independent of this Chapter. Neither acceptance of this Chapter nor compliance with its provisions shall impair in any way or waive any right, permission or authority which Company may have independent of this Chapter. In addition, neither use by Company of public property or places as authorized by this Chapter nor service rendered by Company in said Municipality shall be treated as use solely of the rights, permission and authority provided for by this Chapter and in no way shall indicate non-use of any right, permission or authority vested in the Company independent of this Chapter. In the event the Municipality vacates any streets, avenues, alleys, easements, rights of way, bridges or other public places during the term of this Chapter, Municipality agrees to reserve unto Company the rights, privileges and authority herein given and granted to the Company in, upon, under, along, over and across each and all of such vacated premises which are at that time in use by the Company.

SECTION 12. All ordinances and parts of ordinances in conflict with this Chapter or with any of its provisions are, to the extent of such conflict, hereby repealed.

SECTION 13. This Chapter shall not relieve Company of the obligation to comply with any ordinance now existing in the Municipality or enacted in the future requiring Company to obtain written permits or other approval from the Municipality prior to commencement of construction of facilities within the streets thereof, except Company shall not be required to obtain permits or other approval from the Municipality for the maintenance, upgrading and repair of its facilities. Except in cases of emergency, prior to engaging in any excavation activity that is expected to create an obstruction or other hazardous condition in any street, avenue, alley or public place, the Company shall notify Municipality of the location and extent of the planned excavation. In cases of emergency, Company shall notify Municipality of the location and extent of any such activity as soon as practicable after the emergency has been abated.

SECTION 14. If any provision of this Chapter, or the application of such provision to particular circumstances, shall be held invalid, the remainder of this Chapter, or the application of such provision to circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION 15. If, at any time, during the term of this contract, Municipality permits another entity or person to provide gas distribution or similar services, and Company reasonably believes the other entity or person is granted more favorable treatment, terms, or conditions, then Company shall notify Municipality of such treatment, terms, or conditions. Alternatively, if Municipality reasonably believes the other entity or person grants Municipality more favorable treatment, terms, or conditions, then Municipality shall notify Company of such treatment, terms, or conditions. Upon receipt of such notice, Municipality and Company shall negotiate in good faith to amend this Chapter to provide Company or Municipality such more favorable treatment, terms or conditions on an equivalent basis. Such amendment shall take into consideration all circumstances that distinguish between Company and the entity or person receiving the more favorable or less favorable treatment, terms, or conditions.

SECTION 16. The Company shall be exempt from any special tax, assessment, license, rental or other charge during the term of this Chapter, on all mains, pipes, valves, equipment and other apparatus placed under the streets, alleys, avenues, bridges, easements, rights of way or other public places within the corporate limits of Municipality.

SECTION 17. This Chapter shall take effect and the rights, privileges and authority hereby granted and renewed shall vest in Company upon its filing of an acceptance with the Village Clerk according to the terms prescribed herein. This Chapter shall be in full force from and after its passage, approval and **ten (10) day** period of publication in the manner provided by law.

(Ord. No. 15-01; 03-12-15)

CHAPTER 16

GARBAGE

<u>ARTICLE</u>	<u>TITLE</u>	<u>PAGE</u>
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	<i>Section 16-1-1 - Definitions</i>	<i>16-1</i>
	<i>Section 16-1-2 - License Required; Fee</i>	<i>16-1</i>
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CHAPTER 16

GARBAGE

ARTICLE I – GARBAGE COLLECTOR LICENSE

16-1-1 **DEFINITIONS.** As used in this Code, the following definitions shall apply:

"GARBAGE" shall mean wastes resulting from the handling, preparation, cooking and consumption of food; wastes from the handling, storage, and sale of produce.

"RUBBISH" shall mean combustible trash, including, but not limited to paper, cartons, boxes, barrels, wood, excelsior, wood furniture, bedding; non-combustible trash, including, but not limited to, metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, other mineral waste; street rubbish, including, but not limited to street sweepings, dirt, catch-basin dirt, contents of litter receptacles, provided, however, that refuse shall not include earth and wastes from building operations, nor shall it include solid wastes resulting from industrial processes and manufacturing operations such as food processing wastes, boiler house cinders, lumber, scraps and shavings.

"YARD WASTE" shall mean material such as tree branches, yard trimmings, leaves and grass.

16-1-2 **LICENSE REQUIRED; FEE.** No person shall engage in the business as a residential or commercial collector of garbage and rubbish unless such person shall have first made application to and secured a license from the Village.

The license fee shall be **Twenty-Five Dollars (\$25.00) per year**. The fee shall be paid on or before **May 1st** of each year. The Village is not subject to the provisions of this Chapter. **(Ord. No. 00-06; 04-13-00)**

16-1-3 **APPLICATION FOR LICENSE.** Upon application for a license, the person applying for same shall furnish the Village Clerk, along with the application, proof of insurance for liability and property damage, and at that time, they shall file with the Clerk a rate schedule for services to be performed for a residential application. The rate schedule shall set forth the type of service to be offered and the price for same, including the size and number of cans per pickup for the charge, the charge for any extra cans, the charge for the bags, the size of the bags, and the charge for bundles and size of the bundles; also a rate schedule shall include an unlimited service charge; the schedule shall set forth whether this is once-a-week or twice-a-week pickup.

The rate schedule shall also set forth the day or days of each week that the collector shall schedule his pickup within the Village. The rate schedule as filed shall be valid for **one (1) year** and the licensee shall not be permitted to increase the price on the schedule for a period of **one (1) year** from the date of filing of the rate schedule. The rate schedule shall be effective upon approval by the Village Board.

16-1-4 TRUCK REQUIREMENT - CLEANLINESS. The firm that handles the collection of trash shall be of good character and give evidence that the equipment used by him is adequate for the purposes intended. The successful firm shall have a truck or trucks which shall be so designed that garbage and rubbish that is collected will be covered at all times except in the loading of garbage or rubbish, so that offensive odors are not permitted to permeate the air and cause a nuisance within the Village. The trucks and all containers in which garbage is collected and transported shall be cleaned daily and the collector shall not collect any garbage on any day without having a clean truck and hand containers if containers are used.

16-1-5 PARKED GARBAGE TRUCKS. No truck carrying garbage or rubbish, or both, shall be parked or be permitted to stand anywhere in the Village except as provided for in **Section 16-1-10** any longer than is necessary to pick up containers; however, providing that the standing of such vehicle was made necessary by mechanical trouble, traffic conditions, accident or obedience to the direction of policemen or traffic signals, shall not be considered a violation of this Code.

16-1-6 TRUCK WASTEWATERS. A garbage truck or other equipment shall not be washed on Village streets or public property and will not be washed where the wastewaters will cause any offensive odors to adjoining property owners.

16-1-7 WINDBLOWN GARBAGE UNLAWFUL. It shall be unlawful to place garbage or rubbish in such a manner as to allow the same to be blown by the wind onto the property of other residents.

16-1-8 GARBAGE FALLING FROM TRUCK. It shall be unlawful to deposit or permit to fall from any vehicle any garbage, refuse or ashes on any public street or alley in the Village, provided that this Code shall not be construed to prohibit placing garbage, refuse, or ashes in a container complying with the provisions of this Code, preparatory to having such material collected and disposed of in the manner provided herein.

16-1-9 ACCUMULATION OF GARBAGE UNLAWFUL. The fact that garbage or rubbish remains on an occupant's premises in the Village in violation of this Chapter shall be prima facie evidence that the occupant of such premises is responsible for the violations of the Chapter occurring.

16-1-10 LOCATION OF YARDS FOR EQUIPMENT. A licensee shall designate the location of the yards on which his equipment will be parked while not in use and the equipment shall not be parked within the Village limits unless the designated location shall not, in the opinion of the Code Enforcement Officer, create any nuisance for adjoining property owners.

The licensee shall have as additional equipment a truck for the disposal of large or unusual items of rubbish which cannot be placed in the designated containers and shall have available for such pickups such equipment at least **one (1) day** each week or on such additional days as may be necessary to satisfy the needs of the public.

16-1-11 **INDUSTRY, CONSTRUCTION, ETC.** Nothing in this Code shall be deemed to prevent or regulate the hauling of rubbish or refuse from industrial processes, from construction projects or other matter not normally collected on a regular schedule and haulers of rubbish not normally collected in regular collections shall be excused from the requirements of obtaining a collector's license as provided in this Chapter.

16-1-12 **REVOCATION OF PERMIT.** If the licensee fails to perform any services according to his application and rate schedule, the Mayor may revoke his permit.

(65 ILCS 5/11-19-1, et seq.)

CHAPTER 21

LIQUOR

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CHAPTER 21

LIQUOR

ARTICLE I - GENERALLY

21-1-1 **DEFINITIONS.** Unless the context otherwise requires, the words and phrases herein defined are used in this Chapter in the sense given them in the following definitions:

"ALCOHOL" means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. It does not include denatured alcohol or wood alcohol.

"ALCOHOLIC LIQUOR" includes alcohol, spirits, wine and beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer, and capable of being consumed as a beverage by human beings. The provisions of this Chapter shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with **Acts of Congress** and regulations promulgated thereunder, nor to any liquid or solid containing **one-half of one percent** or less of alcohol by volume. **(235 ILCS 5/1-3.05)**

"BEER" means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley or other grain, malt and hops in water, and includes, among other things, beer, ale, stout, lager beer, porter and the like. **(235 ILCS 1-3.04)**

"CATERER RETAILER" means a person who serves alcoholic liquors for consumption, either on-site or off-site, whether the location is licensed or unlicensed, as an incidental part of food service. Prepared meals and alcoholic liquors are sold at a package price agreed upon under contract. **(235 ILCS 5/1-3.34)**

"CLOSE" means to shut up so as to prevent entrance or access by any person; and the entire suspension of business.

"CLUB" means a corporation organized under the laws of this State and not for pecuniary profit, solely for the promotion of some common object other than the sale or consumption of alcoholic liquors, kept, used and maintained by its members, through the payment of annual dues, and owning, hiring or leasing a building or space in a building of such extent and character as may be suitable and adequate for the reasonable and comfortable use and accommodation of its members and their guests and provided with suitable and adequate kitchen and dining space and equipment and maintaining a sufficient number of servants and employees for cooking, preparing and serving food and meals for its members and their guests; provided that such club files with the Mayor at the time of its application for a license under this Chapter, **two (2) copies** of a list of names and residences of its members, and similarly files within **ten (10) days** of the election of any additional member, his name and address; and provided further, that its affairs and management are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting and that no member or officer, agent or employee of the club is paid, or directly or indirectly receives, in the form of salary or other compensation any profits from the distribution or sale of alcoholic

liquor to the club or its members or guests introduced by members, beyond the amount of such salary as may be fixed and voted at the annual meeting by the members or by the board of directors or other governing body out of the general revenue of the club. **(235 ILCS 5/1-3.24)**

"CORPORATION" means any corporation, domestic or foreign, qualified to do business in the State of Illinois under the "Business Corporation Act" of Illinois. **(Rule 100.10(b))**

"DISTILLED SPIRITS". See "Spirits".

"EVENT" means a single theme. **(Rules and Regulations 100.10(o))**

"HOTEL" means every building or other structure kept, used, maintained, advertised and held out to the public to be a place where food is actually served and consumed and sleeping accommodations are offered for adequate pay to travelers and guests, whether transient, permanent or residential, in which **twenty-five (25)** or more rooms are used for the sleeping accommodations of such guests and having **one (1)** or more public dining rooms where meals are served to such guests, such sleeping accommodations and dining rooms being conducted in the same building or buildings in connection therewith, and such building or buildings, structure or structures being provided with adequate and sanitary kitchen or dining room equipment and capacity. **(235 ILCS 5/1-3.25)**

"MANAGER" OR "AGENT" means any individual employed by any licensed place of business, provided said individual possess the same qualifications required of the licensee. Satisfactory evidence of such employment will be furnished the Commission in the form and manner as such Commission shall from time to time prescribe. **(Rule 100.10(f))**

"MAYOR" means the Local Liquor Control Commissioner as provided in the **Illinois Compiled Statutes, Chapter 235, entitled "Dramshop"** and all references to Liquor Commissioner shall refer to the Mayor unless otherwise provided.

"MEAL" means food that is prepared and served on the licensed premises and excludes the serving of snacks. **(Rules and Regulations 100.10(n))**

"ORIGINAL PACKAGE" means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container, whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor. **(235 ILCS 5/1-3.06)**

"PACKAGE LIQUOR STORE" means any public place where packaged liquors are offered for sale in the original, unopened container for consumption away from the premises.

"PARTNER" is any individual who is a member of a co-partnership. "Co-partnership" means an association of **two (2)** or more persons to carry on as co-owners of a business for profit. **(Rules and Regulations 100.10(d)(e))**

"PREMISES/PLACE OF BUSINESS" means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks,

street, parking areas and grounds adjacent to any such place or location. **(Rules and Regulations 100.10(g))**

"PRIVATE FUNCTION" means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function or event.

"PUBLIC PLACE" means any premises enclosed or unenclosed or partly enclosed and partly unenclosed wherein any service or goods, chattels or merchandise are offered for sale to the public or any such premises used as a clubhouse, club room or meeting place. The terms **"public place"** and **"public premises"** shall be interchangeable for the purposes of this Chapter.

"RESIDENT" means any person (other than a corporation) who has resided and maintained a bona fide residence in the State of Illinois for at least **one (1) year** and in the city, village and county in which the premises covered by the license are located for at least **ninety (90) days** prior to making application for such license and is a registered voter. **(Rule 100.10(a))**

"RESTAURANT" means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. **(235 ILCS 5/1-3.23)**

"RETAILER" means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form. **(235 ILCS 5/1-3.17)**

"SALE" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee. **(235 ILCS 5/1-3.21)**

"SELL AT RETAIL" and "SALE OF RETAIL" refer to any mean sales for use or consumption and not for resale in any form. **(235 ILCS 5/1-3.18)**

"SPECIAL EVENT" means an event conducted by an educational, fraternal, political, civic, religious or non-profit organization. **(235 ILCS 5/1-3.30)**

"SPECIAL EVENTS RETAILER" means an educational, fraternal, political, civic, religious, or non-profit organization which sells or offers for sale beer or wine, or both, only for consumption at the location and on the dates designated by a special event retail license. **(235 ILCS 5/1-3.17.1)**

"SPIRITS" means any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors and such liquors when rectified, blended or otherwise mixed with alcohol or other substances. **(235 ILCS 5/1-3.02)**

"TO SELL" includes to keep or expose for sale and to keep with intent to sell. **(235 ILCS 5/1-3.22)**

"WINE" means any alcoholic beverage obtained by the fermentation of the natural contents of fruits or vegetables containing sugar, including such beverages when fortified by the addition of alcohol or spirits as above defined. **(235 ILCS 5/1-3.03)**

[All references to "Rules" refer to Illinois Liquor Control Commission Rules located in Title 11; Subtitle A; Chapter 1; Part 1; Section 100.5 et seq. of the Illinois Administration Code.]

ARTICLE II - LICENSES

21-2-1 LICENSE REQUIRED. No person shall sell, keep or offer for sale at retail, or conduct any place for the sale at retail of alcoholic liquor within the limits and territory of this municipality without having a license to do so, issued by the Mayor of this municipality in the manner hereinafter provided, and a valid license for such purpose issued by the **Illinois Liquor Control Commissioner of the State of Illinois.**

A similar valid license issued by the Mayor of this municipality is hereby required for and with respect to each building, location and premises, within the aforesaid territory of this municipality, at or upon which alcoholic liquor is to be sold or kept or offered for sale at retail. **(235 ILCS 5/4-1)**

21-2-2 APPLICATIONS. The Mayor is authorized to grant and issue licenses to individuals, firms, and corporations to sell at retail and to keep and offer for sale at retail alcoholic liquors within the limits and territory of this municipality upon the conditions and in the manner provided by this Chapter and by the **Act of the General Assembly of Illinois**, and not otherwise. Such license shall be in writing, signed by the Mayor and attested by the Municipal Clerk, with the seal of his office affixed thereto.

Prior to issuance of a license, the applicant must submit to the Mayor an application in triplicate, in writing and under oath, stating the following:

(A) The name, age, and address of the applicant in the case of an individual; in the case of a co-partnership, the persons entitled to share in the profits thereof, and in the case of a corporation for profit or a club, the date of incorporation, the object for which it was organized, the names and addresses of the officers, directors and the name of the person who will be managing the establishment for which the license is sought, and if a majority in interest of the stock of such corporation is owned by one person or his nominee, the address and name of such person.

(B) The citizenship of the applicant, his place of birth and if a naturalized citizen, the time and place of his naturalization.

(C) The character of business of the applicant, and in the case of a corporation, the objects for which it was formed.

(D) The length of time that the applicant has been engaged in the business of that character or in the case of a corporation, the date on which its charter was issued.

(E) The location and description of the premises or place of business which is to be operated under such license.

(F) Whether applicant has made similar application for a similar other license on premises other than described in the application and the disposition of such application.

(G) That applicant has never been convicted of a felony and is not disqualified to receive a license by reason of any matter or thing contained in the aforesaid **Act of the General Assembly** or in this Chapter or resolution and amendments thereto.

(H) Whether a previous license issued to the applicant by any state, or subdivision thereof, or by the federal government has been revoked and the reasons therefor.

(I) That he will not violate any of the laws of the State of Illinois or of the United States, or any of the provisions of this Chapter or resolution and amendments thereto in the conduct of his place of business.

In the case of a partnership or corporation, the information and statements required by this Section shall be furnished as to each partner, and with respect to a corporation, the

information and statements required by this Section shall be furnished as to the president of the corporation, the secretary of the corporation, the directors of the corporation, and with respect to the person who is to manage the establishment for which a license is sought.

If the application is made on behalf of a partnership, firm, association, club or corporation, then the same shall be signed and sworn to by at least **two (2) members** of such partnership, firm, association or club, or by the president and secretary of such corporation.

One (1) copy of the application shall be retained by the Mayor, **one (1) copy** given to the Chief of Police; the Chief of Police shall endorse on the copies his approval or disapproval of the application and may make further comments regarding that application. The copies shall be returned to the Mayor and the endorsement and comment of the Chief of Police shall be considered by him as an aid in deciding whether the license should be issued or refused. **(235 ILCS 5/7-1)**

21-2-3 EXAMINATION OF APPLICANT. The Mayor shall have the right to examine or cause to be examined, under oath, any applicant for a local license or for renewal thereof, or any licensee upon whom notice of revocation or suspension has been served in the manner hereinafter provided, and to examine or cause to be examined, the books and records of any such applicant or licensee; to hear testimony and take proof for his information in the performance of his duties, and for such purpose to issue subpoenas which shall be effective in any part of this State. For the purpose of obtaining any of the information desired by the Mayor under this Section, he may authorize his agent to act on his behalf. **(235 ILCS 5/4-5)**

21-2-4 PROHIBITED LICENSEES. Except as otherwise provided in paragraph (U) of this Section, no license of any kind pursuant to state law in **235 ILCS 5/7-1** shall be issued by the Mayor to the following:

- (A) A person who is not a resident of this Village;
- (B) A person who is not of good character and reputation in the community in which he resides;
- (C) A person who is not **twenty-one (21) years** of age;
- (D) A person who has been convicted of a felony under any Federal or State law, unless the Commission determines that such person has been sufficiently rehabilitated to warrant the public trust after considering matters set forth in such person's application and the Commission's investigation. The burden of proof of sufficient rehabilitation shall be on the applicant;
- (E) A person who has been convicted of being the keeper of or is keeping a house of ill-fame;
- (F) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality;
- (G) A person whose license issued under this Act has been revoked for cause;
- (H) A person who, at the time of the application for renewal of any license issued hereunder, would not be eligible for such license upon first application;
- (I) A co-partnership, if any general partnership thereof, or any limited partnership thereof, owning more than **five percent (5%)** of the aggregate limited partner interest in such co-partnership would not be eligible to receive a license hereunder for any reason other than residence within the political subdivision, unless residency is required by local ordinance;

(J) A corporation, if any officer, manager or director thereof, or any stockholder or stockholders owning in the aggregate more than **five percent (5%)** of the stock of such corporation, would not be eligible to receive a license hereunder for any reason other than citizenship and residence within the political subdivision;

(K) A corporation unless it is incorporated in Illinois, or unless it is a foreign corporation which is qualified under the "**Business Corporation Act of 1983**" to transact business in Illinois;

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

(M) A person who has been convicted of a violation of any Federal or State law concerning the manufacture, possession or sale of alcoholic liquor, subsequent to the passage of this Act or has forfeited his bond to appear in court to answer charges for any such violation;

(N) 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;

(O) Any law enforcing public official, any mayor, any trustee, and no such official shall be interested directly in the manufacture, sale, or distribution of alcoholic liquor, except that a license may be granted to such official in relation to premises that are not located within the territory subject to the jurisdiction of that official if the issuance of such license is approved by the State Liquor Control Commission and except that a license may be granted, in a Village with a population of **fifty thousand (50,000)** or less, to any trustee, in relation to premises that are located within the territory subject to the jurisdiction of that official if (i) the sale of alcoholic liquor pursuant to the license is incidental to the selling of food, (ii) the issuance of the license is approved by the State Commission, (iii) the issuance of the license is in accordance with all applicable local ordinances in effect where the premises are located, and (iv) the official granted a license does not vote on alcoholic liquor issues pending before the board or council to which the license holder is elected;

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

(Q) A person who has been convicted of a gambling offense as prescribed by any of subsections (a)(3) through (a)(11) of Section 28-1 of, or as proscribed by Section 28-1.1 or 28-3 of, the Criminal Code of 1961, or as prescribed by a statute replaced by any of the aforesaid statutory provisions;

(R) A person or entity to whom a federal wagering stamp has been issued by the federal government, unless the person or entity is eligible to be issued a license under the Raffles Act or the Illinois Pull Tabs and Jar Games Act;

(S) A person who intends to sell alcoholic liquors for use or consumption on his or her licensed retail premises who does not have liquor liability insurance coverage for that premises in an amount that is at least equal to the maximum liability amounts set out in Section 5/6-21 of Chapter 235 of the Illinois Compiled Statutes;

(T) A person who is delinquent in the payment of any indebtedness or obligation to the Village;

(U) A criminal conviction of a corporation is not grounds for the denial, suspension, or revocation of a license applied for or held by the corporation if the criminal conviction was not the result of a violation of any federal or state law concerning the manufacture, possession or sale of alcoholic liquor, the offense that led to the conviction did not result in any financial gain to the corporation and the corporation has terminated its relationship with each director, officer, employee, or controlling shareholder whose actions

directly contributed to the conviction of the corporation. The Mayor shall determine if all provisions of this paragraph (U) have been met before any action on the corporation's license is initiated;

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

(W) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than **twenty percent (20%)** of the stock of such corporation has been issued a federal wagering stamp for the current tax period. **(235 ILCS 5/6-2)**

21-2-5 REQUISITES FOR MANAGER. No licensee shall employ any person to manage his licensed liquor establishment, unless such person possesses the same qualifications required of a licensee in **Section 21-2-4**, except for residency and citizenship. No licensee shall permit any person to act as a manager of his liquor establishment, unless such manager has been approved by the Local Liquor Commissioner.

21-2-6 TERM; FEE SUBMITTED IN ADVANCE. Retail liquor licenses issued under this Chapter shall be valid for a **twelve (12) month period** upon the payment of the license fee as hereinafter set forth unless sooner revoked or suspended. The **twelve (12) month period** shall be from **May 1st to April 30th** of the following year.

The license fee shall be payable in advance by the applicant for a license at the time the application for a license is submitted to the Mayor as hereinbefore provided. **A licensee may make arrangements to pay the liquor license fees quarterly.** In the event the license is denied, the license fee shall be returned to the applicant. The fees shall be deposited in the Municipal General Fund. The application for a license shall be filed with the Municipal Clerk.

Licenses shall state thereon the names of the licensees and the address and description of the premises for which they are granted and the dates of their issuance and expiration.

With respect to a corporation operating an establishment for which a liquor license has been issued, should the manager of said establishment change after the issuance of said liquor license, the corporation **must submit** the new manager's name and shall be submitted within **thirty (30) days**. Continuation of the license will be contingent upon a background check of the new manager as set out in this Chapter, and all fees shall be waived should the license be changed only as a result of a change of managers. If, for some reason, the manager is not acceptable, the licensee shall have **thirty (30) days** to submit a new name before revocation. Failure to provide new information shall be grounds for suspension or revocation of said license. **(235 ILCS 5/4-1)**

21-2-7 CLASSIFICATION - FEE - LIMITATION. Every person engaged in the retail sale of alcoholic liquor in the Municipality shall pay an annual license fee. Such licenses shall be divided into the following **three (3) classes**:

(A) **Class "A" License.** A Class "A" license shall authorize the selling of any and all kinds of alcoholic beverages in packages for consumption off of the premises, and consumption of beer and wine on the premises. The establishment issued the license is allowed to be open for business **seven (7) days** a week, Sunday through Saturday with

Sunday's hours limited to **12:00 P.M. to 10:00 P.M.** There shall be **one (1)** Class "A" license. The annual fee for the license shall be **Two Hundred Fifty Dollars (\$250.00)**. (**Ord. No. 15-05; 08-13-15**)

(B) **Class "B" License.** A Class "B" license shall authorize the retail sale of wine and beer for offsite consumption, and for the purpose of onsite consumption including "wine tasting" pre-mixed frozen drinks, or "beer tasting" and other social events during the public hours of operation. The license shall allow the establishment to be open for business **seven (7) days** a week, Sunday through Saturday with Sunday's hours limited to **12:00 P.M. to 10:00 P.M.** There shall be **one (1)** Class "B" license. The annual fee for the license shall be **Five Hundred Dollars (\$500.00)**. (**Ord. No. 15-05; 08-13-15**)

(C) **Class "C" Licenses: Civic Organizations, Etc.** Upon application, the Liquor Commissioner is authorized to issue a Class "C" license for a period of **twelve (12)** or **twenty-four (24) hours** to any civic or religious organization which keeps or desires to keep any place selling or offering for sale, or in any manner dealing in any alcoholic liquors. The fee for such license shall be for the sale of alcoholic liquors, the sum of **One Dollar (\$1.00)** for each **twelve (12) hours**; for more than **twelve (12) hours** and not more than **twenty-four (24) hours** within any **one (1) day**, the fee shall be **Two Dollars (\$2.00)**, subject to the provisions of this Chapter.

(235 ILCS 5/4-1)

21-2-8 NATURE OF LICENSE. A license issued under this Chapter shall be purely a personal privilege, good for not to exceed **one (1) year** after issued unless sooner revoked as in this Chapter authorized and provided, and shall not constitute property nor shall it be subject to attachment, garnishment or execution; nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, provided that executors and administrators of any estate of the deceased licensee and the trustees of any insolvent or bankrupt licensee, when such estate consists in part of alcoholic liquor, may continue the business of the sale of alcoholic liquor under the order of the court having jurisdiction of such estate and may exercise the privileges of such deceased, insolvent, or bankrupt licensee after the death of such decedent or such insolvency or bankruptcy until the expiration of such license, but not longer than **six (6) months** after the death, bankruptcy or insolvency of such licensee. (**235 ILCS 5/6-1**) (**See Attorney General's Report No. 703; 01-08-48**)

21-2-9 LIMITATION OF LICENSES.

(A) **Annexing License Holders.** The restrictions contained in this Chapter shall in no way affect taverns and other business(es) holding retail liquor licenses, duly licensed by the County, which are located in the territory annexed to the municipality. Licenses may be issued to them or renewed by the duly constituted authorities upon annexation; provided that thereafter, all of the restrictions and contingencies contained herein shall apply.

(B) **Destroyed or Damaged Business.** No license shall be held in existence by the mere payment of fees by any person, firm or corporation for a period longer than **ninety (90) days** without a tavern or liquor business for the same being in complete and full operation. However, if a tavern or liquor business has been destroyed or damaged by fire or act of God and cannot be rebuilt or repaired within the **ninety (90) day period**, then, in that event, the Mayor shall extend the period of time for which a liquor license may be held by

the mere payment of fees without the tavern or liquor business being in full and complete operation for an additional **ninety (90) days**.

If either of the above stated periods of time passes without the particular tavern or liquor business returning to complete and full operation, the license for that particular business shall expire and not be subject to renewal, unless all other requirements of this Chapter shall have been met. **(235 ILCS 5/4-1)**

21-2-10 DRAMSHOP INSURANCE. No license shall be issued hereunder unless the applicant shall file with the application a certificate by an insurance company authorized to do business in the State of Illinois, certifying that the applicant has the following coverages up to the full amount of potential liability as established by the Illinois Compiled Statutes from time to time. **(235 ILCS 5/6-21)**

21-2-11 DISPLAY OF LICENSE. Every licensee under this Chapter shall cause his license to be framed and hung in plain view in a conspicuous place on the licensed premises. **(235 ILCS 5/6-24)**

21-2-12 RECORD OF LICENSES. The Mayor shall keep a complete record of all licenses issued by him and shall supply the Clerk, Treasurer and Chief of Police a copy of the same. Upon issuance or revocation of a license, the Mayor shall give written notice to these same officers within **forty-eight (48) hours**. **(235 ILCS 5/4-1)**

ARTICLE III - REGULATIONS

21-3-1 **CLOSING HOURS FOR ALL LICENSES.** It shall be unlawful for any licensee to give or sell or offer for sale or gift or in any way provide any alcoholic liquors, spirits, beer, or wine in the Village during the following hours:

Hours of Closing:

Sunday	From	12:00 Noon	until	8:00 P.M.
Monday	From	6:00 A.M.	until	11:30 P.M.
Tuesday	From	6:00 A.M.	until	11:30 P.M.
Wednesday	From	6:00 A.M.	until	11:30 P.M.
Thursday	From	6:00 A.M.	until	11:30 P.M.
Friday	From	6:00 A.M.	until	11:30 P.M.
Saturday	From	6:00 A.M.	until	11:30 P.M.

It shall be unlawful to keep open for business or to admit the public to any premises in or on which alcoholic liquor is sold at retail during the hours within which the sale of alcoholic liquor is prohibited.

Any holder of a retail liquor license or his agent or employee who violates the provisions of this Chapter in regulating the legal hours of operation shall, upon conviction, be fined according to the provisions of **Section 1-1-20** of this Code.

(Ord. No. 01-10; 05-10-01)

The times referred to above shall refer to Daylight Savings Time or when the same is in effect in the Village and upon cessation of Daylight Savings Time, shall be Central Standard Time.

All patrons or customers shall leave the premises at the specified closing time and shall not remain on the premises thereafter. **(235 ILCS 5/4-1)**

21-3-2 **HAPPY HOUR RESTRICTIONS.**

(A) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at the establishment.

(B) No retail licensee or employee or agent of such licensee shall:

- (1) Sell more than **one (1) drink** of alcoholic liquor for the price of **one (1) drink** of alcoholic liquor;
- (2) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public or as provided by **235 ILCS 5/6-28.5**;
- (3) Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;
- (4) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of

- drinks of alcoholic liquor as prizes for such game or contest on the licensee's premises; or
- (5) Advertise or promote in any way, whether on or off the licensee's premises, any of the practices prohibited under paragraphs (1) through (4).
- (C) Permitted happy hours and meal packages, party packages, and entertainment packages.
- (1) As used in this Section:
- (a) **"Dedicated event space"** means a room or rooms or other clearly delineated space within a retail licensee's premises that is reserved for the exclusive use of party package invitees during the entirety of a party package. Furniture, stanchions and ropes, or other room dividers may be used to clearly delineate a dedicated event space.
- (b) **"Meal package"** means a food and beverage package, which may or may not include entertainment, where the service of alcoholic liquor is an accompaniment to the food, including, but not limited to, a meal, tour, tasting, or any combination thereof for a fixed price by a retail licensee or any other licensee operating within a sports facility, restaurant, winery, brewery, or distillery.
- (c) **"Party package"** means a private party, function, or event for a specific social or business occasion, either arranged by invitation or reservation for a defined number of individuals, that is not open to the general public and where attendees are served both food and alcohol for a fixed price in a dedicated event space.
- (2) A retail licensee may:
- (a) offer free food or entertainment at any time;
- (b) include drinks of alcoholic liquor as part of a meal package;
- (c) sell or offer for sale a party package only if the retail licensee:
- (i) offers food in the dedicated event space;
- (ii) limits the party package to no more than **three (3) hours**;
- (iii) distributes wristbands, lanyards, shirts, or any other such wearable items to identify party package attendees so the attendees may be granted access to the dedicated event space; and
- (iv) excludes individuals not participating in the party package from the dedicated event space;
- (d) include drinks of alcoholic liquor as part of a hotel package;
- (e) negotiate drinks of alcoholic liquor as part of a hotel package;
- (f) provide room service to persons renting rooms at a hotel;
- (g) sell pitchers (or the equivalent, including, but not limited to, buckets of bottled beer), carafes, or bottles of alcoholic

- liquor which are customarily sold in such manner, or sell bottles of spirits;
- (h) advertise events permitted under this Section;
 - (i) include drinks of alcoholic liquor as part of an entertainment package where the licensee is separately licensed by a municipal ordinance that (i) restricts dates of operation to dates during which there is an event at an adjacent stadium, (ii) restricts hours of serving alcoholic liquor to **two (2) hours** before the event and **one (1) hour** after the event, (iii) restricts alcoholic liquor sales to beer and wine, (iv) requires tickets for admission to the establishment, and (v) prohibits sale of admission tickets on the day of an event and permits the sale of admission tickets for single events only; and
 - (j) discount any drink of alcoholic liquor during a specified time period only if:
 - (i) the price of the drink of alcoholic liquor is not changed during the time that it is discounted;
 - (ii) the period of time during which any drink of alcoholic liquor is discounted does not exceed **four (4) hours** per day and **fifteen (15) hours** per week; however, this period of time is not required to be consecutive and may be divided by the licensee in any manner;
 - (iii) the drink of alcoholic liquor is not discounted between the hours of **10:00 P.M.** and the licensed premises' closing hour; and
 - (iv) notice of the discount of the drink of alcoholic liquor during a specified time is posted on the licensed premises or on the licensee's publicly available website at least **seven (7) days** prior to the specified time.

(D) A violation of this Section shall be grounds for suspension or revocation of the retailer's license as provided by **Article IV** of this Chapter. **(235 ILCS 5/6-28)**

21-3-3 PROHIBITED LOCATIONS. No license shall be issued for the sale of any alcoholic liquor at retail within **one hundred (100) feet** of any church, school (other than an institution of higher learning), hospital, home for the aged or indigent persons, or for veterans, their spouses or children or any military or naval station; provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs or to restaurants, food shops, or other places where the sale of alcoholic liquors is not the principal business carried on if such place of business so exempted shall have been established for such purposes prior to the taking effect of this Chapter; nor to the renewal of a license for the sale at retail of alcoholic liquor on the premises within **one hundred (100) feet** of any church or school where such church or school has been established within such **one hundred (100) feet** since the issuance of the original license. In the case of a church, the distance of **one hundred (100) feet** shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors. **(235 ILCS 5/6-11(e))**

21-3-4 **CHANGE OF LOCATION.** A retail liquor dealer's license shall permit the sale of alcoholic liquor only on the premises described in the application and license. Such location may be changed only upon the written permit to make such change issued by the Mayor. No change of location shall be permitted unless the proposed new location is a proper one for the retail sale of alcoholic liquor under the law of this state and the Code of this municipality. **(235 ILCS 5/7-14)**

21-3-5 **STORES SELLING SCHOOL SUPPLIES, LUNCHES, ETC.** No license shall be issued to any person for the sale at retail of any alcoholic liquor at any store or other place of business where the majority of customers are minors of school age or where the principal business transacted consists of school books, school supplies, food, lunches, or drinks for such minors. **(235 ILCS 5/6-12)**

21-3-6 **TRANSPORTING, ETC., IN MOTOR VEHICLES.** No person shall, within this municipality, transport, carry, possess, or have any alcoholic liquor in, upon, or about any motor vehicle in or on any public street, alley or place, except in the original package and with the seal unbroken.

21-3-7 **OPEN LIQUOR - CUP-TO-GO PROHIBITED.** The licensee shall not knowingly permit any person to leave his premises with open liquor or in a "cup-to-go".

21-3-8 **LIQUOR IN VEHICLES; UNDERAGE.** The presence in a vehicle other than a public vehicle of any alcoholic liquor shall be prima facie evidence that it is in the possession of and is being carried by all persons occupying such vehicle at the time of which such alcoholic liquor is found, except under the following circumstances:

- (A) If such liquor is found on the person of one of the occupants therein; or
- (B) If such vehicle contains at least one occupant over **twenty-one (21)** years of age.

21-3-9 **RESTRICTED RESIDENTIAL AREAS.** It shall be unlawful to establish a retail liquor business within the municipality in violation of the restrictions of the Zoning Code. **(See Chapter 40 of the Revised Code)**

21-3-10 **ELECTION DAYS.** All such licensees may sell alcoholic liquor at retail, by the drink or in the original package for consumption either on or off the premises licensed on the day of any national, state, county or municipal election, including primary elections

during the hours the polls are open within the political area in which such election is being held and on Sundays; subject to all the remaining terms, conditions and opening hours and closing hours as set forth in this Code.

21-3-11 UNLAWFUL ACTS. It shall be unlawful for any person to do or commit any of the following acts within the Village, to-wit:

(A) Drink any alcoholic liquors on any public street, alley, sidewalk, or other public way without special permission granted by the Mayor.

(B) Drink any alcoholic liquors in any public park, except with the permission of the Mayor.

(C) Drink any alcoholic liquors in any private property without permission of the owner thereof.

(D) Appear on or in any public street, alley, sidewalk or other public place, including parks and recreation areas, in an intoxicated condition.

21-3-12 UNLAWFUL ENTERTAINMENT. No licensee, his agent, servant or employee shall permit or allow any lewd or lascivious act or any topless and/or bottomless employee and/or employees [**topless being defined as naked and substantially without clothing or covering of the body from the waist to the neckline and bottomless being defined as naked and substantially without clothing or covering of the body from the waist downward**], or entertainment to be performed within the licensed premises by an entertainer employed therein, or by any employee or guest.

Nor shall any licensee, his agent, servant or employee permit or allow any employee or guest or any other person whomever to solicit or encourage the purchasing of any alcoholic liquor or beverage of any description, or the giving of any gratuity or gift by any patron or guest to or for the benefit of such employee or guest.

The following kinds of conduct on premises in this municipality licensed to sell alcoholic liquor are prohibited:

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

(B) The actual or simulated exhibition, touching, caressing, or fondling of the breasts, buttocks, pubic hair, anus, vulva, or genitals;

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

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

(E) The displaying of films or pictures depicting acts, a live performance of which are prohibited by the regulations quoted above.

21-3-13 SANITARY CONDITIONS. All premises used for the retail sale of alcoholic liquor or for the storage of such liquor for such sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with the codes regulating the condition of the premises used for the storage or sale of food for human consumption. **(410 ILCS 650/1, et seq.)**

21-3-14 DISEASED EMPLOYEES. It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor, any person who is afflicted with or who is a carrier of any contagious disease, infectious or venereal disease; and it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such liquor. **(410 ILCS 650/10)**

21-3-15 HEALTH PERMIT. Every licensee shall have, at all times, a valid operating permit from the County Health Department which regulates health standards.

21-3-16 PEDDLING. It shall be unlawful to peddle alcoholic liquor in this municipality. **(235 ILCS 5/4-1)**

21-3-17 GAMBLING. It is unlawful to keep, place, maintain or operate any gambling device or instrument in and upon the premises used or occupied as a place where alcoholic liquor is sold or given away, except in the following instances:

(A) **Bingo.** When conducting or participating in the game commonly known as Bingo, when conducted in accordance with the Bingo License and Tax Act **(230 ILCS 25/1 et seq.);**

(B) **Video Poker.** Video Gaming Terminal games at a licensed establishment, licensed fraternal organization, or licensed veteran's establishment, when conducted in accordance with the Video Gaming Act. **(230 ILCS 40/1 et seq.)**

21-3-18 DISORDERLY HOUSE. Any person licensed under this Chapter shall not suffer or permit any disorder, drunkenness, quarreling, fighting, unlawful games, or riotous or disorderly conduct in any house or premises kept or occupied by him for the sale of liquor. **(235 ILCS 5/4-1)**

21-3-19 PROHIBITED SALES - GENERALLY. No licensee, nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of **twenty-one (21) years**, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, or mentally ill, 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 **twenty-one (21) years**, except in the performance of a religious ceremony or service. **(235 ILCS 5/6-16)**

21-3-20 PERSONS SELLING LIQUOR. It shall be unlawful for any person under the age of **twenty-one (21) years** to attend any bar or to sell, draw, pour or mix any alcoholic liquor in any Class "A" or "B" licensed retail premises. In a Class "C" or "D" licensed business, a person may serve if he is **eighteen (18) years** of age or older. **(235 ILCS 5/4-1)**

21-3-21 UNDERAGED; ENTRY ON LICENSED PREMISES.

(A) It shall be unlawful for any person under the age of **twenty-one (21) years** to enter upon premises where alcoholic liquors, spirits, beer or wine are sold by the holder of a license unless accompanied by a parent or legal guardian. No holder of a license, nor any officer, associate, member, representative, agent or employee of such licensee shall permit any person under the age of **twenty-one (21) years** not accompanied by a parent or legal guardian to enter the licensed premises. For the purpose of preventing the violation of this section, any holder of a license, or his agent or employee, may refuse to permit entry onto the licensed premises of any person under the age of **twenty-one (21) years** who is unable to produce adequate written evidence of the fact that the person accompanying such person under the age of **twenty-one (21) years** is that person's parent or legal guardian.

(B) **Exception.** No prohibition of entry under this Section shall apply to any licensed premises, such as without limitation a restaurant, food shop, or convenience-type store including gas stations which sell convenience wares, where selling, giving, or delivering alcoholic liquor is not the principal business of the licensee at those premises. **(235 ILCS 5/6-16.2)**

21-3-22 UNLAWFUL PURCHASE OF LIQUOR. Any person to whom the sale, gift or delivery of any alcoholic liquor is prohibited because of age shall not purchase or accept a gift of such alcoholic liquor or have such alcoholic liquor in his possession. **(235 ILCS 5/6-20)**

21-3-23 IDENTIFICATION REQUIRED. If a licensee or his agents or employees believe or have reason to believe that a sale or delivery of any alcoholic liquor is prohibited because of the age of the prospective recipient, he shall, before making such sale or delivery, demand presentation of some form of positive identification, containing proof of age, issued by a public officer in the performance of his official duties.

Proof that the defendant/licensee or his employees or agent demanded, was shown, and reasonably relied upon such written evidence in any transaction forbidden by this section is competent evidence and may be considered in any criminal prosecution therefor or in any proceedings for the suspension or revocation of any license based thereon. **(235 ILCS 5/6-20)**

21-3-24 TRANSFER OF IDENTIFICATION CARD. No person shall transfer, alter or deface such an identification card; use the identification card of another; carry or use a false or forged identification card; or obtain an identification card by means of false information. No person shall purchase, accept delivery, or have possession of alcoholic liquor in violation of this Chapter.

The consumption of alcoholic liquor by any person under the age of **twenty-one (21) years** is forbidden. **(235 ILCS 5/6-20)**

21-3-25 POSTING WARNING. In every licensed business where alcoholic liquor is sold, there shall be displayed at all times in a prominent place, a printed card which shall be supplied by the Municipal Clerk, and which shall read as follows:

UNDERAGE LIQUOR WARNING

"YOU ARE SUBJECT TO A FINE UP TO \$750 UNDER THE ORDINANCES OF THIS MUNICIPALITY IF YOU PURCHASE ALCOHOLIC LIQUOR OR MISREPRESENT YOUR AGE FOR THE PURPOSE OF PURCHASING OR OBTAINING ALCOHOLIC LIQUOR."

21-3-26 EXCLUSIONARY PROVISION. The possession and dispensing or consumption by an underaged person of alcoholic liquor in the performance of a religious service or ceremony, or the consumption by an underaged person under the direct supervision and approval of the parent or parents of such underaged person in the privacy of a home is not prohibited by this Chapter. **(235 ILCS 5/6-20)**

21-3-27 INSPECTIONS. It shall be unlawful to refuse to grant admittance to the premises for which a license has been issued at any time upon the verbal request of the Chief of Police, any police officer, or the Liquor Commissioner for the purpose of making an inspection of such premises or any part thereof. **(235 ILCS 5/4-4)**

21-3-28 BOOKS AND RECORDS---AVAILABLE UPON REASONABLE NOTICE AND MAINTAINED IN STATE RECORDS. It shall be the duty of every retail licensee to make books and records available upon reasonable notice for the purpose of investigation and control by the Mayor having jurisdiction over the licensee. Such books and records need not be maintained on the licensed premises, but must be maintained in the State of Illinois. **(235 ILCS 5/6-10)**

21-3-29 RESTRICTIONS ON LICENSEE. In addition to the restrictions on licensing, the holder of a license is subject to the following restrictions:

(A) It is unlawful for any licensee to accept, receive or borrow money or anything of value directly or indirectly from any manufacturer or distributor of alcoholic liquor. **(235 ILCS 5/6-5)**

(B) No licensee licensed under the provisions of this Code shall deny or permit his agents or employees to deny any person the full and equal enjoyment of the accommodations, advantages, facilities and privileges of any premises in which alcoholic liquors are authorized to be sold subject only to the conditions and limitations established by law and applicable alike to all citizens. **(235 ILCS 5/6-17)**

(C) No licensee shall sell liquor to any persons on credit, or in payment for services rendered but this does not apply to clubs and hotels and liquor purchased for consumption off the premises. **(235 ILCS 5/6-19)**

(D) No licensee shall fill or refill in whole or in part any original package of alcohol with the same or other liquor and no liquor shall be sold except in original packages. **(235 ILCS 5/6-22)**

(E) No alcoholic liquor shall be sold or delivered in any building belonging to or under the control of a municipality except in connection with the operation of an established food service facility or at a site specifically provided for in the Act and where dram shop insurance coverage is provided. **(235 ILCS 5/6-15)**

(F) An established place of business is a prerequisite to the issuance of a license. Revocation of a license when a licensee ceases to operate the business before the license expires is within the authority of the commissioner on the grounds of nonuse. **(See Goode V. Thomas 31 Ill. App. 3d 674, 1975)**

21-3-30 SELLING FALSE IDENTIFICATION. Any person who sells, gives, or furnishes to any person under the age of **twenty-one (21) years** any false or fraudulent written, printed, or photostatic evidence of the age and identity of such person or who sells, gives or furnishes to any person under the age of **twenty-one (21) years** evidence of age and identification of any other person is guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-31 FALSE IDENTIFICATION. Any person under the age of **twenty-one (21) years** who presents or offers to any licensee, his agent or employee, any written, printed or photostatic evidence of age and identity which is false, fraudulent, or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent, written, printed, or photostatic evidence of age and identity, is guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-32 UNDERAGED DRINKING ON STREETS. Any person under the age of **twenty-one (21) years** who has any alcoholic beverage in his possession on any street or highway or in any public place, or in any place open to the public is guilty of violating this Code. This section does not apply to possession by a person under the age of **twenty-one (21) years** making a delivery of an alcoholic beverage in pursuance of the order of his or her parent or in pursuance of his or her employment. **(235 ILCS 5/6-16)**

21-3-33 RESIDENTIAL DRINKING. Any person shall be guilty of a violation of this Code where he or she knowingly permits a gathering at a residence which he or she occupies of **two (2) or more persons** where any one or more of the persons is under **twenty-one (21) years** of age and the following factors also apply:

- (A) the person occupying the residence knows that any such person under the age of **twenty-one (21)** is in possession of or is consuming any alcoholic beverage; and
- (B) the possession or consumption of the alcohol by the person under **twenty-one (21)** is not otherwise permitted by this Code and
- (C) the person occupying the residence knows that the person under the age of **twenty-one (21)** leaves the residence in an intoxicated condition.

For the purposes of this section where the residence has an owner and a tenant or lessee, there is a rebuttable presumption that the residence is occupied only by the tenant or lessee. **(235 ILCS 5/6-16)**

21-3-34 RENTING HOTEL ROOMS FOR DRINKING. Any person who rents a hotel or motel room from the proprietor or agent thereof for the purpose of or with the

knowledge that such room shall be used for the consumption of alcoholic liquor by persons under the age of **twenty-one (21) years** shall be guilty of violating this Code. **(235 ILCS 5/6-16)**

21-3-35 BASSET TRAINING REQUIRED.

(A) For all licenses issued on or after **October 1, 2016** and all original or renewal applications for Classes "A" to "G" liquor licenses shall be accompanied with proof of completion of a State Certified Beverage Alcohol Sellers and Servers Education and Training (BASSET) program for all persons who sell or serve alcoholic beverages, all management personnel working on premises, and anyone whose job description entails the checking of identification for the purpose of alcoholic beverages, pursuant to that license.

(B) A state certified BASSET training program shall be defined as a BASSET program licensed by the State of Illinois Liquor Control Commission (ILCC) as required by **235 ILCS 5/3-12(11.1)** and **6-27** and Title 77 of Illinois Administrative Code, Chapter XVI, Section 3500. All licensed BASSET providers shall be required to have on file all licenses and certificates to prove current qualifications and provide a certificate of course completion and a card (a picture type ID is optional), to participants as proof of completion.

(C) After **October 1, 2016**, any new owner, manager, employee, or agent requiring BASSET training, shall within **ninety (90) days** from the beginning of their employment with that licensee, complete an ILCC BASSET approved seller/server training program and shall until completion of the BASSET program work under the supervision of a person who has completed BASSET training.

(D) A photo copy of certificate of completion for all owners, managers, employees, or agents required by this Section to have BASSET training shall be maintained, by the establishment, in manner that will allow inspection, upon demand, by any designee of both the state or local liquor control authorities.

(E) The City will honor all State of Illinois Liquor Control Commission (ILCC) BASSET approved programs.

ARTICLE IV - VIOLATIONS AND PENALTIES

21-4-1 OWNER OF PREMISES PERMITTING VIOLATION. If the owner of the licensed premises or any person from whom the licensee derives the right to possession of such premises, or the agent of such owner or person shall knowingly permit the licensee to use said licensed premises in violation of the terms of this Code, said owner, agent or other person shall be deemed guilty of a violation of this Code to the same extent as said licensee and be subject to the same punishment. **(235 ILCS 5/10-2)**

21-4-2 ACTS OF AGENT OR EMPLOYEE - LIABILITY; KNOWLEDGE. Every act or omission of whatsoever nature constituting a violation of any of the provisions of this Code by any officer, director, manager or other agent or employee of any licensee shall be deemed and held to be the act of such employer or licensee, and said employer or licensee shall be punishable in the same manner as if said act or omission had been done or omitted by him personally. **(235 ILCS 5/10-3)**

21-4-3 REVOCAION OF LICENSE AFTER CONVICTION. Whenever any licensee shall be convicted of any violation of this Code, the license of said licensee may, in the discretion of the Mayor, be revoked and forfeited and all fees paid thereon shall be forfeited, and it shall thereafter be unlawful and shall constitute a further violation of this Code for said licensee to continue to operate under such license. **(235 ILCS 5/10-4)**

21-4-4 REVOCAION OF LICENSE WHEN EMPLOYEE CONVICTED. Whenever any officer, director, manager, or other employee in a position of authority of any licensee under this Code shall be convicted of any violation of this Code while engaged in the course of his employment or while upon the premises described by the license, the license shall be revoked and the fees paid thereon forfeited, both as to the holder of the license and as to the premises, as if said licensee had himself been convicted. **(235 ILCS 5/10-5)**

21-4-5 MISBRANDING. Any person who shall knowingly possess, sell or in any way dispose of any alcoholic liquor under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the package or other containers of the alcoholic liquor, or who shall cause any such act to be done, shall forfeit the alcoholic liquor and the packages and containers to the State and shall be subject to the punishment and penalties provided for violation of this Code. **(235 ILCS 5/10-6)**

21-4-6 ABATEMENT OF PLACE USED IN VIOLATION. Every lot, parcel or tract of land, and every building, structure, tent, railroad car, boat, wagon, vehicle, establishment or place whatsoever, together with all furniture, fixtures, ornaments and machinery located thereon, wherein there shall be conducted any unlawful sale of any alcoholic liquor, or whereon or wherein there shall be kept, stored, concealed or allowed any alcoholic liquor intended for illegal sale or to be sold, disposed of or in any other manner used in

violation of any of the provisions of this Code, is hereby declared to be a public nuisance and shall be abated as provided by the laws of this State for the abatement of public nuisances. **(235 ILCS 5/10-7)**

21-4-7 **USE OF PREMISES FOR ONE YEAR AFTER REVOCATION.** When any license has been revoked for any cause, no license shall be granted for the same premises for a period of **one (1) year** thereafter. **(235 ILCS 5/7-13)**

21-4-8 **REVOCATION OF LICENSES.** The Local Liquor Control Commissioner shall have the following powers, functions and duties with respect to licenses granted under this Code.

(A) In addition to and not limited by the specific penalties set out for violations of specific articles of this Code, the Local Liquor Control Commissioner may suspend for **thirty (30) days** or revoke any liquor license issued under this Code for violation of any state law pertaining to the sale of alcoholic liquors by any licensee, his agent, servant or employee.

(B) To suspend or revoke any liquor license if the licensee makes any false statement or misrepresentation in the application for a license.

(C) To enter or to authorize any law enforcing officer to enter at any time upon any premises licensed hereunder to determine whether any of the provisions of this Code or any rules or regulations adopted by him or by the State Commission have been or are being violated, and at such time to examine said premises of said licensee in connection therewith;

(D) To notify the Secretary of State where a club incorporated under the General Not for Profit Corporation Act or a foreign corporation functioning as a club in this State under a certificate of authority issued under that Act has violated this Code by selling or offering for sale at retail alcoholic liquors without a retailer's license;

(E) To receive complaint from any citizen within his jurisdiction that any of the provisions of this Act, or any rules or regulations adopted pursuant hereto, have been or are being violated and to act upon such complaints in the manner hereinafter provided;

(F) The Local Liquor Control Commissioner shall also have the power to levy fines in accordance with **Section 21-4-10** of this Code. **(235 ILCS 5/4-4)**

21-4-9 **COMPLAINT BY RESIDENTS.** Any **five (5) residents** of the municipality shall have the right to file a complaint with the Liquor Commissioner, stating that a licensee under this Code has been or is violating the provisions of this Code or any amendments hereto, or of any of the statutes of this State of Illinois, enacted with reference to the control of liquor. Such complaint shall be made in writing and shall be signed and sworn to by the parties complaining.

The complaint shall state the particular provision, rule or regulation believed to have been violated and the facts in detail upon which such belief is based. If the Liquor Commissioner is satisfied that the complaint substantially charges a violation, and that from the facts alleged, there is reasonable cause for such belief, he shall set the matter for hearing, and shall serve notice upon the licensee of the time and place of such hearing and of the particular charges in the complaint. **(235 ILCS 5/7-7)**

21-4-10 REVOCATION OR SUSPENSION OF LOCAL LICENSE; - NOTICE AND HEARING. The Liquor Commissioner may revoke or suspend any license issued by him if he determines that the licensee has violated any of the provisions of the **Illinois Liquor Act**, any valid ordinance adopted by the municipality, any applicable rule or regulation established by the Liquor Commissioner or the State Commission which is not inconsistent with law.

(A) Fine as Opposed to Suspension or Revocation. In addition to the suspension, the Local Liquor Control Commissioner in any county or municipality may levy a fine on the licensee for such violations. The fine imposed shall not exceed One Thousand Dollars (\$1,000.00) for a first violation within a twelve (12) month period, One Thousand Five Hundred Dollars (\$1,500.00) for a second violation within a twelve (12) month period, and Two Thousand Five Hundred Dollars (\$2,500.00) for a third or subsequent violation within a twelve (12) month period. Each day on which a violation continues shall constitute a separate violation. Not more than Fifteen Thousand Dollars (\$15,000.00) in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the municipal treasury. (See P.A. 89-0063)

(B) Revocation and Suspension: Notice. However, no such license shall be so revoked or suspended and no licensee shall be fined except after a public hearing by the Local Liquor Control Commissioner with a **three (3) day** written notice to the licensee affording the licensee an opportunity to appear and defend. All such hearings shall be open to the public and the Liquor Commissioner shall reduce all evidence to writing and shall maintain an official record of the proceedings. If the Liquor Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing order the licensed premises closed for not more than **seven (7) days**, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises such order shall not be applicable to such other business or businesses.

(C) Hearing. The Liquor Commissioner shall, within **five (5) days** after such hearing, if he determines after such hearing that the license should be revoked or suspended, state the reason or reasons for such determination in a written order of revocation or suspension and shall serve a copy of such order within the **five (5) days** upon the licensee. The findings of the Commissioner shall be predicted upon competent evidence. **(235 ILCS 5/7-5)**

21-4-11 APPEALS FROM ORDER OF LIQUOR COMMISSIONER. Except as provided in this section, any order or action of a Local Liquor Control Commissioner levying a fine or refusing to levy a fine on a licensee, granting or refusing to grant a license, revoking or suspending or refusing to revoke or suspend a license or refusing for more than **thirty (30) days** to grant a hearing upon a complaint to revoke or suspend a license may within **twenty (20) days** after notice of such order or action be appealed by any resident of the municipality under the jurisdiction of the Liquor Commissioner or any person interested, to the State Commission.

In any case where a licensee appeals to the State Commission from an order or action of the Liquor Commissioner having the effect of suspending or revoking a license, denying a renewal application, or refusing to grant a license, the licensee shall resume the operation of the licensed business pending the decision of the State Commission and the expiration of the

time allowed for an application for rehearing. If an application for rehearing is filed, the licensee shall continue the operation of the licensed business until the denial of the application or, if the rehearing is granted, until the decision on rehearing. **(235 ILCS 5/7-9)**

21-4-12 **SUBSEQUENT VIOLATIONS IN A YEAR.** In any case in which a licensee appeals to the State Commission a suspension or revocation by a Local Liquor Control Commissioner that is the second or subsequent such suspension or revocation placed on that licensee within the preceding **twelve (12) month period**, the licensee shall consider the suspension or revocation to be in effect until a reversal of the Liquor Commissioner's action has been issued by the State Commission and shall cease all activity otherwise authorized by the license. The State Commission shall expedite, to the greatest extent possible, its consideration of any appeal that is an appeal of a second or subsequent suspension or revocation within the past **twelve (12) month period.** **(235 ILCS 5/7-9)**

21-4-13 **APPEAL LIMITATIONS FOR SUBSEQUENT VIOLATION.** Any appeal of the decision and findings of the Liquor Commissioner in **Section 21-4-12** shall be limited to a review of the official record of the proceedings of said Liquor Commissioner. The official record shall be a "certified official record" of the proceedings taken and prepared by a certified court reporter or certified shorthand reporter. A copy of this record shall be filed by the Liquor Commissioner within **five (5) days** after notice of the filing of such appeal is received by the municipality from State Commission. **(235 ILCS 5/7-9)**

APPLICATION FOR VILLAGE LIQUOR RETAILER'S LICENSE

TO: Mayor
Village of Loami

The undersigned hereby make(s) application for the issuance of a Village retailer's license for the sale of alcoholic liquor for the term beginning _____, 20____, and ending _____, 20____, and hereby certify(ies) to the following facts:

- 1) Applicant's full name _____
(If a partnership or corporation give names of all owners of more than 5%)
Name under which business is to be conducted:

- 2) Location of place of business for which license is sought _____
A) _____
Exact address by street and number/zip code
B) _____
(Full description of location, place or premises, specifying floor, room, etc.)
- 3) State principal kind of business _____
- 4) Class of license applied for _____
- 5) Does applicant seek a license to sell alcoholic liquor upon the premises as a restaurant? _____
If so, are premises:
A) Maintained and held out to the public as a place where meals are actually and regularly served? _____
B) Provided with adequate and sanitary kitchen and dining room equipment and capacity with sufficient employees to prepare, cook and serve suitable food? _____
- 6) Does applicant own premises for which this license is sought? _____
- 7) Has applicant a lease on such premises covering the full period for which the license is sought? _____ If so, attach copy.
- 8) Is applicant licensed as a food dispenser? _____
- 9) Is the location of applicant's business for which license is sought within 100 feet property line to property line, of any school, hospital, home for aged or indigent persons, or for veterans, their wives or children, or any military or naval station, or 100 feet building to building from a church? _____
- 10) Is any law enforcing public official, mayor, trustee, member of the board of trustees, or any president or member of a county board directly interested in the business for which this license is sought? _____
- 11) Has any manufacturer, importing distributor or distributor directly or indirectly paid or agreed to pay for this license, advanced money or anything of value, or any credit (other than merchandising credit in the ordinary course of business for a period not to exceed 30 days), or is such person directly or indirectly interested in the ownership, conduct or operation of the place of business? _____

- 12) Is the applicant or any affiliate, associate, subsidiary, officer, director or other agent engaged in the manufacture of alcoholic liquors? _____

 If so, at what location or locations? _____
- 13) Is the applicant engaged in the business of an importing distributor or distributor of alcoholic liquors? _____
 If so, at what location or locations? _____
- 14) Will the business be conducted by a manager or agent? _____
 If so, give name and residence address of such manager or agent:
 Name _____
 Address _____
- 15) Do you hold any other current business licenses issued by the Village? ____ If so, what type of license do you currently hold and what is the address of the licensed premises?
 (Type) _____
 (Address) _____

Individual Applicant:

- 16) A) Name _____
 Date of birth _____

 Month/Day/Year
- B) Residence address _____

 (give street and number)
 Telephone number _____
- C) Place of birth _____
- D) Are you a citizen of the United States? _____
 If a naturalized citizen, when naturalized? _____

 Month/Day/Year
 Where naturalized? _____

 (Village and State)
 Court in which (or law under which) naturalized _____

- E) Have you ever been convicted of any felony under any Federal or State law?

 If so, give date and state offense _____
- F) Have you ever been convicted of being the keeper of a house of ill fame; or of pandering or other crime or misdemeanor opposed to decency and morality? _____
 If so, give dates and state offense _____
- G) Have you ever been convicted of a violation of a Federal or State liquor law since February 1, 1934? _____
 If so, give dates and state offense _____
- H) Have you ever permitted an appearance bond forfeiture for any of the violations mentioned in paragraph (G)? _____
- I) Have you made application for other similar license for premises other than described in this application? _____
 If so, give date, location of premises and disposition of application _____

- J) Has any license previously issued to you by State, Federal or local authorities been revoked, suspended or fined? _____
If so, state reasons therefor and date(s) _____

Co-partnership/Corporate Applicant:

- 17) A) Name of partner, or corporate officers and directors and shareholders, if any: (attached separate sheet if necessary)
Date of birth _____
Month/Day/Year
- B) Residence address _____
(Village and State)
Telephone number _____
- C) Place of birth _____
Month/Day/Year
- D) Are you a citizen of the United States? _____
If a naturalized citizen, when naturalized? _____
Month/Day/Year
Where naturalized? _____
(Village and State)
Court in which (or law under which) naturalized _____
- E) Have you ever been convicted of any felony under any Federal or State law? _____
If so, give date and state offense _____
- F) Have you ever been convicted of being the keeper of a house of ill fame; or of pandering or other crime or misdemeanor opposed to decency and morality? _____
If so, give dates and state offense _____
- G) Have you ever been convicted of a violation of a Federal or State liquor law since February 1, 1934? _____
If so, give dates and state offense _____
- H) Have you ever permitted an appearance bond forfeiture for any of the violations mentioned in paragraph (G)? _____
- I) Have you made application for other similar license for premises other than described in this application? _____
If so, give date, location of premises and disposition of application _____
- J) Has any license previously issued to you by State, Federal or local authorities been revoked, suspended or fined? _____
If so, state reasons therefor and date(s) _____

APPENDIX IV

AFFIDAVIT

STATE OF ILLINOIS)
)
COUNTY OF) **SS**

I (or we) swear (or affirm) that I (or we) will not violate any of the ordinances of the Village of Loami or the laws of the State of Illinois or the laws of the United States of America, in the conduct of the place of business described herein and that the statements contained in this application are true and correct to the best of my (our) knowledge and belief.

Subscribed and Sworn to before me this _____ day of _____, 20____.

(Signature of Applicant)

CHAPTER 22
MANDATED POLICIES

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CHAPTER 22

MANDATED POLICIES

ARTICLE I – IDENTITY THEFT

22-1-1 **PROGRAM ADOPTION.** The Village developed this Identity Theft Prevention Program pursuant to the Federal Trade Commission’s Red Flags Rule, which implements Section 114 of the Fair and Accurate Credit Transactions of 2003. 16 C.F.R. § 681.2. This Program was developed with oversight and approval of the Village. After consideration of the size and complexity of the Utility’s operations and account systems, and the nature and scope of the Utility’s activities, the Village Board determined that this Program was appropriate for the Village, and therefore approved this Program on February 9, 2009.

22-1-2 **PROGRAM PURPOSE AND DEFINITIONS.**

(A) **Fulfilling Requirements of the Red Flags Rule.** Under the Red Flag Rule, every financial institution and creditor is required to establish an “Identity Theft Prevention Program” tailored to its size, complexity and the nature of its operation. Each program must contain reasonable policies and procedures to:

- (1) Identify relevant Red Flags for new and existing covered accounts and incorporate those Red Flags into the Program;
- (2) Detect Red Flags that have been incorporated into the Program;
- (3) Respond appropriately to any Red Flags that are detected to prevent and mitigate Identity Theft; and
- (4) Ensure the Program is updated periodically, to reflect changes in risks to customers or to the safety and soundness of the creditor from Identity Theft.

(B) **Red Flags Rule Definitions Used in this Program.** The Red Flags Rule defines “Identity Theft” as “fraud committed using the identifying information of another person” and a “Red Flag” as “a pattern, practice, or specific activity that indicates the possible existence of Identity Theft.”

According to the Rule, a municipal utility is a creditor subject to the Rule requirements. The Rule defines creditors “to include finance companies, automobile dealers, mortgage brokers, utility companies, and telecommunications companies. Where non-profit and government entities defer payment for goods or services, they, too, are to be considered creditors.”

All the Utility’s accounts that are individual utility service accounts held by customers of the utility whether residential, commercial or industrial are covered by the Rule. Under the Rule, a “covered account” is:

- (1) Any account the Utility offers or maintains primarily for personal, family or household purposes, that involves multiple payments or transactions; and
- (2) Any other account the Utility offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the Utility from Identity Theft.

“Identifying information” is defined under the Rules as “any name or number that may be used, alone or in conjunction with any other information, to identify a specific person,” including: name, address, telephone number, social security number, date of birth, government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number, unique electronic identification number, computer’s Internet Protocol address, or routing code.

22-1-3 IDENTIFICATION OF RED FLAGS. In order to identify relevant Red Flags, the Utility considers the types of accounts that it offers and maintains, the methods it provides to open its accounts, the methods it provides to access its accounts, and its previous experiences with Identity Theft. The Utility identifies the following red flags, in each of the listed categories:

(A) **Notifications and Warnings From Credit Reporting Agencies; Red Flags.**

- (1) Report of fraud accompanying a credit report;
- (2) Notice or report from a credit agency of a credit freeze on a customer or applicant;
- (3) Notice or report from a credit agency of an active duty alert for an applicant; and
- (4) Indication from a credit report of activity that is inconsistent with a customer’s usual pattern or activity.

(B) **Suspicious Documents; Red Flags.**

- (1) Identification document or card that appears to be forged, altered or inauthentic;
- (2) Identification document or card on which a person’s photograph or physical description is not consistent with the person presenting the document;
- (3) Other document with information that is not consistent with existing customer information (such as if a person’s signature on a check appears forged); and
- (4) Application for service that appears to have been altered or forged.

(C) **Suspicious Personal Identifying Information; Red Flags.**

- (1) Identifying information presented that is inconsistent with other information the customer provides (example: inconsistent birth dates);
- (2) Identifying information presented that is inconsistent with other sources of information (for instance, an address not matching an address on a credit report);
- (3) Identifying information presented that is the same as information shown on other applications that were found to be fraudulent;
- (4) Identifying information presented that is consistent with fraudulent activity (such as an invalid phone number or fictitious billing address);
- (5) Social security number presented that is the same as one given by another customer;
- (6) An address or phone number presented that is the same as that of another person;

- (7) A person fails to provide complete personal identifying information on an application when reminded to do so (however, by law social security numbers must not be required); and
- (8) A person's identifying information is not consistent with the information that is on file for the customer.

(D) **Flags.**

Suspicious Account Activity or Unusual Use of Account; Red

- (1) Change of address for an account followed by a request to change the account holder's name;
- (2) Payments stop on an otherwise consistently up-to-date account;
- (3) Account used in a way that is not consistent with prior use (example: very high activity);
- (4) Mail sent to the account holder is repeatedly returned as undeliverable;
- (5) Notice to the Utility that a customer is not receiving mail sent by the Utility;
- (6) Notice to the Utility that an account has unauthorized activity;
- (7) Breach in the Utility's computer system security; and
- (8) Unauthorized access to or use of customer account information.

(E)

Alerts From Others; Red Flag.

- (1) Notice to the Utility from a customer, identity theft victim, law enforcement or other person that it has opened or is maintaining a fraudulent account for a person engaged in Identity Theft.

22-1-4 DETECTING RED FLAGS.

(A) **New Accounts.** In order to detect any of the Red Flags identified above associated with the opening of a **new account**, Utility personnel will take the following steps to obtain and verify the identity of the person opening the account:

- (1) Require certain identifying information such as name, date of birth, residential or business address, principal place of business for an entity, driver's license or other identification;
- (2) Verify the customer's identity (for instance, review a driver's license or other identification card);
- (3) Review documentation showing the existence of a business entity; and
- (4) Independently contact the customer.

(B) **Existing Accounts.** In order to detect any of the Red Flags identified above for an **existing account**, Utility personnel will take the following steps to monitor transactions with an account:

- (1) Verify the identification of customers if they request information (in person, via telephone, via facsimile, via email);
- (2) Verify the validity of requests to change billing addresses; and
- (3) Verify changes in banking information given for billing and payment purposes.

22-1-5 PREVENTING AND MITIGATING IDENTITY THEFT.

(A) **Prevent and Mitigate.** In the event Utility personnel detect any identified Red Flags, such personnel shall take one or more of the following steps, depending on the degree of risk posed by the Red Flag:

- (1) Continue to monitor an account for evidence of Identity Theft;
- (2) Contact the customer;
- (3) Change any passwords or other security devices that permit access to accounts;
- (4) Not open a new account;
- (5) Close an existing account;
- (6) Reopen an account with a new number;
- (7) Notify the Program Administrator for determination of the appropriate step(s) to take;
- (8) Notify law enforcement; or
- (9) Determine that no response is warranted under the particular circumstances.

(B) **Protect Customer Identifying Information.** In order to further prevent the likelihood of Identity Theft occurring with respect to Utility accounts, the Utility will take the following steps with respect to its internal operating procedures to protect customer identifying information:

- (1) Ensure that its website is secure or provide clear notice that the website is not secure;
- (2) Ensure complete and secure destruction of paper documents and computer files containing customer information;
- (3) Ensure that office computers are password protected and that computer screens lock after a set period of time;
- (4) Keep offices clear of papers containing customer information;
- (5) Request only the last 4 digits of social security numbers (if any);
- (6) Ensure computer virus protection is up to date; and
- (7) Require and keep only the kinds of customer information that are necessary for utility purposes.

22-1-6 PROGRAM UPDATES. The Program Administrator will periodically review and update this Program to reflect changes in risks to customers and the soundness of the Utility from Identity Theft. In doing so, the Program Administrator will consider the Utility's experiences with Identity Theft situations, changes in Identity Theft methods, changes in Identity Theft detection and prevention methods, and changes in the Utility's business arrangements with other entities. After considering these factors, the Program Administrator will determine whether changes to the Program, including the listing of Red Flags, are warranted. If warranted, the Program Administrator will update the Program or present the Village Board with his or her recommended changes and the Village Board will make a determination of whether to accept, modify or reject those changes to the Program.

22-1-7 PROGRAM ADMINISTRATION.

(A) **Oversight.** Responsibility for developing, implementing and updating this Program lies with an Identity Theft Committee for the Utility. The Committee is headed by a Program Administrator who may be the head of the Utility or his or her appointee. Two or

more other individuals appointed by the head of the Utility or the Program Administrator comprise the remainder of the committee membership. The Program Administrator will be responsible for the Program administration, for ensuring appropriate training of Utility staff on the Program, for reviewing any staff reports regarding the detection of Red Flags and the steps for preventing and mitigating Identity Theft, determining which steps of prevention and mitigation should be taken in particular circumstances and considering periodic changes to the Program.

(B) **Staff Training and Reports.** Utility staff responsible for implementing the Program shall be trained either by or under the direction of the Program Administrator in the detection of Red Flags, and the responsive steps to be taken when a Red Flag is detected.

(C) **Service Provider Arrangements.** In the event the Utility engages a service provider to perform an activity in connection with one or more accounts, the Utility will take the following steps to ensure the service provider performs its activity in accordance with reasonable policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.

- (1) Require, by contract, that service providers have such policies and procedures in place; and
- (2) Require, by contract, that service providers review the Utility's Program and report any Red Flags to the Program Administrator.

(D) **Non-Disclosure of Specific Practices.** For the effectiveness of this Identity Theft Prevention Program, knowledge about specific Red Flag identification, detection, mitigation and prevention practices must be limited to the Identity Theft Committee who developed this Program and to those employees with a need to know them. Any documents that may have been produced or are produced in order to develop or implement this program that list or describe such specific practices and the information those documents contain are considered "security information" as defined in Minnesota Statutes Section 13.37 and are unavailable to the public because disclosure of them would be likely to substantially jeopardized the security of information against improper use, that use being to circumvent the Utility's Identity Theft prevention efforts in order to facilitate the commission of Identity Theft.

ARTICLE II - USE OF SOCIAL SECURITY NUMBERS

22-2-1 DEFINITIONS.

"Person" means any individual in the employ of the Village.

"Policy" or "Privacy Policy" means this document, as now or hereafter amended.

"Publicly post" or "publicly display" means to intentionally communicate or otherwise intentionally make available to the general public.

"Social Security Number" means the nine (9) digit number assigned to an individual by the United States Social Security Administration for the purposes authorized or required under the United States Social Security Act of August 14, 1935, as amended (Public Law 74-271).

22-2-2 PROHIBITED ACTIVITIES.

(A) No officer or employee of the Village shall do any of the following:

- (1) Publicly post or publicly display in any manner an individual's Social Security Number.
- (2) Print an individual's Social Security Number on any card required for the individual to access products or services provided by the person or entity.
- (3) Require an individual to transmit his or her Social Security Number over the Internet, unless the connection is secure or the Social Security Number is encrypted.
- (4) Print an individual's Social Security Number on any materials that are mailed to the individual, through the United States Postal Service, any private mail service, electronic mail, or a similar method of delivery, unless Illinois or federal law requires the Social Security Number to be on the document to be mailed. Notwithstanding any provision in this Section to the contrary, Social Security Numbers may be included in applications and forms sent by mail, including, but not limited to, any material mailed in connection with the administration of the Illinois Unemployment Insurance Act, any material mailed in connection with any tax administered by the Illinois Department of Revenue, and documents sent as part of an application or enrollment process or to establish, amend, or terminate an account, contract, or policy or to confirm the accuracy of the Social Security Number. A Social Security Number that may permissibly be mailed under this Section may not be printed, in whole or in part, on a postcard or other mailer that does not require an envelope or be visible on an envelope without the envelope having been opened.

(B) Except as otherwise provided in this policy, beginning immediately on the effective date of the Village's authorizing Ordinance, no officer or employee of the Village shall do any of the following:

- (1) Collect, use, or disclose a Social Security number from an individual, unless (i) required to do so under State or Federal law, rules, or regulations, or the collection, use, or disclosure of the Social Security Number is otherwise necessary for the

performance of that agency's duties and responsibilities; (ii) the need and purpose for the Social Security Number is documented before collection of the Social Security Number; and (iii) the Social Security Number collected is relevant to the documented need and purpose.

- (2) Require an individual to use his or her Social Security Number to access an Internet website.
- (3) Use the Social Security Number for any purpose other than the purpose for which it was collected.

(C)
circumstances:

The prohibitions in subsection (B) do not apply in the following

- (1) The disclosure of Social Security Numbers to agents, employees, contractors, or subcontractors of the Village or disclosure to another governmental entity or its agents, employees, contractors, or subcontractors if disclosure is necessary in order for the entity to perform its duties and responsibilities; and, if disclosing to a contractor or subcontractor, prior to such disclosure, the officer or employee of the Village must first receive from the contractor or subcontractor a copy of the contractor's or subcontractor's policy that sets forth how the requirements imposed under this Policy on the Village to protect an individual's Social Security Number will be achieved.
- (2) The disclosure of Social Security Numbers pursuant to a court order, warrant, or subpoena.
- (3) The collection, use, or disclosure of Social Security Numbers in order to ensure the safety of: Village employees; persons committed to correctional facilities, local jails, and other law enforcement facilities or retention centers; wards of the State; and all persons working in or visiting a Village facility.
- (4) The collection, use, or disclosure of Social Security Numbers for Internal verification or administrative purposes.
- (5) The collection or use of Social Security Numbers to investigate or prevent fraud, to conduct background checks, to collect a debt, to obtain a credit report from a consumer reporting agency under the federal Fair Credit Reporting Act, to undertake any permissible purpose that is enumerated under the federal Gramm Leach Bliley Act, or to locate a missing person, a lost relative, or a person who is due a benefit such as a pension benefit or an unclaimed property benefit.

(D) Any standards of the Village for the collection, use, or disclosure of Social Security Numbers that are stricter than the standards under this Policy with respect to the protection of those Social Security Numbers, then, in the event of any conflict with the provisions of this Policy, the stricter standards adopted by the Village shall control.

22-2-3 PUBLIC INSPECTION AND COPYING OF DOCUMENTS.

Notwithstanding any other provision of this policy to the contrary, all officers and employees of the Village must comply with the provisions of any other State law with respect to allowing the public inspection and copying of information or documents containing all or any portion of an

individual's Social Security Number. All officers and employees of the Village must redact Social Security Numbers from the information or documents before allowing the public inspection or copying of the information or documents.

22-2-4 APPLICABILITY.

(A) This policy does not apply to the collection, use, or disclosure of a Social Security Number as required by State or Federal law, rule, or regulation.

(B) This policy does not apply to documents that are required to be open to the public under any State or Federal law, rule, or regulation, applicable case law, Supreme Court Rule, or the Constitution of the State of Illinois.

22-2-5 COMPLIANCE WITH FEDERAL LAW. If a federal law takes effect requiring any federal agency to establish a national unique patient health identifier program, the Village shall follow that law.

22-2-6 EMBEDDED SOCIAL SECURITY NUMBERS. Beginning immediately on the effective date of the Village's authorizing Ordinance, no officer or employee of the Village may encode or embed a Social Security Number in or on a card or document, including, but not limited to, using a bar code, chip, magnetic strip, RFID technology, or other technology, in place of removing the Social Security Number as required by this Policy.

22-2-7 IDENTITY--PROTECTION REQUIREMENTS.

(A) All officers, employees and agents of the Village identified as having access to Social Security Numbers in the course of performing their duties to be trained to protect the confidentiality of all Social Security Numbers. Training shall include instructions on the proper handling of information that contains Social Security Numbers from the time of collection through the destruction of the information.

(B) Only employees who are required to use or handle information or documents that contain Social Security Numbers have access to such information or documents.

(C) Social Security Numbers requested from an individual shall be provided in a manner that makes the Social Security Number easily redacted if required to be released as part of a public records' request.

(D) When collecting a Social Security Number or upon request by the individual, a statement of the purpose or purposes for which the Village is collecting and using the Social Security Number be provided.

(E) A written copy of this Privacy Policy, and any amendment thereto, shall be filed with the Village Board within **thirty (30) days** after approval of this Policy or any amendment thereto.

(F) The Village shall advise its employees of the existence of the Policy and make a copy of this Policy available to each employee, and shall also make this Privacy Policy available to any member of the public, upon request and at no charge for a single copy of this Privacy Policy. If the Village amends this Privacy Policy, then the Village shall also advise its employees of the existence of the amended Policy and make a copy of the amended Policy available to each employee.

22-2-8 **PENALTY.** Any person who violates any portion of this Article, as now or hereafter amended, shall be subject to a fine of not less than **One Hundred Dollars (\$100.00)** for the first such violation and a fine of not less than **Seven Hundred Fifty Dollars (\$750.00)** for each violation thereafter.

22-2-9 **AMENDMENT OF PRIVACY POLICY.** The Privacy Policy adopted in this Division and Chapter shall be subject to amendment from time to time by the Village Board as the Village Board shall deem necessary in its sole discretion in order to maintain the Village's compliance with the Illinois Identity Protection Act as now or hereafter amended.

22-2-10 **CONFLICT WITH STRICTER LAWS.** This Policy does not supersede any more restrictive law, rule, or regulation regarding the collection, use, or disclosure of Social Security Numbers.

[NOTE: This Policy is to comply with Public Act 096-9874 of the State of Illinois, cited as the Identity Protection Act, and codified as Title 30, Act 5, Section 1, et seq., as now or hereafter amended.]

ARTICLE III - FREEDOM OF INFORMATION POLICY

22-3-1 PUBLIC RECORDS AVAILABLE. To the extent required by the Freedom of Information Act, **5 ILCS 140-1 et seq.** the Village shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of the Freedom of Information Act, **5 ILCSA 140/7.**

22-3-2 DESIGNATION, DUTIES AND TRAINING OF FREEDOM OF INFORMATION ACT OFFICERS.

(A) The Village Administrative Assistant is hereby designated to act as Freedom of Information Officer. The Officer shall receive requests submitted to the Village under the Freedom of Information Act, insure that the Village responds to requests in a timely fashion, and issue responses under the Freedom of Information Act. The Freedom of Information officer shall develop a list of documents or categories of records that the Village shall immediately disclose upon request.

(B) Upon receiving a request for a public record, the Freedom of Information Officer shall:

- (1) Note the date the Village receives the written request;
- (2) Compute the date on which the period for response will expire and make a notation of that date on the written request;
- (3) Maintain an electronic or paper copy of the written request including all documents submitted with the request until the request has been complied with or denied; and
- (4) Create a file for the retention of the original request, a copy of the response, a record of written communications with the person making the request, and a copy of other communications regarding the request.

(C) The Freedom of Information Act officers shall successfully complete an electronic training curriculum to be developed by the Public Access Counselor in the office of the Attorney General of the State of Illinois and thereafter successfully complete an annual training program. Thereafter when a new Freedom of Information officer is designated by the Village, that person shall successfully complete the electronic training curriculum within **thirty (30) days** after assuming the position. Successful completion of the required training curriculum within the periods provided shall be a prerequisite to continue serving as a Freedom of Information officer.

22-3-3 PROCEDURES. The Village shall prominently display at the Village Clerk's office, display on its website, make available for inspection and copying, and send through the mail as requested, each of the following:

(A) A brief description of the Village, which will include, but not be limited to a block diagram giving its functional departments, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees and the identification and membership of any board, commission, committee or council which operates in an advisory capacity relative to the operation of the Village, or which exercises control over its policies or procedures; and

(B) A brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information officers, the address where request for public records should be directed, and the fees relating thereto.

22-3-4 REQUESTS TO INSPECT OR COPY. All requests to inspect or copy records or documents prepared, maintained or under the control of the Village shall be made in the following manner:

(A) All requests shall be in writing, shall state with reasonable particularity what records are to be inspected or copied, shall state whether the records are requested for a commercial purpose, and shall be signed by the person making the request. The request may be, but is not required to be, submitted on a form provided by the Village.

(B) The written request shall be submitted to the Village Clerk or to the Mayor. If neither the Village Clerk nor the Mayor is available, the request shall be submitted to any employee of the Village acting under the direction of the Village Clerk.

(C) The Officer receiving the request shall date stamp the request and indicate the date by which a response to the request must be made.

(D) Each request for other than commercial purposes shall be granted or denied in writing within **five (5) business days** after its receipt by the Village, except as hereafter stated. The failure to grant or deny a request within **five (5) business days** shall operate as a denial, except as provided hereinbelow.

(E) The time limit set forth hereinabove may be extended for an additional **five (5) business days** by notice in writing to the person making the request of the **five (5) business days** extension. The notification shall state the reason(s) for the **five (5) business day's** extension and contain a date certain on which the requested record(s) will be available. The failure to grant or deny a request within the additional **five (5) business days** shall operate as a denial. The person making the request and the Village may agree in writing to extend the time for compliance for a period to be determined by the parties. If the person making the request and the Village agree to extend the period for compliance, a failure by the Village to comply with any previous deadlines shall not be treated as a denial of the request for the records.

(F) Charges for copies of records and/or documents shall be imposed in accordance with the following:

- (1) No fees shall be charged for the first **fifty (50) pages** of black and white, letter or legal sized copies requested.
- (2) **Fifteen Cents (\$0.15)** for one-sided page for each black and white, letter, legal sized or 11" x 17" copy requested.
- (3) **One Dollar (\$1.00)** for each certified copy requested.
- (4) **Ten Cents (\$0.10)** for each audio recording.

(G) It shall be the responsibility of the person making the request to pick up the requested documents at Village Hall. If the person making the request asks the Village to mail the documents, he or she shall provide the Village with his/her correct mailing address so as to efficiently process all requests. Copies of records requested to be mailed will be forwarded United States Certified Mail to the address provided. Pre-payment of **Two Dollars Fifty Cents (\$2.50)** per ounce shall be required.

(H) When a person requests a copy of a record maintained in an electronic format, the Village shall furnish it in the electronic format specified by the person making the request, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the Village shall furnish it in the format in which it is maintained by the Village, or in paper format at the option of the person making the request.

22-3-5 REQUEST FOR COMMERCIAL PURPOSES. The Village shall respond to a request for records to be used for a commercial purpose within **twenty-one (21) working days** after receipt. The response shall (1) provide to the person making the request an estimate of the time required by the Village to provide the records requested and an estimate of the fees to be charged, which the Village may require the person to pay in full before copying the requested documents, (2) deny the request pursuant to **one (1)** or more of the exemptions set out in the Freedom of Information Act, **5 ILCS 140/1 et seq.**, (3) notify the person making the request that the request is unduly burdensome and extend an opportunity to the person making the request to attempt to reduce the request to manageable portions, or (4) provide the records requested.

Unless the records are exempt from disclosure, the Village shall comply with a commercial request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.

It is unlawful for a person to knowingly obtain a public record for a commercial purpose within disclosing that it is for a commercial purpose, and any person obtaining a public record for commercial purpose without disclosing that it is for a commercial purpose shall be fined in accordance with the Village Code.

22-3-6 FEES. The Village Clerk shall determine when the established fees are subject to waiver or reduction because the release of the requested information is in the public interest.

22-3-7 PUBLIC FILE. The Village Clerk shall establish and maintain a central file, open to the public, of all denials of requests for records which shall be indexed according to the exemption utilized to deny a request for records, and to the extent possible, according to the types of records requested.

22-3-8 GRANTING OR DENIAL OF REQUESTS. A request for all records within a category shall be granted unless the request constitutes an undue burden upon the Village. Prior to denying a request based upon the burdensome nature of the request, an opportunity to narrow the request to manageable proportions shall be provided. If the attempt to narrow the request fails, the request may be denied because compliance will unduly burden the operations of the Village and the burden outweighs the public interest in the information. The denial shall be in writing, specifying the reasons why compliance will be unduly burdensome and the extent to which compliance will so burden the operations of the Village. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided are properly denied under the Freedom of Information Act shall be deemed unduly burdensome under this Section.

22-3-9 **CERTAIN INFORMATION EXEMPT FROM INSPECTION AND COPYING.** If any record exempt from disclosure contains material which is not exempt, the information which is exempt shall be deleted and the remaining information shall be available for inspection and copying.

22-3-10 **NOTICE OF DENIAL OF REQUEST; APPEALS.**

(A) If the Village denies the request, the Village shall notify the person making the request in writing of:

- (1) the decision to deny the request;
- (2) the reasons for the denial, including a detailed factual basis for the application of any exemption claim;
- (3) the names and titles or positions of each person responsible for the denial;
- (4) the right to review by the Public Access Counselor and the address and phone number for the Public Access Counselor; and
- (5) the right to judicial review.

If an exemption is claimed, then the denial must include the specific reasons for the denial, including a detailed factual basis and a citation to support a legal authority.

(B) If the Village asserts an exemption under Subsection (1)(c) or (1)(f) of Section 7 of the Freedom of Information Act, it shall, within the time periods provided for Respondent to request, provide written notice to the person making the request and the Public Access Counselor of its intent to deny the request in whole or in part. The notice shall include:

- (1) a copy of the request for access to records;
- (2) the proposed response from the Village;
- (3) a detailed summary of the Village's basis for asserting its exemption.

If the Public Access Counselor determines that further inquiry is warranted, the procedures set forth in the Freedom of Information Act, as amended from time to time, regarding the review of denials shall be applicable. Times for response compliance by the Village to the request shall be tolled until the Public Access Counselor concludes his or her inquiry.

ARTICLE IV - FAIR HOUSING CODE

22-4-1 DECLARATION OF POLICY.

(A) In furthering the policy of the State of Illinois as expressed in its Constitution and other laws; in order that the safety and general welfare, peace and health of all the inhabitants of the Village may be ensured, it is hereby declared the policy of the Village to assure equal opportunity to all residents, regardless of race, color, religion, national origin or ancestry, sex, creed, or physical disability to live in decent, sanitary, healthful, standard living quarters.

(B) It is the policy of the Village that no owner, lessee, sub-lessee, assignee, managing agent, or other person, firm or corporation having the right to sell, rent, lease (or otherwise control) any housing accommodation and/or real property within the Village, or any agent of these shall refuse to sell, rent, lease, or otherwise deny to or withhold from any person or group of persons such housing accommodations and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person or persons or discriminate against any person or persons because of race, color, religion, national origin or ancestry, sex, creed, or disability in the conditions, terms, privileges of the sale, rental or lease of any housing accommodation and/or real property or in the furnishing of facilities and/or services in connection therewith.

(C) Relocation shall be carried out in a manner that will promote maximum choice within the community's total housing supply; lessen racial, ethnic, and economic concentrations; and facilitate desegregation and racially inclusive patterns of occupancy and use of public and private facilities.

22-4-2 DEFINITIONS. Unless a different meaning clearly appears from the context, the following terms shall have the meaning as described in this Section and as used in this Code:

(A) **"Decent, Sanitary, Healthful Standard Living Quarters"**. "Decent, sanitary, healthful standard living quarters" is housing which is in sound, clean, and weather tight condition in conformance with applicable local, state, and national codes.

(B) **"Discriminate"**. The terms "discriminate" or "discrimination" mean any difference expressed in any way toward a person or persons in the terms of the sale, exchange, lease, rental or financing for housing accommodation and/or real property in regard to such sale, exchange, rental, lease or finance because of race, color, religion, national origin or ancestry, sex, creed, or disability of such person.

(C) **"Financial Institution"**. The term "financial institution" means any person, institution or business entity of any kind which loans money to persons and receives as security for said loans a secured interest of any kind in the real property of the borrower.

(D) **"Housing Accommodation"**. The term "housing accommodation" includes any building, structure, or portion thereof which is used or occupied, maintained, arranged or designed to be used or occupied as a home, residence or sleeping place of **one (1)** or more human beings, or any real estate so used, designed or intended for such use.

(E) **"Owner"**. An "owner" means any person/persons who hold legal or equitable title to, or own any beneficial interest in any real property or who hold legal or equitable title to shares of, or hold any beneficial interest in any real estate cooperative which owns any real property and/or housing accommodations.

(F) **"Real Estate Broker"**. The term "real estate broker" means any person, partnership, association, corporation and/or agent thereof, who for a fee or other valuable consideration offers, sells, purchases, exchanges or rents, or negotiates for the sale, purchase, exchange or rental of a housing accommodation and/or real property of another, or collects rental for the use of housing accommodation and/or real property of another.

(G) **"Real Property"**. The term "real property" means any real estate, vacant land, building, structure or housing accommodations within the corporate limits of the Village.

22-4-3 PROHIBITED ACTS. It shall be an unlawful for any owner of real estate, lessee, sub-lessee, real estate broker or salesman, financial institution or employee of the financial institution, advertiser, or agent of any or all of the foregoing, to discriminate against any person or persons because of their race, color, religion, national origin or ancestry, sex, creed, or disability with regard to the sale, exchange or rental, or any dealing concerning any housing accommodation and/or real property.

In addition to the foregoing, it shall also be unlawful for any real estate broker or employee thereof, owner or other person, or financial institution dealing with housing or real property of the Village:

(A) To discriminate against any person in the availability of or the price, terms, conditions, or privileges of any kind relating to the sale, rental, lease, or occupancy of any housing accommodation or real property in the Village or in furnishing of any facilities or services in connection therewith.

(B) To publish or circulate, or cause to be published or circulated, any notice, statement or advertisement, or to announce a policy, or to use any form of application, for the purchase, lease, rental or financing of real property, or to make any record of inquiry in connection with the prospective purchase, rental or lease of such real estate, which expresses directly or indirectly any discrimination as to race, color, religion, national origin or ancestry, sex, creed or disability of any person.

(C) To discriminate in connection with lending money, guaranteeing loans, accepting mortgages or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation and/or real property.

(D) To solicit for sale, lease, or listing for the sale or lease, of any housing accommodation and/or real property on the grounds of loss of value because of the present or prospective entry into any neighborhood of any person or persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability.

(E) To distribute or cause to be distributed, written material or statements designed to induce any owner of any housing accommodation and/or real property to sell or lease his or her property because of any present or prospective change in the race, color, religion, national origin or ancestry, sex, creed, or disability of persons in the neighborhood.

(F) To make any misrepresentations concerning the listing for sale or the anticipated listing for sale or the sale of any housing accommodation and/or real property for the purpose of inducing or attempting to induce the sale or listing for sale of any housing accommodation and/or real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, national origin or ancestry, sex, creed, or disability in the area will or may result in the lowering of property values in the block, neighborhood or area in which the property is located.

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(G) For an owner to solicit any real estate broker to sell, rent or otherwise deal with such owner's housing accommodations and/or real property with any limitation on its sale based on race, color, religion, national origin or ancestry, sex, creed or disability.

(H) For an owner to refuse to sell, rent, or otherwise deal with any housing accommodation and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or disability of the proposed buyer or tenant.

22-4-4 **PENALTY.** Any person convicted of violating any of the provisions of this Code shall be punished by a fine of not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. Each day a violation continues shall constitute a separate violation. This Section shall in no way abrogate or impair the right of the Village to specifically enforce, by any legal means, any of the provisions of this Code.

(65 ILCS 5/11-11.1-1)

(In Part, Ord. No. 91-11; 12-18-91)

ARTICLE V – INVESTMENT POLICY

22-5-1 INVESTMENT POLICY. It is the policy of the Village to invest public funds in a manner which will provide the highest investment return with the maximum security while meeting the daily cash flow demands of the Village and conforming to all State and local statutes governing the investment of public funds.

22-5-2 SCOPE. This policy includes all public funds of the Village.

22-5-3 PRUDENCE. Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as the probable income to be derived.

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

22-5-4 OBJECTIVE. The primary objective, in order of priority, shall be:
(A) **Legality.** Conformance with federal, state and other legal requirements.
(B) **Safety.** Preservation of capital and protection of investment principal.
(C) **Liquidity.** Maintenance of sufficient liquidity to meet operating requirements.
(D) **Yield.** Attainment of market rates of return.

The portfolio should be reviewed periodically as to its effectiveness in meeting the Village’s needs for safety, liquidity, rate of return, diversification and its general performance.

22-5-5 DELEGATION OF AUTHORITY. Management and administrative responsibility for the investment program is hereby delegated to the Treasurer who may establish written procedures for the operation of the investment program.

22-5-6 ETHICS AND CONFLICTS OF INTEREST. Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.

22-5-7 AUTHORIZED FINANCIAL DEALERS AND INSTITUTIONS. The Treasurer will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved security brokers/dealers selected by creditworthiness.

22-5-8 **AUTHORIZED AND SUITABLE INVESTMENTS.** Investments may be made in any type of security allowed for in Illinois statutes regarding the investment of public funds. Investments shall be made that reflect the cash flow needs of the fund type being invested.

22-5-9 **COLLATERALIZATION.** Collateralization may be required, at the discretion of the Village, on all funds held in banks or savings and loans above the insured limits provided by the FDIC or FSLIC. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be a minimum of **one hundred two percent (102%)** of market value of principal and accrued interest.

22-5-10 **SAFEKEEPING AND CUSTODY.** All security transactions, including collateral for repurchase agreements, entered into by the Village, shall be conducted on a delivery-versus-payment (DVP) basis. Securities will be held by an independent third party custodian designated by the Treasurer and evidenced by safekeeping receipts and a written custodial agreement.

22-5-11 **DIVERSIFICATION.** The Village shall diversify its investments to the best of its ability based on the type of funds invested and the cash flow needs of those funds. Diversification can be by type of investment, number of institutions invested in, and length of maturity.

22-5-12 **MAXIMUM MATURITIES.** To the extent possible, the Village shall attempt to match its investments with anticipated cash flow requirements. Unless matched to a specific cash flow, the Village will not directly invest in securities maturing more than **two (2) years** from the date of purchase.

Reserve funds may be invested in securities exceeding **two (2) years** if the maturity of such investments are made to coincide as nearly as practicable with the expected use of the funds.

22-5-13 **INTERNAL CONTROL.** The Treasurer is responsible for establishing and maintaining an internal control structure designed to insure that the assets of the Village are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met. The internal controls shall address the following points:

- (A) Control of collusion.
- (B) Separation of transaction authority from accounting.
- (C) Custodial safekeeping.
- (D) Written confirmation of telephone transactions for investments and wire transfers.

22-5-14 **PERFORMANCE STANDARDS.** The investment portfolio will be managed in accordance with the parameters specified within this policy. The portfolio should obtain a comparable rate of return during a market/economic environment of stable interest rates. Portfolio performance should be compared to benchmarks with similar maturity, liquidity and credit quality as the portfolio maintained by the Illinois Public Treasurer's Investment Pool (IPTIP).

22-5-15 **REPORTING.** The Treasurer shall prepare an investment report at least monthly. The report should be provided to the Village Board and available upon request. The report should be in a format suitable for review by the general public. An annual report should also be provided to the Village Board. A statement of the market value of the portfolio shall be issued to the Village Board quarterly.

22-5-16 **INVESTMENT POLICY ADOPTION AND MODIFICATION.** The investment policy has been adopted by ordinance. The policy shall be reviewed on an annual basis by the Treasurer, and any modifications made thereto shall be made by ordinance.

(Ord. No. 99-09; 04-08-99)

ARTICLE VI – ETHICS CODE

22-6-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

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

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

(C) **"Collective bargaining"** has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (**5 ILCS 315/3**).

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

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

(F) **"Contribution"** has the same meaning as that term is defined in Section 9-1.4 of the Election Code (**10 ILCS 5/9-1.4**).

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

(H) **"Employer"** means the Village.

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

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

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

(L) **"Political activity"** means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administration action,

(ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official duties.

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

(N) **"Prohibited political activity"** means:

- (1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.
- (2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
- (3) Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.
- (4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
- (6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.
- (7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
- (8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
- (9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
- (10) Preparing or reviewing responses to candidate questionnaires.
- (11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
- (12) Campaigning for any elective office or for or against any referendum question.
- (13) Managing or working on a campaign for elective office or for or against any referendum question.
- (14) Serving as a delegate, alternate, or proxy to a political party convention.

- (15) Participating in any recount or challenge to the outcome of any election.
- (O) **"Prohibited source"** means any person or entity who:
 - (1) is seeking official action (a) by an officer or (b) by an employee, or by the officer or another employee directing that employee;
 - (2) does business or seeks to do business (a) with the officer or (b) with an employee, or with the officer or another employee directing the employee;
 - (3) conducts activities regulated (a) by the officer or (b) by an employee, or by the officer or another employee directing that employee; or
 - (4) has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.
- (P) **"Village"** means the Village of Loami, Illinois.

22-6-2 PROHIBITED POLITICAL ACTIVITIES.

(A) No officer or employee shall intentionally perform any prohibited political activity during any compensated time, as defined herein. No officer or employee shall intentionally use any property or resources of the Village in connection with any prohibited political activity.

(B) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity (1) as part of that officer or employee's duties, (2) as a condition of employment, or (3) during any compensated time off (such as holidays, vacation or personal time off).

(C) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity.

(D) Nothing in this Section prohibits activities that are permissible for an officer or employee to engage in as part of his or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this Article.

(E) No person either (1) in a position that is subject to recognized merit principles of public employment or (2) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

22-6-3 GIFT BAN – GENERAL RULE. Except as permitted by this Article, no officer or employee, and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as "recipients"), shall intentionally solicit or accept any

gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this Section.

22-6-4 **EXCEPTIONS TO GENERAL RULE.** Section 22-6-3 is not applicable to the following:

(A) Opportunities, benefits, and services that are available on the same conditions as for the general public.

(B) Anything for which the officer or employee, or his or her spouse or immediate family member, pays the fair market value.

(C) Any (1) contribution that is lawfully made under the Election Code or (2) activities associated with a fundraising event in support of a political organization or candidate.

(D) Educational materials and missions.

(E) Travel expenses for a meeting to discuss business.

(F) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

(G) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (1) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (2) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (3) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.

(H) Food or refreshments not exceeding **Seventy-Five Dollars (\$75.00)** per person in value on a single calendar day; provided that the food or refreshments are (1) consumed on the premises from which they were purchased or prepared or (2) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

(I) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(J) Intra-governmental and inter-governmental gifts. For the purposes of this Act, "intragovernmental gift" means any gift given to an officer or employee from another officer or employee, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(K) Bequests, inheritances, and other transfers at death.

(L) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than **One Hundred Dollars (\$100.00)**.

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

22-6-5 **DISPOSITION OF GIFTS.** An officer or employee, his or her spouse or an immediate family member living with the officer or employee, does not violate this Article if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

22-6-6 **ETHICS ADVISOR.** The Village Attorney shall be the Ethics Advisor for the Village. As such, the Village Attorney shall provide guidance to the officers and employees of the Village concerning the interpretation of and compliance with the provisions of this Article and State ethics laws.

22-6-7 **PENALTIES.** Persons violating this Article shall be subject to a fine of up to **Seven Hundred Fifty Dollars (\$750.00)** per offense. Violations shall be prosecuted by the Village Attorney at a specific request of a majority of corporate authorities upon motion made, seconded and adopted. In any case where a member of the corporate authority is accused of a violation of this Article, such member shall abstain from any such vote. In any case of an alleged violation of this Article by the Village Attorney or by a member of the corporate authorities, the Village shall obtain separate counsel to handle the prosecution. In a case where the corporate authorities believe a criminal act has occurred, they may direct the Village Attorney to refer the matter to the State's Attorney for prosecution.

(Ord. No. 04-04; 05-13-04)

ARTICLE VII - EQUAL EMPLOYMENT POLICY

22-7-1 ADOPTION OF CODES. The Village hereby declares to uphold, defend, enforce, and advocate for all laws related to Equal Employment Opportunity including, but not limited to, the following:

(A) **Title VI of the Civil Rights Act of 1964** which prohibits discrimination in the participation in or benefits of programs or activities receiving federal financial assistance on the basis of race, color, or national origin.

(B) **Title VII of the Civil Rights Act of 1964** which prohibits discrimination because of race, color, religion, sex or national origin in all employment practices including hiring, firing, promotions, compensation, and other terms, privileges and conditions of employment.

(C) **Title IX of the Education Amendments of 1972** which prohibits discrimination in federally assisted education programs.

(D) **The Equal Pay Act of 1963** which covers all employees who are covered by the Fair Labor Standards Act. The Act forbids pay differentials on the basis of sex.

(E) **The Age Discrimination Act of 1967** which prohibits discrimination because of age against anyone between the ages of **forty (40)** and **sixty-five (65)**.

(F) **Federal Executive Order 11246** which requires every contract with federal financial assistance to contain a clause against discrimination because of race, color, religion, sex, or national origin.

(G) **Section 504 of the Rehabilitation Act of 1973 and DOL Implementing Regulations at 29 CFR 32** which prohibits any discrimination based on disability.

(H) **Section 188 of WIA and the U.S. DOL Regulations at 29 CFR Parts 31 and 32** which provides that no person in the United States shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination on the basis of race, color, or national origin, under any program or activity receiving Federal financial assistance from the Department of Labor.

(I) **Chapter 68, Article I, Section 17-19 of the Illinois Constitution** which prohibits discrimination based on race, color, creed, national ancestry, disability, and sex in the hiring and promotion practices of any employer.

(J) **The Americans with Disabilities Act of 1990** which prohibits any discrimination against qualified individuals with disabilities on the basis of their disability.

(K) **Illinois Human Rights Act (775 ILCS 5)** which prohibits discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military service in connection with employment, real estate transactions, access to financial credit, and the availability of public accommodations.

22-7-2 NON-DISCRIMINATORY PRACTICES. The Village will assure non-discriminatory employment practices in recruitment, recruitment advertising, employment, placement, layoff or termination, promotion, demotion or transfer, rate of pay or other forms of compensation and use of facilities.

22-7-3 **CONTRACTING WITH NON-COMPLAINTS.** The Village will not contract with other agencies, banks, businesses, vendors, etc., who practice or establish a pattern of discrimination based on race, color, religion, sex, national origin, ancestry, age, order of protection status, marital status, physical or mental disability, military status, sexual orientation, or unfavorable discharge from military.

(A) The Village will incorporate into any contract for construction work, or modification thereof, subject to the relevant rules, regulations, and orders of the Secretary of Labor or of any prior authority that remain in effect, which is paid for in whole or in part with the aid of such financial assistance, the following "Equal Opportunity Clause":

- (1) In the event of the contractor's noncompliance with the provisions of this Equal Employment Opportunity Clause, the Act or the Rules and Regulations of the Department, the contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be cancelled or voided in whole or in part, and other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this contract, the contractor agrees as follows:
 - (a) That he or she will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service; and, further, that he or she will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any underutilization.
 - (b) That, if he or she hires additional employees in order to perform this contract or any portion of this contract, he or she will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the areas from which he or she may reasonably recruit and he or she will hire for each job classification for which employees are hired in a way that minorities and women are not underutilized.
 - (c) That, in all solicitations or advertisements for employees placed by him or her or on his or her behalf, he or she will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, citizenship status, age, physical or mental disability unrelated to ability, sexual orientation, military status or an unfavorable discharge from military service.
 - (d) That he or she will send to each labor organization or representative of workers with which he or she has or is bound by a collective bargaining or other agreement or understanding, a notice advising the labor organization or representative of the contractor's obligations under the Act

and the Department's Rules and Regulations. If any labor organization or representative fails or refuses to cooperate with the contractor in his or her efforts to comply with the Act and Rules and Regulations, the contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations under the contract.

- (e) That he or she will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Act and the Department's Rules and Regulations.
- (f) That he or she will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Act and the Department's Rules and Regulations.
- (g) That he or she will include verbatim or by reference the provisions of this clause in every subcontract awarded under which any portion of the contract obligations are undertaken or assumed, so that the provisions will be binding upon the subcontractor. In the same manner as with other provisions of this contract, the contractor will be liable for compliance with applicable provisions of this clause by subcontractors; and further it will promptly notify the contracting agency and the Department in the event any subcontractor fails or refuses to comply with the provisions. In addition, the contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

22-7-4 **OUTREACH TO ALL.** The Village assures that it will actively provide nondiscriminatory outreach, selection, and service to all individuals.

22-7-5 **MINORITY HIRING.** Efforts will be made to hire minority individuals for all job categories so that minority employment in all categories of the work force will represent a proportionate share of minority populations in the Village as well as surrounding areas.

22-7-6 **ACCOMMODATIONS FOR DISABLED.** The Village will provide accommodations to the best of its ability for employees with disabilities, contingent on budget and structural limitations.

22-7-7 **COMPLIANCE BY EMPLOYEES.** All Village employees are expected to adhere to the above policy and to work actively for its implementation both internally and in carrying out Village program activities.

22-7-8 **DESIGNATED ENFORCERS.** The Village designates the Mayor and the Village Board to carry out the EEO/AA plan.

ARTICLE VIII - DRUG FREE WORKPLACE

22-8-1 DEFINITIONS.

(A) **"Drug Free Workplace"** means any place for the performance of work for or on behalf of the Village, done by an employee of the Village, or an employee of a contractor or subcontractor performing work for the Village.

(B) **"Employee"** as used within the meaning of this Article, means an employee of the Village as well as an employee of a contractor or subcontractor performing work for the Village.

(C) **"Controlled Substance"** means a controlled substance as defined in the Illinois Controlled Substance Act, **720 ILCS 570/100 et seq.** (1992 State Bar Edition) or Cannabis as defined in the Cannabis Control Act, **720 ILCS 550/1 et seq.** (1992 State Bar Edition).

(D) **"Conviction"** means a finding of guilt, including a plea of nolo contendere, or imposition of sentence, or both, by any judicial body charged with determining violations of the Federal or State criminal drug statutes.

(E) **"Criminal Drug Statute"** means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.

(F) **"State"** means all officers, boards, commissions, and agencies created by the Constitution, whether in the executive, legislative, or judicial branch; all officers, departments, boards, commissions, agencies, institutions, authorities, universities, bodies politic and corporate of the State; or administrative units or corporate outgrowths, of the State government which are created by or pursuant to statute.

22-8-2 REQUIREMENTS FOR VILLAGE. The Village shall provide a drug free workplace by:

(A) **Publishing a Statement.**

- (1) Notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance, including cannabis, is prohibited in the workplace.
- (2) Specifying the actions that will be taken against employees for violations of such prohibition.
- (3) Notifying employee that, as a condition of employment, the employee will:
 - (a) abide by the terms of the statement; and
 - (b) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than **five (5) days** after such conviction.

(B) Establishing a drug free awareness program to be administered by a person appointed by the Mayor to inform employees about:

- (1) the dangers of drug abuse in the workplace;
- (2) the Village's policy of maintaining a drug free workplace;
- (3) any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) the penalties that may be imposed upon employees for drug violations.

(C) A copy of the statement required by Subsection (A) above shall be given to each employee and posted in a prominent place in the workplace.

(D) If the Village receives a grant from the State or Contract for the procurement of any property or services from the State, then the Village shall notify the contracting or granting agency within **ten (10) days** after receiving notice under part (b) of paragraph (3) of Subsection (A) from an employee or otherwise receiving actual notice of such conviction.

(E) Within **thirty (30) days** from receiving notice from an employee of a conviction of a violation of a criminal drug statute occurring in the workplace, the Mayor shall take action against such employee as may be appropriate as determined by the Mayor and which may include but is not limited to reprimand; suspension for any length of time with or without pay; termination from employment; and/or a requirement to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

(F) Assisting employees in selecting a course of action in the event drug counseling, treatment, and rehabilitation is required and indicating that a trained referral team is in place.

(G) Making a good faith effort to continue to maintain a drug free workplace through implementation of this Section.

ARTICLE IX – DRUG/ALCOHOL TESTING POLICY AND PROCEDURE

22-9-1 DRUG AND ALCOHOL FREE WORKPLACE POLICY. The Village is committed to maintaining a drug free workplace pursuant to the federal and state Drug Free Workplace Acts, 41 U.S.C.A. § 701 *et seq.*, **30 ILCS 580/1 et seq.** It is the policy of the Village that the public has the reasonable right to expect persons employed by the Village to be free from the effects of alcohol and drugs. The Village, as the employer, has the right to expect its employees to report for work fit and able for duty. This policy is intended to ensure that Village employees are not impaired in their ability to perform assigned duties in a safe, healthy and productive manner and to protect any such employee and the public from the risks associated with the adverse effects of drugs and alcohol. Accordingly, the unlawful manufacture, distribution, possession, or use of a controlled substance, including cannabis and alcohol, is prohibited in the workplace or while acting on behalf of the Village. Employees are required to sign a release and consent/authorization form, a copy of which is included with this policy, at the time the policy is distributed to the employee.

22-9-2 DEFINITIONS. For purposes of this policy, the following definitions apply:

(A) **“Abuse of alcohol”** or **“being under the influence of alcohol”** means the consumption of any beverage, mixture or preparation, including any medication containing alcohol, which results in an employee being intoxicated. Intoxicated or a positive test for alcohol shall mean a test result which shows an alcohol concentration of .02 or more for all persons covered by Federal DOT regulations and .08 or more for all persons not covered by Federal DOT regulations.

(B) **“Abuse of any drug”** means the use of any illegal drug, the use of any prescription drug which has not been legally prescribed and dispensed, or the misuse of any legally prescribed drug.

(C) **“Drug”** means any controlled substances listed in the Federal Controlled Substances Act, 21 U.S.C. § 801 *et seq.*, or the Illinois Controlled Substances Act, **720 ILCS 570/100 et seq.**, and cannabis as defined in the state Cannabis Controlled Act, **720 ILCS 550 et seq.**

22-9-3 PROHIBITED ACTIONS. Employees shall be prohibited from:

(A) Manufacture, distribution, dispensation, possession, use, sale, purchase, abuse of alcohol or being under the influence of alcohol at any time during the course of the employee’s workday or anywhere on or in any Village-owned property, including Village buildings and Village-owned vehicles.

(B) Manufacture, distribution, dispensation, possession, use, sale, purchase, being under the influence of or abuse of any drug at any time and at any place.

(C) Failure to immediately disclose to his or her Department Head or immediate supervisor any drug or other medication-related work restrictions, or failure to disclose the taking of any drug or medication whose container has warnings that such drug or medication may affect any such employee’s ability to perform his or her job, or to drive or operate machinery.

- (D) Testing positive for any drug or for the abuse of alcohol or being under the influence of any drug and/or alcohol during working hours.
- (E) Failure to comply with this policy.
- (F) Refusal to submit to any drug or alcohol test under this policy, which shall also include, but not be limited to, any attempt to tamper with or substitute any sample to be used in connection with any such test.

22-9-4 **APPLICABILITY.** This Drug/Alcohol Testing Policy and Procedure is not intended to replace the Drug Free Workplace Programs but to define and clarify, who will be tested, when the employees will be tested and where employees will be tested. The following four employee categories define under which category each full time, part time/temporary and volunteer employee will be tested:

- (A) Any employee who drives a Village vehicle, tractor, tractor mower or similar motor powered equipment that moves under its own power will be tested under the Federal DOT testing standards.
- (B) Testing for employees of the Police Department shall be controlled by the provisions set forth in their union contract.
- (C) All other Village employees who are not included within the two categories listed above in (A) or (B) will be subject to testing to comply with the requirements necessary to establish a Drug Free Workplace within the Village.
- (E) Part time/temporary employees and volunteer employees of the Village will remain exempt from pre-employment and random testing as defined in this testing program, but they can be included for testing if reasonable suspicion should arise, or an accident should occur during the tenure of their part time/temporary or volunteer employment. After reasonable suspicion of abuse of drugs or alcohol has been established or an accident should occur, the decision to request a drug and alcohol test for the employee must be deemed necessary and reasonable by the Mayor and/or the supervisor of the employee.

22-9-5 **TESTING PROCEDURE.** In conducting any drug testing under this policy, the Village shall:

- (A) Use only a clinical laboratory or hospital facility that is licensed pursuant to the Illinois Clinical Laboratory and Blood Bank Act, **210 ILCS 25/101 et seq.**, that has been or is capable of being accredited by the National Institute of Drug Abuse ("NIDA").
- (B) Insure that the laboratory or facility selected conforms to all NIDA standards.
- (C) Follow all Federal DOT guidelines for the collection, testing and reporting procedures.
- (D) In conducting any alcohol testing under this policy, the Village shall use a facility that:
 - (1) Ensures that all technicians are trained and equipment is calibrated.
 - (2) Conducts breath test to detect the presence of alcohol or blood tests if circumstances require.
- (E) The fees for drug/alcohol testing shall be paid as follows:
 - (1) Pre-employment testing will be paid by the Village.
 - (2) Post accident tests shall be paid by the Village.

- (3) Reasonable suspicion testing will be paid by the Village.
- (4) Random testing will be paid by the Village.
- (5) Retesting at the request of the employee after a positive drug or alcohol test shall be at the employee's sole expense.
- (6) Drug/Alcohol test for renewal of CDL Driver's License shall be paid by the Village.

22-9-6

SCREENING AND TESTING.

(A)

Pre-Employment Testing.

- (1) All employee applicants shall be advised of the Village Drug/Alcohol testing requirements at the time of interview. After having successfully completed the interview process, the selected prospective full time employee shall then be required to successfully complete the Village's drug screening test, as part of his/her background investigation.
- (2) All applicants for full time employment shall sign a release and consent/authorization form for Drug/Alcohol testing.
- (3) An applicant will not be employed or considered for employment if:
the test results confirm POSITIVE;
he/she refuses to complete the test;
he/she tampers with, or adulterates the specimen;
he/she fails to cooperate in the testing process (including executing all required documentation).

(B)

Testing Based on Reasonable Suspicion.

If there is a reasonable suspicion that any Village employee, paid or volunteer, has violated any of the prohibited actions covered by this policy, such employee may be required to undergo drug and/or alcohol testing. Reasonable suspicion exists if the facts and circumstances warrant a rational inference that an employee has violated any of the acts prohibited by this policy. Reasonable suspicion shall be based upon the following:

- (1) Observable phenomena, such as direct observation of use or the verifiable physical symptoms resulting from the abuse of drugs or being under the influence of alcohol which may include by way of example but is not limited to a pattern of abnormal conduct or erratic behavior, a dramatic decline in work performance, excessive sick leave usage, difficulty in walking, slurred speech, needle marks, glazed stare, and possession of alcohol, or unauthorized banned substance or drug paraphernalia at work.
- (2) Information provided by an identifiable, reliable and credible third party that an employee has committed any of the acts prohibited by this policy.

In the event reasonable suspicion exists, the Village shall arrange for a drug and/or alcohol test. When testing is ordered, the employee may be temporarily reassigned or relieved from duty and placed on leave with pay pending the receipt of the test results by the Village. The Village shall also provide the employee with written notice setting forth the objective facts and reasonable inferences to be drawn from those facts which form the basis of the reasonable suspicion.

The employee will then be escorted to the testing facility or collection facility by a designated supervisor immediately.

After completing the test, the employee will be escorted to his/her residence or at the option of his/her supervisor to another location to await the test results, and the employee shall be off work with pay pending the results of the tests. Under no circumstances shall the employee be allowed to leave the work site or the test site driving his/her own vehicle or a Village vehicle.

Employees who test positive for either drugs or alcohol will be subject to disciplinary action, up to and including termination.

(C) **Random Testing.** Random drug testing shall be conducted during working hours. Employees will be selected at random for a drug test by a random drawing/lottery. The testing times and dates are unannounced and are with unpredictable frequency throughout the year.

When testing is ordered, the employee will be directed to the testing facility or collection facility within a reasonable period of time.

After completing the test, the employee will return to work pending the results of the test.

Employees who test positive for drugs will be subject to disciplinary action, up to and including termination.

(D) **Post Accident Testing.** Post accident drug/alcohol testing is required immediately following any accident involving a Village employee, paid or volunteer, who operates Village equipment or operates a Village vehicle where an injury to a person has occurred or where damage to equipment, or property has occurred and that damage exceeds **One Hundred Dollars (\$100.00)**, based on actual cost or reliable estimates of damage.

When testing is ordered, the employee will be escorted to the testing facility or collection facility by a designated supervisor within a reasonable period of time following the accident.

Employees who test positive for either drugs or alcohol will be subject to disciplinary action, up to and including termination.

(E) **Testing Required for Position Required to Have a CDL.** In addition to the provisions of this policy, any employee who is appointed to a position required to have a commercial driver's license ("CDL") shall be subject to drug and/or alcohol screening following any work related accident. Mandatory drug screening shall also be required of all applicants chosen to be hired for positions requiring a CDL. Those who fail the pre-employment drug screening shall not be hired for those positions.

22-9-7 CONFIDENTIALITY OF TEST RESULTS. Any employee subject to a drug and/or alcohol test under this policy will be provided a copy of all information and reports received by the Village in connection with any drug and/or alcohol test and any results thereof under this policy. Any results of drug and alcohol test will be disclosed to any employee tested, the applicable supervisor, Village Attorney and those permitted by law.

22-9-8 CONSEQUENCES OF POSITIVE TEST RESULT OR REFUSAL TO COOPERATE. Any employee who refuses to cooperate in testing or who fails a test or violates the Drug and Alcohol Policy shall be subject to disciplinary action, up to and including termination.

ARTICLE X – SEXUAL HARASSMENT POLICY

22-10-1 STATEMENT OF ORGANIZATION POLICY. This organization is committed to providing a workplace that is free from all forms of discrimination, including sexual harassment. Any employee's behavior that fits the definition of sexual harassment is a form of misconduct which may result in disciplinary action up to and including dismissal. Sexual harassment could also subject this organization and, in some cases, an individual to substantial civil penalties.

The organization's policy on sexual harassment is part of its overall affirmative action efforts pursuant to state and federal laws prohibiting discrimination based on age, race, color, religion, national origin, citizenship status, unfavorable discharge from the military, marital status, disability, and gender. Specifically, sexual harassment is prohibited by the Civil Rights Act of 1964, as amended in 1991, and the Illinois Human Rights Act.

Each employee of this organization bears the responsibility to refrain from sexual harassment in the workplace. No employee – male or female – should be subjected to unsolicited or unwelcome sexual overtures or conduct in the workplace. Furthermore, it is the responsibility of all supervisors to make sure that the work environment is free from sexual harassment. All forms of discrimination and conduct which can be considered harassing, coercive or disruptive, or which create a hostile or offensive environment must be eliminated. Instances of sexual harassment must be investigated in a prompt and effective manner.

All employees of this organization, particularly those in a supervisory or management capacity, are expected to become familiar with the contents of this Policy and to abide by the requirements it establishes.

22-10-2 DEFINITION OF SEXUAL HARASSMENT. According to the Illinois Human Rights Act, sexual harassment is defined as:

Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

- (A) submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- (B) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individuals; or
- (C) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991.

One example of sexual harassment is where a qualified individual is denied employment opportunities and benefits that are, instead, awarded to an individual who submits (voluntarily or under coercion) to sexual advances or sexual favors. Another example is where an individual must submit to unwelcome sexual conduct in order to receive an employment opportunity.

Other conduct commonly considered to be sexual harassment includes:

- Verbal: Sexual innuendoes, suggestive comments, insults, humor and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside their presence, of a sexual nature.

- Non-Verbal: Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.
- Visual: Posters, signs, pin-ups or slogans of a sexual nature.
- Physical: Touching, unwelcome hugging or kissing, pinching, brushing the body, coerced sexual intercourse, or actual assault.

Sexual harassment most frequently involves a man harassing a woman. However, it can also involve a woman harassing a man or harassment between members of the same gender.

The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends to some extent on individual perception and interpretation. The trend in the courts is to assess sexual harassment by a standard of what would offend a "reasonable woman" or "reasonable man", depending on the gender of the alleged victim.

An example of the most subtle form of sexual harassment is the use of endearments. The use of terms such as "honey", "darling", and "sweetheart" is objectionable to any women who believe that these terms undermine their authority and their ability to deal with men on an equal and professional level.

Another example is the use of a compliment that could potentially be interpreted as sexual in nature. Below are three statements that might be made about the appearance of a woman in the workplace.

"That's an attractive dress you have on."

"That's an attractive dress. It really looks good on you."

"That's an attractive dress. You really fill it out well."

The first statement appears to be simply a compliment. The last is the most likely to be perceived as sexual harassment depending on the perceptions and values of the person to whom it is directed. To avoid the possibility of offending an employee, it is best to follow a course of conduct above reproach, or to err on the side of caution.

22-10-3 RESPONSIBILITY OF INDIVIDUAL EMPLOYEES. Each individual employee has the responsibility to refrain from sexual harassment in the workplace.

An individual employee who sexually harasses a fellow worker is, of course, liable for his or her individual conduct.

The harassing employee will be subject to disciplinary action up to and including discharge in accordance with the organization's disciplinary policy and the terms of any applicable collective bargaining agreement.

The organization has designated _____ (Name), _____ (Title) to coordinate the organization's sexual harassment policy compliance. Mr./Mrs. _____ can be reached at _____ (Address and Telephone).

22-10-4 RESPONSIBILITY OF SUPERVISORY PERSONNEL. Each supervisor is responsible for maintaining the workplace free of sexual harassment. This is accomplished by promoting a professional environment and by dealing with sexual harassment as with all other forms of employee misconduct.

The courts have found that the organizations as well as supervisors can be held liable for damages related to sexual harassment by a manager, supervisor, employee, or third party (an individual who is not an employee but does business with an organization, such as a customer, contractor, sales representative or repair person).

Liability is either based on an organization's responsibility to maintain a certain level of order and discipline, or on the supervisor acting as an agent of the organization. As such supervisors must act quickly and responsibly not only to minimize their own liability but also that of the organization.

Specifically, a supervisor must address an observed incident of sexual harassment or a complaint, with seriousness, take prompt action to investigate it, report it, and end it, implement appropriate disciplinary action, and observe strict confidentiality. This also applies to cases where an employee tells the supervisor about behavior considered sexual harassment but does not want to make a formal complaint.

In addition, supervisors must ensure that no retaliation will result against an employee making a sexual harassment complaint.

Supervisors in need of information regarding their obligations under this policy or procedures to follow upon receipt of a complaint of sexual harassment should contact _____ (Name), _____ (Title) at _____ (Address and telephone). [NOTE: Insert name of organization EEO Officer, Human Resource Administrator, Personnel Officer, or other person designated by organization management.]

22-10-5 PROCEDURES FOR FILING A COMPLAINT OF SEXUAL HARASSMENT.

(A) **Internal.** An employee who either observes or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating her/his position to the supervisor, EEO Officer*, and to the offending employee. It is not necessary for the sexual harassment to be directed at the person making the complaint. Each incident of sexual harassment should be documented or recorded. A note should be made of the date, time, place, what was said or done, and by whom. The documentation may be augmented by written records such as letters, notes, memos, and telephone messages. No one making a complaint of sexual harassment will be retaliated against even if a complaint made in good faith is not substantiated. Any witness to an incident of sexual harassment is also protected from retaliation.

The process for making a complaint about sexual harassment falls into several stages.

- (1) **Direct Communication.** If there is sexually harassing behavior in the workplace, the harassed employee should directly and clearly express her/his objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- (2) **Contact Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor or the EEO Officer. If the harasser is the immediate supervisor, the problem should be reported to the next level of supervision of the EEO Officer.
- (3) **Formal Written Complaint.** An employee may also report incidents of sexual harassment directly to the EEO Officer. The EEO Officer will counsel the reporting employee and be available to assist with filing a formal complaint. The Organization will fully investigate the complaint, and will advise the complainant and the alleged harasser of the results of the investigation.

(B) **External.** The Organization hopes that any incident of sexual harassment can be resolved through the internal process outlined above. All employees, however, have the right to file formal charges with the Illinois Department of Human Rights (IDHR) and/or the United States Equal Employment Opportunity Commission (EEOC). A charge with IDHR must be filed within **one hundred eighty (180) days** of the incident of sexual harassment. A charge with EEOC must be filed within **three hundred (300) days** of the incident.

The Illinois Department of Human Rights may be contacted as follows:

Chicago	(312) 814-6200
Chicago TDD	(312) 263-1579
Springfield	(217) 785-5100
Springfield TDD	(217) 785-5125
Marion	(618) 993-7463

The United States Equal Employment Opportunity Commission can be contacted as follows:

Chicago	(312) 353-2713
	(800) 669-3362
TDD	(800) 800-3302

An employee who is suddenly transferred to a lower paying job or passed over for promotion after filing a complaint with IDHR or EEOC may file a retaliation charge with either of these agencies. The charges must be filed within **one hundred eighty (180) days (IDHR)** or **three hundred (300) days (EEOC)** of the retaliation. An employee who has been physically harassed or threatened while on the job may also have grounds for criminal charges of assault and battery.

[NOTE: Each organization should adapt the provisions of this Section to the requirements of their existing disciplinary policy and/or terms of any existing collective bargaining agreement. The name of the organization's Human Resources Administrator, Personnel Officer, or other appropriate person should be used if the organization has no EEO Officer.]

22-10-6 FALSE AND FRIVOLOUS COMPLAINTS. False and frivolous charges refer to cases where the accuser is using a sexual harassment complaint to accomplish some end other than stopping sexual harassment. It does not refer to charges made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false and frivolous charge is a severe offense that can itself result in disciplinary action.

Policy

As a Federal Grantee, I hereby notify employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in this workplace. As a condition of employment, employees must abide by this policy.

Drug-Free Awareness

Drug abuse in the workplace has major adverse effects on the welfare of all citizens of the United States, and it results in lost productivity each year. Employees who use illegal drugs have three to four times more accidents while at work.

Employees with drug abuse problems should seek help. Employees desiring more information on the dangers of drug abuse in the workplace and those employees needing drug counseling, rehabilitation, or other employee assistance should contact the local municipal drug administrator.

Employees will be referred to the appropriate resource for available counseling, rehabilitation or other assistance.

Notice of Potential Personnel Actions for Illegal Drug Use On-the-Job

Penalties may be imposed upon employees for drug abuse violations occurring in our workplaces:

1. Employees must notify this employer of any criminal drug statute conviction or a violation occurring in the workplace no later than five days after such conviction.
2. Within 30 days of receiving notice of any criminal drug statute conviction or a violation occurring in the workplace, this employer will take appropriate personnel action against such employee, up to and including termination; or
3. Within 30 days of receiving notice of any criminal drug statute conviction or a violation occurring in the workplace, this employer may require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

Employee Certification

- ✓ I understand the drug-free workplace policy.
- ✓ I agree, as a condition of my employment, to abide by the terms of this program.
- ✓ I agree to notify this employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

Employee Signature

Date

Employer Statement

- ✓ I have explained the policy, drug-free awareness, and potential personnel action statements and have provided the employee's part of this pamphlet to the employee.

Authorized Employer Signature

Date

Village of _____, Illinois
Name of Organization

CHAPTER 23

MANUFACTURED HOUSING CODE

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CHAPTER 23

MANUFACTURED HOUSING CODE

ARTICLE I – GENERAL PROVISIONS

23-1-1 **DEFINITIONS.** The terms used in this Code shall have the following meanings:

"AFFIDAVIT" means an oath in writing, sworn before and attested by an individual who has authority to administer an oath.

"APPLICANT" means any person making application for a license or permit.

"CORPORATE AUTHORITIES" shall mean the Mayor and the Village Board of Trustees.

"IMMOBILIZED MANUFACTURED HOME": See Section 40-2-2 of the Zoning Code.

"LICENSE" means a license certificate issued by the Village allowing a person to operate and maintain a manufactured home park under the provisions of this Code and the rules and regulations issued hereunder.

"LICENSEE" means any person having a license or permit under this Chapter.

"MANUFACTURED HOME": See Section 40-2-2.

"MANUFACTURED HOME, DEPENDENT" means a manufactured home which does not have a toilet and bath or shower facilities. **(210 ILCS 115/2.3)**

"MANUFACTURED HOME, DOUBLE-WIDE" consists of **two (2) mobile units** joined at the side into a single home, but kept on their separate chassis for repeated transportation to a site.

"MANUFACTURED HOME, INDEPENDENT" means a manufactured home which has self-contained toilet and bath or shower facilities. **(210 ILCS 115/2.4)**

"MANUFACTURED HOME LOT" means a parcel of land for the placement of a manufactured home and the exclusive use of its occupants.

"MANUFACTURED HOME PAD" means that part of an individual manufactured home space or lot beneath the manufactured home, including the concrete portion of the pad.

"MANUFACTURED HOME PARK" means a tract of land or **two (2)** or more contiguous tracts of land upon which contain sites with the necessary utilities for **two (2)** or more independent manufactured homes for permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such manufactured home park. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a manufactured home park if they are maintained and operated jointly. Neither an immobilized manufactured

home nor a motorized recreational vehicle shall be construed as being a part of a manufactured home park. **(210 ILCS 115/2.5)**

"MANUFACTURED HOME PARK LICENSE": A permit issued by the Administrator authorizing the operation of a manufactured home park in accordance with all applicable regulations.

"MANUFACTURED HOME SALES AREA" means a parcel of land used for the display, sale, and repair of new or used manufactured homes.

"MANUFACTURED HOME SPACE" means a portion of a manufactured home park designed for the use or occupancy of **one (1) manufactured home**.

"MANUFACTURED HOUSING UNIT" includes all forms of housing units listed in this Section and as regulated in this Code.

"MOBILE HOME" means a structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location or subsequent location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term **"mobile home"** shall only include homes constructed prior to **June 30, 1976**, not in accordance with the Federal **"National Manufactured Housing Construction and Safety Standards Act of 1974"**.

"MODULAR HOME": A modular home is a factory-fabricated single-family home built in **one (1)** or more sections. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a modular home shall not exceed a ratio of 3 to 1. All modular homes shall be placed in a full perimeter foundation, extending below the frost depth. All wheels and towing devices shall be removed. As with all residences, a modular home shall have a minimum 4/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **nine hundred (900) square feet**. Modular homes shall have a yellow seal in the shape of the State of Illinois on the electrical panel box of the home or on the inside of the kitchen sink cabinet. Local officials may require additional items other than the minimum state requirements such as the National Manufactured Home Construction and Safety Standards (HUD Code) or the International Building Code (IBC). All structures shall be placed on a permanent foundation in order that they may be assessed as real estate.

"OWNER" or "OPERATOR" means the licensee.

"PERMANENT FOUNDATION": A foundation which extends into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block, poured wall or mortared brick extending into the ground below the frost line shall satisfy the requirement for a permanent foundation. In addition, piers may be used, extending into the ground below the frost line, and sufficient in number to properly support the structure, provided the support beams are affixed to the permanent perimeter foundation.

"PERMANENT HABITATION" means a period of **two (2) or more months**.

"PERMIT" means a certificate issued by the Village Clerk, permitting the construction, alteration, or reduction in number of spaces of a manufactured home park under the provisions in this Code.

"PERSON" means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, county, municipality, the State of Illinois, or any political subdivision or department thereof or any other entity.

"REVOCAION" means to declare invalid a permit or license issued to the applicant or licensee by this Village for an indefinite period of time.

"SITE" means the lot on which the manufactured home is located for permanent habitation. **(210 ILCS 115/2.7)**

"SPACE" shall be synonymous with **"Manufactured Home Space"**.

"SUSPENSION" means to declare invalid a permit or license issued to the applicant or licensee by this Village for a temporary period of time with an expectation of resumption.

23-1-2 STATE REQUIREMENTS ADOPTED BY REFERENCE. The Illinois **Manufactured Home Park Act** and the **Manufactured Home Tiedown Act (77 Ill. Adm. Code 870)** of the **Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly** are hereby adopted by the Village. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the Village.

23-1-3 MANUFACTURED HOUSING ACT ADOPTED. The **Illinois Manufactured Housing and Manufactured Home Act, as passed and approved by the Illinois General Assembly** is hereby adopted by the Village, the applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the Village. **(430 ILCS 115/1 et seq.)**

23-1-4 ILLINOIS DEPARTMENT OF PUBLIC HEALTH ADOPTED AND REGULATIONS. The **Manufactured Home Community Code** as approved by the **Illinois Department of Public Health (1998)** is hereby adopted by the Village. The applicable provisions as they pertain to the Manufactured Home community shall be controlling within the corporate limits.

23-1-5 NATIONAL SAFETY STANDARDS. No manufactured home or immobilized manufactured home shall be located in the Village unless the unit has the **National Manufactured Housing Construction and Safety Standards** metal seal affixed thereto.

23-1-6 **FIRE EXTINGUISHERS.** All manufactured housing units located in the Village shall be equipped with a fire extinguishing apparatus capable of extinguishing all types of fires. Such extinguishers shall be of sufficient size so that they will reasonably protect the manufactured housing units. All fire extinguishers shall be approved by the Fire Chief or his designated representative prior to installation of the manufactured home. **(425 ILCS 60/1-60/4)**

23-1-7 **INSPECTION.** All Manufactured Housing units located in the Village shall be subject to reasonable inspection by an official or officials designated by the Village Board prior to their location in the Village.

23-1-8 **OFF-STREET PARKING.** Every owner of a manufactured housing unit shall provide for an off-street parking area of **four hundred (400) square feet.**

23-1-9 **PROHIBITED RESIDENTIAL USES.**

(A) **Dependent Manufactured Home.** It shall be unlawful to locate a dependent manufactured home in the Village unless placed in a state-licensed travel trailer park.

(B) **Independent Travel Trailer.** It shall be unlawful to reside in an independent travel trailer in the Municipality unless it is located in a state-licensed travel trailer park.

(C) **Manufactured Home.** It shall be unlawful to locate a manufactured home or a mobile home in a state-licensed travel trailer park without written permission of the Village Board.

23-1-10 **CARBON MONOXIDE ALARM DETECTORS.** Each unit shall be equipped with a carbon monoxide alarm detector as prescribed by state statute. **(430 ILCS 135/1 et seq.)**

23-1-11 **SMOKE AND FIRE DETECTORS.** Each unit shall be equipped with smoke and fire detectors as prescribed by state statute.

ARTICLE II - IMMOBILIZED MANUFACTURED HOMES

23-2-1 **IMMOBILIZED MANUFACTURED HOMES.** All immobilized manufactured homes located in the Village shall be classified as real estate; therefore, it is mandatory for all persons owning, operating, renting, or leasing an existing manufactured home outside a manufactured home park to remove or cause to have removed the wheels or any other transportation device from the manufactured home. The owner or lessor shall permanently fix it to the ground in a manner that conforms to the definition of an immobilized manufactured home **Section 23-1-1**. All existing manufactured homes, when replaced, shall comply with the immobilization provisions of this Code.

23-2-2 **PERMIT - FEE.** All persons seeking to locate or replace a manufactured home or an immobilized manufactured home outside a manufactured home park shall obtain a **Building Permit** from the Village Board. No utility services shall be connected to the unit until the Village has issued the appropriate permits. The fee to locate or relocate a manufactured home or immobilized manufactured home shall be **Twenty-Five Dollars (\$25.00)**.

23-2-3 **LOT SIZE.** The minimum lot size for the location of an immobilized manufactured home unit shall conform to the zone district that the unit is proposed to be located. All units shall be located in the Village according to the requirements and restrictions of this Code and the Zoning Code. They shall not exceed **twenty-five percent (25%) coverage** of the lot.

23-2-4 **LIMIT OF UNITS.** There shall be **only one (1)** immobilized manufactured home per lot in the Village.

ARTICLE III - MANUFACTURED HOME PARKS

DIVISION I - ADMINISTRATION REQUIREMENTS

23-3-1 COMPLIANCE WITH STATUTES, APPLICABILITY OF ARTICLE.

Every manufactured home park hereafter established in the Village shall, at a minimum, conform to the requirements of:

(A) The Illinois **Manufactured Home Park Act** and the **Manufactured Home Tiedown Act (77 Ill. Adm. Code 870)** of the **Illinois Compiled Statutes, Chapter 210, Section 115/1 et seq., as passed, approved and amended by the Illinois General Assembly** are hereby adopted by the Village. The applicable provisions as they pertain to manufactured homes and immobilized manufactured homes shall be controlling within the corporate limits of the Village.

(B) The **Manufactured Home Community Code** as approved by the **Illinois Department of Public Health (1998)**, as amended, is hereby adopted by the Village. The applicable provisions as they pertain to Manufactured Home community shall be controlling within the corporate limits.

(C) **This Code.**

(D) The Zoning Code.

In case of conflict between any provisions of the above, the more stringent requirement shall prevail.

23-3-2 PERMITTING AND PLANNING A PARK. Any person seeking to establish, operate, alter, or expand a manufactured home park shall obtain a permit to construct or a license to operate a manufactured home park.

“Construct or operate a manufactured home park”, as used in this Code shall include, but not necessarily be limited to supplying or maintaining common water, sewer, or other utility supplies or services, or the collection of rents directly or indirectly from **two (2)** or more independent manufactured homes. **(All plans shall be submitted to the Zoning Board and the Village Board for approval prior to the granting of a zoning permit.)**

23-3-3 LOCAL GOVERNMENT REQUIREMENTS. A permit does not relieve the applicant from complying with this Code or other ordinances applicable thereto.

23-3-4 PERMITS. The Administrator and the Zoning Board shall review each application and plan documents submitted. When the application and plan documents are found to be in compliance with the **“Manufactured Home Community Code”**, as approved by the **Illinois Department of Public Health**, the Zoning Board and the Village Board or the Administrator may issue the proper permit to construct or alter a manufactured home park to the applicant. Permits shall be valid for **one (1) year from date of issue.**

23-3-5 INSPECTION OF MANUFACTURED HOME PARK. Upon completion of the proposed construction of a manufactured home park or the proposed alteration of a

manufactured home park, the applicant shall notify the Village or the designated official in order that an inspection of the complete facilities can be made.

23-3-6 **VIOLATION PROCEEDINGS.** Any license granted hereunder shall be subject to revocation or suspension by the Mayor. However, the Mayor or his representative shall first serve or cause to be served upon the licensee a written notice in which shall be specified the way or ways in which such licensee has failed to comply with the statutes, or any rules or regulations promulgated by the Village pertaining thereto. The notice shall require the licensee to remove or abate such nuisance, unsanitary or objectionable condition, specified in such notice within **five (5) days** or within a longer period of time as may be allowed by the Village Board. If the licensee fails to comply with the terms and conditions of the notice within the time specified or such extended period of time, the Mayor or his representative may revoke or suspend such license.

23-3-7 **INITIAL PERMIT REQUIRED.** Each manufactured home that locates on a lot in a manufactured home park shall secure an initial Building Permit from the Village. All future locations on the same lot shall be exempt from the fee.

23-3-8 - 23-3-9 **RESERVED.**

DIVISION II - DESIGN AND CONSTRUCTION REQUIREMENTS

23-3-10 **PLAN DOCUMENT.** In order to obtain a permit to construct or an original license to operate a manufactured home park, the applicant shall file with the Zoning Administrator a written application and plan documents and such plan documents shall be prepared by a registered engineer or architect licensed to practice in the State of Illinois, with registration seal affixed. **Two (2) copies** of the plan document shall accompany the application filed with the Zoning Administrator to obtain a permit to construct or alter a manufactured home park or an original license to operate a manufactured home park, not previously licensed by the Department. These plans shall include, but not be limited to the design and construction criteria set forth herein.

23-3-11 **APPLICATION.**

(A) Every applicant shall file with the Zoning Administrator a written application and plan documents for the proposed construction or alteration of a manufactured home park.

(B) The application shall be completed by the applicant and the engineer or architect and shall include:

(1) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation, and the present or last occupation of the applicant at the time of the filing of the application. If the

applicant is a corporation, a copy of the certificate of incorporation must be filed with the application.

- (2) The proposed method of lighting the structures and land upon which the manufactured home park is to be located.
- (3) The plot plans of the manufactured home park, building plans and specifications for existing buildings and facilities, and the plans and specifications for new buildings and facilities or the proposed alterations in existing facilities.
- (4) An affidavit of the applicant as to the truth of the matters contained in the application shall be attached.
- (5) Each application shall be accompanied by an application fee of **Three Hundred Dollars (\$300.00)** for a permit to construct, or an application fee of **One Hundred Fifty Dollars (\$150.00)** for a permit to alter to increase the size of the park.

23-3-12 LOCATION.

(A) Sites selected for manufactured home development shall be well-drained and free from topographical or geological hinderances and from other conditions unfavorable to a proper residential environment. The manufactured home development shall not be located near swamps, wetlands, marshes, or other breeding places of insects, rats, mice or other rodents. When a good, natural drainage is not available, storm water drainage shall be provided and such drainage shall not endanger any water supply or surface watercourse.

(B) The Village Board may authorize a site survey to ascertain that the proposed location complies with the above requirements. **(See Flood Plain Code, if any.)**

(C) The site shall be located in the proper zone district.

23-3-13 ROADWAYS AND PARKING.

(A) All streets and driveways in every park shall be constructed in compliance with the Subdivision Code in **Chapter 34.**

(B) All streets in parks constructed shall have a minimum right-of-way of **fifty (50) feet** and a minimum road width of **thirty-two (32) feet** for the purpose of this Code, and shall be considered private streets to be maintained by the park owner or operator.

If a manufactured home park has more than **fifty (50) units**, a wider street may be required by the Zoning Board and/or the Village Board.

(C) Sidewalks and walkways shall be constructed abutting a street in a manufactured home park and shall be a minimum of **four (4) feet** in width; provided, however, there shall be no minimum width requirement for sidewalks for each individual lot. No portion of a mobile home shall block, in any way, the pedestrian traffic on the walkways.

23-3-14 PARKING REQUIREMENTS. All manufactured home parking requirements shall conform to **Section 40-7-7(A)** of the Zoning Code.

23-3-15 - 23-3-16 RESERVED.

DIVISION III - GENERALLY

23-3-17 **LOT SIZE.** The minimum lot size for a manufactured home shall be **seven thousand (7,000) square feet**, with a minimum frontage of **sixty (60) feet**.

23-3-18 **MISCELLANEOUS RESTRICTIONS.**
(A) No manufactured home unit parked in a manufactured home park shall be immobilized.
(B) Not more than **one (1) manufactured home unit** shall be parked in **one (1) space**.
(C) No travel-trailer shall be permitted in any manufactured home park, unless a special area has been approved for that purpose by the Zoning Board and the Village Board.

23-3-19 **SKIRTING.** Skirting shall be used to conceal all underpinning, plumbing, and support piers whether on a permanent foundation or otherwise. All skirting shall be installed on all manufactured housing units within **sixty (60) days** of the placement of the unit.

23-3-20 **RESERVED.**

DIVISION IV - FEES

23-3-21 **LICENSE FEE.** The annual license fee per manufactured home park shall be **One Hundred Dollars (\$100.00)**, and shall be due and payable **on or before May 1st of each year**. The Village Clerk shall notify the owner or operator of the annual fee at least **thirty (30) days** prior to **May 1st**.

(Execute in Duplicate)

Application No. _____

APPLICATION FOR BUILDING AND MANUFACTURED HOME OCCUPANCY PERMIT

Office of the Mayor
Village Hall
Loami, Illinois

Application No. _____

DATE: _____, _____

(DO NOT WRITE IN THIS SPACE - FOR OFFICE USE ONLY)

DATE: _____, _____

PERM. PARCEL _____

- Permit Issued
- Permit Denied
- Application Appealed

Fee Paid to Village Clerk:

\$ _____ DATE: _____, _____

IF DENIED, CAUSE OF DENIAL:

INSTRUCTIONS TO APPLICANT: All information required by the application must be completed and submitted herewith. Applicants are encouraged to visit the Village Hall for any assistance needed in completing this form.

1. Name of Owner(s): _____
(Attach additional sheets if necessary)

Address: _____ PHONE: _____
(ZIP CODE)

2. Applicant's Name: _____ PHONE: _____
Address: _____
(ZIP CODE)

3. Property interest of applicant: _____
(Contract Purchaser, Etc.)

4. Address of proposed construction or manufactured home: _____

5. Legal Description (Lot, Block, and Subdivision; attach metes and bounds description, if necessary).

Cost of Improvement: \$ _____ Square feet of Improvement _____

6. Proposed construction (check one or more, as necessary):
 New Building Type: _____ Brick/Frame Number of Rooms _____
 Alterations or additions to existing buildings (explain): _____

7. Use of existing and proposed structures (if applicable):
Existing Use: _____
Proposed Use: _____

8. Two (2) copies of a sketch plat (drawn to approximate scale shall be attached, showing the following:

- a) Dimensions and use of all buildings;
- b) Dimensions of lot;
- c) Distance of each building from lot lines;
- d) Distance of principal building from principal buildings on adjacent lot(s);

- e) Distance between accessory buildings and principal buildings;
 - f) Distance from lot line to center line of abutting street(s);
 - g) Location [with dimensions] of driveways and off-street parking spaces;
 - h) Location of all easements;
 - i) Location of all underground utilities, including septic tanks, tile fields, and wells.
9. Application is hereby made for an Occupancy Permit as required under the Village Code for the erection, moving, or alteration and use of buildings and manufactured homes. In making this application, the applicant represents all of the above statements and any attached maps and drawings to be a true description of the proposed new or altered uses and/or buildings. The applicant agrees that the permit applied for, if granted, is issued on the representations made herein and that any permit issued may be revoked without notice on any breach of representation or conditions. **(See Chapter 23)**

It is understood that any permit issued on this application will not grant right of privilege to erect any structure or to use any premises described for any purpose or in any manner prohibited by the Village Code, or by other ordinances, codes, or regulations of the Village.

APPLICANT: _____

CERTIFICATE OF OCCUPANCY

The plans and specifications submitted with this Application are in conformity with the district requirements applicable to the subject property. Changes in plans or specifications shall not be made without written approval of the Village Board.

Failure to comply with the above shall constitute a violation of the provisions of the **Revised Code of Ordinances of the Village.**

DATE: _____, ____

BUILDING OFFICIAL

CHAPTER 24
MOTOR VEHICLE CODE

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CHAPTER 24

MOTOR VEHICLE CODE

ARTICLE I – DEFINITIONS

24-1-1 **ILLINOIS VEHICLE CODE; DEFINITIONS ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Chapter 1**, entitled "**Title and Definitions**", as passed, approved and amended by the Illinois General Assembly is hereby adopted by the Village, the provisions thereof shall be controlling within the corporate limits of the Village. **(65 ILCS 5/1-3-2 and 5/11-1-1)**

ARTICLE II - GENERAL REGULATIONS

24-2-1 **OBEDIENCE TO POLICE.** Members of the Police Department, Special Police, and Auxiliary Police assigned to traffic duty are hereby authorized to direct all traffic in accordance with the provisions of this Article or in emergencies as public safety or convenience may require, and it shall be unlawful for any person to fail or refuse to comply with any lawful order, signal or direction of a policeman. Except in cases of emergency, it shall be unlawful for any person not authorized by law to direct or attempt to direct traffic. **(625 ILCS 5/11-203)**

24-2-2 **SCENE OF FIRE.** The Fire Department officer in command or any fireman designated by him may exercise the powers and authority of a policeman in directing traffic at the scene of any fire or where the Fire Department has responded to an emergency call for so long as the Fire Department equipment is on the scene in the absence of or in assisting the Police Department.

24-2-3 **SIGNS AND SIGNALS.** It shall be unlawful for the driver of any vehicle to disobey the instructions of any traffic sign or signal placed in view by authority of the corporate authorities or in accordance with the laws of the State of Illinois except upon direction of a police officer. All signs and signals established by direction of the governing body shall conform to the Illinois State Manual of Uniform Traffic Control Devices for Streets and Highways. **(625 ILCS 5/11-301)**

24-2-4 **UNAUTHORIZED SIGNS.** No person shall place, maintain or display upon or in view of any street, any unauthorized sign, signal, marking, light, reflector or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, nor shall any person or place, maintain or display upon or in view of any street, any other sign which hides from view or interferes with the movement of traffic or effectiveness of any traffic-control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority

permit upon any highway, any traffic sign or signal bearing thereon any commercial advertising. No tree, bush or foliage of any kind shall be so placed, maintained, allowed to remain, or be displayed upon either public or private property in such a manner as to hide from view or interfere with the movement of traffic or the effectiveness of any traffic-control device, sign or signal.

24-2-5 INTERFERENCE WITH SIGNS OR SIGNALS. It shall be unlawful for any person to deface, injure, move or interfere with any official traffic sign or signal.

24-2-6 ADVERTISING SIGNS. It shall be unlawful to maintain anywhere in the Village any sign, signal, marking or device other than a traffic sign or signal authorized by the Village Board or the Illinois Department of Transportation, which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal in view of any street or highway, and it shall be unlawful to place or maintain any sign which hides from view any lawful traffic-control device. It shall be unlawful to maintain or operate any flashing or rotating beacon of light in view of any street or highway. **(See Chapter 27 and 33) (Also See Chapter 40 - Zoning Code)**

24-2-7 ANIMALS OR BICYCLES. Any person riding a bicycle or an animal or driving any animal drawing a vehicle upon any street shall be subject to the provisions of this Code applicable to the driver of a vehicle, except those provisions which can have no application to one riding a bicycle or driving or riding an animal. **(625 ILCS 5/11-206)**

24-2-8 BICYCLE LAMPS, REFLECTORS, AND EQUIPMENT. When used at nighttime, every bicycle shall be equipped with the following:

(A) A lamp upon the front which emits a white light visible from a distance of at least **five hundred (500) feet** to the front.

(B) A red reflector on the rear which shall be visible to a distance of **six hundred (600) feet** to the rear when directly in front of lawful lower beams of headlights on a motor vehicle.

(C) A reflex reflector on each pedal visible from the front and rear of the bicycle from a distance up to **two hundred (200) feet** when viewed within the lawful lower beams of headlights on a motor vehicle.

(D) Side reflectors upon each side of the bicycle which shall be visible up to a distance of **five hundred (500) feet** when viewed directly in front of a lawful lower beam of motor vehicle headlights. The requirements of this subparagraph may be met by reflective materials which shall be at least **three-sixteenths (3/16) of an inch** wide on each side of each tire or rim which may indicate as clearly as possible the continuous circular shape and size of the tires or rims of such bicycle and which reflective materials may be of the same color on both the front and rear tire or rim.

24-2-9 ADMINISTRATIVE TOWING FEE. The owner of record of a motor vehicle impounded by the Police Department pursuant to any state or federal law shall be liable to the Village for such administrative tow fees as provided herein.

Any motor vehicle seized by the Police Department pursuant to any state or federal law shall not be released to the owner of record, or the owner's authorized agent, without an administrative towing fee of **Two Hundred Fifty Dollars (\$250.00)** being paid to the Village. Said administrative fee is in addition to all applicable towing and storage fees. A release form and tow sheet will be provided to the owner of record at the time of the impoundment with directions on how to recover said vehicle.

If an individual tried for a violation of a state or federal law resulting in a motor vehicle's impoundment receives a judgment of "not guilty" in a court of competent jurisdiction, said administrative fee shall be refunded to the owner of record. A disposition of court supervision is not a judgment of "not guilty." **(Ord. No. 2013-04; 07-11-13)**

ARTICLE III - STOP AND THROUGH STREETS

24-3-1 **THROUGH STREETS.** The streets and parts of streets of the Village designated by ordinance as "through streets" are hereby declared to be through streets. The driver of a vehicle shall stop at the entrance to a through street and shall yield the right-of-way to other vehicles which have entered the intersection or which are approaching so close on a through street as to constitute an immediate hazard unless directed otherwise by the traffic officer. See **Schedule "A"** for applicable through and stop streets.

24-3-2 **ONE-WAY STREETS OR ALLEYS.** It shall be unlawful to operate any vehicle on any streets or alleys designated as one-way streets or alleys by ordinance in any direction other than that so designated. See **Schedule "B"** for the designated one-way streets and alleys. **(625 ILCS 5/11-208)**

24-3-3 **STOP STREETS.** The driver of a vehicle shall stop in obedience to a stop sign at an intersection where a stop sign is erected pursuant to ordinance at one or more entrances thereto and shall proceed cautiously, yielding to the vehicles not so obliged to stop which are within the intersection or approaching so close as to constitute an immediate hazard, unless traffic at such intersection is controlled by a police officer on duty, in which event, the directions of the police officer shall be complied with. See **Schedule "A"** for designated stop intersections. **(625 ILCS 5/11-302)**

24-3-4 **POSTING SIGNS.** Appropriate signs shall be posted to show all through, stop and yield right-of-way streets, all one-way streets and alleys and all stop intersections. **(625 ILCS 5/11-304)**

ARTICLE IV - DRIVING RULES

24-4-1 **ILLINOIS VEHICLE CODE; RULES OF THE ROAD ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, 5/11-100 et seq.**, entitled "**Rules of the Road**", as passed, approved and amended by the Illinois General Assembly is hereby adopted by the Village and the provisions thereof shall be controlling within the corporate limits of the Village except for the following changes, deletions and omissions:

- (A) **Omissions:**
- (1) Omit Sections 11-207, 11-208.1, 11-208.2, 11-209.1, 11-302, 11-303, 11-310(f), 11-313, 11-401 to and including 11-416, 11-500 to and including 11-502, 11-602, 11-603, 11-604, 11-606(b), 11-608, 11-1419, and 11-1422.
- (B) **Changes and Additions:**
- (1) Change 11-904(a) to read: "Preferential right-of-way at an intersection may be indicated by stop or yield signs as authorized by this Code."
 - (2) Change 11-1416(a) to read: "Any person who shall willfully and unnecessarily attempt to delay, hinder or obstruct any other person in lawfully driving and traveling upon or along any highway within this State or who shall offer for barter or sale, merchandise on said highway so as to interfere with the effective movement of traffic shall, upon conviction, be guilty of a violation of this Code."

24-4-2 **DRIVING RULES.**

(A) **Careless Driving.** It shall be unlawful to operate a vehicle in the Village in a careless manner so as to interfere with the safe or lawful operation of any other vehicle or so as to interfere with or to injure, damage, or endanger persons or property engaged in the lawful use of the street.

(B) **Drag Racing.** No person shall participate within the Village in drag racing as such activity is defined by **625 ILCS 5/11-504.**

(C) **Fleeing or Attempting to Elude Police Officer.** Any driver or operator of a motor vehicle who, having been given a visual or audible signal by a police officer directing such driver or operator to bring his vehicle to a stop, willfully fails to or refuses to obey such direction, increases his speed, extinguishes his lights or otherwise flees or attempts to elude the officer is guilty of a violation of this Chapter. The signal given by the police officer may be by hand, voice, siren, red or blue light. Provided, however, the officer giving such signal shall be in police uniform and if driving a vehicle, such vehicle shall be marked showing it to be an official police vehicle.

(D) **Unlawful Possession of Highway Sign or Marker.** Traffic control signals, signs or markers owned by the Village shall be possessed only by the Village's employees, police officers, contractors, or their employees engaged in highway construction, contract or work upon the roadways or public ways approved by the Village. No person shall possess a traffic control signal, sign or marker owned by the Village except as provided in this paragraph without the prior written authority of the Village. It shall be a violation of this Chapter for a person to possess such a traffic control signal, sign or marker without lawful authority. **(625 ILCS 5/11-313)**

(E) **Special Speed Limitations on Elevated Structures.** No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure when such structure is sign-posted.

Upon the trial of any person charged with the violation of this Section, proof of the determination of the maximum speed by the Village and the existence of such signs is conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure. **(625 ILCS 5/11-608)**

(F) **General Speed Restrictions.** The speed limits on the various streets shall be approved by the Village Board, but shall not exceed **twenty miles per hour (20 MPH)** in a school zone and not to exceed **twenty-five miles per hour (25 MPH)** on a residential street; otherwise, **thirty miles per hour (30 MPH)** on an arterial street unless otherwise posted. **(See Schedule "D") (625 ILCS 5/11-604) (65 ILCS 5/11-40-1)**

(G) **Special Speed Limit While Passing Schools.** No person shall drive a motor vehicle at a speed in excess of **twenty miles per hour (20 MPH)** while passing a school zone or while traveling upon any public thoroughfare on or across which children pass going to and from school during school days when school children are present.

This section shall not be applicable unless appropriate signs are posted upon streets and maintained by the Village or State wherein the school zone is located. **(625 ILCS 5/11-605)**

(H) **Failure to Reduce Speed.** A vehicle shall be driven upon the streets and alleys of this Village at a speed which is reasonable and proper with regard to traffic conditions and the use of the street or alley. The fact that the vehicle does not exceed the applicable maximum speed limit does not relieve the driver of the duty to decrease speed when approaching and crossing an intersection or when special hazard exists with respect to pedestrian or other traffic or by reason of weather or highway conditions. Speed must be decreased as may be necessary to avoid colliding with any person or vehicle on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(I) **Traffic Lane Usage.** Whenever any roadway within the Village has been divided into **two (2)** or more clearly marked lanes for traffic, a vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.

(J) **U-Turns Prohibited.** No driver of a vehicle shall make a "U-turn" on any street or at any intersection of any streets in the Village.

24-4-3 DUTY TO REPORT ACCIDENT. The driver of a vehicle which is in any manner involved in an accident within the Village shall, without unnecessary delay, notify the Police Department and shall make a report of such action. Failure to report an accident within the Village within **twenty-four (24) hours** shall result in arrests of the person or persons involved. **(625 ILCS 5/11-415)**

24-4-4 TRANSPORTING LIQUOR IN VEHICLES. No person shall transport, carry, possess or have any alcoholic liquor within the passenger area of any motor vehicle in this Village except in the original container and with the seal unbroken. **(625 ILCS 5/11-502)**

24-4-5 **EXCESSIVE NOISE - STOPPED VEHICLE.** No operator of a motor vehicle shall, when the motor vehicle is stopped, unreasonably accelerate the engine thereof with the gears of the vehicle in neutral, thereby causing an unreasonably loud or excessive noise.

24-4-6 **EXCESSIVE NOISE - WHEELS.** No operator of a motor vehicle shall when the motor vehicle is stopped, accelerate the engine with the gears of such vehicle in neutral and while so accelerating the engine, shift the gears of the vehicle into a forward or reverse movement, thereby causing an unreasonably loud noise with the drive wheels of the vehicle.

24-4-7 **EXCESSIVE NOISE - SQUEALING TIRES.** No operator of a motor vehicle shall cause the wheels of such vehicle to spin violently, thereby causing an unreasonably loud or excessive noise. **(625 ILCS 5/11-505)**

24-4-8 **RECKLESS, NEGLIGENT OR CARELESS DRIVING.** It shall be unlawful to operate any vehicle in the Village in a careless, reckless, negligent or wanton manner, or carelessly so as to endanger life or property.

24-4-9 **EXCESSIVE NOISE WHILE DRIVING.** No operator of a motor vehicle shall, when operating the vehicle, accelerate the vehicle or rapidly stop the vehicle causing an unreasonably loud noise.

ARTICLE V - EQUIPMENT OF VEHICLES

24-5-1 ILLINOIS VEHICLE CODE; EQUIPMENT OF VEHICLES ADOPTED.

The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 12**, entitled "**Equipment of Vehicles**", as passed, approved, and amended by the Illinois General Assembly is hereby adopted by the Village and the provisions thereof shall be controlling within the corporate limits of the Village. **(625 ILCS 5/12-605, 5/12-605.1; and 5/12-605.2)**

24-5-2 MUFFLER. No motor vehicle shall be operated on any street unless such vehicle is provided with a muffler in efficient actual working condition; and the use of a cut-out is prohibited. No muffler shall cause an unreasonably loud or excessive noise. **(625 ILCS 5/12-602)**

24-5-3 SOUND AMPLIFICATION SYSTEM. No driver of any motor vehicle within this Village shall operate or permit operation of any sound amplification system which can be heard outside the vehicle from **seventy-five (75) feet** or more when the vehicle is being operated upon a highway, unless such system is being operated to request assistance or warn of a hazardous situation. This Section shall not apply to authorized emergency vehicles. **(625 ILCS 5/12-611)**

24-5-4 EXCESSIVE ENGINE BRAKING NOISE PROHIBITED. It shall be unlawful for an operator of a commercial vehicle as defined in **625 ILCS 5/1-111.8** to operate or actuate any engine braking system within the Village that emits excessive noise unless it is an emergency. The Superintendent is authorized and directed to post signs stating: "**EXCESSIVE ENGINE BRAKING NOISE PROHIBITED**" at appropriate locations. **(625 ILCS 5/12-602.1)**

ARTICLE VI - PARKING RULES

24-6-1 **TIME LIMIT PARKING.** It shall be unlawful to park any vehicle for a period of time in excess of the amount of time designated by law and so posted.

24-6-2 **PARKING FOR SALE OR REPAIR.** No person shall park a vehicle upon any street for the purpose of:

- (A) displaying such vehicle for sale; or
- (B) washing, greasing or repairing such vehicle, except when emergency repairs are necessary.

24-6-3 **PRIVATE PROPERTY.** It shall be unlawful to park any motor vehicle on any private property without the consent of the owner of the property.

24-6-4 **STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES.**

(A) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control devices, no person shall:

- (1) **Stop, Stand or Park a Vehicle:**
 - (a) On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - (b) On a sidewalk.
 - (c) Within an intersection.
 - (d) On a crosswalk.
 - (e) Between a safety zone and the adjacent curb or within **thirty (30) feet** of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings.
 - (f) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.
 - (g) Upon any bridge or other elevated structure upon a highway or within a highway tunnel.
 - (h) On any railroad tracks.
 - (i) At any place where official signs prohibit stopping.
 - (j) On any controlled-access highway.
 - (k) In the area between roadways of a divided highway, including crossovers.
 - (l) In any alley that is open and maintained.
- (2) **Stand or Park a Vehicle** (whether occupied or not, except momentarily to pick up or discharge passengers):
 - (a) In front of a public or private driveway.
 - (b) Within **fifteen (15) feet** of a fire hydrant.
 - (c) Within **twenty (20) feet** of a crosswalk at an intersection.

- (d) Within **thirty (30) feet** upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of the roadway.
 - (e) Within **twenty (20) feet** of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within **seventy-five (75) feet** of such entrance (when properly sign-posted).
 - (f) At any place where official signs prohibit standing or parking.
- (3) **Parking a Vehicle** (whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading property or passengers):
- (a) within **fifty (50) feet** of the nearest rail of a railroad crossing;
 - (b) at any place where official signs prohibit parking;
 - (c) in yellow zones.
- (B) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such distance as is unlawful.
- (C) Schedules "E", "F" and "G" shall list all applicable no-parking zones.
- (D) **Truck Parking Prohibitions.** No person shall park any vehicle, vehicles or trailer the length of which exceeds **twenty (20) feet** or any Second Division vehicle licensed for an "F" classification or higher:
- (1) Upon any street, alley or any public way within the Village except for the purpose and time period reasonably necessary to load and unload the same.
 - (2) Upon public or private property within the Village with the motor running for a continuous period in excess of **thirty (30) minutes. (625 ILCS 5/3-815)**

24-6-5 PARKING FOR THE HANDICAPPED.

(A) **Designated Parking.** Certain parking spaces within the confines of the Village shall be designated for use by handicapped persons' vehicles only and will be posted with appropriate signs to that effect.

(B) **Use of Designated Handicapped Parking.** The use of designated handicapped parking locations, duly posted and signed shall to that effect, be open to any vehicle which bears the appropriate handicapped Illinois Registration Plate issued by the Secretary of State for the State of Illinois, or a valid handicapped parking permit issued by another governmental agency or which bears a handicapped card furnished in accordance with **Illinois Compiled Statutes, Chapter 625; Section 5/11-1301.1, et. seq.** furnished by the Village.

(C) **Application for Illinois Handicapped Registration Plate.** The issuance of an Illinois Handicapped Motor Vehicle Registration Plate shall be made with the Secretary of State of the State of Illinois at any facility provided and approved for that purpose by the Secretary of State. **(625 ILCS 5/11-1301.2)**

(D) **Penalty.** Any vehicle parked in violation of this Article in a posted designated handicapped space which does not bear an Illinois Handicapped Registration Plate, or a valid handicapped parking permit issued by another governmental agency of a Village Handicapped Registration Card will be ticketed and the vehicle will be removed in accordance

with departmental policies and in accordance with **Section 5/11-1302, Chapter 625 of the Illinois Compiled Statutes**. The registered owner of the vehicle as ascertained by the registration plates of the vehicle will be presumed to be in control of the vehicle and will be fined **Two Hundred Dollars (\$200.00)**. The same registered owner will be held liable for the cost of removal of the vehicle and must pay that cost, plus storage charges, if any, prior to the release of the vehicle. **(625 ILCS 5/11-1301.3(C))**

(E) **Handicapped Parking Areas.** Those places designated as "Handicapped Parking Spaces" are listed in **Schedule "H"**.

24-6-6 LOAD LIMITS.

(A) **Established.** There is hereby established "gross load limits" on certain Village streets. The term "gross load limit" shall mean the total weight of a vehicle and the load it is carrying. The specified streets and the load limits are hereby listed in **Schedule "J"**.

(B) **Restrictions.** It shall be unlawful to operate a vehicle upon any street where the operation is prohibited by this Section and where such signs of prohibition are posted, except that a vehicle may be driven on such street for not more than the minimum distance necessary for the purpose of making deliveries or picking up loads.

(C) **Exceptions.** This Chapter shall not include pickup trucks, trucks operated by the Village maintenance and repairs on the street or the operation of a vehicle owned by the U.S. government or State of Illinois while on lawful business of these agencies.

24-6-7 TOWING CARS AWAY. The Police Department and all members thereof assigned to traffic duty are hereby authorized to remove and tow away, or have removed and towed away by commercial towing service, any car, boat, trailer, or other vehicle illegally parked in any place where such parked vehicle creates or constitutes a traffic hazard, blocks the use of a fire hydrant or obstructs or may obstruct the movement of any emergency vehicle; or any vehicle which has been parked in any public street or other public place for a period of **twenty-four (24) hours**.

Vehicles towed away shall be stored on any Village property or in a public garage or parking lot and shall be restored to the owner or operator thereof after payment of the expense incurred by the Village in removing and storing such vehicle(s).

24-6-8 PARKING VIOLATIONS. Any person accused of a violation of an ordinance prohibiting parking a vehicle in a designated area or restricting the length of time a vehicle may be there parked, may settle and compromise the claim against him or her for such illegal parking by paying to the Village **Ten Dollars (\$10.00)** for each such offense and **Fifteen Dollars (\$15.00)** for the second offense within **six (6) months**. Such payment may be made at the Village Hall and a receipt shall be issued for all money so received and such money shall be promptly turned over to the Treasurer to be credited to the General Fund. The members of the Police Department are hereby authorized to refrain from instituting a prosecution for the alleged offense involved for at least **five (5) days**.

Provided, this Section shall not apply to persons parking a vehicle so as to obstruct the entrance or exit of any place where Police and Fire Department apparatus or other emergency equipment is kept or housed or so as to block an emergency entrance in a hospital. Nor shall this Section apply to any person charged with parking a vehicle so as to entirely obstruct traffic in any street or alley or parking in such a way as to reduce traffic on an arterial street to one-

way traffic only; nor to any person who refuses to remove a vehicle illegally parked at the request of any member of the Police Department.

(A) **Removal - Time Limit.** Any vehicle illegally parked for a period in excess of **twenty-four (24) hours** may be removed by a towing service authorized by the Police Department of the Municipality. In any emergency, any vehicle may be removed by any means when authorized by the Police Department of the Municipality.

(B) **Village Parking Lots.** No person shall park a motor vehicle on a Village parking lot unattended for more than **five (5) consecutive days**.

(C) **Parking Violation Ticket.** The parking violation ticket shall be as follows:

24-6-9 PRIMA FACIE PROOF. The fact that a vehicle which is illegally parked or operated is registered in the name of a person shall be considered prima facie proof that such person was in control of the vehicle at the time of such violation.

24-6-10 SNOW ROUTES. It shall be unlawful to park a vehicle on the following designated streets at any time within **eighteen (18) hours** after a snowfall of **three (3) inches** or more, unless the street has been cleared of snow.

24-6-11 PARKING TICKETS - STATE STATUTE. The Village Board intends to utilize **Illinois Compiled Statutes, Chapter 625; Section 5/6-306.5** and the procedure set forth therein.

The appropriate authorities are hereby authorized to utilize the statute and the procedure set forth therein.

ARTICLE VII – ABANDONED AND INOPERABLE VEHICLES**24-7-1** **DEFINITIONS.**

(A) As used in this Article, "Inoperable motor vehicle" has the same definition as contained in 11-40-3 of the Illinois Municipal Code, **65 ILCS 5/11-40-3**; any motor vehicle from which, for a period of at least **seven (7) days**, the engine, wheels, tires, 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. "Inoperable motor vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations nor to any motor vehicle that is kept within a building when not in use, nor to any operable historic vehicles over **twenty-five (25) years** of age, nor to a motor vehicle on a premises lawfully engaged in the wrecking and junking of motor vehicles.

(B) As used in this Article, "abandoned motor vehicle" has the same definition as set forth in Section 1-101.05 of the Illinois Vehicle Code, **625 ILCS 5/1-101.05**; any vehicle that is in a state of disrepair rendering the vehicle incapable of being driven in its condition, or any motor vehicle that has not been moved for **seven (7) consecutive days** or more and is apparently deserted.

(C) **Person:** Any human being, firm, partnership, association, corporation, company, or organization of any kind.

(D) **Property:** Any real property, public or private, within the corporate limits within the Village that is not a street or highway.

(E) **Street or Highway:** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(F) **Motor Vehicle:** As defined in Section 1-146 of the Illinois Vehicle Code, a "motor vehicle" means every vehicle which is self-propelled, except for vehicles moved solely by human power and motorized wheelchairs.

(G) **Repair:** To take such action as is required to make an inoperable motor vehicle capable of being driven under its own power.

24-7-2 **INOPERABLE OR ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY.** Inoperable or abandoned motor vehicles which are on public property, a street or a highway, are hereby declared a nuisance. They shall be towed or otherwise dealt with by the Police Department in accordance with procedures set forth in Chapter 4, Article II of Illinois Motor Vehicle Code, **625 ILCS 4-201 et seq.**, which is herein incorporated by reference, together with all future amendments thereto.

24-7-3 **INOPERABLE MOTOR VEHICLES ON PRIVATE PROPERTY.**

(A) Inoperable motor vehicles on private property are hereby declared a nuisance.

(B) Whenever a police officer discovers an inoperable motor vehicle on private property, the officer shall determine the owner of record of the property, and if the vehicle has a license plate, the owner of the vehicle. The officer shall attempt to determine the identity of persons occupying the property if different from the owner of record. The officer

shall cause a notice in substantially the following form to be mailed, by certified U.S. Mail, return receipt requested, or by personal delivery to the owner of record of the property, and to all persons known to the officer, after reasonable investigation, to occupy such property, and also to the owner of the motor vehicle, if the owner is known:

NOTICE TO REMOVE OR REPAIR INOPERABLE MOTOR VEHICLE

PLEASE TAKE NOTICE that the Police Department of the Village of Loami, Illinois, has determined that there exists an inoperable motor vehicle, generally described as follows and hereinafter referred to as "The Vehicle":

Make: _____

Model: _____

Model Year, if known: _____

Color: _____

License No., if known: _____ *State:* _____

Other identifying characteristics: _____

The Vehicle is currently located on the following property:

Address: _____

The Vehicle is in violation of Article III of Chapter 24 of the Village of Loami Code of Ordinances, which prohibits inoperable motor vehicles on private property within the corporate limits of the Village.

You are hereby ordered to remove or repair such inoperable vehicle within seven (7) calendar days from the date of service of this Notice, if it has been hand-delivered, or within eleven (11) calendar days from the date of mailing of this notice, if it was mailed by certified mail.

Loami Ordinance No. _____ provides that any person violating its provisions is subject to a fine of not less than \$250.00 nor more than \$750.00 for each day a violation is allowed to continue. If the Village must prosecute you for having an inoperable motor vehicle, it may seek fines beginning from the date of this Notice.

If you fail to remove or repair the inoperable motor vehicle by the date set forth in this notice, the Village may remove the inoperable vehicle, or may hire someone to do so. Any person ordered to repair or remove an inoperable vehicle may have a hearing with the Chief of Police. A request for a hearing must be made in writing and delivered to the Municipal Clerk no later than seven (7) days after the date of service of this notice, if served personally; or eleven

(11) days after the date of mailing of this notice, if it was mailed. If no hearing is requested, or if the Chief determines after the hearing that the vehicle is indeed inoperable, the vehicle may be towed without further notice.

Definitions: As used in this notice, "inoperable motor vehicle" means any motor vehicle from which, for a period of at least seven (7) days, the engine, wheels, tires, 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. "Inoperable motor vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations nor to any motor vehicle that is kept within a building when not in use, nor to any operable historic vehicles over twenty-five (25) years of age, nor to a motor vehicle on the premises lawfully engaged in the wrecking and junking of motor vehicles.

"Repair" means to take such action as is required to make an inoperable motor vehicle capable of being driven under its own power.

This Notice is dated this ____ day of _____, 20__.

Signature

(C) Notice by certified mail pursuant to this Section shall be accomplished if the Village receives a return receipt from the addressee or if the certified or regular mailing is returned "unclaimed" or "refused".

(D) In the event that a violation of **Section 24-7-2** of this Article is not corrected within the time specified in the notice, or if there is a hearing, within **five (5) days** after the hearing, the Police Department may proceed to tow and dispose of the inoperable motor vehicle in accordance with the procedures set forth in Chapter 4, Article II of Illinois Motor Vehicle Code, **625 ILCS 4-201 et seq.**, which is herein incorporated by reference.

24-7-4 ABANDONED BUT NOT INOPERABLE MOTOR VEHICLES ON PRIVATE PROPERTY. Vehicles which are not inoperable, but which are abandoned in the sense of not having been moved for **seven (7) consecutive days** or more and being apparently deserted, may be removed by the Police Department and otherwise dealt with in accordance with Article II of Section 4 of the Illinois Vehicle Code, but only if:

(A) The owner of the property on which the vehicle was abandoned is different from the owner of the vehicle; and

(B) The owner of the property on which the vehicle was abandoned requests the Police Department to take action; and

(C) If approved by the Chief of Police in his sole discretion.

24-7-5 OTHER REMEDIES. In addition to any other remedies, the corporate authorities may at any time instruct the Village Attorney to filing a lawsuit in the Circuit Court of Sangamon County, seeking any or all remedies available in the Illinois Municipal Code respecting abatement of nuisances. The corporate authorities may seek penalties in accordance with **Section 24-7-7** of this Article.

24-7-6 PARKING OF VEHICLES WITH EXPIRED REGISTRATION STICKERS. No person may stop, park, or leave standing upon a public street, highway, or roadway a vehicle upon which is displayed an Illinois registration plate or plates or registration sticker after the termination of the registration period for which the registration plate or sticker was issued or after the expiration date set by Section 3-314 or 3-314.1 of the Illinois Vehicle Code.

24-7-7 PENALTIES AND REMEDIES.
(A) Any person who violates or aids and abets in the violation of **Section 24-7-2** or **24-7-4** of this Article shall be fined not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**, plus the cost to the Village of its attorney's fees and shall be required by the Court to make a disposition on the abandoned, unclaimed, or inoperable vehicle. Each day a violation occurs shall constitute a separate offense.

(B) In addition to the remedies set forth in this Article and in Article II of Chapter 4 of the Illinois Motor Vehicle Code, the Village may bring a common law nuisance action against a person who is responsible for a nuisance as defined in this Article, and in connection therewith, may seek all remedies available in law or equity in connection with such an action, and shall be entitled as part of the action to an award of its attorney's fees and costs.

(C) A person who violates **Section 24-7-6** of this Article shall be fined the sum of **Twenty-Five Dollars (\$25.00)** for each violation. Each day a violation occurs shall constitute a separate offense.

(Ord. No. 2002-13; 12-12-02)

ARTICLE VIII – GOLF CARTS

24-8-1 **GENERALLY.** Golf carts, utility-terrain vehicles "UTV" and all-terrain vehicles "ATV", as defined and qualified herein shall be allowed on Village Streets under conditions as stated herein.

24-8-2 **DEFINITIONS.**

(A) **"Golf cart"**, as defined herein, means a vehicle specifically designed and intended for the purposes of transporting **one (1)** or more persons and their golf clubs or maintenance equipment while engaged in the playing of golf, supervising the play of golf or maintaining the conditions of the grounds on a public or private golf course.

(B) **"Utility-Terrain Vehicle"** shall mean a self-propelled, electronically powered four-wheeled motor vehicle or a self-propelled gasoline powered four wheeled motor vehicle with an engine displacement under **one thousand two hundred (1,200) cubic centimeters** which is capable of attaining in **one (1) mile** a speed of more than **twenty (20) miles** per hour but not more than **twenty-five (25) miles** per hour and which conforms to the federal regulations under Title 49 C.F.R. Part 571.500.

(C) **"All-Terrain Vehicles"**.

(D) **"Village Streets"** means any of the streets within the boundaries of the Village.

24-8-3 **REQUIREMENTS.** All persons wishing to operate a golf cart, UTV, ATV vehicle on the Village streets must ensure compliance with the following requirements:

(A) Proof of current liability insurance.

(B) Must be certified with the Village and the vehicles certified with the Village by the inspection by the Police Chief or designated representative.

(C) Must pay yearly tag fee of **Twenty Dollars (\$20.00)** for first vehicle, **Five Dollars (\$5.00)** for each consecutive vehicle within family. (yearly sticker then issued)

(D) Must display Village decal on the rear of the vehicle.

(E) Must be **eighteen (18) years** of age, with current, valid Illinois driver's license.

(F) Golf carts must be equipped with following:

(1) Brakes and brake lights.

(2) Tires.

(3) Approved Slow Moving emblem on the rear of the vehicle (**625 ILCS 5/12-709**).

(4) Headlight that emits a white light visible from a distance of **five hundred (500) feet** to the front which must illuminate when in operation.

(5) Tail lamp that emits a red light visible from at least **one hundred (100) feet** from the rear which must be illuminated when in operation.

(6) Any additional requirements which may be amended to **65 ILCS 5/11-1428** or the Illinois Motor Vehicle Code.

(G) Utility Terrain Vehicles and All Terrain Vehicles must be equipped as follows:

- (1) Brakes and brake lights.
- (2) Tires.
- (3) Approved Slow Moving emblem on the rear of the vehicle (**625 ILCS 5/12-709**).
- (4) Tail lamp that emits a red light visible from at least **one hundred (100) feet** from the rear which must be illuminated when in operation.
- (5) Headlight that emits a white light visible from a distance of **five hundred (500) feet** to the front which must illuminate when in operation.
- (6) Any additional requirements which may be amended to **65 ILCS 5/11-1428** or the Illinois Motor Vehicle Code.

(H) Must obey all traffic laws of the State of Illinois and the Village of Loami.

(I) Must be **eighteen (18) years** of age with current, valid driver's license.

(J) Must be operated only on Village streets, except where prohibited.

(K) May not be operated on County Highway 45 (Main Street).

(L) Must not be operated in excess of posted speed limit and, with respect to utility terrain vehicle as described here.

(M) A person operating or who is in actual physical control of such vehicles as described herein on a road while under the influence is subject to Section 11-500 through 11-502 of the Illinois Compiled Statutes (**625 ILCS 5/11-500 – 11-502**)

(N) May not be operated on Village sidewalks, Village parks or other parking areas.

(O) Such vehicles may not be operated on streets and highways and roads under the jurisdiction of the Illinois Department of Transportation or the County Highway Department except to cross at designated streets.

24-8-4 PERMITS REQUIRED.

(A) No person shall operate said vehicles without first obtaining a permit from the Village Clerk as provided herein. Permits shall be granted for a period of **one (1) year** and renewed annually. The cost of the permit is **Twenty Dollars (\$20.00)**. Insurance coverage is to be verified to be in effect by the Police Department or said designee when obtaining and renewing a permit.

(B) Every application for a permit shall be made on a form supplied by the Village and shall contain the following information:

- (1) Name and address of applicant.
- (2) Name of liability insurance carrier.
- (3) The serial number, make, model and description of said vehicle.
- (4) Signed Waiver of Liability by applicant releasing the Village and agreeing to indemnify and hold the Village harmless from any and all future claims resulting from the operation of said vehicle on the Village streets.
- (5) Photocopy of applicable liability insurance coverage card specifically for the vehicle to be operated pursuant to the permit.
- (6) Such other information as the Village may request.

- (C) No permit shall be granted unless the following conditions are met:
- (1) The vehicle must be inspected by the Chief of Police (or designee) to insure that the vehicle is safe to operate on Village streets and is in compliance with this Article and with the State of Illinois Motor Vehicle Code.
 - (2) A physically handicapped applicant must submit a certificate signed by the physician, certifying that the applicant is able to safely operate a qualified said vehicle on Village streets.
 - (3) The applicant must provide evidence of insurance in compliance with the provisions of the Illinois Statutes regarding minimum liability insurance for passenger motor vehicles to be operated on the roads of the State of Illinois.

(D) The Village may suspend or revoke a permit granted hereunder upon a finding that the holder thereof has violated any provision of this Article or there is evidence that permittee cannot safely operate a qualified said vehicle on the designated roadways.

(Ord. No. 2009-01)

CITATION FORM

NO. _____

DATE _____

TIME _____

LICENSE NO. _____

STATE _____

LICENSE EXPIRES _____

MAKE OF VEHICLE _____

METER NUMBER _____

OFFICER _____

YOU ARE CHARGED WITH THE VIOLATION MARKED BELOW:

- | | | |
|----|-------------------------------------|-------------|
| 1. | Overparked, Two Hour Zone | \$10.00 [] |
| 2. | Double Parked | \$10.00 [] |
| 3. | Parked at Fire Plug | \$10.00 [] |
| 4. | Blocking Driveway or Alley | \$10.00 [] |
| 5. | Parked Where Official Signs Erected | \$10.00 [] |
| 6. | Improper Parking | \$10.00 [] |
| 7. | Yellow Line | \$10.00 [] |
| 8. | Each Additional Hour Violation | \$10.00 [] |
| 9. | Parking on Sidewalk | \$10.00 [] |

NAME _____

ADDRESS _____

VILLAGE _____

STATE _____

ZIP CODE _____

You may settle and compromise a claim for illegal parking by paying the sum set forth above for the first particular violation and the same sum shall apply for the same particular offense for the second and each subsequent violation within 5 days after the time set out above. If not paid within this time limit, an **Enforcement Warrant** will be issued and an assessment of not less than **\$15.00** will be collected.

FOR YOUR CONVENIENCE

After detaching your Ticket Stub, place the fine in the envelope and deposit at Village Hall.

SCHEDULE "A"

STOP INTERSECTIONS

In accordance with the provisions of **Sections 24-3-1** and **24-3-3** of this Chapter, the following streets are hereby designated as stop intersections, to-wit:

I. ONE AND TWO-WAY STOPS.

THROUGH STREET	STOP STREET (DIRECTION)
John's Creek Main St.	All Intersecting Streets All Intersecting Streets
Carson St.	Cross St. (North Bd.)
Center St. Center St. Center St.	Cross St. (South Bd.) Evans St. (South Bd.) Sawmill Ln. (North Bd.)
Church St.	Coley St. (North Bd.)
East St. East St. East St. East St. East St. East St. East St.	Carson St. (West Bd.) S. Center St. (West Bd.) Elm St. (West Bd.) Maple St. (Both) Meachan St. (East Bd.) Narrow St. (East Bd.) Smith St. (East Bd.)
Elm St.	Cross St. (Both)
Evans St.	Elm St. (South Bd.)
Sawmill Ln.	Nichols Ln. (East Bd.)
Smith St.	Coley St. (South Bd.)

II. TWO AND THREE-WAY STOP INTERSECTIONS

STOP STREET – DIRECTION	STOP STREET – DIRECTION
East St. (Both)	at Church St. (East Bd.)
Witt St. (Both)	at Mill St. (South Bd.)

APPENDIX "A"

TRAFFIC CONTROL SIGNS IN THE VILLAGE OF LOAMI

Main Street from Witt Street

Pass with Care

100 Block South Across from Village Center

No Overnight Semi Parking

No Bicycles - Skateboards on Sidewalk

104 North Main Speed Limit/No Parking Here to Corner

Maple Street - No Parking Sign

Across from 407 North Main: Speed Limit Sign

Northeast of Mall Drive on curve: Pedestrian Crossing

On curve across from JB Apartments #1: Speed Limit Sign

Across from 705 North Main (Murphy): Speed Limit Sign

Bulk Tanks: Speed Limit

North Main Southbound from Village Limits

Speed Limit sign in front of 718 North Main

Curve Ahead sign with 25 MPH sign below (713 North Main)

Pedestrian Crossing sign (JD Apartments) #9

Speed Limit sign 407 North Main

No Parking sign 101 North Main

Speed Limit/Weight Limit sign Main and Garner

Speed Limit sign 124 South Main

North East Street Southbound from North Main on Curve

Weight Limit sign in triangle

School Speed Limit sign - just north of Center Street

School Crosswalk sign just north of Church Street

South East Street from Church Street - Southbound

Dead End sign - South side corner - Smith and East

Smith Street Eastbound from South Main

School Speed Limit sign 215 South East

School Crosswalk sign 205/207 South East

Witt Street Eastbound from Peecher Property

Speed sign across from 212 Witt Street

Witt Street Westbound from South Main

20 MPH sign - 104 Witt

Slow sign at Witt and Reservoir Streets

Slow sign: West end of Main Ball Park

20 MPH sign in front of 111 Witt Street

APPENDIX "A" (CONTINUED)

Church Street Westbound from East Street
No Overnight Semi Parking at park

Church Street Eastbound from South Main
School Speed Limit in front of 206 Church Street
School Crossing sign west of grade school driveway

Center Street Westbound from Old Bowling Alley
Speed sign: (30 MPH and Weight Limit) 100 feet west of Main Street
Speed sign: (55 MPH) westbound 500 feet from village limits

Center Street Eastbound from Village Limits
100 feet east of limit sign - speed sign 30 MPH (speed zone ahead)
Speed sign 500 feet east of Village Limit sign

Center Street Eastbound from East Street
Directional sign and Weight Limit sign Center and Evans (eastbound)

Center Street Westbound from Village Limit
Speed sign
Weight Limit sign across from 408 East Center
School Speed sign (20 MPH) west of 303 East Center

Colburn Street Eastbound from Village Limit
Speed Limit and Radar Controlled at Village Limit
Dead End Sign east side of Main on Colburn

(Ord. No. 98-4; 04-09-98)

CHAPTER 25

NUISANCES

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CHAPTER 25

NUISANCES

ARTICLE I – GENERALLY

25-1-1 **SPECIFIC NUISANCES ENUMERATED.** It is hereby declared to be a nuisance and to be against the health, peace and comfort of the Village, for any person, firm or corporation within the limits of the Village to permit the following; but the enumeration of the following nuisances shall not be deemed to be exclusive:

(A) **Filth.** To cause or suffer the carcass of any animal or any offal, filth or noisome substance to be collected, deposited or to remain in any place, to the prejudice of others.

(B) **Deposit of Offensive Materials.** To throw or deposit any offal or other offensive matter, or the carcass of any dead animal in any water course, lake, pond, spring, well or common sewer, street or public highway.

(C) **Corruption of Water.** To corrupt or render unwholesome, or impure, the water of any spring, river, stream, pond or lake, well, public or private, to the injury or prejudice of others.

(D) **Highway Encroachment.** To obstruct or encroach upon public highways, private ways, streets, alleys, commons, landing places, and ways to burying places.

(E) **Manufacturing Gunpowder.** To carry on the business of manufacturing gunpowder, nitroglycerine, or other highly explosive substances, or mixing or grinding the materials therefore, in any building within **three hundred (300) feet** of any valuable building erected at the time such business may be commenced.

(F) **Powder Magazines.** To establish powder magazines near incorporated towns, at a point different from that appointed according to law by the corporate authorities of the town, or within **eight hundred (800) feet** of any occupied dwelling house.

(G) **Noxious Odors.** To erect, continue or use any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells or otherwise, is offensive or dangerous to the health of individuals, or of the public.

(H) **Unlawful Advertising.** To advertise wares or occupations by painting notices of the same on, or affixing them to fences or other private property, or on rocks or other natural objects without the consent of the owner, or if in the highway or other public place, without permission of the proper authorities.

(I) **Wells Unplugged.** To permit any well drilled for oil, gas, salt water disposal or any other purpose in connection with the production of oil and gas, to remain unplugged after such well is no longer used for the purpose for which it was drilled.

(J) **Burn-Out Pits.** To construct or operate any salt water pit or oil field refuse pit, commonly called a "**burn-out pit**" so that salt water, brine or oil field refuse or other waste liquids may escape therefrom in any manner except by the evaporation of such salt water or brine or by the burning of such oil field waste or refuse.

(K) **Discarded Materials.** To permit concrete bases, discarded machinery and materials to remain around any oil or gas well or to fail to fill any holes, cellars, slush pits and other excavations made in connection with any such well or to restore the surface of the lands surrounding any such well to its condition before the drilling of any such well, upon abandonment of any such oil or gas well.

(L) **Underground Wells.** To permit any salt water, oil, gas or other wastes from any well drilled for oil, gas or exploratory purposes to escape to the surface, or into a mine or coal seam, or into any underground fresh water supply, or from one underground stratum to another, or to permit concrete bases, discarded machinery and materials to remain around any oil or gas well, or to fail to fill any holes, cellars, slush pits and other excavations made in connection with any such well or to restore the surface of the lands surrounding any such well to its condition before the drilling of any such well, upon abandonment of any such oil or gas well.

(M) **Harassment.** To harass, intimidate or threaten any person who is about to sell or lease or has sold or leased a residence or other real property, or is about to buy or lease, or has bought or leased a residence or other real property, when the harassment, intimidation, or threat relates to a person's attempt to sell, buy or lease a residence, or other real property, or refers to a person's sale, purchase or lease of a residence or other real property.

(N) **Business.** To establish, maintain, and carry on any offensive or unwholesome business or establishment within the limits of the Village or within **one and one-half (1 ½) miles** of the Village limits.

(O) **Filthy Premise Conditions.** To keep or suffer to be kept any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by any person, or any railroad car, building, yard, grounds, and premises belonging to or occupied by any person.

(P) **Expectorate.** To expectorate on any public sidewalk or street, or other public building or floor or walk of any public vehicle or hall.

(Q) **Litter on Streets.** It shall be unlawful for any person to deposit upon or allow trash, paper, cardboard, wire, dirt, rock, stone, glass, brick, lumber, wood or litter of material objects of any size or description to fall upon the streets of the Village from any moving vehicle, or to be thrown from a moving vehicle, or to throw from a moving vehicle and to remain thereon.

(R) **Accumulation of Junk And Trash.** To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, used lumber, derelict truck trailers, camping trailers, or boats, appliances, construction materials, demolition debris, ashes, garbage, refuse, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any residential home lot, piece or parcel of land or upon any public or private alley, street or public way within the Village.

(S) **Rodents.** To cause or permit any condition or situation to exist that shall attract, harbor, or encourage the infestation of rodents.

(T) **Bringing Nuisances into the Village.** To bring into the Village or keep therein for sale or otherwise, either for food or for any other purpose, any dead or live animal or any matter, substance, or thing which shall be a nuisance or which shall occasion a nuisance in the Village, or which may or shall be dangerous or detrimental to health.

(U) **Offensive Liquids.** To keep nauseous, foul or putrid liquid or substance or any liquid or substance likely to become nauseous, foul, offensive, or putrid, nor permit any such liquid to be discharged, placed, thrown, or to flow from or out of any premise into or upon any adjacent premises or any public street or alley, nor permit the same to be done by any person connected with the premises.

(V) **Dense or Offensive Smoke.** To cause or permit the emission of dense smoke from any fire, chimney, engine, oil burner or any other agency in the Village so as to cause annoyance or discomfort to the residents thereof.

(W) **Scrap Tires, Both Mounted and Dismounted.** To keep any scrap tires, either mounted or dismantled, in open view, or so as to allow such tires to accumulate stagnant water so as to provide a breeding ground for mosquitoes and other pests.

(X) **Motor Transport Engines.** To operate motor vehicle transport engines in the nighttime between the hours of **eight (8:00) o'clock P.M.** and **six (6:00) o'clock A.M.**, in any place in which a majority of the buildings, within a radius of **four hundred (400) feet** are used exclusively for residence purposes, excluding state and federal highways.

(Y) **Accumulation of Debris.** To store, dump or permit the accumulation of debris, refuse, garbage, trash, tires, buckets, cans, wheelbarrows, garbage cans or other containers in a manner that may harbor mosquitoes, flies, insects, rodents, nuisance birds or other animal pests that are offensive, injurious or dangerous to the health of individuals or the public.

(Z) **Discarded Machinery or Materials.** To store, keep or maintain outside of a closed building the following: (1) used appliances, used or dilapidated furniture, bathroom fixtures, tires, old iron or metal, motor vehicle parts and all other parts, tools, machinery, and equipment in inoperable condition, for longer than a two-week time period; or, (2) used lumber, bricks, blocks, or other building salvage or construction material, unless such material is intended for reuse and arranged in an orderly fashion.

(AA) **Generally.** To commit any act which is a nuisance according to the common law of the land or made such by statute of the State. **(740 ILCS 55/221 – 55/222)**

Nothing in this Section shall be construed to prevent the corporate authorities of this Village from declaring what shall be nuisances, and abating them within the Village limits.

25-1-2 NUISANCES DETRIMENTAL TO HEALTH GENERALLY. No building, vehicle, structure, receptacle, yard, lot, premise, or part thereof shall be made, used, kept, maintained or operated in the Village if such use, keeping or maintaining shall be dangerous or detrimental to health.

25-1-3 NOTICE TO ABATE. Whenever the Superintendent, Mayor or Police Chief finds that a nuisance exists, he shall direct the Village Clerk to mail (certified) to the party responsible for the nuisance and to the party on whose property the nuisance exists a written notice ordering that the nuisance be abated within a reasonable time. The notice to abate shall contain:

- (A) A description of what constitutes the nuisance;
- (B) The location of the nuisance;
- (C) A statement of what condition or state of affairs must be achieved in order for the nuisance to be deemed abated;
- (D) The date by which abatement must be completed;
- (E) The date by which a request for a hearing must be filed and a statement of the procedure for so filing;
- (F) A statement that the responsible party has a right to appeal the abatement order to the Village Board of Trustees.
- (G) A statement indicating that if the nuisance is not abated by the date prescribed and/or if no request for hearing is made within the time prescribed, this Village will abate the nuisance and assess the costs against the property and/or impose a fine.

25-1-4 HEARING. Any person ordered to abate a nuisance may have a hearing with the Police Chief or his designated representative ordering the abatement. A request for a hearing must be made in writing and delivered to the Village Clerk within the time stated in the notice; otherwise, it will be presumed that a nuisance exists, and that such nuisance must be abated as ordered. The hearing shall not be a formal trial-type proceeding, but appropriate procedural safeguards shall be observed to ensure fairness. At the conclusion of the hearing, the Police Chief or his designated representative shall render his decision and the reasons therefor in writing. If he finds that a nuisance exists, he shall order it abated within an additional time which must be reasonable under the circumstances.

25-1-5 APPEAL. Any party aggrieved by the decision of the Police Chief may appeal to the Board of Trustees. Such appeal shall be taken by filing with the Village Clerk within **five (5) days** of such decision a written statement indicating the basis for the appeal.

The appeal shall be heard by the Board of Trustees at the next regular or special meeting after such filing. Their findings shall be conclusive and if a nuisance is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

25-1-6 ABATEMENT BY VILLAGE. If the person ordered to abate a nuisance fails to do so, or if the nuisance poses an emergency, this Village may perform the required action to abate. Any Village official who is authorized to abate any nuisance as defined in this Article shall have authority to engage the necessary assistance and to incur the necessary expenses therefor. The official who abates a nuisance shall keep an accurate account of the expenses incurred. The itemized expense shall be filed with the Village Clerk who shall pay such expenses on behalf of this Village. **(65 ILCS 5/11-60-2)**

25-1-7 FAILURE TO COMPLY WITH NOTICE. If the person notified to abate a nuisance shall neglect or refuse to comply with the requirements of such notice by abating such nuisance within the time specified, such person shall be guilty of a violation of this Code. The Village shall not be required to issue another notice where the condition or violation is at first abated, but later resumed and/or repeated.

(65 ILCS 5/11-60-2 and 720 ILCS 5/47-5; 5/47-10 and 5/47-15)

[See Section 1-1-20 for General Penalty]

ARTICLE II - WEEDS

25-2-1 **DEFINITION.** "Weeds" means an annual or perennial herbaceous plant of volunteer growth, not cultivated or useful for human food or enjoyment, and shall include but not be limited to the following:

Jimson, Burdock, Ragweed, Thistles of all kinds, Cocklebur, Barberry (tall, common or other horticultural varieties), Poison Ivy, Yellow Dock, Indian Mallow, Sweet Clover, Wild Mustard (including black mustard and yellow mustard), May Weed, Lambsquarter, Pig Weed, Beggar Ticks, Wild Lettuce, Shepard's Purse, Smart Weed, Sow-Thistle, Tumbleweed, Milk Weed, Dandelions, etc.; any plant that, when in blossom, gives off an unpleasant or obnoxious odor or pollen irritating to human tissue; any plant growth that conceals or may conceal rubbish, debris or filthy deposits, or constitute a fire hazard when dry; any plant that causes or adds its influence in bringing on hay fever, or other similar or noxious plant; and all plants fitting within the term "weeds" as used in the Illinois Municipal Code.

"Weeds" also refers to grass and other plants, other than trees, bushes, flowers and/or ornamental plants, which are permitted to grow to a height exceeding **eight (8) inches** anywhere in the Village.

25-2-2 **HEIGHT.** It shall be unlawful for anyone to permit any weeds, grass, or plants, other than trees, bushes, flowers or other ornamental plants, to grow to a height exceeding **eight (8) inches** anywhere in the Village. Any such plants, weeds, or grass exceeding such height are hereby declared to be a nuisance.

25-2-3 **NOTICE.** The Police Department or any other person so designated by the Mayor may issue a written notice for removal of weeds or grass. Such weeds or grass shall be cut by the owner or occupant within **seven (7) days** after such notice has been duly served.

25-2-4 **SERVICE OF NOTICE.** Service of the notice provided for herein may be effected by handing the same to the owner, occupant or lessee of the premises, or to any member of his household of the age of **seventeen (17) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided, that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-2-5 **ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the Police Chief or a designated representative may proceed to abate such nuisance, keeping an account of the expense of the abatement, and such expense shall be charged and paid by such owner or occupant.

25-2-6 **LIEN.** Charges for such weed or grass removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the

bill, a notice of lien of the cost and expenses thereof incurred by the Village shall be recorded in the following manner:

- (A) A description of the real estate sufficient for identification thereof.
- (B) The amount of money representing the cost and expense incurred or payable for the service.
- (C) The date or dates when said cost and expense was incurred by the Village and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-2-7 **PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the Village or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien. All lien and release filing fees shall be paid by the owner of the property.

25-2-8 **FORECLOSURE OF LIEN.** Property subject to a lien for unpaid weed cutting charges shall be sold for non-payment of the same and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the Village after the lien is in effect for **sixty (60) days.**

(65 ILCS 5/11-20-6 and 5/11-20-7)

[See Section 1-1-20 for General Penalty]

ARTICLE III - GARBAGE AND DEBRIS

25-3-1 **ACCUMULATION PROHIBITED.** No person shall permit any garbage or trash to accumulate on their premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of real estate to refuse or neglect to remove the garbage or debris.

25-3-2 **NOTICE TO PERSON.** The Chief of Police or a designated representative may issue a written notice for removal of garbage or debris. Such garbage or debris shall be removed by the owner or occupant within **seven (7) days** after such notice has been duly served.

25-3-3 **SERVICE OF NOTICE.** Service of notice provided for herein may be effected by handing of the same to the owner, occupant, or lessee of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-3-4 **ABATEMENT.** If the person so served does not abate the nuisance within **seven (7) days**, the Police Chief or a designated representative may proceed to abate such nuisance, keeping an account of the expense of the abatement and such expense shall be charged and paid by such owner or occupant.

25-3-5 **LIEN.** Charges for such removal shall be a lien upon the premises. A bill representing the cost and expense incurred or payable for the service shall be presented to the owner. If this bill is not paid within **thirty (30) days** of submission of the bill, a notice of lien of the cost and expenses thereof incurred by the Village shall be recorded in the following manner:

- (A) A description of the real estate sufficient for identification thereof.
- (B) The amount of money representing the cost and expense incurred or payable for the service.
- (C) The date or dates when said cost and expense was incurred by the Village and shall be filed within **sixty (60) days** after the cost and expense is incurred.

25-3-6 **PAYMENT.** Notice of such lien claim shall be mailed to the owner of the premises if his address is known. Upon payment of the cost and expense after notice of lien has been filed, the lien shall be released by the Village or person in whose name the lien has been filed and the release shall be filed of record in the same manner as filing notice of the lien.

25-3-7 FORECLOSURE OF LIEN. Property subject to a lien for unpaid charges shall be sold non-payment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be in the name of the Village, after lien is in effect for **sixty (60) days**. Suit to foreclose this lien shall be commenced within **two (2) years** after the date of filing notice of lien.

(65 ILCS 5/11-20-13 and 720 ILCS 5/47-10)

[See Section 1-1-20 for General Penalty]

ARTICLE IV - INOPERABLE MOTOR VEHICLE

25-4-1 **DEFINITIONS.** For the purpose of this Code, the following term(s) shall have the meanings ascribed to them as follows:

"INOPERABLE MOTOR VEHICLES" shall mean any motor vehicle which, for a period of at least **seven (7) days**, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power. "Inoperable Motor Vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations.

25-4-2 **DECLARATION OF NUISANCE.** All inoperable motor vehicles, whether on public or private property in view of the general public, are hereby declared to be a nuisance.

25-4-3 **NOTICE TO OWNER.** The Police Chief or a designated representative shall notify the owner of the motor vehicle, informing him that he shall dispose of any inoperable vehicles under his control. If the owner fails to dispose of said inoperable vehicle(s) after **seven (7) days** from the issuance of the notice, the Police Chief or a designated representative may authorize a towing service to remove and take possession of the inoperable vehicle or parts thereof.

25-4-4 **EXCLUSIONS.** Nothing in this Article shall apply to any motor vehicle that is kept within a building when not in use, to operable historic vehicles over **twenty-five (25) years** of age, or to a motor vehicle on the premises of a licensed business engaged in the wrecking or junking of motor vehicles.

(65 ILCS 5/11-40-3)

[See Section 1-1-20 for General Penalty]

ARTICLE V - DANGEROUS AND UNSAFE PROPERTIES

25-5-1 **ADOPTION BY REFERENCE.** The Village may demolish, repair, or enclose or cause the demolition, repair, or enclosure of dangerous and unsafe buildings or uncompleted and abandoned buildings within the Village and may remove or cause the removal of garbage, debris, and other hazardous, noxious, or unhealthy substances or materials from those building. Therefor, the Village does hereby adopt by reference the applicable provisions of Chapter 65 of the Illinois Compiled Statutes, Sections 5/11-31-1 and 5/11-31-1.1 governing dangerous and unsafe buildings.

[See Section 1-1-20 for General Penalty]

ARTICLE VI - PENALTIES AND SPECIAL ASSESSMENT

25-6-1 **SPECIAL ASSESSMENT.** In addition to any other method authorized by law, if (i) a property owner is cited with a Code violation under this Chapter, requiring the cutting of grass and weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, or rodent and vermin abatement, (ii) noncompliance is found upon reinspection of the property after the due date for compliance with an order to correct the Code violation or with an order for abatement; (iii) costs for services rendered by the municipality to correct the Code violation remain unpaid at the point in time that they would become a debt due and owing the municipality, as provided in Chapter 65 of the Illinois Compiled Statutes, Section 5/11-31-1.1 et seq., and (iv) a lien has been filed of record by the municipality in the office of the Recorder of Deeds in the county in which the property is located, then those costs may be collected as a special assessment on the property pursuant to **65 ILCS 5/9-2-4.5**. Upon payment of the costs by the owner of record or persons interested in the property, the lien shall be released by the municipality and the release shall be filed of record in the same manner as the filing of notice of the lien.

[See Section 1-1-20 for General Penalty]

VILLAGE OF LOAMI

NUISANCE VIOLATION NOTICE

TO: _____

You are hereby notified that the Police Chief or his representatives has determined that the property owned by you (and/or occupied by you, as the case may be) located at _____ located within the Municipality contains an unlawful nuisance(s) as defined by **Section 25-1-1** of the Revised Code of Ordinances as follows:

You are required pursuant to **Section 25-1-3** to abate and remove any nuisance(s) within **five (5) days** from the date of this notice as follows:

If you wish to appeal this notice, then the appeal shall be made to the Village Hall by: _____.

If the nuisance is not abated by the date prescribed and/or if no request for hearing is made within the time prescribed, the Police Chief or his representative will abate the nuisance and assess the costs against the property and/or impose a fine as provided by the **Revised Code of Ordinances, Chapter 25; Article I and Chapter 1.**

Dated this _____ day of _____, _____.

POLICE CHIEF
VILLAGE OF LOAMI

NOTE: The penalty for failure to abate said nuisance(s) may be as high as \$750.00 per violation plus the cost of the clean-up.

VILLAGE OF LOAMI

NOTICE

UNLAWFUL WEED GROWTH

TO: _____

You are hereby notified that _____
has determined that property owned by you (and/or occupied by you, as the case may
be) at _____, located within the
Village Limits contains unlawful weed growth as defined by **Chapter 25** of the Revised
Code of Ordinances.

You are required to remove all growth within **five (5) days** from the date of this
Notice.

If you refuse or neglect to remove such growth, the authorities of this
Municipality may provide for the removal thereof. The cost of such growth removal
shall be paid by you.

VILLAGE CLERK
VILLAGE OF LOAMI

Dated this _____ day of _____, _____.

VILLAGE OF LOAMI

NOTICE

UNLAWFUL GARBAGE AND/OR DEBRIS

TO: _____

You are hereby notified that the _____

_____ has determined that property owned by you (and/or occupied by you, as the case may be) located at _____, located within the Village Limits contains garbage and/or debris as defined by **Chapter 25, Article III**, of the Revised Code of Ordinances.

You are required to remove all such material within **five (5) days** from the date of this Notice.

If you refuse or neglect to remove such garbage and/or debris, the corporate authorities of this Municipality may provide for the removal thereof. The cost of the garbage and/or debris removal shall be paid by you.

VILLAGE CLERK
VILLAGE OF LOAMI

Dated this _____ day of _____, _____.

VILLAGE OF LOAMI

NOTICE

INOPERABLE VEHICLE

TO: _____

You are hereby notified that the Police Department has determined that an "inoperable vehicle(s)" owned by you (and/or stored by you, as the case may be) located at _____, located within the Corporate Limits of this Municipality contains an inoperable vehicle(s), as defined by **Chapter 25, Article IV**, of the Revised Code of Ordinances.

You are required to abate and remove any and all inoperable vehicles within **seven (7) days** from the date of this Notice.

If you wish to appeal said notice, then the appeal shall be made to the Corporate Authorities within **five (5) days** of this Notice.

If you refuse or neglect to remove and dispose of the specified inoperable vehicle(s), the Health Officer or Police Chief of this Municipality may provide for the removal and abatement thereof. The cost of such removal and abatement shall be paid by you.

POLICE CHIEF OR MAYOR
VILLAGE OF LOAMI

Dated this _____ day of _____, _____.

VILLAGE OF LOAMI
LETTER OF NOTICE
DANGEROUS AND UNSAFE BUILDING

TO: _____

You, as owner(s) of the property lawfully described below, are hereby notified by the undersigned **Village of Loami, Illinois** that said property has upon it a building which is:

- Dangerous and/or unsafe
- Uncompleted and/or abandoned

The lawful property shall be described as _____

_____ (legal description)

located at _____
_____ (address)

Unless such building is put into safe condition or demolished within **ninety (90) days** of the receipt of this notice, the Village shall apply to the Circuit Court for an order authorizing such action to be taken by the **Village** with respect to the above described building. Any costs incurred by the Village to restore the building to a safe condition or to demolish the building shall be recovered from the owner(s) of the above described property pursuant to **Chapter 65, Paragraph 5/11-31-1, Illinois Compiled Statutes**.

Dated at _____, this
_____ day of _____, _____.

POLICE CHIEF
VILLAGE OF LOAMI

(SEAL)

APPENDIX "A"

**CHAPTER 25, ARTICLES II & III
VILLAGE OF LOAMI CODE OF ORDINANCES**

This space for Recorder of Deeds

STATE OF ILLINOIS)
) SS.
COUNTY OF SANGAMON)

NOTICE OF LIEN

_____, being duly sworn of oath, states that he/she is an officer of the Village of Loami, Illinois with knowledge of the relevant facts; and that pursuant to the Chapter 25 of the Village of Loami Code of Ordinances, and pursuant to Section 11-20-7 of the Illinois Municipal Code (relating to liens for weed cutting) or 11-20-13 of the Illinois Municipal Code (relating to removal of garbage and debris), the Village of Loami claims a lien for services against the following property:

Legal description: [insert]

Common Address: [insert]

Owner of Record: [insert]

The lien is for charges incurred on _____ by the Village of Loami in the amount of \$_____ in connection with the removal of [weeds] [rubbish] from the property.

Signature _____

Print Name and Title

Subscribed and Sworn before me this
_____ Day of _____, 20____

Notary Public

CHAPTER 27

OFFENSES

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CHAPTER 27

OFFENSES

ARTICLE I – DEFINITIONS

27-1-1 **MEANINGS OF WORDS AND PHRASES.** For the purpose of this Chapter the words and phrases of the **Illinois Compiled Statutes, Chapter 720, Sections 2-1 through 2-11; 2-13 through 2-16; 2-19 and 2-20**, as approved, adopted and amended are hereby adopted by the Village, as fully as if set out herein. **(65 ILCS 5/1-3-2)**

27-1-2 **CRIMINAL CODE ADOPTED.** The **Illinois Criminal Code, Illinois Compiled Statutes, Chapter 720**, as passed, approved and amended by the Illinois General Assembly is hereby adopted by the Village; the provisions thereof shall be controlling within the corporate limits of the Village; provided, however, the penalties as provided by this Code shall apply. **(65 ILCS 5/1-3-2 and 5/11-1-1)**

ARTICLE II - GENERALLY

27-2-1 **DISTURBING POLICE OFFICER.** No person shall, by violent conduct, disturb any police officer in the discharge of his duties; nor shall any person assault, strike, or fight with any police officers in the discharge of his/her duties or permit such conduct in or upon any house or premises in the Village owned or possessed by him/her or under his/her management and control. Abusive or vulgar language in the presence of an officer does not constitute a crime unless the language is directed at the officer and provokes a breach of the peace. **(65 ILCS 5/11-1-1)**

27-2-2 **IMPERSONATION OF OFFICER.** No person in the Village shall falsely represent himself to be an officer of the Village or shall, without being duly authorized by the Village, exercise or attempt to exercise any of the duties, functions or powers of the Village officer, or hinder, obstruct, resist or otherwise interfere with any Village officer in the discharge of the duties of his office. **(720 ILCS 5/32-5.1)**

27-2-3 **DISTURBING LAWFUL ASSEMBLIES.** It shall be unlawful for any person to willfully interrupt or disturb any funeral assembly, funeral procession, school, any assembly met for the worship of God or any other assembly met for a lawful purpose by any offensive behavior, or by any disorderly conduct. **(65 ILCS 5/11-5-2)**

27-2-4 **UNLAWFUL ASSEMBLY.** It shall be illegal for persons to assemble unlawfully in the following situations:

- (A) The use of force or violence disturbing the public peace by **two (2)** or more persons acting together and without authority of law; or
- (B) The assembly of **two (2)** or more persons to do an unlawful act; or
- (C) The assembly of **two (2)** or more persons, without authority of law, for the purpose of doing violence to the person or property of any one supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence. **(720 ILCS 5/25-1) (65 ILCS 5/11-5-2)**

27-2-5 **DISTURBING THE PEACE.** No person shall disturb the peace of any individual or private family, or of any lawful congregation within the Village by any noise or amusement, or by vulgar or profane language, or by any disorderly or unreasonable conduct. **(65 ILCS 5/11-5-2)**

27-2-6 **ADMISSION FEES: FRAUDULENTLY AVOIDING PAYMENT OF.** It shall be unlawful for any person to fraudulently enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

27-2-7 **SALE OF CIGARETTES OR TOBACCO TO MINORS.** No minor under **eighteen (18)** years of age shall buy any cigar, cigarette, smokeless tobacco or tobacco in any of its forms. No person shall sell, buy for, distribute samples of or furnish any cigar, cigarette, smokeless tobacco or tobacco in any of its forms, to any minor under **eighteen (18) years of age.**

For the purpose of this Section, "smokeless tobacco" is defined in **Section 27-2-9(A).**

(A) Tobacco products listed above may be sold through a vending machine only in the following locations:

- (1) Factories, businesses, office, private clubs, and other places not open to the general public.
- (2) Places to which minors under **eighteen (18) years** of age are not permitted access.
- (3) Places where alcoholic beverages are sold and consumed on the premises.
- (4) Places where the vending machine is under the direct supervision of the owner of the establishment or an employee over **eighteen (18) years** of age. The sale of tobacco products from a vending machine under direct supervision of the owner or an employee of the establishment is considered a sale of tobacco products by that person. As used in this Section, "direct supervision" means that the owner or employee has an unimpeded line of sight to the vending machine.
- (5) Places where the vending machine can only be operated by the owner or an employee over age **eighteen (18)** either directly or through a remote control device if the device is inaccessible to all customers.

(720 ILCS 675/1)

27-2-8 **SMOKELESS TOBACCO.**

(A) **Definition.** For the purposes of this Section, the term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(B) **Sales of Smokeless Tobacco Products to Persons Under Eighteen (18).** No person shall sell any smokeless tobacco product to any person under the age of **eighteen (18)**.

(C) **Distribution.** No person shall distribute or cause to be distributed to any person under the age of **eighteen (18)**, without charge or at a nominal cost, any smokeless tobacco product. **(720 ILCS 680-1 et seq.)**

27-2-9 **UNLAWFUL CONDUCT ON A PUBLIC WAY.**

(A) It shall be unlawful for a pedestrian to stand upon any sidewalk or public way, except as near as reasonably possible to the building line or curb line if such standing interferes with the use of said sidewalk by other pedestrians.

(B) It shall be unlawful to impede or interfere with another person's use of a public way.

27-2-10 **AID IN ESCAPE.** It shall be unlawful to rescue or attempt to rescue or shall abet or encourage the rescue or escape of any person from the custody of any officer or other person legally having him in charge, or shall molest or interfere with any officer or other person so legally having him in charge, or shall, in any manner, aid, abet or encourage the rescue or the attempt to escape from any person legally committed thereto, or shall supply or attempt to supply any such person with any weapon or with any implement or means whereby an escape might be affected, or with any intoxicating liquors, drugs or other article(s) without the consent of the officer in charge. **(720 ILCS 5/31-7)**

27-2-11 **ESCAPES.** It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. **(720 ILCS 5/31-6(C))**

27-2-12 **FALSE PRETENSES.** It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter public places and call for refreshments or other articles and receive and refuse to pay for same, or to depart without paying for or satisfying the person from whom he received the food, goods, wares, and/or merchandise.

27-2-13 **RENTING PREMISES FOR UNLAWFUL PURPOSES.** It shall be unlawful for any person to rent, use, or allow to be used, any building or property owned by him, for any purpose whereby riotous or disorderly persons are gathered.

27-2-14 **AID TO AN OFFENSE.** It shall be unlawful for any person, in any way or manner, to aid, abet, counsel, advise or encourage any other person in the commission of any of the acts mentioned herein or in any manner encourage the commission of such offense hereby defined.

27-2-15 **POSTING BILLS.** It shall be unlawful for any person to paste, post, paint, print or nail any handbill, sign, poster, advertisement, or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door, or gate without the consent, in writing, of the owner of the wall, door or gate; provided, however, that this Section shall not prevent posting by proper Village and County officials of election signs, polling place signs and other signs or placards necessary under the law to the conduct of elections, except they may not be attached to a tree.

27-2-16 **INTOXICATION IN PUBLIC.** No person shall, in the Village, be found in a state of intoxication or drunk in any street or other public place, or shall be found drunk lying or roving about the streets, alleys, or sidewalks of this Village or the private grounds of any of the inhabitants thereof, or being drunk as aforesaid, shall disturb the peace, order and quiet of the Village, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. **(65 ILCS 5/11-5-3)**

27-2-17 **BEGGING.** No person shall beg or solicit alms within the Village without having obtained permission in writing from the Mayor. **(65 ILCS 5/11-5-4)**

27-2-18 **CONCEALED WEAPONS.** No person shall, within the Village, carry or wear under his clothes, or concealed about his person, any pistol or hand gun, without being the holder of an Illinois Concealed Carry License. Additionally, no person, shall within the Village, carry or wear under his clothes or conceal about his person any sling-shot, cross knuckles, knuckles of lead, brass or other metal, switchblade knife or razor, bowie knife, dirk knife or dirk, dagger or any other dangerous or deadly weapon. This Section does not apply to the officers or members of the Police Department, nor to any Sheriff or Deputy Sheriff or Constable of this State, nor to any United States Marshal. **(430 ILCS 66/1 et seq.)**

27-2-19 **DISCHARGE OF FIREARMS OR BOW AND ARROW.** It shall be unlawful to discharge any firearm, bow and arrow or air gun in the Village or so that the bullet, arrow, missile or projectile therefrom enters the Village without written permission from the Mayor, provided that this Section shall not be construed to prohibit any officer of the law to discharge a firearm in the performance of his duty; nor to prevent any citizen from discharging a firearm when lawfully defending his person or property; nor to prevent the discharge of bow and arrow by students upon school grounds while under the direct and immediate supervision of teachers or other school supervisory personnel.

27-2-20 **GAMES IN STREET.** No person shall, upon any Village street, fly any kite or play any game of ball or engage in any amusement or practice having a tendency to injure or annoy any person passing in the streets or on the sidewalks.

27-2-21 **STORAGE OF EXPLOSIVES.**

(A) **Nitroglycerine; Dynamite, Etc.** No person shall have, keep, possess, or store at or in any place within the Village, any nitroglycerine, dynamite or giant powder, or any form or combination of any of them.

(B) **Blasting Powder, Etc.** No person shall keep, possess or store any gun or blasting powder or any gun or explosive cotton at or in any one place in the Village in any quantity exceeding **five (5) pounds. (65 ILCS 5/11-8-4)**

27-2-22 **THROWING ROCKS.** No person in the Village shall throw or cast any rock or stone or any other missile upon or at any building, tree, or other public or private property, or at any person in any street, avenue, alley or public place.

27-2-23 **DESTRUCTION OF PUBLIC PROPERTY.** No person in the Village shall deface, destroy, or in any way, injure any public property, or any other apparatus of the Village.

27-2-24 **FORTUNE TELLING.** No person in the Village shall pursue the calling of a fortune teller or practice fortune telling, soothsaying, or the like and receive payment in any manner therefor.

27-2-25 **ABANDONED REFRIGERATORS OR ICEBOXES.** It shall be unlawful for any person to abandon or discard in any place accessible to children any refrigerator, icebox or ice chest, of a capacity of **one and one-half (1 1/2) cubic feet** or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch. The owner, lessee, or manager of such place, who knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain there in such condition, shall be guilty of violating this Code. **(720 ILCS 505/1)**

27-2-26 **HALLOWEEN CURFEW.** It shall be illegal for any person to engage in Halloween practice, commonly called "**Trick or Treat**", by calling at the homes or dwelling places within the Village, either masked or unmasked, except on a day designated by the Village Board and no later than **8:00 P.M. (65 ILCS 5/11-1-5)**

27-2-27 **THEFT OF RECYCLABLES UNLAWFUL.** It shall be unlawful for any person to collect, obtain, possess or pickup any recyclable item(s) from any receptacle or collection point where service is provided by an authorized waste hauler licensed by the

municipality or from any specified recycling center within the Village limits unless said person is acting as an agent for the Village or acting as an agent for a waste hauler licensed by the Village.

27-2-28 THROWING OBJECTS FROM MOTOR VEHICLES. Pursuant to the police powers in **65 ILCS 5/11-1-1** it shall be unlawful for any person occupying or driving a motor vehicle, whether moving or not, to shoot, throw, cast, launch or drop any object, liquid or substance at any person, animal or structure, wherein the possibility of harm, injury or damage may occur as a result of these actions.

The driver and/or all passengers shall be, upon conviction, fined in accordance with the provisions of the Village Code and shall be liable for all damage, injury or harm caused by the activity. **(See Section 27-3-2)**

27-2-29 DEPOSITING OF SNOW AND ICE RESTRICTED. No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(65 ILCS 5/11-80-13)**

27-2-30 PROTECTIVE COVERING OR FENCING. Any person, corporation or partnership which either owns, or maintains, or uses, or abandons any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing is guilty of a violation of **Section 1-1-20** of this Code. The provisions of this Act shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(720 ILCS 605/1)**

27-2-31 CURFEW HOURS FOR MINORS.

(A) **Definitions.** Whenever used in this Section.

(1) **"Curfew hours"** means:

- (a) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 A.M. of the following day; and
- (b) 12:01 A.M. until 6:00 A.M. on Saturday; and
- (c) 12:01 A.M. until 6:00 A.M. on Sunday.

(2) **"Emergency"** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.

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

- (4) **"Guardian"** means:
 - (a) A person who, under court order, is the guardian of the person of a minor; or
 - (b) A public or private agency with whom a minor has been placed by a court.
- (5) **"Minor"** means any person under **eighteen (18) years** of age.
- (6) **"Operator"** means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- (7) **"Parent"** means a person who is:
 - (a) A natural parent, adoptive parent, or stepparent of another person; or
 - (b) At least **twenty-one (21) years** of age and authorized by a parent or guardian to have the care and custody of a minor.
- (8) **"Public Place"** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
- (9) **"Remain"** means to:
 - (a) linger or stay; or
 - (b) fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.
- (10) **"Serious bodily injury"** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(B) **Offenses.**

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the Village during curfew hours.
- (2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the Village during curfew hours.
- (3) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C) **Defenses.**

- (1) It is a defense to prosecution under subsection (B) that the minor was:
 - (a) Accompanied by the minor's parent or guardian;
 - (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (c) In a motor vehicle involved in interstate travel;

- (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (e) Involved in an emergency;
 - (f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - (g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the Village, a civil organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the Village, a civic organization or another similar entity that takes responsibility for the minor;
 - (h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (i) Married or had been married or is an emancipated minor under the Emancipation or Mature Minors Act, as amended.
- (2) It is a defense to prosecution under subsection (B)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D) **Enforcement.** Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (C) is present. **(65 ILCS 5/11-1-5 and 720 ILCS 555/1)**

27-2-32 **SANCTITY OF FUNERAL AND MEMORIAL SERVICES.** It shall be unlawful for a person to violate any of the following provisions of this Section:

(A) Engaging in any loud protest of signing, chanting, whistling or yelling with, or without, noise amplification including but not limited to bullhorns, auto horns and microphones within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(B) Displaying any visual images that convey fighting words, actual or veiled threats against any other person within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(C) Blocking access to any facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(D) Ending in a directed protest march or picket at any public location within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates.

27-2-33 USE OF UPHOLSTERED FURNITURE IN OUTDOOR LOCATIONS
PROHIBITED.

(A) Upholstered or other furniture designed or manufactured primarily for indoor use shall not be used or allowed to remain:

- (1) on unenclosed exterior porches or balconies;
- (2) in an open area on private property exposed to outdoor weather conditions.

(B) It shall not be a defense to said prohibition that such furniture is covered by plastic cover, or other tarpaulin, canvas or sheeting.

(C) This prohibition shall not apply to the following:

- (1) wood, metal, or plastic furniture;
- (2) outdoor patio furniture with weather-resistant cushions;
- (3) upholstered furniture designated for prepaid special pickup or delivery by public or private hauler, provided that such remain outdoors for a period not to exceed **seventy-two (72) hours**.

(65 ILCS 5/11-80-15)

ARTICLE III - OFFENSES AGAINST PROPERTY

27-3-1 **PETTY THEFT.** A person commits a petty theft when the value of the property is under **Three Hundred Dollars (\$300.00)** and he knowingly:

- (A) obtains or exerts unauthorized control over property of the owner; or
- (B) obtains by deception, control over property of the owner; or
- (C) obtains by threat, control over property of the owner; or
- (D) obtains control over stolen property knowing the property to have been stolen by another or under such circumstances as would reasonably induce him to believe that the property was stolen; and

- (1) intends to deprive the owner permanently of the use or benefit of the property;
- (2) knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit;
- (3) uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

(E) It shall be unlawful to commit a petty theft.
(720 ILCS 5/16-1)

27-3-2 **CRIMINAL DAMAGE TO PROPERTY.** Any of the following acts by a person shall be a violation of this Code.

- (A) To knowingly damage any property of another without his consent; or
- (B) recklessly, by means of fire or explosive, damage property of another; or
- (C) knowingly start a fire on the land of another without his consent; or
- (D) knowingly injure a domestic animal of another without his consent; or
- (E) knowingly deposit on the land or in the building of another, without his consent, any stink bomb or any offensive smelling compound and thereby, intend to interfere with the use by another of the land or building. **(720 ILCS 5/21-1)**

27-3-3 **CRIMINAL DAMAGE TO FIRE-FIGHTING APPARATUS, HYDRANTS OR EQUIPMENT.** No person shall willfully and maliciously cut, injure, damage, tamper with or destroy or deface any fire hydrant or any fire hose or any fire engine, or other public or private fire-fighting equipment or any apparatus appertaining to such equipment, or to intentionally open any fire hydrant without proper authorization. **(720 ILCS 5/21-1.1)**

27-3-4 **INJURY TO UTILITY WIRES AND POLES.** It shall be unlawful to willfully, maliciously, or negligently break, deface, injure or destroy any telegraph or telephone pole, post or wire, or any electric lightpost, pole, or electric conductor, wire or lamp or any other thing connected with the same or belonging thereto, or any water main, gas main, pipe or hydrant or lamp or lamppost, or anything belonging to or connected therewith or with any of them.

27-3-5 **DAMAGE OR DESTRUCTION OF STREET SIGNS PROHIBITED.** It shall be unlawful for any person in any manner or form, to deface, disfigure, damage or destroy any of the street signs or parts thereof located in the Village.

27-3-6 **TAMPERING WITH PUBLIC NOTICE.** It shall be unlawful for a person to knowingly and without lawful authority alter, destroy, deface, remove or conceal any public notice, posted according to law, during the time for which the notice was to remain posted.
(720 ILCS 5/32-9)

27-3-7 **ELECTRONIC DEVICES TO KILL INSECTS.** No person shall operate, between the hours of **12:01 A.M.** and **6:00 A.M.** of any day, on any property zoned for residential use, any electrical device which emits an audible sound and is designed or used for the purpose of killing insects out-of-doors.

ARTICLE IV - PUBLIC HEALTH, SAFETY AND DECENCY

27-4-1 DISORDERLY CONDUCT; ELEMENTS OF THE OFFENSE. A person commits disorderly conduct when he knowingly:

(A) does any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace; or

(B) transmits in any manner to the Fire Department of any Village, town, village or fire protection district, a false alarm of fire, knowing at the time of such transmission that there is no reasonable ground for believing that such fire exists; or

(C) transmits in any manner to another a false alarm to the effect that a bomb or other explosive device of any nature is concealed in such a place that its explosion would endanger human life, knowing at the time of such transmission that there is no reasonable ground for believing that such bomb or explosive device is concealed in such a place; or

(D) transmits in any manner to any peace officer, public officer or public employee a report to the effect that an offense has been committed, knowing at the time of such transmission that there is no reasonable ground for believing that such an offense has been committed; or

(E) enters upon the property of another and for a lewd or unlawful purpose, deliberately looks into a dwelling on the property through any window or other opening in it;

(F) while acting as a collection agency as defined in the "Collection Agency Act" or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor; or

(G) transmits a false report to the Department of Children and Family Services.

(720 ILCS 5/26-1)

27-4-2 RESISTING OR OBSTRUCTING A PEACE OFFICER. A person commits an offense when that person knowingly resists or obstructs the performance of any authorized act of one known to the person to be a peace officer within that peace officer's official capacity. **(720 ILCS 5/31-1)**

27-4-3 REFUSING TO AID AN OFFICER. A person who refuses or knowingly fails, upon command, to reasonably aid a person known by him to be a peace officer in the following commits a misdemeanor:

(A) apprehending a person whom the officer is authorized to apprehend; or

(B) preventing the commission by another of any offense.

(720 ILCS 5/31-8)

27-4-4 ASSEMBLING AT PUBLIC PLACES AND BUSINESSES.

(A) **Drive-in Business.** A drive-in business within the meaning of this Code shall be deemed to be any business where meals, sandwiches, cold drinks, beverages, ice cream, food, drink, or consumer services are served directly to or are permitted to be

consumed by patrons in or upon automobiles, motorcycles, or other vehicles parked on the premises.

(B) **Declared Public Places.** For the purpose of preserving public peace, health and safety, the entire premises occupied by a drive-in business, together with means of ingress or egress, are hereby declared to be a public place;

(1) No person on the premises of a drive-in business shall race the motor of any motor vehicle, needlessly bring to a sudden start or stop, any motor vehicle, blow any horn of any motor vehicle, or cause to be made any loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or the neighborhood are disturbed.

(2) The following acts or conduct of any persons entering a drive-in business or premises are hereby declared to be unlawful, and any person found guilty of any such acts shall be guilty of a violation of this Article:

(a) Entering the premises of any drive-in business with any motor vehicle of any description and parking such vehicle and leaving the premises (thereby leaving such vehicle parked and unoccupied), without express consent of the owner or operator of such business, in which event, such motor vehicle shall be subject to a parking citation or may be impounded subject to the usual impounding charges.

(b) Entering the premises in or upon a motor vehicle and using said premises for cruising, racing as a shortcut to another street or to annoy or endanger any person or persons or other vehicle or vehicles lawfully on said premises.

(c) For three (3) or more persons to congregate on the premises and linger or loiter at any location on the premises of any drive-in business, other than in the building or in a legally parked motor vehicle.

(d) For any person who, while on the premises of any drive-in business, in the presence or hearing of another, to curse or abuse such person or use any violently abusive language under circumstances reasonably calculated to provoke a breach of the peace.

(C) **Posting Sign.** It shall be the responsibility of the business operator to post on the premises in a conspicuous location, one (1) or more signs bearing the following legend in letters at least two inches (2") or more in height and readable:

**"CRUISING IN OR CONGREGATING AND LOITERING OUTSIDE A MOTOR VEHICLE IS UNLAWFUL. NO UNOCCUPIED MOTOR VEHICLES MAY BE LEFT ON THE PREMISES WITHOUT THE CONSENT OF THE OWNER."
(65 ILCS 5/11-5-2)**

ARTICLE V - ANTI-LITTER

27-5-1 DEFINITIONS. For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein:

"AIRCRAFT" is any contrivance now known or hereafter invented, used, or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air powered craft and balloons.

"AUTHORIZED PRIVATE RECEPTACLE" is a container of water-tight construction with a tight-fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

"CONSTRUCTION SITES" means any private or public property upon which repairs to existing buildings, construction of new buildings or demolition of existing structures is taking place.

"HANDBILL" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by the United States Mail Service, including, but not limited to those which:

- (A) advertise for sale any merchandise, product, commodity or thing; or
- (B) direct attention to any business or mercantile or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (C) direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

"LITTER" is garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

"LOADING AND UNLOADING DOCK" means any dock space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons located on or adjacent to any stream, river or land.

"PRIVATE PREMISES" means all property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox, and other structure(s) appurtenant thereto.

"PUBLIC PLACE" means any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses, or fountains and any and all public parks, squares, spaces, grounds, and buildings.

"PUBLIC RECEPTACLES" means any receptacles provided by or authorized by the Village.

"VEHICLE" is every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks.

27-5-2 LITTERING PROHIBITED. No person shall deposit any litter within the Village except in public receptacles, in authorized private receptacles for collection, or in any duly licensed disposal facility.

27-5-3 PREVENTION OF SCATTERING. Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.

27-5-4 RECEPTACLES - UPSETTING OR TAMPERING. No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises.

27-5-5 SIDEWALKS AND ALLEYS FREE FROM LITTER. Persons owning, occupying or in control of any public place or private premises shall keep the sidewalks and alleys adjacent thereto free of litter.

27-5-6 OWNER TO MAINTAIN PRIVATE PREMISES.
(A) The owner or person in control of any private premises shall, at all times, maintain the premises free of litter.
(B) The owner or person in control of private premises shall, if public receptacles are unavailable, maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises.

27-5-7 LITTERING FROM VEHICLES.
(A) No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises.
(B) No person shall drive or move any loaded or partly loaded truck or other vehicle within the Village unless such vehicle is so constructed or so loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises. Nor shall any person drive or move any vehicle or truck within the Village, the wheels or tires of which carry onto or deposit in any public place or private premises, mud, dirt, sticky substances, litter or foreign matter of any kind.

27-5-8 LITTERING FROM AIRCRAFT. No person in an aircraft shall throw out, drop or deposit any litter within the Village.

27-5-9 **LITTER IN PARKS.** No person shall deposit litter in any park within the Village except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

27-5-10 **HANDBILLS.**

(A) **Public Places.** No person shall deposit or sell any handbill in or upon any public place, provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.

(B) **Private Premises.** No person shall deposit or unlawfully distribute any handbill in or upon private premises or vehicles, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises or vehicles which are not posted against the receiving of handbills or similar material, such person, unless requested by anyone upon such premises not to do so, may securely place any such handbill in such a manner as to prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes, may not be so used when prohibited by federal postal law or regulations.

(C) **Exemptions for Newspapers and Political Literature.** The provisions of this Section shall not apply to the distribution upon private premises only of newspapers or political literature; except that newspapers and political literature shall be placed in such a manner as to prevent their being carried or deposited by the elements upon any public place or other private premises.

(D) **Placing Handbills on Vehicles.** No person shall deposit any handbill in or upon any vehicle unless the occupant of the vehicle is willing to accept it.

(E) **Cleanup.** It shall be the responsibility of any person distributing handbills to maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.

27-5-11 **POSTING NOTICES PROHIBITED.** No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public upon any public place, except as may be authorized or required by law. No person, except the owner or tenant shall post any such notice on private property without the permission of the owner or tenant.

27-5-12 **CONSTRUCTION SITES.**

(A) Each contractor shall be responsible for the job site so that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

(B) Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public place or private premises, shall be removed by the contractor.

27-5-13 LOADING AND UNLOADING DOCKS. The person owning, operating, or in control of a loading or unloading dock shall maintain private receptacles for collection of litter, and shall, at all times, maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

27-5-14 PARKING LOTS.

(A) **Litter Receptacles Required.** Any public place or private premises containing any provision for parking vehicles shall be equipped with litter receptacles in compliance with this Section. Such premises shall include, but not be limited to such places as shopping centers, outdoor theaters, drive-in restaurants, gasoline service stations, apartment developments, parking lots, and any other place where provision is made for vehicles to stop or park in a designated area for any purpose.

(B) **Number of Receptacles.** All premises having parking lots shall provide in an easily accessible location a minimum of **one (1) refuse container** for every **fifty (50) parking spaces.**

(C) **Specifications.** Litter receptacles shall have tight-fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent spillage. A minimum container size of **twenty (20) gallons** or **75.7 liters** shall be used.

(D) **Cleanliness.** Premises used for the purpose designated herein shall be kept in a litter-free condition and all litter shall be removed periodically from the receptacles.

(E) **Obligation to Use Receptacles.** It shall be the duty and obligation of all persons using parking areas to use such litter receptacles as hereinabove provided for the purposes intended and it shall be unlawful for any person or persons to deposit any litter upon any such parking lot.

(65 ILCS 5/11-1-1 and 415 ILCS 105/1 et seq.)

ARTICLE VI - TRESPASS

27-6-1 TRESPASSES PROHIBITED. It shall be unlawful for any person, firm, or corporation to commit a trespass within this municipality upon either public or private property.

27-6-2 SPECIFICALLY ENUMERATED TRESPASSES - SUPPRESSION. Without constituting any limitation upon the provisions of **Section 27-6-1** hereof, any of the following acts by any person, firm, or corporation shall be deemed included among those that constitute trespasses in violation of the provisions of **Section 27-6-1**, and appropriate action may be taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this Article; the aforesaid enumerated acts so included, being as follows, to-wit:

(A) An entry upon the premises of another, or any part thereof, including any public property, in violation of a notice posted or exhibited at the main entrance to the premises, or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof; or

(B) the pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to the premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or

(C) a failure or refusal to depart from the premises of another in case of being requested, either orally or in writing to leave by any owner or occupant thereof; or

(D) an entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

(65 ILCS 5/11-5-2)

ARTICLE VII - PARENTAL RESPONSIBILITY REGULATIONS

27-7-1 **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply:

"ACTS OF VANDALISM AND SIMILAR OFFENSES" shall include any of the following acts:

(A) Maliciously, recklessly, negligently, or knowingly damaging or destroying or defacing any property within the Village, whether such property is owned by the State, County or governmental body or owned by any private person, firm, partnership, or association; or

(B) maliciously, recklessly, or knowingly, by means of fire or explosive device, damaging, debasing, or destroying any property of another person; or

(C) maliciously, recklessly, negligently or knowingly starting a fire on land of another person without his consent; or

(D) maliciously, recklessly or knowingly depositing on land or in the building of another person, without his consent, any stink bomb or any offensive smelling compound and thereby interfering with the use and occupancy by another of the land or building; or

(E) maliciously, recklessly, or knowingly, and without authority, entering into or obtaining control over any building, house trailer, motor vehicle, aircraft or watercraft or any part thereof of another person without his consent.

"LEGAL GUARDIAN" shall include a foster parent, a person appointed guardian of a person or given custody of a minor by a Circuit Court of this State, but does not include a person appointed guardian only to the estate of a minor, or appointed guardian, or given custody of a minor under the **Illinois Juvenile Court Act**.

"MINOR" shall include a person who is above the age of **seven (7) years**, but not yet **eighteen (18) years** of age.

"PARENT" shall include the lawful father and mother of a minor child whether by birth or adoption.

"PROPERTY" shall include any real estate including improvements thereon and tangible personal property.

27-7-2 **PARENTS AND GUARDIANS RESPONSIBLE FOR ACTS.** The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary to have failed to exercise proper parental responsibility and said minor shall be deemed to have committed the acts described herein with the knowledge and permission of the parent or guardian in violation of this Article upon the occurrence of the events described in (A), (B) and (C) below:

(A) An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of a violation of any

ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property; and

(B) Said parent or legal guardian shall have received a written notice thereof, either by certified mail, return receipt requested, or by personal service, with a certificate of personal service returned from the Village, following said adjudication or non-judicial sanctions; and

(C) If, at any time within **one (1) year** following receipt of notice set forth in paragraph (B) above, said minor is either adjudicated to be in violation of any ordinance, law, or statute as described in (A) above, or shall have incurred nonjudicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute as described in (A) above.

(740 ILCS 115/1 et seq. and 740 ILCS 115/4)

(See also 740 ILCS 5/21-1.2 et seq.)

ARTICLE VIII – TRUANCY AND CURFEW CODE

27-8-1 DEFINITIONS. As used in this Article unless the context requires otherwise the following words and phrases shall mean:

"VILLAGE CURFEW HOURS" means the period of time specified in **Section 27-2-31** of the Chapter.

"COURT" means the _____ Judicial Circuit; _____ County, Illinois.

"CUSTODIAN" means:

- (A) a person who under court order is the custodian of the person of a minor
- or
- (B) a public or private agency with which the court has placed a minor or
- (C) a person acting in the role of a parent by reason of a private agreement, arrangement, custom or habit.

"EMERGENCY" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, fire, natural disaster, automobile accident, medical emergency or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"ESTABLISHMENT" means any privately owned place of business to which the public is invited, including but not limited to any place of amusement or entertainment.

"GUARDIAN" means:

- (A) parent or
- (B) a person who under court order is the guardian of the person of a minor;
- or
- (C) a public or private agency with which the court has placed a minor.

"MINOR" means a person under **eighteen (18) years** of age.

"PARENT" means a person who is a natural parent, adoptive parent, or step-parent of another person.

"PUBLIC PLACE" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, public ways, sidewalks and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

"RESPONSIBLE ADULT" means a person at least **eighteen (18) years** of age, authorized by a parent, guardian or custodian to have the care and custody of a minor.

"SERIOUS BODILY INJURY" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

"TRUANCY CURFEW HOURS" means the period of the day when the school the minor would normally attend is in session, on days when the school the minor would normally attend is in session.

"TRUANT OFFICER" means any officer, appointee, employee or other agency of any school district or any federal, state or local government, entity or any agency thereof performing the duties of a truant officer under the Illinois Compulsory Attendance Statute. **(105 ILCS 5/26-1 et seq.)**

"TRUANCY REVIEW BOARD" means any agency or entity established by any school district or any federal, state or local governmental entity or any counseling or social agency or any combination thereof recognized by the Village and/or the court as an agency which provides service to improve education performance and/or attendance.

27-8-2 CURFEW RESTRICTIONS.

(A) It is unlawful for any minor to be present in any public place or on the premises of any establishment within the Village during curfew hours.

(B) It is unlawful for any parent or guardian or custodian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the Village during curfew hours.

(C) It is a defense to prosecution under **Section 27-8-2(A) and (B)** or **Section 27-8-4** (hereinafter) that the minor was:

- (1) accompanied by the minor's parent, guardian, custodian or responsible adult;
- (2) on an errand at the direction of the minor's parent, guardian, custodian or responsible adult; without any detour or stop;
- (3) in a motor vehicle involved in interstate travel with the consent or authorization of a parent, guardian or custodian;
- (4) engaged in, going to or returning home from an employment activity without any detour or stop;
- (5) involved in an emergency;
- (6) on the sidewalk abutting the minor's residence;
- (7) engaged in, going to or returning home from official school, religious or other recreational activity supervised by adults, sponsored by a civic organization, or another similar entity that takes responsibility for the minor;
- (8) exercising First Amendment rights protected by the United States Constitution; or
- (9) emancipated pursuant to law.

27-8-3 TRUANCY RESTRICTIONS.

(A) It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education by statute or court order to be present in any public place or on the premises of any establishment within the Village during truancy curfew hours.

(B) It is unlawful for any parent, custodian or guardian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the Village during truancy curfew hours.

(C) It is a defense to prosecution under this Section or **Section 27-8-4** that the minor was:

- (1) accompanied by a parent, guardian, custodian or responsible adult if engaged in an activity which would constitute an excused absence from the school from which the minor would normally attend;
- (2) involved in an emergency;
- (3) going to or returning from a medical appointment without any detour or stop;
- (4) engaged in, going to or returning home from an employment activity pursuant to a cooperative school vocation program without any detour or stop;
- (5) in possession of valid proof that the minor is a student who has permission to leave the school campus;
- (6) a bona fide participant in an alternative education or home schooling program;
- (7) engaged in or subject to an authorized or excused absence from the school which the minor attends, including but not limited to lunch periods.

27-8-4 ESTABLISHMENT RESTRICTIONS. It is unlawful for any owner, operator or any employee of an establishment to allow a minor to be present or to remain upon the premises of the establishment in violation of **Sections 27-8-2** or **27-8-3** above during curfew or truancy hours.

It is a defense to prosecution, under this subparagraph if the owner, operator or employee of the establishment immediately upon discovery of a minor reasonably believed to be in violation of **Sections 27-8-2** or **27-8-3** notified a law enforcement agency that a minor was present on the premises of the establishment during curfew or truancy hours and refused to leave the establishment after being advised to do so by the owner, operator or employee.

27-8-5 ENFORCEMENT RESTRICTIONS. Every member of the Police Department while on duty is hereby authorized as follows:

(A) For the first offense of any minor violating the provisions of this Code, to issue to the minor a citation, in writing, in the same form as described in paragraph (C) below. For a second offense, the law enforcement officer is authorized to temporarily detain any minor violating the provisions of this Code (regardless of whether a citation is immediately issued) until the parent, custodian or guardian of the minor shall take him or her into custody, but such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, custodian or guardian of the minor unless subparagraph (E) herein is applicable. A parent, custodian or guardian must take custody of the minor within **one (1) hour** of the time of notice or be subject to a charge of **Twenty-Five Dollars (\$25.00)** per hour as hereinafter provided.

(B) Whenever a Police Officer or Truant Officer witnesses or has knowledge based on reasonable grounds of a violation of this Code by any person, such person may be issued a citation. A citation or complaint may be made to a Police Officer or Truant Officer by any person.

- (C) A citation issued hereunder this shall be in writing and shall:
- (1) state the name of the person being cited and the person's address if known;
 - (2) set forth the specific section of this Code that was violated, the date of the violation and a brief description of the violation;
 - (3) be signed by the issuing Police Officer, Truant Officer or complaining party.

In each instance where a citation is issued to a minor for violation of this Code a minor's parent, custodian or guardian shall be provided a copy of the citation notifying the parent, custodian or guardian of the charge made against the minor.

(D) A minor cited for a citation under this Code must attend a court hearing or Truancy Review Board hearing on the citation and must be accompanied at the hearing by his or her parent, custodian, guardian or other adult person having the legal care and custody of the minor. If any such person fails to attend any court hearing with the minor, and unless the interest of justice would otherwise be served, the court may continue the hearing and shall issue a Notice or a Rule to Show Cause to the person directing that said person to appear at the continued hearing with the minor. Failure of the person to thereafter appear shall subject said person to sanctions for contempt of court as determined by the court.

(E) Every member of the Police Department while on duty is hereby authorized to temporarily detain any minor violating the provisions of **Section 27-8-3** of this Code, regardless of whether a citation is issued, and to deliver and surrender the minor to the lawful authorities of the school that the minor would normally attend.

27-8-6 PENALTY.

(A) Any person who violates any provision of this Article shall, upon conviction thereof, be fined as provided in **Section 1-1-20** of this Code. **(See also Section 1-1-20)**

(B) In lieu of or in addition to a fine, a minor may be ordered to attend counseling or to perform **ten (10) hours** of court approved community service during times other than the minor's hours of school attendance and/or the minor's parent, custodian, guardian or other adult having legal care or custody of the minor may be ordered to attend a parenting class or series of parenting classes or other counseling approved by the court or recommended by the Truancy Review Board or to attend any program directly related to improving school attendance and/or performance.

(C) In addition to any penalty imposed pursuant to (A) or (B) above, the minor's parents, custodian, guardian or other adult having legal care or custody of the minor may be ordered to pay all amounts imposed as civil liability under **Section 27-8-7** hereinafter.

27-8-7 CIVIL LIABILITY. If a minor is detained for a period of time in excess of **one (1) hour** which requires the supervision of the minor by personnel of the Police Department, the parent, custodian, guardian or other adult having legal care or custody of the minor shall be jointly and severally liable for the costs therefore. The parent, custodian, guardian or other adult having legal care or custody of the minor who has committed any offense of this Code shall be assessed and billed for the costs; the costs shall be recoverable in any action enforcing any provision of this Code or in a separate civil action. In addition, the failure to pay the costs shall constitute a violation of this Code and subject the violator to the

penalties described within **Section 27-8-6** above. In the event any action is filed, the liable party shall be responsible for all court costs and any reasonable attorney's fees incurred by the Village in collecting.

(65 ILCS 5/11-5-9)

ARTICLE IX - BURNING

27-9-1 **DEFINITIONS.** As used in this Article, the following terms have the following meaning:

"Explosive" means gunpowder, black powder, nitroglycerine, T.N.T., dynamite, and similar materials except for ammunition and very small amounts used only for medicinal purposes.

"Extinguish" means that the flame is completely dead and that no smoldering exists.

"Flammable Liquids" means benzene, turpentine, gasoline, kerosene, propane, or any petroleum products in liquid form.

"Garbage" means and includes all putrescible refuse and waste, except yard waste.

"Refuse" means paint, oil, automobiles, tires, plastics, building materials, garbage, rubbish, debris, yard waste, and all other combustible materials.

"Rubbish" means all non-putrescible waste and refuse, except yard waste as defined herein.

"Yard Waste" means grass, lawn rakings, plant and tree trimmings.

27-9-2 **EXPLOSIVES.** It shall be unlawful to store any explosives within the Village.

27-9-3 **TANKS AND RECEPTACLES.** It shall be unlawful to store any flammable liquids in any other but leak-proof metallic tanks or receptacles in the Village. Provided, that receptacles and tanks of other materials may be used if the material used is leak and absorption proof. It shall be unlawful to store any flammable liquids in greater quantity than **fifteen (15) gallons** in any building in the Village, except in an underground tank or in a tank approved by the Loami Fire Protection District. Tanks containing more than **fifteen (15) gallons** of such liquids shall be equipped with adequate escape valves.

27-9-4 **OPEN BURNING OF REFUSE.** The outdoor burning of refuse, within the boundaries of the Village, is hereby prohibited; however, nothing in this Article shall be construed to prohibit the burning of wood, charcoal, gasoline or other clean fuel oil, or natural gas, in a fireplace, grill, or a like facility for cooking or social heating purposes.

27-9-5 **YARD WASTE BURNING.** The burning of yard waste is permitted, provided:

(A) Such burning is conducted between the hours of **10:00 A.M.** until **8:00 P.M.** or sunset, whichever is earlier. All fires must be extinguished after **8:00 P.M.** or sunset, whichever is earlier.

(B) Such burning is not conducted on any public thoroughfare; and is confined to **two (2) feet** or more of the edge of the oil mat.

(C) Such burning does not create a visibility hazard on roadways or railroad tracks.

(D) All residue produced by the burning of yard waste shall be cleaned up, and the area shall be restored to a normal state within **two (2) working days**.

27-9-6 BURNING OF YARD WASTE BY SPECIAL PERMIT. Yard wastes fires which are not otherwise allowable under **Section 27-9-5** may be allowed by special permit. A special permit shall be issued by the Village Board only upon application setting forth the existence of special circumstances, such as a large volume of yard waste or large logs or tree stumps, which render it impossible for the applicant to comply with **Section 27-9-5**. A permit will be issued by the Village Board only if it finds that special circumstances exist and that the requested fire can be safely conducted, and only subject to the following conditions:

- (A) Any permitted fire will have flames only between the hours of **6:00 A.M.** and **10:00 P.M.**, although hot embers are permissible at other times;
- (B) A flaming fire will be tended by a responsible person **thirteen (13) years** of age or older at all times;
- (C) No fire shall be started, and an existing fire shall be extinguished, if the wind speed exceeds **ten (10) miles per hour**;
- (D) A permit shall be valid for up to **thirty (30) days**;
- (E) No burning by special permit shall be permitted between **May 15** and **October 1**;
- (F) No materials other than yard waste shall be burned in a permitted fire;
- (G) No specially permitted fire shall be started within **one hundred fifty (150) feet** of any structure, including any outbuilding; and
- (H) The provisions of **Section 27-9-5(B), (C) and (D)** are met.

Notwithstanding the existence of such a special permit, the Chief of the Loami Fire Protection District may order the extinguishment of any fire if in his or her judgment the fire is being conducted otherwise than in accordance with the permit, or in an unsafe manner; or if the fire presents a hazard of spreading.

Any special burning permit may be revoked by the Village Board at any time, with or without cause.

27-9-7 BONFIRES. Bonfires are permitted within the Village, subject to the following conditions:

- (A) Bonfire fuel shall consist of wood only.
- (B) Bonfires shall be allowed only between the hours of noon and midnight.
- (C) All other regulations pertaining to fires (other than times in which fires are allowed) contained in this Article shall be observed.

27-9-8 LOCATION. No fires shall be started within **one hundred (100) feet** of any gasoline station, fertilizer plant or storage area, elevator or business establishment. No fires shall be built or lit so close to any building or other structure or any street or sidewalk or pavement as to endanger it. Burning containers must be placed on private property and may not be placed on Village property or right of way with the exception of garbage pickup days when containers may be placed on Village right of way.

27-9-9 BURNING REQUIREMENTS. No fires shall burn for more than **three (3) consecutive hours**. Except bonfires, all fires permitted by this Article shall be completely extinguished by sunset or **8:00 P.M.**, whichever is earlier. All fires must be personally attended at all times by an individual at least **thirteen (13) years** of age.

27-9-10 **FIRE HAZARDS.** Upon finding any hazardous or dangerous condition, it shall be the duty of the Fire Chief of the Loami Fire Protection District or any other person so designated by the President to direct that such conditions be corrected. As a guide to giving orders or suggestions for correction of hazardous fire conditions, either as to buildings or materials therein, or the business operated therein, said Fire Chief is hereby authorized to use the "Fire Prevention Code, as required by the National Board of Fire Underwriters" and the rules and regulations as therein set forth.

27-9-11 **INSPECTION BY FIRE CHIEF.** The Fire Chief of the Loami Fire Protection District may enter and inspect any premises or materials therein, for the purpose of eliminating conditions that might present fire hazards, when the Fire Chief:

- (A) Has the consent of the owner or occupant of said premises;
- (B) has reasonable cause to believe that said premises present a fire hazard and has obtained a search warrant identifying the premises to be entered and the purpose of the inspection.

27-9-12 **ENFORCEMENT OF ORDERS.** All persons shall obey the orders and directions of the Fire Chief of the Loami Fire Protection District issued to enforce the provisions of this Article. Village police officers shall be empowered to write citations for any violations of ordinances as pertaining to burning and may request the Loami Fire Protection District to extinguish any fire in violation of this Article. All fees due the Loami Fire Protection District to extinguish such fires shall be assessed to the persons violating this Article.

27-9-13 **PENALTIES.** Persons violating the provisions of this Article shall be subject to the penalty provisions contained in **Section 1-1-20** of the Revised Code of Ordinances of the Village of Loami.

ARTICLE X - NOISE

27-10-1 DEFINITIONS. The following words, terms and phrases, when used in this Article, shall have the meanings except where the context clearly indicates a different meaning:

"Boundary line" means:

(A) in the case of a dwelling unit in a duplex or multi-family structure, the boundary line shall be the perimeter of such dwelling unit.

(B) in the case of publicly owned property, the boundary line shall be the lot line of a publicly-owned zoning lot or a publicly owned right-of-way.

(C) in all other cases, the boundary line shall be the lot line of a zoning lot.

(D) lot lines of zoning lots shall be determined in accordance with the Zoning Code.

"Construction" means on-site erection, fabrication, installation, alteration, repair, remodeling, demolition or removal of any structure, facility, or addition thereto, including all related activities, including, but not restricted to, clearing of land, earth-moving, excavation, drilling, blasting and landscaping.

"Dwelling unit" has the same meaning as in the Zoning Code.

"Motor Vehicle" has the same meaning in Section 1-146 of the Illinois Vehicle Code, and means every vehicle which is self-propelled, except for vehicles moved solely by human power and motorized wheelchairs.

"National Holiday" means a holiday observed by the United States government.

"PCB Regulations" means the regulations of the Illinois Pollution Control Board pertaining to noise, including but not limited to the General Provisions found at Part 900 of Chapter 35 of the Illinois Administrative Code, 5 Ill. Adm. Code 900 et seq., and the rules specifically pertaining to Property-Line-Noise-Sources found at Part 901 of Chapter 35 of the Illinois Administrative Code, 35 Ill. Adm. Code 901 et seq., which are incorporated herein by reference.

"Residential" means a legal use of property for temporary or permanent dwelling purposes.

27-10-2 APPLICABILITY. This Article applies to all sources of sound except aircraft in flight, railroad equipment in operation on a railroad right-of-way, and motor vehicles on the public highways. Such sources of sound may be regulated pursuant to other laws and regulations of the State of Illinois or other entities.

27-10-3 PROHIBITED ACTIVITIES. No person shall conduct any of the following activities if any such activity produces clearly audible sound beyond the boundary line of the property on which or in which the activity is conducted:

(A) Construction between **9:00 P.M.** and **7:00 A.M.** during the months of October through May, and **10:00 P.M.** and **5:30 A.M.** during the months of June through September;

(B) The operation of power tools or power equipment, except in connection with:

(1) construction activities as set forth in subsection (A), or

- (2) business activities (other than entertainment) in an area zoned Industrial during the hours of **7:00 A.M. to 7:00 P.M.**,
- (3) occasional and reasonable hobby activities in areas zoned residential, during the hours of **7:00 A.M. to 7:00 P.M.**

(C) The operation of any bell, siren, whistle, or similar device, except that amplified or unamplified bells or chimes may be used for noncommercial purposes for reasonable lengths of time;

(D) The operation of any device for killing, trapping, attracting or repelling insects except that such device may be used between the hours of **7:00 A.M. and 10:00 P.M.**;

(E) The operation or use of any sound amplification device, (including but not limited to radios, stereos, televisions, karaoke devices, "boom boxes" and compact disk players, whether located in a structure, outdoors, or in a motor vehicle on private property), except that sound amplification devices may be used in areas zoned Business and Industrial between the hours of **7:00 A.M. and 10:00 P.M.** if the sound produced by such device is not clearly audible at the boundary line of any residential unit, and is not clearly audible at any one location for an unreasonable length of time;

(F) The operation, on private property, of motor vehicles, the operation or driving of which on the public way would violate Section 12-602 of the Illinois Motor Vehicle Code. For reference, that section of the Motor Vehicle Code provides as follows:

Sec. 12-602. Mufflers, prevention of noise. Every motor vehicle driven or operated upon the highways of this State shall at all times be equipped with an adequate muffler or exhaust system in constant operation and properly maintained to prevent any excessive or unusual noise. No such muffler or exhaust system shall be equipped with a cutout, bypass or similar device. No person shall modify the exhaust system of a motor vehicle in a manner, which will amplify or increase the noise of such vehicle above that emitted by the muffler originally installed on the vehicle, and such original muffler shall comply with all the requirements of this Section.

27-10-4 EXEMPTIONS. The following activities are exempted from the prohibitions set out in **Section 27-10-3**:

(A) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, to restore public utilities, or to protect persons or property from an imminent danger;

(B) Sound made to alert persons to the existence of an emergency, danger or attempted crime;

(C) Parades, concerts, festivals, fairs or other such activities which are open to the general public and operated or conducted in accordance with other applicable ordinances and pursuant to a permit or other specific approval of the corporate authorities of the Village;

(D) Athletic, musical or cultural activities or events, including practices and rehearsals, conducted by or under the auspices of governmental units or educational institutions.

(E) Bells used in connection with religious buildings and religious services.

(F) Parties sponsored by private individuals on private property, not open to the general public. Such parties may be held only after noon on Fridays, Saturdays, Sundays and national holidays, subject to the following additional limitations:

- (1) Music and noise may be clearly audible past the property line only until **10:00 P.M.**, Friday and Saturday;

- (2) Music and noise may be clearly audible past the property line only until **8:00 P.M.** on a Sunday unless the following Monday is a national holiday, in which case music and noise may be, clearly audible past the property line until **10:00 P.M.**;
- (3) Music and noise may be clearly audible past the property line only until **8:00 P.M.** on a national holiday which falls on Monday through Thursday.

27-10-5 **VIOLATIONS OF PCB REGULATIONS.** No person shall violate the PCB regulations, notwithstanding any claim of exemption as set forth in **Section 27-10-4.**

27-10-6 **PRESUMPTION OF ACCOUNTABILITY.**

(A) The occupant of a property or dwelling unit, and the agent of the occupant on which a generally or specifically prohibited activity takes place shall be presumed to have permitted the activity to occur.

(B) The occupant of the property or dwelling unit, and any agent of the occupant who permits another person to create a noise or conduct an activity in violation of this Article shall be deemed responsible for the noise or activity to the same extent as the person creating the noise or conducting the activity, and shall be subject to the same punishment.

27-10-7 **WAIVER.** The Village President may temporarily waive or alter the time limits contained in **Section 27-10-3** in the following events:

(A) The Village or another governmental entity is engaged in a construction project; and

(B) The construction project is necessary for the public health, safety and welfare, and the public interest will be served by the increased number of hours during which construction might take place; and

(C) The impact upon residential units will be slight when compared to the public benefit of completing the construction expeditiously.

27-10-8 **PENALTY.** Any person, firm or corporation who or which violates any provision of this Article, or owns a lot on which a violation occurs, or fails to remedy a violation upon order of the Chief of Police or other law enforcement officer, shall be subject to a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each violation. Each day a violation occurs shall be deemed a separate offense.

27-10-9 **NUISANCE.** Any violation of this Article is a nuisance, and in addition to the penalties contained in **Section 27-10-8**, the Village may bring an appropriate action at law or in equity with respect to abatement of such nuisance.

(Ord. No. 01-15; 10-11-01)

ARTICLE XI – SKATEBOARDS AND TOY VEHICLES

27-11-1 **DEFINITIONS.** As used in this Article, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (A) **Business District.** The Village business district.
- (B) **Skateboard.** A device with wheels for riding upon, usually standing, including, without limitations, skateboards of all types.
- (C) **Toy Vehicles.** Coasters, scooters, roller skates, or any other non-motorized device with wheels or rollers upon which a person may ride. This definition does not apply, so long as they are used for the purposes for which they are intended, to wagons, wheelchairs and strollers or other devices designed and used for the purpose of transporting children, infants, physically challenged, or incapacitated persons, or to bicycles, or to carts or other devices intended and used for transporting merchandise or materials.

27-11-2 **SKATEBOARDING ON A STREET.** No person shall operate a skateboard or toy vehicle on a public street if there is a sidewalk adjacent to such street. If no sidewalk exists, skateboards may be ridden on the street providing street riding shall be done as far to the right side of the road as possible, and in the same direction as traffic.

27-11-3 **CLINGING TO A VEHICLE.** No person operating a skateboard, toy vehicle, or other non-motorized device shall attach himself or herself to any vehicle upon a roadway.

27-11-4 **YIELD RIGHT-OF-WAY.** Any person operating a skateboard or other toy vehicle must yield right of way to any pedestrian or motor vehicle.

- 27-11-5** **SKATEBOARDING ON PRIVATE PROPERTY.**
- (A) No person shall operate a skateboard or toy vehicle on the premises of any business, residence, or other private property in violation of a sign complying with this Section.
 - (B) Areas in which skateboarding or operation of a toy vehicle is prohibited must be indicated by one or more signs which are positioned to provide notice and which contain the words "No Skateboarding" or any other word or combination of words indicating that skateboarding or operation of a toy vehicle is prohibited. Letters on the sign must be clearly legible.

27-11-6 **SKATEBOARDING ON PUBLIC PROPERTY.** No person shall operate a skateboard or toy vehicle in, upon, or on the grounds of any public property.

27-11-7 **SKATEBOARDING IN THE BUSINESS DISTRICT.** No person shall operate a skateboard or toy vehicle within the Village's business district.

27-11-8 DAMAGING VILLAGE PROPERTY. No person shall operate a skateboard or toy vehicle on or against any municipal-owned table, bench, structure, tennis court, parking stop, retaining wall, fountain, statue, or other improvement which may suffer damage by such use.

27-11-9 SKATEBOARD RAMPS. No person shall use or place a ramp, jump, or any other device used to force a skateboard or toy vehicle off the pavement on the grounds of the municipal-owned parking lot, park or sidewalk.

27-11-10 AGREEMENT FOR IMPOUNDMENT. In place of any other penalty provided by law, any person violating this Article may, for a first offense, agree to have the skateboard or play vehicle impounded by the Police Department for **one (1) week.**

ARTICLE XII – ADULT USES REGULATED

27-12-1 PURPOSE AND ADDITIONAL FINDINGS.

(A) **Purpose.** It is the purpose of this Article to regulate public nudity in order to promote the health, safety, morals, and general welfare of the citizens of the Village. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials.

(B) **Findings.** The Village Board finds:

- (1) Public places allowing nudity lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled.
- (2) Sexual acts, including masturbation, and oral and anal sex, occur at adult oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, live sex shows or public nudity.
- (3) Allowing public nudity creates unhealthy conditions.
- (4) Persons frequent certain adult theaters, adult arcades, and other adult oriented businesses for the purpose of engaging in sex within the premises of such adult oriented businesses.
- (5) At least **fifty (50)** communicable diseases may be spread by activities occurring in adult oriented businesses involving public nudity, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
- (6) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.
- (7) The Surgeon General of the United States in his report of **October 22, 1986**, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (8) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (9) Sanitary conditions in some adult oriented businesses and those places allowing public nudity are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities, including nudity, and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (10) Numerous studies and reports have determined that semen is found in the areas of adult oriented businesses allowing public nudity and where persons view "adult" oriented films.
- (11) The findings noted in paragraphs (1) through (10) raise substantial governmental concerns.

- (12) Public places allowing nudity have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (13) The general welfare, health, morals and safety of the citizens of the Village will be promoted by the enactment of this Article.

27-12-2 **DEFINITIONS.** As used in this Article:

(A) **"Adult Oriented Business"** means an establishment as defined in the Village Code.

(B) **"Entity"** means any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.

(C) **"Nude"** means the showing of:

- (1) Human male or female genitals or pubic area with less than a fully opaque covering; or
- (2) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing to covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or
- (3) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed.

(D) **"Person"** means any live human being aged **ten (10) years** of age or older.

(E) **"Place Provided or Set Apart for Nudity"** means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.

(F) **"Public Place"** means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public Places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit, whether open to the public at large, or whether entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises, or portions thereof, such as homes and hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

27-12-3 PROHIBITION. It shall be unlawful for any person to knowingly or intentionally appear nude in a public place or in any other place that is readily visible to the public, except a place provided or set apart for nudity. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to operate and to knowingly, or with reason to know, permit or allow any person to appear nude in such public place, except a place provided or set apart for nudity.

27-12-4 LIMITATION. This Article shall not be deemed to address photographs, movies, video presentations, or any other non-live performance.

27-12-5 ADULT ENTERTAINMENT FACILITY. It shall be unlawful within a municipality to locate an adult entertainment facility within **one thousand (1,000) feet** of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship.

For the purposes of this Section, "adult entertainment facility" means:

(A) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions or

(B) an adult bookstore or adult video store in which **twenty-five percent (25%)** or more of its stock-in-trade, books, magazines, and films for sale, exhibition, or viewing on-premises are sexually explicit material. **(65 ILCS 5/11-5-1.5)**

ARTICLE XIII - OBSCENITY

27-13-1 **OBSCENITY.**

(A) **Elements of the Offense.** A person commits an obscenity offense when, with the knowledge of the nature or content thereof or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:

- (1) sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) presents or directs an obscene play, dance, or other performance or participates directly in that portion thereof which makes it obscene; or
- (3) publishes, exhibits or otherwise makes available anything obscene; or
- (4) performs an obscene act or otherwise presents an obscene exhibition of his body for gain; or
- (5) creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Section, or of the penal laws or regulations of any other jurisdiction; or
- (6) advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.

(B) **Obscene Defined.** Any material or performance is obscene if:

- (1) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and
- (2) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
- (3) taken as a whole, it lacks serious literary, artistic, political or scientific value.

(C) **Interpretation of Evidence.** Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.

Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value.

In any prosecution for an offense under this Section, evidence shall be admissible to show:

- (1) the character of the audience for which the material was designed or to which it was directed;
- (2) what the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;

- (3) the artistic, literary, scientific, educational or other merits of the material, or the absence thereof;
- (4) the degree, if any, of public acceptance of the material in this State;
- (5) appeal to prurient interest or absence thereof in advertising or other promotion of the material;
- (6) purpose of the author, creator, publisher or disseminator.

(D) **Prima Facie Evidence.** The creation, purchase, procurement or possession of a mold, engraved plat or other embodiment or obscenity, specially adapted for reproducing multiple copies, or the possession of more than **three (3) copies** of obscene material shall be prima facie evidence of an intent to disseminate. **(65 ILCS 5/11-5-1)**

27-13-2 HARMFUL MATERIAL.

(A) **Elements of the Offense.** A person who, with knowledge that a person is a child; that is, a person under **eighteen (18) years** of age, or who fails to exercise reasonable care in ascertaining the true age of a child, knowingly distributes to, or sends or causes to be sent to, or exhibits to or offers to distribute or exhibit any harmful material to a child is guilty of a violation of this Code.

(B) **Definitions.**

- (1) Material is harmful if, to the average person applying contemporary standards, its predominant appeal, taken as a whole, is to prurient interest; that is, shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation of such matters and is material, the redeeming social importance of which is substantially less than its prurient appeal.
- (2) **"Material"** as used in this Code means any writing picture, record or other representation or embodiment.
- (3) **"Distribute"** means to transfer possession of material whether with or without consideration.
- (4) **"Knowingly"** as used in this Section means having knowledge of the contents of the subject matter or recklessly failing to exercise reasonable inspection which would have disclosed the contents thereof.

(C) **Interpretation of Evidence.** The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was offered, distributed, sent or exhibited unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for specially susceptible groups, in which case, the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

In prosecutions under this Section where circumstances of production, presentation, sale, dissemination, distribution, or publicity, indicate the material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the material and can justify the conclusion that the redeeming social importance of the material is, in fact, substantially less than its prurient appeal.

(D)

Affirmative Defenses.

- (1) Nothing in this Section shall prohibit any public library or any library operated by an accredited institution of higher education from circulating harmful material to any person under **eighteen (18) years** of age, provided such circulation is in aid of a legitimate scientific or educational purpose, and it shall be an affirmative defense in any prosecution for a violation of this Section that the act charged was committed in aid of legitimate scientific or educational purposes.
- (2) Nothing in this Section shall prohibit any parent from distributing to his child any harmful material.
- (3) Proof that the defendant demanded, was shown and acted in reliance upon any of the following documents as proof of the age of a child shall be a defense to any criminal prosecution under this Section:
 - (a) A document issued by the federal government or any state, county or municipal government, or subdivision or agency thereof, including, but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to a member of the armed forces.
- (4) In the event an advertisement of harmful material as defined in this Section culminates in the sale or distribution of such harmful material to a child, under circumstances where there was no personal confrontation of the child by the defendant, his employees or agents as where the order or request for such harmful material was transmitted by mail, telephone, or similar means of communication and delivery of such harmful material to the child was by mail, freight, or similar means of transport, it shall be a defense in any prosecution for a violation of this Section that the advertisement contained the following statement or a statement substantially similar thereto, and that the defendant required the purchaser to certify that he was not under the age of **eighteen (18) years** and that the purchaser falsely stated that he was not under the age of **eighteen (18) years**:

"NOTICE: It is unlawful for any person under eighteen (18) years of age to purchase the matter herein advertised. Any person under eighteen (18) years of age who falsely states that he is not under eighteen (18) years of age for the purpose of obtaining the material advertised herein is guilty of a misdemeanor."

(E) **Child Falsifying Age.** Any person under **eighteen (18) years** of age who falsely states, either orally or in writing that he is not under the age of **eighteen (18) years**, or who presents or offers to any person any evidence of age and identity which is false or not actually his own for the purpose of ordering, obtaining, viewing or otherwise procuring or attempting to procure or view any harmful material is guilty of a misdemeanor. **(65 ILCS 5/11-5-1)**

27-13-3 TIE-IN SALES OF OBSCENE PUBLICATIONS TO DISTRIBUTORS.

Any person, firm or corporation, or any agent, officer or employee thereof engaged in the business of distributing books, magazines, periodicals, comic books or other publications to retail dealers who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books or other publications as such retail dealer normally sells because the retail dealer refuses to sell, or offer for sale, any books, magazines, periodicals, comic books or other publications which are obscene, lewd, lascivious, filthy or indecent is guilty of an offense. Each publication sold or delivered in violation of this Section shall constitute a separate offense.
(720 ILCS 5/11-22)

ARTICLE XIV – SMOKE FREE AIR CODE

27-14-1 BACKGROUND. Smoking creates the hazard of injury to the personal health of those in the environment of such smoke as well as the potential of damage to property that may result from the incendiary nature of such activity. It has been determined that breathing ambient smoke is a health hazard to both smokers and nonsmokers. Cigarette smoking also produces several substances that are considered hazardous to health including carbon monoxide, hydrogen cyanide, nitrous oxide and formaldehyde. Secondhand smoke (68% of the total smoke produced by a cigarette) affects the health of the bystander, interfering with respiratory tract defenses, often causing nonsmokers to have allergic or irritative reactions, and is a known cause of lung cancer.

Because the hazards of smoking have a potentially harmful effect, material and direct, on the public health, safety, welfare, comfort, and property of residents of the Village, it is necessary and desirable to establish regulations that prohibit smoking in all enclosed public places, in all enclosed places of employment, near entrances to all such public places and places of employment, in and near open air public dining areas, and within certain unenclosed public places including school grounds, parks and recreation areas and outdoor venues.

27-14-2 PURPOSE. This Article may be cited as the "Smoke Free Air Code," the purpose of which is to protect the public health, comfort and environment by prohibiting smoking in all enclosed public places and places of employment, within **twenty-five (25) feet** of all public entrances to such places, in open air public dining areas and within **twenty-five (25) feet** of such areas, and within certain unenclosed public places including school grounds, parks and recreation areas and outdoor venues in order to ensure that nonsmokers may breathe air free from the hazardous effects of secondhand smoke.

27-14-3 DEFINITIONS. For the purposes of this Article, the following terms shall have the following meanings:

"Business" means any sole proprietorship, partnership, joint venture, corporation, association or other business entity, whether formed for profit or nonprofit purposes. "Business" includes a "club" as defined in this Section.

"Club" means a private not-for-profit association, corporation or other entity consisting of persons who are bona fide paying members and which owns, leases or uses a building or portion thereof, the use of which is restricted primarily to members and their guests.

"Employee" means any person who is employed or retained by a business, and shall include the owner or operator of a sole proprietorship or other similar business entity.

"Employer" means any business that employs one or more employees.

"Enclosed Area" means all space in any structure or building that is enclosed on all sides by any combination of walls, windows, or doorways, extending from floor to the ceiling.

"Open Air Dining Area" means a seating area open to the air that is accessory to a restaurant, hotel, cafeteria, private club or other public place engage din purveying commercial food or beverage service where members of the public, members or guests are invited to sit and receive food and beverage service for a consideration.

"Outdoor Event" means a scheduled outdoor musical, dance, theatrical, dramatic, entertainment or performance event, or a scheduled outdoor community fair, parade, event or

market, that is organized, licensed or permitted by the owner of an outdoor venue and to which the public is invited.

"Outdoor Venue" means an outdoor theater, amphitheater, plaza, street or other improved area that is used as a public venue or forum to which members of the general public are invited to listen, view or otherwise participate in an outdoor event that is organized, licensed or permitted by the owner of the venue.

"Place of Employment" means an area under the control of a public or private employer within the Village that employees normally frequent during the course of employment, and includes, without limitation, common work areas, private offices, auditoriums, classrooms, conference and meeting rooms, cafeterias, elevators, employee lounges, staircases, hallways, restrooms, medical facilities, private clubs, and the interior of a vehicle of public conveyance. "Place of Employment" also includes the home office portion of a private dwelling, but only if the home office is used by more than one employee or is frequented by business invitees.

"Place of Employment" does not include that part of a private dwelling used as a home office by a single employee only who resides in that dwelling.

"Park" means a public park or recreation area that is open to and used by the general public.

"Public Entrance" means the doorway or other entrance to a public place that is open to and intended for use by the general public for ingress and egress to the public place.

"Public entrance" also means a doorway or other entrance for pedestrian ingress and egress to a place of employment; (i) that is open to and intended for use by the general public or business invitee's ingress and egress to the place of employment; (ii) where employees are required or permitted to enter or exit the place of employment.

"Public Place" means an area that is open to and used by the general public, or any area to which the public is invited or in which the public is permitted, including without limitation:

- (A) vehicles of public conveyance;
- (B) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family residential structures;
- (C) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of any building or structure that is accessible to the public including without limitation office, commercial, and industrial buildings, banks and financial institutions, educational institutions, health care facilities such as hospitals, clinics and doctor's offices, museums, libraries, restaurants, polling places, government and Village-owned buildings, food stores, cafeterias, theaters, auditoriums, train and bus stations, hotels, motels, and retail and service establishments.
- (D) rooms, chambers, halls, or other locations within which meetings, hearings, or gatherings are held, to which the public is invited or in which the public is permitted, including specifically, but without limitation, any enclosed area under the control of the Village where there is in progress any public meeting.

"Public place" shall not include:

- (A) a private dwelling unit, unless said dwelling is also used as a day care facility for children or adults; provided that rooms in nursing homes or long-term care facilities occupied by one or more persons who have requested in writing a room where smoking is permitted shall be considered private dwelling units; or

(B) hotel or motel rooms designated as smoking, provided that no more than **twenty percent (20%)** of the available rooms for rent in any single building shall be designated as smoking rooms.

"School Grounds" mean all public or private outdoor school grounds, but excluding any open areas specifically designated and permitted by the school administration for smoking by adults who are invited to use such area for smoking.

"Smoke" or "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form.

"Village" means the Village of Loami, Illinois.

27-14-4 PROHIBITION IN ENCLOSED PUBLIC PLACES.

(A) It is unlawful to smoke in any enclosed area of any public place.

(B) It shall be unlawful for the owner, occupant or lessee, as the case may be, who is in control of a public place to knowingly permit smoking in any enclosed area in a public place.

27-14-5 PROHIBITION IN UNENCLOSED PUBLIC PLACES AND OUTDOOR VENUES.

(A) It is unlawful to smoke in the following unenclosed public places:

- (1) The seating areas of all outdoor arenas, stadiums and amphitheaters.
- (2) Public parks and recreation areas.
- (3) School grounds.
- (4) Public sidewalks within **fifteen (15) feet** of a public entrance, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.
- (5) Public sidewalks within **fifteen (15) feet** of an open air dining area, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.

(B) It is unlawful to smoke in or within **fifteen (15) feet** of an outdoor venue during the time that an outdoor event is taking place.

27-14-6 PROHIBITION IN PLACES OF EMPLOYMENT.

(A) It is unlawful to smoke in any enclosed area of any place of employment.

(B) It shall be unlawful for any employer to knowingly permit smoking in any enclosed area of any place of employment.

27-14-7 PROHIBITION IN OPEN AIR DINING AREAS.

(A) It is unlawful to smoke in open air dining area.

(B) It shall be unlawful for the owner, occupant or lessee, as the case may be, in control of an open air dining area to knowingly permit smoking in the area available for open air dining.

(C) it is unlawful to smoke within **fifteen (15) feet** of an open air dining area.

27-14-8 PROHIBITION AT PUBLIC ENTRANCES.

(A) It is unlawful to smoke within **fifteen (15) feet** of a public entrance to a public place or to a place of employment.

(B) It is unlawful for any person or persons to gather or congregate for the purpose of smoking within **fifteen (15) feet** of a public entrance.

27-14-9 DESIGNATION OF OTHER NO-SMOKING AREAS.

Nothing in this Article shall be deemed to limit the owner, occupant or lessee of a public place or a place of employment to further prohibit smoking by designating outdoor areas not subject to the restrictions in this Article as a place where smoking is also prohibited, provided that the owner, occupant or lessee shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the designated outdoor area.

27-14-10 NO RETALIATION.

No person, business or employer shall discharge, refuse to hire, or in any manner retaliate against an employee or customer because that employee or customer reports a violation of this Article or exercises by rights afforded by this Article.

27-14-11 SIGNS.

(A) Each owner, lessor, lessee, employer, or other person in control of a public place shall post conspicuous "No Smoking" signs in the enclosed area of any public place where smoking is prohibited. Such "No Smoking" signs shall have a white field with the words "No Smoking" printed in red letters, **four (4) inches** high with a **one-half (1/2) inch** face, or shall bear the international "No Smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this Article.

(B) Each owner, lessor, lessee, employer or other person in control of a public park or recreation area, or of a school ground, shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the park, recreation area or school ground.

(C) Each owner, lessor, lessee, management company or other person in control of an outdoor venue shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the outdoor venue during outdoor events.

27-14-12 EXEMPTIONS.

The prohibition on smoking set forth in Section 6-35 and 6-37 shall not apply to a public place or place of employment of a tobacco dealer that permits customers to sample tobacco products on the premises of the tobacco dealer, provided that smoke generated by smoking on the premises of the tobacco dealer does not infiltrate any other enclosed public place or place of employment. For purposes of this exemption, a tobacco dealer is a retailer whose principal business is the sale at retail of tobacco and tobacco-related products.

27-14-13 PENALTIES.

(A) Any person who smokes in an area where smoking is prohibited under the provisions of this Article shall be guilty of an offense punishable by:

- (1) A fine of not less than **Twenty-Five Dollars (\$25.00)** for a first violation.
- (2) A fine of not less than **Fifty Dollars (\$50.00)** for a second violation.
- (3) A fine of not less than **One Hundred Dollars (\$100.00)** and not more than **Five Hundred Dollars (\$500.00)** for a third and subsequent violation(s).

(B) Any person who owns, manages, operates or otherwise controls a public place, a place of employment or an open air dining area that permits smoking in an area where smoking is prohibited under the provisions of this Article, shall be guilty of an offense punishable by a fine of (i) not less than **One Hundred Dollars (\$100.00)** for the first violation, (ii) not less than **Two Hundred Fifty Dollars (\$250.00)** for the second violations, and (iii) not less than **Five Hundred Dollars (\$500.00)** for each additional violation thereafter, unless said additional violation has occurred within **one (1) year** after the first violation, in which case the minimum fine shall be not less than **One Thousand Dollars (\$1,000.00)**. The maximum amount of fine to be levied herein shall not exceed **Two Thousand Five Hundred Dollars (\$2,500.00)** for each violation.

(C) Each day that any violation of this Article shall continue shall constitute a separate offense.

27-14-14 SEVERABILITY. If any provision or part of this Article or application thereof to any person or circumstance is held to be invalid, the remainder of the Article and the application of the provision or part thereof to other persons not similarly situated or to other circumstances shall not be affected thereby.

ARTICLE XV - SYNTHETIC DRUGS

27-15-1 SALE, POSSESSION OR DELIVERY OF SYNTHETIC COCAINE PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cocaine, "Bath Salts" or Substances Containing Cocaine** includes but not limited to the names, MDPK, Magic, Super Coke, PV, Ivory Wave, Ocean, Cloud Nine, Charge Plus, White lightning, Scarface, Hurricane, Charlie Red Dove and White Dove. It is an herbal and chemical product which mimics the effects of Cocaine, including but not limited to Methylenedioxypropylamphetamine, (a psychoactive drug), or cathinone derivatives.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cocaine or substance containing cocaine, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
 - (a) the nature or attendant circumstances of his/her conduct described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
 - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
 - (c) knowledge may be inferred from the surrounding circumstances.
- (4) **"Bath salts"** a substance that contains methylenedioxypropylamphetamine (MDPV) or contains a norepinephrine-dopamine reuptake inhibitor (NDRI).
- (5) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cocaine or a substance containing cocaine, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cocaine or a substance containing cocaine or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cocaine as an incident to lawful research, teaching or chemical analysis and not for sale.
- (6) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (7) **Possession.** Possession may be either actual or constructive.
 - (a) actual possession means exercising physical dominion.

- (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cocaine or substance containing cocaine or drug paraphernalia.

(B) **Possession of Synthetic Cocaine or Substance Containing Cocaine or "Bath Salts" Prohibited.**

- (1) **Violation.** No person shall possess any substance containing synthetic cocaine or a substance containing cocaine.
- (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00).**
- (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
- (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
- (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cocaine for research purposes shall be exempt from the provisions of this Section.

27-15-2 SALE, POSSESSION OR DELIVERY OF SYNTHETIC CANNABIS PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cannabis** includes the brand names K2 and Spice. It is an herbal and chemical product which mimics the effects of Cannabis, including but not limited to synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073 and HU-210.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cannabis, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
 - (a) the nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
 - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.

- (c) knowledge may be inferred from the surrounding circumstances.
 - (4) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabis as an incident to lawful research, teaching or chemical analysis and not for sale.
 - (5) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
 - (6) **Possession.** Possession may be either actual or constructive.
 - (a) actual possession means exercising physical dominion.
 - (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis or drug paraphernalia.
 - (7) **Produce or Production.** Planting, cultivating, tending or harvesting.
- (B) **Possession of Synthetic Cannabis Prohibited.**
- (1) **Violation.** No person shall possess any substance containing synthetic cannabis.
 - (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**.
 - (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
 - (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
 - (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cannabis for research purposes pursuant to **720 ILCS 550/11**, as hereafter amended, shall be exempt from the provisions of this Section.

ARTICLE XVI - REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS

27-16-1 **DEFINITIONS.** The following definitions apply to this Section:

(A) A "**Child Sex Offender**" includes any person required to register his or her residence address with any State, or with the federal government, as a result of his or her conviction as a sex offender, where the victim of that sex offense was under the age of **eighteen (18) years** at the time of the offense. A "**Child Sex Offender**" includes, but is not limited to, any person required to register under the Illinois Sex Offender Registration Act, **730 ILCS 150/1 et seq.**, as now or as hereafter amended, where the victim was under the age of **eighteen (18) years** at the time of the offense. A "**Child Sex Offender**" further includes, but is not limited to, any person who has been convicted of any of the following statutory offenses, or convicted of attempting to commit any of the following statutory offenses, as now or hereafter amended, involving a victim under the age of **eighteen (18) years**:

- (1) Sexual exploitation of a child (**720 ILCS 5/11-9.1**);
- (2) Predatory criminal sexual assault of a child (**720 ILCS 5/12-14.1**);
- (3) Indecent solicitation of a child (**720 ILCS 5/11-6**);
- (4) Public indecency committed on school property (**720 ILCS 5/11-9**);
- (5) Child luring (**720 ILCS 5/10-5(b)(10)**);
- (6) Aiding and abetting child abduction (**720 ILCS 5/10-7 or 720 ILCS 5/10-(b)(10)**);
- (7) Soliciting for a juvenile prostitute (**720 ILCS 5/11-15.1**);
- (8) Patronizing a juvenile prostitute (**720 ILCS 5/11-18.1**);
- (9) Exploitation of a child (**720 ILCS 5/11-19.2**);
- (10) Child pornography (**720 ILCS 5/11-20.1**);
- (11) Criminal sexual assault (**720 ILCS 5/12-13**);
- (12) Aggravated criminal sexual assault (**720 ILCS 5/12-14**);
- (13) Aggravated criminal sexual abuse (**720 ILCS 5/12-16**);
- (14) Kidnapping or aggravated kidnapping (**720 ILCS 5/10-1 or 5/10-2**);
- (15) Unlawful restraint or aggravated unlawful restraint (**720 ILCS 5/10-3 or 5/10-3.1**).

(B) "**School**" means any real property used primarily for educational or child care purposes, including, but not limited to, elementary schools, middle schools, high schools, dance studios, licensed child day care facilities, and pre-schools.

(C) "**Loiter**" shall mean standing or sitting idly, whether or not the person is in a vehicle or remaining in or around property that is from time to time frequented by persons under the age of **eighteen (18) years**.

(D) "**Park**" includes any playground, walking track, athletic field, gymnasium, basketball court, baseball diamond, or other real estate owned or controlled by a school or unit of a local government, that is designated primarily for recreation. The term "Park" shall also include any privately owned recreational area upon which the Village has been authorized by its owner to patrol and enforce the ordinances contained in this Code. The term "Park" shall also include ancillary restrooms and vehicle parking lots designated for use primarily by park patrons or school students and their families.

27-16-2 **PROHIBITED ACTS.**

(A) It is unlawful for a child sex offender to reside within **one thousand five hundred (1,500) feet** of any of the following:

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

(B) It is unlawful for any child sex offender to loiter on any public property, public right-of-way, or area designated for parking of motor vehicles, within **one thousand five hundred (1,500) feet** of any of the following, unless the person loitering is with a child under the age of **eighteen (18) years** and the person loitering is a parent, step-parent, aunt, uncle, cousin, sibling, or step-sibling of that child under the age of **eighteen (18) years**;

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

(C) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to employ a sex offender within **one thousand five hundred (1,500) feet** of any festival or other event which is open to the public.

(D) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to enter into a lease agreement, or to renew any lease agreement, letting residential real estate to a child sex offender, where the lot line of the residential property is within **one thousand five hundred (1,500) feet** of any of the following:

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

27-16-3 **PENALTY.** Any person found guilty of violating paragraphs (A) or (B) of **Section 27-16-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **Seven Hundred Fifty Dollars (\$750.00)**, with each day a violation continues constituting a separate offense. Any person, corporation, business, partnership, trust, manager, or other entity guilty of violating paragraphs (C) or (D) of **Section 27-16-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **Seven Hundred Fifty Dollars (\$750.00)**, revocation of business license, or both. Each day a violation continues shall constitute a separate offense. Any person, corporation, business, partnership, trust, manager or other entity violating paragraphs (C) or (D) of **Section 27-16-2** shall be presumed to have had knowledge of the employee's or tenant's status as a child sex offender, where the employee's or tenant's name, photo, or other identifying information appears on the Illinois State Police statewide sex offender database, as published on the internet on the Illinois State Police World Wide Web home page, per the Sex Offender and Child Murderer Community Notification Law, **730 ILCS 152/101 et seq.**, as now or hereafter amended.

27-16-4 **OTHER PROVISIONS.**

(A) In the event a court of competent jurisdiction should declare the terms of any portion of this Article invalid or unenforceable, the remainder of this Article shall remain in full force and effect.

(B) All distances designated in this Article shall be measured from the lot line of the park property or school property and from the lot line of the subject residence.

(C) Nothing in this Article prohibits a child sex offender from residing within **one thousand five hundred (1,500) feet** of any property, if that residence is owned or leased by the child sex offender before the effective date of this Article. This Article is intended to apply to and prevent such new residential lease agreements, and renewals of expired residential leases, entered into after the effective date of this Article.

ARTICLE XVII – DRUG PARAPHERNALIA

27-17-1 POSSESSION OF CANNABIS. No person shall possess any substance containing cannabis, or the synthetic form of cannabis, 1-pentyl-3-(1-naphthoyl) indole, commonly known as K2; unless licensed to do so by the Illinois Medical Cannabis Pilot Program.

(A) For the purpose of this Article, cannabis includes marijuana, hashish and other substances which are identified as including any parts of the plant cannabis sativa, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt derivative, mixture or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

(B) **"Controlled Substance"** shall have the meaning ascribed to it in Section 102 of the "Illinois Controlled Substance Act" as if that definition were incorporated herein.

(C) **"Drug Paraphernalia"** shall mean all equipment, products and materials of any kind which are peculiar to and/or marketed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body cannabis or a controlled substance in violation of the "Cannabis Control Act" or the "Illinois Controlled Substances Act." It includes but is not limited to:

- (1) Kits peculiar to and/or marketed for use in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;
- (2) Isomerization devices peculiar to and marketed for use in increasing the potency of any species of plant which is cannabis or a controlled substance;
- (3) Testing equipment peculiar to and marketed for private home use in identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;
- (4) Diluents and adulterant peculiar to and marketed for cutting cannabis or a controlled substance by private persons;
- (5) Objects peculiar to and/or marketed for use in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where applicable, the following items:
 - (a) water pipes;
 - (b) carburetion tubes and devices;
 - (c) smoking and carburetion masks;
 - (d) miniature cocaine spoons and cocaine vials;
 - (e) carburetor pipes;
 - (f) electric pipes;
 - (g) air-driven pipes;

- (h) chillums;
- (i) bongos;
- (j) ice pipes or chillers;
- (6) Any item whose purpose, as announced or described by the seller is for use in violation of this act.

27-17-2 POSSESSION OF CANNABIS OR CONTROLLED SUBSTANCE.

Possession of **ten (10) grams** or less of cannabis or K2 is a civil violation punishable by a minimum fine of **One Hundred Dollars (\$100.00)**, and a maximum fine of **Two Hundred Dollars (\$200.00)**

27-17-3 POSSESSION OF DRUG PARAPHERNALIA.

(A) A person who knowingly possesses an item of drug paraphernalia with the intent to use it in ingesting, inhaling or otherwise introducing cannabis or a controlled substance into the human body, or in preparing cannabis or a controlled substance for that use, is guilty of a violation of this Article.

(B) In determining intent under paragraph (A) the trier of fact may take into consideration the proximity of the cannabis or a controlled substance on the drug paraphernalia.

27-17-4 EXEMPTIONS.

(A) Items marketed for use in the preparation, compounding, packaging, labeling, or other use of cannabis or controlled substance as an incident to lawful research, teaching, or chemical analysis and not for sale.

(B) Items marketed for, or historically and customarily used in connection with, the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting or inhaling of tobacco or any other lawful substance.

Items exempt under this Article include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes and cigarette-rolling papers.

(C) Items listed in **Section 27-17-1** of this Article which are marketed for decorative purposes, when such items have been rendered completely inoperable or incapable of being used for any illicit purpose prohibited by this Article.

In determining whether or not a particular item is exempt under this Section, the trier of fact should consider, in addition to all other logically relevant factors, the following:

- (1) The general, usual, customary, and historical use to which the item involved has been put;
- (2) Expert evidence concerning the ordinary or customary use of the item and the effect of any peculiarity in the design or engineering of the device upon its functioning;
- (3) Any written instruction accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;
- (4) Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;

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- (5) Any national or local advertising concerning the design, purpose or use of the item involved and the entire context in which such advertising occurs;
- (6) The manner, place and circumstances in which the items was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;
- (7) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community such as a licensed distributor or dealer of tobacco products;
- (8) The existence and scope of legitimate uses for the object in the community.

27-17-5 **PENALTY.** Possession of drug paraphernalia is a civil violation punishable by a minimum of **One Hundred Dollars (\$100.00)**, and a maximum fine of **Two Hundred Dollars (\$200.00)**. (**Ord. No. 16-06; 11-10-16 in part**)

CHAPTER 28

PARKS

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CHAPTER 28

PARKS

ARTICLE I – REGULATIONS

28-1-1 DESTRUCTION OF PARK PROPERTY. Within the municipal parks, no person except park personnel on official business shall:

(A) cut, break, injure, destroy, take, or remove any tree, shrub, timber, plant, or natural object;

(B) kill, cause to be killed, or pursue with intent to kill any bird or animal, except in areas where the Village has authorized hunting;

(C) willfully mutilate, injure or destroy any building, bridge, table, bench, fireplace, guidepost, notice, tablet, fence, monument, or other park property or appurtenances.

28-1-2 LITTERING - WATER POLLUTION.

(A) No person shall deposit any trash within the municipal parks except in proper receptacles where these are provided. Where receptacles are not provided, all trash shall be carried away from the parks by the person responsible for its presence, and be properly disposed of elsewhere.

(B) No person shall discharge, or otherwise place or cause to be placed in the waters of any fountain, lake, stream, or other body of water in or adjacent to any park or in any tributary, stream, storm sewer or drain flowing into such waters, any substance or thing, liquid or solid, which will or may result in the pollution of said waters.

28-1-3 FIRES IN PARKS.

(A) No person shall light or use any unenclosed picnic fire within the municipal parks. Fires may be built only in fireplaces or on grills constructed for that purpose in designated areas.

(B) In camping areas, no person shall leave any campfire unattended by a competent person.

(C) Every person who has lighted or used any fire in a municipal park shall extinguish such fire before leaving the park.

28-1-4 PICNICS. No person shall picnic in the municipal parks, except in areas designated for that purpose. Park personnel are hereby authorized to regulate the activities in such areas when necessary to prevent congestion or to secure the maximum use, comfort, and convenience of all. Visitors shall comply with any directions given to achieve this end.

28-1-5 ERECTION OF STRUCTURES. No person shall build or place any tent, building, booth, stand, or other structure in or upon any municipal park or other recreational facility unless he has obtained a permit to do so from the Village.

28-1-6 **SIGNS.** No person shall place within any municipal park or affix to any object therein any sign or device designated to advertise any business, profession, exhibition, event or thing unless he has obtained a permit to do so from the Village.

28-1-7 **ANIMALS.** No person shall:
(A) bring any dangerous animal into any municipal park;
(B) permit any dog to be in any park unless such dog is on a leash; or
(C) ride or lead any horse in any municipal park or recreational area except upon paths or other ways expressly provided and posted for that purpose.

28-1-8 **MOTOR VEHICLES.** No person, other than municipal personnel on official business, shall drive or park any motor vehicle, including snowmobiles, in any municipal park except on a roadway or parking lot.

28-1-9 **SALES; AMUSEMENTS FOR GAIN.** Within the parks of this Municipality, no person shall, without first having obtained a permit from the Village:
(A) sell or offer for sale any goods or services; or
(B) conduct any amusement for gain or for which a charge is made.

28-1-10 **GROUP ACTIVITIES.** Whenever any group or organization desires to use municipal park facilities for a particular purpose such as picnics, parties, exhibitions or performances, a representative of said group shall first obtain a permit for such activity from the Mayor.

28-1-11 **APPLICATION FOR PERMIT.** Applications for all permits required by this Chapter shall be made in writing to the Mayor not less than **seven (7) days** before the proposed date of the activity for which the permit is sought. Each application shall include the following information:
(A) A statement briefly describing the nature of the proposed activity;
(B) name, address and telephone number of the person or organization wishing to conduct such activity;
(C) the date when such activity is to be conducted;
(D) the hour when such activity will start and terminate;
(E) the park or portion thereof for which such permit is desired; and
(F) an estimate of the anticipated attendance.

28-1-12 **DECISION ON PERMIT APPLICATION.** After due consideration of the information contained in the permit application, but not later than **seven (7) days** after the application has been filed, the Mayor shall determine whether the application is satisfactory. An application shall be deemed satisfactory if:
(A) the proposed activity or use of the park will not unreasonably interfere with or detract from the general public enjoyment of the park;

(B) the facilities desired have not been reserved for other use at the day and hour requested in the application;

(C) the conduct of such activity will not substantially interrupt the safe and orderly movement of traffic;

(D) the proper policing of such activity will not require the diversion of so great a number of police officers as to prevent normal protection to the remainder of this Municipality;

(E) the conduct of such activity is not reasonably likely to cause injury to persons or property, or to incite violence, crime or disorderly conduct; and

(F) such activity is not to be held for the sole purpose of advertising any product, goods, or event, and is not designed to be held purely for private profit.

28-1-13 **ISSUANCE/DENIAL OF PERMIT.** By regular mail or by telephone the Mayor shall promptly notify every permit applicant of the decision on his application.

(A) If such decision is favorable, the Mayor shall issue the permit. As a condition of the issuance of any permit, the Mayor may require that an indemnity bond be obtained if, in their opinion, such bond is necessary to protect this Municipality from liability or to protect municipal property from damage.

(B) The Mayor shall inform each applicant who has been denied a permit regarding the reasons for the denial and the procedure for appeals.

28-1-14 **HOURS.** Colburn Park in Loami, Illinois shall be open each day from **6:00 A.M.** until **10:30 P.M.** and closed from **10:30 P.M.** until **6:00 A.M.** The appropriate officers of the Village shall post a sign at Colburn Park stating the closing hours.

No persons other than employees of the Village on official business shall be in Colburn Park during the hours during which it is closed. **(Ord. No. 95-06; 07-13-95)**

CHAPTER 29
PROPERTY MAINTENANCE CODE

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CHAPTER 29

PROPERTY MAINTENANCE CODE

ARTICLE I – ADMINISTRATION

DIVISION - GENERAL

29-1-1 **TITLE.** These regulations shall be known as the *Property Maintenance Code* of the Village of Loami, hereinafter referred to as "this Code".

29-1-2 **SCOPE.** The provisions of this Code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

[This Section establishes the broad purpose of the Code—to protect the public health, safety and welfare in both existing residential and nonresidential structures and on all existing premises.

Four specific areas are addressed in greater detail in subsequent sections:

(1) *Establishing minimum maintenance standards for such elements as basic equipment, light, ventilation, heating, sanitation and fire safety.*

(2) *Fixing responsibility among owners, operators and occupants for following the Code.*

(3) *Regulating the use of existing structures and premises.*

(4) *Providing for administration, enforcement and penalties.*

These four categories provide communities with the tools to reduce risks created by deteriorated or unsafe buildings and help communities upgrade and maintain other existing structures.]

29-1-3 **INTENT.** This Code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and change of occupancy in existing buildings shall comply with the *International Existing Building Code*.

[This Code is intended to provide requirements addressing the public health, safety and welfare as they relate to the use and maintenance of existing structures and premises. The Code requires existing structures and premises that are not in compliance with the Code to be altered or repaired to meet the Code. The Code requirements are intended to represent the minimum acceptable level of public health and safety. The International Existing Building Code® (IEBC®) is listed as the required Code for all repairs, alterations, additions and change of occupancies to existing structures.]

29-1-4 **SEVERABILITY.** If a section, subsection, sentence, clause or phrase of this Code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Code.

[Only invalid sections of the Code (as established by the court of jurisdiction) can be set aside. This is essential to safeguard the application of the Code text to situations whereby a provision of the Code is declared illegal or unconstitutional. This Section would preserve the legislative action that put the legal provisions in place.]

DIVISION II - APPLICABILITY

29-1-5 GENERAL. The provisions of this Code shall apply to all matters affecting or relating to structures and premises, as set forth in **Division I**. Where, in a specific case, different sections of this Code specify different requirements, the most restrictive shall govern.

29-1-6 MAINTENANCE. Equipment, systems, devices and safeguards required by this Code or a previous regulation or Code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this Section to be removed from or shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this Code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, structures and premises.

[This Section contains general maintenance requirements. The Code specifically prohibits the disconnection of any required utilities for an occupied dwelling. This helps to safeguard persons who have a physical condition and are dependent on these systems. Some examples of this include: a person who has to have electricity to power a kidney dialysis machine; a patient who is on an oxygen system full time; or someone with particularly bad allergies who needs to have an air-conditioning system to help filter the air. Any safety system that exists in a building must be maintained. A fire protection or safety system is not to be removed from a building if it is required by the Code or a previous regulation or code that was in effect when the building was built. This Section also specifies that the owner or the owner's agent is responsible for maintenance, not the tenants of rental property.]

29-1-7 APPLICATION OF OTHER CODES. Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the *International Existing Building Code, International Fuel Gas Code, International Mechanical Code, and International Electrical Code*. Nothing in this Code shall be construed to cancel, modify or set aside any provision of the *Municipal Zoning Code*.

29-1-8 EXISTING REMEDIES. The provision in this Code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary.

29-1-9 WORKMANSHIP. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this Code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's installation instructions.

29-1-10 HISTORIC BUILDINGS. The provisions of this Code shall not be mandatory for existing buildings or structures designated as historic buildings when such buildings or structures are judged by the Code Official to be safe and in the public interest of health, safety and welfare.

29-1-11 **REFERENCED CODES AND STANDARDS.** The codes and standards referenced in this Code shall be those that are listed in **Article VIII** and considered part of the requirements of this Code to the prescribed extent of each such reference. Where differences occur between provisions of this Code and the referenced standards, the provisions of this Code shall apply.

Exception: Where enforcement of a code provision would violate the conditions of the listing of the equipment or *appliance*, the conditions of the listing shall apply.

(A) **Conflicts.** Where conflicts occur between provisions of this Code and the referenced standards, the provisions of this Code shall apply. (IPMC 102.7.1)

(B) **Provisions in Reference Codes and Standards.** Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this Code, the provisions of this Code, as applicable, shall take precedence over the provisions in the referenced code or standard.

29-1-12 **REQUIREMENTS NOT COVERED BY CODE.** Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare not specifically covered by this Code shall be determined by the Code Official.

29-1-13 **APPLICATION OF REFERENCES.** References to chapter, article or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, article, section or provision of this Code.

29-1-14 **OTHER LAWS.** The provisions of this Code shall not be deemed to nullify any provisions of local, state or federal law.

DIVISION III – PROPERTY MAINTENANCE INSPECTION

29-1-15 **GENERAL.** The Department of Property Maintenance Inspection is hereby created and the executive official in charge thereof shall be known as the Code Official.

29-1-16 **APPOINTMENT.** The Code Official shall be appointed by the Mayor with the advice and consent of the Village Board; and the Code Official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority.

29-1-17 **DEPUTIES.** In accordance with the prescribed procedures of this jurisdiction and with the concurrence of the appointing authority, the Code Official shall have the authority to appoint a deputy code official, other related technical officers, inspectors and other employees.

29-1-18 **LIABILITY.** The Code Official, member of the board of appeals or

employee charged with the enforcement of this Code, while acting for the jurisdiction, in good

faith and without malice in the discharge of the duties required by this Code or other pertinent law or ordinance, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to persons or property as a result of an act or by reason of an act or omission in the discharge of official duties. Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this Code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The Code Official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this Code.

29-1-19 **PERMIT TO OCCUPY.**

(A) **Permit Required.** It shall be unlawful for any person, owner or agent thereof to occupy or sue, or to permit any person to occupy or use any premises for any purpose including the movement of furniture, equipment or other personal property into said premises until a permit to occupy has been issued by the Code Official. The permit so issued shall state that the condition of the premises and its proposed occupation complies with all of the provisions of this Code as far as can be determined by a visual inspections of the premises and a review of the records.

(B) **Application for occupancy.** It shall be unlawful for any person to knowingly make any false statements on an application for permit to occupy a dwelling unit as to the names, relationships, ages, or number of occupants who will occupy the dwelling unit. One of the following documents shall be submitted with application; copy of lease, rent receipt with photo identification, sales contract or closing papers.

(C) **Action on an application.** The Code Official shall examine or cause to be examined all applications for permits within a reasonable time after filing. No certificate of occupancy will be issued until an inspection of the premises has been completed and approved. No inspection shall be required for a dwelling unit that is less than **five (5) years** of age.

(D) **Suspension of permit.** Any permit issued shall become invalid if the occupancy is not commenced within **six (6) months** after issuance of the permit.

(E) **Revocation of permit.** The Code Official may revoke a permit in case of any false statement or misrepresentation of facts in the application on which a permit was based, or in the event a structure or part thereof is condemned pursuant to this Code.

29-1-20 **FEES.** The fees for activities and services performed by the department in carrying out its responsibilities under this Code shall be indicated in the following schedule.

(A) Inspection Permit Fee of **Fifty Dollars (\$50.00)** shall be paid prior to the Village conducting an inspection of a multi-family rental structure (apartments). It shall be the responsibility of the property owner/agent to make advance payment of the fee and schedule the required inspection with the Village. An inspection shall be valid for a period of **one (1) year**. The dwelling unit does not have to be reinspected during that period, even if the occupancy changes.

(B) Inspection Permit Fee of **One Hundred Dollars (\$100.00)** shall be paid prior to the Village conducting an inspection of a single family residence. It shall be the responsibility of the property owner/agent to make advance payment of the fee and schedule the required inspection with the Village. An inspection shall be valid for a period of **one (1) year**. The dwelling unit does not have to be reinspected during that period, even if the occupancy changes.

(C) Inspection Permit Fee of **Seventy Five Dollars (\$75.00)** shall be paid

prior to the Village conducting an inspection of a manufactured/mobile home. It shall be the

responsibility of the property owner/agent to make advance payment of the fee and schedule the required inspection with the Village. An inspection shall be valid for a period of **one (1) year**. The dwelling unit does not have to be reinspected during that period, even if the occupancy changes.

(D) Inspection Permit Fee of **One hundred Dollars (\$100.00)** shall be paid prior to the Village conducting an inspection of a duplex/condominium. It shall be the responsibility of the property owner/agent to make advance payment of the fee and schedule the required inspection with the Village. An inspection shall be valid for a period of **one (1) year**. The dwelling unit does not have to be reinspected during that period, even if the occupancy changes.

(E) A copy of an existing Certificate of Occupancy shall be a fee of **Twenty Dollars (\$20.00)**.

(F) The Certificate of Occupancy fee of **Thirty Dollars (\$30.00)** shall be paid at the time certificate is issued. It shall be the responsibility of the tenant/occupant to apply for certificate of occupancy after application for occupancy has been approved.

(G) A re-inspection fee of **Fifty Dollars (\$50.00)** shall be paid when initial inspections fail or no access to structure. It shall be the responsibility of the property owner/agent to make the advance payment prior to scheduling a re-inspection.

DIVISION IV – DUTIES AND POWERS OF THE CODE OFFICIAL

29-1-21 GENERAL. The code official is hereby authorized and directed to enforce the provisions of this Code. The code official shall have the authority to render interpretations of this Code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies and procedures shall be in compliance with the intent and purpose of this Code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this Code.

29-1-22 INSPECTIONS. The Code Official shall make all of the required inspections, or shall accept reports of inspection by approved agencies or individuals. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The Code Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

29-1-23 RIGHT OF ENTRY. Where it is necessary to make an inspection to enforce the provisions of this Code, or whenever the Code Official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this Code, the Code Official is authorized to enter the structure or premises at reasonable times to inspect or perform duties imposed by this Code, provided that if such structure or premises is occupied the Code Official shall present credentials to the occupant and request entry. If such structure or premises is unoccupied, the Code Official shall first make a reasonable effort to locate the owner or other person having charge or control of the structure or premises and request entry. If entry is refused, the Code Official shall have recourse to the remedies provided by law to secure entry.

[This Section establishes the right of the Code Official to enter the premises in order to make the inspections required by Section 29-1-22. The right to enter structures or premises is limited. First, to

protect the right of privacy, the owner or occupant must grant the Code Official permission before an interior inspection of the property can be conducted. Permission is not required for inspections that can be accomplished from within the public right-of-way. Second, such access may be denied by the owner or occupant. Unless the inspector has reasonable cause to believe that a violation of the Code exists, access may be unattainable. Third, Code Officials must present proper identification and request admittance during reasonable hours—usually the normal business hours of the establishment—to be admitted. Fourth, inspections must be aimed at securing or determining compliance with the provisions and intent of the regulations that are specifically within the established scope of the Code Official's authority.

Searches of a private residence to gather information for the purpose of enforcing codes, ordinances or regulations are considered unreasonable and are prohibited by the Fourth Amendment to the U.S. Constitution. "Reasonable cause" in the context of this Section must be distinguished from "probable cause", which is required to gain access to property in criminal cases. The burden of proof establishing reasonable cause may vary among jurisdictions. Usually, an inspector must show that the property is subject to inspection under the provisions of the Code; that the interests of the public health, safety and welfare outweigh the individual's right to maintain privacy; and that such an inspection is required solely to determine compliance with the provisions of the Code.

Many jurisdictions do not recognize the concept of an administrative warrant and may require the Code Official to prove probable or reasonable cause in order to gain access upon refusal. This burden of proof is usually more substantial, often requiring the Code Official to stipulate in advance why access is needed (usually access is restricted to gathering evidence for seeking an indictment or making an arrest), what specific items or information is sought, its relevance to the case against the individual subject, how knowledge of the relevance of the information or items sought was obtained and how the evidence sought will be used. In all such cases, the right to privacy must always be weighed against the right of the Code Official to conduct an inspection to verify that the public health, safety and welfare are not in jeopardy. Such important and complex constitutional issues should be discussed with the jurisdiction's legal counsel. Jurisdictions should establish procedures for securing the necessary court orders when an inspection is deemed necessary following a refusal.]

29-1-24 **NOTICES AND ORDERS.** The Code Official shall issue all necessary notices or orders to ensure compliance with this Code.

29-1-25 **DEPARTMENT RECORDS.** The Code Official shall keep official records of all business and activities of the department specified in the provisions of this Code. Such records shall be retained in the official records for the period required for retention of public record.

29-1-26 **COORDINATION OF INSPECTIONS.** Whenever in the enforcement of this Code or another code or ordinance, the responsibility of more than one code official of the jurisdiction is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the Code Official having jurisdiction.

29-1-27 - 29-1-29 **RESERVED.**

DIVISION V - APPROVAL

29-1-30 **MODIFICATIONS.** Whenever there are practical difficulties involved in carrying out the provisions of this Code, the Code Official shall have the authority to grant modifications for individual cases, provided the Code Official shall first find that special individual reason makes the strict letter of this Code impractical and the modification is in compliance with the intent and purpose of this Code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

29-1-31 **ALTERNATIVE MATERIALS, METHODS AND EQUIPMENT.** The provisions of this Code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this Code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the Code Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this Code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this Code in quality, strength, effectiveness, fire resistance, durability and safety.

29-1-32 **REQUIRED TESTING.** Whenever there is insufficient evidence of compliance with the provisions of this Code, or evidence that a material or method does not conform to the requirements of this Code, or in order to substantiate claims for alternative materials or methods, the Code Official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

(A) **Test Methods.** Test methods shall be as specified in this Code or by other recognized test standards. In the absence of recognized and accepted test methods, the Code Official shall be permitted to approve appropriate testing procedures performed by an approved agency.

(B) **Test Reports.** Reports of tests shall be retained by the Code Official for the period required for retention of public records.

29-1-33 **MATERIAL AND EQUIPMENT REUSE.** Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved.

29-1-34 **RESEARCH REPORTS.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this Code, shall consist of valid research reports from approved sources.

DIVISION VI - VIOLATIONS

29-1-35 **UNLAWFUL ACTS.** It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of this Code.

29-1-36 **NOTICE OF VIOLATION.** The Code Official shall serve a notice of violation or order in accordance with **Division VII.**

29-1-37 **PROSECUTION OF VIOLATION.** Any person failing to comply with a notice of violation or order served in accordance with **Division VII** shall be deemed guilty of a misdemeanor, and the violation shall be deemed a strict liability offense. If the notice of violation is not complied with, the Code Official shall institute the appropriate 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 structure in violation of the provisions of this Code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

29-1-38 **VIOLATION PENALTIES.** Any person who shall violate a provision of this Code, or fail to comply therewith, or with any of the requirements thereof, shall be prosecuted within the limits provided by **Section 1-1-20.** Each day that a violation continues after due notice has been served shall be deemed a separate offense.

29-1-39 **ABATEMENT OF VIOLATION.** The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or utilization of the building, structure or premises.

[Despite the assessment of a penalty in the form of a fine against a violator, the violation itself must still be corrected. Failure to make the necessary corrections will result in the violator being subject to additional penalties as described in the proceeding section.]

29-1-40 **RESERVED.**

DIVISION VII – NOTICES AND ORDERS

29-1-41 **NOTICE TO PERSON RESPONSIBLE.** Whenever the Code Official determines that there has been a violation of this Code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in **Sections 29-1-42** and **29-1-43** to the person responsible for the violation as specified in this Code. Notices for condemnation procedures shall also comply with **Section 29-1-49.**

29-1-42 **FORM.** Such notice prescribed in **Section 29-1-41** shall be in accordance with all of the following:

- (A) Be in writing.
- (B) Include a description of the real estate sufficient for identification.
- (C) Include a statement of the violation or violations and why the notice is being issued.

(D) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this Code.

(E) Inform the property owner of the right to appeal.

(F) Include a statement of the right to file a lien in accordance with **Section 29-1-37**.

29-1-43 **METHOD OF SERVICE.** Such notice shall be deemed to be properly served if a copy thereof is:

(A) delivered personally;

(B) sent by certified or first-class mail addressed to the last known address; or

(C) if the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

All of the services noted above may be expensive and time consuming. In some communities, the courts may consider service to be valid if the notice was sent to the last known address of the owner or owner's agent by regular postage and the notice was not returned by the post office. This method of service is obviously much cheaper and usually faster than waiting for the return of a certified letter. It must, however, be acceptable to the court system. The jurisdiction's attorney should be consulted to determine that the type of service is legally acceptable, reasonably cost effective and timely.

(D) **Unauthorized Tampering.** Signs, tags or seals posted or affixed by the Code Official shall not be mutilated, destroyed or tampered with, or removed without authorization from the Code Official.

29-1-44 **PENALTIES.** Penalties for noncompliance with orders and notices shall be as set forth in **Section 29-1-38**.

29-1-45 **TRANSFER OF OWNERSHIP.** It shall be unlawful for the owner of any dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

[When a property has a pending violation order, it is unlawful for an owner to sell, transfer, mortgage, lease or otherwise dispose of the property without either following the order or advising the buyer, mortgagee, etc., of the pending violation. The owner must prove that the buyer has received notice of pending violations by providing the Code Official with a signed, notarized receipt from the new transferee.]

Determining who is the current owner of a building is a frustrating and difficult activity. To evade code enforcement action, owners will frequently transfer ownership of their property. This provision of the Code permits the Code Official to cite the seller if he or she did not provide the Code Official with the required notification when the property was transferred; thus, even though the seller may avoid complying with the outstanding violation orders, he or she can still be charged with a violation for failing to provide proof that the transferee was aware of the pending orders.]

29-1-46 **RESERVED.**

DIVISION VIII - - UNSAFE STRUCTURES AND EQUIPMENT

29-1-47 GENERAL. When a structure or equipment is found by the Code Official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this Code.

[This Section provides a brief description of conditions where the Code Official is given the authority to condemn an existing structure or equipment. Where a structure or equipment is "unlawful", as described in the text of this Section, that structure or equipment does not comply with the requirements of the Code. The deficiencies are such that an unsafe condition or a condition that is unfit for human occupancy exists.]

(A) **Unsafe Structures.** An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(B) **Unsafe Equipment.** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

(C) **Structure Unfit for Human Occupancy.** A structure is unfit for human occupancy whenever the Code Official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this Code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(D) **Unlawful Structure.** An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this Code, or was erected, altered or occupied contrary to law.

[An unlawful structure is one that has serious deficiencies such that an unsafe condition or a condition that is unfit for human occupancy exists. An unlawful structure does not mean one where there are criminal activities.]

(E) **Dangerous Structure or Premises.** For the purpose of this Code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

- (1) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
- (2) The walking surfaces of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
- (3) Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
- (4) Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in

- place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
- (5) The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
 - (6) The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
 - (7) The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, become a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
 - (8) Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
 - (9) A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the Code Official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
 - (10) Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the Code Official to be a threat to life or health.
 - (11) Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

29-1-48 CLOSING OF VACANT STRUCTURES. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the Code Official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the Code Official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.

(A) **Authority to Disconnect Service Utilities.** The Code Official shall have the authority to authorize disconnection of utility service to the building, structure or system

regulated by this Code and the referenced codes and standards set forth in **Section 29-1-11** in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The Code Official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnect the owner or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.

29-1-49 **NOTICE.** Whenever the Code Official has condemned a structure or equipment under the provisions of this Section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with **Section 29-1-43**. If the notice pertains to equipment, it shall also be placed on the condemned equipment. The notice shall be in the form prescribed in **Section 29-1-42**.

29-1-50 **PLACARDING.** Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the Code Official shall post on the premises or on defective equipment, a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

(A) **Placard Removal.** The Code Official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the Code Official shall be subject to the penalties provided by this Code.

[Only the Code Official is authorized to remove a condemnation placard. The Code Official is to remove the placard only when the defect or defects have been corrected as required by the Code. Any other person who removes or defaces a placard is in violation of the Code and subject to its penalties.]

29-1-51 **PROHIBITED OCCUPANCY.** Any occupied structure condemned and placarded by the Code Official shall be vacated as ordered by the Code Official. Any person who shall occupy a placarded premises or shall operate placarded equipment, and any owner or any person responsible for the premises who shall let anyone occupy a placarded premises or operate placarded equipment shall be liable for the penalties provided by this Code.

29-1-52 **ABATEMENT METHODS.** The owner, operator or occupant of a building, premises or equipment deemed unsafe by the Code Official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

29-1-53 **RECORD.** The Code Official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

29-1-54 - 29-1-59 **RESERVED.**

DIVISION IX - EMERGENCY MEASURES

29-1-60 **IMMINENT DANGER.** When, in the opinion of the Code Official, there is imminent damage of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building, occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Code Official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Code Official shall cause to be posted at each entrance to such structure a notice reading as follows: **"This Structure is Unsafe and its Occupancy has been Prohibited by the Code Official."** It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same.

29-1-61 **TEMPORARY SAFEGUARDS.** Notwithstanding other provisions of this Code, whenever, in the opinion of the Code Official, there is imminent danger due to an unsafe condition, the Code Official shall order the necessary work to be done, including the boarding-up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the Code Official deems necessary to meet such emergency.

29-1-62 **CLOSING STREETS.** When necessary for public safety, the Code Official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

29-1-63 **EMERGENCY REPAIRS.** For the purposes of this Section, the Code Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

29-1-64 **COSTS OF EMERGENCY REPAIRS.** Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.

29-1-65 **HEARING.** Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the appeals boards, be afforded a hearing as described in this Code.

29-1-66 **RESERVED.**

DIVISION X - DEMOLITION

29-1-67 **GENERAL.** The Code Official shall order the owner of any premises upon which is located any structure, which in the Code Official's judgement is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than **two (2) years**, to demolish and remove such structure.

29-1-68 **NOTICES AND ORDERS.** All notices and orders shall comply with **Division VII.**

[Before the Code Official can pursue action to demolish a building in accordance with Section 29-1-67 or 29-1-69, it is imperative that all owners and any other persons with a recorded encumbrance on the property be given proper notice of the demolition plans (See Division VII for notice and order requirements).]

29-1-69 **FAILURE TO COMPLY.** If the owner of a premises fails to comply with a demolition order within the time prescribed, the Code Official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

29-1-70 **SALVAGE MATERIALS.** When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state, with the approval of the Village Board.

29-1-71 **RESERVED.**

DIVISION XI - MEANS OF APPEAL

29-1-72 **APPLICATION FOR APPEAL.** Any person directly affected by a decision of the Code Official or a notice or order issued under this Code shall have the right to appeal to the Board of Appeals, provided that a written application for appeal is filed within **twenty (20) days** after the day the decision, notice or order was served. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted thereunder have

been incorrectly interpreted, the provisions of this Code do not fully apply, or the requirements of this Code are adequately satisfied by other means. The fee for an application of appeal of **Fifty Dollars (\$50.00)** is to be paid at the time application is filed and shall be non-refundable.

29-1-73 **MEMBERSHIP OF THE BOARD.** The Board of Appeals shall consist of a minimum of **five (5) members** who are qualified by experience and training to pass on matters pertaining to property maintenance and who are not employees or elected officials of this municipality. The Code Official shall be an ex-officio member but shall have no vote on any matter before the Board. The Board shall be appointed by the Mayor with the advice and consent of the Village Board, and shall serve staggered and overlapping terms. The term of office shall be **five (5) years.**

(A) **Alternate Members.** The Mayor shall appoint **two (2) or more alternate members** who shall be called by the Board Chairman to hear appeals during the absence or disqualification of a member. Alternate members shall possess the qualifications required for Board membership. Alternate members shall be appointed for **five (5) years** or until a successor has been appointed.

[This Section authorizes the Mayor to appoint two (2) alternate members who are to be available if the principal members of the Board are absent or disqualified. Alternate members must possess the same qualifications as the principal members.]

(B) **Chairman.** The Board shall annually select one of its members to serve as Chairman.

(C) **Disqualification of Member.** A member shall not hear an appeal in which that member has any personal, professional or financial interest.

[All members must disqualify themselves regarding any appeal in which they have a personal, professional or financial interest.]

(D) **Secretary.** The Mayor shall designate a qualified person to serve as Secretary to the Board. The Secretary shall file a detailed record of all proceedings in the office of the Mayor.

[The Secretary is required to file a detailed record of all proceedings in the office of the Chief Administrative Officer.]

(E) **Compensation of Members.** Compensation of members shall be determined by the Village Board in the annual budget.

29-1-74 **NOTICE OF MEETING.** The Board shall meet upon notice from the Chairman, within **ten (10) days** of the filing of an appeal, or at stated periodic meetings.

29-1-75 **OPEN HEARING.** All hearings before the Board shall be open to the public. The appellant, that appellant's representative, the Code Official and any person whose interests are affected shall be given an opportunity to be heard. A quorum shall consist of not less than **two-thirds (2/3)** of the Board membership.

(A) **Procedure.** The Board shall adopt and make available to the public through the Secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.

29-1-76 **POSTPONED HEARING.** When the full Board is not present to hear an appeal, either the appellant or the appellant's representative shall have the right to request a postponement of the hearing.

29-1-77 **BOARD DECISION.** The Board shall modify or reverse the decision of the Code Official only by a concurring vote of **three (3) members.**

(A) **Resolution.** The decision of the Board shall be by resolution. Certified copies shall be furnished to the appellant and to the Code Official.

(B) **Administration.** The Code Official shall take action with **five (5) working days** in accordance with the decision of the Board.

[To avoid any undue hindrance in the progress of construction, the Code Official is required to act without delay based on the Board's decision. This action may be to enforce the decision or to seek judicial relief if the Board's action can be demonstrated to be inappropriate.]

29-1-78 **COURT REVIEW.** Any person, whether or not a previous party of the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the Mayor.

29-1-79 **STAYS OF ENFORCEMENT.** Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the appeals board.

29-1-80 **RESERVED.**

DIVISION XII – STOP WORK ORDER

29-1-81 **AUTHORITY.** Whenever the 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 Code Official is authorized to issue a stop work order.

29-1-82 **ISSUANCE.** A stop work order shall be in writing and shall be given to the owner of the property, to the owners agent, or to 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.

29-1-83 **EMERGENCIES.** Where an emergency exists, the Code Official shall not be required to give a written notice prior to stopping the work.

29-1-84 **FAILURE TO COMPLY.** 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 liable to a fine of not less than **One Hundred Dollars (\$100.00)** or more than **One Thousand Dollars (\$1,000.00).** Each day that a violation continues shall be considered a separate offense.

ARTICLE II - DEFINITIONS

DIVISION I - GENERAL

29-2-1 **SCOPE.** Unless otherwise expressly stated, the following terms shall, for the purposes of this Code, have the meanings shown in this Article.

29-2-2 **INTERCHANGEABILITY.** Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

29-2-3 **TERMS DEFINED IN OTHER CODES.** Where terms are not defined in this Code and are defined in the *International Building Code, International Existing Building Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, International Residential Code, State of Illinois Plumbing Code, International Residential Code*, or NFPA 70, such terms shall have the meanings ascribed to them as in those codes.

29-2-4 **PARTS.** Whenever the words "dwelling unit", "dwelling", "premises", "building", "rooming house", "rooming unit", "housekeeping unit", or "story" are stated in this Code, they shall be construed as though they were followed by the words "or any part thereof".

DIVISION II - DEFINITIONS

29-2-5 **DEFINITIONS.**

"ANCHORED": Secured in a manner that provides positive connection.

"APPLIANCE": A device or apparatus that is manufactured and designed to utilize energy and for which this Code provides specific requirements.

"APPROVED": Approved by the Code Official.

"BASEMENT": That portion of a building which is partly or completely below grade.

"BATHROOM": A room containing plumbing fixtures including a bathtub or shower.

"BEDROOM": Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

"CODE OFFICIAL": The official who is charged with the administration and enforcement of this Code, or any duly authorized representative.

"COMBUSTION AIR": The air provided to fuel-burning equipment including air for fuel combustion, draft hood dilution and ventilation of the equipment enclosure.

"CONDEMN": To adjudge unfit for occupancy.

"DETACHED": When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

"DETERIORATION": To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

"DWELLING UNIT": A single unit providing complete, independent living facilities for **one (1)** or more persons, including permanent provisions for living, sleeping, eating, cooking and

sanitation.

"EASEMENT": That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

"EQUIPMENT": All piping, ducts, vents, control devices and other components of systems other than appliances that are permanently installed and integrated to provide control of environmental conditions for buildings. This definition shall also include other systems specifically regulated in this Code.

"EQUIPMENT SUPPORT": Those structural members or assemblies of members or manufactured elements, including braces, frame, lugs.

"EXTERIOR PROPERTY": The open space on the premises and on adjoining property under the control of owners or operators of such premises.

"GARBAGE": The animal and vegetable waste resulting from the handling, preparation, cooking and consumption of food.

"GRAFFITI": Graffiti means and includes any unauthorized inscription, word, figure, or design or collections thereof, which marked, etched, scratched, painted, drawn or printed on any structural component of any building, structure, or other facility, regardless of the nature of the material of that structural component.

"GROUP R": Residential occupancies containing sleeping units or more than **two (2)** dwelling units where the occupants are primarily permanent in nature.

"GUARD": A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

"HABITABLE SPACE": Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

"HAZARDOUS LOCATION": Any location considered to be a fire hazard for flammable vapors, dust, combustible fibers or other highly combustible substances.

"HEARING OFFICER": Means a Village employee or an officer or agent of the Village, other than a police officer or sheriff, whose duty is to do the following:

- (A) Preside at an administrative hearing called to determine whether or not a property is or was a nuisance property;
- (B) Hear testimony and accept evidence from the Sheriff, the person in charge/owner/ occupant, and all interested parties relevant to the existence of the nuisance activity;
- (C) Preserve and authenticate the transcript and record of the hearing and all exhibits and evidence introduced at the hearing; and issue and sign a written finding, decision, order stating whether a violation of this Article exists.

"HOUSEKEEPING UNIT": A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

"IGNITION SOURCE": A flame, spark or hot surface capable of igniting flammable vapors or fumes. Such sources include appliance burners, burner ignitions and electrical switching devices.

"IMMINENT DANGER": A condition which could cause serious or life-threatening injury or death at any time.

"INFESTATION": The presence, within or contiguous to, a structure or premises of insects, rats, vermin or other pests.

"INOPERABLE MOTOR VEHICLE": A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

"LABELED": Equipment, materials or products to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

"LET FOR OCCUPANCY OR LET": To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premises or structure by a person who is or is not the legal owner of record thereof, pursuant to a recorded or unrecorded agreement of contract for the sale of land.

"LIVING SPACE": Space within a dwelling unit utilized for living, sleeping, eating, cooking, bathing, washing and sanitation purposes.

"NEGLECT": The lack of proper maintenance for a building or structure.

"NUISANCE ACTIVITY": Mean any act that would constitute a felony or Class A misdemeanor under the laws of the State of Illinois.

"NUISANCE PROPERTY": Means any property on which the Police Department has **one (1)** or more official police reports of nuisance activity which has occurred within a **one (1) year** period.

"OCCUPANCY": The purpose for which a building or portion thereof is utilized or occupied.

"OCCUPANT": Any individual living or sleeping in a building, or having possession of a space within a building.

"OPENABLE AREA": The part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

"OPERATOR": Means any agent of the owner, manager, contract purchaser, executor, administrator, trustee or guardian of the estate of the owner, person who is in charge, care or control of such premises in which buildings or dwelling units are rented shall be bound to comply with this Code and the rules and regulations adopted pursuant thereto to the same extent as if he/she were the owner.

"OWNER": Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

"PERSON": Means any natural person, agent, association, firm, partnership, corporation or other entity capable of owning, occupying, or using property in the Village.

"PERSON IN CHARGE": Means any person, in actual or constructive possession of a property, including, but not limited to, an owner or occupant of property under his ownership or control.

"PEST ELIMINATION": The control and elimination of insects, rodents or other pests by eliminating their harborage places; by removing or making inaccessible materials that serves as their food or water; by the approved pest elimination methods.

"PREMISES": Means the lot, plot or parcel of land, and includes the buildings, structures, and dwelling units thereon.

"PROPERTY": Means any property, including land and that which is affixed, incidental, or appurtenance to land, including, but not limited to, any business or residence, parking area, loading area, landscaping, building or structure or any separate part, unit, or portion thereof, or any business equipment, whether or not permit. For property consisting of more than one unit, property may be limited to the unit or portion of the property on which any nuisance activity has occurred or is occurring, but includes areas of the property used in common by all units of

property, including, without limitation other structures erected on the property and areas used for parking, loading, and landscaping.

"PUBLIC WAY": Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

"RENTAL HOUSING": For purposes of this Code, "Rental Housing" shall constitute any dwelling unit, rooming house, rooming unit, or sleeping unit being made available to a tenant in exchange for compensation of any kind. Rental Housing shall also include:

- (A) lots or pads made available for placement of mobile homes thereon and
- (B) properties that primarily operate as hotels and motels.

Exceptions: Rental Housing, for the purposes of this Chapter, shall not include the following:

(A) Lawfully operating housing for the elderly that meets the definition of "housing for older persons," as provided in 42 U.S.C. § 3607.

(B) Lawfully operating group homes, governed by the Specialized Living Centers Act, 405 ILCS 3/1 et seq., as amended, dealing with the developmentally disabled, and such other similar non-profit uses governed by state or federal laws, rules or regulations if such similar uses are required to be exempted by law.

(C) Owner-occupied single-family dwellings having not more than one authorized boarder.

"ROOMING HOUSE": A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

"ROOMING UNIT": Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

"RUBBISH": Combustible and noncombustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

"SLEEPING UNIT": A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are part of a dwelling unit are not sleeping units.

"STRUCTURE": That which is built or constructed or a portion thereof.

"TENANT": A person, occupant of leased or rented premises, corporation, partnership or group whether or not the legal owner of record, occupying a building or portion thereof as a unit.

"ULTIMATE DEFORMATION": The deformation at which failure occurs and which be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

"VENTILATION": The natural or mechanical process of supplying conditioned air to, or removing such air from, any space.

"WORKMANLIKE": Executed in a skilled manner, e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

"YARD": An open space on the same lot with a building, structure or use, unoccupied and unobstructed from the ground up, except for accessory buildings, or such projections as are expressly permitted in these regulations.

"YARD, FRONT": A yard extending across the full width of the lot between the front lot line and the nearest line or point of the building.

"YARD, REAR": A yard extending across the full width of the lot between the rear lot line and the nearest line or point of the principal building.

"YARD, SIDE": A yard extending from the front yard to the rear yard between the side lot line and the nearest line or point of the building.

ARTICLE III - GENERAL REQUIREMENTS

DIVISION I - GENERAL

29-3-1 **SCOPE.** The provisions of this Chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

29-3-2 **RESPONSIBILITY.** The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this Code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this Chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

29-3-3 **VACANT STRUCTURES AND LAND.** All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

29-3-4 **RESERVED.**

DIVISION II - EXTERIOR PROPERTY AREAS

29-3-5 **SANITATION.** All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

29-3-6 **GRADING AND DRAINAGE.** All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

(A) **Exception:** Approved retention areas and reservoirs.

29-3-7 **SIDEWALKS AND DRIVEWAYS.** All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

29-3-8 **WEEDS.** (See Chapter 25; Article II)

29-3-9 **RODENT HARBORAGE.** All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

29-3-10 **EXHAUST VENTS.** Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate waste directly upon abutting or adjacent public or private property or that of another tenant.

29-3-11 **ACCESSORY STRUCTURES.** All accessory structures, including detached garages, fence and walls, shall be maintained structurally sound and in good repair.

29-3-12 **MOTOR VEHICLES.** Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

29-3-13 **PARKING MOTOR VEHICLES.** The parking of vehicles on any surface that is not an imposed surface in the front or side yard areas of a residential zone district is prohibited. Boats, travel trailers and utility trailers are subject to the **Zoning Code – Chapter 40.**

(A) **Improved Surface.** Means an area, excluding a driveway, the surface of which is comprised of a selected materials constructed to a depth sufficient to distribute the weight of a vehicle over such area to preclude deterioration and deflection of the area due to vehicle load, adverse weather, or other conditions.

29-1-14 **GRAFFITI.** All structures and exterior property shall be kept free from graffiti. The existence of graffiti on building, or on structures, including but not limited to fences or walls located upon any property is declared a nuisance. Where graffiti is found, a notice shall be issued describing the nuisance and shall establish a reasonable time limit for the abatement thereof by such owner, which time shall be not less than **five (5) days** nor more than **fourteen (14) days** after service of such notice. The notice shall also specify clearly that graffiti established on a painted surface shall be painted over with a color consistent with the predominant tone of the building or structure, and that graffiti established on any unpainted masonry or wood surface shall be removed by clearing so that such unpainted surface is returned.

DIVISION III – SWIMMING POOLS, SPAS AND HOT TUBS

29-3-15 **SWIMMING POOLS.** Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

29-3-16 **ENCLOSURES.** Private swimming pools, hot tubs and spas, containing water more than **twenty-four (24) inches (610 mm)** in depth shall be completely surrounded by a fence or barrier at least **forty-eight (48) inches (1219 mm)** in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than **fifty-four (54) inches (1372 mm)** above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of **six (6) inches (152 mm)** from the gatepost. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

29-3-17 **RESERVED.**

DIVISION IV - EXTERIOR STRUCTURE

29-3-18 **GENERAL.** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

29-1-19 **UNSAFE CONDITIONS.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the Code of Ordinances as required for existing buildings:

- (A) The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
- (B) The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
- (C) Structures or components thereof that have reached their limit state;
- (D) Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
- (E) Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects;
- (F) Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
- (G) Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
- (H) Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair

with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;

(I) Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects.

(J) Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;

(K) Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

(L) Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects; or

(M) Chimneys, cooling towers, smokestacks and similar appurtenance not structurally sound or not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. When substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted when approved by the Code Official.

29-3-20 PROTECTIVE TREATMENT. All exterior surfaces, including but not limited to, doors door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

29-3-21 PREMISES IDENTIFICATION. Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of **four (4) inches (102 mm)** high with a minimum stroke width of **one-half (0.5) inch (12.7 mm)**.

29-3-22 STRUCTURAL MEMBERS. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

29-3-23 **FOUNDATION WALLS.** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

29-3-24 **EXTERIOR WALLS.** All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

29-3-25 **ROOFS AND DRAINAGE.** The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampers or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspout shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

29-3-26 **DECORATIVE FEATURES.** All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

29-3-27 **OVERHANG EXTENSIONS.** All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes, exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

29-3-28 **STAIRWAYS, DECKS, PORCHES AND BALCONIES.** Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

29-3-29 **HANDRAILS AND GUARDS.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

29-3-30 **WINDOW, SKYLIGHT AND DOOR FRAMES.** Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

(A) **Glazing.** All glazing materials shall be maintained free from cracks and holes.

(B) **Openable Windows.** Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

29-3-31 **INSECT SCREENS.** During the period from April to October, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than **16 mesh per inch (16 mesh per 25 mm)** and every swinging door shall have a self-closing device in good working condition.

(A) **Exception:** Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

29-3-32 **DOORS.** All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, rooming units and guestrooms shall tightly secure the door. Locks on means of egress doors shall be in accordance with **Section 29-7-5.**

29-3-33 **BASEMENT HATCHWAYS.** Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

29-3-34 **GUARDS FOR BASEMENT WINDOWS.** Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

29-3-35 **BUILDING SECURITY.** Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

(A) **Doors.** Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock meeting specifications set forth herein. Such deadbolt locks shall be operated only by the turning of a knob or a key and shall have a lock throw of not less than **one (1) inch.** For the purpose of this Section, a sliding bolt shall not be considered an acceptable deadbolt lock. Such deadbolt locks shall be installed according to manufacturer's specifications and maintained in good working order.

All deadbolt locks required by this Section shall be designed and installed in such a manner so as to be operable inside of the dwelling unit, rooming unit or housekeeping unit without the use of a key, tool, combination thereof or any other special knowledge or effort.

(B) **Windows.** Operable windows located in whole or in part within **six (6) feet (1828 mm)** above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking devices.

(C) **Basement Hatchways.** Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

29-3-36 **GATES.** All exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

DIVISION V - INTERIOR STRUCTURE

29-3-37 GENERAL. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, **two (2)** or more dwelling units or **two (2)** or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

(A) **Unsafe Conditions.** The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with **Chapter 6 Building Regulations:**

- (1) The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
- (2) The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads and load effects;
- (3) Structures or components thereof that have reached their limit state;
- (4) Structural members are incapable of supporting nominal loads and load effects;
- (5) Stairs, landings, balconies and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
- (6) Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
- (7) When substantiated otherwise by an approved method.
- (8) Demolition of unsafe conditions shall be permitted when approved by the Code Official.

29-3-38 STRUCTURE MEMBERS. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

29-3-39 INTERIOR SURFACES. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

29-3-40 STAIRS AND WALKING SURFACES. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

29-3-41 HANDRAILS AND GUARDS. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good

condition.

29-3-42 INTERIOR DOORS. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

DIVISION VI – COMPONENT SERVICEABILITY

29-3-43 GENERAL. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

(A) **Unsafe Conditions.** Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with **Chapter 6 Building Regulations** as required for existing buildings:

- (1) Soils that have been subjected to any of the following conditions:
 - (a) Collapse of footing or foundation systems;
 - (b) Damage to footing, foundation, concrete or other structural element due to soil expansion;
 - (c) Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
 - (d) Inadequate soil as determined by a geotechnical investigation;
 - (e) Where the allowable bearing capacity of the soil is in doubt; or
 - (f) Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.
- (2) Concrete that has been subject to any of the following conditions:
 - (a) Deterioration;
 - (b) Ultimate deformation;
 - (c) Fractures;
 - (d) Fissures;
 - (e) Spalling;
 - (f) Exposed reinforcement; or
 - (g) Detached, dislodged or failing connections.
- (3) Aluminum that has been subject to any of the following conditions:
 - (a) Deterioration;
 - (b) Corrosion;
 - (c) Elastic deformation;
 - (d) Ultimate deformation;
 - (e) Stress or stain cracks;
 - (f) Joint fatigue; or
 - (g) Detached, dislodged or failing connections.
- (4) Masonry that has been subject to any of the following conditions:
 - (a) Deterioration;
 - (b) Ultimate deformation;
 - (c) Fractures in masonry or mortar joints;
 - (d) Fissures in masonry or mortar joints;
 - (e) Spalling;

- (f) Exposed reinforcement; or

- (g) Detached, dislodged or failing connections.
- (5) Steel that has been subject to any of the following conditions:
 - (a) Deterioration;
 - (b) Elastic deformation;
 - (c) Ultimate deformation;
 - (d) Metal fatigue; or
 - (e) Detached, dislodged or failing connections.
- (6) Wood that has been subject to any of the following conditions:
 - (a) Ultimate deformation;
 - (b) Deformation;
 - (c) Damages from insects, rodents and other vermin;
 - (d) Fire damage beyond charring;
 - (e) Significant splits and cracks;
 - (f) Horizontal shear cracks;
 - (g) Vertical shear cracks;
 - (h) Inadequate support;
 - (i) Detached, dislodged or failing connections; or
 - (j) Excessive cutting and notching.

Exception:

- (A) When substantiated otherwise by an approved method.
- (B) Demolition of unsafe conditions shall be permitted when approved by the Code Official.

DIVISION VII – HANDRAILS AND GUARDRAILS

29-3-44 GENERAL. Every exterior and interior flight of stairs having more than **four (4) risers** shall have a handrail on one side of the stairs and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than **thirty (30) inches (762 mm)** above the floor or grade below shall have guards. Handrails shall not be less than **thirty (30) inches (762 mm)** in height or more than **forty-two (42) inches (1067 mm)** in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than **thirty (30) inches (762 mm)** in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: Guards shall not be required where exempted by the adopted Building Code.

29-3-45 RESERVED.

DIVISION VIII - RUBBISH AND GARBAGE

29-3-46 ACCUMULATION OF RUBBISH OR GARBAGE. All exterior property and premises, and the interior of every structure shall be free from any accumulation of rubbish or garbage.

29-3-47 DISPOSAL OF RUBBISH. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

(A) **Rubbish Storage Facilities.** The owner of every occupied premise shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

(B) **Refrigerators.** Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.

29-3-48 DISPOSAL OF GARBAGE. Every occupant of a structure shall dispose of all rubbish garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

(A) **Garbage Facilities.** The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit; an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leakproof, covered, outside garbage container.

(B) **Containers.** The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

29-3-49 RESERVED.

DIVISION IX – PEST ELIMINATION

29-3-50 INFESTATION. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

29-3-51 OWNER. The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

29-3-52 SINGLE OCCUPANT. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the premises.

29-3-53 MULTIPLE OCCUPANCY. The owner of a structure containing **two (2)** or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant and owner shall be responsible for pest elimination.

29-3-54 OCCUPANT. The occupant of any structure shall be responsible for the continued rat-free condition of the structure, and if the occupant fails to maintain the rat-free condition, the cost of extermination shall be the responsibility of the occupant.

(A) **Exception:** Where the infestations are caused by defects in the structure,

the owner shall be responsible for pest elimination.

ARTICLE IV - LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS**DIVISION I - GENERAL**

29-4-1 **SCOPE.** The provisions of this Chapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

29-4-2 **RESPONSIBILITY.** The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this Chapter.

29-4-3 **ALTERNATIVE DEVICES.** In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the *International Building Code* shall be permitted.

29-4-4 **RESERVED.**

DIVISION II - LIGHT

29-4-5 **HABITABLE SPACES.** Every habitable space shall have at least **one (1) window** of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be **eight percent (8%)** of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than **three (3) feet (914 mm)** from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least **eight percent (8%)** of the floor area of the interior room or space, but not less than **twenty-five (25) square feet (2.33 m²)**. The exterior glazing area shall be based on the total floor area being served.

29-4-6 **COMMON HALLS AND STAIRWAYS.** Every common hall and stairway in residential occupancies, other than in one-and two-family dwellings, shall be lighted at all times with at least a **sixty (60) watt** standard incandescent light bulb for each **two hundred (200) square feet (19 m²)** of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than **thirty (30) feet (9144 mm)**. In other than residential occupancies, means of egress, including exterior means of egress stairways shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of **one (1) footcandle (11 lux)** at floors, landings and treads.

29-4-7 **OTHER SPACES.** All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliance, equipment and fixtures.

29-4-8 **RESERVED.**

DIVISION III - VENTILATION

29-4-9 **HABITABLE SPACES.** Every habitable space shall have at least **one (1)** openable window. The total openable area of the window in every room shall be equal to at least **forty-five percent (45%)** of the minimum glazed area required in **Section 29-4-5.**

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least **eight percent (8%)** of the floor area of the interior room or space, but not less than **twenty-five (25) square feet (2.33 m²)**. The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

29-4-10 **BATHROOMS AND TOILET ROOMS.** Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by **Section 29-4-9**, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

Exception: This Section shall not apply to existing nonconforming buildings or structures.

29-4-11 **COOKING FACILITIES.** Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a rooming unit or dormitory unit.

Exception:

(A) Where specifically approved in writing by the Code Official.

(B) Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

29-4-12 **PROCESS VENTILATION.** Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

29-4-13 **CLOTHES DRYER EXHAUST.** Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions.

Exception: Listed and labeled condensing (ductless) clothes dryers.

29-4-14 **RESERVED.**

DIVISION IV - OCCUPANCY LIMITATIONS

29-4-15 **PRIVACY.** Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

29-4-16 **MINIMUM ROOM WIDTHS.** A habitable room, other than a kitchen, shall not be less than **seven (7) feet (2134 mm)** in any plan dimension. Kitchens shall have a clear passageway of not less than **three (3) feet (914 mm)** between counterfronts and appliances or counterfronts and walls.

Exception: This Section shall not apply to existing nonconforming buildings or structures.

29-4-17 **MINIMUM CEILING HEIGHTS.** Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than **seven (7) feet (2134 mm)**.

Exceptions:

(A) In one- and two-family dwellings, beams or girders spaced not less than **four (4) feet (1219 mm)** on center and projecting not more than **six (6) inches (152 mm)** below the required ceiling height.

(B) Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than **six (6) feet eight (8) inches (2033 mm)** with not less than **six (6) feet four (4) inches (1932 mm)** of clear height under beams, girders, ducts and similar obstructions.

(C) Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least **seven (7) feet (2134 mm)** over not less than **one-third (1/3)** of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of **five (5) feet (1524 mm)** or more shall be included.

(D) This Section shall not apply to existing nonconforming buildings or structures.

29-4-18 **BEDROOM AND LIVING ROOM REQUIREMENTS.** Every bedroom and living room shall comply with the requirements of **Sections 29-4-18(A)** through **29-4-18(F)**.

(A) **Room Area.** Every living room shall contain at least **one hundred twenty (120) square feet (11.2 m²)** and every bedroom shall contain a minimum of **seventy (70) square feet (6.5 m²)** and every bedroom occupied by more than one person shall contain a minimum of **fifty (50) square feet (4.6 m²)** of floor area for each occupant thereof.

(B) **Closet.** Bedrooms shall contain at least **one (1) closet** or contain at least **nine (9) square feet** or an approved wardrobe cabinet.

(C) **Access From Bedroom.** Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

Exception:

(1) Units that contain fewer than **two (2) bedrooms**.

(2) Nonconforming use.

(D) **Water Closet Accessibility.** Every bedroom shall have access to at least **one (1)** water closet and **one (1)** lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least **one (1)** water closet and lavatory located in the same story as the bedroom or an adjacent story.

Exception: Nonconforming use.

(E) **Prohibited Occupancy.** Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

(F) **Other Requirements.** Bedrooms shall comply with the applicable provisions of this Code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this Chapter; the plumbing facilities and water-heating facilities requirements of **Article V**; the heating facilities and electrical receptacle requirements of **Article VI**; and the smoke detector and emergency escape requirements of **Article VII**.

29-4-19 OVERCROWDING. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of **Table 29-4-19**.

**Table 29-4-19
MINIMUM AREA REQUIREMENTS**

Space	Minimum area in square feet		
	1-2 occupants	3-5 occupants	6 or more
Living room(a,b)	120	120	150
Dining room (a,b)	No requirements	80	100
Bedrooms	Shall comply with Section 29-4-18(A)		

For SI: 1 square foot = 0.093 m²

Note a. See Section 29-4-19(B) for combined living room/dining room spaces.

Note b. See Section 29-4-19(A) for limitations on determining the minimum occupancy area for sleeping purposes.

(A) **Sleeping Area.** The minimum occupancy area required by **Table 29-4-19** shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with **Section 29-4-18**.

Exception.

(1) Nonconforming use.

(2) Manufactured homes.

(a) All bedrooms shall have at least **fifty (50) square feet** of floor area.

(b) Bedrooms designed for **two (2)** or more people shall have **seventy (70) square feet** of floor area plus **fifty (50) square feet** for each person in excess of **two (2)**. (HUD 3280.109)

(B) **Combined Spaces.** Combined living room and dining room spaces shall comply with the requirements of **Table 29-4-19** if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

29-4-20 **EFFICIENCY UNIT.** Nothing in this Section shall prohibit an efficiency living unit from meeting the following requirements:

(A) A unit occupied by not more than **one (1) occupant** shall have a minimum clear floor area of **one hundred twenty (120) square feet (11.2 m²)**. A unit occupied by **two (2) occupants** shall have a minimum clear floor area of **two hundred twenty (220) square feet (20.4 m²)**. A unit occupied by **three (3) occupants** shall have a minimum clear floor area of **three hundred twenty (320) square feet (29.7 m²)**. These required areas shall be exclusive of the areas required by paragraphs (B) and (C).

(B) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of **thirty (30) inches (762 mm)** in front. Light and ventilation conforming to this Code shall be provided.

(C) The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

(D) The maximum number of occupants shall be **three (3)**.

29-4-21 **FOOD PREPARATION.** All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

ARTICLE V - PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

DIVISION I - GENERAL

29-5-1 **SCOPE.** The provisions of this Chapter shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

29-5-2 **RESPONSIBILITY.** The owner of the structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any structure or premises which does not comply with the requirements of this Chapter.

DIVISION II - REQUIRED FACILITIES

29-5-3 **DWELLING UNITS.** Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

29-5-4 **ROOMING HOUSES.** At least **one (1)** water closet, lavatory and bathtub or shower shall be supplied for each **four (4)** rooming units.

DIVISION III - TOILET ROOMS

29-5-5 **PRIVACY.** Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

29-5-6 **FLOOR SURFACE.** In other than dwelling units, every toilet room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

DIVISION IV – PLUMBING SYSTEMS AND FIXTURES

29-5-7 **GENERAL.** All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

29-5-8 **FIXTURE CLEARANCES.** Plumbing fixtures shall have adequate clearance for usage and cleaning.

29-5-9 **PRESSURE-RELIEF VALVE.** Boilers shall be equipped with pressure-relief valves with minimum rated capacities for equipment served. Pressure relief valves shall be set at the maximum rating of the boiler. Discharge shall be piped to drains by gravity to within **eighteen (18) inches (457 mm)** of the floor or to an open receptor.

29-5-10 **PLUMBING SYSTEM HAZARDS.** Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the Code Official shall require the defects to be corrected to eliminate the hazard.

DIVISION V - WATER SYSTEM

29-5-11 **GENERAL.** Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixtures shall be properly connected to either a public water system or to an approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the *Illinois Plumbing Code*.

29-5-12 **CONTAMINATION.** The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sinks faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

29-5-13 **SUPPLY.** The water supply system shall be installed and maintained provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixture to function properly, safely, and free from defects and leaks.

29-5-14 **WATER HEATING FACILITIES.** Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a minimum temperature of not less than **one hundred (100) degrees F. (43 degrees C.)**. A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

29-5-15 **WATER HEATERS INSTALLED IN GARAGES.** Water heaters having an ignition source shall be elevated such that the source of ignition is not less than **eighteen (18) inches (457 mm)** above the garage floor.

Exception: Elevation of the ignition source is not required for appliances that are listed as flammable vapor ignition resistant.

DIVISION VI – SANITARY DRAINAGE SYSTEM

29-5-16 **GENERAL.** All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

29-5-17 **MAINTENANCE.** Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

29-5-18 **GREASE INTERCEPTORS.** Grease interceptors and automatic grease removal devices shall be maintained in accordance with this Code and manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewer treatment plant or processes. All records of maintenance, cleaning and repairs shall be available for inspection by the Code Official. **(See Chapter 38, Article IV)**

DIVISION VII - STORM DRAINAGE

29-5-19 **GENERAL.** Drainage of roofs and paved areas, yards and courts, and other open areas on the premises shall not be discharged in a manner that creates a public nuisance.

ARTICLE VI - MECHANICAL AND ELECTRICAL REQUIREMENTS**DIVISION I - GENERAL**

29-6-1 **SCOPE.** The provisions of this Chapter shall govern the minimum mechanical and electrical facilities and equipment to be provided.

29-6-2 **RESPONSIBILITY.** The owner of the structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises which does not comply with the requirements of this Chapter.

DIVISION II - HEATING FACILITIES

29-6-3 **FACILITIES REQUIRED.** Heating facilities shall be provided in structures as required by this Section.

29-6-4 **RESIDENTIAL OCCUPANCIES.** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of **sixty-eight (68) degrees F. (20 degrees C.)** in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Section R303.9 of the *International Residential Code*. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

29-6-5 **HEAT SUPPLY.** Every owner and operator of any building who rents, leases or lets one or more dwelling units, or sleeping units on terms, either express or implied, to furnish heat to the occupants thereof shall supply heat during the period from October to April to maintain a minimum temperature of **sixty-eight (68) degrees F. (20 degrees C.)** in all habitable rooms, bathrooms, and toilet rooms.

29-6-6 **ROOM TEMPERATURE MEASUREMENT.** The required room temperatures shall be measured **three (3) feet (914 mm)** above the floor and near the center of the room and **two (2) feet (610 mm)** inward from the center of each exterior wall.

DIVISION III - MECHANICAL EQUIPMENT

29-6-7 **MECHANICAL APPLIANCES.** All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

29-6-8 **REMOVAL OF COMBUSTION PRODUCTS.** All fuel-burning equipment and appliances shall be connected to an approved chimney or vent.

Exception: Fuel-burning equipment and appliances which are labeled for unvented operation.

29-6-9 **CLEARANCES.** All required clearances to combustible materials shall be maintained.

29-6-10 **ELEVATION OF IGNITION SOURCE.** Equipment and appliances having ignition source shall be elevated such that the source of ignition is not less than **eighteen (18) inches (457 mm)** above the floor in hazardous locations. For the purpose of this Section, rooms or spaces that are not part of the living space of a dwelling unit and that communicate directly with a private garage through openings shall be considered to be part of the private garage.

Exception. Elevation of the ignition source is not required for appliances that are listed as flammable vapor ignition resistant.

(A) **Installation in Residential Garages.** In residential garages where appliances are installed in a separate, enclosed space having access only from outside of the garage, such appliances shall be permitted to be installed at floor level, provided that the required combustion air is taken from the exterior of the garage.

29-6-11 **SAFETY CONTROLS.** All safety controls for fuel-burning equipment shall be maintained in effective operation.

29-6-12 **COMBUSTION AIR.** A supply of air for complete combustion of the fuel and for ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

29-6-13 **ENERGY CONSERVATION DEVICES.** Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless labeled for such purpose and the installation is specifically approved.

DIVISION IV - ELECTRICAL FACILITIES

29-6-14 **FACILITIES REQUIRED.** Every occupied building shall be provided with an electrical system in compliance with the requirements of this Section and **Article VI Division V.**

29-6-15 **SERVICE.** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70 listed in **Article VIII.** Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of **sixty (60) amperes.**

29-6-16 **ELECTRICAL SYSTEM HAZARDS.** Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the Code Official shall require the defects to be corrected to eliminate the hazard.

DIVISION V - ELECTRICAL EQUIPMENT

29-6-17 **INSTALLATION.** All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

29-6-18 **RECEPTACLES.** Every habitable space in a dwelling shall contain at least **two (2)** separate and remote receptacle outlets. Every laundry area shall contain at least **one (1)** grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least **one (1)** receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

29-6-19 **LUMINAIRES.** Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least **one (1)** electric luminaire. Pool and spa luminaries over **fifteen (15) V** shall have ground fault circuit interrupter protection.

29-6-20 **WIRING.** Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

DIVISION VI – DUCT SYSTEMS

29-6-21 **GENERAL.** Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

ARTICLE VII - FIRE SAFETY REQUIREMENTS

DIVISION I - GENERAL

29-7-1 **SCOPE.** The provisions of this Article shall govern the minimum conditions and standards for fire safety relating to structures and exterior premises, including fire safety facilities and equipment to be provided.

29-7-2 **RESPONSIBILITY.** The owner of the premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A person shall not occupy as owner-occupant or permit another person to occupy any premises that do not comply with the requirements of this Article.

DIVISION II - MEANS OF EGRESS

29-7-3 **GENERAL.** A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the *International Fire Code*.

29-7-4 **AISLES.** The required width of aisles in accordance with the *International Fire Code* shall be unobstructed.

29-7-5 **LOCKED DOORS.** All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the *International Building Code*.

29-7-6 **EMERGENCY ESCAPE OPENINGS.** Required emergency escape openings shall be maintained in accordance with the Code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the Code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

29-7-7 **FIRE PARTITIONS.**
(A) **Opening Protection.** Openings from a private garage directly into a room used for sleeping purposes shall not be permitted. Other openings between the garage and residence shall be equipped with either solid wood doors not less than **one and three-eighths (1 3/8) inch (35 mm)** in thickness, solid or honeycomb core steel doors not less than **one and three-eighths (1 3/8) inch (35 mm)** thick, or **twenty (20) minute** fire-rated doors.

(B) **Floor Surfaces.** Garage floor surfaces shall be of approved noncombustible material.

(C) **Separation Required.** The garage shall be separated from the residence and its attic area by not less than **one-half (1/2) inch (12.7 mm)** gypsum board applied to the garage side. Garages beneath habitable rooms shall be separated from all habitable rooms above by not less than **five-eighths (5/8) inch (15.9 mm)** Type X gypsum board or equivalent. Where the separation is a floor-ceiling assembly, the structure supporting the separation shall also be protected by not less than **one-half (1/2) inch (12.7 mm)** gypsum board or equivalent.

(D) **Duplex.** Dwelling units in two-family dwellings shall be separated from each other by wall and/or floor assemblies having not less than **one (1) hour** fire-resistance rating when tested in accordance with ASTM E 119. Fire resistance-rated floor-ceiling and wall assemblies shall extend to and be tight against the exterior wall, and wall assemblies shall extend to the underside of the roof sheathing.

DIVISION III - FIRE-RESISTANCE RATINGS

29-7-8 FIRE-RESISTANCE-RATED ASSEMBLIES. The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

29-7-9 OPENING PROTECTIVES. Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

DIVISION IV - FIRE PROTECTION SYSTEMS

29-7-10 GENERAL. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the *International Fire Code*.

(A) **Automatic Sprinkler Systems.** Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

29-7-11 SMOKE ALARMS. Single or multiple-station smoke alarms shall be installed and maintained in Group R occupancies, regardless of occupant load at all of the following locations:

(A) On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.

(B) In each room used for sleeping purposes.

(C) In each story within a dwelling unit, including basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than **one (1)** full story below the upper level.

29-7-12 POWER SOURCE. In Group R or I-1 occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exception: Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

29-7-13 INTERCONNECTION. Where more than **one (1)** smoke alarm is required to be installed within an individual dwelling unit in Group R or I-1 occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exceptions:

(A) Interconnection is not required in buildings which are not undergoing alterations, repairs or construction of any kind.

(B) Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

29-7-14 CARBON MONOXIDE DETECTORS. Effective **January 1, 2007**, every Illinois home was required to have at least one carbon monoxide alarm in an operating condition within **fifteen (15) feet** of every room used for sleeping purposes. Homes that do not rely on the burning of fuel for heat, ventilation or hot water; are not connected to a garage; and are not near a source of carbon monoxide (as determined by the Code Official) are not required to install carbon monoxide detectors.

ARTICLE VIII – CRIMINAL NUISANCE ABATEMENT

DIVISION I – NUISANCE FREE RENTAL HOUSING

29-8-1 **NUISANCE FREE RENTAL HOUSING.** It is determined and declared to be in the best interests of the residents of the Village to implement a program in order to work with all owners, operators and persons in charge of rental housing to eliminate nuisance activity in order to safeguard their property and create a peaceful and safe environment in the Village.

It is the responsibility of the owners, operators and persons in charge of rental housing to take any and all actions permitted by law to eliminate such nuisances. However, this Article shall not be construed or enforced in any manner which would affect the tenancy of a Tenant whose only involvement in nuisance activity is only as the victim of a crime.

29-8-2 **NUISANCE FREE LEASE ADDENDUM.** Any owner, operator or person in charge of rental housing is required to utilize a nuisance-free lease addendum, in the form provided by the Chief, as part of every lease executed by an owner, operator or person in charge. The lease addendum shall state that any nuisance activity committed on the subject property by the Tenant, member of the Tenant’s household, guest, operator or person in charge shall have the authority pursuant to the lease addendum to initiate eviction proceedings under Section 9-120 of the Illinois Code of Civil Procedure (**735 ILCS 5/9-120**) and/or other Illinois law regarding forcible entry and detainer.

29-8-3 **VIOLATIONS.**

(A) Any property on which nuisance activity occurs may be declared a nuisance property. No property shall be declared a nuisance property unless it is proven by a preponderance of the evidence that there has been **one (1)** or more instances of nuisance activity within a **one (1) year** period of time arising out of or arising from the property.

(B) Any owner, operator or person in charge who (a) allows or permits a property to become a nuisance property; (b) allows or permits a property to continue as a nuisance property; and (c) fails to implement reasonable and warranted measures, as specified in writing by the Chief, shall be in violation of this Article.

(C) Each day that a violation of this Article continues shall be considered a separate and distinct offense.

29-8-4 **PROCEDURES.**

(A) When the Police Chief receives notification **one (1)** or more documented occurrences of nuisance activity on a property, he or she may, at his or her discretion, independently review such reports to determine whether they describe the activities, behaviors, or conduct enumerated under **Section 25-1-1** hereof. Upon such finding, the Chief may, at his or her discretion, do either of the following:

(1) Notify the owner, operator or person in charge, in writing, that the property has been determined to be a nuisance property. If the Police Chief sends such notice, the notice shall contain the following information:

(a) The street address of the property or a legal description sufficient for identification of the property.

- (b) A statement that the matter is being referred to the Village law department to be brought before an administrative hearing officer, as defined in **25-1-1** of this Code, for a hearing.
 - (c) If the person in charge notifies the Police Chief immediately upon receipt of the notice and agrees to abate the nuisance within **ten (10) days**, or take other agreed upon, timely and warranted measures, the Police Chief may, at his or her discretion, postpone referring the matter to the law department.
 - (d) Service of notice shall be made either personally or by first-class mail, postage prepaid, or such other place which is likely to give the owner, operator or person in charge notice of the determination of the Police Chief.
 - (e) A copy of the notice shall be served on the owner at the address shown on the tax rolls of the county in which the property is located, and/or occupant at the address of the property, if these persons are different than the operator or person in charge, and shall be made either personally or by first-class mail, postage prepaid.
 - (f) The failure of any person to receive notice, as provided above, shall not invalidate or otherwise affect the proceedings under this chapter.
- (2) Notify the owner, operator or person in charge, in writing, that property is in danger of becoming declared a nuisance property. If the Police Chief sends such notice, the notice shall contain the following information:
- (a) The street address of the property or a legal description for identification of the property;
 - (b) A statement that the Police Department has information that the property may be a nuisance property along with a concise description of the nuisance activities that exist or have occurred. The Police Chief shall offer the owner, operator or person in charge an opportunity to propose a course of action that the Police Chief agrees will abate the nuisance activities giving rise to the violation.
 - (c) Demand that the person in charge respond to the Police Chief within **ten (10) business days** to discuss the nuisance activity.

29-8-5 BURDEN OF PROOF; PROCEDURE; FINES AND REMEDIES.

(A) At hearing before the administrative hearing officer, the Village shall have the initial burden of proof to show, by a preponderance of evidence, that the property is a nuisance property.

(B) If an owner, operator or person in charge is summoned before the hearing officer due to nuisance property, he shall give notice, in writing, to all of his tenants on that property. Said notice shall provide the following: The physical address of the property; the date and time that the property owner is to appear before the hearing officer; the fact that the appearance is due to alleged nuisance activity; and the be delivered, either personally or by U.S. mail, to each tenant on the property and must be posted in a prominent location on the property where the tenant(s) are likely to see it.

(C) Such a hearing shall be held in accordance with the procedures, as specified in **25-3-5**. The Village's representative shall present evidence in support of its claim that the property is a nuisance property. The owner, operator or person in charge or a legal representative shall be permitted to rebut such evidence and present any other evidence that is, in the discretion of the hearing officer, relevant and reliable. The owner, operator, person in charge or tenant may invoke at hearing the affirmative defense set forth in Section 9-106.2 of the Illinois Code of Civil Procedure (**735 ILCS 5/9-106.2**), and, if proven by a preponderance of the evidence, such tenant shall not be forced to vacate the property for any initial incident involving domestic violence or sexual violence at the property, provided that the owner, operator or person in charge must have barred the perpetrator of such domestic violence or sexual violence in accordance with applicable subsections (f) and/or (g) thereof.

(D) 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 violation of this Article exists. The determination shall be in writing and shall be designated as the findings, decisions, and order. The hearing officer's decision shall be final and binding. The findings, decision and order shall include the hearing officer's finding of fact, and order for abatement of the nuisance activity or sanctioning the owner, operator or person in charge, as specified below, or dismissing the case in the event a violation is not proved.

- (1) A copy of the findings, decision, and order shall be served upon the person in charge, or owner or operator if different than the person in charge, within **ten (10) business days**. Service shall be in the same manner as specified in **25-3-5**.
- (2) Payment of any penalty or fine shall be made to the Village.
- (3) In the event that the order provides for the abatement of nuisance activity, the hearing officer shall establish a status date, which would be after the date established for the abatement of the nuisance activity, in order to determine where there has been compliance with the order. At such time, the hearing officer shall hear testimony and accept any evidence relevant to the compliance with the order and continued abatement of the nuisance activity.

(E) If the hearing officer makes a finding that a property was, or is, a nuisance property, he may impose any or all of the following remedies:

- (1) Fine the person in charge, and/or the owner or operator of the property if those persons are different than the person in charge, not less than **Two Hundred Dollars (\$200.00)** and not more than **One Thousand Dollars (\$1,000.00)** for each violation of this Article. Each day a nuisance activity occurs or continues shall be considered a separate and distinct violation. The hearing officer may, at his or her discretion, impose such a fine for each day the nuisance activity goes unabated. No person shall be found in violation of this section unless the Village proves by a preponderance of the evidence that the owner, operator or person in charge failed to take reasonable and warranted measures to abate the nuisance activity. In establishing the amount of any fine, the hearing officer may consider any of the following factors:
 - (a) The actions taken by the owner, operator or person in charge to mitigate or correct the nuisance activities at the property.
 - (b) The repeated or continuous nature of the problem.
 - (c) The magnitude or gravity of the problem.
 - (d) Amount of cooperation given to the Village by the owner, operator or person in charge.

- (e) The cost incurred on the Village to investigate, correct, or attempt to correct the nuisance activities.
 - (f) Any other factors deemed relevant by the hearing officer. Evidence of a property's general reputation and/or the reputation of the persons in or frequenting it shall be admissible.
- (2) Order the owner, operator or person in charge to take reasonable, timely and lawful measures to abate the nuisance activity, including specifying deadlines for the same, and in furtherance thereof, may order a period of continued compliance wherein the matter will be returned before the hearing officer to update him/her as to the continued nuisance-free status of the property for a period of up to **one (1) year**.
 - (3) Suspend/revoke the rental housing occupancy and criminal nuisance abatement permit for the rental unit(s) involved in the nuisance or aggravated nuisance activity if such property is rented or leased. The hearing officer may order that said rental unit(s) be closed and secured against all unauthorized access, use, and occupancy for a period of up to **one (1) year**. If the hearing officer suspends or revokes the rental housing occupancy and criminal nuisance abatement permit for the rental unit(s) involved in the nuisance activity, the person in charge, or the owner or operator of the rental unit(s), if those persons are different than the person in charge, shall receive written notice that the rental housing occupancy and criminal nuisance abatement permit and the right to lease said unit(s) is suspended or revoked, as the case may be. The suspension or revocation of any rental housing occupancy and criminal nuisance abatement permit, or any right to lease unit(s), shall not release or discharge the rental housing occupancy and criminal nuisance abatement permit holder from paying fees or fines under this Code, nor shall such rental housing occupancy and criminal nuisance abatement permit holder be released from criminal prosecution or further civil proceedings.
 - (4) Suspend or revoke the occupancy permit that has been issued by the Village for the establishment, business, club or any commercial entity that currently occupies the property. The hearing officer may order that the property be closed and secured against all unauthorized access, use, and occupancy for a period of up to **one (1) year**.
 - (5) Close any business, office, commercial warehouse, manufacturing, industrial, office or research operation, plant, or any other commercial property, entity, or use located on or in the nuisance property. The hearing officer may order that the property be closed and secured against all unauthorized access, use, and occupancy for a period of up to **one (1) year**.
 - (6) Order that a vacant or unused nuisance property of whatever use or a vacant lot which is a nuisance property, whether residential or commercial, be closed and secured against all unauthorized use, access and occupancy. The hearing officer may order that the property be closed and secured against all unauthorized access, use, and occupancy for a period of **one (1) year**. The hearing officer may further require that the nuisance property be fenced and/or gated to physically restrict

access. He or She may also require the hiring of security personnel to assure there is no unauthorized access, use, and occupancy.

- (7) Issue an order to close and secure any rented or leased, non-licensed, residential property against all unauthorized access, use, or occupancy for a period of not less than **sixty (60) days**, nor more than **one (1) year**.

(F) The hearing officer shall require each owner, operator or person in charge who is found to have violated this Article to attend the next available rental housing occupancy and criminal nuisance abatement class as administered by the Police Department or any other entity designated by the Village.

29-8-6 CHARGE FOR NUISANCE SERVICES. The Village finds that any premises that has generated more calls for police service for nuisance activities after being declared a nuisance property has received more than the level of general and adequate police service and has placed an undue and inappropriate burden on the taxpayers of the Village. The Village therefore directs the Police Chief to charge the owners of such premises the costs associated with abating nuisance violations as defined herein at such premises for a period of **one (1) year**, after which, charging for the services will cease unless the Village reconsiders the facts and determines to continue to charge for such services.

29-8-7 RENTAL HOUSING OCCUPANCY AND CRIMINAL NUISANCE ABATEMENT PERMIT.

(A) **Permit Required.** It shall be unlawful for any person, person in charge, owner or operator, as defined in this Code, to lease, rent, or occupy the premises of a rental property for any reason or use of the said rental property until a rental housing occupancy and criminal nuisance abatement permit has been lawfully issued by the Code Official, notwithstanding the other requirements of this Code, as well as the requirements set forth in **29-1-8** and this Code. The permit so issued shall state that the condition of the premises and its proposed occupation and rental uses comply with all of the provisions of this Code as far as can be determined by a visual inspection of the premises, as well as a review of all relevant records.

(B) **Application for Permit.** It shall be unlawful for any person, person in charge, owner or operator, as defined in this Code, to knowingly or recklessly make any false statement on the application for a rental housing occupancy and criminal nuisance abatement permit to allow occupancy of rental housing units by tenants as to the names, relationships, history, background, criminal nuisance activity, nuisance activity, or number of occupants who will occupy the rental unit, notwithstanding the requirements of **29-1-8** of this Code. The following documents shall be submitted with application; copy of lease with nuisance-free lease addendum and rent receipt with photo identification. In order to successfully apply for the permit, any person, person in charge, owner or operator must participate in the Village mandated rental housing occupancy and criminal nuisance abatement class, as well as pay the **Twenty-Five Dollar (\$25.00)** fee per permit, per rental unit, on an annual basis. Any person, person in charge, owner or operator, who has already attended a municipal mandated criminal housing program within the Village, may lawfully opt out of the class by providing documentation of successful program completion in the municipality.

(C) **Action on Application.** The Code Official shall examine or cause to be examined all applications for rental housing occupancy and criminal nuisance abatement permits within a reasonable time after filing. No certificate of rental housing occupancy will be issued until an inspection of the premises and relevant records, as well as successful completion of the class or documentation proof of completion of a like village class, along with payment of the required fees.

(D) **Rejection of Application.** If the application does not comply with the requirements of all pertinent laws, the Code Officials shall reject such application in writing, stating reasons thereof. Rejection of said application would forfeit paid fees and require a new application and class.

(E) **Suspension of Permit.** Any permit issued shall become invalid if the occupancy of the rental unit is not commenced within **six (6) months** after issuance of the permit. Any permit shall also become invalid for a period specified by the Code Official if a violation of this Code is found by the hearing officer. Such suspension may result in a fine, as well as the need to reapply for a rental housing occupancy and criminal nuisance abatement permit per rental unit that is found in violation.

(F) **Revocation of Permit.** The Code Official may revoke a permit in case of any false statement or misrepresentation of facts in the application on which the permit was based, or in the event of a violation of **29-1-8** and this Code. Such revocation will result in a fine, as well as the need to reapply for a rental housing occupancy and nuisance abatement permit per rental unit found in violation of the law or this Code.

ARTICLE IX - REFERENCED STANDARDS

This Article lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title, and the section or sections of this document the reference the standard. The application of the referenced standards shall be as specified in **Section 29-1-11**.

**ASME American Society of Mechanical Engineers
Three Park Ave
New York, NY 10016-5990**

Standard reference number	Title	Referenced in code Section Number
A17.1/CSA B44-2007	Safety Code for Elevations or Escalators	606.1

**ASTM ASTM International
100 Barr Harbor Drive
West Conshohocken, PA 19428-2959**

Standard reference number	Title	Referenced in code Section Number
F 1346-91 (2003)	Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs	303.2

**ICC International Code Council
500 New Jersey Avenue, NW
6th Floor
Washington, DC 20001**

Standard reference number	Title	Referenced in code Section Number
IBC-12	International Building Code®	102.3, 201.3, 401.3, 702.3
IEBC-12	International Existing Building Code®.....	305.1.1, 306.1.1
IFC-12	International Fire Code®	201.3, 604.3.1.1, 604.3.2.1, 702.1, 702.2, 704.1, 704.2
IFGC-12	International Fuel Code	102.3
IMC-12	International Mechanical Code.....	102.3, 201.3

**NFPA National Fire Protection Association
1 Batterymarch Park
Quincy, MA 02269**

Standard reference number	Title	Referenced in code Section Number
25-11	Inspection, Testing and Maintenance of Water-Based Fire Protections Systems.....	704.1.1
70-11	National Electrical Code.....	102.4, 201.3, 604.2

CHAPTER 30

PUBLIC SAFETY

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CHAPTER 30

PUBLIC SAFETY

ARTICLE I - CIVIL EMERGENCY

30-1-1 DEFINITIONS.

"CIVIL EMERGENCY" is hereby defined to be:

(A) A "riot or unlawful assembly" characterized by the use of actual force or violence or any power to execute by **three (3)** or more persons acting together without authority of law; or

(B) Any "natural disaster" or "man-made calamity", including flood, conflagration, cyclone, tornado, earthquake, or explosion within the corporate limits of the Village resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

"CURFEW" is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the Village excepting officials of any governmental unit and persons officially designated to duty with reference to the civil emergency.

30-1-2 DECLARATION OF EMERGENCY. Whenever an emergency as defined in **Section 30-1-1** exists, the Mayor shall declare the existence by means of a written declaration, setting forth the facts which constitute the emergency.

30-1-3 CURFEW. After proclamation of a civil emergency by the Mayor, he may order a general curfew applicable to such geographical areas of the Village or to the Village as a whole as he deems advisable and applicable during such hours of the day or night as he deems necessary in the interest of the public safety and welfare.

30-1-4 AUTHORITY OF MAYOR TO ISSUE ORDERS. After the proclamation of a civil emergency, the Mayor may also, in the interest of public safety and welfare, make any or all of the following orders.

(A) Order the closing of all retail liquor stores including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted.

(B) Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer.

(C) Order the discontinuance of selling, distributing or giving away of gasoline or other flammable liquid or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(D) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

(E) Issue such other orders as are imminently necessary for the protection of life and property.

30-1-5 **EFFECTIVENESS.** The proclamation herein authorized shall be effective for a period of **forty-eight (48) hours** unless sooner terminated by a proclamation of the Mayor indicating that the civil emergency no longer exists. The Mayor shall have the power to re proclaim the existence of a civil emergency at the end of each **forty-eight (48) hour** period during the time the civil emergency exists.

30-1-6 **NOTIFICATION.** Upon issuing the proclamation herein authorized, the Mayor shall notify the news media situated within the Village and shall cause **three (3) copies** of the proclamation declaring the existence of the emergency to be posted at the following places within the Village:

- (A) The Village Hall.
- (B) The Post Office.
- (C) The Police Station.

(65 ILCS 5/11-1-6)

ARTICLE II - POLICE DEPARTMENT

DIVISION I - DEPARTMENT ESTABLISHED

30-2-1 **DEPARTMENT ESTABLISHED.** There is hereby established a department of the municipal government of the Village which shall be known as the Police Department. The Police Department shall consist of the Chief of Police and of such number of patrolmen as may be provided from time to time by the Village Board.

30-2-2 **OFFICE OF CHIEF CREATED.** There is hereby established the office of the Chief of Police. The Chief of Police shall be appointed by the Mayor with the advice and consent of the Village Board for a term of **one (1) year**.

30-2-3 **DUTIES OF CHIEF.** The Chief of Police shall keep records and make reports concerning the activities of his department as may be required. The Chief shall be responsible for the performance of the Police Department, of all its functions, and all persons who are members of the department shall serve subject to the orders of the Chief of Police.

30-2-4 **APPOINTMENT OF PATROLMEN.** Unless otherwise provided, all patrolmen shall be appointed by the Mayor, by and with the advice and consent of the Village Board. A police officer may be appointed to office by the Mayor and Village Board if he meets the necessary qualifications notwithstanding the fact that the policeman is not a resident of the Village when appointed or when he is to serve as such an official.

30-2-5 **SALARY.** The police department shall receive such compensation as may be provided by ordinance or resolution of the Village Board.

30-2-6 **DUTIES.** The policeman shall devote his entire time to the performance of the duties of his office and is hereby charged with the preservation of the peace, order and safety of the Village and with the duty of protecting the rights of persons and property and of enforcing all laws and also all orders of the Village Board. He shall take notice of all nuisances, obstructions and defects on the highways or other public places, and shall cause the same to be abated or removed, or immediate notice thereof given to the proper officer whose duty it may be to take action in relation thereto. When requested by the Mayor he shall attend, either in person or by deputy, all meetings of the Village Board, execute all its orders and close the Board Chamber upon the adjournment of that body. He shall also execute all warrants or other legal process required to be executed by him under any ordinance of the Village or laws of the State of Illinois.

30-2-7 **MUTUAL AID CONTRACT.** The Police Department, with the approval of the Village Board, may enter into an agreement to provide police protection to neighboring municipalities.

30-2-8 **SPECIAL POLICEMEN.** The Mayor may, on special occasions when, in his judgment for public peace and order of the Village shall require, appoint and commission any number of special policemen as may be necessary and shall fix in order of their appointment, the time during which each shall serve all such special policemen, during such time, shall possess the powers and exercise the duties of regular police patrolmen; provided that their appointment, if for more than **ten (10) days** shall be subject to the consent of the Village Board in the manner that other appointments to office by the Mayor are subject. Auxiliary policemen shall not carry firearms, except with the permission of the Chief of Police and then only when in uniform and in the performance of their duties.

30-2-9 **LEGAL PROCESSES.** All police shall have the power and authority to execute Village warrants or other similar legal processes outside the corporate limits of the Village and within such distance therefrom as authorized by law in all cases when any ordinance of the Village Board made pursuant to law shall prescribe a penalty for the violation of any of its provisions by persons residing, acting or doing any business within the limits of the Village.

30-2-10 **ASSISTING POLICE OFFICER.** Every police officer of the Village may, at any time, call upon any able-bodied person(s) above the age of **eighteen (18) years** to aid him in the arresting, retaking or holding in custody of any person guilty of having committed any unlawful act or charged therewith, or to aid such officer in preventing the commission of any unlawful act.

30-2-11 **AIDING FIRE DEPARTMENT.** Every police officer shall aid the fire department by giving the alarm in case of fire and in clearing the streets or grounds in the immediate vicinity of any fire so that the firemen shall not be hindered or obstructed in the performance of their duties.

30-2-12 **FAILURE TO PERFORM.** Any member of the Police Department who shall neglect or refuse to perform any duty required of him by this Code or the rules and regulations of the Department, or who shall be, in the discharge of his official duties, guilty of any fraud, favoritism, extortion, oppressions or willful wrong or injustice, shall be subject to removal from office.

30-2-13 **AIDING IN ESCAPE.** It shall be unlawful for any person in this Village to resist or obstruct any member of the Police Force in the discharge of his duty or to endeavor to do so, in any manner, assist any person in the custody of any member of the Police Department to escape or to attempt to escape from such custody or to attempt to rescue any such person in custody.

30-2-14 **USE OF INTOXICATING LIQUOR.** No member on an active tour of duty or while wearing the official policeman's badge of the Village shall indulge in the use of intoxicating liquor of any kind and intoxication at any time shall be sufficient cause for removal.

30-2-15 **WITNESS FEES.** Any member of the Police Department shall appear as witness whenever this is necessary in a prosecution for a violation of an ordinance or of any state or federal law. No such member shall retain any witness fee for service as witness in any action or suit to which the Village is a party; and fees paid for such services shall be turned over to the Chief of Police who shall deposit the same with the Village Treasurer.

30-2-16 **RULES AND REGULATIONS.** The Chief of Police may make or prescribe such rules and regulations for the conduct and guidance of the members of the Police Department as he shall deem advisable and such rules, when approved by the Mayor, shall be binding on such members.

30-2-17 **TRAINING.** All police officers, prior to entering upon any of their duties, shall receive a course of training in the use of weapons by the proper authorities as established by the State of Illinois. All full-time and part-time police officers shall complete a course on police procedures by the proper authorities as established by the State of Illinois Law Enforcement Training and Standards Board within the prescribed time period as established by such board. Upon completion of the course of training, the officer shall file with the Mayor a certificate attesting to the completion of the course.

30-2-18 **STOLEN PROPERTY.** The Chief of Police shall be the custodian of all lost and abandoned or stolen property in the Village.

30-2-19 **PART-TIME POLICE.**

(A) **Employment.** The Village may employ part-time police officers from time to time as they deem necessary.

(B) **Duties.** A part-time police officer shall have all the responsibilities of a full-time police officer and such specific duties as delineated in the General Orders of the Police Department, but the number of hours a part-time officer may work within a calendar year is restricted to **one thousand (1,000) hours**. Part-time police officers shall not be assigned to supervise or direct full-time police officers. Part-time police officers shall be trained in accordance with the Illinois Police Training Act (**50 ILCS 705/1 et seq.**) and the rules and requirements of the Illinois Law Enforcement Training and Standards Board.

(C) **Hiring Standards.** Any person employed as a part-time police officer must meet the following standards.

- (1) Be of good moral character, of temperate habits, of sound health, and physically and mentally able to perform assigned duties.
- (2) Be at least **twenty-one (21) years** of age.
- (3) Possess a high school diploma or GED certificate.
- (4) Possess a valid State of Illinois driver's license.
- (5) Possess no prior felony convictions.
- (6) Any individual who has served in the U.S. military must have been honorably discharged.

(D) **Discipline.** Part-time officers shall be under the disciplinary jurisdiction of the Chief of Police. Part-time police officers serve at the discretion of the Village authorities, shall not have any property rights in said employment, and may be removed by the Village authorities at any time. Part-time police officers shall comply with all applicable rules and General Orders issued by the Police Department.

30-2-20 **MUTUAL AID AGREEMENT.** The Village does hereby enter into a Law Enforcement Mutual Aid Agreement (LEMAA) pursuant to **5 ILCS 220/1** and **65 ILCS 5/11-1-2.1** of the state statutes as provided for in **Addendum "A"**. **(Ord. No. 2014-3; 2014)**

30-2-21 - 30-2-24 **RESERVED.**

(65 ILCS 5/11-1-2)

ARTICLE III - EMERGENCY MANAGEMENT AGENCY (EMA)

30-3-1 POLICY AND PROCEDURES.

(A) Because of the possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from the explosion in this or in a neighboring municipality of atomic or other means from without, or by means of sabotage or other disloyal actions within, or from fire, flood, earthquake, or other natural or man-made causes, and in order to insure that this municipality will be prepared to and will adequately deal with any such disasters, preserve the lives and property of the people of this municipality and protect the public peace, health and safety in the event of such a disaster, it is found and declared to be necessary:

- (1) To create a municipal emergency management agency;
- (2) To confer upon the Mayor the extraordinary power and authority set forth under Article I of this Chapter **(65 ILCS 5/11-1-6)**.
- (3) To provide for the rendering of mutual aid to other cities and political subdivisions with respect to the carrying out of emergency management operations.

(B) Whenever the Mayor determines after an investigation that a dangerous situation or a potentially dangerous situation exists which could cause death to individuals or serious injury to property or the health and welfare of public, the Mayor may declare that a state of emergency exists. The extraordinary powers may not be exercised until an ordinance shall have been adopted which shall establish standards for the determination by the Mayor of when the state of emergency exists and shall provide that the Mayor may not exercise such extraordinary power and authority except after signing under oath a statement finding that such standards have been met, setting forth facts to substantiate such findings, describing the nature of the emergency and declaring that a state of emergency exists. This statement shall be filed with the Clerk of the municipality as soon as practical. A state of emergency shall expire not later than the adjournment of the first regular meeting of the corporate authorities after the state of emergency is declared. A subsequent state of emergency may be declared if necessary.

(C) It is further declared to be the purpose of this Code and the policy of the municipality that all emergency management programs of this municipality be coordinated to the maximum extent with the comparable functions of the federal and state governments, including their various departments and agencies, of other municipalities and localities and private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

30-3-2 LIMITATIONS. Nothing in this Code shall be construed to:

(A) Interfere with the course or conduct of a private labor dispute, except that actions otherwise authorized by this Code or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(B) Interfere with dissemination of news or comment of public affairs; but any communications facility or organization (including but not limited to radio and television stations, wire services, and newspapers) may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster;

(C) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on

active duty; but state and local emergency operations plans shall place reliance upon the forces available for performance of functions related to disaster emergencies;

(D) Limit, modify, or abridge the authority of the Mayor and the Village Board to exercise any other powers vested in them under the constitution, statutes, or common law of this State, independent of or in conjunction with any provisions of this Code.

30-3-3 **DEFINITIONS.** As used in this Code, unless the context clearly indicates otherwise, the following words and terms shall have the definitions hereinafter ascribed:

(A) **Coordinator** means the staff assistant to the Mayor with the duty of carrying out the requirements of this Code.

(B) **Disaster** means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, explosion, critical shortages of essential fuels and energy, riot, or hostile military or paramilitary action.

(C) **Emergency Management** means the efforts of this municipality to develop, plan, analyze, conduct, implement and maintain programs for disaster mitigation.

(D) **Emergency Operations Plan** means the written plan of the municipality describing the organization, mission and functions of the government and supporting services for responding to and recovery from disasters.

(E) **Emergency Services** means the preparation for and the carrying out of such functions, other than functions for which military forces are primarily responsible, as may be necessary or proper to prevent, minimize, repair and alleviate injury and damage resulting from disasters caused by fire, flood, earthquake, or other man-made or natural causes. These functions including, without limitation, fire-fighting services, police services, emergency aviation services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to protecting life or property.

(F) **Political Subdivision** means any county, city, village, or incorporated town.

30-3-4 **EMERGENCY MANAGEMENT AGENCY.**

(A) There is hereby created an emergency management agency and a coordinator of the emergency management agency, herein called the "coordinator", who shall be the head thereof. The coordinator shall be appointed by the Mayor with the advice and consent of the Board. He shall serve at the pleasure of the Mayor.

(B) The Emergency Management Agency shall obtain, with Board approval, such technical, clerical, stenographic and other administrative personnel, and may make such expenditures within their appropriation therefor as may be necessary to carry out the purpose of this Code.

(C) The coordinator, subject to the direction and control of the Mayor, shall be the executive head of the Municipal Emergency Service and Disaster Agency, and shall be responsible under the direction of the Mayor for carrying out the program for emergency

management operations of this municipality. He shall coordinate the activities of all organizations for emergency management operations within this municipality and shall maintain liaison, and cooperate with, the civil defense and emergency management agencies and organization of the county, other counties and municipalities, and of the federal and state government.

In the event of the absence, resignation, death, or inability to serve by the coordinator, the Mayor or any persons designated by him, shall be and act as coordinator until a new appointment is made as provided in this Code.

(D) The Municipal Emergency Management Agency shall take an integral part in the development and revision of the local emergency operations plan.

(E) In the development of the emergency operations plan, the municipal emergency management agency shall interrelate with business, labor, industry, agriculture, civic and volunteer organizations, and community leaders.

(F) The Municipal Emergency Management Agency shall:

- (1) Determine the requirements of the municipality for food, clothing and other necessities in the event of an emergency;
- (2) Develop an Emergency Operations Plan that meets the standards promulgated by the Illinois Emergency Management Agency;
- (3) Biannually review and revise the local Emergency Operations Plan;
- (4) Establish a register of persons with types of training and skills in emergency prevention, preparedness, response and recovery;
- (5) Establish a register of government and private response resources available for use in a disaster;
- (6) Prepare, for issuance by the Mayor, ordinances, proclamations and regulations as necessary or appropriate in coping with disasters.
- (7) Cooperate with the federal, state and county government and any public or private agency or entity in achieving any purpose of this Code and in implementing programs for disaster prevention, preparation, response and recovery;
- (8) Initiate and coordinate planning for:
 - (a) The establishment of an emergency operating center;
 - (b) The implementation of a 911 system.
- (9) Do all other things necessary, incidental or appropriate for the implementation of this Code.

30-3-5 EMERGENCY MANAGEMENT POWERS OF THE MAYOR.

(A) The Mayor shall have the general direction and control of the emergency management agency, and shall be responsible for the carrying out of the provisions of this Code.

(B) In performing his duties under this Code, the Mayor is authorized to cooperate with state and federal governments and with other municipalities and political subdivisions in all matters pertaining to emergency management operations defined in this Code.

(C) In performing his duties under this Code, the Mayor is further authorized:

- (1) To make, amend and rescind all lawful necessary orders, rules and regulations of the local disaster plan to carry out the

provisions of this Code within the limits of the authority conferred upon him.

- (2) To cause to be prepared a comprehensive plan and program for the emergency management of this municipality which plan and program shall be integrated into and coordinated with disaster plans of the state and federal governments and other political subdivisions, and which plan and program may include:
 - (a) Prevention and minimization of injury and damage caused by disaster;
 - (b) Prompt and effective response to disaster;
 - (c) Emergency relief;
 - (d) Identification of areas particularly vulnerable to disasters;
 - (e) Recommendations for zoning, building and other land-use controls, safety measures for securing permanent structures and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
 - (f) Assistance to local officials in designing local emergency action plans;
 - (g) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage or loss from flood, conflagration or other disaster;
 - (h) Organization of municipal manpower and chains of command;
 - (i) Coordination of local emergency management activities;
 - (j) Other necessary matters.
- (3) In accordance with such plan and program for the emergency management of this municipality, and out of funds appropriated for such purposes, to procure and preposition supplies, medicines, materials and equipment to institute training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster to insure the furnishing of adequately trained and equipped forces for disaster operations.
- (4) Out of funds appropriated for such purposes, to make such studies and surveys of the industries, resources and facilities in this municipality as may be necessary to ascertain the capabilities of the municipality for the emergency management phases of preparedness, response, and recovery, and to plan for the most efficient emergency use thereof.

(D) The Mayor is authorized to designate space in a municipal building, or elsewhere for the emergency management agency as its office.

30-3-6 FINANCING.

(A) It is the intent of the Village Board and declared to be the policy of the municipality that every effort shall be made to provide funds for disaster emergencies.

(B) It is the Village Board's intent that the first recourse shall be to funds regularly appropriated to the agency. If the Mayor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, and the Governor has proclaimed the municipality a disaster, he may make application for funds from the state disaster relief fund. If monies available from the fund are insufficient, and if the Mayor finds that other sources of money to cope with the disaster are not available or are insufficient, he shall issue a call for an immediate session of the Village Board for the purpose of enacting ordinances as the Village Board may deem necessary to transfer and expend monies appropriated for other purposes, or borrow monies from the United States Government or other public or private sources. If less than a quorum of the members of the Village Board is capable of convening in session to enact such ordinances for the transfer, expenditure or loan of such monies, the Mayor is authorized to carry out those decisions until such time as a quorum of the Village Board can convene.

(C) Nothing contained in this Section shall be construed to limit the Mayor's authority to apply for, administer and expend grants, gifts, or payments in aid of disaster prevention, preparedness, response or recovery.

30-3-7 LOCAL DISASTER EMERGENCIES.

(A) A local disaster emergency may be declared only by the Mayor or Village Board. If declared by the Mayor, it shall not be continued for a period in excess of **seven (7) days** except by or with the consent of the Village Board. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity, and shall be filed promptly with the municipal clerk.

(B) The effect of a declaration of a local disaster emergency is to activate any and all applicable local emergency operations plans and to authorize the furnishing of aid and assistance thereunder.

(C) During a local disaster emergency, the Mayor may suspend the provisions of any municipal ordinance prescribing procedures for the conduct of municipal business, or the orders, rules and regulations of any municipal agency, if strict compliance with the provisions of any ordinance, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency, as authorized by "**The Illinois Emergency Management Agency Act**", provided that, if the Village Board meets at such time, he shall act subject to the directions and restrictions imposed by that body.

30-3-8 TESTING OF DISASTER WARNING DEVICES. The testing of disaster devices including outdoor warning sirens shall be held only on the first Tuesday of each month at **10 o'clock** in the morning.

30-3-9 MUTUAL AID ARRANGEMENTS BETWEEN POLITICAL SUBDIVISIONS. The coordinator for emergency management operations may, in collaboration with other public agencies within his immediate vicinity, develop or cause to be developed mutual aid arrangements with other political subdivisions, municipal corporations or bodies politic within this state for reciprocal disaster response and recovery in case a disaster is too great to be dealt with unassisted. The mutual aid shall not, however, be effective unless and until approved by each of such political subdivisions, municipal corporations or bodies politic as are parties thereto, in the manner provided by law, and unless and until filed with and

approved in writing by the state director. Such arrangements shall be consistent with the state and local emergency management operations plan and program, and in the event of such disaster as described in **Section 30-3-3** of this Code, it shall be the duty of each local and department for emergency management operations to render assistance in accordance with the provisions of such mutual aid arrangements.

30-3-10 COMMUNICATIONS. The local Emergency Management Agency shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The agency shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive system or network. In studying the character and feasibility of any system or its several parts, the agency shall evaluate the possibility of multipurpose use thereof for general municipal and local governmental purposes. The agency shall make recommendations to the Mayor as appropriate.

30-3-11 IMMUNITY. Neither the municipality, the agency or any member thereof or any person acting at their direction, engaged in any emergency management operations or disaster activities, while complying with or attempting to comply with this Code or any rule or regulations promulgated pursuant to this Code is liable for the death of or any injury to persons, or damage to property, as a result of such activity. This section does not, however, affect the right of any person to receive benefits to which he would otherwise be entitled under this act under the Worker's Compensation Act or the Worker's Occupational Diseases Act, or under any pension law, and this Section does not affect the right of any such person to receive any benefits or compensation under any Act of Congress.

30-3-12 PROFESSIONS, TRADES AND OCCUPATIONS. If such disaster as is described in **Section 30-3-3** occurs in this municipality and the services of persons who are competent to practice any profession, trade or occupation are required in this municipality to cope with the disaster situation and it appears that the number of persons licensed or registered in this municipality to practice such profession, trade or occupation may be insufficient for such purpose, then any persons who are licensed elsewhere to practice any such profession, trade or occupation may, if a member of another political subdivision rendering aid in this municipality pursuant to the order of the head of that political subdivision and upon the request of the municipality, or if otherwise requested so to do by the Mayor or the coordinator of this municipality, during the time the disaster condition continues, practice such profession, trade or occupation in this municipality without being licensed or registered in this municipality.

30-3-13 APPROPRIATIONS AND LEVY OF TAX. The Village Board may make appropriations for emergency management operations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision. The Village Board may also levy for emergency management operations a tax not to exceed **.05%** of the full, fair cash value as equalized or assessed by the Department of Revenue on all taxable property in the municipality for the current year. However, the amount collectible under such a levy shall in no event exceed **Twenty-Five Cents (\$0.25)** per capita. The annual tax shall be in addition to and in excess of the amount authorized to be levied for general corporate purposes.

30-3-14 AUTHORITY TO ACCEPT SERVICES, GIFTS, GRANTS OR LOANS.

Whenever the federal or state governments, or any agency or officer thereof, or whenever any person, firm or corporation shall offer to the municipality services, equipment, supplies, materials or funds by way of gift or grant for purposes of emergency management, the municipality, acting through the Mayor or through its Village Board, may accept such offer and upon such acceptance the Mayor or the Village Board may authorize any officer of the municipality to receive such services, equipment, supplies, materials or funds on behalf of the municipality.

30-3-15 ORDERS, RULES AND REGULATIONS.

(A) The Mayor shall file a copy of every rule, regulation or order and any amendment thereof made by him pursuant to the provisions of this Code in the office of the Municipal Clerk. No such rule, regulation or order, or any amendment thereof, shall be effective until **ten (10) days** after such filing; provided, however, that upon the declaration of such a disaster emergency by the Mayor as is described in **Section 30-3-7**, the provision relating to the effective date of any rule, regulation order or amendment issued pursuant to this Code and during the state of such disaster emergency, is abrogated, and said rule, regulation, order or amendment shall become effective immediately upon being filed with the Municipal Clerk, accompanied by a certificate stating the reason for the emergency.

(B) The Emergency Management Agency established pursuant to this Code, and the coordinator thereof, shall execute and enforce such orders, rules and regulations as may be made by the Governor under authority of the Illinois Emergency Management Agency Act. The local Emergency Management Agency shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under this authority. The State Emergency Management Agency shall furnish such orders, rules and regulations to the agency.

30-3-16 UTILIZATION OF EXISTING AGENCY, FACILITIES AND PERSONNEL. In carrying out the provisions of this Code, the Mayor and the coordinator of the emergency management agency are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the municipality to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed, upon request, to cooperate with and extend such services and facilities to the coordinator and the emergency management agency.

30-3-17 SEVERABILITY. If any provision of this Code or the application thereof to any person or circumstances be held invalid, such invalidity shall not affect such other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Code are hereby declared to be severable.

30-3-18 NO PRIVATE LIABILITY.

(A) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the

purpose of sheltering persons during an actual or impending disaster, or a mock or practice disaster response activity together with his successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission, or for negligently causing loss of, or damage to, the property of such person.

(B) Any private person, firm or corporation and employees and agents of such person, firm or corporation in the performance of a contract with, and under the direction of, the municipality under the provisions of this Code, shall not be civilly liable for causing death of, or injury to, any person or damage to any property except in the event of willful misconduct.

(C) Any private person, firm or corporation, and any employee or agency of such person, firm or corporation, who renders assistance or advice at the request of the municipality, shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of willful misconduct. The immunities provided in Subsection (C) shall not apply to any private person, firm or corporation, or to any employee or agent of such person, firm or corporation whose act or omission caused in whole or in part such actual or impending disaster and who would otherwise be liable therefore.

30-3-19 **SUCCESSION.** In the event of the death, absence from the municipality or other disability of the Mayor preventing him from acting under this Code or for any other municipal purpose, and until the office is filled in the manner prescribed by law, the coordinator of the emergency management agency shall succeed to the duties and responsibilities of the Mayor.

30-3-20 **COMPENSATION.** The Village Board, by its annual appropriations ordinance, may provide for the payment of the salary of the coordinator and such other office staff and personnel as may be expressly provided for in the ordinance. Nothing herein contained shall prohibit any member of the agency from receiving compensation from the State of Illinois Emergency Management Agency under any provisions of that agency.

30-3-21 **PERSONNEL OATH.** Each person, whether compensated or non-compensated, who is appointed to serve in any capacity in the municipal Emergency Management Agency, shall, before entering upon his duties, take an oath, in writing, before the coordinator of the municipal Emergency Management Agency before a person authorized to administer oaths in this municipality, which oath shall be filed with the coordinator of the Emergency Management Agency, and which oath shall be substantially as follows:

"I, _____ do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time I am affiliated with the Village, I will not advocate nor become a member of any political party

or organization that advocates the overthrow of the government of the United States or of this State by force or violence.”

30-3-22 EMERGENCY TERMINATION OR REDUCTION OF ELECTRICAL SERVICE.

(A) **Declaration of Emergency Condition.** When in the judgment of the Mayor or Village Board, as provided herein in **Section 30-3-7(A)**, a local disaster emergency requires the termination or reduction of electrical service, the Mayor or Village Board shall forthwith declare in writing the existence of the emergency condition and order the termination or reduction.

30-3-23 PENALTY. Any person convicted of violating this Code or any order thereunder shall be punished, upon conviction, by a fine as provided by **Section 1-1-20** of this Code.

(20 ILCS 3305/1 et seq.)

ADDENDUM "A"

LAW ENFORCEMENT MUTUAL AID AGREEMENT

This Law Enforcement Mutual Aid Agreement (LEMAA) is executed, in multiple counterparts, by the Public Agency shown on last page hereof on the date that is set forth on the last page of this LEMAA for the uses and purposes set forth herein.

WHEREAS, the undersigned Public Agency of the State of Illinois does hereby declare that it is in the best interest of the Signatory Public Agency to make provision for law enforcement Mutual Aid in the event the undersigned Public Agency should need law enforcement Mutual Aid, and;

WHEREAS, the undersigned Public Agency of the State of Illinois recognizes that law enforcement Mutual Aid is only effective if those Public Agencies who could potentially benefit from law enforcement Mutual Aid are willing to provide law enforcement Mutual Aid to other Public Agencies who are willing to enter into a Mutual Aid agreement such as this Mutual Aid agreement, and;

WHEREAS, in the State of Illinois, there exist constitutional and statutory provisions enabling and supporting the formation of intergovernmental agreements on matters such as law enforcement Mutual Aid, *to-wit*, the Constitution of the State of Illinois (Ill. Const. Art. VII, § 10), the Illinois Intergovernmental Cooperation Act (**5 ILCS 220/1 et seq.**), the Local Governmental and Governmental Employees Tort Immunity Act (**745 ILCS 10/7-101 et seq.**) and the Illinois Municipal Code (**65 ILCS 5/11-1-2.1**), and;

WHEREAS, in order to have an effective law enforcement Mutual Aid system, it is necessary and desirable to have a third party entity that can support, centralize, coordinate and organize the provision of law enforcement Mutual Aid by and among Signatory Public Agencies to the law enforcement Mutual Aid agreement, and;

WHEREAS, this LEMAA is made in recognition of the fact that natural or man-made occurrences may result in Emergencies or Disasters that exceed the resources, equipment and/or Law Enforcement Personnel of a given Public Agency; each Public Agency which signs a copy of this LEMAA intends to aid and assist the other participating Public Agencies during an Emergency or Disaster by temporarily assigning some of the Responding Public Agency's resources, equipment and/or law enforcement personnel to the Requesting Public Agency as circumstances permit and in accordance with the terms of this LEMAA; the specific intent of this LEMAA being to safeguard the lives, persons and property of citizens of the State of Illinois during an Emergency or Disaster by enabling other Public Agencies to provide additional resources, equipment and/or Law Enforcement Personnel as needed, and;

WHEREAS, since approximately 2002, there has existed in the State of Illinois an Illinois Law Enforcement Alarm System law enforcement Mutual Aid agreement ("Prior Mutual Aid Agreement") which was initially executed by a multitude of signatory parties in the wake of the events of the 911 terrorist attacks and (even though the needs of law enforcement have changed, grown and advanced in various regards) the Prior Mutual Aid Agreement has never been updated, modified or changed since its inception, it is now the desire of the Signatory

CHAPTER 30 ADDENDUM "A"

Public Agency to this LEMAA to enhance and reaffirm its commitment to law enforcement Mutual Aid in the State of Illinois while providing more particularly to the relationship that exists between each of the Signatory Public Agencies to this LEMAA and the third party agency, the Illinois Law Enforcement Alarm System, created by such Signatory Public Agencies,

NOW, THEREFORE, the undersigned Public Agency, does hereby enter into this LEMAA with each and every other Public Agency which signs a counterpart copy of this LEMAA and agrees and contracts as follows:

1. **Definitions.** The following definitions apply to this Mutual Aid Agreement (the plural version of any defined term meaning two or more instances of the defined term):

- (A) **Disaster** – An occurrence, or the reasonable threat or possibility of an occurrence of, any of the following: widespread or severe damage; injury or loss of life or property resulting from any natural or technological cause, including but not limited to, fire, flood, earthquake, windstorm, tornado, hurricane, severe inclement weather, hazardous materials spill or other water or ground contamination requiring prompt action to avert danger or damage; epidemics, contaminations, blight, extended periods of severe and inclement weather, drought, infestation and critical shortages of essential products, fuels and energy; explosion; riot; significant or large scale civil insurrection or disobedience; hostile military or paramilitary action, or; acts of domestic terrorism.
- (B) **Emergency** – A natural or man-made situation that threatens to cause, or causes, loss of life and/or property and exceeds the physical and/or organizational response capabilities of a unit of local, state or federal government.
- (C) **Illinois Law Enforcement Alarm System** (or the abbreviation "ILEAS") – the third party Public Agency formed by Signatory Public Agencies to this LEMAA, or continued from the Prior Mutual Aid Agreement, to promote and facilitate law enforcement Mutual Aid in the State of Illinois, and;
- (D) **Initial Governing Board** – The first Governing Board of ILEAS established after two or more Public Agencies enter into this LEMAA.
- (E) **Law Enforcement Personnel** – An employee of a Signatory Public Agency to this LEMAA who is a law enforcement officer, county corrections officer or court security officer, as defined in Section 2 of the Illinois Police Training Act (**50 ILCS 705/2**).
- (F) **LEMAA** - This agreement.
- (G) **Mutual Aid** – Assistance provided by a Public Agency to another Public Agency pursuant to a definite and prearranged written agreement in the event of an Emergency or Disaster.
- (H) **Prior Mutual Aid Agreement** – A certain Mutual Aid Agreement having initial signatories in 2002 (with other signatory parties beginning their participation at a time later than the initial signatory parties) and which reflects a document modification date of "October 23, 2002" in the footer of the signature page (page 5).
- (I) **Prior Signatory Public Agency** – A Public Agency which executed the Prior Mutual Aid Agreement and has neither terminated its participation in the Prior Mutual Aid Agreement nor entered into this LEMAA.

- (J) **Public Agency** – Such units of government as are defined as a public agency by the Illinois Intergovernmental Cooperation Act (**5 ILCS 220/2(1)**).
- (K) **Requesting Public Agency** – A Signatory Public Agency to this LEMAA that has primary jurisdiction over the site of an Emergency or Disaster which, due to its perceived insufficient resources, equipment and/or Law Enforcement Personnel, would be unable to provide an adequate response to an Emergency or Disaster without the assistance of others.
- (L) **Responding Public Agency** – A Signatory Public Agency to this LEMAA that provides resources, equipment and/or Law Enforcement Personnel to a Requesting Public Agency during an Emergency or Disaster.
- (M) **Signatory Public Agency** – A Public Agency that has executed this LEMAA by signature of an authorized individual for the Public Agency under the authority of the Constitution of the State of Illinois (Ill. Const. Art. VII, § 10), the Illinois Intergovernmental Cooperation Act (**5 ILCS 220/1 et seq.**) and the final approval required of the Public Agency in order to execute the LEMAA.

2. **Agreement to Participate in Law Enforcement Mutual Aid.** The Signatory Public Agency to this LEMAA agrees that, in the event of an Emergency or Disaster, it will respond to requests for assistance by a Requesting Public Agency with such Law Enforcement Personnel, equipment, resources, facilities, or services as are, in the opinion of the Responding Public Agency, available and useful and being requested by a Requesting Public Agency. Possible responses shall include, but not be limited to, merely being on "stand by," providing the benefit of prior experience or consultation and/or actual "hands-on" participation in law enforcement activities in the jurisdiction of the Requesting Public Agency any one of which may also entail the provision of equipment, resources, facilities or other services. Provided, however, that each Responding Public Agency reserves the right to refuse to render assistance or to recall any or all rendered assistance, whenever it believes that such refusal or recall is necessary to ensure adequate protection of its own jurisdiction's property, citizenry or personnel.

It is expected that requests for Mutual Aid under this Agreement will be initiated only when the needs of the Requesting Public Agency exceed its resources. Responding Public Agencies' resources will be released and returned to their own respective jurisdictions by the Requesting Public Agency as soon as the situation is restored to the point where the Requesting Public Agency is able to satisfactorily handle the emergency or disaster with its own resources or when a Responding Public Agency decides to recall its assistance.

Whenever an Emergency or Disaster is of such magnitude and consequence that it is deemed advisable by the highest-ranking officer present of the Requesting Public Agency to request assistance from a Responding Public Agency, he is hereby authorized to do so under the terms of this LEMAA. The highest-ranking officer present of the Responding Public Agency is authorized to, and shall forthwith take, the following actions:

- Immediately determine what type of assistance is being requested.
- Immediately determine if the requested resources, equipment and/or Law Enforcement Personnel can be committed to the Requesting Public Agency.
- Immediately dispatch, in consultation and coordination with the ILEAS dispatcher, the resources, equipment and/or Law Enforcement Personnel that are available to the Requesting Public Agency.

At the Emergency or Disaster site, the highest-ranking officer of the Requesting Public Agency who is present shall assume full responsibility and command for operations at the scene. Law Enforcement Personnel from the Responding Public Agencies shall report to, and shall work under, the direction and supervision of the Requesting Public Agency. Provided, however, that at all times, the personnel of the Responding Public Agency shall remain employees of their own agency and shall adhere to the policies and procedures of their own employer. While working under the direction of the Requesting Public Agency, Law Enforcement Personnel shall only be required to respond to lawful orders.

All equipment provided or services performed under this LEMAA shall be provided without reimbursement to the Responding Public Agency from the Requesting Public Agency. Nothing contained herein shall prohibit a Responding Public Agency or ILEAS from seeking reimbursement or defrayment of any expenses it may have incurred in responding to a Mutual Aid request from other sources. The Requesting Public Agency agrees to cooperate with any effort to seek reimbursement or defrayment of Mutual Aid expenses on the part of Responding Public Agencies or ILEAS.

All Requesting Public Agencies, Responding Public Agencies and ILEAS are required to keep expense and accounting records to identify the costs and expenses of any Mutual Aid provided under this LEMAA.

Each Responding Public Agency shall assume sole responsibility for insuring or indemnifying its own employees, as provided by state, federal law and/or local ordinance, and for providing personnel benefits, including benefits that arise due to injury or death, to their own employees as required by state or federal law just as if the employee would have been working as an employee of the Responding Public Agency in its own home jurisdiction. Each Responding Public Agency shall also be responsible, regardless of fault, for replacing or repairing any damage to its own vehicles or equipment that occurs while providing assistance under this LEMAA.

The Requesting Public Agency agrees that this LEMAA shall not give rise to any liability or responsibility for the failure of any other Signatory Public Agency to respond to any request for assistance made pursuant to this LEMAA.

Each Responding Public Agency under this LEMAA further agrees that each Responding Public Agency will be responsible for defending itself in any action or dispute that arises in connection with, or as the result of, this LEMAA and that each Responding Public Agency will be responsible for bearing its own costs, damages, losses, expenses and attorney fees.

3. **The Illinois Law Enforcement Alarm System.** By agreement by and between each Signatory Public Agency to this LEMAA, there is and was formed and exists a third party Public Agency, created by the Signatory Public Agency parties to this LEMAA and by virtue of this LEMAA, which shall be known as the Illinois Law Enforcement Alarm System (hereinafter referred to as "ILEAS"). The following provisions apply to ILEAS:

(A) The Public Agency ILEAS shall have a governing board, consistent with the meaning of the phrase "governing board" in **5 ILCS 220/2(1)**, which shall be known as the "Governing Board."

(i) **Governing Board Composition and Voting.** The Governing Board of ILEAS shall consist of the following individual members, described as follows:

(a) **Members of the Initial Governing Board.** The individuals designated on **Exhibit "A"** will be members of the Initial Governing Board of ILEAS and shall serve until

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such time as their successors are elected or appointed, as the case may be.

- (b) Composition of the Governing Boards of ILEAS after the Initial Governing Board members have served their term shall be as follows, who shall serve until such time as their successors are elected or appointed, as the case may be:
- 16 elected members representing **eight (8)** established ILEAS regions – there shall be **one (1)** elected Sheriff member and **one (1)** elected Chief of Police member from each of the **eight (8)** established ILEAS regions and the elected Sheriff member and the elected Chief of Police member shall be designated as the "Co-Chairs" from that region;
 - A permanent, non-elective Governing Board membership for the Illinois State Police Director or the Director's designee,
 - A permanent, non-elective Governing Board membership for the President of the Illinois Association of Chiefs of Police or that President's designee,
 - A permanent, non-elective Governing Board membership for the President of the Illinois Sheriff's Association or that President's designee.
 - Two permanent, non-elective Governing Board memberships for the City of Chicago, Illinois or those persons designated by the Superintendent of Police, Chicago, Illinois.

Subject to the foregoing provisions of this subparagraph (b), no Public Agency shall be permitted to designate (as a candidate for election or appointment) a Governing Board Member unless that Public Agency is a Signatory Public Agency and every Governing Board Member must be affiliated by employment with, or relation to, a Signatory Public Agency.

The President of ILEAS, with the advice and consent of the Governing Board of ILEAS, may appoint any number of *Ex-Officio* Governing Board consultants for the benefit of obtaining their counsel and advice but such individuals, if any, as are appointed to *Ex-Officio* Governing Board consultant positions shall not have any voting rights on matters to be decided by the Governing Board and, relative to the Board, are not agents or servants of the Governing Board, ILEAS or any Signatory Public Agency.

- (c) **Members of Governing Board of ILEAS after the Initial Governing Board.** For purposes of determining the elected members of the Governing Board after the Initial Governing Board, the State of Illinois shall be divided into **eight (8) regions** which are shown on **Exhibit "B"** hereto. Any Signatory Public Agency to this LEMAA may nominate any one or more eligible individuals

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from its region as a candidate for Governing Board membership, including an individual employed by the Signatory Public Agency. Only Signatory Public Agencies to this LEMAA may vote for representatives to be elected from their region. Each Signatory Public Agency to this LEMAA gets one vote for an elected Sheriff member and one vote for an elected Chief of Police member from its region. Starting in 2015, the election of Governing Board members shall occur every **two (2) years** in March of the year on a date to be determined by the Governing Board members in office in the October prior to the date of the election. Should a given Governing Board member vote result in a tie between candidates, the two or more candidates with the same highest number of votes shall participate in a "coin toss" selection process to determine who shall fill that Governing Board member position.

- (d) In the event that an elected Governing Board member dies, retires, resigns, is no longer employed by his employer in the same capacity as at the time of his election or is otherwise unwilling or unable to serve the balance of that member's term, then a replacement Governing Board member from the same region as the Governing Board member being replaced shall be chosen by the remaining Governing Board member from that Region and shall serve until the next Governing Board member vote. If both Governing Board members from a given Region are no longer in office at the same time, then, by majority vote of the remaining Governing Board members still holding office, two replacements shall be chosen from that same Region (in individual, separate votes) and shall serve until the next Governing Board member vote. The replacement Governing Board member shall be a Sheriff if a Sheriff is being replaced and shall be a Chief of Police if a Chief of Police is being replaced.
 - (e) Matters before the Governing Board for decision shall be decided by majority vote of a quorum of the voting members. A quorum for the conducting of the business of the Governing Board shall be established by the Bylaws promulgated by the Governing Board. Nothing contained herein shall prohibit the establishment of committees or subcommittees of the whole for the conduct of business as expressed in the Bylaws promulgated by the Governing Board.
- (ii) **Governing Board to Promulgate a Plan of Operation.** The Governing Board shall cause to be promulgated a Plan of Operation for the giving and receiving of Mutual Aid under the provisions of the LEMAA and shall promulgate Bylaws for the management of ILEAS. Both the Plan of Operation and Bylaws

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may be modified from time to time based upon the majority vote of the then current members of the Governing Board.

- (iii) **Governing Board Compensation.** All officers, members and *ex-officio* members of the Governing Board shall serve without compensation.
 - (iv) **Regional Governing Boards.** In each of the Regions, in addition to the co-chairs for that region, there may be elected a secretary, treasurer and sergeant at arms for that Region as well as any number of *ex-officio* members as that Region desires.
- (B) The Public Agency ILEAS shall have President, Vice President, Secretary, Treasurer and Sergeant at Arms who shall be appointed by and from the Governing Board of ILEAS, at its discretion. The officers shall have the duties, responsibilities and powers accorded to them by the Bylaws of ILEAS as the Bylaws are established and may be amended from time to time by the Governing Board.
- (C) The Public Agency ILEAS shall have an Executive Director, appointed by the Governing Board at its discretion, who shall be the chief operating officer of ILEAS and who shall have the duties, responsibilities and powers accorded to the Executive Director by the Bylaws of ILEAS as the Bylaws are established and may be amended from time to time by the Governing Board.
- (D) The Public Agency ILEAS shall have the authority, right and power to:
- (i) coordinate law enforcement Mutual Aid responses by and among Signatory Public Agencies to this LEMAA and act as a central receiving point for Mutual Aid requests;
 - (ii) solicit and receive commitments from Signatory Public Agencies to respond to a Mutual Aid request and coordinate and provide support for any legal documentation necessary or desirable to effectuate the provision of law enforcement Mutual Aid;
 - (iii) maintain an electronic mutual aid database to which all Signatory Public Agencies provide information related to each respective Signatory Public Agency's manpower, resources and equipment necessary to respond to a Mutual Aid request and to which all Signatory Public Agencies have access;
 - (iv) identify through the mutual aid database individuals from Signatory Public Agencies with the ability, training and qualifications suitable for Mutual Aid responses, together with the necessary equipment and other resources as requested by the Requesting Public Agency;
 - (v) coordinate and provide a facility for training exercises and education;
 - (vi) solicit, obtain and administer funds for the operations and functions of ILEAS and the provision of law enforcement Mutual Aid in the form of grants, donations, endowments or allocations of funds from other governmental agencies or other sources (but not from the issuance of any debt obligations), to assess Board-approved dues on Signatory Public Agencies and to obtain reimbursement, payment, advances or funds from any governmental entity or agency which provides, allocates or

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- administers funds to defray, pay or reimburse the expenses of those entities participating in Mutual Aid efforts;
- (vii) provide accounting, budgeting, estimation, documentation, archival and general administrative support for law enforcement Mutual Aid deployments (actual, planned, proposed or contemplated) and the general operations of ILEAS;
 - (viii) obtain indemnity, casualty, liability and worker's compensation insurance for the operations of ILEAS in amounts and under terms deemed appropriate by the Governing Board;
 - (ix) employ support personnel to perform the functions and operations of ILEAS;
 - (x) enter into contracts, agreements, purchase agreements and leases necessary to the functions and operations of ILEAS;
 - (xi) provide and display identification, signage, insignias, patches or other indicia which identify ILEAS employees and agents if and when such employees and/or agents are on site to coordinate or facilitate disaster and/or emergency relief performed by various Responding Public Agencies;
 - (xii) to own, hold, supply, borrow or lend, in ILEAS' name, such personal property as deemed necessary by the Governing Board to the purposes, functions and operations of ILEAS;
 - (xiii) facilitate, enhance or enable interagency communication relative to the provision of Mutual Aid;
 - (xiv) provide to Signatory Public Agencies to this LEMAA such information as is useful to them relative to what resources are available from ILEAS or other Signatory Public Agencies to this LEMAA;
 - (xv) maintain a listing or database of available equipment, available animals and alleged independent contractor experts in various fields that would serve as a resource to ILEAS and any Signatory Public Agency to this LEMAA which listing would be made available to such Signatory Public Agencies with the understanding on the part of the requesting Signatory Public Agency that ILEAS:
 - (a) does not represent, provide, recommend or warrant to any Signatory Public Agency the appropriateness, integrity, quality, or qualifications of any listed resource, equipment or animal for a given use (such determination to be made solely by the requesting Signatory Public Agency), and;
 - (b) does not furnish, employ, provide, retain or have as its agent, any alleged expert whose contact information is provided to the Signatory Public Agency, such alleged expert being solely an independent contractor and, further, does not represent, recommend or warrant to any Signatory Public Agency the appropriateness, integrity, training, quality or qualifications of any alleged expert (such determinations to be made solely by the requesting Signatory Public Agency), and;

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- (c) relative to any animal, does not represent, recommend or warrant to any Signatory Public Agency the appropriateness, training, behavioral characteristics, quality or qualifications of any animal for a given use (such determination to be made solely by the requesting Signatory Public Agency).
 - (xvi) engage in such other activities as support, enhance or enable Mutual Aid by and between the Signatory Public Agencies to this LEMAA.
- (E) It is not the function, responsibility or purpose of ILEAS to warrant or endorse the sufficiency or talents of, deploy, supply, direct, command or manage any Law Enforcement Personnel responding to Mutual Aid requests under this LEMAA. Any Law Enforcement Personnel responding to a law enforcement Mutual Aid request under this LEMAA shall be Law Enforcement Personnel of a Responding Public Agency (and not of ILEAS) and shall take their orders from commanding officers of either the requesting Public Agency or the Responding Public Agency, as otherwise detailed in this LEMAA. In general, ILEAS' function in a Mutual Aid deployment is to receive the Mutual Aid request, identify and contact appropriate potential responding Signatory Public Agency responders, obtain commitments from such potential Signatory Public Agency responders that they will respond to the Mutual Aid request, identify those Signatory Public Agencies who will respond to the Mutual Aid request of the Requesting Public Agency, provide ILEAS' expertise, services and experience relative to issues associated with Mutual Aid deployments and continue to monitor the adequacy of the Mutual Aid response to be able to respond if the Requesting Public Agency determines more assistance is needed and review the sufficiency of the Mutual Aid response that was made. ILEAS may, in its discretion, establish an on-site presence at the Mutual Aid site when the Requesting Public Agency or the Responding Public Agencies believe such presence is useful to the purposes and functions of ILEAS and/or the Requesting Public Agency or the Responding Public Agencies.

4. **Additional Signatory Public Agency Provisions.**

- (A) Each Signatory Public Agency to this LEMAA agrees to maintain liability insurance with a Best's rated A- or better insurance company or a self-insurance trust fund in the face or indemnity amount of at least **One Million Dollars (\$1,000,000.00)** which would provide, *inter alia*, liability coverage for any activities in which the Signatory Public Agency to this LEMAA might engage under this LEMAA.
- (B) Each Signatory Public Agency to this LEMAA agrees to provide to ILEAS information about the equipment, resources and personnel of its Public Agency, jurisdictional and regional demographic information, contact information, National Incident Management Systems information and Reception Site Staging information which may be used by ILEAS to aid in ILEAS' support role under this LEMAA. The Executive Director of ILEAS shall prepare a document, which will be amended from time to time, which requests the information desired and send it to each Signatory

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Public Agency for completion and update. Each Signatory Public Agency to this LEMAA agrees that ILEAS may distribute any information obtained by the Executive Director to any other Signatory Public Agency to this LEMAA who may request such information for Mutual Aid purposes.

- (C) Each Signatory Public Agency to this LEMAA agrees that it will not hold itself out as an agent of ILEAS or any Public Agency other than itself and will instruct each of its employees that they are not to hold themselves out as employees or agents of ILEAS or any Public Agency other than the one as to which they are actually agents or employees. Further, each Signatory Public Agency to this LEMAA agrees to monitor the activities of its agents and employees to maintain compliance with this provision of the LEMAA.
- (D) Each Signatory Public Agency to this LEMAA understands that, under the Constitution of the State of Illinois (Ill. Const. Art. VII, § 10) and the Illinois Intergovernmental Cooperation Act (**5 ILCS 220/1 et seq.**), ILEAS may only be delegated authority, abilities and powers that the Signatory Public Agency to this LEMAA has itself. To the extent that a Signatory Public Agency to this LEMAA does not have legal authority to participate in cooperative law enforcement mutual aid, this LEMAA is void and of no effect relative to such Signatory Public Agency.
- (E) It is the intent of each Signatory Public Agency to this LEMAA that ILEAS be created with all the powers enumerated herein and without further restrictions on those powers. Therefore, each Signatory Public Agency agrees that, if that Signatory Public Agency is determined to not have the authority or powers that are coextensive with those granted to ILEAS in this LEMAA or it is determined that the Signatory Public Agency is limited in the exercise of its authority or its powers to a greater extent than ILEAS is limited by this LEMAA, rather than limiting the powers of ILEAS, that finding will cause the Signatory Public Agency's participation in the creation of ILEAS to be void *ab initio* and Section 3 of this LEMAA shall not apply to such a Signatory Public Agency. Such a finding will not, however, invalidate the Signatory Public Agency's adoption of this LEMAA for purposes of providing and receiving law enforcement Mutual Aid.
- (F) Each Signatory Public Agency to this LEMAA warrants that:
 - (i) It is a Public Agency under the laws of the State of Illinois.
 - (ii) It is authorized by the legal process and laws applicable to that Public Agency that it has the full authority and right to enter into this LEMAA.
 - (iii) To the extent that it is called upon to provide Law Enforcement Personnel as a Responding Public Agency, the Law Enforcement Personnel the Signatory Public Agency to this LEMAA provides have been properly credentialed by the Illinois Law Enforcement Training Standards Board to be a law enforcement officer, county corrections officer or court security officer in the State of Illinois and have been trained relative to the types of tasks that the Law Enforcement Personnel will be undertaking relative to the mutual aid request.
 - (iv) To the extent that it is called upon to provide equipment as a Responding Public Agency, the equipment the Signatory Public

Agency to this LEMAA provides is in good working order with no known defects, problems, faults or limitations that would make its use dangerous or impractical.

5. **Termination of Participation in LEMAA.**

- (A) Any Signatory Public Agency to this LEMAA has the right to terminate its participation in this LEMAA upon **ninety (90) days'** notice to ILEAS. ILEAS shall notify remaining Signatory Public Agency parties to the LEMAA of the notice of termination.
- (B) To the extent that a Signatory Public Agency incurs an obligation under this LEMAA prior to the expiration of the **ninety (90) day** notice of termination period, nothing contained in this Section shall be interpreted to mean that Signatory Public Agency should not meet its obligation under this LEMAA. Termination is automatically effective upon the expiration of the **ninety (90) day** period without further action by any party.

6. **Non-Member Affiliates.**

- (A) **Definition of Status.** A non-member affiliate of ILEAS is an incorporeal entity, which is not a public agency, but which has been vested with police powers by the State of Illinois, and which:
 - (i) would be eligible to request or provide law enforcement mutual aid, and;
 - (ii) has agreed with ILEAS, under the provisions of this LEMAA, to be a non-member affiliate and abide by the provisions of this Agreement applicable to a non-member affiliates.
- (B) **Purpose of Non-Member Affiliate Status.** While only Public Agencies may enter into this LEMAA and form ILEAS, there exists value to the public agencies forming ILEAS in having non-member affiliates to provide counsel, advice, experience and different points of view with respect to the problems and issues confronted and addressed by the Public Agencies which have formed ILEAS. As well, as situations sometimes call for coordination with entities with police power which are not Public Agencies, advance cooperation, planning, coordination and sharing with such entities remains valuable to the Signatory Public Agencies forming ILEAS. As well, in situations of emergency or disaster and to the extent permitted by law, law enforcement services may be provided or given by non-member affiliates under agreements approved by the Governing Board of ILEAS.
- (C) **Participation by Non-Member Affiliate.** A non-member affiliate becomes or remains a non-member affiliate at the sole discretion and pleasure of the Governing Board of ILEAS.
 - A non-member affiliate may:
 - (i) send its law enforcement officers to participate in ILEAS-organized training and educational events upon terms and conditions determined by ILEAS;
 - (ii) have its representative agent serve, at the discretion of the President of ILEAS and with the advice and consent of the

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Governing Board of ILEAS, as an *ex-officio* Governing Board Consultant;

- (iii) at the discretion of ILEAS, provide advice and counsel to ILEAS relative to a mutual aid situation.
- (iv) to the extent permitted by law:
 - (a) and under terms and conditions to be determined by the Governing Board of ILEAS, enter into agreements permitting peace officers of a non-member affiliate to provide law enforcement services, in an emergency or disaster, to Signatory Public Agencies and utilize ILEAS coordination services.
 - (b) and under terms and conditions to be determined by the Governing Board of ILEAS, enter into agreements permitting Signatory Public Agencies to provide law enforcement services, in an emergency or disaster, to the non-member affiliate and utilize ILEAS coordination services.
- A non-member affiliate, or its representative(s) may not:
 - (i) represent to any third party or the public at large that it is a "member" or ILEAS or a Signatory Public Agency of ILEAS;
 - (ii) bind ILEAS, or any of the Signatory Public Agencies to this LEMAA, to any form of an agreement of any sort or kind;
 - (iii) disclose to any third party or the public at large:
 - (a) the discussions to which its representatives may be privy at any Governing Board meeting,
 - (b) any documents, strategems or other planning activities associated with the business or activities of ILEAS or its Signatory Public Agencies,
 - (c) any information deemed by ILEAS or its Signatory Public Agencies as confidential in nature, with the presumption that, if the information was learned at any meeting or assemblage of ILEAS Directors, Officers or Signatory Party representatives, the information should be deemed confidential.
- A non-member affiliate shall:
 - (i) to the extent that it participates in ILEAS events, maintain liability insurance with a Best's rated A- or better insurance company or a self-insurance trust fund in the face or indemnify amount of at least **One Million Dollars (\$1,000,000.00)** which would provide, *inter alia*, liability coverage for any activities in which the non-member affiliate might engage.
 - (ii) advise any individual, who will be representing the non-member affiliate, of the terms and conditions of non-member affiliate status and direct that individual to act consistently with those terms and conditions.
 - (iii) to the extent determined by the Governing Board of ILEAS, pay appropriate dues for a non-member affiliate.

- (D) **Evidence of Participation as Non-Member Affiliate.** Upon the endorsement of approval by the President of ILEAS' Governing Board of an application for non-member affiliate status, the incorporeal entity applying for non-member affiliate with ILEAS shall become a non-member affiliate with ILEAS.
- (i) The granting of non-member affiliate status with ILEAS may be revoked at any time and for such reasons as the Governing Board sees fit in its sole discretion and choice.
- (ii) Nothing associated with the granting of a status as a non-member affiliate shall be deemed to create a partnership, joint venture, or any other legal combination of entities, including but not limited to, any principal/agent status by or between the non-member affiliate and either ILEAS or a Signatory Public Agency.

7. **Additional Provisions.**

- (A) **Application of Law and Venue Provisions.** This LEMAA shall be governed by, and interpreted and construed under, the laws of the State of Illinois. The exclusive venue for the enforcement of the provisions of this Agreement or the construction or interpretation of this Agreement shall be in a state court in Springfield, Illinois.
- (B) **Compliance with Laws.** All Signatory Public Agencies to this LEMAA agree to comply with all federal, state, county and local laws and ordinances as well as all applicable rules, regulations, and standards established by any agency of such governmental units, which are now or hereafter promulgated insofar as they relate to the Signatory Public Agencies' respective performances of the provisions of this LEMAA.
- (C) **Lack of Waiver.** Acceptance of partial performance or continued performance after breach of this LEMAA shall not be construed to be a waiver of any such breach.
- (D) **Status of a Signatory Public Agency.** Nothing contained within this LEMAA shall be deemed to create, or be interpreted to intend to create, a joint venture, partnership or any other sort of legal association or combination of entities as between the Signatory Public Agencies to this LEMAA or as between ILEAS and any Signatory Public Agency to this LEMAA. Each Signatory Public Agency to this LEMAA is acting in its own individual capacity and not as the agent of any other Public Agency which is created by this or any other counterpart copy of this LEMAA or which is a Signatory Public Agency to this LEMAA.
- (E) **Involuntary Termination of Participation in ILEAS.** Under terms and conditions established by the Board of Governors of ILEAS, a Signatory Public Agency may have its participation in this LEMAA involuntarily terminated. The terms and conditions shall describe those situations where such involuntary termination may occur and the process to be followed to make the determination as to whether involuntary termination shall occur.
- (F) **Immunities.** With respect to ILEAS and each and every Signatory Public Agency to this LEMAA, becoming a Signatory Public Agency to this LEMAA or performance under the terms of this LEMAA shall not be deemed to waive any governmental immunity or defense to which the

Signatory Public Agency or ILEAS would otherwise be entitled under statute or common law in the absence of this LEMAA.

- (G) **No Third Party Beneficiary.** This LEMAA is not intended nor expected to confer upon or entitle any person or entity, other than ILEAS and the Signatory Public Agencies to this LEMAA, any information, benefits, advantages, rights or remedies. It is expressly understood and agreed that enforcement of the terms and conditions of this LEMAA, and all rights of action relating to such enforcement, shall be strictly reserved to ILEAS and the Signatory Public Agencies to this LEMAA and nothing contained in this LEMAA shall give or allow any claim or right of action by any other or third person or entity (including, but not limited to, members of the general public) based on this LEMAA. It is the express intention of ILEAS and the Signatory Public Agencies to this LEMAA that any person or entity (other than ILEAS and the Signatory Public Agencies to this LEMAA) who may be deemed to receive services or benefits under this LEMAA shall be deemed to be only an incidental beneficiary to this LEMAA.
- (H) **Paragraph Headings.** The captions and headings used in this LEMAA are only for convenience of reference and the organization of this LEMAA and shall not be construed as expanding, defining or limiting the terms and provisions in this LEMAA.
- (I) **Severability.** If any part, term, or provision of this LEMAA is held by the courts to be invalid, unenforceable, contrary to law or in conflict with any of the laws of the State of Illinois, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the Parties to this LEMAA shall be construed and enforced as if the LEMAA did not contain the particular part, term, or provision held to be invalid, unenforceable, contrary to law or in conflict with any law of the State of Illinois.
- (J) **Parol Evidence and Prior Mutual Aid Agreements.** This LEMAA constitutes the entire agreement between the Signatory Public Agencies concerning this LEMAA's subject matter, whether or not written, and may not be modified except as otherwise provided herein.
- As between Signatory Public Agencies, this LEMAA supersedes, in its entirety, the Prior Mutual Aid Agreement concerning its subject matter.
 - As between Signatory Public Agencies to this LEMAA and Prior Signatory Public Agencies who have not executed this LEMAA, this LEMAA does not supersede the Prior Mutual Aid Agreement.
 - Nothing contained herein shall be deemed to affect other Mutual Aid agreements that a Signatory Public Agency to this LEMAA may have executed.
- (K) **Amendments.** As it may be desirable, from time to time, to amend this LEMAA, this subsection shall govern that process. In the event that one or more signatory public agencies wishes to propose an amendment to this LEMAA, such signatory public agency(ies) shall communicate the proposed amendment to the Governing Board in the form of a resolution as to which there can be a vote for the resolution or against the resolution. No resolution may come to a vote unless at least **ten (10)**

CHAPTER 30 ADDENDUM "A"

then-current signatory public agencies (including the signatory public agency(ies) proposing the amendment) endorse their written desire to have a vote on the resolution. In not less than **thirty (30) days** nor more than **one hundred eighty (180) days** after receipt of the proposed amendment with the requisite minimum of **ten (10)** endorsements, the Board shall communicate the proposed amendment to all then-current signatory public agencies to the LEMAA together with the date and time by which the signatory public agency must cast its vote for or against the resolution. Each then-current signatory public agency is entitled to one vote. The vote of the signatory public agency should be sent to whomever is the Executive Director at the time of the cutoff for receipt of the votes and such votes may be sent by letter, fax or email but may not be communicated orally (in person or by telephone). The sender assumes all risk that the communication of the vote will not be received in time so early voting is encouraged. The cutoff date and time for the vote to be received by the Executive Director must not be sooner than **fourteen (14) days** after the Board has sent out its communication that an amendment has been proposed. The Executive Director shall be the sole individual to determine if the vote was received in a timely fashion in order to be counted and all votes shall be tallied within **one (1) day** after the date when the voting was terminated. The resolution shall carry if the votes in favor of the amendment constitute greater than **fifty percent (50%)** of the total votes cast and shall fail if the votes against the amendment constitute less than or equal to **fifty percent (50%)** of the total votes cast. If the resolution carries, unless the resolution, by its terms, provides for a later date when it would be effective, the amendment is effective upon the determination by vote tally that the resolution carried. As soon as reasonably possible after the results of the voting have been determined, the Executive Director shall communicate the results of the voting to all then-current signatory public agencies.

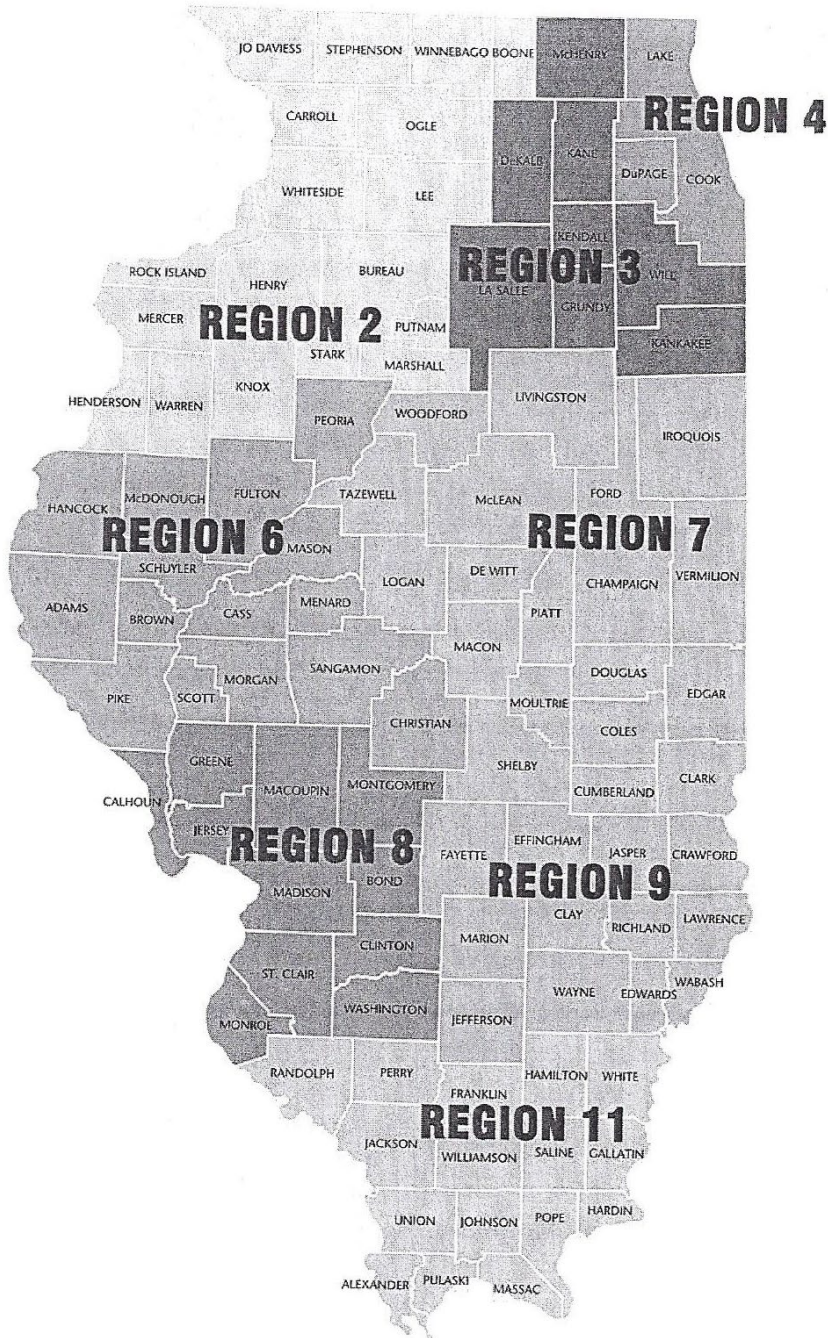
- (L) **Notices.** Notices concerning the withdrawal of a Signatory Public Agency from the terms and conditions of this LEMAA under Section 5 of this LEMAA shall be made to ILEAS at 1701 E. Main St., Urbana, Illinois 61802. Notice of any alleged or actual violations of the terms or conditions of this LEMAA shall be made to ILEAS at 1701 E. Main St., Urbana, Illinois 61802 and each other Signatory Public Agency to this LEMAA who is alleged to have committed the alleged or actual violation of the terms or conditions of this LEMAA.
- (M) **Counterparts.** This LEMAA may be, and is anticipated to be, executed in counterparts, each of which shall be deemed to be an original of this LEMAA.

EXHIBIT "A"

William Smith, Captain, Illinois State Police
Wayne Gulliford, Deputy Chief, Chicago Police Department
Steve Georgas, Deputy Chief, Chicago Police Department
Eric Smith, Chief of Police, Sherman, Illinois
Tom Schneider, Sheriff, Macon County, Illinois
David Snyders, Sheriff, Stephenson County, Illinois
Victor Moreno, Chief of Police, East Moline, Illinois
Thomas Roman, Chief of Police, Waubensee Community College
Roger Scott, Sheriff, DeKalb County, Illinois
Steve Neubauer, Chief of Police, Tinley Park, Illinois
John Zaruba, Sheriff, DuPage County, Illinois
Mike McCoy, Sheriff, Peoria County, Illinois
Brian Fengel, Chief of Police, Bartonville, Illinois
Don Volk, Chief of Police, Washington, Illinois
Derek Hagen, Sheriff, Iroquois County, Illinois
Richard Miller, Chief of Police, Granite City, Illinois
Jim Vazzi, Sheriff, Montgomery County, Illinois
Andrew Hires, Sheriff, Richland County, Illinois
Bill Ackman, Chief of Police, Robinson, Illinois
Jody O'Guinn, Chief of Police, Carbondale, Illinois
Keith Brown, Sheriff, Saline County, Illinois

Or their respective successors per this LEMAA

Exhibit B



CHAPTER 33
STREET REGULATIONS

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CHAPTER 33

STREET REGULATIONS

ARTICLE I – DEPARTMENT ESTABLISHED

33-1-1 **DEPARTMENT ESTABLISHED.** There is hereby established a Department of the municipal government which shall be known as the **Street Department**. It shall embrace the Street Committee, the Superintendent, and the employees. The Village Engineer shall serve as ex-officio officer.

33-1-2 **COMMITTEE ON STREETS.** The Village Board Standing Committee on Streets shall exercise a general supervision over the affairs of the Street Department. It shall ascertain the needs and conditions thereof and shall, from time to time, report the same to the Mayor and Village Board.

ARTICLE II - GENERAL REGULATIONS

33-2-1 **UNDERMINING.** No person shall undermine in any manner, any street or any other ground or real estate situated in the Village or belonging to any private person.

33-2-2 **OPEN DOORS.** No person shall open or allow to remain open, any door, any gate, or the grating of any vault belonging to the premises occupied by him, on any street, alley or sidewalk in the Village for any purpose, except the taking in and removing goods; and any person allowing such grating to remain open shall warn passersby of the danger.

33-2-3 **REPAIRING SIDEWALKS, ETC.** Whenever any sidewalk, pavement, or cellar door on the same becomes worn out or out of repair, or is torn up or broken and uneven, it shall be the duty of the Street Superintendent to immediately report such fact to the Mayor or Street and Alley Committee, and upon verbal or written order from either of them, to give notice to the party owning the adjoining property to repair such sidewalk or cellar door without delay.

33-2-4 **STAIRWAY - RAILING.** Steps or stairways leading into any building shall not extend from the wall of such building onto any pavement or sidewalk, and in such case, the person making or causing to be made such passage shall erect a railing on the side of the stairs toward the street to prevent persons from falling into the street.

STREET REGULATIONS 33-2-5

33-2-5 **CLOSING STREET.** Whenever public safety or the improvement or repair of any street, alley or public place requires it, the Mayor may order any street, alley, or public place temporarily closed to traffic and the placing of signs indicating that the street, alley or public place is closed by order of the Mayor. Whenever such signs are so placed, no person shall ride or drive upon or cross such street, alley or public place, or in any manner, destroy, deface, or remove any such sign.

33-2-6 **SIGNS ACROSS STREET.** No person shall place any sign, advertisement or banner over any or across any street, alley or sidewalk in the Village, unless he has written approval of the Village Board. **(65 ILCS 5/11-80-17)**

33-2-7 **VEHICLES AND SKATEBOARDS ON SIDEWALKS.** No person shall operate any skateboard or motor vehicle on or over any sidewalk, except in crossing the same to go into a yard or parking lot.

33-2-8 **DEPOSITS ON SIDEWALKS AND STREETS.** It shall be unlawful to deposit on any public sidewalk, any material which may be harmful to the pavement thereof, or any waste material, or any glass or other articles which might cause injury to persons, animals or property.

Merchandise or other articles may be deposited on sidewalks preparatory to delivery, provided that the usable width is not thereby reduced to less than **four (4) feet**; and provided that no such article shall remain on such walk for more than **thirty (30) minutes**.

33-2-9 **OBSTRUCTING STREET.**

(A) It shall be unlawful to deposit any material on any street which may be harmful to the pavement thereof, or any waste material, or any grass clippings, or to cause a lawn mower to blow grass clippings onto a street or any other articles such as glass which may cause injury to any person, animal or property.

(B) No person shall place or cause to be placed or erected on any public ground, or in any public street, alley or sidewalk in the Village, any debris, materials, or obstruction, except as may be permitted by this Code.

(C) It shall be the duty of the Police Department to exercise a vigilant supervision over such places and to notify any person found making such deposit or responsible for same to remove the offending matter at once. **(65 ILCS 5/11-80-3)**

33-2-10 **RAINWATER DRAINS.** It shall be unlawful to construct or permit the construction of any storm water drain or any drainage pipe in either a natural or man-made ditch without having first obtained a permit therefor. Applications for such permits shall be made to the Village Clerk and shall be accompanied by a statement as to the purpose of such drainage pipe, the premises to be served and the specification of such pipe to be installed. Such application shall be referred to the Street Superintendent and no such permit shall be issued unless he shall have found that the Village Code would be complied with by the installation of such storm water drain or drainage pipe and, that the installation of such storm

STREET REGULATIONS 33-2-11

water drain or drainage pipe would not interfere with, overload, obstruct or otherwise adversely affect the existing storm water drainage system within the Village.

It shall be unlawful to construct or permit the construction of any storm water drain which discharges water onto any sidewalk in the Village and it shall be unlawful to construct or permit the maintenance of any such drain which discharges into any public street or alley at a height greater than **eighteen (18) inches** above the ground or pavement.

33-2-11 BUILDING MATERIALS IN STREET. The Street Superintendent may move any obstruction on any street or sidewalk of the Village, but before doing so, he shall notify the person responsible therefore to remove such obstruction within a reasonable time after being notified. Any person engaged in erecting a building or fence or improving any lot on such street may deposit materials thereon and contiguous to such length of time as may be necessary for the work. The obstruction shall not extend to more than **one-half (1/2)** of the width of the sidewalk, street, or alley adjacent to such improvement and the gutter shall always be left free and unobstructed. At night, such person shall keep an illuminated warning light on such material. **(65 ILCS 5/11-80-3)**

33-2-12 MERCHANDISE ON PUBLIC STREET. It shall be unlawful for any person, firm or corporation to use any street, sidewalk, or other public place as space for the display of goods or merchandise for sale; or to write or make any signs or advertisements on any such pavements, unless permission is granted by the Village Board. **(65 ILCS 5/11-80-3)**

33-2-13 ENCROACHMENTS. It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

33-2-14 POSTING BILLS. It shall be unlawful for any person to paste, paint, print or nail any handbill, sign, poster, advertisement or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door or gate without the consent, in writing, of the owner of such curbstone, flagstone, sidewalk, tree, lamppost, utility pole, hydrant, private wall, door or gate.

33-2-15 SIGNS ON POLES. No person shall nail, tack, paste, paint or fasten, or cause to be nailed, tacked, painted or fastened, any sign or any other foreign substance or material onto any telephone, telegraph, electric light, police and/or fire alarm pole or post, or any street or traffic sign located on any sidewalk, street, alley or public grounds or injure or deface any such pole or post.

33-2-16 INJURY TO NEW PAVEMENTS. It shall be unlawful to walk upon or drive any vehicle or animal upon or destroy any newly-laid sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft, newly-laid pavement.

STREET REGULATIONS 33-2-17

33-2-17 **BARBED-WIRE FENCES.** It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar material designed to cause injury to persons, or any wire charged with electrical current, anywhere within **three (3) feet** of any public street, sidewalk, alley, park or other public way or place unless such barbs or charged wire are at least **eight (8) feet** above the level of such public place.

33-2-18 **BURNING ON PUBLIC STREETS.** It shall be unlawful for any person to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks or alleys in the Village.

33-2-19 **GRASS MOWING.** Property owners and/or their tenants shall be jointly and separately responsible for mowing the grass or weeds between the property lines and the adjoining street surfaces. The height of the grass or weeds shall not exceed **eight (8) inches**.

ARTICLE III - TREES AND SHRUBS

33-3-1 **PLANTING.** It shall be unlawful to plant any tree or bush in any public street or parkway or other public place without having first secured a permit therefore. Applications for such permits shall be made to the Street Superintendent and shall be referred by him to the Village Board. All trees and shrubs so planted shall be placed subject to the directions and approval of the Village Board.

33-3-2 **PLANTING TREES IN RIGHT-OF-WAY.** It shall be unlawful to plant any bushes, trees, shrubs or other plants on the right-of-way of any public street, including the space on the right-of-way between the sidewalk and the adjacent street pavement.

33-3-3 **REMOVAL.** It shall be unlawful to remove or cut down any tree or shrub or portion thereof in any street, parkway or other public place without having first secured a permit therefore. Applications for such permits shall be made to the Street Superintendent and shall be referred by him to the Village board before permission shall be granted.

33-3-4 **INJURY.** It shall be unlawful to injure any tree or shrub planted in such public place.

33-3-5 **ADVERTISEMENTS OR NOTICES.** It shall be unlawful to attach any sign, advertisement or notice to any tree or shrub in any street, parkway, or other public place.

33-3-6 **DANGEROUS TREES.** Any tree or shrub which overhangs any sidewalk, street or other public place in the municipality at a height less than **eight (8) feet** or in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises or of the premises on which such tree or shrub grows so that the obstruction shall cease.

Any tree or limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands.

The Street Superintendent may, at the owner's expense, trim or remove any tree or shrub so that the obstruction or danger to traffic or passage shall be done away with.

33-3-7 **WIRES.** It shall be unlawful to attach any wires or rope to any tree or shrub in any public street, parkway or other public place without the permission of the Village Board.

Any person or company given the right to maintain the poles and wires in the streets, alleys, or other public places in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles free from and away from any trees

STREET REGULATIONS 33-3-8

or shrubs in such places so far as may be possible and shall keep all such trees and shrubs properly trimmed, subject to the supervision of the Street Superintendent so that no injury shall be done either to the poles or wires or the shrubs and trees by their conduct.

33-3-8 **GAS PIPES.** Any person or company maintaining any gas pipe in the municipality shall, in the absence of provision in the franchise concerning the subject, keep such pipes free from leaks so that no injury shall be done to any trees or shrubs.

(65 ILCS 5/11-80-2)

ARTICLE IV - CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY

33-4-1 PURPOSE AND SCOPE.

(A) **Purpose.** The purpose of this Article is to establish policies and procedures for constructing facilities on rights-of-way within the Village's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the Village rights-of-way and the Village as a whole.

(B) **Facilities Subject to this Article.** This Article applies to all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the Village. A facility lawfully established prior to the effective date of this Article may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.

(C) **Franchises, Licenses, or Similar Agreements.** The Village, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the Village rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the Village enter into such an agreement. In such an agreement, the Village may provide for terms and conditions inconsistent with this Article.

(D) **Effect of Franchises, Licenses, or Similar Agreements.**

(1) **Utilities Other Than Telecommunications Providers.** In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the Village, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

(2) **Telecommunications Providers.** In the event of any conflict with, or inconsistency between, the provisions of this Article and the provisions of any franchise, license or similar agreement between the Village and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

(E) **Conflicts With Other Articles.** This Article supersedes all Articles or parts of Articles adopted prior hereto that are in conflict herewith, to the extent of such conflict.

(F) **Conflicts With State and Federal Laws.** In the event that applicable federal or State laws or regulations conflict with the requirements of this Article, the utility shall comply with the requirements of this Article to the maximum extent possible without violating federal or State laws or regulations.

(G) **Sound Engineering Judgment.** The Village shall use sound engineering judgment when administering this Article and may vary the standards, conditions, and requirements expressed in this Article when the Village so determines. Nothing herein shall be construed to limit the ability of the Village to regulate its rights-of-way for the protection of the public health, safety and welfare.

33-4-2 DEFINITIONS. As used in this Article and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this

Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code. § 530.30, unless the context clearly requires otherwise.

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

"ANSI": American National Standards Institute.

"Applicant": A person applying for a permit under this Article.

"ASTM": American Society for Testing Materials.

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

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

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

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

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

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

"Code": Code of Ordinances of the Village.

"Conductor": Wire carrying electric current.

"Conduit": A casing or encasement for wires or cables.

"Construction" or "Construct": The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

"Cover": The depth of earth or backfill over buried utility pipe or conductor.

"Crossing Facility": A facility that crosses one or more right-of-way lines of a right-of-way.

"Disrupt the Right-of-Way": For the purposes of this Article, any work that obstructs the right-of-way or causes a material adverse affect on the use of the right-of-way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

"Emergency": Any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

"Encasement": Provision of a protective casing.

"Engineer": The Village Engineer or his or her designee.

"Equipment": Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

"Excavation": The making of a hole or cavity by removing material, or laying bare by digging.

"Extra Heavy Pipe": Pipe meeting ASTM standards for this pipe designation.

"Facility": All structures, devices, objects, and materials (including track and rails, wires, ducts, fiber optic cable, communications and video cables and wires, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Article, except those owned by the Village.

"Freestanding Facility": A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

"Frontage Road": Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access on highway.

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

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

"Highway": A specific type of right-of-way used for vehicular traffic including rural or urban roads or streets. "Highway" includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, signs, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

"IDOT": Illinois Department of Transportation.

"ICC": Illinois Commerce Commission.

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

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

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

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

"Occupancy": The presence of facilities on, over or under right-of-way.

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

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

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

"Permittee": That entity to which a permit has been issued pursuant to **Sections 33-4-4** and **33-4-5** of this Article.

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

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

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

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

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

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

"Right-of-Way": Any street, alley, other land or waterway, dedicated or commonly used for utility purposes, including utility easements in which the Village has the right and authority to authorize, regulate or permit the location of facilities other than those of the

Village. "Right-of-way" or "rights-of-way" shall not include any real or personal Village property that is not specifically described in the previous two sentences and shall not include Village buildings, fixtures and other structures or improvements, regardless of whether they are situated in the right-of-way.

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

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

"Security Fund": That amount of security required pursuant to **Section 33-4-10**.

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

"Sound Engineering Judgment": A decision(s) consistent with generally accepted engineering principles, practices and experience.

"Streets Trustee": The Village Streets Trustee or his or her designee.

"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, specialized mobile radio services, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context clearly requires otherwise, "telecommunications" shall also include wireless telecommunications as defined in the Illinois Telecommunications Infrastructure Maintenance Fee Act, **35 ILCS 635/1 et seq.** "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provision and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

"Telecommunications Provider": Means any person that installs, owns, operates or controls facilities in the right-of-way used or designed to be used to transmit telecommunications in any form.

"Telecommunications Retailer": Means and includes every person engaged in making sales of telecommunication at retail as defined herein.

"Trench": A relatively narrow open excavation for the installation of an underground facility.

"Utility": The individual or entity owning or operating any facility as defined in this Article.

"Vent": A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

"Village": The Village of Loami.

"Water Lines": Pipelines carrying raw or potable water.

"Wet Boring": Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

33-4-3 ANNUAL REGISTRATION REQUIRED. Every utility that occupies right-of-way within the Village shall register on **January 1** of each year with the Village Clerk, providing the utility's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right-of-way and a **twenty-four (24) hour** telephone number for each such person, and evidence of insurance as required in **Section 33-4-8** of this Article, in the form of a certificate of insurance.

33-4-4 PERMIT REQUIRED; APPLICATIONS AND FEES.

(A) **Permit Required.** No person shall construct (as defined in this Article) any facility on, over, above, along, upon, under, across, or within any Village right-of-way which:

- (1) changes the location of the facility;
- (2) adds a new facility;
- (3) disrupts the right-of-way (as defined in this Article), or
- (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across or within the right-of-way, without first filing an application with the Streets Trustee and obtaining a permit from the Village therefor, except as otherwise provided in this Article.

No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way. No permit shall be required where the owner of the facilities to be constructed is the Village itself.

(B) **Permit Application.** All applications for permits pursuant to this Article shall be filed on a form provided by the Village and shall be filed in such number of duplicate copies as the Village may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

(C) **Minimum General Application Requirements.** The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following (none of which shall be considered proprietary or confidential):

- (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 **Section 33-4-8** of this Article;
- (8) Evidence of posting of the security fund as required in **Section 33-4-10** of this Article;
- (9) Any request for a variance from one or more provisions of this Article (**See Section 33-4-21**); and
- (10) Such additional information as may be reasonably required by the Village.

(D) **Supplemental Application Requirements for Specific Types of Utilities.** In addition to the requirements of paragraph (C) of this Section, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:

- (1) In the case of new electric power, communications or natural gas distribution system installation, evidence that any "Certificate of Public Convenience and Necessity" has been issued by the ICC that the applicant is required by law, or has elected, to obtain;
- (2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
- (3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;

- (4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control have been satisfied; or
- (5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

(E) **Applicant's Duty to Update Information.** Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the Village within **thirty (30) days** after the change necessitating the amendment.

(F) **Application Fees.** Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Article shall be accompanied by a fee in the amount of **Two Hundred Fifty Dollars (\$250.00)**. In addition, the applicant shall agree, as a condition of permit approval, to reimburse the Village prior to construction for the actual cost of having the application reviewed by the Village Engineer, if such a review is necessary. The **Two Hundred Fifty Dollar (\$250.00)** application fee is waived with respect to any telecommunications retailer that is paying the municipal or the optional state telecommunications infrastructure maintenance fee pursuant to this Article or the Telecommunications Municipal Infrastructure Maintenance Fee Act, or by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

33-4-5 ACTION ON PERMIT APPLICATIONS.

(A) **Village Review of Permit Applications.** Completed permit applications, containing all required documentation, shall be examined by the Streets Trustee within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the Streets Trustee shall reject such application in writing, stating the reasons therefor. If the Streets Trustee is satisfied that the proposed work conforms to the requirements of this Article and all applicable ordinances, codes, laws, rules, and regulations, the Streets Trustee shall issue a permit therefor as soon as practicable. The Streets Trustee may consult with the Village Engineer with respect to any application for a permit.

(B) **Additional Village Review of Applications of Telecommunications Retailers.**

- (1) Pursuant to Section 4 of the Telephone Company Act, **220 ILCS 65/4**, a telecommunications retailer shall notify the Village that it intends to commence work governed by this Article for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the Village not less than **ten (10) days** prior to the commencement of work requiring no excavation and not less than **thirty (30) days** prior to the commencement of work requiring excavation. The Streets Trustee shall specify the portion of the right-of-way upon which the facility may be placed, used or constructed.

- (2) In the event that the Streets Trustee fails to provide such specification of location to the telecommunications retailer within either (a) **ten (10) days** after service of notice to the Village by the telecommunications retailer in the case of work not involving excavation for new construction or (b) **twenty-five (25) days** after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this Article.
- (3) Upon the provision of such specification by the Village, where a permit is required for work pursuant to **Section 33-4-4** of this Article the telecommunications retailer shall submit to the Village an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of paragraph (A) of this Section.

33-4-6 EFFECT OF PERMIT.

(A) **Authority Granted; No Property Right or Other Interest Created.**

A permit from the Village authorizes a permittee to undertake only certain activities in accordance with this Article on Village rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the public rights-of-way.

(B) **Compliance With All Laws Required.**

The issuance of a permit by the Village does not excuse the permittee from complying with other requirements of the Village and applicable statutes, laws, ordinances, rules, and regulations.

33-4-7 REVISED PERMIT DRAWINGS.

In the event that the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the Village within **ninety (90) days** after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Article, it shall be treated as a request for variance in accordance with **Section 33-4-21** of this Article. If the Village denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

33-4-8 INSURANCE.

(A) **Required Coverages and Limits.**

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

- (1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred as "X", "C", and "U" coverages) and products-completed operations coverage with limits not less than:
 - (a) **Five Million Dollars (\$5,000,000.00)** for bodily injury or death to each person;
 - (b) **Five Million Dollars (\$5,000,000.00)** for property damage resulting from any one accident; and
 - (c) **Five Million Dollars (\$5,000,000.00)** for all other types of liability;
- (2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of **One Million Dollars (\$1,000,000.00)** for personal injury and property damage for each accident;
- (3) Worker's compensation with statutory limits; and
- (4) Employer's liability insurance with limits of not less than **One Million Dollars (\$1,000,000.00)** per employee and per accident.

(B) **Excess or Umbrella Policies.** The coverages required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

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

(D) **Maintenance and Renewal of Required Coverages.** The insurance policies required by this Section shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until **thirty (30) days** after receipt by the Village, by registered mail or certified mail, return receipt requested, of a written notice addressed to the Village Clerk of such intent to cancel or not to renew."

Within **ten (10) days** after receipt by the Village of said notice, and in no event later than **ten (10) days** prior to said cancellation, the utility shall obtain and furnish to the Village evidence of replacement insurance policies meeting the requirements of this Section.

(E) **Self-Insurance.** A utility may self-insure all or a portion of the insurance coverage and limit requirements required by paragraph (A) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under paragraph (A), or the requirements of paragraphs (B), (C) and (D) of this Section. A utility that elects to self-insure shall provide to the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under paragraph (A) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

(F) **Effect of Insurance and Self-Insurance on Utility's Liability.** The legal liability of the utility to the Village and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

33-4-9 **INDEMNIFICATION.** By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the Village and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Article or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Article by the Village, its officials, officers, employees, agents or representatives.

33-4-10 **SECURITY.**

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

- (1) The faithful performance by the permittee of all the requirements of this Article;
- (2) Any expenditure, damage, or loss incurred by the Village occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the Village issued pursuant to this Article; and
- (3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the Village may pay or incur by reason of any action or non-performance by permittee in violation of this Article including, without limitation, any damage to public property or restoration work the permittee is required by this Article to perform that the Village must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the Village from the permittee pursuant to this Article or any other applicable law.

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

- (1) Provide that it will not be canceled without prior notice to the Village and the permittee;
- (2) Not require the consent of the permittee prior to the collection by the Village of any amounts covered by it; and
- (3) Shall provide a location convenient to the Village and within the State of Illinois at which it can be drawn.

(C) **Amount.** The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the

Streets Trustee, and may also include reasonable, directly related costs that the Village estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the Village, with each phase consisting of construction of facilities in one location or related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Streets Trustee may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this paragraph (C) for any single phase.

(D) **Withdrawals.** The Village, upon **fourteen (14) days'** advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this paragraph, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the Village for such amount within the **fourteen (14) day** notice period. Withdrawals may be made if the permittee:

- (1) Fails to make any payment required to be made by the permittee hereunder;
- (2) Fails to pay any liens relating to the facilities that are due and unpaid;
- (3) Fails to reimburse the Village for any damages, claims, costs or expenses which the Village has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
- (4) Fails to comply with any provision of this Article that the Village determines can be remedied by an expenditure of an amount in the Security Fund.

(E) **Replenishment.** Within **fourteen (14) days** after receipt of written notice from the Village that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in paragraph (C) of this Section.

(F) **Interest.** The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the Village, upon written request for said withdrawal to the Village, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in paragraph (C) of this Section. The Village shall not be required to honor such requests more often than once every calendar quarter.

(G) **Closing and Return of Security Fund.** Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the Village for failure by the permittee to comply with any provisions of this Article or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the Village to the extent necessary to cover any reasonable costs, loss or damage incurred by the Village as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

(H) **Rights Not Limited.** The rights reserved to the Village with respect to the Security Fund are in addition to all other rights of the Village, whether reserved by this Article or otherwise authorized by law, and no action, proceeding or exercise of right with

respect to said Security Fund shall affect any other right the Village may have. Notwithstanding the foregoing, the Village shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

33-4-11 PERMIT SUSPENSION AND REVOCATION.

(A) **Village Right to Revoke Permit.** The Village may revoke or suspend a permit issued pursuant to this Article for one or more of the following reasons:

- (1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
- (2) Noncompliance with this Article;
- (3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
- (4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

(B) **Notice of Revocation or Suspension.** The Village shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Article stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this **Section 33-4-11.**

(C) **Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension.** Upon receipt of a written notice of revocation or suspension from the Village, the permittee shall have the following options:

- (1) Immediately provide the Village with evidence that no cause exists for the revocation or suspension;
- (2) Immediately correct, to the satisfaction of the Village, the deficiencies stated in the written notice, providing written proof of such correction to the Village within **five (5) working days** after receipt of the written notice of revocation; or
- (3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the rights-of-way and restore the rights-of-way in conformance with **Sections 33-4-18 and 33-4-19** and to the satisfaction of the Village, providing written proof of such removal to the Village within **ten (10) days** after receipt of the written notice of revocation.

The Village may, in its discretion, for good cause shown, extend the time periods provided in this paragraph.

(D) **Stop Work Order.** In addition to the issuance of a notice of revocation or suspension, the Village may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within paragraph (A) of this Section.

(E) **Failure or Refusal of the Permittee to Comply.** If the permittee fails to comply with the provisions of paragraph (C) of this Section, the Village or its designee may, at the option of the Village:

- (1) correct the deficiencies;
- (2) upon not less than **twenty (20) days** notice to the permittee, remove the subject facilities or equipment; or

- (3) after not less than **thirty (30) days** notice to the permittee of failure to cure the noncompliance, deem them abandoned and property of the Village. The permittee shall be liable in all events to the Village for all costs of removal.

33-4-12 CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS.

(A) **Notification of Change.** A utility shall notify the Village no less than **thirty (30) days** prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Article, with respect to the work and facilities in the right-of-way.

(B) **Amended Permit.** A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the Village's right-of-way.

(C) **Insurance and Bonding.** All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

33-4-13 GENERAL CONSTRUCTION STANDARDS.

(A) **Standards and Principles.** All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications:

- (1) Standard Specifications for Road and Bridge Construction;
- (2) Supplemental Specifications and Recurring Special Provisions;
- (3) Highway Design Manual;
- (4) Highway Standards Manual;
- (5) Standard Specifications for Traffic Control Items;
- (6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);
- (7) Flagger's Handbook; and
- (8) Work Site Protection Manual for Daylight Maintenance Operations.

(B) **Interpretation of Municipal Standards and Principles.** If a discrepancy exists between or among differing principles and standards required by this Article, the Streets Trustee shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Streets Trustee shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

33-4-14 **TRAFFIC CONTROL.**

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

(B) **Warning Signs, Protective Devices, and Flaggers.** The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.

(C) **Interference with Traffic.** All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

(D) **Notice When Access is Blocked.** At least **forty-eight (48) hours** prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to **Section 33-4-20** of this Article, the utility shall provide such notice as is practicable under the circumstances.

(E) **Compliance.** The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the Village.

33-4-15 **LOCATION OF FACILITIES.**

(A) **Parallel Facilities Located Within Highways.**

(1) **Overhead Parallel Facilities.** An overhead parallel facility may be located within the right-of-way lines of a highway only if:

- (a) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;
- (b) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of **two (2) feet (0.6m)** behind the face of the curb, where available;
- (c) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of **four (4) feet (1.2m)** outside the outer shoulder line of the roadway and are not within the clear zone;
- (d) No pole is located in the ditch line of a highway; and
- (e) Any ground-mounted appurtenance is located within **one (1) foot (0.3m)** of the right-of-way line or as near as possible to the right-of-way line.

(2) **Underground Parallel Facilities.** An underground parallel facility may be located within the right-of-way lines of a highway only if:

- (a) The facility is located as near the right-of-way line as practicable and not more than **eight (8) feet (2.4m)** from and parallel to the right-of-way line;
- (b) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new

cable may be installed in existing conduit without disrupting the pavement); and

- (c) In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than **five (5) feet (1.5m)** from the right-of-way line and any above-grounded appurtenance shall be located within **one (1) foot (0.3m)** of the right-of-way line or as near as practicable.

(B)

Facilities Crossing Highways.

- (1) **No Future Disruption.** The construction and design of crossing facilities installed between the ditch lines or curb lines of Village highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.
- (2) **Cattle Passes, Culverts, or Drainage Facilities.** Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.
- (3) **90 Degree Crossing Required.** Crossing facilities shall cross at or as near to a **ninety (90) degree** angle to the centerline as practicable.
- (4) **Overhead Power or Communication Facility.** An overhead power or communication facility may cross a highway only if:
 - (a) It has a minimum vertical line clearance as required by ICC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);
 - (b) Poles are located within **one (1) foot (0.3m)** of the right-of-way line of the highway and outside of the clear zone; and
 - (c) Overhead crossings at major intersections are avoided.
- (5) **Underground Power or Communication Facility.** An underground power or communication facility may cross a highway only if:
 - (a) The design materials and construction methods will provide maximum maintenance-free service life; and
 - (b) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- (6) **Markers.** The Village may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F.R. §192.707 (1989)).

(C)

Facilities to be Located Within Particular Rights-of-Way.

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

- (D) **Freestanding Facilities.**
- (1) The Village may restrict the location and size of any freestanding facility located within a right-of-way.
 - (2) The Village may require any freestanding facility located within a right-of-way to be screened from view.

- (E) **Appearance Standards.**
- (1) The Village may prohibit the installation of facilities in particular locations in order to preserve visual quality.
 - (2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the highway user or impair the aesthetic quality of the lands being traversed.

- (F) **Above Ground Installation.** 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.

- (G) **Facility Attachments to Bridges or Roadway Structures.**
- (1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.
 - (2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
 - (a) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
 - (b) The type, length, value, and relative importance of the highway structure in the transportation system;
 - (c) The alternative routings available to the utility and their comparative practicability;
 - (d) The proposed method of attachment;

- (e) The ability of the structure to bear the increased load of the proposed facility;
- (f) The degree of interference with bridge maintenance and painting;
- (g) The effect on the visual quality of the structure; and
- (h) The public benefit expected from the utility service as compared to the risk involved.

33-4-16 **CONSTRUCTION METHODS AND MATERIALS.**
(A) **Standards and Requirements for Particular Types of**
Construction Methods.

(1) **Boring or Jacking.**

- (a) **Pits and Shoring.** Boring and jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Streets Trustee from the edge of the pavement. Pits for boring or jacking shall be excavated no more than **forty-eight (48) hours** in advance of boring or jacking operations and backfilled within **forty-eight (48) hours** after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
- (b) **Wet Boring or Jetting.** Wet boring or jetting shall not be permitted under the roadway.
- (c) **Borings With Diameters Greater than Six (6) Inches.** Borings over **six (6) inches (0.15m)** in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than **one (1) inch (25mm)**.
- (d) **Borings with Diameters Six (6) Inches or Less.** Borings of **six (6) inches** or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
- (e) **Tree Preservation.** Any facility located within the drip line of any tree designed by the Village to be preserved shall be bored under or around the root system.

(2) **Trenching.** Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of the current edition of IDOT's "Standard Specifications for Road and Bridge Construction".

- (a) **Length.** The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may

have an open trench at any time unless special permission is obtained from the Streets Trustee.

- (b) **Open Trench and Excavated Material.** Open trench and windrowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.
 - (c) The utility shall not trench within the drip line of any tree designated by the Village to be preserved.
- (3) **Backfilling.**
- (a) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction". When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
 - (b) For a period of **three (3) years** from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Streets Trustee, 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 Streets Trustee.
- (4) **Pavement Cuts.** Pavement cuts for facility installation or repair shall be permitted on a highway only if that portion of the highway is closed to traffic. If a variance to the limitation set forth in this paragraph (4) is permitted under **Section 33-4-21**, the following requirements shall apply:
- (a) Any excavation under pavements shall be backfilled as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Streets Trustee.
 - (b) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the Village.
 - (c) All saw cuts shall be full depth.
 - (d) For all rights-of-way which have been reconstructed with a concrete surface/base in the last **seven (7) years**, or resurfaced in the last **three (3) years**, permits shall not

be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a J.U.L.I.E. locate.

- (5) **Encasement.**
- (a) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the Village.
 - (b) The venting, if any, of any encasement shall extend within **one (1) foot (0.3m)** of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.
 - (c) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or Village approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the Village. Bell and spigot type pipe shall be encased regardless of installation method.
 - (d) In the case of gas pipelines of **60 psig** or less, encasement may be eliminated.
 - (e) In the case of gas pipelines or petroleum products pipelines with installations of more than **60 psig**, encasement may be eliminated only if:
 - (i) extra heavy pipe is used that precludes future maintenance or repair and
 - (ii) cathodic protection of the pipe is provided;
 - (f) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.
- (6) **Minimum Cover of Underground Facilities.** Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

Type of Facility	Minimum Cover
Power or Communication Line (In General)	30 inches (0.8m)
Communication Line Installed by the Plowed Method	24 inches (0.6m)
Gas or Petroleum Products	30 inches (0.8m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, Or Drainage Line	Sufficient Cover to Provide Freeze Protection

(B)

Standards and Requirements for Particular Types of Facilities.**(1) Electric Power or Communication Lines.**

- (a) **Code Compliance.** Electric power or communications facilities within Village rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power and Communications Lines", and the National Electrical Safety Code.
- (b) **Overhead Facilities.** Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.
- (c) **Underground Facilities.**
 - (i) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads.
 - (ii) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if:
 - a. the crossing is installed by the use of "moles", "whip augers", or other approved method which compress the earth to make the opening for cable installation or
 - b. the installation is by the open trench method which is only permitted prior to roadway construction.
 - (iii) Cable shall be grounded in accordance with the National Electrical Safety Code.

(2) Underground Facilities Other Than Electric Power or Communication Lines. Underground facilities other than electric power or communication lines may be installed by:

- (a) The use of "moles", "whip augers", or other approved methods which compress the earth to move the opening for the pipe;
- (b) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
- (c) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
- (d) tunneling with vented encasement, but only if installation is not possible by other means.

(3) Gas Transmission, Distribution and Service. Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a Village approved manner and in conformance with

the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR 192), IDOT’s “Standard Specifications for Road and Bridge Construction”, and all other applicable laws, rules, and regulations.

- (4) **Petroleum Products Pipelines.** Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
- (5) **Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines.** Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current “Standard Specifications for Water and Sewer Main Construction in Illinois”.
- (6) **Ground Mounted Appurtenances.** Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending **one (1) foot (305mm)** in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Streets Trustee. With the approval of the Streets Trustee, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.

(C)

Materials.

- (1) **General Standards.** The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT’s “Standard Specifications for Road and Bridge Construction”, the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.
- (2) **Material Storage on Right-of-Way.** 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 Streets Trustee when emergency work is required to restore vital utility services.
- (3) Unless otherwise permitted by the Village, the hours of construction are from sunrise to sunset.

(E) **Location of Existing Facilities.** Any utility proposing to construct facilities in the Village shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The Village will make its permit record available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the Village or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within **forty-eight (48) hours**, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (**220 ILCS 50/1 et seq.**).

33-4-17 VEGETATION CONTROL.

(A) **Tree Trimming Permit Required.** Tree trimming shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this Article.

- (1) **Application for Tree Trimming Permit.** Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.
- (2) **Damage to Trees.** Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The Village will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The Village may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

(B) **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.

(C) **Chemical Use.** 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 Streets Trustee that such spraying is the only practicable method of vegetation control.

33-4-18 REMOVAL, RELOCATION, OR MODIFICATION OF UTILITY FACILITIES.

(A) **Notice.** Within **ninety (90) days** following written notice from the Village, a utility shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any Village improvement in or upon, or the operations of the Village in or upon, the rights-of-way.

(B) **Removal of Unauthorized Facilities.** Within **thirty (30) days** following written notice from the Village, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:

- (1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
- (2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;
- (3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Article; or
- (4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

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

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

33-4-19 CLEANUP AND RESTORATION. Upon completion of all construction or maintenance of facilities, the utility shall remove all excess material and restore all turf and terrain in a timely manner and 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 Streets Trustee. 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.

33-4-20 MAINTENANCE AND EMERGENCY MAINTENANCE.

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

(B) **Emergency Maintenance Procedures.** Emergencies may justify noncompliance with normal procedures for securing a permit:

- (1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flags. If a hazard does not exist on the traveled way, but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.
- (2) In an emergency, the utility shall, as soon as possible, notify the Streets Trustee 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 of a description of the repairs undertaken in the right-of-way within **forty-eight (48) hours** after an emergency repair.

33-4-21 VARIANCES.

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

(B) **Authority to Grant Variances.** The Streets Trustee shall decide whether a variance is authorized for each provision of this Article identified in the variance request on an individual basis.

(C) **Conditions for Granting of Variance.** The Streets Trustee 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 Streets Trustee may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Article but which carry out the purposes of this Article.

33-4-22 PENALTIES. Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the Village will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Article. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the Village's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the Village. Sanctions may be imposed upon a utility who does not pay the costs apportioned to it. **(See Section 1-1-20 for additional penalties.)**

33-4-23 ENFORCEMENT. Nothing in this Article shall be construed as limiting any additional or further remedies that the Village may have for enforcement of this Article.

(Ord. No. 99-04; 03-11-99)

ARTICLE V - STREET IMPROVEMENTS

33-5-1 SIDEWALKS.

(A) **Grade.** No sidewalk shall be built above or below the established grade of the Village and in all cases where no grade is established, any person building a sidewalk shall build the same according to the instructions of the Street Superintendent and the Village Board. No one shall build a sidewalk unless it consists of new construction. No one shall remove or destroy a sidewalk without replacing the same with a new sidewalk.

(B) **Permit.** It shall be unlawful for any person to build, lay or construct any sidewalk along any property in the Village or along any of the streets, alleys, or public highways thereon, without first filing an application for a permit with the Village Clerk and approved by the Village Board.

(C) **Cost to Owner.** If the funds are available and the Village Board approves the request, the property owner shall pay **one-half (1/2)** of the cost of the construction, including engineering fees, and thereafter, the sidewalk shall be maintained by the Village.

(D) **Subdivisions.** This Section is not applicable to new subdivisions. **(65 ILCS 5/11-80-13)**

33-5-2 CURBS AND GUTTERS.

(A) **Request in Writing.** Any person owning property within the Village who desires to have new curbs and gutters constructed, along the street adjoining his premises shall file a request with the Street Superintendent, giving the location of the property and the length of the curbs and gutters requested. All installations shall conform to the requirements of **65 ILCS 5/11-80-11** and the **Environmental Barriers Act**.

(B) **Cost to Owner.** If the funds are available and the Village Board approves the request, the property owner shall pay **one-half (1/2)** of the cost of the construction, including engineering fees, and thereafter, the curbs and gutters shall be maintained by the Village.

(C) **Approval by Village Board.** The approval of the request for construction of curbs and gutters by the Village Board shall be dependent upon the approval of funds, priority of projects and continuity of construction for the best benefit of the Village as determined by the Village Board.

(D) **Subdivisions.** This Section is not applicable to new subdivisions. **(65 ILCS 5/11-80-11)**

33-5-3 STORM SEWERS.

(A) **Description of Storm Water Sewers.** Storm water sewers shall be any pipe or sewer used for the carrying of surface drains, ground waters, roof leaders, or storm waters, rain waters, or other waters other than sanitary sewage.

(B) **Supervision.** The Superintendent of the Water and Sewer Departments shall supervise all connections made to the public storm sewer system or excavations for the purposes of installing or repairing the same.

(C) **Permits.** Before any connection is made to the public storm water sewers, a permit shall be applied for and approved by the Superintendent or his designated representative.

(D) **Requirements: Use of Storm Water Sewers.** Where a storm water sewer is accessible in a street, alley or easement to a building or premises abutting thereon, the surface drains, ground waters, roof leaders, or storm waters shall be discharged into the storm water sewer unless otherwise authorized by the Village. Under no conditions shall sanitary sewage or wastes or any substance other than surface waters, ground waters, roof waters or storm waters be permitted to flow into or be connected to the storm water sewer; and no sanitary sewer shall be connected to the storm water sewer system.

(65 ILCS 5/11-80-7)

ARTICLE VI - CULVERTS

33-6-1 **OBSTRUCTION OF DRAIN OR STORM SEWER.** It shall be unlawful to obstruct any drain or storm sewer, if any, in any public street or property.

33-6-2 **PERMIT REQUIRED; REPLACEMENT COST.** It shall be unlawful to install any culvert or replace any culvert without first obtaining a permit from the Street Committee. The expense of replacing any culvert shall be borne by the person making application for the permit to install the culvert.

33-6-3 **TYPE OF CULVERT.** Culverts shall be installed where driveways or walkways cross open ditches. The material used for the construction of the culverts shall be reinforced concrete, corrugated steel culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, corrugated aluminum alloy culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, asbestos cement storm drain pipe (**Class IV**), or of such other material as determined by the Street Committee, depending upon the conditions existing. The culverts shall be of such size, installed at the grade and constructed with couplings as determined by the Street Committee. The Village shall install the culvert. It shall be at least **ten (10) inches** in diameter.

(65 ILCS 5/11-80-7)

ARTICLE VII - DRIVEWAYS

33-7-1 **PERMITS REQUIRED.** No person shall construct a driveway for vehicles or animals across any sidewalk in the Village without having first obtained a permit therefor.

Applications for such permits shall be made to the Village Clerk and shall be accompanied by the fee required.

No permit for construction of a driveway for commercial use, or for the habitual use of other than the owner or occupant of the premises served shall be issued except upon the order of the Village Clerk.

33-7-2 **FEE.** The fee for all such construction shall be **One Dollar (\$1.00).**

33-7-3 **GRADE SURFACE.** No driveway shall be so constructed or graded as to leave a step, sharp depression or other obstruction in the sidewalk. The grade shall be as nearly as possible the same as that of the adjoining sidewalk. It shall be unlawful to have the surface finish of any driveway where the same crosses the sidewalk constructed of such materials as to render it slippery and hazardous to pedestrians, or to have the grade of such portion vary from the grade of the sidewalk or be other than level.

33-7-4 **SPECIFICATIONS.** Driveways across sidewalks shall be constructed in compliance with the specifications required by the Street Superintendent.

33-7-5 **BREAKING CURB - BOND REQUIRED.** Before a permit can be issued to break a curb in the Village for the installation of a driveway or any other purpose, a bond or cash in the amount of **One Hundred Dollars (\$100.00)** is required to be posted with the Village Clerk.

33-7-6 **REPAIR.** It shall be the duty of the person maintaining the driveway to keep the same in good repair where it crosses the sidewalk and free from obstruction and openings.

(65 ILCS 5/11-80-2)

ARTICLE VIII – HOUSE NUMBERING

33-8-1 **NUMBERS REQUIRED.** All lots, buildings, and structures in the Village shall be numbered in accordance with the following plan as near as shall be practicable:

(A) The baseline for streets running north and south shall be Center Street, and numbers lying north or south shall be designated north or south as the case may be; the baseline for streets running east and west shall be Main Street, and numbers lying east and west of the baseline shall be designated east or west as the case may be. The street direction from the baseline is required only for roadways that cross a baseline.

(B) The numbers for presently platted lots and structures shall be as set forth on **Exhibit "A"** hereto.

(C) Lots subdivided in the future shall be numbered in accordance with the following rules. Numbers at each block shall begin with **one hundred (100)** or a multiple thereof, with numbers ascending in increments of **two (2)** for each **forty (40) feet** of frontage. Numbers shall ascend as distance from baselines increase. Each time a subdivision is platted, the developer shall review proposed street numbers with the corporate authorities of the Village.

33-8-2 **RESPONSIBILITY.** It shall be the duty of the owner, managing agent and occupant of every building in the Village to have placed thereon in a place easily visible from the street, figures at least **three (3) inches** high, and of contrasting color to the building's exterior, showing the street address number of the building.

(A) For every multiple dwelling, office, commercial or other non-residential building, there shall be the additional requirement of placing thereon, in places easily visible from the front and rear outside accesses, figures showing the street address numbers and suite numbers of the units contained therein.

(B) Each trailer park or mobile home park within the Village, shall have **one (1)** street address. It shall be the duty of the owner and managing agent of such trailer park or mobile home park, to number each trailer or mobile home site within such park, and to mark each trailer or mobile home in such park with the lot number, in a place easily visible from the front of the trailer or mobile home.

33-8-3 **CLERK.** The Clerk is directed forthwith to send a certified copy of this Article to the election authorities having jurisdiction over Loami and to the Post Office branch serving Loami.

33-8-4 **NOTIFICATION.** When the acts specified in **Section 33-8-3** are accomplished, the Clerk shall forthwith, by United States Mail or other means, use best efforts to notify every owner of a structure depicted on **Exhibit "A"** and every operator of a mobile home park of the requirements of this Article, of the new street address of such structure or mobile home park, and of the availability for purchase, at cost, from the Village upon application within **thirty (30) days** of such notice.

33-8-5 **PURCHASE OF NUMBERS.** The President is authorized and directed to purchase numbers for each person who shall apply therefor, in accordance with **Section 33-8-4** to be resold to such persons at cost.

(Ord. No. 91-2; 02-07-91)

CHAPTER 34
SUBDIVISION CODE

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CHAPTER 34

SUBDIVISION CODE

ARTICLE I – GENERAL PROVISIONS

34-1-1 **TITLE.** This Code may be cited as "The 1994 Land Subdivision Code of the Village of Loami, Illinois".

34-1-2 **JURISDICTION.**

(A) The subdivision jurisdiction of the Village shall include all land within the corporate limits of the Village. Should the Village adopt a Comprehensive Plan, the jurisdiction shall extend to all unincorporated land within **one and one-half (1 1/2) miles** of the corporate limits of the Village.

(B) When the **one and one-half (1 1/2) mile** subdivision jurisdiction of the Village and that of another municipality overlap, a contractual agreement between the Village and the other municipality may be established which designates subdivision jurisdiction boundaries in the overlap area. In the absence of such an agreement, the jurisdiction shall extend to a median line equidistant from the Village's boundary and the boundary of the other municipality nearest to the boundary of the Village at any given point on the line.

34-1-3 **PURPOSE.** It is the purpose of this Code to promote growth and development and to regulate and control the division of land within the subdivision approval jurisdiction of the Village in order 1) to provide for the legal and orderly division of land by requiring proper description, monumentation and recording of subdivided land and 2) to promote growth of the community which protects the public health and safety and provides essential public services to existing and future residents. The goals of this Code shall be to promote:

(A) Conformance with the Loami Comprehensive Plan, if such a Plan is adopted.

(B) Provision of adequate public services including public water and sewer, electricity, and police and fire protection to land to be developed.

(C) Prevention of leap frog and scattered development.

(D) Prevention of development on unsuitable land.

(E) Provision of safe and efficient street network.

(F) Prevention of agricultural/residential conflicts.

(G) Conservation and protection of natural resources.

(H) Prevention of inappropriate development in or filling of the 100-year flood plain.

(I) Establishment of lots that are of a practical size and shape.

(J) Enhancement and preservation of aesthetic qualities.

34-1-4 **SEVERABILITY.** If any section, provision or portion of this Code is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the ordinances shall not be affected by that decision.

34-1-5 PLAT; WHEN REQUIRED. It shall be unlawful for a subdivider of land within the subdivision jurisdiction of the Village to subdivide land into lots, blocks, streets, alleys, or public open space unless by plat in accordance with the laws of the State of Illinois and the provisions of this Code. It shall be unlawful to divide land without obtaining tract survey approval, when required.

(A) The provisions of this Code shall not apply, except as noted with respect to tract surveys, and no plat is required in any of the following instances: **(Plats Act, 765 ILCS Sec. 205/0.01 et seq.)**

- (1) The division or subdivision of land into parcels or tracts of **five (5) acres** or more in size which does not involve any new streets or easements of access;
- (2) The division of lots or blocks of less than **one (1) acre** in any recorded subdivision which does not involve any new streets or easements of access;
- (3) The sale or exchange of parcels of land between owners of adjoining and contiguous land except where the transfer results in the creation of another buildable lot;
- (4) The conveyance of parcels of land or interests therein for the use as a right-of-way for railroads or other public utility facilities and other pipe lines which does not involve any new streets or easements of access;
- (5) The conveyance of land owned by a railroad or other public utility which does not involve any new streets or easements of access;
- (6) The conveyance of land owned for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;
- (7) Conveyances made to correct descriptions in prior conveyances;
- (8) The sale or exchange of parcels or tracts of land following the division into no more than **two (2) parts** of a particular parcel or tract of land existing on **July 17, 1959** and not involving any new streets or easements of access. If a division is made prior to **October 1, 1973** for which an exemption is claimed pursuant to this **Section 34-1-5(A)(8)**, and the division results in **one (1) part** being greater than **five (5) acres** and the other part being less than **five (5) acres**, then the subsequent division of the part greater than **five (5) acres** shall qualify for the exemption set forth in **Section 34-1-5(A)(9)** of this Section. If a division is made on or after **October 1, 1973** for which an exemption is claimed pursuant to this **Section 34-1-5(A)(8)**, and the division results in **one (1) part** being greater than **five (5) acres** and the other part being less than **five (5) acres** then the subsequent division of the part greater than **five (5) acres** shall not qualify for the exemption set forth **Section 34-1-5(A)(9)**.
- (9) The sale of a single lot less than **five (5) acres** from a tract of **five (5) acres** or larger when a survey is made by a registered surveyor; provided, however, that this exemption shall not apply to the sale of any subsequent lots from the same larger tract of land, as determined by the dimensions and configuration of the

larger tract on **October 1, 1973**, and provided that this exemption does not invalidate any other local requirements applicable to the subdivision of the land.

- (10) The division of a lot of record as of the date of this Code, if the new lots created by such division, together with any structure existing as of the date of the division, meet all requirements of the Zoning Code for the Village with respect to the Zoning District in which such new lots are located, and not involving any new streets or easements of access. Provided, however, that this exemption shall not apply to the further division of any lots created thereby.

(B) A tract survey shall be required for a division or subdivision of land for which no plat is required under subsection (A) of this Section. All tract surveys shall be approved and recorded in accordance with **Sections 34-10-1** through **34-10-4** of this Code.

34-1-6 **DEFINITIONS.** For the purpose of this Code, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

"Alley". A public way used primarily as a service access to the rear or side of a property which abuts on a street.

"Arterial Roadway Network Plan". The portion of the Official Village Plan providing and planning for the present and future system of streets for the Village.

"As Built Plans". Final plans showing any changes from the construction plans, indicating in detail how the project was constructed. Such plans show all public facilities as built on the surface and underground, both on public property and on easements and also indicate all private utility locations that are known. Details shown include: sanitary and storm sewers, manholes, invert grades, bench marks, location of sanitary sewer laterals, street inlets, hydrants, general flow of surface water, and grades for drainage swales on the lot. The "as built plans" carry the seal of a registered professional engineer certifying that construction was completed in conformance with the plans and specifications.

"Block". A tract of land bounded by streets, or by a combination of streets, parks, railroad rights-of-way or bodies of water.

"Collector Streets". Streets penetrating neighborhoods collecting traffic from local streets and channeling it into the arterial street system. A minor amount of through traffic may be expected, but collector streets primarily provide land access service and carry local traffic movements within residential neighborhoods and commercial and industrial areas.

"Construction Plans". The drawings prepared in the manner and containing the data, documents and information required by Article IV - "Construction Plans".

"Covenants". A private agreement written into the deed in which property owners of the development promise to do or refrain from doing certain acts.

"Cul-de-Sac". A permanent street with a single access point that ends in a turnaround and cannot be further extended without taking property not dedicated as a street. A cul-de-sac begins at its point of intersection with a street with multiple access.

"Dedicate". To transfer ownership of land, either fee simple or a partial interest, for a public use, and for a public body to accept it for that public use.

"Drainage Course". A natural watercourse, swale, depression or ditch for the drainage of surface waters and storm waters.

"Easement". A liberty, privilege or advantage which a party or the general public may have regarding the land of another. The remainder of the rights in the land remain in the hands of the owner who retains the legal title.

"Existing Township Highway". Any public road in the township which is owned and maintained by the township.

"Final Plat". The drawing of a subdivision prepared in the manner and containing the data, documents and information required by this Code showing lots of record and which is to be recorded.

"Flag Lot". A lot located behind another lot or parcel with access to a public street only by a narrow strip of land extending from the buildable area of the lot to the street.

"Large Scale Development". A form of land subdivision which involves the construction of a multi-family or commercial building on a lot or parcel of land **one (1) acre** or more in size or **two (2)** or more principal multi-family or commercial buildings on a lot or parcel of land of any size served by an internal street and utility distribution.

"Local Streets". Streets not classified in a higher system which primarily provide direct access to abutting land and access to higher types of roadways. They offer the lowest level of mobility being the narrowest and shortest streets in the street system. Service to through traffic is deliberately discouraged.

"Location Map". A preliminary drawing or map of a proposed subdivision containing the data and information required by this Code.

"Lot". The tract within a subdivision marked by the subdivider as a numbered tract to be offered as a unit of land for sale or transfer of ownership.

"Major Arterial Streets and Roadways". The highest traffic volume corridors serving major activity centers and the longest trip desires. Service to abutting land is subordinate to the provision of travel service to major traffic movements. They are normally spaced on a **one (1) mile** grid pattern and may include expressways.

"Minor Arterial Streets and Highways". Streets and roadways which interconnect with and augment the major arterial street system and provide service trips of moderate length at a somewhat lower level of travel mobility than major arterials. Minor arterials place more emphasis on land access and distribute travel to geographic areas smaller than those identified with major arterials.

"Minor Subdivision". The creation of a total of up to **four (4) lots** (counting the original tract from which the lots are created) which front along a public road.

"Official Plan" or "Comprehensive Plan". The Loami, Illinois, Comprehensive Plan.

"Owner". Any or all persons, entities, trusts, or corporation holding legal title to the land to be subdivided. If the owner is a trust, all beneficiaries shall be listed as owners. If the owner is a corporation, all principals and officers shall be listed as owners.

"Pavement Width". The distance from the edge of the pavement to the edge of the pavement but not including curb and gutter.

"Planned Unit Development". A form of land subdivision that allows the development of **ten (10)** or more acres of land with variations of some of the restrictions of standard zoning and subdivision regulations.

"Planning Committee" or "Committee". The Committee of the Village Board having jurisdiction over the review of subdivision plans and plats.

"Plat". The action of officially subdividing land or the final plat which is approved by the Village and recorded.

"Plats Officer". The Executive Director of the Springfield-Sangamon County Regional Planning Committee or duly authorized representative.

"Preliminary Plan". A plan of proposed subdivision or greater area prepared in the manner and continuing the data, documents and information required by this Code.

"Principal Building". A building in which the principal use of the lot on which it is located is conducted.

"Private Street". A purported street, way or strip of land reserved for the use of a limited number of persons or purposes and which is not a publicly dedicated street.

"Public Crosswalk". A **ten (10) foot** right-of-way through the interior of a block in which a sidewalk meeting the construction standards of this Code is built.

"Public Improvement". Any street, sanitary sewer, storm sewer, drainage way, water main, sidewalk, parkway or other facility which the Village or other governmental unit owns, maintains and operates.

"Public Street". A street owned and maintained by a governmental body.

"Record". To file a final plat approved by the Village with the Sangamon County Recorder of Deeds.

"Right-of-Way". A strip of land which has been dedicated in fee simple to a public body for streets, alleys and other public improvements as determined by the public body.

"Sanitary Sewer". A constructed conduit connected with the sewer system that is designed to carry liquids and solids other than storm water to a sanitary sewer treatment plant.

"Service Access Street". A street parallel to and adjacent to a major arterial which provides access from the arterial to abutting properties.

"Setback". The minimum horizontal distance required between the building and the lot line adjoining the street right-of-way.

"Shall". Means something is mandatory; **"May"** means something is discretionary.

"Sketch Plan". A general layout of a proposed subdivision prepared in the manner and containing the information required by this Code.

"Storm Sewer". A constructed conduit for carrying storm water to a drainage course.

"Storm Water". Water from roof downspouts, basement footing perimeter drains and yard drains as well as surface runoff.

"Stub Street". A street which is intended to be extended but which temporarily ends.

"Subdivider". Any or all owners, agents or persons controlling land who commence proceedings under this Code by submitting location and sketch maps to the Planning Committee office or by making land improvements in the form of buildings, drives, and utilities, but not necessarily involving the actual division of land.

"Subdivision of Land". The (1) division of land into **two (2)** or more parts, any of which is less than **five (5) acres** in size (see **Section 34-1-5(A)** for exemptions), (2) dedication of streets or easements of access, or (3) creation of a Planned Unit Development. In the event a subdivision is a Planned Unit Development. In the event a subdivision is a Planned Unit Development, the standards and regulations of this Code shall govern.

"Superintendent of Highways". The Sangamon County Superintendent of Highways.

"Surety". A bonding agency that is financially qualified to do business in the State of Illinois.

"Through Lot". Any lot which is not a corner lot and which adjoins **two (2) streets** that are parallel or within **forty-five (45) degrees** of being parallel to each other.

"Township Highway Commissioner". The Township Highway Commissioner for the township in which the subdivision is located.

"Tract Survey". A land survey, made by an Illinois Professional Land Surveyor, complying with the requirements of Section 1 of "An Act to revise the law in relation to plats".

(765 ILCS Sec. 205/0.01) as now or hereafter amended, and Section 35 of the "Revenue Act of 1939" **(35 ILCS Sec. 205/35)** as now or hereafter amended.

"Traffic Control Device". Any sign, signal marking or device placed on or adjacent to a street or highway by authority of the Village, the State of Illinois Department of Transportation or the Sangamon County Superintendent of Highways.

"Village". The Village of Loami, Illinois.

"Village Clerk". The Village Clerk of the Village of Loami, Illinois.

"Village Engineer". The professional engineer appointed or designated by the Village Board of Trustees.

"Water Department". The Water Department of the Village of Loami.

"Zoning Administrator". The Zoning Administrator of the Village of Loami.

34-1-7 DUTIES OF ZONING ADMINISTRATOR. The Zoning Administrator of the Village shall be the staff person primarily responsible for administering this Code. He or she may be a trustee designated by the Village Board to perform such functions, or may be an officer of the Village appointed by the Village President with the advice and consent of the Village Board. The Zoning Administrator shall:

- (A) accept all plats and other documents for filing with the Village;
- (B) insure that the proper number of plats and other documents as required by this Code are filed by the subdivider;
- (C) insure the timely and proper dissemination of all plats and other documents to interested parties;
- (D) perform whatever staff work is required by the Planning Committee;
- (E) assure collection of all fees required by this Code;
- (F) pay all such fees over to the General Fund of the Village; and
- (G) insure, prior to the approval and signing of any final plat, that all necessary fees have been paid by the subdivider.

In addition to these general duties, the Zoning Administrator shall have all other duties required by this Code.

ARTICLE II - LOCATION AND SKETCH MAPS

34-2-1 **PURPOSE.** The purpose of the location and sketch maps is to determine the suitability of the site for subdividing and subsequent development. Suitability shall be measured by the conformance with the comprehensive plan, effect on natural resources and natural systems, ability to provide adequate essential services to the site and conformance with the goals of this Code set forth in **Section 34-1-3**.

34-2-2 **SUBMISSION REQUIREMENTS.** Information filed with the Planning Committee shall be of sufficient detail so that the Committee can determine whether and how essential services will be provided and if the site is suitable.

(A) **Location Map.** The location map shall consist of data added to an existing base map of a suitable scale, covering an area of at least **one (1) mile** radius from the tract proposed for development. The location map shall show the following information:

- (1) North point, scale and date.
- (2) Outline of the entire area owned or controlled by the subdivider with approximate boundary dimensions and total acreage.
- (3) Existing streets and roads expected to serve the area to be subdivided.
- (4) Existing utility lines expected to serve the area to be subdivided.

(B) **Sketch Map.** The sketch map shall show the general layout and character of the proposed development. The scale shall be no more than **one hundred (100) feet** to the inch. Exact dimensions or engineering plans are not required. The sketch map shall show the following information:

- (1) North point, scale and date.
- (2) Area to be subdivided with general dimensions.
- (3) Proposed street network and alignments with existing streets.
- (4) General lot layout.
- (5) Potential open space - public parks, existing waterways, drainage or retention areas, etc.
- (6) Outstanding or unusual natural features and vegetation.

(C) **Additional Information.** In addition to the information required below, any other information necessary for the Planning Committee to determine site suitability or adequacy of mitigating factors as outlined in **Section 34-2-3** shall be submitted:

- (1) Title of the proposed subdivision.
- (2) Names, addresses and phone numbers of the owner, subdivider, engineer and land surveyor. A contact person should be designated.
- (3) Proposed use and approximate number of housing units.
- (4) Existing and proposed zoning.
- (5) Method of sewage disposal.
- (6) Method of water supply.
- (7) Electric service provider.
- (8) Fire protection district.
- (9) School district.

34-2-3 SUBDIVISION SITE SUITABILITY.

(A) **Essential Utilities and Public Services.** Land proposed to be subdivided shall have essential utilities and public services available within a reasonable distance and time period. Land to which these essential utilities and services will not be so provided shall be deemed unsuitable for subdividing. Essential utilities and services and criteria for determining if they can adequately be provided shall include the following:

- (1) **Sewage Disposal.** Land shall be considered unsuitable for subdividing unless it can be shown that adequate private sewage systems can be provided, which will comply with the technical requirements in **Section 34-7-10** hereof.
- (2) **Water Supply.**
 - (a) An Illinois Environmental Protection Agency approved public water supply shall be the preferred method of water supply.
 - (b) Private wells may be permitted for developments outside the Village if the developer can demonstrate that it is not feasible to extend water mains to the land proposed to be subdivided. As a minimum guideline, the extension of **one hundred twenty (120) feet +/-** of water main per lot of the preliminary plan shall be deemed feasible. This distance shall be measured between the nearest suitable public water main and the proposed development. Mains within the development shall not count toward this extension footage.
- (3) **Fire Protection.** Land proposed to be subdivided shall meet the following conditions in order to be deemed suitable for subdividing;
 - (a) Land shall be within a fire protection district, if possible, or the subdivider shall make arrangements to have the land served by a fire protection district under contract, if it is not within a fire protection district.
 - (b) There shall be a public road providing adequate access for emergency vehicles to the site. Roadways shall have an all weather driving surface (minimum oil and chip) with **twenty (20) feet** of unobstructed width. Where a bridge is required to be used as a part of the most direct fire truck access route, it shall have a minimum vertical clearance of **thirteen (13) feet six (6) inches** and be constructed and maintained to carry the live loads imposed by fire trucks; and
 - (c) There shall be a system of water mains or other source of water adequate for fire fighting purposes. Specific fire flows shall be determined by the Loami Fire Protection District using a standard published by the Insurance Service Office entitled "Guide for Determination of Required Fire Flow".

A full sprinkler system installed with adequate water available as determined by the National Fire Protection Association Standards

13 or 13D depending on the occupancy of the building shall also satisfy this requirement.

- (4) **Streets.** The suitability of existing streets for access to the proposed subdivision and/or for incorporation in to the proposed subdivision's street system shall also be considered. A street shall be considered suitable if:
 - (a) The street is constructed of all weather material (concrete, asphalt, oil mat);
 - (b) The paved area is at least **twenty (20) feet** wide with a road bed **twenty-four (24) feet** wide; and
 - (c) The street has good drainage.

If only a portion of the criteria set forth in **Section 34-2-3(A)(4)** is met, the Village Engineer, a representative of the Loami Fire Protection District, and a representative of the Planning Committee shall make the recommendation as to whether the street is suitable for the proposed development or what improvements must be undertaken to make it suitable.

- (5) **Police Protection.** In determining the suitability of land for subdivision purposes, the distance that police would have to travel to respond to a call for service shall be considered.

(B) **Other Requirements.** Land proposed to be subdivided shall meet the following requirements:

- (1) Site must be in conformance with the Loami Comprehensive Plan, if one is adopted;
- (2) Development must not be located in a 100-year flood plain or flood prone area.
- (3) Development must not be located in any environmentally sensitive area including sites adjacent to Lake Springfield and its tributaries unless the subdivider can show that environmental concerns can be mitigated.
- (4) Site must be of a shape, size and terrain so that usable lots and streets in conformance with this Code can and will be created.
- (5) Development must not have a major conflict with existing use of adjacent property (waste water treatment plants, power plants, major industrial plants, landfills, certain agricultural uses, etc.) unless it is shown that factors which cause the conflict can and will be mitigated.
- (6) Development must not cause major off-site impacts and problems relating to, but not limited to, streets, drainage water system, parks. If it is determined by the Planning Committee that major off-site impacts will result, the subdivider must agree to mitigate the portion of the impact caused by the subdivision.
- (7) When soils in the area to be developed have severe limitations for building site development or sanitary facilities as determined by the USDA Soil Conservation Service, the subdivider shall submit information indicating how these limitations will be addressed.

34-2-4 LOCATION AND SKETCH MAPS REVIEW PROCESS.

(A) The subdivider shall submit **thirteen (13) prints** of the location and sketch maps and support data to the Zoning Administrator. The subdivision will be reviewed according to the filing deadline and review schedule established by the Planning Committee.

(B) The Zoning Administrator shall retain **one (1) print** on file and distribute the location map and sketch maps and support data as follows:

Two (2) prints to the Planning Committee;

One (1) print to the Water Department;

One (1) print to the Village Engineer;

One (1) print to the Village Clerk;

One (1) print to the Loami Fire Protection District;

One (1) print to the Sangamon County Superintendent of Highways, if applicable;

One (1) print to the Sangamon County Soil and Water Conservation District, if applicable;

One (1) print to the appropriate Township Highway Commissioner, if applicable;

One (1) print to the appropriate school district;

One (1) print to the electric utility serving the area to be subdivided; and

One (1) print to the gas company serving the area to be subdivided.

(C) The entities listed in **Section 34-2-4(B)** above shall transmit any comments on suitability of the site in writing to the Planning Committee within **seven (7) calendar days** of receipt.

(D) The Planning Committee shall make a recommendation to the Village Board with respect to the suitability of the site and the proposed layout no later than **thirty (30) days** after the plan was filed with the Zoning Administrator. Lack of action within the allotted time period shall constitute a negative recommendation to the Village Board.

(E) After receiving the Planning Committee's recommendation, the Village Board shall, at its next regularly scheduled board meeting, approve or disapprove the location and sketch maps based on the suitability criteria outlined in **Section 34-2-3**.

34-2-5 VALIDITY OF LOCATION AND SKETCH MAPS APPROVAL. The location and sketch maps shall be valid for a period of **one (1) year** after Village Board approval. If a preliminary plan has not been submitted within the **one (1) year** period, approval of the location and sketch maps shall expire. If interest is renewed in subdividing the site at a later time, the entire location and sketch maps review process and submission requirements shall be repeated.

ARTICLE III - PRELIMINARY PLAN

34-3-1 **PURPOSE.** The preliminary plan is intended to provide a detailed layout of the proposed subdivision showing the location of public improvements, lots, drainage and open space areas.

34-3-2 **SUBMISSION REQUIREMENTS.**

(A) The preliminary plan shall show the information required by Division I(B) on plan sheets no larger than **twenty-four by thirty-six (24 x 36) inches** with matching lines if **two (2)** or more sheets are necessary. The scale shall be no more than **one hundred (100) feet** to the inch. All dimensions shall be to the nearest foot.

The preliminary plan shall be consistent with the current zoning district classification of the property.

(B)

Information to be shown on the plan sheets shall include:

- (1) The title under which the proposed subdivision is to be recorded; the names and addresses of the engineer, registered land surveyor, subdivider and owner of the tract with the name and address of the contact person with whom any notice is to be sent.
- (2) North point, scale and date of preparation and any revisions.
- (3) A notation stating "Preliminary Plan - Not to be recorded by Recorder of Deeds".
- (4) Total acreage.
- (5) Location of all present property lines and section lines.
- (6) The location of all streets, watercourses, and other existing features within the area to be subdivided and within **two hundred (200) feet** of the site.
- (7) Location and dimensions of existing buildings and their proposed disposition.
- (8) The existing utilities, drainage courses and culverts including the location and size of water mains and sewer outlets within the area to be subdivided and on the adjacent land.
- (9) Contours referring to the United States Geological Survey datum with intervals of **two (2) feet** or less unless a greater interval is required because of terrain.
- (10) The elevation of the 100-year flood plain if any portion of the land to be subdivided would be submerged by the flood. Adequate buildable area must be provided above the elevation of the 100-year flood plain.
- (11) Lot numbers.
- (12) Proposed location of sewer mains (may be shown on a supplemental sheet).
- (13) The proposed storm drainage system including preliminary drainage computations when detention or retention is likely to be needed (may be shown on a supplemental sheet). An assessment of long term erosion, sedimentation and runoff changes caused by the subdivision should be included.
- (14) Proposed location of water mains and fire hydrants.

- (15) Location and width to the nearest foot of all proposed streets, alleys and their associated rights-of-way.
- (16) Location and width to the nearest foot of lots.
- (17) Location and width to the nearest foot of all utility easements. The subdivider shall determine the correct location of all easements to be shown on the preliminary plan from the utility companies.
- (18) The location of areas to be reserved for public use.
- (19) The minimum setback requirements for the appropriate zoning district.
- (20) Proposed staging of final plats if more than **one (1)** final plat will be submitted based on traffic, utilities and other factors which would determine the sequence of development with the least impact on existing residents of the Village.
- (21) Draft of subdivision covenants relating to the requirements of this Code.
- (22) If subdivision road access is to a state, county, or township road, written approval of the access by the Illinois Department of Transportation, County Highway Department or Township Road Commissioner.

(C) The subdivider shall submit the results of percolation tests for planned septic systems for each and every lot shown on the preliminary plan. No preliminary plan shall be approved unless the feasibility of septic systems for each lot is demonstrated to the satisfaction of the Village Engineer.

34-3-3 PRELIMINARY PLAN REVIEW PROCESS.

(A) The subdivider shall file **eleven (11) prints** of the preliminary plan of the proposed subdivision in the office of the Zoning Administrator with a filing fee of **One Hundred Dollars (\$100.00)** to be deposited in the Village General Fund. The subdivision will be reviewed according to the filing deadline and review schedule established by the Planning Committee, and then by the Village Board.

(B) The Zoning Administrator shall retain **one (1) print** on file and distribute the prints as follows:

- Two (2) prints** to the Planning Committee;
- One (1) print** to the Water Department;
- One (1) print** to the Village Engineer;
- One (1) print** to the Sangamon County Superintendent of Highways, if applicable;
- One (1) print** to the appropriate Township Highway Commissioner, if applicable;
- One (1) print** to the Village Clerk;
- One (1) print** to the Loami Fire Protection District;
- One (1) print** to the electric utility serving the area; and
- One (1) print** to the gas utility serving the area.

The reviewing entities shall transmit any comments or requirements in writing to the Planning Committee within **one (1) week** of receipt.

(C) The Planning Committee shall recommend to the Village Board that it approve or disapprove the preliminary plan no later than **thirty (30) days** after the plan was

filed with the Zoning Administrator. However, no review will take place and no recommendation will be made by the Planning Committee until the Village Board has approved the location and sketch maps. Failure by the Planning Committee to act by the end of said **second (2nd)** regularly scheduled meeting shall constitute a recommendation of disapproval of the plan.

34-3-4 COMMITTEE ACTION.

(A) **Recommendation of Approval.** If the Planning Committee finds that the preliminary plan meets the requirements of this Code, the Planning Committee shall forward **two (2) prints** of the preliminary plan to the Village Board, together with minutes of all meetings at which the preliminary plan was considered. The Chairman shall indicate its recommendation of approval on the plan in substantially the following language:

"The Planning Committee of the Village of Loami recommends that this preliminary plan of subdivision be approved. This is not an approval of the final plat and is not to be recorded."

By: _____

Date: _____

(B) **Recommendation of Disapproval.** If the Planning Committee finds that the preliminary plan does not comply with the requirements of this Code, it shall inform the subdivider of its recommendation of disapproval at the meeting when a vote is taken, followed within **seven (7) calendar days** by a written recommendation of disapproval stating the non-compliance found. Unless the subdivider indicates its desire to amend the preliminary plan in accordance with **Section 34-3-4(C)**, either verbally at the Plan Committee meeting (which shall be reflected in the minutes) or in writing within **seven (7) calendar days** of receipt of the written recommendation, then **three (3) prints** of the proposed preliminary plan with written findings of the Planning Committee recommending disapproval shall be submitted to the Village Board, together with minutes of all meetings at which the preliminary plan was considered. The Chairman shall indicate the Planning Committee's recommendation of disapproval on the plan in substantially the following language:

"The Planning Committee of the Village of Loami recommends that this preliminary plan of subdivision be disapproved."

By: _____

Date: _____

(C) If the subdivider desires to amend the preliminary plan prior to its being considered by the Village Board, the subdivider shall submit **eleven (11) prints** of the amended plan to the Zoning Administrator, which shall be reviewed according to the filing deadline and review schedule established by the Planning Committee. No filing fee shall be necessary if the amended preliminary plan is filed within **two (2) calendar months** of the date the Planning Committee recommends disapproval. The Village Clerk shall transmit copies of the amended plan as described in **Section 34-3-3**, and review or proceed as indicated in that Section.

34-3-5 VILLAGE BOARD ACTION. Not later than the **second (2nd)** regularly scheduled meeting after its receipt of the prints of the preliminary plan recommending approval or disapproval by the Planning Committee and of the minutes of the Planning Committee meetings considering the preliminary plan, the Village Board shall consider approval or disapproval of the preliminary plan. At such meeting, the subdivider may appear and be heard by the Village Board if it so desires. The Village Board shall be resolution approve or disapprove the preliminary plat, and shall appropriately endorse the prints of the preliminary plan, and if the preliminary plan is approved, the original of the preliminary plan, as follows:

[Dis]approved by resolution of the President and Board of Trustees of the Village of Loami this _
_____ day of _____, _____.

Village President

Village Clerk

34-3-6 VALIDITY OF PRELIMINARY PLAN; REAFFIRMATION OF PRELIMINARY PLAN.

(A) The preliminary plan shall be valid for a period of **three (3) years** after Village Board approval. If the final plat has not been submitted to the Planning Committee within said **three (3) year** period, or if submitted, no final plat is approved, the preliminary plan shall expire.

(B) If the subdivider will not have submitted a final plat within **three (3) years** after preliminary plan approval, but wishes to avoid expiration of the plan, the subdivider shall seek reaffirmation of the plan by submitting **eleven (11) prints** to the Village Clerk for review according to the review schedule established by the Planning Committee in accordance with **Sections 34-3-3, 34-3-4, and 34-3-5** no later than **thirty-five (35) months** after the initial Village Board approval. If the subdivider has submitted a final plat within said **three (3) year** period, but it is not approved during or after said **three (3) year** period, the subdivider may avoid expiration of the preliminary plan by making the same preliminary plan reaffirmation submission described above, provided that if the disapproval of the final plat occurs during or after the **thirty-fifty (35th) month**, the submission required shall be made within **one (1) month** of such disapproval. In such event, the review process in **Sections 34-3-3, 34-3-4, and 34-3-5** shall be followed.

(C) Where reaffirmation of the preliminary plan is sought the Planning Committee shall recommend, and the Village board shall require, any changes in the plan it deems necessary to meet the requirements of this Code. If the subdivider has not resubmitted the preliminary plan with the required changes to the Village Board within **thirty (30) days** after the Village Board meeting requiring changes, or if the resubmitted plan is disapproved, the plan shall expire at that time or at the end of any appeal process provided for in this Code, whichever is later.

(D) A preliminary plan may be reaffirmed **one (1) time**. If a final plat has not been submitted to the Planning Committee within **three (3) years** from the date of the reaffirmation, or if submitted, is not approved, the plan shall expire.

(E) Final plat approval shall extend the validity of the preliminary plan for **three (3) years** from the date of final plat approval, provided that the Planning Committee

may require any changes necessary to meet the requirements of this Code, and in such an event, the provisions of **Paragraph (C)** of this Section with respect to resubmission shall apply. The preliminary plan may be reaffirmed **one (1) time** after each final plat approval. If another final plat has not been resubmitted within **three (3) years** from the date of the reaffirmation, the preliminary plan shall expire. In the event a preliminary plan expires, a subdivider wishing to proceed with subdivision of the land involved must resubmit a location and sketch map for review and proceed as in the case of an original submittal.

ARTICLE IV - CONSTRUCTION PLANS

34-4-1 **PURPOSE.** Construction plans are intended to show the design of public improvements for the subdivision so that a determination can be made as to whether Village standards are met and whether the improvements are compatible with existing public improvements.

34-4-2 **SUBMISSION REQUIREMENTS.** Construction plans shall be submitted on sheets not larger than **twenty-four (24) by thirty-six (36) inches** and to a scale of not more than **one hundred (100) feet** to the inch. Construction plans shall include the following information:

(A) Cover sheet showing the location of the development; scales and symbols that are used; index to sheets; summary of quantities; appropriate place for approval of the Village Engineer; and the signature and seal of a registered professional engineer.

(B) North arrow and bench marks with their elevations noted. Bench marks shall be referenced to mean sea level datum as determined by the United States Geological Survey.

(C) Plan sheets showing the locations of all existing streets, right-of-way lines, sanitary sewers, storm sewers, sidewalks, drainage ditches, easements, rear lot drainage, direction of storm drainage flow, survey monuments, water mains, fire hydrants, and any other appurtenance or structure that might influence design considerations.

(D) Profile sheets indicating the existing ground line and proposed grades and elevations for all proposed streets, sanitary sewers, drainage structure, drainage ditches, and rear lot drainage. Elevations shall be referenced to the United States Geological Survey datum.

(E) Typical sections showing the right-of-way lines, proposed pavement widths, pavement thickness, base thickness, sub-base thickness, subgrade, crown, curbs and gutters, sidewalks and design data when required.

(F) Detail sheets showing the details of manholes, inlets, catch basins, curbs and gutters, drainage structure and any other structure or appurtenance to be constructed, or reference made to the **Standard Specifications for Road and Bridge Construction in Illinois** or Highway Standards published by the Illinois Department of Transportation.

(G) Design computations for storm sewer design, for special structures and pavement designs when required and for anticipated fire flow.

(H) Detailed description of erosion control measures to be taken during construction.

(I) Proof of application for an access permit from the County Highway Department when access to a county highway is involved.

(J) Proof of application for a 404 permit if any dredging, riprapping, fill work or similar activities will be conducted in or around streams.

(K) Other specific additional information may be requested by the Village Engineer.

(L) Permits for sanitary sewer and water main construction, if required.

34-4-3 CONSTRUCTION PLAN REVIEW PROCESS.

(A) After receiving approval of the preliminary plan, the subdivider shall submit **three (3) sets** of construction plans to the Zoning Administrator who shall retain **one (1) set** on file and distribute the remaining as follows:

- (1) **One (1) set** to the Village Engineer;
- (2) **One (1) set** to the County Superintendent of Highways when the subdivision is located outside the corporate limits of Loami; and

(B) Construction plans shall be submitted a minimum of **thirty (30) calendar days** before the final plat is to be submitted for review.

(C) The Village Engineer shall complete his review within **thirty (30) calendar days** after all items of information required by **Section 34-4-2** have been submitted in writing.

(D) Within **thirty (30) calendar days** after complete submission, the Village Engineer shall notify the subdivider's engineer of approval of the plans or of any required changes unless the review time is extended for no more than **fourteen (14) calendar days** by the Village Engineer in a letter to the subdivider's engineer listing reasons for the extension. If plans must be resubmitted, the Village Engineer shall also inform the engineer of the number of sets of plans to be submitted.

(E) When construction plans are resubmitted with the required changes, they shall be re-reviewed within **fourteen (14) calendar days** unless the review time is again extended by the Village Engineer in the manner set forth in paragraph (D) above.

(F) The Village Engineer shall notify the subdivider's engineer and the Planning Committee of the approval of the construction plans. Construction plans shall not be approved until proof of acquisition of a county access permit or 404 permit, if applicable, is submitted.

ARTICLE V - CONSTRUCTION AND BONDING OF PUBLIC IMPROVEMENTS

34-5-1 APPROVALS. Approval of the construction plans shall give the subdivider the right to begin construction of the subdivision improvements. Construction must be started within **one (1) year** of approval of the construction plans. If construction is not started within the year, re-approval by the Village Engineer shall be required before construction is started.

34-5-2 NOTIFICATION OF CONSTRUCTION. The Village Engineer shall be notified at least **twenty-four (24) hours** before construction begins. Construction shall begin only after approval of construction plans and payment of the review and inspection fee as set forth in **Section 34-5-3** of this Code. Whenever construction stops for **twenty-four (24) hours** or longer, the Village Engineer shall be notified **twenty-four (24) hours** before construction begins again.

34-5-3 REVIEW AND INSPECTION FEES. Before starting construction of any public improvements, the subdivider shall be assessed and shall deposit with the Zoning Administrator for the Village an amount equal to **seven-tenths of one percent (0.7%)** of the estimated construction cost (including but not limited to grading, drainage, roadway, sidewalk, sewer, waterline and other improvements which are to be dedicated to public use or which benefit the subdivision generally) as approved by the Village Engineer. The Zoning Administrator shall cause such funds to be deposited in the General Fund of the Village.

The foregoing fee is intended to reimburse the Village for charges of the Village Engineer in connection with the review and inspection of the preliminary and final plats and the construction of the public improvements. In the event that the engineering expenses incurred by the Village are in excess of the amount initially paid by the subdivider, the Village shall bill the subdivider for the difference, and such amount shall be paid by the subdivider prior to acceptance by the Village of the final plat. However, the subdivider shall not be entitled to any refund in the event the fees actually charged to the Village by the Village Engineer is less than **0.7%** of the estimated construction costs.

34-5-4 INSPECTION OF CONSTRUCTION.

(A) **Presence of Subdivider's Observer.** The subdivider's engineer shall have a full-time qualified resident observer present on the construction site for the following:

- (1) Approval of the subgrade prior to paving; and
- (2) Continuous observation of all phases of the paving operation, and construction of storm sewer and appurtenances and construction of water mains.

(B) **Presence of Subdivider's Contractor Superintendent.** The subdivider's contractor shall have a Superintendent on the job site at all times while construction is in progress. The Superintendent shall be responsible for the entire construction procedure. In his absence, the Superintendent shall indicate to the subdivider's observer, the person temporarily responsible for the conduct of the work.

(C) **Inspection by Village Engineer.** All required improvements to be installed under the provisions of this Code shall be checked during the course of construction by

the Village Engineer. The cost of any re-inspection of any required improvement found to be faulty or not in accordance with the approved plans and specification shall be paid by the subdivider to the Village. The testing of any concrete, asphalt, soil, other materials or workmanship shall be done at the direction of the Village and at the expense of the subdivider.

34-5-5 SECURITY FOR PUBLIC IMPROVEMENTS. If construction has not been completed and approved by the Village Engineer before the final plat is submitted to the Village Board, security in the amount equal to **one hundred twenty-five percent (125%)** of the estimated construction costs (including but not limited to grading, drainage, roadway, sidewalk, sewer, waterline and other improvements which are to be dedicated to public use or which benefit the subdivision generally) of the public improvements shall be filed with the Zoning Administrator in order to insure completion of the public improvements as required by this Code within a reasonable length of time without cost to the Village. The form and sufficiency of security shall be subject to the approval of the Village Attorney and the Village Engineer. Security may be in the form of a bond issued by a commercial surety licensed to do business in the State of Illinois, or it may be in the form of an irrevocable letter of credit issued by an Illinois or national bank of at least **one (1) year** in duration, which provides for automatic annual renewals thereof unless at least **sixty (60) days** prior to the expiration of its term or any renewal thereof, written notice of nonrenewal is sent by certified mail to the Village.

The bond or letter of credit shall by its terms secure payment not only the construction of the public improvements but also of any additional review and inspection fees charged by the Village Engineer and imposed by the Village pursuant to **Section 34-5-3** of this Code.

34-5-6 LENGTH SECURITY IN EFFECT; FORFEITURE. The security shall remain in effect until it is released by the Village Board upon acceptance of the public improvements. (**Section 34-6-7**) All public improvements must be completed within **two (2) years** from the date when the security was approved. If public improvements have not been completed within said **two (2) years**, the subdivider shall forfeit the security in the amount necessary for the Village to carry out the construction or repairs so that the public improvements meet the standards of this Code, plus administrative costs involved.

34-5-7 APPROVAL OF PUBLIC IMPROVEMENTS. After the Village Engineer informs the Village that the following conditions have been met, the public improvements shall be accepted by the Village:

(A) The Village Engineer has inspected the construction and all necessary repairs and corrections and certifies that the public improvements required by this Code have been constructed.

(B) "As Built Plans" have been prepared by the subdivider's engineer and delivered to the Village Engineer.

(C) The Village Engineer has received a signed statement or a registered professional engineer stating that the public improvements have been observed during construction and installed to the specifications shown on the construction plans.

(D) The improvements, such as drainage swales and the like, which are not to be dedicated to public use but which benefit the subdivision generally, have been built to specification shown in the construction plans.

ARTICLE VI - FINAL PLAT

34-6-1 **PURPOSE.** The final plat is intended to provide the accurate location of lots, monuments and property dedicated to public use.

34-6-2 **SUBMISSION REQUIREMENTS.** The final plat need not cover the entire preliminary plan area. It may cover only the portion which the subdivider presently wishes to record and develop in accordance with the staging approved with the preliminary plan. The final plat submission shall include the following information on the plat and accompanying documents:

(A) **Final Plat.** The final plat shall be drawn in black india ink on a reproducible material to a scale of not more than **one hundred (100) feet** to the inch. Maximum size of the plan sheets shall be **twenty-four (24) by thirty-six (36) inches**. If more than **two (2) sheets** are used, an index sheet with component areas on the remaining sheets shall be included. The final plat shall show:

- (1) The name of the owner and subdivider.
- (2) North point, scale and date of preparation and latest revisions.
- (3) Boundary lines with accurate distances and angles.
- (4) General land legal description of the plat with total acreage.
- (5) All lots designated by numbers and other grounds designated by names and numbers.
- (6) Location of all survey monuments and their descriptions.
- (7) The location of all easements provided for public use, services or utilities. Easements shall include anchor space for pole lines.
- (8) An accurate outline of any portions of the property intended to be dedicated for public use.
- (9) Lines of all proposed streets with their widths and names.
- (10) The line of departure of one street from another.
- (11) The names and widths of adjoining streets.
- (12) All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, easements, and other areas for public or private use. Linear dimensions shall be given to the nearest **one-hundredth (1/100) of a foot**.
- (13) Radii, arcs, chords, points of tangency and central angles for all curvilinear streets and radii for rounded corners.
- (14) If applicable, a note on the final plat stating: "Approval of this final plat by the Village of Loami does not constitute a guarantee that well water is of adequate quantity or quality for residential needs or that a suitable sewage disposal system can be constructed on each lot." Any guarantees are the subdivider's responsibility.
- (15) A statement indicating whether or not any part of the plat is located in a special flood hazard area as identified by the Federal Emergency Management Agency.
- (16) A notation stating any setbacks required through covenants if the setbacks are different from those of the appropriate zoning district.

(B) **Accompanying Documents.** The following documents shall accompany the final plat:

- (1) Letter from the Village Engineer approving the construction plans.
- (2) Proof of acquisition of an access permit from either the State of Illinois or the County Highway Department, whichever applies.
- (3) The certificate of a registered Illinois land surveyor attesting to the accuracy of the survey and the location of all monuments shown. The certificate may be filed as a supplement to the final plat.
- (4) Notarized acknowledgement of the plat by the owner or a duly authorized attorney. This item may be a separate document or on the plat itself.
- (5) Certification of perpetual maintenance of drainage areas and common areas.
- (6) Exhibit showing the location of wells and seepage field areas (must be large enough to accommodate **two (2)** seepage fields) on each lot.
- (7) Any covenants or restrictions relating to the requirements of this Code.
- (8) A signed statement of a registered professional engineer and the owner of the land or his duly authorized attorney as required by the State statutes concerning drainage.

34-6-3 FINAL PLAT REVIEW PROCESS.

(A) The subdivider shall file **eleven (11) prints** of the final plat of the proposed subdivision to the Village Clerk with a filing fee of **One Hundred Dollars (\$100.00)** plus, if it has not already been paid, the review and inspection fees established pursuant to **Section 34-5-3** of this Code. The subdivision will be reviewed according to the filing deadline and review schedule established by the Planning Committee. A final plat shall be reviewed only after approval of the preliminary plan by the Planning Committee and the Village Board and approval of the construction plans by the Village Engineer. Preliminary plans and final plats will not be reviewed at the same meeting. However, if the preliminary plan is being reaffirmed, the preliminary being reaffirmed and its final plat may be reviewed and approved at the same meeting if there are no major changes required to reaffirm the preliminary.

(B) The Zoning Administrator shall retain **one (1) print** and shall distribute the final plats as follows:

- Two (2) prints** to the Planning Committee;
- One (1) print** to the Water Department;
- One (1) print** to the Village Engineer;
- One (1) print** to the Village Clerk;
- One (1) print** to the Sangamon County Superintendent of Highways;
- One (1) print** to the Loami Fire Protection District;
- One (1) print** to the appropriate Township Highway Commissioner, if applicable;
- One (1) print** to the electric utility serving the area; and
- One (1) print** to the gas utility serving the area.

The reviewing entities shall transmit any comments or requirements in writing to the Planning Committee within **one (1) week** of receipt.

(C) The Planning Committee shall review the final plat to determine if it meets the requirement of this Code and conforms to the preliminary plan previously submitted.

The Planning Committee shall recommend approval or disapproval of the final plat no later than **thirty (30) days** after the plat was filed. Failure to act by the end of said **second (2nd)** regularly scheduled meeting shall constitute a recommendation of disapproval.

(1) **Disapproval.** If the Planning Committee finds that the final plat does not meet the requirements of this Code, the subdivider shall be notified in writing of the Planning Committee's disapproval and of the noncompliance found.

(2) **Approval.** If the Planning Committee finds that the final plat meets the requirements of this Code, the following shall be printed or stamped on the original plat and **two (2) prints** and signed by the Chairman of the Planning Committee.

"The Final Plat of this subdivision is recommended to the Village Board for approval by the Loami Planning Committee subject to the certifications set forth in **Section 34-6-4.**"

By: _____
Chairman

Date: _____
Loami Planning Committee

(D) The Planning Committee shall transmit the endorsed original plat and **two (2) prints** to the Village Board.

34-6-4 SUBMISSION OF FINAL PLAT TO VILLAGE BOARD.

(A) Upon receipt of the endorsed original final plat and **two (2) prints**, the Zoning Administrator shall retain **one (1) print** on file and shall deliver **one (1) print** to the Village Engineer.

(B) The Zoning Administrator shall deliver the original final plat to the Village Board at its next regular session after receiving the documents from the Planning Committee, along with the applicable minutes of the Planning Committee and any reports or other written documents generated by the Planning Committee with respect to the final plat.

(C) The final plat shall remain pending on the agenda of the Village Board and shall not be approved by the Village Board until the following have been received;

(1) Written certification from the Village Engineer that the public improvements required by this Code have been approved as described in **Section 34-5-7** or, in lieu of construction, a security has been provided as described in **Section 34-5-5.**

(2) A certificate provided by the subdivider from the Sangamon County Clerk indicating that payment of taxes is not delinquent.

(D) If the requirements of this Section have not been met within **two (2) weeks** from the final plat approval by the Planning Committee, the existing final plat shall expire and must be resubmitted and reviewed as a new final plat.

34-6-5 **VILLAGE BOARD APPROVAL.** When the requirements of **Section 34-6-4** have been met, the Village Board may by resolution approve the final plat, accept the security, if any, and authorize the President to sign the plat for and in the name of the Village of Loami, with the Village Clerk attesting to it. The Village Clerk shall retain **one (1) print** on file.

34-6-6 **RECORDING THE FINAL PLAT.** When the final plat has been approved by the Village Board and signed by the President and the Village Clerk, the original tracing shall be recorded in the office of the Recorder of Deeds of Sangamon County, Illinois. If the final plat is not recorded within **two (2) years** after approval by the Village Board, the plat must be resubmitted to the Planning Committee to determine if any changes in the final plat are needed to meet the requirements of this Code. No title to any lots shall be conveyed until the original tracing is recorded.

34-6-7 **ACCEPTANCE OF PUBLIC IMPROVEMENTS.** After the Village Engineer has approved the public improvements as described in **Section 34-5-7** and has received a signed statement from the subdivider stating that all contractors and subcontractors have been paid and that there are no liens against the property, the Village Engineer shall issue a letter to the subdivider and the Village Board stating that the public improvements meet the Village's standards. Within **one (1) month** after receiving the Village Engineer's approval, the Village Board shall release the security, if any, and accept the public improvements.

In areas within the Village's subdivision but outside the Village's corporate limits, the Village Engineer And County Superintendent of Highways shall jointly determine whether the standards of this Code have been met. If met, the Village Engineer shall so indicate in a letter to the subdivider and the Village Board and the Village Board shall release the bond, if any. The County Superintendent of Highways, as a representative of the appropriate Township Highway Commissioner shall indicate in a letter to the Village Engineer approval of the streets to Sangamon County standards which shall constitute acceptance of the streets by the appropriate Township Highway Commissioner.

ARTICLE VII - DESIGN STANDARDS AND SPECIFICATIONS FOR REQUIRED PUBLIC IMPROVEMENTS

34-7-1 STATE SPECIFICATIONS. Unless stated otherwise in this Code, all construction of public improvements shall be performed in accordance with the latest revised edition of the State of Illinois Standard Specifications for Road and Bridge Construction adopted by the Illinois Department of Transportation and the Standards Specifications for Water and Sewer Main Construction in Illinois. If an engineering design or construction situation arises not covered by the above cited standard specifications or in the following sections, the decision of the Village Engineer shall be followed.

34-7-2 RIGHT-OF-WAY OF STREETS.

(A) The location and width of all streets shall conform to the Arterial Roadway Network Plan. The minimum width of a street right-of-way (R-O-W) shall be as shown on the Arterial Roadway Network Plan, or if not shown on the plan, shall not be less than the following:

- | | | |
|-----|---------------------------|--------------------|
| (1) | Major Arterial | 110-210 feet R-O-W |
| (2) | Minor Arterial | 80-100 feet R-O-W |
| (3) | Collector Street | 60 feet R-O-W |
| (4) | Local Street | 50 feet R-O-W |
| (5) | Alley | 20 feet R-O-W |
| (6) | Existing Township Highway | 80 feet R-O-W |

(B) Additional rights-of-way may be required for drainage, slope, maintenance or other reasons not directly related to street classification.

(C) For subdivisions that adjoin existing streets, additional rights-of-way shall be dedicated, as needed, to meet the above requirements. This shall be done as follows:

- (1) The entire additional right-of-way shall be provided when the subdivision is located on both sides of the existing street.
- (2) **One-half (1/2)** of the required right-of-way shall be provided when the subdivision is located on only **one (1) side** of the existing street. However, in no case shall the resulting right-of-way width be less than **fifty (50) feet**.

34-7-3 STREET DESIGN. The following requirements shall be incorporated into the design of all streets:

(A) **Vertical Alignment - Grades.** The maximum grade on a major or minor arterial shall be **five percent (5%)**. The maximum grade on all other streets shall be **eight percent (8%)**. The minimum grade on all streets shall be **0.40 percent**. All street grades shall be subject to the approval of the Village Engineer.

(B) **Horizontal Alignment.**

- (1) **Horizontal Curves.** When a center line deflection angle is greater than **one (1) degree**, the following curves shall be required in the street: major and minor arterials and collector streets shall have a minimum center line radius of **three hundred (300) feet** and a minimum length of curve of **one hundred (100) feet**; arterials and collectors having a design

speed and/or expected posted speed greater than **thirty (30) miles per hour** shall be consistent with the latest revision of the Horizontal Curvature requirements of AASHTO. A Policy on Geometric Design of Highways and Streets for the appropriate roadway classification; all other types of streets shall have a minimum center line radius of **one hundred (100) feet**. The pavement in all cases shall be wide enough to allow the movement of a WB-50 Design Vehicle, as described in the State of Illinois, Department of Transportation Design Manual.

- (2) **Intersections.** Intersections of major and minor arterials and collectors with roadways of the same classes shall not be closer than **one-quarter (1/4) of a mile** from any other such functionally classed roadways' intersections. These intersections shall be located at the quarter mile grid points.
- (3) **Street Offsets.** Street centerline offsets shall not be less than **one hundred twenty-five (125) feet**, unless otherwise warranted to the satisfaction of the Village Engineer.
- (4) **Curb Corners.** All curb corners shall have a minimum radius of **twenty-five (25) feet**.

(C) All local and collector streets shall be installed in accordance with the following pavement standards:

- (1) **Subgrade.** At the option of the subdivider, **twelve (12) inch** lime stabilized soil per latest IDOT Standard shall be employed within the street area (omit curb).
- (2) **Asphalt: Pavement Alternate.**
 - (a) **Alternate A.** If the subgrade is treated as in above, the pavement design will consist of **eight (8) inches** of aggregate base course type A and an A-3 bituminous surface treatment.
 - (b) **Alternate B.** If the subgrade is not lime treated, the pavement shall consist of **twelve (12) inches** aggregate base course type A and an A-3 bituminous surface treatment.

All subgrades shall be inspected by the Village Engineer and if he deems necessary, proof rolled prior to paving.

If the street is a minor arterial, the above base course shall be increased by **two (2) inches** for the lime treated and **four (4) inches** respectively for the non-lime treated subgrades.

- (3) **Concrete: Pavement Alternate.** Regardless if the subgrade is treated, a minimum of **six (6) inches** unreinforced Portland Cement Concrete pavement according to Section 408 of IDOT specs shall be employed. All transverse contraction joints shall be **fifteen (15) feet** and sealed per ASTM D3405.

If the street is a minor arterial, the pavement shall be increased to **eight (8) inches**. All transverse contraction joints shall be **twenty (20) feet** and sealed per ASTM D3405.

- (4) **Pavement Design.**
 - (a) All major arterial pavements shall be designed in accordance with the requirements contained in the latest,

revised edition of the State of Illinois DOT Design Manual and shall be designed for a **twenty (20) year** period. The minimum requirements listed in the tables of the Design Manual shall govern at all times.

- (b) All Illinois Bearing Ratio of 3.0 (IBR = 3.0) shall be used in pavement design unless the subdivider's engineer submits soil tests justifying a different IBR.
- (c) Vehicular traffic volumes and vehicle classification percentages used in the design shall be approved by the Village Engineer.
In all cases the minimum street will govern if the above major arterial design is less.

(D) **Pavement Width.** All streets shall be improved with pavements to an overall width in accordance with the following general guidelines, which are subject in every case to the discretion of Village.

<u>Type of Street</u>	<u>Pavement Width</u> (edge of pavement to edge of pavement)
Major Arterial	40 feet minimum and as required by IDOT
Minor Arterial	32 feet minimum
Collector Street	27 feet minimum
Local Street	27 feet minimum

The minimum pavement width shall be **twenty-seven (27) feet** from the edge of pavement to edge of pavement, not including the curb and gutter. Different widths may be used depending on the anticipated traffic volumes and parking demand. These widths of pavement shall be determined by the Planning Committee and the Village Engineer in consultation with the engineer for the subdivider. If a pavement width narrower than the above stated minimum results from this consultation, the subdivider shall install No Parking signs at his expense.

(E) **Curb and Gutter.**

- (1) The standard curb and gutter required adjacent to flexible pavement shall be a mountable type constructed of Portland cement concrete with the following dimensions: **twenty-four (24) inches** wide; **eight (8) inches** thick on the front face (pavement side), **ten (10) inches** thick on the back face, **seven (7) inches** thick at center line (flow line), and a **ten (10) inch** radius in the flow line. The curb and gutter adjacent to concrete pavement, if poured monolithically, may be limited to the thickness of the pavement.
- (2) In subdivisions proposed to have streets with an anticipated daily traffic volume of **two thousand five hundred (2,500)** or more, a barrier type curb and gutter similar to Type B6.18 as described in the State of Illinois, Department of Transportation Highway Standards shall be used. Other locations where a barrier type curb and gutter are required shall be determined by the engineer for the subdivision and the Village Engineer.

(F) **Pavement Crown.** The minimum crown used on all pavements shall be **one-quarter (1/4) inch** per foot on concrete pavement, and **three-eighths (3/8) inch** per foot on bituminous pavements measured from the edge of the pavement to the centerline of the street.

(G) **Cul-de-Sac Streets.** Local streets that are also cul-de-sac streets shall be no more than **six hundred (600) feet** long unless necessitated by topography in which case they shall be no longer than **one thousand (1,000) feet** unless provision is made for an interim turnaround with a radius sufficient to accommodate emergency vehicles and/or a median entrance (**See Section 34-7-3(I) of this Code.**) A turnaround shall be provided at the closed end having an outside roadway diameter of at least **eighty-six (86) feet** edge to edge of pavement and a street right-of-way diameter of **one hundred ten (110) feet**. No obstructions shall be permitted in the cul-de-sac turnaround.

(H) **Stub Streets.** Access shall be provided to adjoining property not yet subdivided. Proposed streets shall be extended by dedication to the boundary of such unsubdivided property. At the end of all temporary stub streets, a barricade meeting the provisions of the Illinois Manual on Uniform Traffic Control Devices shall be installed by the subdivider. Stub streets in excess of **two hundred fifty (250) feet** shall be provided with a temporary cul-de-sac with an outside roadway diameter of at least **ninety (90) feet**. The type of construction shall be determined by the Village Engineer. The subdivider shall dedicate a temporary easement to the appropriate street authority in the amount needed in excess of the normally required right-of-way for the temporary turnaround. When the street is extended in the future, the extra turnaround pavement shall be removed and curb and gutters and sidewalks constructed by the subsequent developer.

(I) **Multiple Access.** Any area of development containing **seventy (70)** or more single family lots (or equivalent population) shall be served by **two (2)** functioning points of access. Where higher densities of development are proposed, a divided type entrance roadway may suffice with a median of adequate width to ensure continued emergency access lanes on **one (1) side**. Depending on location and height of nearby poles or trees, the required median width shall range between **twelve (12)** and **thirty (30) feet**. This type of roadway construction is intended to accommodate higher density developments and not to lengthen the overall length of a cul-de-sac.

(J) **Restriction of Access.** When a subdivision or a portion of it adjoins a major or minor arterial, no lot shall have direct access to the arterial. The lot shall have adequate depth for screen planting on the portion of the lot contiguous to the major or minor arterial.

(K) **Street Names and Street Signs.**

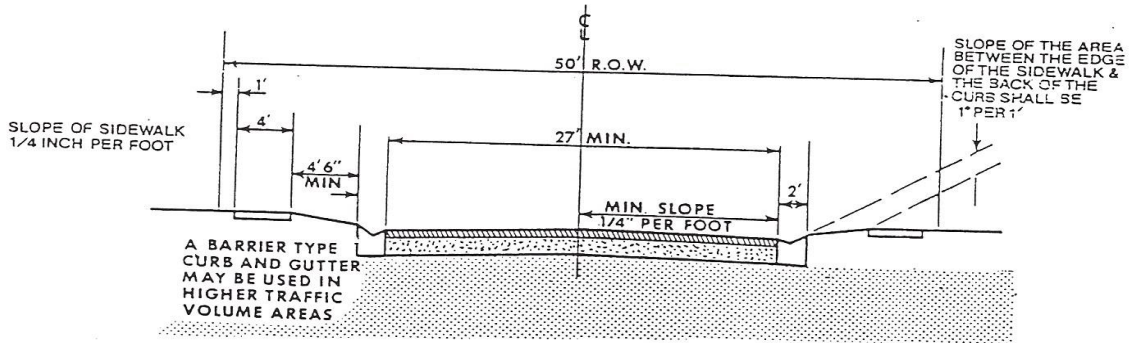
- (1) A proposed street that is in alignment with and/or joins an existing named street shall bear the name of the existing street. In no case shall the proposed name of a street duplicate the name of an existing street within the plat jurisdiction of this Code. The use of the suffix "street", "avenue", "boulevard", "driveway", "place", "court" or similar description shall not be a distinction sufficient to constitute compliance with this requirement.
- (2) Street names signs shall be erected at all intersections within the Village's jurisdiction at the expense of the subdivider and shall be subject to the specifications of the Illinois Manual on Uniform Traffic Control Devices.

(L) **Private Streets.** There shall be no private streets platted in any subdivision. Every subdivision lot shall be served from a publicly dedicated street.

(M) **Alleys.** Alleys are not recommended in residential subdivisions unless deemed necessary by the Planning Committee.

(N) **Ramps.** Where sidewalks cross a barrier type curb and gutter as described in paragraph (E) of this Section, ramps shall be constructed to accommodate the handicapped. These ramps shall be constructed to the lines and grades shown on the standard sidewalk ramp example. Inlets for storm drainage shall not be located so that a pedestrian way will be interrupted by the inlet grates. Other locations where these ramps are required shall be determined by the Village Engineer.

(O) **Typical Street Section.**



(P) **Medians and Islands.** Where medians or islands are proposed they shall be constructed with barrier curbing. All medians and islands shall be the responsibility of the subdivider and/or a subdivision association to maintain. No sign may be installed in the median which blocks the sight distance at the intersection. If such a sign is to be installed, detailed plans for the sign shall be submitted with the construction plans for approval. In no case shall an island or median contain any other sign or structure except as may be placed for traffic control under the direction of the Village Engineer.

The subdivider or subdivision association may landscape medians or islands. Ground cover may not exceed a maximum height of **twelve (12) inches**. Any additional living plant material must be maintained to allow visibility across, over or through medians and islands at a height of **three (3) to ten (10) feet** above the adjacent roadway pavements.

34-7-4 LOT AND BLOCK DESIGN.

(A) **Size of Lots.** Minimum lot sizes shall be the minimum for the applicable zoning district of Loami or Sangamon County, except when a private sewage disposal system is necessary. When a private sewage disposal system will be used for any length of time, lots shall be a minimum of **twenty thousand (20,000) square feet**.

(B) **Lot Arrangement.**

(1) Side lot lines shall be at right angles to straight street lines or substantially radial to curved street lines. However, for purposes of solar orientation, side lot lines need not be at right angles to straight street lines or radial to curved street lines provided that side lot lines run within **twenty (20) degrees** east or west from due north to due south. If side lot lines are being varied for solar orientation, layout and building setbacks shall also be oriented

with their long axis running from east to west, with a possible variation of **twenty (20) degrees** to the southwest or **twenty (20) degrees** to the southeast.

- (2) Each lot shall front upon a public street.
- (3) Flag lots shall be permitted only if the Planning Committee determines that no public health and safety problems or additional costs or difficulties providing municipal services will result.
- (4) Through lots shall be permitted only when access is prohibited to **one (1) street** as described in **Section 34-7-3(J)**.
- (5) All lots must contain sufficient buildable area.

(C) **Sizes of Blocks.** Blocks shall not be less than **four hundred (400) feet**, nor more than **twelve hundred (1,200) feet**, in length measured along the greatest dimension of the enclosed block area. In blocks over **eight hundred (800) feet** in length, the Planning Committee may require **one (1)** or more public crosswalks with a right-of-way of not less than **ten (10) feet** in width to extend entirely across the block at locations deemed necessary at intervals not closer than **four hundred (400) feet**.

(D) **Survey Monuments.** All survey monuments shall be located and be made of the appropriate material as required by State law.

(E) **Lot Grading.**

- (1) Trees that cannot be saved, stumps, boulders, and similar items shall be removed.
- (2) All grading in the subdivision shall be related to the topography of the surrounding area. All street embankments shall be raised at least **one and one-half (1 1/2) feet** above the high water elevation.
- (3) All building lots shall be graded or have natural slopes that will properly allow surface drainage to flow away from the principal structures to be located on the lot.
- (4) Grading in the subdivision shall provide alternate drainage ways for the purpose of carrying water away from homes and preventing damage during periods of heavy rainfall.

34-7-5 EROSION AND SEDIMENT CONTROL.

(A) During construction of public improvements, measures shall be taken to control erosion and sedimentation to insure that sediment will not be transported from the site by a storm event of **two (2) year** frequency or less. The erosion and sediment control plan shall include measures to stabilize and protect disturbed areas, keep runoff velocities low, retain sediment on site and protect disturbed areas from runoff. The location, type and configuration of controls such as swales, berms, dams, sediment basins and release mechanisms shall be included with the construction plans.

(B) Temporary or permanent soil stabilization measures, whichever is applicable, shall be applied within **fifteen (15) days** after final grading to all areas where the soil has been disturbed or the vegetative cover removed. Seeding mixtures and rates, types of sod, method of seed bed preparation, expected seeding dates, type and rate of lime and fertilizer application and kind and quantity of mulch for temporary or permanent vegetative control measures shall be included with the construction plans.

34-7-6

UTILITY EASEMENTS; LOCATION OF UTILITIES.

(A)

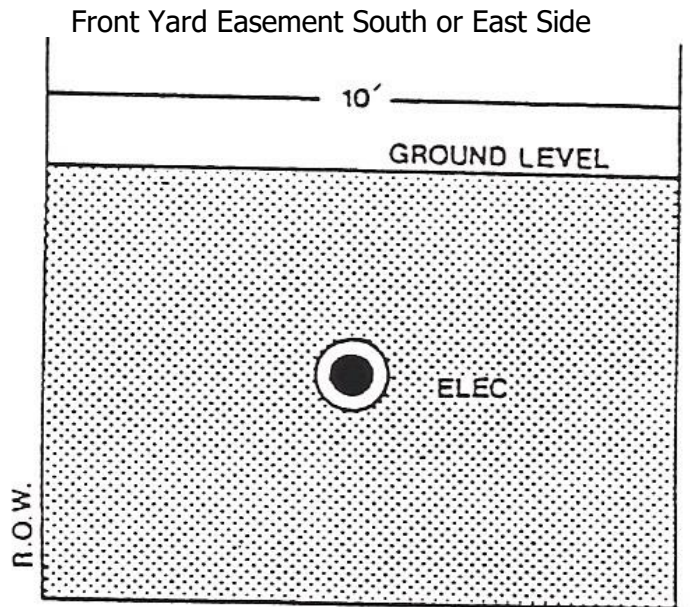
Utility Easements.

- (1) Utility easements shall be provided along front, rear or side lot lines for the purpose of erecting and maintaining **one (1)** or more of the following facilities: storm sewers, sanitary sewers, surface drainage, gas mains, underground electric lines, telephone lines, cable TV and such other utilities reasonably required for an urban structure.
- (2) Easements shall be a minimum of **ten (10) feet** in width. A utility may be located in the street right-of-way if the respective company so desires and appropriate permits have been obtained.
- (3) Alternate locations for various utilities shall be decided upon by the appropriate utility companies, subject to the approval of the Village Engineer. In no case shall streets, permanent buildings, or other man-made improvements that obstruct surface drainage be placed on rear or side lot easements.
- (4) It is the responsibility of the subdivider to notify all utility companies in writing when the land to be developed has been graded in accordance with the construction plans and is ready for installation of a given utility.

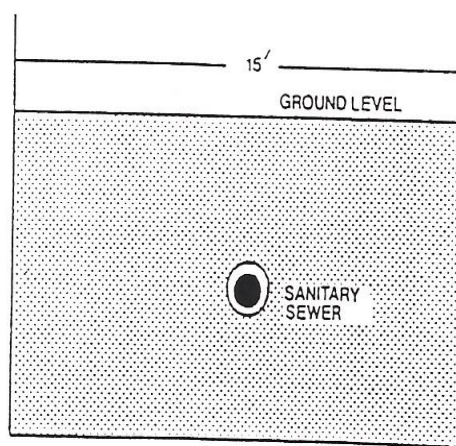
(B)

Location of Utilities.

- (1) Utilities (sewers, electric, water and gas), whenever possible, shall be located in the public right-of-way or front lot easement in the following manner: water and electric lines shall be located on the south and east sides; sanitary sewer and gas lines shall be located on the north and west sides. In some cases, however, electric lines may also be located on the north and west sides. Storm sewers shall be located under the pavement near, but not in, the center.

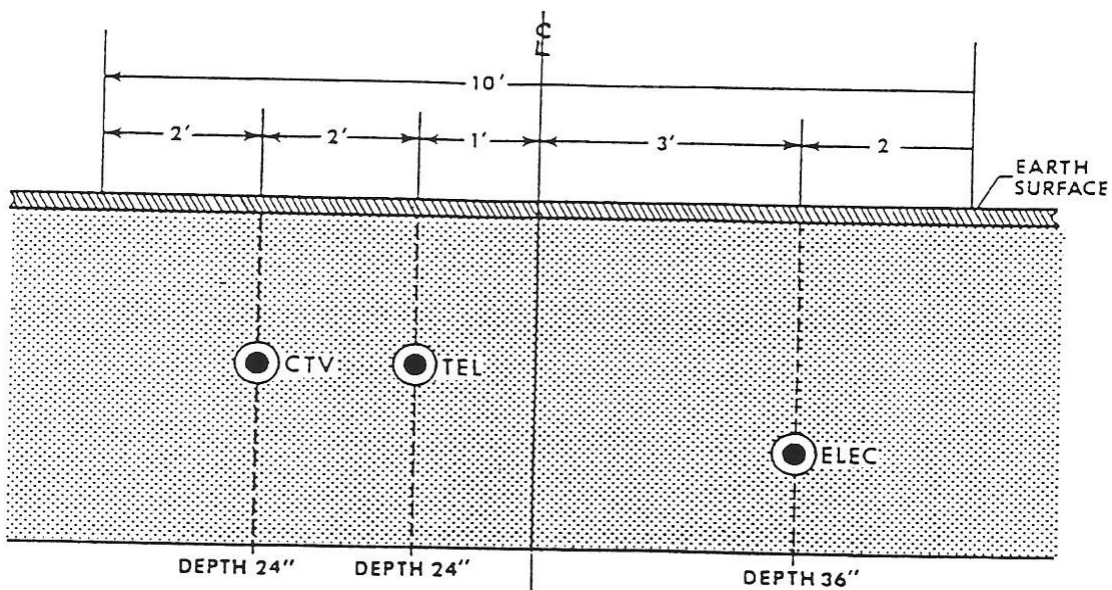


Front Yard Easement North or West Side

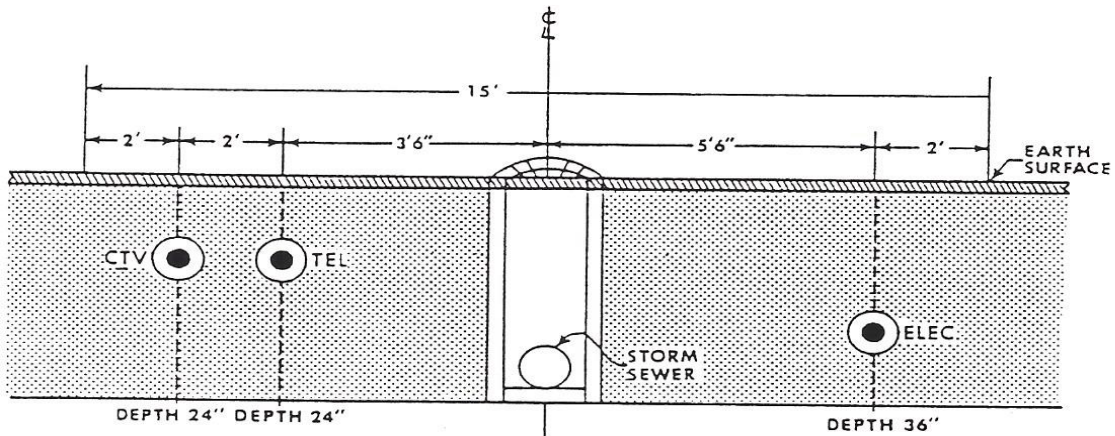


- (2) The placement of storm sewers or electric lines in the rear of a lot is not acceptable unless circumstances determined by the Village Engineer require their placement in the rear, in which case the following easement diagrams indicate placement:
- (a) **10-Foot Easements.** When an easement will not include sanitary sewer or surface drainage systems, a **ten (10) foot** easement width shall be sufficient and the utilities shall be located as follows:
 - (b) **15-Foot Easements.** When an easement will include either a sanitary sewer system or a surface drainage system, but not both systems, a **fifteen (15) foot** easement shall be required and the utilities shall be located as follows:

Rear Yard Easement with Surface Drainage System - 15' North or Ease Side

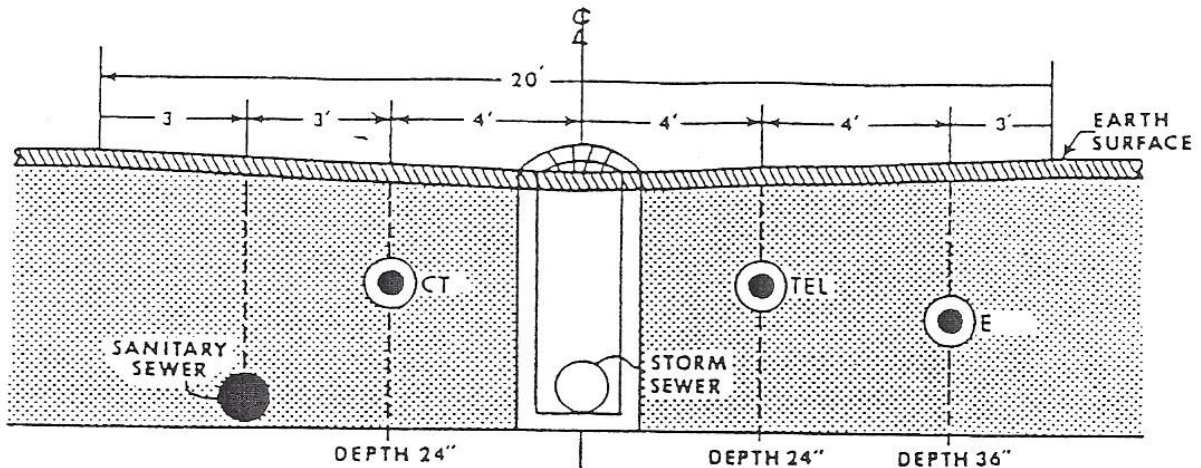


Rear Yard Easement with Sanitary Sewer System - 15' North or East Side



- (c) **20-Foot Easements.** When a utility easement will include both a sanitary sewer system and a surface drainage system, a **twenty (20) foot** easement shall be required and the utilities shall be located as follows:

North or East Side



- (d) **10-Foot Access Easement.** When sanitary or storm sewers are located in the rear of a lot, a **ten (10) foot** easement in the side yard shall be required from the street right-of-way to each manhole or inlet.

34-7-7 SURFACE WATER DRAINAGE.

(A) All subdivisions shall be developed with adequate surface drainage. Surface water drainage improvements shall consist of storm sewers and/or open channels, inlets, catch basins and manholes designed and constructed to conform with standards established by the Village Engineer and shall adequately drain the area being developed including drainage from other areas which naturally drain through the area being developed.

(B) If, as the result of subdivision development, surface water is deposited in existing roadside ditches in quantities exceeding their capacity, the developer shall improve the ditches and replace culverts as needed to handle the flow.

(C) Unless engineering evidence is presented to the Village Engineer warranting exceptions, storm sewers which will drain **twenty (20) acres** or less for residential development shall be designed and constructed to meet the following criteria:

- (1) Major and minor arterials - 10 year storm frequency
- (2) All other areas - 5 year storm frequency

(D) It shall be the responsibility of the subdivider to provide grade control for rear lot drainage to each lot owner. Swales are not public works which shall be dedicated to and accepted by the Village; nevertheless, no construction surety shall be fully released until the Village Engineer has approved the swales in the subdivision. The Village Engineer will not approve any swale until adequate turf and/or grass has been established at the elevations set forth in the construction plans. Upon approval by the Village Engineer, it shall be the lot owner's responsibility to maintain the drainage course and to keep it free from features that restrict natural drainage.

(E) The controlled release and storage of excess storm water runoff shall be required in combination for all of the areas indicated on the preliminary plan.

- (1) The controlled release of storm water runoff shall not exceed the release or discharge rate which existed at the site prior to development. This rate shall be known as the pre-developed discharge rate. In the case of multiple discharge locations, no location shall discharge at a rate higher than the pre-developed discharge rate for that location under any set of conditions. The controlled release rate in any case shall not exceed the rated capacity of the existing natural downstream outlet channel or storm sewer system as determined by the Village Engineer. The rate at which storm water runoff is transported into a designated storage area may be as determined by the design engineer and is unrestricted.
- (2) A natural or surface channel system shall be designed with adequate capacity to convey the storm water runoff from all tributary upstream areas through the development. This by-pass channel shall be designed to carry the peak rate of runoff from a **fifty (50) 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 channel, however, streets and parking or playground areas and utility easements shall be considered compatible primary uses.
- (3) Storm water runoff capacity of detention facilities and discharge rates from such facilities shall be calculated by analyzing volume and rate of runoff during pre- and post-development conditions for the **ten (10) year** and the **one hundred (100) year** recurrence intervals.

Storage capacity and discharge rates shall be based on the maximum calculated volume and peak flow of storm waters, respectively. Precipitation information shall be based on the most recent publications by the Illinois State Water Survey, currently

Circulars 172 and 173 "Frequency Distributions of Heavy Rainstorms in Illinois" and "Time Distributions of Heavy Rainstorms in Illinois" respectively.

Storage facilities shall be designed using the Soil Conservation Service (SCS) method described in Technical Release 55, "Urban Hydrology for Small Watersheds" of calculating runoff discharge rate and total volume of storage as a minimum. A more rigorous analysis using a detailed methodology may also be submitted. The rational method of calculating runoff may be used for subdivisions less than **twenty (20) acres** in size.

The storage volume shall be provided for the fully developed watershed that is tributary to the area designated for detention purposes. The control structure for discharge shall maintain the release rate at or below the rate established in subsection (1) for all rainfall event of **one hundred (100) year** or less frequency.

- (4) Detention reservoirs or bottom storm water 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 gravity outlet to a natural channel or other storm sewer facility with adequate capacity. The combination of storage of the water from a **one hundred (100) year** storm and the design release rate shall not result in a storage duration in excess of **seventy-two (72) hours**. Maximum depths of planned storm water storage shall not exceed **four (4) feet** unless the existing natural ground contours and other conditions lend themselves to greater storage depth, which shall be approved by the Village Engineer. Minimum grades for turf areas shall be **0.6%** and maximum slopes shall be **ten percent (10%)**. Storage area side slopes shall be kept as close to the natural land contours as practical and a **ten percent (10%)** slope or less shall be used whenever possible. If slopes greater than **ten percent (10%)** are necessary to meet storage requirements or area restrictions, approval shall be obtained from the Village Engineer, and suitable erosion control shall be provided in addition to the protection required to insure public health and safety.

Outlet control structures shall be designed as simply as possible and shall require little or no maintenance and/or attention for proper operation. Each storm water storage area shall be provided with a method of emergency overflow in the event that a storm in excess of the **one hundred (100) year** return frequency storm occurs. The emergency overflow facility shall be designed to function without maintenance and/or attention and shall become part of the natural or surface channel system described in a preceding paragraph. Hydraulic calculations shall be submitted to substantiate all design features. Both outlet control structures and emergency overflow facilities shall be

designed and constructed to fully protect the public health and safety. Storm water runoff velocities shall be kept to 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 shall be used only as a last resort when no other method is feasible.

- (5) Retention reservoir or wet bottom storm water storage areas shall be designed with all of the items required for detention reservoir storage areas except that a low flow conduit and a system of drains with a positive gravity outlet shall not be required. However, the following additional conditions shall be complied with:
 - (a) Water surface area shall not exceed **one-tenth (1/10)** of the tributary drainage area.
 - (b) Shoreline protection shall be provided to prevent erosion from wave action.
 - (c) Minimum normal water depth shall be **four (4) feet**. If fish are to be used to keep the pond clean, a minimum of **one-fourth (1/4)** of the pond area shall be a minimum of **ten (10) feet** 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 storm water release shall be designed to operate at full capacity with only a minor increase in the water surface water level. Hydraulic calculations shall be submitted to substantiate all design features.
 - (f) Aeration facilities to prevent pond stagnation shall be provided, if necessary. Design calculations to substantiate the effectiveness of these aeration facilities shall be submitted with construction plans. Agreement for the perpetual operation and maintenance of aeration facilities shall be prepared to the satisfaction of the Village Engineer and Planning Committee.
- (6) Where developments form only a portion of the watershed or contain portions of several watersheds, the requirements for providing storage shall be based upon that proportion of the area being developed as compared to the total watershed tributary to the storage area. 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 calculations of the allowable release rate and capacity of the natural or surface channel system as described in **Section 34-7-7(E)(2)**.
- (7) Where development of a property presents the threat of flooding or damage by flash flood 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.

- (8) The construction of the storm water control systems shall be accomplished as part of the cost of land development. If the amount of storage capacity can be increased to provide certain benefits to the surrounding properties, negotiations for public participation in the cost of such development may be feasible.
- (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 as provided in **Section 34-7-7(E)(4)** shall give due consideration to providing ground water recharge to compensate for the reduction in the percolation that occurs when the ground surface is paved and/or roofed over. The use of natural gravel deposits for the lower portions of storm runoff storage areas, the flattening of drainage slopes and the retention of existing topography are samples of possible recharge methods.
- (10) During the construction phase of land development, facilities shall be provided by appropriate stock-pile design, to prevent the erosion and washing away of the earth. Silting of downstream areas shall be prevented through the strategic use of silting basins, sodding of runoff channels, and by limiting the period of time during which the earth is stripped of vegetation.
- (11) Final engineering plans shall show complete details for all items covered in this Section. Plans, specifications and all calculations for storm water runoff control and storm sewers shall be submitted for review and approval as part of the construction plan submittal or as part of the site plan submittal for large scale developments.

34-7-8 BACKFILL OVER UNDERGROUND UTILITIES.

(A) Where an underground utility is to be placed in an area which has a permanent type street or sidewalk surface, or upon which such a surface is to be constructed within a period of **one (1) year**, the backfill above the utility or in case of sewers, above the top of the granular cradle, to the level of the bottom of the permanent type pavement shall be made. This material will be in all areas where utility trenches cross the pavement subgrade except in areas which will be lime treated or areas where rock will be used to stabilize the subgrade. The backfill shall be IDOT CA-6 or CA-7 crushed stone. Boiler slag will not be permitted.

(B) As an alternate, the use of "flowable fill" will be permitted. This mix shall consist of a lean concrete mix with no less than **fifty (50) pounds** of cement per cubic yard, **two hundred (200) to six hundred (600) pounds** of fly ash, **two thousand (2,000) to three thousand (3,000) pounds** of fine aggregate and **thirty-five (35) to sixty-five (65) gallons** of water. Minimum **twenty-eight (28) day** compressive strength shall not be less than **150 psi**.

(C) In areas not now subject to vehicular traffic, nor in the opinion of the Village Engineer likely to be within a period of **one (1) year**, backfill may be made with selected excavation material which is free from clods and stones, provided such trench backfill is adequately jetted from the bottom up completely filling the trench immediately after backfilling.

34-7-9 **SIDEWALKS.** Concrete sidewalks at least **four (4) feet** wide and **four (4) inches** thick shall be constructed on both sides of each street at least **four and one-half (4 1/2) feet** from and at least **four (4) inches** above the backs of the curbs. Sidewalks shall be located **one (1) foot** inside the street right-of-way. Sidewalks shall be constructed along all streets bordering the subdivision.

34-7-10 **SEWAGE DISPOSAL.**

(A) **Sanitary Sewers.** When a subdivision is located within the service area of a public sanitary sewerage system, sanitary sewers shall be constructed throughout the entire subdivision in such a manner as to serve adequately each building lot.

- (1) Public sanitary sewers shall be located in the north or west boulevard (between curb and sidewalk) within the street right-of-way or in a **fifteen (15) foot** easement behind the sidewalk within the house setback area. Parallel sewer lines along the street may be used. Sanitary sewers shall not be located in the rear yard.
- (2) Under no circumstances shall the entrance of storm water or ground water to the sanitary sewers be permitted.
- (3) All sanitary sewer collections and disposal systems shall comply with the ordinances of the Village of Loami and the requirements of the Illinois Environmental Protection Agency.

(B) **Private Sewage Disposal Systems.** Where no public sanitary sewerage system is available, individual sanitary disposal systems shall be installed to service individual dwelling units. These sanitary disposal systems shall be installed in accordance with the latest revised edition of the Illinois Private Sewage Disposal Licensing Act and private sewage disposal code promulgated by the Illinois Department of Public Health. Sufficient area shall be provided to accommodate **two (2)** seepage fields. **(See also Section 37-7-4(A) pertaining to lot sizes.)**

34-7-11 **WATER SUPPLY.**

(A) **Public Water Supply.**

- (1) Water mains not less than **six (6) inches** in diameter shall be constructed throughout the entire subdivision. Larger diameter pipes may be required by the Village to provide for future transmission needs, in which case, the Village shall pay any additional costs.
- (2) Every water supply system shall be designed in such a manner as to provide an area fire flow meeting the requirements established by the Fire Safety Division of the Fire Department. Water mains larger than **six (6) inches** in diameter shall be installed at the subdivider's expense if needed to provide the area fire flow required by the Insurance Services Office guild for determination of required fire flow. A minimum of **one thousand (1,000) gallons** per minute with a residual pressure of **twenty (20) pounds** per square inch shall be required. Fire hydrants with shut-off valves at each hydrant shall be installed through the entire system at maximum intervals of **four hundred (400) feet**

or less if required by the Fire Protection District. All fire hydrants shall be **three (3)** nozzle hydrants with threads as specified by the Loami Fire Department and shall have flow characteristics similar to those of a **five and one-quarter (5 1/4) inch** hydrant valve.

(B) **Private Water Supply.** When a public water supply is not feasible (**Section 34-2-3(A)(2)**), and the subdivision is outside the corporate limits of Loami, a private well may be used. Wells shall be constructed according to the Illinois Water Well Pump Installation Code.

34-7-12 ELECTRIC DISTRIBUTION. The underground electric distribution system shall be installed on utility easements along front lot lines. Transformers shall normally be placed on every other lot line with secondary conductors and distribution pedestals installed on the opposite side of the street. In some instances, transformers may be installed on both sides of the street. All primary and secondary cables shall be in conduit.

34-7-13 STREET LIGHTING. Street lights shall be installed along public streets in the Village by the subdivider at all intersections and at **five hundred (500) feet** intervals.

34-7-14 PUBLIC AREAS AND OPEN SPACE.

(A) Due consideration shall be given to the allocation of areas suitably located and of adequate size for playgrounds and parks for local or neighborhood use as well as public service areas.

(B) When a proposed school, neighborhood park, electric substation, water storage tank, recreation area, or public access to water frontage shown in the Official Plan, is located in whole or part in a proposed subdivision, the Village Board may require, as a condition of final plat approval, that such space within the subdivision be reserved and not developed for a period not to exceed **one (1) year** from the date of such final plat approval. Within the **one (1) year** period, the appropriate public agency may acquire the reserved property in the manner provided by law. If the reserved site is not acquired and no legal action is filed within the **one (1) year** period, the reservation shall become void and the site previously reserved may then be used for other purposes.

ARTICLE VIII - MINOR SUBDIVISION

34-8-1 PURPOSES.

(A) A minor subdivision is the creation of a total of up to **four (4) lots** (counting the original tract from which the lots are created) which front along an existing public road.

(B) The minor subdivision is designed to allow the sale of said lots without the delay and expense of the conventional subdivision process.

34-8-2 LOCATION MAP.

(A) **Location Map Submission Requirements.** The location map shall consist of data added to an existing base map of a suitable scale covering an area of at least **one (1) mile** radius from the tract proposed for development. The location map shall show the following information:

- (1) Title of proposed subdivision.
- (2) North point, scale and date.
- (3) Names, addresses and phone numbers of the owner, subdivider, engineer and registered land surveyor with the name and address of the contact person to whom any notice is to be sent.
- (4) Outline of the entire area owned or controlled by the subdivider with approximate boundary dimensions and total acreage.
- (5) Existing streets and roads expected to serve the area to be subdivided.
- (6) Existing utility lines expected to serve the area to be subdivided.
- (7) Existing and proposed zoning.
- (8) Method of sewage disposal.
- (9) Method of water supply.
- (10) Electric service provider.
- (11) Fire protection district.
- (12) School district.

(B) **Location Map Review Process.**

- (1) The subdivider shall submit **thirteen (13) prints** of the location map to the Zoning Administrator according to the filing deadline and review schedule established by the Planning Committee.
- (2) The Zoning Administrator shall retain **one (1) print** and distribute the remainder as follows:
 - Two (2) prints** to the Planning Committee;
 - One (1) print** to the Water Department;
 - One (1) print** to the Village Engineer;
 - One (1) print** to the Village Clerk;
 - One (1) print** to the Loami Fire Protection District;
 - One (1) print** to the Sangamon County Superintendent of Highways, if applicable;
 - One (1) print** to the appropriate Township Highway Commissioner, if applicable;
 - One (1) print** to the Sangamon County Soil and Water Conservation District;

- One (1) print** to the appropriate school district; and
One (1) print to the electric utility serving the area; and
One (1) print to the gas utility serving the area.
- (3) The entities listed in **Section 34-8-2(B)(2)** shall transmit their comments on suitability of the site in writing to the Planning Committee within **one (1) week** of receipt.
 - (4) The Planning Committee shall review the suitability of the site based on comments received and the suitability criteria outlined in **Section 34-2-3**. The Planning Committee shall either approve or disapprove the location map based on the suitability of the site at its next regularly scheduled meeting after the plan was filed. If the location map is disapproved, the owners shall be informed in writing of the noncompliance found.

34-8-3 FINAL PLAT SUBMISSION REQUIREMENTS.

(A) **Final Plat Submission Requirements.** The final plat shall be consistent with the current zoning district classification of the property.

The following shall be submitted on a plan drawn to a scale of no more than **one hundred (100) feet** to the inch or in accompanying documents:

- (1) North point, scale and date of preparation and any revisions.
- (2) Names and addresses of the owner, engineer and registered land surveyor.
- (3) Total acreage.
- (4) Lot numbers.
- (5) Existing utilities and drainage courses within and adjacent to the site.
- (6) Location of all present property lines, section lines, streets, building and watercourses within the area and within **one hundred (100) feet** of the area.
- (7) Location of proposed lots, setback lines and utility easements.
- (8) Contours referring to the United States Geological Survey datum with intervals of **two (2) feet** or less unless a greater interval is required because of terrain. This requirement may be waived by the Planning Committee in its sole discretion. Any such waiver shall be noted on the final plat and signed by the Chairman of the Planning Committee.
- (9) If applicable, a note on the final plat stating: "Approval of this final plat by the Village of Loami does not constitute a guarantee that well water is of adequate quantity or quality for residential needs or that a suitable sewage disposal system can be constructed on each lot." Any guarantees are the subdivider's responsibility.
- (10) A statement indicating whether or not any part of the plat is located in a special flood hazard area as identified by the Federal Emergency Management Agency.
- (11) A notation stating any setback required through covenants if the setbacks are different from those of the appropriate zoning district.

(B) **Accompanying Documents.** The following documents shall accompany the final plat:

- (1) A signed statement of a registered professional engineer and the owner of the land, or his duly authorized attorney, as required by state statutes concerning drainage.
- (2) Notarized acknowledgement of the plat by the owner or a duly authorized attorney. This item may be a separate document or on the plat itself.
- (3) The certificate of a registered Illinois Land Surveyor attesting to the accuracy of the survey and the location of all monuments shown. The certificate may be filed as a supplement to the final plat.
- (4) Exhibit showing the location of wells and seepage field areas (must be large enough to accommodate **two (2)** seepage fields) on each lot.
- (5) Any covenants or restrictions relating to the requirements of this Code.

34-8-4 REVIEW PROCESS.

(A) The subdivider shall submit **eleven (11) prints** of the minor subdivision in the office of the Zoning Administrator with a filing fee of **One Hundred Dollars (\$100.00)** to be deposited to the appropriate Village account. The subdivision will be reviewed according to the filing deadline and review schedule established by the Planning Committee.

(B) The Zoning Administrator shall retain **one (1) print** on file and shall distribute the prints as follows:

- Two (2) prints** to the Planning Committee;
- One (1) print** to the Water Department;
- One (1) print** to the Village Engineer;
- One (1) print** to the Sangamon County Superintendent of Highways;
- One (1) print** to the appropriate Township Highway Commissioner, if applicable;
- One (1) print** to the Village Clerk;
- One (1) print** to the Loami Fire Protection District;
- One (1) print** to the electric utility serving the area; and
- One (1) print** to the gas utility serving the area.

The reviewing entities shall transmit any comments or requirements to the Planning Committee within **seven (7) calendar days** of receipt.

(C) The Planning Committee shall recommend approval or disapproval no later than **thirty (30) days** after the plan was filed with Village Clerk. Failure to act by the end of said **second (2nd)** regularly scheduled meeting shall constitute a recommendation of disapproval.

- (1) **Disapproval.** If the Planning Committee finds that the minor subdivision plat does not meet the requirements of this Code, it shall specify its disapproval in writing and state the noncompliance found.
- (2) **Approval.** If the Planning Committee finds that the minor subdivision plat meets the requirements of this Code, the subdivider shall submit the original and **two (2) prints** to the

Planning Committee. The following shall be printed or stamped on the original plat and prints and signed by the Chairman of the Planning Committee:

"The Plat of this subdivision is recommended to the Village Board for approval by the Loami Planning Committee subject to the certification set forth in **Section 34-8-5.**"

By: _____
Chairman

Dated: _____
Loami Planning Committee

(D) The Planning Committee shall transmit the endorsed original plat and **two (2) prints** to the Zoning Administrator for immediate reference to the Village Board.

34-8-5 SUBMISSION OF MINOR SUBDIVISION PLAT TO THE VILLAGE BOARD.

(A) Upon receipt of the endorsed original minor subdivision plat and **two (2) prints**, the Zoning Administrator shall retain **one (1) print** on file and shall deliver **one (1) print** to the Village Engineer.

(B) The Zoning Administrator shall deliver the original minor subdivision plat to the Village Board at its next regular session after receiving the documents from the Planning Committee.

(C) The minor subdivision plat shall remain pending on the agenda of the Village Board and shall not be approved by the Village Board until the following have been received:

- (1) Written certification from the Village Engineer that the plat has been reviewed and any required public improvements have been approved as described in **Section 34-5-7** or, in lieu of construction, a security has been provided as described in **Section 34-5-5.**
- (2) A certificate provided by the subdivider from the Sangamon County Clerk indicating that payment of taxes is not delinquent.

(D) If the requirements of this Section have not been met within **two (2) years** from Planning Committee approval, the existing approvals and recommendations shall expire and the plat must be resubmitted and reviewed as a new minor subdivision.

34-8-6 VILLAGE BOARD APPROVAL. When the requirements of **Sections 34-8-5 and 34-8-6** have been met, the Village Board may by resolution approve the minor subdivision plat and authorize the President to sign the plat for and in the name of the Village of Loami, with the Village Clerk attesting to it. The Village Clerk shall retain **one (1) print** on file.

34-8-7 RECORDING THE MINOR SUBDIVISION PLAT.

(A) When the minor subdivision plat has been approved by the Village Board and signed by the President and Village Clerk, the original tracing shall be recorded in the office of the Recorder of Deeds of Sangamon County, Illinois.

(B) If the minor subdivision plat is not recorded within **two (2) years** after approval by the Village Board, the plat must be resubmitted to the Planning Committee to determine if any changes in the plat are needed to meet the requirements of this Code. No title to any lots shall be conveyed until the original tracing is recorded.

34-8-8 LIMITATIONS ON MINOR SUBDIVISIONS. Only **one (1)** minor subdivision shall be allowed for any parcel of record as of the date of this Code. If **three (3) lots** have been created from a parcel of record after said date, all additional divisions at a later time shall follow conventional subdividing procedures.

ARTICLE IX - LARGE SCALE DEVELOPMENTS

34-9-1 PURPOSE. The Large Scale Development site plan is intended to provide a detailed layout of buildings, utilities, other improvements and construction details to insure that Village public health and safety standards and subdivision and zoning requirements are met.

The permitted uses and densities and other requirements of the site's existing zoning district shall be met. However, yard and other bulk requirements can be varied within the site if more than **one (1) building** is proposed.

34-9-2 SUBMISSION REQUIREMENTS. The site plan shall include the following information at a scale of no more than **one hundred (100) feet** to the inch:

- (A) Title of the development.
- (B) North point, scale and date.
- (C) Names, addresses and phone numbers of the owner, subdivider and engineer. A contact person should be designated.
- (D) Boundary lines with accurate distances and angles.
- (E) Acreage.
- (F) On-site vehicular circulation.
- (G) Parking.
- (H) Sidewalks.
- (I) Sewer distribution.
- (J) Site grading.
- (K) Storm drainage.
- (L) Location of structures.
- (M) Water distribution and size of mains.
- (N) Location of fire hydrants and valves.
- (O) Street profiles and typical cross-sections.
- (P) Yard setbacks.
- (Q) Landscape plans.
- (R) Location of outdoor lighting and signs.
- (S) Traffic analysis if more than **two hundred (200) cars** are to be accommodated on site.
- (T) Seal and signature of a registered professional engineer.

34-9-3 STANDARDS AND REQUIREMENTS. The plans must comply with all standards and requirements of applicable Village codes including Land Subdivision Regulations, Zoning Code, Arterial Roadway Network Plan and any building, housing and fire codes. The following exceptions shall be observed:

- (A) **Yard Requirements.**
 - (1) **For All Residential Developments.**

Front Yard	30'
Side Yard	20' each
Rear Yard	20'

- (2) **For All Commercial and Industrial Districts.**
- | | |
|------------|----------|
| Front Yard | 20' |
| Side Yard | 15' each |
| Rear Yard | 15' |

Yard area shall be open area and not be used for parking.

When a commercial or industrial development abuts or adjoins a residential district on a side or rear yard, an additional **ten (10) feet** shall be required for each yard that abuts or adjoins a residential district. The proposed commercial or industrial development shall be screened on each side abutting or adjoining a residential district by a wall, opaque fence or densely planted compact hedge not less than **five (5) feet** in height.

For all developments the front yard shall be that area fronting a public street and which contains the main entrance to the main building or development. Only **one (1)** front yard shall be required for each development.

(B) **Pavement Width.** Streets and drives within the development shall be of sufficient width to accommodate unimpeded movement of fire vehicles. Pavement width shall vary depending upon parking along the street and direction of vehicle movement.

(C) **Sidewalks.** Sidewalks shall provide pedestrian movement within the development and to existing public streets or sidewalks. Sidewalks shall also be constructed along streets adjoining the development. Sidewalks shall be a minimum of **four (4) feet** wide, **four (4) inches** thick and be constructed of Portland cement concrete.

34-9-4 REVIEW PROCESS.

(A) The developer shall file **thirteen (13) copies** of the site plan of the proposed development in the office of the Zoning Administrative with a filing fee of **One Hundred Dollars (\$100.00)** to be deposited in the appropriate Village account. The site plan will be reviewed according to the filing deadline and review schedule established by the Planning Committee.

(B) The Zoning Administrator shall retain **four (4) prints** on file and distribute the prints as follows:

- Two (2) prints** to the Planning Committee;
- One (1) print** to the Water Department;
- One (1) print** to the Village Engineer;
- One (1) print** to the Sangamon County Superintendent of Highways;
- One (1) print** to the appropriate Township Highway Commissioner, if applicable;
- One (1) print** to the Village Clerk;
- One (1) print** to the Loami Fire Protection District;
- One (1) print** to the electric utility serving the area; and
- One (1) print** to the gas utility serving the area.

The reviewing entities shall review the plans for conformance with Village Codes and transmit any comments or requirements in writing to the Planning Committee within **seven (7) calendar days** of receipt.

34-9-5 COMMITTEE ACTION.

- (A) **Recommendation of Approval.** If the Planning Committee finds:
- (1) that the site plan meets the requirements of this Code;

- (2) that the site plan meets the requirements of other Village Codes pertaining to zoning, building, and fire safety; and
- (3) utilities will be adequate, the Planning Committee shall indicate a recommendation for approval on **three (3) copies** of the plan in substantially the following language:

"This large scale development is recommended for approval by the Loami Planning Committee."

By: _____

Date: _____

The prints so endorsed shall be forwarded to the Village Board for further disposition, along with minutes of the meeting at which the plans were approved.

(B) **Recommendation of Disapproval.** If the Planning Committee does not make the findings in subsection (A) above, it shall inform the developer of its findings in writing and state the non-compliance found, and shall endorse **three (3) copies** of the site plan with its recommendation of disapproval, and shall forward the plans to the Village Board for further disposition, along with minutes of the meeting at which the plans were disapproved.

If the developer desires to amend the disapproved large scale plans prior to consideration by the Village Board, the developer shall submit **eleven (11) prints** of the amended plan to the Zoning Administrator, which shall be reviewed according to the filing deadline and review schedule established by the Planning Committee. No filing fee shall be necessary. The Zoning Administrator shall transmit copies of the amended plan as described in **Section 34-9-4** and review will proceed as indicated in said Section.

34-9-6 REVIEW BY THE VILLAGE BOARD. The large scale development plans shall be reviewed by the Village Board as soon as practicable after review by the Planning Committee. The developer may appear and be heard at the Village Board meeting at which the large scale development plan is considered. The Village Board shall approve or disapprove the plan by ordinance or resolution; and the President shall endorse the large scale development plan in the same manner as prescribed herein for subdivision preliminary plans. Approved plans shall expire, if not completed in the same manner as set forth herein for final subdivision plats.

34-9-7 CONSTRUCTION PLANS. The developer shall submit construction plans for private drives, streets, sidewalks, grading, drainage and utilities to the Village Engineer for review in the same manner and for the same review and inspection fees as prescribed herein for subdivision plats.

34-9-8 CONSTRUCTION AND SECURITIES. No building permits shall be issued for any structure unless the large scale development plan has been approved by the Village Board and construction work either have been installed according to the approved construction plans or a security provided in the same manner as set forth in this Code for final plats of subdivision. Security for completion of private drives, streets, grading, and drainage shall not be required for purely residential developments containing less than **eight (8) living units**. However, utilities and other facilities serving a public function must be built or security provided.

ARTICLE X - TRACT SURVEY

34-10-1 PURPOSE.

- (A) Tract survey approval shall be required as set forth in **Section 34-1-5.**
- (B) Tract survey approval is designed to insure that all divisions of land comply with the State Plats Act, this Code and the appropriate zoning ordinances.

34-10-2 SUBMISSION REQUIREMENTS.

When a tract survey is required by this Code, the following shall be submitted:

- (A) Land survey.
- (B) Certification by a professional Illinois Land Surveyor, together with the surveyor's seal, attesting to the accuracy of the survey.

34-10-3 REVIEW PROCESS.

(A) **Five (5) copies** of the tract survey shall be submitted to the Plats Officer accompanied by the appropriate fee.

(B) The Plats Officer shall review the survey to insure that it conforms to the pertinent requirements of this Code and applicable zoning regulations. The owner shall be notified of tract survey approval or disapproval within **one (1) working day.**

(1) **Disapproval.** If the Plats Officer finds that the tract survey does not meet the requirements of this Code, the disapproval and noncompliance found shall be specified in writing.

(2) **Approval.** If the Plats Officer finds that the tract survey does meet the requirements of this Code, the following shall be printed or stamped on the original and prints and signed by the Plats Officer:

County of Sangamon)
) ss.
 State of Illinois)

I, Sangamon County Plats Officer, do hereby approve this tract survey this _____ day of _____, _____.

Sangamon County Plats Officer

(C) The Plats Officer shall keep **one (1) copy** and transmit **four (4) copies** of the approved tract survey to the owner for recording.

34-10-4 RECORDING THE TRACT SURVEY.

After the tract survey has been approved, the original shall be recorded in the Office of the Recorder of Deeds of Sangamon County, Illinois. If the tract survey is not recorded within **one hundred eighty (180) days** of Plats Officer approval, the approval shall be null and void.

ARTICLE XI - VARIANCES; PENALTY; EFFECTIVE DATE; PUBLICATION

34-11-1 VARIANCE OF SUBDIVISION REQUIREMENTS.

(A) A subdivider may request a variance of the requirements of this Code. Application for a variance shall be made in writing and submitted with the location and sketch maps unless the need is not then evident. Variance applications shall clearly state the provisions to be varied and the reasons why the variance is needed. In all cases, variance requests shall be made no later than the time the preliminary plan is reviewed by the Planning Committee.

(B) If, as a result of changes imposed by the Planning Committee at its preliminary plan review meeting, the subdivider desires a variance, it may be requested orally at that meeting.

(C) The Planning Committee shall recommend approval or disapproval of the requested variance by the Village Board. Along with its recommendation the Planning Committee shall transmit findings to the Village Board as to whether the requested variance complies with the following requirements:

- (1) The intent of this Code is maintained;
- (2) Extraordinary circumstances of topography, land ownership, adjacent development or other circumstances not provided for in the ordinance exist;
- (3) The extraordinary circumstances will result in a hardship, not merely an inconvenience;
- (4) The circumstances upon which the request for variance is based are not common to most other tracts of land;
- (5) The circumstances upon which the request for variance is based are not the result of the subdivider's affirmative act or failure to act; and
- (6) The purpose of a variation is not based exclusively on the desire to eliminate development costs at the expense of the public improvement standards as outlined in this Code.

(D) When the Village Board considers the preliminary plan it shall consider the requested variance. The Village Board may, if it finds that the requirements of subsection (C) are met, approve the plan with the requested variation; or it may require conditions to the variation if it believes the conditions are in the public interest; or it may in its discretion deny the variation and insist on the literal application of this Code.

34-11-2 PENALTY. Any subdivider who violates any of the provisions of this Code shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed **Seven Hundred Fifty Dollars (\$750.00)**. Each day that a violation of this Code continues shall constitute a separate and distinct offense and shall be punishable as such.

(Ord. No. 94-2; 04-14-94)

CHAPTER 36

TAXATION

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CHAPTER 36

TAXATION

ARTICLE I – GENERALLY

36-1-1 **CORPORATE RATE.** The maximum rate for general corporate purposes of the Village be and the same is hereby established at a rate of **.25%**. **(65 ILCS 5/8-3-1)**

36-1-2 **POLICE TAX.** The maximum rate for police protection purposes of the Village be and the same is hereby established at a rate of **.075%**. **(65 ILCS 5/11-1-3)**

36-1-3 **AUDIT TAX.** The Village Board may levy a "Municipal Auditing Tax" upon all taxable property in the Village which will produce an amount which will equal the cost of all auditing for the Village. **(65 ILCS 5/8-8-8)**

36-1-4 **F.I.C.A. TAX.** The Village Board may levy a tax upon all taxable property in the Village at whatever rate is necessary to participate in the federal Social Security System. **(40 ILCS 5/21-101 et seq.)**

36-1-5 **GENERAL LIABILITY.** The Village Board may levy a tax upon all taxable property in the Village at whatever rate is necessary to purchase general liability insurance for the Village.

36-1-6 **GARBAGE TAX.** The maximum tax for garbage collection purposes, be and the same is hereby established at a rate of **.20%**. **(65 ILCS 5/11-19-4)**

36-1-7 **WORKMEN'S COMPENSATION.** The maximum tax for Worker's Compensation and Occupational Diseases Claims purposes, be and the same is hereby established at a rate to pay for legal services, purchase insurance, purchase claim services, pay for judgments and settlements. **(745 ILCS 10/9-107)**

36-1-8 **STREET AND BRIDGE.** The maximum tax for Street and Bridge purposes, be and the same is hereby established at a rate of **.06%**. **(65 ILCS 5/11-81-1 and 5/11-81-2)**

ARTICLE II - TAXPAYERS' RIGHTS CODE

36-2-1 **TITLE.** This Article shall be known as, and may be cited as, the "Locally Imposed and Administered Tax Rights and Responsibility Code".

36-2-2 **SCOPE.** The provisions of this Code shall apply to the Village's procedures in connection with all of the Village's locally imposed and administered taxes.

36-2-3 **DEFINITIONS.** Certain words or terms herein shall have the meaning ascribed to them as follows:

(A) **Act.** "Act" means the "Local Government Taxpayers' Bill of Rights Act".
 (B) **Corporate Authorities.** "Corporate Authorities" means the Mayor and Village Board.

(C) **Locally Imposed and Administered Tax or "Tax".** "Locally Imposed and Administered Tax" or "Tax" means each tax imposed by the Village that is collected or administered by the Village not an agency or department of the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the Village other than infrastructure maintenance fees.

(D) **Local Tax Administrator.** "Local Tax Administrator", the Village's Treasurer, is charged with the administration and collection of the locally imposed and administered taxes, including staff, employees or agents to the extent they are authorized by the local tax administrator to act in the local tax administrator's stead. The local tax administrator shall have the authority to implement the terms of this Code to give full effect to this Code. The exercise of such authority by the local tax administrator shall not be inconsistent with this Code and the Act.

(E) **Village.** "Village" means the Village of Loami, Illinois.

(F) **Notice.** "Notice" means each audit notice, collection notice or other similar notice or communication in connection with each of the Village's locally imposed and administered taxes.

(G) **Tax Ordinance.** "Tax Ordinance" means each ordinance adopted by the Village that imposes any locally imposed and administered tax.

(H) **Taxpayer.** "Taxpayer" means any person required to pay any locally imposed and administered tax and generally includes the person upon whom the legal incidence of such tax is placed and with respect to consumer taxes includes the business or entity required to collect and pay the locally imposed and administered tax to the Village.

36-2-4 **NOTICES.** Unless otherwise provided, whenever notice is required to be given, the notice is to be in writing mailed not less than **seven (7) calendar days** prior to the day fixed for any applicable hearing, audit or other scheduled act of the local tax administrator. The notice shall be sent by the local tax administrator as follows:

- (A) First class or express mail, or overnight mail, addressed to the persons concerned at the persons' last known address, or
- (B) Personal service or delivery.

36-2-5 **LATE PAYMENT.** Any notice, payment, remittance or other filing required to be made to the Village pursuant to any tax ordinance shall be considered late unless it is:

- (A) physically received by the Village on or before the due date, or
- (B) received in an envelope or other container displaying a valid, readable U.S. postmark dated on or before the due date, properly addressed to the Village, with adequate postage prepaid.

36-2-6 **PAYMENT.** Any payment or remittance received for a tax period shall be applied in the following order:

- (A) first to the tax due for the applicable period;
- (B) second to the interest due for the applicable period; and
- (C) third to the penalty for the applicable period.

36-2-7 **CERTAIN CREDITS AND REFUNDS.**

(A) The Village shall not refund or credit any taxes voluntarily paid without written protest at the time of payment in the event that a locally imposed and administered tax is declared invalidly enacted or unconstitutional by a court of competent jurisdiction. However, a taxpayer shall not be deemed to have paid the tax voluntarily if the taxpayer lacked knowledge of the facts upon which to protest the taxes at the time of payment or if the taxpayer paid the taxes under duress.

(B) The statute of limitations on a claim for credit or refund shall be **four (4)** or less years after the end of the calendar year in which payment in error was made. The Village shall not grant a credit or refund of locally imposed and administered taxes, interest, or penalties to a person who has not paid the amounts directly to the Village.

(C) The procedure for claiming a credit or refund of locally imposed and administered taxes, interest or penalties paid in error shall be as follows:

- (1) The taxpayer shall submit to the local tax administrator in writing a claim for credit or refund together with a statement specifying:
 - (a) the name of the locally imposed and administered tax subject to the claim;
 - (b) the tax period for the locally imposed and administered tax subject to the claim;
 - (c) the date of the tax payment subject to the claim and the cancelled check or receipt for the payment;
 - (d) the taxpayer's recalculation, accompanied by an amended or revised tax return, in connection with the claim; and
 - (e) a request for either a refund or a credit in connection with the claim to be applied to the amount of tax, interest and penalties overpaid, and, as applicable, related interest on the amount overpaid; provided, however, that there shall be no refund and only a credit given in the event the taxpayer owes any monies to the Village.
- (2) Within **ten (10) days** of the receipt by the local tax administrator of any claim for a refund or credit, the local tax administrator shall either:
 - (a) grant the claim; or

- (b) deny the claim, in whole or in part, together with a statement as to the reason for the denial or the partial grant and denial.
- (3) In the event the local tax administrator grants, in whole or in part, a claim for refund or credit, the amount of the grant for refund or credit shall bear interest at the rate of **six percent (6%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed, from the date of the overpayment to the date of mailing of a refund check or the grant of a credit.

36-2-8 **AUDIT PROCEDURE.** Any request for proposed audit pursuant to any local administered tax shall comply with the notice requirements of this Code.

- (A) Each notice of audit shall contain the following information:
 - (1) the tax;
 - (2) the time period of the audit; and
 - (3) a brief description of the books and records to be made available for the auditor.

(B) Any audit shall be conducted during normal business hours and if the date and time selected by the local tax administrator is not agreeable to the taxpayer, another date and time may be requested by the taxpayer within **thirty (30) days** after the originally designated audit and during normal business hours.

(C) The taxpayer may request an extension of time to have an audit conducted. The audit shall be conducted not less than **seven (7) days** nor more than **thirty (30) days** from the date the notice is given, unless the taxpayer and the local tax administrator agreed to some other convenient time. In the event taxpayer is unable to comply with the audit on the date in question, the taxpayer may request another date within the **thirty (30) days**, approved in writing that is convenient to the taxpayer and the local tax administrator.

(D) Every taxpayer shall keep accurate books and records of the taxpayer's business or activities, including original source documents and books of entry denoting the transactions which had given rise or may have given rise to any tax liability, exemption or deduction. All books shall be kept in the English Language and shall be subject to and available for inspection by the Village.

(E) It is the duty and responsibility of every taxpayer to make available its books and records for inspection by the Village. If the taxpayer or tax collector fails to provide the documents necessary for audit within the time provided, the local tax administrator may issue a tax determination and assessment based on the tax administrator's determination of the best estimate of the taxpayer's tax liability.

(F) If an audit determines there has been an overpayment of a locally imposed and administered tax as a result of the audit, written notice of the amount of overpayment shall be given to the taxpayer within **thirty (30) days** of the Village's determination of the amount of overpayment.

(G) In the event a tax payment was submitted to the incorrect local governmental entity, the local tax administrator shall notify the local governmental entity imposing such tax.

36-2-9 **APPEAL.**

(A) The local tax administrator shall send written notice to a taxpayer upon the local tax administrator's issuance of a protestable notice of tax due, a bill, a claim denial, or a notice of claim reduction regarding any tax. The notice shall include the following information:

- (1) the reason for the assessment;
- (2) the amount of the tax liability proposed;
- (3) the procedure for appealing the assessment; and
- (4) the obligations of the Village during the audit, appeal, refund and collection process.

(B) A taxpayer who receives written notice from the local tax administrator of a determination of tax due or assessment may file with the local tax administrator a written protest and petition for hearing, setting forth the basis of the taxpayer's request for a hearing. The written protest and petition for hearing must be filed with the local tax administrator within **forty-five (45) days** of receipt of the written notice of the tax determination and assessment.

(C) If a timely written notice and petition for hearing is filed, the local tax administrator shall fix the time and place for hearing and shall give written notice to the taxpayer. The hearing shall be scheduled for a date within **fourteen (14) days** of receipt of the written protest and petition for hearing, unless the taxpayer requests a later date convenient to all parties.

(D) If a written protest and petition for hearing is not filed within the **forty-five (45) day** period, the tax determination, audit or assessment shall become a final bill due and owing without further notice.

(E) Upon the showing of reasonable cause by the taxpayer and the full payment of the contested tax liability along with interest accrued as of the due date of the tax, the local tax administrator may reopen or extend the time for filing a written protest and petition for hearing. In no event shall the time for filing a written protest and petition for hearing be reopened or extended for more than **ninety (90) days** after the expiration of the **forty-five (45) day** period.

36-2-10 **HEARING.**

(A) Whenever a taxpayer or a tax collector has filed a timely written protest and petition for hearing under **Section 36-2-9**, above, the local tax administrator shall conduct a hearing regarding any appeal.

(B) No continuances shall be granted except in cases where a continuance is absolutely necessary to protect the rights of the taxpayer. Lack of preparation shall not be grounds for a continuance. Any continuance granted shall not exceed **fourteen (14) days**.

(C) At the hearing the local tax administrator shall preside and shall hear testimony and accept any evidence relevant to the tax determination, audit or assessment. The strict rules of evidence applicable to judicial proceedings shall not apply.

(D) At the conclusion of the hearing, the local tax administrator shall make a written determination on the basis of the evidence presented at the hearing. The taxpayer or tax collector shall be provided with a copy of the written decision.

36-2-11 **INTEREST AND PENALTIES.** In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

(A) **Interest.** The Village hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax to be **six percent (6%)** per annum, based on a year of **three hundred sixty-five (365) days** and the number of days elapsed.

(B) **Late Filing and Payment Penalties.** If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of **five percent (5%)** of the amount of tax required to be shown as due on a return shall be imposed; and a late payment penalty of **five percent (5%)** of the tax due shall be imposed. If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the Village issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to **twenty-five percent (25%)** of the total tax due for the applicable reporting period for which the return was required to be filed. A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

36-2-12 ABATEMENT. The local tax administrator shall have the authority to waive or abate any late filing penalty, late payment penalty or failure to file penalty if the local tax administrator shall determine reasonable cause exists for delay or failure to make a filing.

36-2-13 INSTALLMENT CONTRACTS. The Village may enter into an installment contract with the taxpayer for the payment of taxes under the controlling tax ordinance. The local tax administrator may not cancel any installment contract so entered unless the taxpayer fails to pay any amount due and owing. Upon written notice by the local tax administrator that the payment is **thirty (30) days** delinquent, the taxpayer shall have **fourteen (14) working days** to cure any delinquency. If the taxpayer fails to cure the delinquency within the **fourteen (14) day** period or fails to demonstrate good faith in restructuring the installment contract with the local administrator, the installment contract shall be canceled without further notice to the taxpayer.

36-2-14 STATUTE OF LIMITATIONS. The Village, through the local tax administrator, shall review all tax returns in a prompt and timely manner and inform taxpayers of any amounts due and owing. The taxpayer shall have **forty-five (45) days** after receiving notice of the reviewed tax returns to make any request for refund or provide any tax still due and owing.

(A) No determination of tax due and owing may be issued more than **four (4) years** maximum after the end of the calendar year for which the return for the applicable period was filed or for the calendar year in which the return for the applicable period was due, whichever occurs later.

(B) If any tax return is not filed or if during any **four (4) year** period for which a notice of tax determination or assessment may be issued by the Village, the tax paid was less than **seventy-five percent (75%)** of the tax due, the statute of limitations shall be **six (6) years** maximum after the end of the calendar year in which return for the applicable period was due or end of the calendar year in which the return for the applicable period was filed.

(C) No statute of limitations shall not apply if a fraudulent tax return was filed by the taxpayer.

36-2-15 **VOLUNTARY DISCLOSURE.** For any locally imposed and administered tax for which a taxpayer has not received a written notice of an audit, investigation, or assessment from the local tax administrator, a taxpayer is entitled to file an application with the local tax administrator for a voluntary disclosure of the tax due. A taxpayer filing a voluntary disclosure application must agree to pay the amount of tax due, along with interest of **one percent (1%)** per month, for all periods prior to the filing of the application but not more than **four (4) years** before the date of filing the application. A taxpayer filing a valid voluntary disclosure application may not be liable for any additional tax, interest, or penalty for any period before the date the application was filed. However, if the taxpayer incorrectly determined and underpaid the amount of tax due, the taxpayer is liable for the underpaid tax along with applicable interest on the underpaid tax, unless the underpayment was the result of fraud on the part of the taxpayer, in which case the application shall be deemed invalid and void. The payment of tax and interest must be made by no later than **ninety (90) days** after the filing of the voluntary disclosure application or the date agreed to by the local tax administrator. However, any additional amounts owed as a result of an underpayment of tax and interest previously paid under this Section must be paid within **ninety (90) days** after a final determination and the exhaustion of all appeals of the additional amount owed or the date agreed to by the local tax administrator, whichever is longer.

36-2-16 **PUBLICATION OF TAX ORDINANCES.** Any locally administered tax ordinance shall be published via normal or standard publishing requirements. The posting of a tax ordinance on the Internet shall satisfy the publication requirements. Copies of all tax ordinances shall be made available to the public upon request at the Village Clerk's office.

36-2-17 **INTERNAL REVIEW PROCEDURE.** The local tax administrator shall establish an internal review procedure regarding any liens filed against any taxpayers for unpaid taxes. Upon a determination by the local tax administrator that the lien is valid, the lien shall remain in full force and effect. If the lien is determined to be improper, the local tax administrator shall:

- (A) timely remove the lien at the Village's expense;
- (B) correct the taxpayer's credit record; and
- (C) correct any public disclosure of the improperly imposed lien.

36-2-18 **APPLICATION.** This Ordinance shall be liberally construed and administered to supplement all of the Village's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this ordinance, this ordinance shall be controlling.

(Ord. No. 2001-03; 02-08-01)

(50 ILCS 45/1 et seq.)

ARTICLE III - SIMPLIFIED TELECOMMUNICATIONS TAX

36-3-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A) **"Amount Paid"** means the amount charged to the taxpayer's service address in such municipality regardless of where such amount is billed or paid.

(B) **"Department"** means the Illinois Department of Revenue.

(C) **"Gross Charge"** means the amount paid for the act or privilege of originating or receiving telecommunications in such a municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel termination point within a municipality that has imposed a tax under this Article and charges for the portion of the inter-office channels provided within that municipality. Charges for that portion of the inter-office channel connecting **two (2)** or more channel termination points, one or more of which is located within the jurisdictional boundary of such municipality, shall be determined by the retailer by multiplying an amount equal to the total charge for the inter-office channel by a fraction, the numerator of which is the number of channel termination points that are located within the jurisdictional boundary of the municipality and the denominator of which is the total number of channel termination points connected by the inter-office channel. However, "gross charge" shall not include any of the following:

(1) any amounts added to a purchaser's bill because of a charge made pursuant to:

(a) the tax imposed by this Section,

(b) the tax imposed by the Telecommunications Excise Tax Act,

(c) the tax imposed by Section 4251 of the Internal Revenue Code,

(d) 911 surcharges, or

(e) charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act.

(2) charges for a sent collect telecommunication received outside the Village.

(3) charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment, or

accounting equipment and also includes the usage of computers under a time-sharing agreement.

- (4) charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges.
- (5) charges to business enterprises certified as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Economic Opportunity.
- (6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Act has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service.
- (7) bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made).
- (8) charges paid by inserting coins in coin-operated telecommunications devices.
- (9) amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.
- (10) Charges for nontaxable services or telecommunications if:
 - (a) those charges are aggregated with other charges for telecommunications that are taxable,
 - (b) those charges are not separately stated on the customer bill or invoice, and
 - (c) the retailer can reasonably identify the nontaxable charges on the retailer's books and records kept in the regular course of business.

If the nontaxable charges cannot reasonably be identified, the gross charge from the sale of both taxable and nontaxable services or telecommunications billed on a combined basis shall be attributed to the taxable services or telecommunications. The burden of proving nontaxable charges shall be on the retailer of the telecommunications.

(D) **"Interstate Telecommunications"** means all telecommunications that either originate or terminate outside this State.

(E) **"Intrastate Telecommunications"** means all telecommunications that originate and terminate within this State.

(F) **"Person"** means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, the Federal and State governments, including State universities created by statute, or any city, town, county, or other political subdivision of this State.

(G) **"Purchase at Retail"** means the acquisition, consumption or use of telecommunications through a sale at retail.

(H) **"Retailer"** means and includes every person engaged in the business of making sales at retail as defined in this Section. The Department may, in its discretion, upon application, authorize the collection of the tax hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Department, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all of the gross charges for telecommunications in this State in the same manner and subject to the same requirements as a retailer maintaining a place of business within this State. The permit may be revoked by the Department at its discretion.

(I) **"Retailer maintaining a place of business in this State"**, or any like term, means and includes any retailer having or maintaining within the State, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

(J) **"Sale at Retail"** means the transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the Federal and State governments, and State universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries for their use or consumption and not for resale.

(K) **"Service address"** means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, service address means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent.

(L) **"Taxpayer"** means a person who individually or through his or her agents, employees, or permittees, engages in the act or privilege of originating or receiving telecommunications in a municipality and who incurs a tax liability as authorized by the Article.

(M) **"Telecommunications"**, in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used

in this Article, "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 group of channels, from one or more specified locations to one or more other specified locations. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission "Telecommunications" shall not include purchases 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 taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this Act. For purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupation Tax Act.

36-3-2 SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX IMPOSED.

A tax is hereby imposed upon any and all of the following acts or privileges:

(A) The act or privilege of originating in the Village or receiving in the Village intrastate telecommunications by a person at a rate of **six percent (6%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another municipality on that event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of the tax properly due and paid in the municipality that was not previously allowed as a credit against any other municipal tax.

(B) The act or privilege of originating in the Village or receiving in the Village interstate telecommunications by a person at a rate of **six percent (6%)** of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state or multi-municipal taxation of the act or privilege that is subject to taxation under this Section, any taxpayer, upon proof that the taxpayer has paid a tax in another state or municipality in this State on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state or such tax properly due and paid in a municipality in this State which was not previously allowed as a credit against any other state.

(C) The tax imposed by this Article is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the Village.

36-3-3 COLLECTION OF TAX BY RETAILERS.

(A) The tax authorized by this Article shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Article and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department.

The tax authorized by this Article shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

(B) Whenever possible, the tax authorized by this Article shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

36-3-4 RETURNS TO DEPARTMENT. On or before the last day of **February, 2018**, and on or before the last day of each month thereafter, the tax imposed under this Article on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement this Act.

36-3-5 RESELLERS.

(A) If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for the tax authorized by this Article on any of such purchases and shall furnish such additional information as the Department may reasonably require.

(B) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunications tax-free when such actions in fact are not for resale, or which no longer applies because of the person's having discontinued the making of resales.

(C) Except as provided hereinabove in this Section, the act or privilege of originating or receiving telecommunications in this State shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.

ARTICLE IV – GAS TAX

36-4-1 **TAX IMPOSED.** A tax is imposed on all persons engaged in the following occupations or privileges:

(A) Persons engaged in the business of distributing, supplying, furnishing or selling gas for use or consumption within Village and not for resale, at the rate of **five percent (5%)** of the gross receipts therefrom.

36-4-2 **EXCEPTIONS.** None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which 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 person engaged in the business of distributing, supplying, furnishing or selling gas, be subject to taxation under the provisions of this Section for such transactions as are or may become subject to taxation under the provisions of this Section for such transactions as are or may become subject to taxation under the provisions of the "**Municipal Retailers' Occupation Tax Act**" authorized by **Chapter 65, Sec. 5/8-11-1, Illinois Compiled Statutes**, nor shall any tax authorized by this Section be imposed upon any person engaged in the business unless such tax is imposed in like manner and at the same rate upon all persons engaged in the business of the same class in the Municipality, whether privately or municipally owned or operated. Any account of the Village shall be exempt from the taxes imposed by this ordinance. (**Ord. No. 2016-01; 01-14-16**)

36-4-3 **ADDITIONAL TAXES.** 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 taxpayers' business.

36-4-4 **DEFINITIONS.** For the purposes of this Article, the following definitions shall apply:

"GROSS RECEIPTS" means the consideration received for distributing, supplying, furnishing or selling gas for use or consumption and not for resale, except for that consideration received from the Village; 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 transmitting such messages without any deduction on account of the service, product or commodity supplied, the cost of materials used, labor or service costs, or any other expenses whatsoever.

"PERSON" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, municipal corporation or political subdivision of this State, or a receiver, trustee, conservator or other representative appointed by order of any court.

36-4-5 **REPORTS TO MUNICIPALITY.** On or before the last day of September, each taxpayer shall make a return to the Village Treasurer for the months of June, July and August, 2002, stating:

- (A) His name.
- (B) His principal place of business.
- (C) His gross receipts during those months upon the basis of which the tax is imposed.
- (D) Amount of tax.
- (E) Such other reasonable and related information as the corporate authorities may require.

On or before the last day of every third month thereafter, each taxpayer shall make a like return to the Village Treasurer for a corresponding **three (3) month** period.

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.

36-4-6 **CREDIT FOR OVER-PAYMENT.** If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than **three (3) years** prior to the filing of a claim therefor shall be so credited.

No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

36-4-7 **PENALTY.** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willingly violates any other provision of this Article shall, upon conviction, be fined as provided in **Section 1-1-20** of the Village Code and in addition, shall be liable in a civil action for the amount of tax due.

(65 ILCS 5/8-11-2)

ARTICLE V - ELECTRICITY TAX

36-5-1 **TAX IMPOSED.** A tax is imposed on all persons engaged in the following occupations or privileges:

(A) The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the Village at the following rates, calculated on a monthly basis for each purchaser:

(1)	First 2,000 KWH	0.61 cents per KWH
(2)	Next 48,000 KWH	0.40 cents per KWH
(3)	Next 50,000 KWH	0.36 cents per KWH
(4)	Next 400,000 KWH	0.35 cents per KWH
(5)	Next 500,000 KWH	0.34 cents per KWH
(6)	Next 2,000,000 KWH	0.32 cents per KWH
(7)	Next 2,000,000 KWH	0.315 cents per KWH
(8)	Next 5,000,000 KWH	0.310 cents per KWH
(9)	Next 10,000,000 KWH	0.305 cents per KWH
(10)	Over 20,000,000 KWH	0.300 cents per KWH

(B) Pursuant to **65 ILCS 5/8-11-2**, the rates set forth in subsection (A) above shall be effective **January 1, 2018. (Ord. No. 99-11)**

36-5-2 **EXCEPTIONS.** None of the taxes authorized by this Article may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas, water, or electricity, or engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Article for those transactions that are or may become subject to taxation under the provisions of the "**Municipal Retailer's Occupation Tax Act**" as authorized by **65 ILCS 5/8-11-1**; nor shall any tax authorized by this Article be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the Municipality. All accounts of the Village shall be exempt from the taxes imposed by this ordinance. **(Ord. No. 2016-01; 01-14-16)**

36-5-3 **ADDITIONAL TAXES.** Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

36-5-4 **COLLECTION.** The tax authorized by this Article shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Article and any such tax collected by a person delivering electricity shall constitute a debt owed to the Municipality by such person delivering the electricity. Persons delivering electricity shall

collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to **three percent (3%)** of the tax to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Municipality upon request. If the person delivering the electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the Municipality in the manner prescribed by the Municipality. Persons delivering electricity who file returns pursuant to this Section shall, at the time of filing such return, pay the Municipality the amount of the tax collected pursuant to this Article.

36-5-5 **REPORTS TO VILLAGE.** On or before the last day of each month, each taxpayer who has not paid the tax imposed by this Article to a person delivering electricity as set forth in **Section 36-5-4** and who is not otherwise exempted from paying such tax shall make a return to the Village Treasurer for the preceding month stating:

- (A) His name.
- (B) His principal place of business.
- (C) His gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.
- (D) Amount of tax.
- (E) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

36-5-6 **CREDIT FOR OVER-PAYMENT.** If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than **three (3) years** prior to the filing of a claim therefor shall be so credited.

No action to recover any amount of tax due under the provisions of this Article shall be commenced more than **three (3) years** after the due date of such amount.

36-5-7 **PENALTY.** Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than **One Hundred Dollars (\$100.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** in addition, shall be liable in a civil action for the amount of tax due. **(See 65 ILCS 5/8-11-2)**

36-5-8 **UNCONSTITUTIONAL.** In the event that Public Act 90-561 is declared unconstitutional, or if **Section 36-5-1** of **Article V** created by this Ordinance is voided by court action, the provisions of the Village Code commonly known as the Gross Receipts Utility Tax shall remain in effect in all respects as if it had never been amended by this Ordinance, and any amounts paid to the Village by any person delivering electricity pursuant to this Ordinance shall be deemed to have been paid pursuant to the Gross Receipts Utility Tax as it existed prior to the passage of this Amendatory Ordinance.

CHAPTER 38

UTILITIES

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CHAPTER 38

UTILITIES

ARTICLE I – DEPARTMENT ESTABLISHED

38-1-1 **DEPARTMENT ESTABLISHED.** There shall be an executive department of the Village known as the **Water and Sewer Department**. It shall include the Superintendent of Water and Sewer, and such other employees as are hired from time to time by the Village Board. The designated office shall be the Village Hall.

38-1-2 **COMMITTEE.** The Village Board standing committee on Water and Sewer shall exercise a general supervision over the affairs of the Water and Sewer Department. It shall ascertain the condition and needs thereof; and shall, from time to time, report the same to the Mayor and Village Board so that a full understanding thereof shall be had; and generally, shall do all acts necessary to promote the efficiency of the Department.

38-1-3 **SUPERINTENDENT.** The Superintendent shall be an employee subject to the supervision of the Committee on Water and Sewer.

38-1-4 **DUTIES OF SUPERINTENDENT.** The general duties of the Superintendent of Water and Sewer shall be to:

(A) take charge of the water system and all connections and appurtenances thereto and secure all labor, materials, tools and implements necessary for the proper maintenance and operation of said system, subject to the approval of the Committee on Water and Sewer. In emergency cases, he may order such supplies, materials or implements as may be necessary for the proper operation of the system.

(B) Control and supervise the employees of the Water and Sewer Department, see that they faithfully perform the duties assigned to them, and report to the Board of Trustees any dereliction of duty on the part of such employees.

(C) Superintend the making of connections with the water and sewer systems.

(D) Prevent injury to the water and sewer systems and waste of water, institute legal proceedings for the punishment of those violating the provisions of this Code, and enforce all rules prescribed for the operation and regulation of the Water and Sewer Department.

(E) Read water meters.

(F) Make all repairs occasioned by leaks or breaks in the mains of the system, and shut off water from all premises on which leaks are permitted to go unrepaired.

(G) Examine and approve all bills and accounts against the Village arising out of the operation of the Water and Sewer Department.

(H) Carry out, on behalf of the Village, the Village's obligations under its contract with a licensed Wastewater Treatment Plant Operator with respect to operation of the Village Wastewater Treatment Plant.

38-1-5 **SEPARATION OF FUNDS.** Despite the fact that the Water and Sewer Department will operate as a single department, the Treasurer shall maintain separate Water and Sewer Funds in the Village Treasury; expenditures from the two funds shall be separately appropriated and shall be accounted for separately, as required by applicable bond covenants. Common expenses shall be allocated between the two funds as directed by the corporate authorities of the Village in consultation with the Village's accountant.

(Ord. No. 01-07; 04-12-01)

ARTICLE II – UTILITY REGULATIONS

38-2-1 CONTRACT FOR SERVICES.

(A) **Customer Accepts Service.** The rates, rules and regulations contained in this Chapter shall constitute and be considered a part of the contract with every person, company or corporation who is supplied with water services from the water and sewer systems of the Village and every person, company or corporation, hereinafter called a “**customer**” who accepts and uses Village water and sewer services (herein called “utility” or “utilities”) shall be held to have consented to be bound thereby.

(B) **Not Liable for Interrupted Service.** The Water and Sewer Department will endeavor at all times to provide a regular and uninterrupted supply of service, but in case the supply of service shall be interrupted or irregular, or defective, or fail from causes beyond its control or through ordinary negligence of employees, servants, or agents, the Water and Sewer Department shall not be liable therefor.

(C) **Using Services Without Paying.** Any person using utility services from the Village without paying therefor, or who shall be found guilty of breaking the seal of any meter or appurtenances or by-pass the meter shall, upon conviction, be fined a sum as is provided in **Section 1-1-20** of the Revised Code.

(D) **Destroying Property.** Any person found guilty of defacing, tampering, injuring or destroying, or in any manner limiting the use or availability of any meter or any property of the utilities, or erecting signs on the property of the utilities without permission shall, upon conviction of such act, be fined as provided in **Section 1-1-20** of the Revised Code.

(E) **Service Obtained By Fraud.** All contracts for utility services shall be made in the name of the head of the household, firm or corporation using the established spelling of that person's or firm's name. Attempts to obtain service by the use of other names, different spellings or by substituting other persons or firms shall be considered a subterfuge and service shall be denied. If service has been discontinued because of nonpayment of bills or any unpaid obligation, and service has again been obtained through subterfuge, misrepresentation or fraud, that service shall be promptly disconnected and the whole or such part of the advanced payment as may be necessary to satisfy the unpaid obligation shall be retained by the Village and credited to the appropriate account.

(F) **Full Payment Required.** Statements for utility services in the Village shall be combined into a single statement, rendered every month, showing the amount charged for utility services. Such statements so rendered shall not be payable in part, and no payment other than that of the entire bill, plus penalties shall be accepted.

If a check is used to pay the utility charges and is returned as “uncollectible” or “insufficient funds” the Village may charge a fee of **Twenty-Five Dollars (\$25.00)** for the first (1st) offense and **Fifty Dollars (\$50.00)** for the second (2nd) offense. The Village may also order the water service turned off until all fees are paid and a deposit is made. (**Ord. No. 2002-15; 12-12-02**)

(G) **Request to Discontinue Service.** Water and sewer services shall have been deemed to have been supplied to any property connected to the Waterworks System during a month, unless the customer notifies the Village Clerk prior to the first (1st) day of the month in which the service is to be discontinued.

(H) **Charge for Discontinuing Service.** If water is temporarily shut off at the request of the user, there shall be no charge for reconnection.

(I)

Billing; Utility Shut-off; Hearing.

- (1) All bills for utility services shall be due and payable upon presentation. If a bill is not paid by the **fifteenth (15th) day** of the month by **6:00 P.M.** or within **fifteen (15) day** of the date the bill is presented, whichever is later, the customer's bill shall be considered delinquent and shall be notified pursuant to paragraph (2) of this Section. This pertains to every day of the week. A penalty of **ten percent (10%)** shall be added to the bill on the **first (1st) working day** on or after the **fifteenth (15th) day** of each month if said bill remains delinquent. This penalty shall be in addition to the charge heretofore established for the utility services. **(Ord. No. 2010-05; 08-12-10)**
- (2) If the utility bill is not paid within **ten (10) days** following billing then the Village shall notify the customer of such failure to pay by first-class mail. The notice to the consumer shall state:
 - (a) Name and address of the consumer and the amount of his bill.
 - (b) That a hearing will be held on the **first (1st) working day** on or after the **fifteenth (15th) day** of each month at **7:00 P.M.** at the Village Hall.
 - (c) That the consumer has a right to be heard and to present evidence in his behalf.
 - (d) That if the consumer fails to appear at the hearing, the consumer's utility service shall be terminated without further proceedings.
 - (e) The date of termination.**[See Memphis Light, Gas & Water v. Craft 98 S.Ct 1554 (1978)]**
- (3) The Mayor, Treasurer or designee shall preside over the hearing. The Mayor, Treasurer or designee of the Mayor shall make a final determination as to the rights of the consumer and the Village based on the information received at the hearing. **(See Appendix #6)**
- (4) The customer shall be notified within **two (2) working days** of the decision rendered by the hearing officer. If the service is to be discontinued, a date and time will be set out in the notice to terminate the service or services of the consumer. Notice of the hearing officer's decision shall be made by first-class mail. The owner of the property shall be notified of the delinquency also.
- (5) If the hearing officer decides in favor of the Village, the Village shall have the right to discontinue the consumer's services. Should the consumer fail to appear at the hearing or should the notice be returned non-accepted, then the Village shall also have the right to terminate the consumer's utility services without further proceedings.
- (6) Once utility services have been disconnected, the same shall not be again connected or used until all delinquent accounts and bills of service are paid in full, including a fee of **Fifty Dollars**

(\$50.00) for each connection of such utility services, plus expenses incurred in the reconnecting of the utility services.

- (7) For a **second (2nd)** or subsequent disconnection for utility services or removal of a meter in any **one (1) calendar year**, the fee shall be **Twenty-Five Dollars (\$25.00)**, plus expenses incurred in the reconnecting of the utility services.

(J) **Lien Notice.** Whenever a bill for utility services remains unpaid for **sixty (60) days** after it has been rendered, the Treasurer shall file with the County Recorder of Deeds a statement of lien claim. This statement shall contain the legal description of the premises served, the amount of the unpaid bill, and a notice that the municipality claims a lien for this amount to the period covered by the bill.

If the consumer of utility services whose bill is unpaid is not the owner of the premises and the Treasurer has notice of this, then notice shall be mailed to the owner of the premises if his address is known to the Treasurer whenever such bill remains unpaid for a period of **thirty (30) days** after it has been rendered.

The failure of the Treasurer to record such lien or to mail such notice, or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for unpaid utility bills as mentioned herein. **(65 ILCS 5/11-139-8)**

(K) **Foreclosure of Lien.** Property subject to a lien for unpaid utility charges may be sold for non-payment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be by bill-in-equity in the name of the Village.

The Village Attorney is hereby authorized to institute such proceedings in the name of the Village in any Court having jurisdiction over such matters against any property for which the bill for utility services has remained unpaid **ninety (90) days** after it has been rendered. **(65 ILCS 5/11-139-8)**

38-2-2 CONSUMER LISTS. It is hereby made the duty of the Clerk to prepare or cause to be prepared a complete and accurate list of all premises and properties receiving utility services, showing the name and address of the occupant and the owner of the same. The list shall be kept up-to-date, and shall be corrected from time to time to allow changes in the occupancy or ownership of any such property or premises. It shall be presented at the regular monthly meeting if requested.

38-2-3 LIABILITY FOR CHARGES. **The owner of any lot, parcel of land or premises receiving utility services, the occupant of such premises, and the user of the services shall be jointly and severally liable for the payment of the services to such lot, parcel of land or premises and all services are rendered to the premises by the Village only on the condition that such owner, occupant and user shall be jointly and severally liable therefor to the Village.**

38-2-4 ESTIMATED CHARGE. Whenever any meter, by reason of its being out of repair, or from any cause, fails to properly register the water passing through the same, the consumer shall be charged at the rate shown for the corresponding time of the previous year.

If no record of the previous year exists, then it shall be the duty of the Superintendent to estimate the amount of utilities consumed during the time the meter fails to operate, and the consumer shall be charged with such estimated amount.

38-2-5 UTILITY DEPOSITS - RENTERS.

(A) **Residential.** When any application is made for utility services in accordance with the provisions of this Chapter, all applicants of property for which the service is requested shall deposit with the application the following amounts:

- (1) Residential – Inside Village Limits \$100.00
- (2) Residential – Outside Village Limits \$100.00

Where the amount of the deposit provided above is not sufficient to adequately protect the Water and Sewer Department a greater amount than stated above may be required, based on the consumer's estimated bill for a customary billing period. **(Ord. No. 04-01; 01-08-04)**

(B) **Security for Payment - No Interest.** The deposits made under the provisions of this Chapter shall be held by the Village as security for the payment of water and sewer services used by the applicant upon the premises to which his application pertains, and may be so applied when any default is made in the payment in the water bill in accordance with this Chapter. The depositor shall earn no interest on the deposit. [NOTE: Commercial customers may be required to deposit a larger amount.]

(C) All deposits shall be held by the Village and will be repaid to the customer only upon payment by the customer of the customer's final bill. No interest shall accrue on the deposits.

(D) Whenever a water customer has had water services disconnected for non-payment twice in any calendar year, then the Village shall require payment of a new deposit before reconnection is made.

38-2-6 ACCOUNTING FOR AND DEPOSITS OF RECEIPTS. All receipts from bills rendered to customers shall be allocated to the Water Fund or the Sewer Fund as appropriate, and deposited separately in such funds, as directed by the Treasurer in consultation with the Village's accountant, and in accordance with the requirements of any bond covenants applicable to such accounts.

(Ord. No. 2001-07; 04-12-01)

ARTICLE III - WATER SYSTEM

DIVISION I - GENERAL REGULATIONS

38-3-1 **DEFINITIONS.** Unless the context specifically indicates otherwise, the meaning of the terms used in this Chapter shall be as follows:

(A) **Federal Government.**

- (1) **"Federal Act"** means the federal 1996 Safe Drinking Water Acts Amendments.
- (2) **"Administrator"** means the Administrator of the U.S. Environmental Protection Agency.

(B) **State Government.**

- (1) **"State Act"** means the Illinois Anti-Pollution Bond Act of 1970.
- (2) **"Director"** means the Director of the Illinois Environmental Protection Agency.
- (3) **"State Loan"** shall mean the State of Illinois participation in the financing of the construction of water works as provided for by the Illinois Anti-Pollution Bond Act and for making such loans as filed with the Secretary of State of the State of Illinois.

(C) **Local Government.**

- (1) **"Approving Authority"** means the Board of Trustees of the Village of Loami or where such authority is specifically delegated, the Superintendent of the Water and Sewer Department.

(D) **"Person"** shall mean any and all persons, natural or artificial, including any individual, firm or company, municipal, or private corporation, association, society, institution, enterprise, governmental agency or other entity.

(E) **Clarification of Word Usage.** **"Shall"** is mandatory; **"may"** is permissible.

(F) **Water and Its Characteristics.**

- (1) **"ppm"** shall mean parts per million by weight.
- (2) **"milligrams per liter"** shall mean a unit of the concentration of water constituent. It is 0.001 g of the constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water analysis.
- (3) **"PH"** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.

(G)

- (1) **"Curb Cock"** shall mean a shutoff valve attached to a water service pipe from a water main to a building installed near the curb, which may be operated by a valve key to start or stop flow in the water-supply lines of a building. Also called a curb stop.
- (2) **"Easement"** shall mean an acquired legal right for the specific use of land owned by others.
- (3) **"Service Box"** shall mean a valve box used with corporation or curb cock.

(H)

Types of Charges.

- (1) **"Water Service Charge"** shall be the charge per quarter or month levied on all users of the Water Facilities. The service charge shall be computed as outlined in this Article, and shall consist of the total of the Basic User Charge and the Local Capital Cost if applicable.
- (2) **"User Charge"** shall mean a charge levied on users of water works for the cost of operation, maintenance and replacement.
- (3) **"Basic User Charge"** shall mean the basic assessment levied on all users of the public water system.
- (4) **"Debt Service Charge"** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.
- (5) **"Capital Improvement Charge"** shall mean a charge levied on users to improve, extend or reconstruct the water works.
- (6) **"Local Capital Cost Charge"** shall mean charges for costs other than the operation, maintenance and replacement costs, i.e. debt service and capital improvement costs.
- (7) **"Replacement"** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances, which are necessary during the useful life of the works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
- (8) **"Useful Life"** shall mean the estimated period during which the water works will be operated.
- (9) **"Water and Sewer Fund"** is the principal accounting designation for all revenues received in the operation of the water system.

38-3-2 APPLICATION FOR TAPS AND SERVICE CONNECTIONS TO THE WATERWORKS SYSTEM. An applicant desiring a water tap or service connection with the Waterworks System of the Village shall file a written application at the Village Hall, signed by the owner of the property for which the tap or service connection is desired, or by the duly authorized agent of such owner. The application shall be accompanied by payment of the fee hereinafter prescribed to cover the cost of such service connection. In the event the application is made by an agent for the owner, then the application shall also be accompanied by the written authority of the owner to the agent for the making of the application. **(See Appendix #1)**

38-3-3 ALL SERVICE TO BE BY METER. All water service, whether for domestic, commercial or industrial use shall be metered. All meters shall be so placed and installed as to render the same accessible at all times for the purpose of reading or repairing and so as to be free from danger of freezing. Meters outside of a building shall be set in a suitable meter box approved by the Water and Sewer Committee. Water shall not be turned on for new connections until the meter has been installed and all other requirements of this Chapter on the part of the property owner have been fully complied with.

38-3-4 REMOVAL OF METERS. All meters shall remain the property of the department and may be removed from the customer's premises at any time without notice for the purpose of testing and repairing the same or upon discontinuance of service. Upon discovery of any unlawful act by any customer, his agent, or employee herein prohibited or upon failure to comply with any other rules and regulations of the department, such service shall be disconnected.

38-3-5 INSTALLING AND MAINTAINING SERVICE LINES. The user shall be responsible for installation and maintenance of service lines between the meter and the residence or business. Such service lines must be at least **three-fourths (3/4) inch** in diameter, and must be installed at a minimum depth of **three (3) feet**. Service lines must have a minimum working pressure rating of **160 psi at 73.4 degrees F** and must be constructed of one of the following types of materials: Copper, (Type K), polyvinyl chloride (PVC), polyethylene or polybutylene. Service lines shall not be covered until they are inspected and approved by the Superintendent.

The user shall not connect any service line or any plumbing connected with the service line to any other water source. The service line shall meet all requirements of the Illinois Environmental Protection Agency's rules and regulations, the Illinois Plumbing Code, and the regulations in this Chapter.

38-3-6 INSPECTION.

(A) **Access to Premises.** The Village shall have access to all portions of the premises of the consumer at any reasonable time for inspection of the use of water and the consumer's pipe, fixtures, plumbing, and any other apparatus in any manner connected to the Waterworks System of the Village. The Village shall have the right and option to demand change or stopping of use or to require any repair, change, removal or improvement of any pipe, fixture, plumbing or other apparatus that would in any manner affect the water supply or system of the Village or the supply or fixtures of other consumers.

(B) **Meters to be Open to Inspection.** All water meters and water fixtures, connections and appurtenances on private property connected with the Waterworks System of the Village shall be open to the inspection of the proper officers and employees of the Village at all reasonable hours.

38-3-7 METER DAMAGED. Whenever a meter is found to have been damaged by hot water being forced back into it from the consumer's hot water or heating apparatus or for any other cause within control of the consumer, the consumer shall pay the Village for the actual cost of the removal, repair, and replacement of the damaged meter and all previous water bills shall be corrected on an estimated basis to cover such period as it appears that the meter was out of order for such damage.

38-3-8 DAMAGE DUE TO INTERRUPTION OF SERVICE; LIABILITY. All connections for the water services applied for hereunder and all connections now attached to the present Village Waterworks System and all use or service of the system shall be upon the express condition that the Village shall not be liable for nor shall any claim be made against it for damages or injury caused by reason of the breaking of any main, service, pipe, apparatus or

appurtenance connected with the Waterworks System or for any interruption of the supply of water by reason of the breaking of machinery or by reason of stoppages, alterations, extensions or renewals.

38-3-9 RESALE OF WATER. No water supplied by the waterworks system shall be resold by any user. No water user may supply water to other families or allow them to take it, except for use on the premises and for the purpose specified in such user's approved application, nor after water is introduced into any building or upon any premises shall any person make or employ any other person to make any tap or connection with work upon the premises for alterations, repairs, extension or attachments without written permit therefore. Resale or unauthorized use of water shall be grounds for discontinuance of water service to the user, or the premises, or both.

38-3-10 DISCONTINUING SERVICE - DANGEROUS USAGE. The Village shall have the right to refuse water service or to discontinue water service, without notice, at any time to any consumer if the Village finds any apparatus or appliances, the operation of which will be detrimental to the water system of the Village or to any or all of its consumers. Standpipes, hydrants, gate valves and any other apparatus that cause water hammer or any danger to the water system or other customer's plumbing shall be immediately repaired or removed upon notice from the Village or, at its option, the Village may immediately discontinue service without notice and without any liability for direct or resulting damages therefrom.

38-3-11 ELECTRIC GROUND WIRES. All persons are strictly forbidden to attach any electric ground wire to any plumbing or water piping which is or may be connected to any water service pipe, water meter, or water main belonging to the Village.

The Village shall hold the owner of the premises responsible and liable for any damage to the property or injury to the employees of the Village caused by such ground wire. Any and all owners and consumers shall remove any existing ground wires immediately upon written notice from the Village. If not so disconnected **five (5) days** after notice, the Village, through its officials, may enter the property and remove such ground wires and the consumer shall pay all costs.

38-3-12 WATER FOR BUILDING OR CONSTRUCTION PURPOSES. Applicants desiring to use water from the Village Waterworks System for building or construction purposes shall make application therefor to the Superintendent on a form provided by the Water and Sewer Department for that purpose.

Upon a permit being granted, the service pipe shall be carried at the expense of the applicant to the inside of the curb line where a service cock and meter shall be placed with pipe leading to the surface and a faucet placed at the end thereof above the surface. When the building or construction is completed, the faucet and meter shall be removed and the water shut off unless permanent connection is made in accordance with the provisions of this Chapter. Charge for the use and connection of the meter shall be prescribed by the Superintendent.

38-3-13 FIRE HYDRANTS.

(A) All public fire hydrants with gate valves, tees, and connections from the main, inside the Village Limits, shall be owned, maintained and used only by the Village and shall be solely responsible for same. Use of water from fire hydrants by contractors and others shall be only upon permission by the Village and after approved application to the Village.

(B) The Village shall not be held liable and will not assume any responsibility for the condition of any fire hydrant inside or outside of the Village Limits or the pressure or amount of water obtainable therefrom or any damage either direct or resultant because of the condition, pressure or amount of water available at any fire hydrant.

(C) All public fire hydrants located outside the Village Limits owned by the Village shall be maintained in as good order as reasonably possible, but the Village will not undertake or assume any responsibility or liability for their condition or use or abuse. Such public fire hydrants shall be used only for the purpose of extinguishing fires except when the Village may issue a special permit for their use to contractors who shall then be responsible for the hydrants and the use of water from them.

38-3-14 LIMITED WATER USAGE IN EMERGENCIES.

(A) The Mayor is hereby authorized to proclaim the existence of an emergency whenever it appears that the Village water supply is inadequate for all general uses and purposes, which proclamation shall be published in a newspaper of general circulation in the community and the Mayor is further authorized to declare in similar manner the end of an emergency period.

(B) From and after the publication of a proclamation as provided for in subsection (A) of this Section, the following uses of water shall be prohibited:

- (1) the washing of cars and other vehicles;
- (2) the sprinkling of lawns and shrubbery;
- (3) the watering of gardens;
- (4) other nonessential uses;

and it shall be unlawful for any person to so use water from the Village supply during such an emergency.

38-3-15 SHORTAGE AND PURITY OF SUPPLY. The Village shall not be held responsible for or in any manner liable to any person, company, consumer or public body for any claim or damage, either direct or resultant because of any shortage of water supply, any shutoff of water for any reason, any bursting or leakage of either the consumer's or Village's mains, pipes and fixtures, any pollution or impurity in water supply or any fire or water damage.

38-3-16 NON-COMPLIANCE WITH RULES AND REGULATIONS. If any consumer fails to comply with any of the rules and regulations in force, the Village shall notify the consumer of such failure. If the consumer does not remedy the same as the rules provide and within a reasonable time, the Village shall have the right to discontinue service. Except in case of non-payment, emergency, necessity, or as otherwise provided, the Village will not discontinue service for violation of any rule until **five (5) days** after notice has been given and the violation has not been remedied.

38-3-17 **EASEMENTS.** The consumer shall give such easements and rights-of-way as necessary to the Village and allow access for the purpose of construction, repair, maintenance, meter reading, relocation or expansion of the water system. The necessity shall be determined by the Superintendent.

38-3-18 **USE OF WATER ON CONSUMER'S PREMISES.** The Village shall reserve the right to use the water from the consumer's facilities at any time deemed necessary. No charge shall be made by the consumer for the use of the facilities and no charge shall be made by the Village for the water used by the Village.

38-3-19 **ALLOCATION OF MAINTENANCE COSTS BETWEEN USER AND VILLAGE.** The Village shall maintain and repair all water service pipes between the water mains and the curb lines. Any repairs to service lines or taps between the water mains and the sidewalk or property line shall be the Village's expense. Any repairs or renewals of water service pipes between the property line or curb line and extending to the owner's premises shall be made at the sole expense of the consumer or owner of the premises.

38-3-20 **VILLAGE NOT LIABLE FOR INTERRUPTION OF SUPPLY.** The Village shall have the right to shut off the supply of water whenever it is necessary to make repairs, improvements, enforce rules or for any notice as circumstances allow, will be given to consumers but in emergencies, the water may be shut off without notice. All hot water faucets shall be left open during any shut-off to prevent damage to plumbing. Such necessary work will be done as rapidly as may be practical and whenever feasible at such times as will cause the least inconvenience. The Village shall not be held responsible for or liable because of any shut-off of supply for any direct or resultant damages to any person, company or consumer or to any pipe, fixtures, or plumbing.

Water for steam boilers, gas engines, ice plants, or other industrial use, shall not be furnished by direct pressure from the mains, but only to tanks holding ample reserve supply. Should any equipment be supplied direct from mains, then in case of any shutoff of water, the Village will not be held responsible or liable for any direct or resulting damage because of interrupted supply, insufficient pressure, or otherwise.

Whenever water mains, pipes and service connections are taken up, shut-off or interfered with by reason of any Village street improvements, the Village will endeavor to maintain service so far as reasonably possible, but will not be directly or indirectly liable for any interruption, poor pressure, or damage of any kind either to consumers, adjacent or to other consumers affected thereby.

38-3-21 **WATER WELL PERMITS REQUIRED.** It shall be unlawful to drill a water-well in the Village without the proper permits from the State of Illinois and the Village Board. All wells shall comply with the Cross-Connection Code in this Chapter. No wells shall be drilled when the property is within **two hundred (200) feet** of the municipal water main.

38-3-22 **ABANDONED CONNECTION.** Whenever any connection to the waterworks system is abandoned, because the building to which the water connection is made

has been abandoned, destroyed or removed, the Superintendent may remove the meter and any pipe or connections in the public right-of-way or easement, and cap, plug or otherwise seal the pipe or main. Before taking any such steps the Superintendent shall notify the owner of the real estate if the owner's name and address is known, and shall notify the person shown on the real estate tax records as having paid taxes on the property the last time taxes were paid. Such notice shall be made by mail, at least **thirty (30) days** before any action is taken under this Section. If water is leaking, the Superintendent shall take immediate action, and send the notices within **three (3) working days** of the time action was taken.

38-3-23 ALTERNATIVE WATER SOURCE. Any customer with critical water requirements shall have an alternate water source. Failure to provide such shall be considered a violation of customer rules and loss or damages resulting therefrom shall be the responsibility of the customer. Those customers shall include but not be limited to manufacturers, hospitals, nursing homes, schools, greenhouses, hatcheries or any other building or business which might suffer any type of loss due to interruption of water service.

The Village expressly stipulates with all customers and other persons who may be affected by the discontinuance of service that it will neither insure nor be responsible or liable in any manner for any loss or damages, direct or indirect, by reason of fire or any other cause and all water service furnished shall also be conditional upon acts of God, inevitable accidents, failure of supply, fire, strikes, riots or any other causes.

38-3-24 RULES TO BECOME PART OF CONTRACT. All of the rules and regulations concerning the use of the facilities of the water system and the consumption of water shall be adopted and the same shall become part of the contract with every water consumer and every water consumer shall be considered to take water from the Village, subject thereto and bound thereby.

38-3-25 - 38-3-30 RESERVED.

DIVISION II - CROSS-CONNECTION ADMINISTRATION

38-3-31 **APPROVED BACKFLOW DEVICE.** All plumbing installed within the Village shall be installed in accordance with the Illinois Plumbing Code, 77 Ill. Adm. Code 890. If, in accordance with the Illinois Plumbing Code or in the judgment of the Inspector, an approved backflow prevention device is necessary for the safety of the public water supply system, the Inspector shall give notice to the water customer to install such an approved device immediately. The water customer shall, at his own expense, install such an approved device at a location and in a manner in accordance with the Illinois Plumbing Code, Illinois Environmental Protection Agency and all applicable local regulations, and shall have inspections and tests made of such approved devices upon installation and as required by the Illinois Plumbing Code, Illinois Environmental Protection Agency and local regulations.

38-3-32 **CROSS-CONNECTION PROHIBITED; EXCEPTION.** No person shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply enters the supply or distribution system of the Village, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Superintendent and the Illinois Environmental Protection Agency.

38-3-33 **INVESTIGATIONS BY SUPERINTENDENT.** It shall be the duty of the Superintendent to cause surveys and investigations to be made of commercial industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every **two (2) years** or as often as the Inspector shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least **five (5) years**.

38-3-34 **RIGHT TO ENTER PREMISES.** The approved cross-connection control device inspector shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying the presence or absence of cross-connections and that the Inspector or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessee or occupants of any property so served shall furnish to the Inspector any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information when demanded shall, within the discretion of the Inspector, be evidence of the presence of improper connections as provided in this Chapter.

38-3-35 **NOTICE TO CUSTOMER; RECONNECT FEE.**
(A) The Village Clerk is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this Chapter is known to exist, and to take such

other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this Chapter and until a reconnection fee of **One Hundred Dollars (\$100.00)** is paid to the Village Clerk.

(B) Immediate disconnection with verbal notice can be effected when the Inspector is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in the reasonable opinion of the Inspector or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply.

(C) The public water supply, the Inspector or the agents or assigns shall not be liable to any customer for any injury, damages or lost revenues which may result from termination of the customer's water supply in accordance with the terms of this Chapter, whether or not said termination was with or without notice.

38-3-36 **CONTAMINATIONS COST AND THE CONSUMER.** The consumer responsible for backsiphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, shall bear the cost of clean-up of the potable water supply system.

38-3-37 - 38-3-40 **RESERVED.**

DIVISION III - CROSS-CONNECTION CONTROL CODE

38-3-41 **PURPOSE.** The purpose of these Rules and Regulations is:

(A) To protect the public water supply system from contamination or pollution by isolating within the customer's water system contaminants or pollutants which could backflow through the service connection into the public water supply system.

(B) To promote the elimination or control of existing cross-connections, actual or potential, between the public or consumer's potable water system and non-potable water systems, plumbing fixtures and sources or systems containing substances of unknown or questionable safety.

(C) To provide for the maintenance of a continuing program of cross-connection control which will prevent the contamination or pollution of the public and consumer's potable water systems.

38-3-42 **APPLICATION.** These Rules and Regulations shall apply to all premises served by the public potable water supply system of the Village.

38-3-43 **RESPONSIBILITY OF OWNER.** The owner or official custodian shall be responsible for protection of the public water supply system from contamination due to backflow or back-siphonage of contaminants through the customer's water service connection. If, in the judgment of the Superintendent or his authorized representative, an approved backflow prevention device is necessary for the safety of the public water supply system, the Superintendent shall give notice to the consumer to install such approved backflow prevention device at each service connection to the premises. The consumer shall immediately install such approved device or devices at his own expense; failure, refusal or inability on the part of the consumer to install such device or devices immediately shall constitute grounds for discontinuing water service to the premises until such device or devices have been installed. The consumer shall retain records of installation, maintenance, testing and repair as required in **Section 38-3-47(D)** below for a period of at least **five (5) years**. The Superintendent may require the consumer to submit a cross-connection inspection report to the Village to assist in determining whether or not service line protection will be required. All cross-connection inspections shall be conducted by a Cross-Connection Control Device Inspector certified by the Illinois Environmental Protection Agency.

38-3-44 **DEFINITIONS.** The following definitions shall apply in the interpretation and enforcement of these regulations:

"Fixed Proper Air Gap" means the unobstructed vertical distance through the free atmosphere between the water discharge point and the flood level rim of the receptacle.

"Agency" means Illinois Environmental Protection Agency.

"Approved" means backflow prevention devices or methods approved by the Research Foundation for Cross-Connection Control of the University of Southern California, Association of

State Sanitary Engineers, American Water Works Association, American National Standards Institute or certified by the National Sanitation Foundation.

“Auxiliary Water System” means any water source or system on or available to the premises other than the public water supply system and includes the water supplied by the system. These auxiliary waters may include water from another purveyor's public water supply system; or water from a source such as wells, lakes, or streams or process fluids; or used water. These waters may be polluted or contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.

“Backflow” means the backflow of water or other liquids, mixtures, or substances into the distribution pipes of a potable water system from any source other than the intended source of the potable water supply.

“Backflow Prevention Device” means any device, method, or type of construction intended to prevent backflow into a potable water system. All devices used for backflow prevention in Illinois must meet the standards of the Illinois Plumbing Code and the Illinois Environmental Protection Agency.

“Consumer” or “Customer” means the owner, official custodian or person in control of any premises supplied by or in any manner connected to a public water system.

“Consumer's Water System” means any water system located on the customer's premises. A building plumbing system is considered to be a customer's water system.

“Contamination” means an impairment of the quality of the water by entrance of any substance to a degree which could create a health hazard.

“Cross-Connection” means any physical connection or arrangement between two otherwise separate piping systems, one of which contains potable water and the other a substance of unknown or questionable safety or quality, whereby there may be a flow from one system into the other.

“Direct Cross-Connection” means a cross-connection formed when a water system is physically joined to a source of unknown or unsafe substance.

“Indirect Cross-Connection” means a cross-connection through which an unknown substance can be forced, drawn by vacuum or otherwise introduced into a safe potable water system.

“Double Check Valve Assembly” means an assembly composed of single, independently acting check valves approved under ASSE Standard 1015. A double check valve assembly and suitable connections for testing the water-tightness of each check valve.

“Health Hazard” means any condition, device or practice in a water system or its operation resulting from a real or potential danger to the health and well-being of consumers. The word "severe" as used to qualify "health hazard" means a hazard to the health of the user that could be expected to result in death or significant reduction in the quality of life.

“Inspection” means a plumbing inspection to examine carefully and critically all materials, fixtures, piping and appurtenances, appliances and installations of a plumbing system for compliance with requirements of the Illinois Plumbing Code, 77 Ill. Admn. Code 890.

“Non-potable Water” means water not safe for drinking, personal, or culinary use as determined by the requirements of 35 Ill. Adm. Code 604.

“Plumbing” means the actual installation, repair, maintenance, alteration or extension of a plumbing system by any person. Plumbing includes all piping, fixtures, appurtenances and appliances for a supply of water for all purposes, including without limitation lawn sprinkler systems, from the source of a private water supply on the premises or from the main in the street, alley or at the curb to, within and about any building or buildings where a person or persons live, work or assemble. Plumbing includes all piping, from discharge of pumping units to and including pressure tanks in water supply systems. Plumbing includes all piping, fixtures, appurtenances, and appliances for a building drain and a sanitary drainage and related ventilation system of any building or buildings where a person or persons live, work or assemble from the point of connection of such building drain to the building sewer or private sewage disposal system **five (5) feet** beyond the foundation walls.

“Pollution” means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

“Potable Water” means water which meets the requirements of 35 Ill. Adm. Code 604 for drinking, culinary, and domestic purposes.

“Potential Cross-Connection” means a fixture or appurtenance with threaded hose connection, tapered spout, or other connection which would facilitate extension of the water supply line beyond its legal termination point.

“Process fluid(s)” means any fluid or solution which may be chemically, or biologically or otherwise contaminated or polluted in a form or concentration such as would constitute a health, pollutional, or system hazard if introduced into the public or a consumer's potable water system. This includes but is not limited to:

- (A) polluted or contaminated waters;
- (B) process waters;
- (C) used waters originating from the public water supply system which may have deteriorated in sanitary quality;
- (D) cooling waters;
- (E) questionable or contaminated natural waters taken from wells, lakes, streams, or irrigation systems;
- (F) chemicals in solution or suspension;
- (G) oils, gases, acids, alkalis and other liquid and gaseous fluids used in industrial or other processes, or for fire fighting purposes.

“Public Water Supply” means all mains, pipes and structures through which water is obtained and distributed to the public, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or

general domestic use and which serve at least 15 service connections or which regularly serve at least 25 persons at least 60 days per year. A public water supply is either a "community water supply" or a "non-community water supply".

"Reduced Pressure Principle Backflow Prevention Device" means a device containing a minimum of two independently acting check valves together with an automatically operated pressure differential relief valve located between the two check valves and approved under ASSE Standard 1013. During normal flow and at the cessation of normal flow, the pressure between these two checks shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closed shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

"Service Connection" means the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

"Survey" means the collection of information pertaining to a customer's piping system regarding the location of all connections to the public water supply system and must include the location, type and most recent inspection and testing date of all cross-connection control devices and methods located within that customer's piping system. The survey must be in written form, and should not be an actual plumbing inspection.

"System Hazard" means a condition through which an aesthetically objectionable or degrading material not dangerous to health may enter the public water supply system or a consumer's potable water system.

"Used Water" means any water supplied by a public water supply system to a consumer's water system after it has passed through the service connection and is no longer under the control of the water supply official custodian.

"Water Purveyor" means the owner or official custodian of a public water system.

38-3-45 WATER SYSTEM.

(A) The water system shall be considered as made up of two parts: the public water supply system and the consumer's water system.

(B) The public water supply system shall consist of the source facilities and the distribution system, and shall include all those facilities of the potable water system under the control of the Superintendent up to the point where the consumer's water system begins.

(C) The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the public water supply distribution system.

(D) The public water supply distribution system shall include the network of conduits used to deliver water from the source to the consumer's water system.

(E) The consumer's water system shall include all parts of the facilities beyond the service connection used to convey water from the public water supply distribution system to points of use.

38-3-46 **CROSS-CONNECTION PROHIBITED.**

(A) Connections between potable water systems and other systems or equipment containing water or other substances of unknown or questionable quality are prohibited except when and where approved cross-connection control devices or methods are installed, tested and maintained to insure proper operation on a continuing basis.

(B) No physical connection shall be permitted between the potable portion of a supply and any other water supply not of equal or better bacteriological and chemical quality as determined by inspection and analysis by the Agency.

(C) There shall be no arrangement or connection by which an unsafe substance may enter a supply.

38-3-47 **SURVEY AND INVESTIGATIONS.**

(A) The consumer's premises shall be open at all reasonable times to the approved cross-connection control device inspector for the inspection of the presence or absence of cross-connections within the consumer's premises, and testing, repair and maintenance of cross-connection control devices within the consumer's premises.

(B) On request of the Superintendent, or his authorized representative, the consumer shall furnish information regarding the piping system or systems or water use within the customer's premises. The consumer's premises shall be open at all reasonable times to the Superintendent for the verification of information submitted by the consumer to the public water supply custodian regarding cross-connection inspection results.

(C) It shall be the responsibility of the water consumer to arrange periodic surveys of water use practices on his premises to determine whether there are actual or potential cross-connections to his water system through which contaminants or pollutants could backflow into his or her public potable water system. All cross-connection control or other plumbing inspections must be conducted in accordance with Ill. Comp. Stat., Ch. 225, Sec. 320/3.

(D) It is the responsibility of the water consumer to prevent backflow into the public water system by ensuring that:

- (1) All cross-connections are removed; or approved cross-connection control devices are installed for control of backflow and back-siphonage.
- (2) Cross-connection control devices shall be installed in accordance with the manufacturer's instructions.
- (3) Cross-connection control devices shall be inspected at the time of installation and at least annually by a person approved by the Agency as a cross-connection control device inspector (CCCDI). The inspection of mechanical devices shall include physical testing in accordance with the manufacturer's instructions.
- (4) Testing and Records
 - (a) Each device shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer.
 - (b) Records submitted to the community public water supply shall be available for inspection by Agency personnel in accordance with Ill. Comp. Stat., Ch. 415, Sec. 5/4(e).

- (c) Each device shall have a tag attached listing the date of most recent test, name of CCCDI, and type and date of repairs.
- (d) A maintenance log shall be maintained and include:
 - 1. date of each test;
 - 2. name and approval number of person performing the test;
 - 3. test results;
 - 4. repairs or servicing required;
 - 5. repairs and date completed; and
 - 6. serving performed and date completed.

38-3-48 WHERE PROTECTION IS REQUIRED.

(A) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 680. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises, where in the judgment of the Superintendent, actual or potential hazards to the public water supply system exist.

(B) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where the following conditions exist:

- (1) Premises having an auxiliary water supply, unless such auxiliary supply is accepted as an additional source by the Superintendent and the source is approved by the Illinois Environmental Protection Agency.
- (2) Premises on which any substance is handled which can create an actual or potential hazard to the public water supply system. This shall include premises having sources or system containing process fluids or waters originating from the public water supply system which are no longer under the sanitary control of the Superintendent.
- (3) Premises having internal cross-connections that, in the judgment of the Superintendent, are not correctable or intricate plumbing arrangements which make it impractical to determine whether or not cross-connections exist.
- (4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey.
- (5) Premises having a repeated history or cross-connections being established or reestablished.

(C) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 653. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving, but not necessarily limited to, the following types of facilities unless the Superintendent determines that no actual or potential hazard to the public water supply system exists:

- (1) Hospitals, mortuaries, clinics, nursing homes.
- (2) Laboratories.

- (3) Piers, docks, waterfront facilities.
- (4) Sewage treatment plants, sewage pumping stations or storm water pumping stations.
- (5) Food or beverages processing plants.
- (6) Chemical plants.
- (7) Metal plating industries.
- (8) Petroleum processing or storage plants.
- (9) Radioactive material processing plants or nuclear reactors.
- (10) Car washes.
- (11) Pesticide, or herbicide or extermination plants and trucks.
- (12) Farm service and fertilizer plants and trucks.

38-3-49 TYPE OF PROTECTION REQUIRED.

(A) The type of protection required under **Section 38-3-48** of these regulations shall depend on the degree of hazard which exists as follows:

- (1) An approved fixed proper air gap separation shall be installed where the public water supply system may be contaminated with substances that could cause a severe health hazard.
- (2) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly shall be installed where the public water supply system may be contaminated with a substance that could cause a system or health hazard.
- (3) An approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention assembly or a double check valve assembly shall be installed where the public water supply system may be polluted with substances that could cause a pollution hazard not dangerous to health.

(B) The type of protection required under **Section 38-3-48** of these regulations shall be an approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention device.

(C) Where a public water supply or an auxiliary water supply is used for a fire protection system, reduced pressure principle backflow preventers shall be installed on fire safety systems connected to the public water supply when:

- (1) The fire safety system contains antifreeze, fire retardant or other chemicals;
- (2) water is pumped into the system from another source; or
- (3) water flows by gravity from a non-potable source; or water can be pumped into the fire safety system from any other source;
- (4) there is a connection whereby another source can be introduced into the fire safety system.

(D) All other fire safety systems connected to the potable water supply shall be protected by a double check valve assembly on metered service lines and a double detector check valve assembly on unmetered service lines.

38-3-50 BACKFLOW PREVENTION DEVICES.

(A) All backflow prevention devices or methods required by these rules and regulations shall be approved by the Research Foundation for Cross-Connection Control of the University of Southern California, American Water Works Association, American Society of Sanitary Engineering, or American National Standards Institute or certified by the National Sanitation Foundation to be in compliance with applicable industry specification.

(B) Installation of approved devices shall be made in accordance with the manufacturer's instructions. Maintenance as recommended by the manufacturer of the device shall be performed. Manufacturer's maintenance manual shall be available on-site.

38-3-51 INSPECTION AND MAINTENANCE.

(A) It shall be the duty of the consumer at any premises on which backflow prevention devices required by these regulations are installed to have inspection, tests, maintenance and repair made in accordance with the following schedule or more often where inspections indicate a need or are specified in manufacturer's instructions.

(1) Fixed proper air gap separations shall be inspected to document that a proper vertical distance is maintained between the discharge point of the service line and the flood level rim of the receptacle at the time of installation and at least annually thereafter. Corrections to improper or by passed air gaps shall be made within 24 hours.

(2) Double check valve assemblies shall be inspected and tested at time of installation and at least annually thereafter, and required service performed within **five (5) days**.

(3) Reduced pressure principle backflow prevention assemblies shall be tested at the time of installation and at least annually or more frequently if recommended by the manufacturer, and required service performed within **five (5) days**.

(B) Testing shall be performed by a person who has been approved by the Agency as competent to service the device. Proof of approval shall be in writing.

(C) Each device shall have a tag attached listing the date of most recent test or visual inspection, name of tester, and type and date of repairs.

(D) A maintenance log shall be maintained and include:

(1) date of each test or visual inspection;

(2) name and approval number of person performing the test or visual inspection;

(3) test results;

(4) repairs or servicing required;

(5) repairs and date completed; and

(6) servicing performed and date completed.

(E) Whenever backflow prevention devices required by these regulations are found to be defective, they shall be repaired or replaced at the expense of the consumer without delay as required by **Section 38-3-41(A)**.

(F) Backflow prevention devices shall not be bypassed, made inoperative, removed or otherwise made ineffective without specific authorization by the Superintendent.

38-3-52 BOOSTER PUMPS.

(A) Where a booster pump has been installed on the service line to or within any premises, such pump shall be equipped with a low pressure cut-off device designed to shut-off the booster pump when the pressure in the service line on the suction side of the pump drops to 20 psi or less.

(B) It shall be the duty of the water consumer to maintain the low pressure cut-off device in proper working order and to certify to the Superintendent, at least once a year, that the device is operable.

38-3-53 VIOLATIONS AND PENALTIES.

(A) The Superintendent shall deny or discontinue, after reasonable notice to the occupants thereof, the water service to any premises wherein any backflow prevention device required by these regulations is not installed, tested, maintained and repaired in a manner acceptable to the Superintendent, or if it is found that the backflow prevention device has been removed or bypassed, or if an unprotected cross-connection exists on the premises, or if a low pressure cut-off required by these regulations is not installed and maintained in working order.

(B) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects in conformance with these regulations and to the satisfaction of the Superintendent, and the required reconnection fee is paid.

(C) Neither the Village, the Superintendent, or its agents or assigns, shall be liable to any customers of the Village for any injury, damages or lost revenues which may result from termination of said customer's water supply in accordance with the terms of this Chapter, whether or not said termination of the water supply was with or without notice.

(D) The consumer responsible for back-siphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, must bear the cost of clean-up of the potable water supply system.

(E) Any person found to be violating any provision of this Code shall be served with written notice stating the notice of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violation.

(F) Any person violating any of the provisions of this Code in addition to the fine provided, shall become liable to the Village for any expense, loss or damage occasioned by the Village by reason of such violation, whether the same was caused before or after notice.

38-3-54 - 38-3-60 RESERVED.

DIVISION IV - EXTENSION OF MAINS

38-3-61 **DETERMINATION OF WHO PAYS EXPENSE OF EXTENSION.** The Village Board shall first determine if an extension of water main is economically feasible based on the estimated cost of the extension and the number of existing potential users that will use water along the extension. If the extension is economically feasible then the Village may install and pay the cost of the extension at the discretion of the Village Board. If the Village elects not to pay the cost of extending the water main then the person or persons desiring water service shall install the extension at their own personal expense upon written consent by the Village Board. The Village shall not pay for any extensions to an undeveloped area, such as a subdivision being developed, unless there are sufficient existing residents or businesses to make the extension economically feasible. All extensions shall comply with the "Standard Specifications for Water & Sewer Construction in the State of Illinois". **(See Appendix #2)**

38-3-62 **EASEMENTS.** Applicants for main extensions shall deliver, without cost to the Village, permanent easements or right-of-way when necessary for the installation and maintenance of the extensions or subsequent additions thereto. The Village shall not be obligated to authorize any construction until all requirements of this Chapter have been met.

38-3-63 **SIZE AND TYPE.** The Village reserves the right to determine and specify the diameter and type of pipe required to provide the service requested, and subject to the requirements of municipal authorities, its location within or without the limits of a street. The Village further reserves the right to install a main larger in diameter than the main required to render the service requested, in which case, the Village will pay the difference in cost.

38-3-64 **TITLE.** Title to all main extensions shall be vested in the Village and the Village shall have the right to further extend any main installed in and to other streets or premises without repayment or refund to any applicant. However, the Village reserves the right to consider extensions made at the applicant's expense and without written agreement as to service lines. Upon such lines, the Village will set a meter at the beginning of the extension to measure all water used and title to the line beyond the meter will be vested in the customer who shall be responsible for maintenance and replacement, when necessary.

38-3-65 **MAINTENANCE AND REPLACEMENT.** The Village, at its own expense, shall maintain and when necessary, replace the Village -owned mains used to supply water to its customers, and if adequate service requires the reconstruction or replacement of such mains, the mains shall be reconstructed or replaced by the Village at its expense.

38-3-66 - 38-3-69 **RESERVED.**

DIVISION V – WATER RATES

38-3-70 **BUILDING UNIT DEFINED.** All persons or families residing in a building under one roof, be it an apartment or homes converted into more than one dwelling place, each family or individual resident residing therein shall be deemed an individual customer or such homes or apartments or dwellings shall be billed for at least one minimum water and/or sewer account according to the number of families or individual residents residing therein.

38-3-71 **WATER REVENUES.** All revenues and moneys derived from the operation of the Water system shall be deposited in the water account of the water fund. All such revenues and moneys shall be held by the Village Treasurer separate and apart from its private funds and separate and apart from all other funds of the Village Treasurer not more than **ten (10) days** after receipt of the same, or at such more frequent intervals as may from time to time be directed by the Board of Trustees. The Village Treasurer shall receive all such revenues from the water system and all other funds and moneys incident to the operation of such system as the same may be delivered to him and deposit the same in the account of the fund designated as the "Water and Sewer System Fund of the Village". The Treasurer shall administer such fund in every respect in the manner provided by **65 ILCS 5/3.1-35-40 et seq.**

38-3-72 **WATER ACCOUNTS.** The Village Treasurer shall establish a proper system of accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the system, and at regular annual intervals shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the water system. In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the water facilities, including a replacement cost. The financial information to be shown in the audit report shall include the following:

- (A) Flow data showing total gallons received at the water plant for the current fiscal year.
- (B) Billing data to show total number of gallons billed per fiscal year.
- (C) Debt service for the next succeeding fiscal year.
- (D) Number of users connected to the system.
- (E) Number of non-metered users.

38-3-73 **ACCESS TO BOOKS.** The Illinois Environmental Protection Agency or its authorized representative shall have access to any books, documents, papers and records of the Village which are applicable to the Village system of user charges for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of any Loan Agreement with the Village.

38-3-74 **NOTICE OF RATES.** A copy of this Article, properly certified by the Village Clerk, shall be filed in the office of the County Recorder of Deeds and shall be deemed notice to all owners of real estate of the charges of the sewer system of the Village on their

properties. Each user shall be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to sewer treatment services.

38-3-75 APPEALS. The method for computation of rates and service charges established for user charges in **Article III Division V** shall be made available to a user within **fifteen (15) days** of receipt of a written request for such. Any disagreement over the method used, or in the computation thereof, shall be remedied by a third party selected by both parties within **ninety (90) days** after notification of a formal written appeal outlining the discrepancies.

38-3-76 ADEQUACY OF SERVICE CHARGES. The adequacy of the water service charge shall be reviewed, not less often than annually by the Village Board of Trustees with assistance if requested by the Board from the Village Engineer and any accountant performing audit services for the Village. The water service charge rates shall be revised periodically to reflect the change in local capital costs or operation, maintenance and replacement costs. The rates established by the Village from time to time shall include a basic user charge, a debt service charge, and a capital improvement charge. The basic user charge is levied on all users to recover the operation, maintenance plus replacement (O, M & R) costs and shall be based on water usage as recorded by water meters. The basic user charge shall be computed as follows:

- (A) Estimate the annual water volume;
- (B) Estimated the projected annual revenue required to operate and maintain the water facilities, including a replacement fund for the year, for all works categories;
- (C) Compute costs per **one thousand (1,000) gallons**.

The debt service charge is computed by apportioning the annual debt service as a charge per **one thousand (1,000) gallons**. The capital improvement charge is levied on users to provide for capital improvements, extensions or reconstruction of the water works. The capital improvement charge is computed by apportioning the annual amount to be accrued as a charge per **one thousand (1,000) gallons**.

38-3-77 COMPUTATION. The method for computation of rates and service charges established for user charges in this Article shall be made available to a user within **twenty (20) days** of receipt of a written request for such. Any disagreement over the method used or in the computations thereof shall be remedied by the Village within **forty-five (45) days** after notification of a formal written appeal outlining the discrepancies.

38-3-78 CONNECTION CHARGE. The Village will furnish all materials necessary to construct a **three-fourths (3/4) inch** tap connection from the water main to the applicant's property line. For all regular **three-fourths (3/4) inch** tap and service connections, the applicant shall pay **Seven Hundred Fifty Dollars (\$750.00)** tap on fee or the cost of all labor and materials.

All tap-ons for **three-fourths (3/4) inch** service connections outside the corporate limits shall be **Seven Hundred Fifty Dollars (\$750.00)** or the cost of all labor and materials.

All water tap and service connections made to the mains of the Waterworks System of the Village shall conform to the regulations of this Code and of the Illinois Plumbing Code. All connections and installations shall be made by a licensed plumber.

(Ord. No. 2006-07; 08-10-06) (65 ILCS 5/11-150-1)

38-3-79 **WATER RATES.** There shall be established the following rates and charges for the use of the water system of the Village, based upon the amount of water consumed as follows:

(A) **WATER RATES INSIDE VILLAGE.**

First	1,000 gallons per month	\$16.39 MINIMUM CHARGE
Next	38,000 gallons per month	\$8.16 per 1,000 gallons
Over	39,000 gallons per month	\$_____ per 1,000 gallons

(B) **WATER RATES OUTSIDE VILLAGE.**

First	_____ gallons per month	\$_____ MINIMUM CHARGE
Next	_____ gallons per month	\$_____ per 1,000 gallons
Over	_____ gallons per month	\$_____ per 1,000 gallons

(C) **BULK SALES.**

\$_____ per 1,000 gallons

(Ord. No. 2012-07; 10-11-12)

38-3-80 - 38-3-84 RESERVED.

DIVISION VI - RESERVED

38-3-85 - 38-3-91 RESERVED.

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DIVISION VII - WATER CONNECTIONS - EXTRATERRITORIAL

38-3-92 **OUTSIDE APPLICANTS.** Any prospective customer who is not a resident of the Village may apply for water service. Application shall be made at the Village Hall on forms prescribed by the Village.

38-3-93 **APPLICATION FEE.** Each application shall be accompanied by a nonrefundable fee in the amount of **Fifty Dollars (\$50.00)** to cover the cost of review by the consulting engineers for the Village. The Village Clerk shall forward the application to the engineers, who shall provide the Village with an estimate of the cost of constructing the water line to the prospective customer. The cost as estimated by the engineers shall include the cost of pipes and other materials, labor, meters, permits, construction observation, design work, and any other costs associated with the extension of water service from the Chatham/Loami Main through and including the water meter, which normally will be located in the customer's yard. The engineer shall have the discretion to specify all construction materials, including but not limited to the size of mains, for any extension of service. In the event a group of customers request water service, the cost of a water main for such customers may be prorated by the Village engineers among such customers.

38-3-94 **ENGINEERS ESTIMATED COST.** Within **thirty (30) days** of receipt of the application, the Village Engineer shall report to the prospective customer and to the Village the estimated cost of the water service. Within **thirty (30) days** of mailing by the Village's Engineer of the estimated cost, the customer shall deposit with the Village a sum in the amount of **one hundred ten percent (110%)** of the estimated cost, or a tap-on fee of **Five Hundred Dollars (\$500.00)**, whichever is greater. All such funds shall be placed and maintained in an account segregated from other funds of the Village.

38-3-95 **PRORATED COSTS.** In the event that the engineer's cost estimate of providing water service contains a prorated portion of the cost of a water main, and certain prospective customers elect, after reviewing the estimate of cost, not to participate in the project, the Engineer shall re-prorate the cost of the water main, and the remaining customers shall be required to provide, as an additional deposit, **one hundred ten percent (110%)** of the difference to the Village.

38-3-96 **APPROVALS AFTER DEPOSIT.** After deposit by the customer of the estimated cost of extending water service, the Village shall attempt to secure any permission for the water extension which may be required under its contractual relationships with the City of Springfield and the Village of Chatham, together with any permits that may be required by the Illinois Environmental Protection Agency or any other agency of government. In the event that such consents and permits are not obtained and the project, therefore, becomes infeasible, the deposit, less any engineering or other expenses incurred by the Village with respect to the proposed extension, shall be returned to the customer. In the event that such consents and permits are obtained, the Village shall proceed to let the necessary contracts for the water

service extension under the supervision of the Village's engineers. All water works constructed by the Village shall be the sole property of the Village to and including the meter installed for each customer.

38-3-97 CONSTRUCTION OF LINES. Construction of water lines downstream of each meter shall be entirely at the responsibility and expense of the customer; all lines shall be designed and constructed in accordance with the Illinois Plumbing Code in its current edition.

38-3-98 SERVICE NOT OBLIGATORY. The Village has no obligation whatever to provide extraterritorial service and may reject any application for service at its sole discretion. In no event shall the Village approve any extraterritorial water service application for a commercial or industrial use or for a residential use in excess of **twenty thousand (20,000) gallons** per month.

38-3-99 POST-CONSTRUCTION COMPUTATION OF COSTS. Upon the completion of construction of any water service extension, the Village engineers shall compute the actual cost of such extension. In the event the extension has cost the Village less than the amount deposited by the customer, the Village shall refund the difference. In the event the construction costs more than the amount deposited by the customer, the Village shall bill the customer for the difference, and the customer shall pay such difference before receiving any water from the Village.

38-3-100 TESTING AND WATER SERVICE. Upon completion and successful testing of any water service extension, the Village shall provide water to the customer, and the customer shall accept such water service, in accordance with the terms, conditions and rates set forth in applicable Village ordinances, which the Village may change from time to time at its sole discretion. In addition, the Village's obligation to provide service shall be expressly subject to the condition that if the premises ever become contiguous to the Village or contiguous to other property which is contiguous to the Village, and if the Village requests the property owner, either individually or in conjunction with other property owners, to file a petition for annexation to the Village, then the property owner shall do so.

38-3-101 ANNEXATIONS AND CUSTOMERS. The Village shall in no event provide water service to any customer located east of the meter which is the boundary line between the Village of Chatham's and Village of Loami's portions of the Chatham/Loami Main. In the event that the Village of Chatham should annex customers then being served by the Village of Loami, such customers may become, at the option of the Villages of Loami and Chatham, Village of Chatham customers.

38-3-102 COST TO ADDITIONAL CUSTOMERS. In the event that any customer or group of customers has paid for a water main in excess of **one (1) inch** in diameter pursuant to this Article, and additional customers desire to tap on to such main, the additional

customers shall pay to the Village their prorata share of the main as determined by the Village's consulting engineer, and computed on the basis of the then-current construction cost of the main less depreciation calculated on a **ten (10) year** straight line basis. The Village shall apportion such payment among the customers who originally paid for the line, and shall pay such apportioned amounts over to such customers either in cash lump sum payments or in the form of credits against such customer's water bills. The apportionment by the Village shall be at the Village's discretion and shall be final. In the event that one of the original customers who paid for the line no longer resides where he or she did any the time of the extension, the prorata share of such customer shall become the property of the Village. No customer shall be entitled to any rebate more than **ten (10) years** after construction of such a water main.

38-3-103 DISCONTINUING SERVICE. The Village may at its sole discretion discontinue service to all extraterritorial customers at any time with **six (6) months** prior notice to such customers. In the event the Village's water supply is curtailed for any reason, the Village may curtail the water supply of its extraterritorial customers to the same extent as to the customers within the Village.

38-3-104 COMPLIANCE WITH VILLAGE LAWS. Each extraterritorial customer agrees, as a condition of service, to abide by all Village ordinances respecting the water system, including but not limited to, any ordinance regarding plumbing or backsiphonage. Each customer consents to Village regulations regarding collection of delinquent accounts, imposition of liens for unpaid accounts, and disconnection and reconnection procedures.

(Ord. No. 93-19; 07-06-93)

ARTICLE IV - WASTEWATER SYSTEM

DIVISION I - DEFINITIONS

38-4-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as follows:

"GOVERNMENT, FEDERAL".

(A) **"Administrator"** means the Administrator of the U.S. Environmental Protection Agency.

(B) **"Federal Act"** means the Federal Clean Water Act (**33 U.S.C. 466 et seq**) as amended, (**Pub. L. 95-217**).

(C) **"Federal Grant"** shall mean the U.S. government participation in the financing of the construction of treatment works as provided for by Title II-Grants for Construction of Treatment Works of the Act and implementing regulations.

"GOVERNMENT, LOCAL".

(A) **"Approving Authority"** shall mean the Superintendent of the Village or his authorized deputy, agent, or representative.

(B) **"NPDES Permit"** means any permit or equivalent document or requirements issued by the Administrator, or, where appropriated by the Director, after enactment of the Federal Clean Water Act to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.

(C) **"Person"** shall mean any and all persons, natural or artificial including any individual, firm, company, municipal or private cooperation, association, society, institution, enterprise, governmental agency or other entity.

(D) **"Inspector"** shall mean the Superintendent or other person or persons duly authorized by the Village to inspect and approve the installation of building sewer and their connection to the sanitary sewer system.

"GOVERNMENT, STATE".

(A) **"Director"** means the Director of the Illinois Environmental Protection Agency.

(B) **"State Act"** means the Illinois Anti-Pollution Bond Act of 1970.

(C) **"State Grant"** shall mean the State of Illinois participation in the financing of the construction of treatment works as provided for by the Illinois Anti-Pollution Bond Act and for making such grants as filed with the Secretary of State of State of Illinois.

"CLARIFICATION OF WORD USAGE". "Shall" is mandatory; "may" is permissible.

"WASTEWATER TYPES AND APPURTENANCES"

(A) **"Building Drain"** shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning **five (5) feet (1.5 meters)** outside the inner face of the building wall.

(B) **"Building Sewer"** shall mean the extension from the building drain to the public sewer or other place of disposal.

(C) **"Combined Sewer"** shall mean a sewer which is designed and intended to receive sewer, storm, surface and groundwater drainage.

(D) **"Easement"** shall mean an acquired legal right for the specific use of land owned by other.

(E) **"Public Sewer"** shall mean a sewer provided by or subject to the jurisdiction of the Village. It shall also include sewer within or outside the Village boundaries that serve **one (1)** or more persons and ultimately discharge into the Village sanitary sewer or combined sewer system, even though those sewers may not have been constructed with Village funds.

(F) **"Sanitary Sewer"** shall mean a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface and groundwaters or unpolluted industrial wastes are not intentionally admitted.

(G) **"Sewer"** shall mean the system of sewer and appurtenances for the collection, transportation and pumping of sewage.

(H) **"Storm Sewer"** shall mean a sewer that carries storm, surface and groundwater drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

(I) **"Stormwater Runoff"** shall mean that portion of the precipitation that is drained into the sewer.

"TREATMENT":

(A) **"Pretreatment"** shall mean the treatment of sewer from sources before introduction into the sewer treatment works.

(B) **"Sewer Treatment Works"** shall mean an arrangement of devices and structures for treating sewer, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "sewer treatment plant" or "pollution control plant".

"TYPES OF CHARGES":

(A) **"Basic User Charge"** shall mean the basic assessment levied on all users of the public sewer system.

(B) **"Capital Improvement Charge"** shall mean the charge levied on users to improve, extend or reconstruct the sewage treatment works.

(C) **"Debt Service Charge"** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.

(D) **"Local Capital Cost Charge"** shall mean charges for costs other than the Operation, Maintenance and Replacements costs, i.e. debt service and capital improvement costs.

(E) **"Replacement"** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

(F) **"Sewer Fund"** is the principal accounting designation for all revenues received in the operation of the sewer system.

(G) **"Surcharge"** shall mean the assessment in addition to the basic user charge and debt service charge which is levied on those persons whose wastes are greater in strength than average concentration values as established by code.

(H) **"Useful Life"** shall mean the estimated period during which the collection system and/or treatment works will be operated.

(I) **"User Charge"** shall mean a charge levied on users of treatment works for the cost operation, maintenance and replacement.

(J) **"Sewer Service Charge"** shall be the charge per quarter or month levied on all users of the Sewer Facilities. The service charge shall be computed as outlined in Article IV of this Code and shall consist of the total or the Basic User Charge, the local capital cost and a surcharge, if applicable.

(K) **"Reserve Fund Charge"** shall mean a revolving fund for expansion and construction of the sewer system.

"USER TYPES":

(A) **"Control Manhole"** shall mean a structure located on a site from which industrial wastes are discharged. Where feasible, the manhole shall have an interior drop. The purpose of a "control manhole" is to provide access for the Village representative to sample and/or measure discharges.

(B) **"Industrial User"** shall include establishments engaged in manufacturing activities involving the mechanical or chemical transformation of materials of substance into products.

(C) **"Residential User"** shall mean all dwelling units such as houses, buildings, mobile homes, apartments, permanent multi-family dwellings.

(D) **"User Class"** shall mean the type of user either "residential or commercial" (non-industrial) or "industrial" as defined herein.

(E) **"Commercial User"** shall include transit lodging, retail and wholesale establishments or places engaged in selling merchandise, or rendering services.

(F) **"Institutional/Governmental User"** shall include schools, churches, penal institutions, and users associated with Federal, State and local governments.

"WASTEWATER FACILITIES" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and transport effluent to a watercourse.

"WATERCOURSE AND CONNECTIONS":

(A) **"Watercourse"** shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(B) **"Natural Outlet"** shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"WASTEWATER AND ITS CHARACTERISTICS":

(A) **"BOD"** (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in **five (5) days at 20 degrees centigrade (20°C)**, expressed in milligrams per liter.

(B) **"Effluent Criteria"** are defined in any applicable "NPDES Permit".

(C) **"Floatable Oil"** is oil, fat, or grease in a physical state such that it will separate by gravity from sewer by treatment in an approved pretreatment facility. A sewer shall be considered free of floatable fat if it is properly pretreated and the sewer does not interfere with the collection system.

(D) **"Garbage"** shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

(E) **"Industrial Waste"** shall mean any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.

(F) **"Major Contributing Industry"** shall mean any non-governmental user of the publicly owned treatment works that:

- (1) Has a flow of 50,000 gallons or more per average work day; or
- (2) Has a flow greater than **ten percent (10%)** of the flow carried by the municipal system receiving the waste; or
- (3) Has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or
- (4) Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries, on that treatment works or upon the quality of effluent from that treatment works.

(G) **"Milligrams per Liter"** (mg/l) shall mean a unit of the concentration of water or sewer constituent. It is 0.001 gram of the constituent in 1,000 milliliter of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water and sewer analysis.

(H) **"pH"** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.

(I) **"Population Equivalent"** is a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent is 100 gallons of sewage per day, containing 0.17 pounds of BOD and 0.20 pounds of suspended solids.

(J) **"ppm"** shall mean parts per million by weight.

(K) **"Properly Shredded Garbage"** shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewer, with no particle greater than **one (1/2) half inch (1.27 centimeters)** in any dimension.

(L) **"Sewage"** is used interchangeably with "sewer".

(M) **"Slug"** shall mean any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than **fifteen (15) minutes more than five (5) times** the average **twenty-four (24) hour** concentration or flows during normal operation.

(N) **"Suspended Solids"** (SS) shall mean solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in the I.E.P.A. Division of Laboratories Methods.

(O) **"Unpolluted Water"** is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewer and sewer treatment facilities provided.

(P) **"Sewer"** shall mean the spent water of a community. From this standpoint of course, it may be a combination of the liquid and water-carried wastes from

residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

(Q) **"Water Quality Standards"** are defined in the Water Pollution Regulations of Illinois.

38-4-2 - 38-4-3 RESERVED.

DIVISION II - USE OF PUBLIC WASTEWATERS REQUIRED

38-4-4 DEPOSIT OF WASTES. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Village or in any area under the jurisdiction of the Village, any human or animal excrement, garbage or other objectionable waste.

38-4-5 SEWAGE IN NATURAL OUTLET. It shall be unlawful to discharge to any natural outlet within the Village, or in area under the jurisdiction of the Village, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter.

38-4-6 PRIVATE SYSTEM, UNLAWFUL. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

38-4-7 CONNECTION TO SYSTEM REQUIRED. The owner of all the houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the Village and abutting on any street, alley, right-of-way in which there is now located or may in the future be located any public sanitary (or combined) sewer of the Village is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Code, within **ninety (90) days** after date of official notice to do so, provided that said public sewer is within **two hundred twenty-five (225) feet** of the nearest property line and adequate to handle the additional connection, where determined to be required.

38-4-8 - 38-4-9 RESERVED.

DIVISION III - PRIVATE SEWAGE DISPOSAL

38-4-10 PRIVATE SEWAGE SYSTEM. Where a public sanitary sewer is not available under the provisions of **Section 38-4-7**, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.

38-4-11 HEALTH DEPARTMENT APPROVAL. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit from the appropriate Health Department. The application for such permit shall be made on a form furnished by the Village (**reference Appendix #3**) which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the Superintendent. A permit and inspection fee of **One Hundred Dollars (\$100.00)** shall be paid to the Village at the time the application is filed.

38-4-12 PERMIT APPROVAL. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within **forty-eight (48) hours** of the receipt of written notice by the Superintendent.

38-4-13 COMPLIANCE WITH STATE REQUIREMENTS. The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State of Illinois Private Sewage Disposal Licensing Act and Code and with the State of Illinois Environmental Protection Agency. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than **forty thousand (40,000) square feet**. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

38-4-14 AVAILABILITY OF PUBLIC WASTEWATER. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in **Section 38-4-7**, a direct connection shall be made to the public sewer in compliance with this Code, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

38-4-15 OPERATION OF PRIVATE SYSTEM. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and at no expense to the Village.

38-4-16 ADDITIONAL RESTRICTIONS. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Local Health Officer.

38-4-17 - 38-4-20 RESERVED.

DIVISION IV - BUILDING WASTEWATER AND CONNECTIONS

38-4-21 DISTURBING SYSTEM UNLAWFUL. No unauthorized person shall uncover, make any connections with, or opening into; use; alter; or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

38-4-22 COMPLIANCE WITH REGULATING AUTHORITIES. All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-4-23 CLASSES OF PERMITS.

(A) There shall be **two (2)** classes of building sewer permits as follows:

- (1) Residential sewer service.
- (2) Service to Commercial or Institutional establishments or industrial sewer service.

(B) In either case, the owner or his agent shall make applications on a special form furnished by the Village. **(See Appendix #4)** The fee per connection shall be paid to the Village at the time the application is filed pursuant to this Division of this Article.

(C) The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. The industry, as a condition of permit authorization, shall provide information describing its sewer constituents, characteristics and type of activity.

38-4-24 COST BORNE BY OWNER. All costs and expenses including labor and material incidental to the installation, connection and maintenance of a lateral sewer line shall be borne by the owner(s). The owner(s) shall indemnify the Village from any loss or damage that may directly or indirectly be occasioned by the installation, connection and maintenance of the lateral sewer lines. This section shall apply even where the lateral sewer line runs under a public street, public right-of-way, or public easement.

38-4-25 SEPARATE WASTEWATER: EXCEPTION. A separate and independent building sewer shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer; except for sewer connection charges accruing from such buildings or properties.

38-4-26 OLD BUILDING WASTEWATER. Old building sewer may be used in connection with new buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this Code.

38-4-27 CONSTRUCTION METHODS. The size, slope, depth and alignment, of the building sewer shall be subject to the approval of the Superintendent. In no case shall the inside diameter of the building sewer be less than **four (4) inches**. If **six (6) inch diameter pipe** is used, the slope shall not be less than **one-eighth (1/8) inch** per foot. If **four (4) inch or five (5) inch diameter pipe** is used, the slope shall not be less **one-fourth (1/4) inch** per foot. The depth of the building sewer shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment, insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings, unless the break in alignment is made at a manhole facilitating servicing. Installation shall be in accordance with Standard Specifications for Water and Sewer Main Construction in Illinois.

All building sewer shall be constructed of materials approved by the Village. Generally all building sewer shall be constructed of the following materials:

- (A) Ductile iron pipe
- (C) PVC solid wall plastic pipe (6" diameter maximum) SDR-35

All pipe joints must be gastight and watertight and are subject to the approval of the Village. Transition joints from one pipe material to another shall be made using fittings manufactured for such transitions.

38-4-28 PLUMBING CODE REQUIREMENTS. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Village. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing materials, **Water Pollution Control Federation Manual of Practice No. 9**, and **Standard Specifications for Water and Sewer Main Construction in Illinois** shall apply.

38-4-29 ELEVATION. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a means which is approved in accordance with **Section 38-4-22** and discharged to the building sewer.

38-4-30 PROHIBITED CONNECTIONS. No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to public sanitary sewer.

38-4-31 CONNECTIONS TO WASTEWATER MAINS. Building Sewer connections with any sewer shall be made only at manholes or other such junctions as may be provided or designated by the Village, and then only in such manner as directed. The connection of the building sewer shall be made at a wye branch, if such branch is available. The building service sewer shall generally enter the sewer main or lateral by way of an existing wye. In the event of absence of the wye, the connection to the sewer main or lateral shall be made by one of the methods indicated below.

(A) Installation of a manhole
 (B) Circular saw-cut sewer main by proper tools ("Sewer Tap" machine or similar), and proper installation of hub wye saddle, in accordance with manufacturer's recommendation. This method shall not be allowed when the wye branch is larger than **four (4) inches** in diameter. The entire sewer main in the location of the wye and the wye shall be encased in concrete.

(C) Using the pipe cutter only, neatly and accurately cut out desired length of pipe for insertion of proper fitting. Remove both hub and bell ends, or other compression couplings from wye branch fitting to allow the wye branch to be inserted with no more than a total of **one-half (1/2) inch** gap. Use "Band Seal" couplings, or similar couplings, and shear rings and clamps to fasten the inserted fitting and hold it firmly in place. The entire section shall then be encased in concrete having a minimum thickness of **four (4) inches** and extending **eight (8) inches** beyond each joint.

If another method is desired, a detail shall be submitted for review and approval by the Village before the connection is made. Indiscriminate breaking of the sewer main pipe is not allowed.

On Site Inspection. After the wye branch has been inserted and jointed, and before any additional fittings have been placed in the service line, the installation shall be approved by the Superintendent, or his authorized representative. After approval is granted the contractor shall encase the work area as specified herein.

Backfill. To be placed in accordance with The Standard Specifications for Water and Sewer Main Construction in Illinois, Current Edition. In addition, any building sewer crossing any street, or traveled alley shall be backfilled with CA-86 backfill material.

Concrete Encasement. When a riser is constructed and its height is **four (4) feet** or more measured from the flowline of the sewer main to the top of the riser pipe, the wye connection shall be encased in concrete to a height of at least **one foot six inches (1' 6")** above the flowline of the sewer main. When the height of the riser is less than **four (4) feet** above the flowline of the sewer main, the wye connection shall be backfilled to the top of the riser pipe with carefully placed and compacted granular backfill.

38-4-32 CAPACITY OF WASTEWATER. A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewer facilities, including sewer, pump stations and sewer treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

38-4-33 TAP-IN SUPERVISION AND TESTING. The applicant for the building sewer permit shall notify the Village when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative.

At any time after the installation of the building sewer, the Village may test the building sewer for violation of this Code.

38-4-34 INSPECTION. After the building sewer has been constructed in the trench but before the sewer is backfilled, the applicant for the building sewer permit shall notify the Superintendent that the building sewer is ready for inspection. If the sewer has been

constructed properly, permission will be given to backfill the trench. If the sewer construction is found to be unsuitable, the permit applicant will correct the installation to meet Village 's requirements.

38-4-35 PUBLIC WASTEWATER CONNECTION. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code, or other applicable rules and regulations of the Village, or the procedures set forth in appropriate specifications of the American Society of Testing Materials, **Water Pollution Control Federation Manual of Practice No. 9**, and **Standard Specifications for Water and Sewer Main Construction in Illinois**. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Village before installation.

38-4-36 PROTECTION OF PROPERTY. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Village.

38-4-37 BOND REQUIRED. If the applicant for the building sewer permit does not have a general bond on file with the Village, the applicant shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

38-4-38 UNLAWFUL DISCHARGES. All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-4-39 - 38-4-41 RESERVED.

DIVISION V - EXTENSION OF COLLECTING WASTEWATERS

38-4-42 PERMIT REQUIRED; AUTHORIZED PERSONNEL. No person, other than an authorized employee of the Village, shall make any connection with, uncover, alter or disturb a Village sewer, or open any manhole, intercepting chamber, or any appurtenance thereof without first obtaining a written permit to do so from the Village, and no person shall make any connection or opening into any sewer, the flow of which is directly or indirectly discharged into any Village sewer, without first obtaining a written permit to do so from the Village. **(See Appendix #2)**

38-4-43 EXTENSION PERMITS. Issuance of sewer extension permits shall be initiated by an application for construction permit. The application shall be made on the forms provided by the IEPA, shall be fully completed by the applicable persons or parties, and shall be accompanied by a set of plans, specifications, and any other information as may be required by the Village.

Plans and specifications shall be prepared by a registered professional engineer and approval thereof must be obtained from the Village and IEPA.

If the application is in proper form, and the sewer extension indicated therein appears to be in accordance with this Chapter and all state and federal requirements, the Village shall issue the permit for construction of the sewer. If otherwise, the application for permit shall be denied by the Village. There shall be no fee charged for sewer extension application or permits.

If the application is denied by the Village, they shall state the reason or reasons therefore in writing, mailed or personally delivered to the applicant. The applicant shall have the right to amend such application in conformity with the reasons given for denial, and resubmit it to the Village for further consideration.

All permits issued under this Article V shall have an expiration date of **two (2) years** after the date of issuance. Any sewer not constructed prior to the date of expiration shall have a new application submitted and a new permit issued prior to their construction.

The applicant for the permit shall furnish a corporate surety bond in an amount **one and one-half (1 1/2) times** the cost of the contemplated work for which the permit is to be issued.

38-4-44 MATERIALS. All sewer extensions shall be constructed of the following materials:

(A) Sewer pipe with diameters **eight (8) inches** and larger shall be one of the following:

- (1) ABS composite pipe conforming to ASTM D-2680 with solvent weld joints or O-ring rubber gasket joints as referenced in ASTM D-2680.
- (2) PVC sewer pipe SDR-35 conforming to ASTM 03033 or D3034 with joints conforming to ASTM D3212.

(B) Laterals and fittings from the sewer to the property lines shall be **six (6) inch** diameter and

- (1) of comparable material to the sewer main for VCP and PVC pipe.

- (2) for ABS pipe use ABS solid wall pipe SDR-23.5 conforming to ASTM D-2751.

38-4-45 **INSPECTIONS OF CONSTRUCTION.** Construction of the sewer shall be inspected under competent supervision supplied by a registered professional engineer and upon completion of construction, accurate detailed plans as constructed ("record drawings") shall be certified and submitted by the professional engineer to the Village before any applications for building sewer permits are filed; all at the expense of the Owner. These plans shall show all elevations as installed as well as accurate measurements showing the locations of service connections. The Engineer shall also submit a certified statement showing the source, place and volume of foreign waters.

All sewer shall be subjected to:

(A) A lamp test which shall provide that from one manhole to another, at least **one-half (1/2)** of the pipe end area shall be visible.

(B) Infiltration or exfiltration test with acceptable allowance of 200 gallons per day per inch diameter per mile;

(C) Under special circumstances, when approved by the Village, air pressure testing with allowance to be specified by the Village.

When any sewer line fails to pass the infiltration test, the exfiltration test, or an air pressure test, the sewer line shall be televised in the presence of the Village 's representatives to determine points of faulty construction. The Owner shall repair all defects; the method of repair shall be subject to the approval of the Village. **(See Appendix #5)**

38-4-46 **MANHOLES REQUIRED.** Manholes shall be installed at all changes in grade and/or direction and at distances not greater than **four hundred (400) feet** apart. All manhole covers shall be watertight and self-sealing, incorporating an "O" ring gasket. All covers shall have concealed pick holes. Where manhole covers may be subjected to frequent and extreme submergence, additional watertightness shall be ensured by using bolt down covers.

38-4-47 - 38-4-48 **RESERVED.**

DIVISION VI - USE OF PUBLIC WASTEWATER FACILITIES

38-4-49 **DISCHARGE OF STORM WATER.** No person shall discharge, or cause to be discharged, any stormwater, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

38-4-50 **STORM WATER.** Stormwater and all other unpolluted drainage shall be discharged to such sewer as are specifically designated as storm sewer, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Village, to a storm sewer, or natural outlet.

38-4-51 **REGULATIONS OF WASTES.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

(A) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solids, or gas.

(B) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(C) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(D) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewer, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

38-4-52 **HARMFUL EFFECTS OF CERTAIN MATERIALS.** No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewer, sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewer, materials of construction of the sewer, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and maximum limits established by regulatory agencies. The substances prohibited are:

(A) Any liquid or vapor having a temperature higher than **One Hundred Fifty degrees Fahrenheit (150°F), (65°C).**

(B) Any waters or wastes containing toxic or poisonous materials; or oils, whether emulsified or not, in excess of **One Hundred (100) mg/l** or containing substances

which may solidify or become viscous at temperatures between **Thirty-Two (32) and One Hundred Fifty degrees Fahrenheit (150°F), (0 and 65°C).**

(C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of **three-fourths (3/4) horsepower (0.76 hp metric)** or greater shall be subject to the review and approval of the Village.

(D) Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solution whether neutralized or not.

(E) Any waters or wastes containing iron, chromium, copper, zinc, or similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Village for such materials.

(F) Any waters or wastes containing phenols or other waste odor-producing substances, in such concentration exceeding limits which may be established by the Village as necessary after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Village in compliance with applicable State or Federal regulations.

(H) Any mercury or any of its compounds in excess of **0.0005 mg/l as Hg** at any time except as permitted by the Village in compliance with applicable State and Federal regulations.

(I) Materials which exert or cause:

- (1) unusual concentrations or inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);
- (2) excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);
- (3) unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works;
- (4) unusual volume of flow or concentrations of wastes constituting "slugs" as defined herein. **(Reference Appendix #7)**

(J) Waters or wastes containing substances which are not amendable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.

(K) Any waters or wastes having a pH in excess of 9.5.

(L) Any cyanide in excess of 0.025 mg/l at any time except as permitted by the Village in compliance with applicable State and Federal regulations.

38-4-53 HARMFUL WASTES; APPROVAL.

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewer, which waters contain the substances or possess the characteristics enumerated in **Section 38-4-52** of this Division, and/or which are in violation of the standards for pretreatment provided in 40 CFR 403, June 26, 1978 and any amendments thereto, and which in the judgment of the Superintendent may have a deleterious effect upon the sewage

works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (1) reject the wastes;
- (2) require pretreatment to an acceptable condition for discharge; and/or;
- (3) require control over the quantities and rates for discharge; and/or;
- (4) require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of **Section 38-4-42**.

(B) If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent, and subject to the requirements of all applicable codes, articles, and laws.

(C) The owner of the pretreatment or equalization facilities shall obtain construction and operating permits from the Illinois Environmental Protection Agency prior to the issuance of final approval by the Superintendent.

(D) Where multiple process or discharges are present or contemplated at an industry, the Village shall have the authority to require the owner or person to furnish and install more than one control manhole with appurtenances and/or require that all sewer be discharged through a single control manhole or structure with appurtenances described herein.

38-4-54 INTERCEPTORS PROVIDED.

(A) Grease, oil, and sand interceptors shall be provided in accordance with the Illinois State Plumbing Code to assure the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Village and shall be located as to be readily and easily accessible for cleaning and inspection. All grease interceptors shall be serviced and emptied of accumulated waste content as required or at a minimum of once every **four (4) months** in order to maintain minimum design capability or effective volume of the grease interceptor and to prevent carry over of grease into the sanitary sewer system. All fast food and sit-down restaurants shall install a grease interceptor with a capacity of at least **one thousand five hundred (1,500) gallons**, and designed in accordance with **Appendix "A"**. Food establishments that serve a minimum amount of fried foods such as deli sandwich shops, shall install a grease interceptor with a capacity of at least **one thousand (1,000) gallons**, and designed in accordance with **Appendix "B"**.

(B) Users whose operations cause or allow excessive grease to discharge or accumulate in the Village wastewater collection and treatment system may be liable to the Village for costs related to service calls for sewer line blockages, line cleaning, line and pump repairs, etc. including all labor, materials, and equipment. Failure to pay all service related charges may also be grounds for sewer service discontinuance.

(C) **Maintenance Log.** A grease trap cleaning/maintenance log indicating each pumping for the previous **twenty-four (24) months** shall be maintained by each Food Service Facility. This log shall include the date, time, amount pumped, hauler, and disposal site and shall be kept in a conspicuous location for inspection. Said log shall be made available to the Village or his representative upon request.

(D) **Submittal of Records.** Each user shall submit all cleaning and maintenance records to the Village. The maintenance records shall include the following information:

- (1) Facility name, address, contact person, and phone number.
- (2) Company name, address, phone number, and contact name of person responsible for performing the maintenance, cleaning, pumping, or repair of grease trap.
- (3) Types of maintenance performed.
- (4) Dates maintenance was performed.
- (5) Date of next scheduled maintenance.
- (6) Copies of manifests.
- (7) The user shall be required to submit maintenance records to the Village on an annual basis. Records shall be submitted by **September 1st** of each year. The records shall be submitted to:
Attn: Wastewater Superintendent

(E) The Village will perform periodic inspections of these facilities and shall notify the user of any additional required maintenance or repairs. Upon written notification by the Village, the user shall be required to perform the maintenance and records of said maintenance within **fourteen (14) calendar days**. Upon inspection by the Village the user may be required to install, at his expense, additional controls to provide a complete system which prevents discharges of undesirable materials into the wastewater collection system.

(F) **Control Plan for Fats, Oils, Greases (FOG) and Food Waste.**

- (1) Any new construction, renovation, or expansion of Food Service Facilities shall be required to submit to the Village a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system.
- (2) Any existing Food Service facilities shall also be required to submit a FOG and food waste control plan that will effectively control the discharge of undesirable materials into the wastewater collection system. Existing facilities shall not be exempt from the requirements of this Section. There will be no "Grandfathering".

(G) **Exceptions to the Above.** Should existing facilities be hampered by space constraints or restrictions caused by unchangeable plumbing, an alternative interceptor may be approved, provided that:

- (1) Said interceptor and installation is endorsed by a licensed plumbing contractor in regard to its operability.
- (2) Said interceptor and installation is endorsed by the Village Engineer.
- (3) Said interceptor and installation is approved by the Superintendent and the Water and Sewer Committee.

Such installations may be subject to more stringent inspections and maintenance schedules.

38-4-55 FLOW-EQUALIZING FACILITIES. Where preliminary treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

38-4-56 **INDUSTRIAL WASTES CONTROL MANHOLE.** Each industry shall be required to install a control manhole and, when required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safety located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

38-4-57 **INDUSTRIAL WASTE TESTING.**

(A) The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests, and analyses of waters and wastes to illustrate compliance with this Code and any special conditions for discharge established by the Village or regulatory agencies having jurisdiction over the discharge.

(B) The number, type, and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the Village, but no less than once per year the industry must supply a complete analysis of the constituents of the sewer discharge to assure that compliance with the Federal, State, and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the Village at such times and in such a manner as prescribed by the Village. The owner shall bear the expense of all measurements, analyses, and reporting required by the Village. At such times as deemed necessary the Village reserves the right to take measurements and samples for analysis by an outside laboratory service.

38-4-58 **MEASUREMENTS AND TESTS.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of **IEPA Division of Laboratories Manual of Laboratory Methods**, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a **twenty-four (24) hour** composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from **twenty-four (24) hour** composites of all outfalls, whereas pH's are determined from periodic grab samples.)

38-4-59 **SPECIAL ARRANGEMENTS.** No statement contained in this Article shall be construed as preventing any special agreement or arrangement between the Village and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Village for treatment, subject to payment therefore, in accordance with the Chapter, hereof, by the industrial concern provided such payments are in accordance with Federal and State guidelines for User Charge System and Industrial Cost Recovery System. **(See Article IV - Division I of this Code)**

38-4-60 - 38-4-64 **RESERVED.**

DIVISION VII - INSPECTIONS

38-4-65 **DAMAGE.** No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, or tamper with any structure, appurtenance, or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

38-4-66 **INSPECTION AND TESTING.**

(A) The Superintendent and other duly authorized employees of the Village, the Illinois Environmental Protection Agency, and the United States Environmental Agency, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Code.

(B) The Superintendent or his representative shall have no authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewer or waterway or facilities for waste treatment. **(See Appendix #5)**

38-4-67 **LIABILITY OF VILLAGE.** While performing the necessary work on private properties referred to in **Section 38-4-66** above, the Superintendent or duly authorized employees of the Village, the Illinois Environmental Protection Agency, and the United States Environmental Protection Agency shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the Village employees and the Village shall indemnify the company against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain conditions as required in **Section 38-4-57.**

38-4-68 **PRIVATE PROPERTY INSPECTIONS.** The Superintendent and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter all private properties through which the Village holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

38-4-69 - 38-4-70 **RESERVED.**

DIVISION VIII – SEWER RATES

38-4-71 BUILDING UNIT DEFINED. All persons or families residing in a building under one roof, be it an apartment or homes converted into more than one dwelling place, each family or individual resident residing therein shall be deemed an individual customer or such homes or apartments or dwellings shall be billed for at least one minimum water and/or sewer account according to the number of families or individual residents residing therein.

38-4-72 SEWER REVENUES. All revenues and moneys derived from the operation of the sewer system shall be deposited in the Water Fund. All such revenues and moneys shall be held by the Treasurer separate and apart from his private funds and separate and apart from all other funds of the Village and all of said sum, without any deductions whatever, shall be delivered to the Treasurer not more than **ten (10) days** after receipt of the same, or at such more frequent intervals as may, from time to time, be directed by the Village Board.

The Treasurer shall receive all such revenues from the water and sewer systems and all other funds and moneys incident to the operation of such system as the same may be delivered to him and deposit the same in the account of the fund designated as the "Water and Sewage Fund of the Village".

The Treasurer shall administer such fund in every respect in the manner provided by **65 ILCS 5/3.1-35-40 et seq.**

38-4-73 SEWER ACCOUNTS. The Treasurer shall establish a proper system of accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the water and sewer systems and at regular annual intervals, he shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the water and sewer systems.

In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the sewer facilities, including a replacement cost, to indicate that sewer service charges under the waste cost recovery system and capital amounts required to be recovered under the industrial cost recovery system do, in fact, meet these regulations. In this regard, the financial information to be shown in the audit report shall include the following:

- (A) Flow data showing total gallons received at the sewer plant for the current fiscal year.
- (B) Billing data to show total number of gallons billed.
- (C) Debt service for the next succeeding fiscal year.
- (D) Number of users connected to the system.
- (E) Number of non-metered users.
- (F) A list of users discharging non-domestic wastes (industrial users) and volume of waste discharged.

38-4-74 NOTICE OF RATES. A copy of this Article, properly certified by the Village Clerk, shall be filed in the office of the County Recorder of Deeds and shall be deemed notice to all owners of real estate of the charges of the sewer system of the Village on their

properties. Each user shall be notified at least annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to sewer treatment services.

38-4-75 ACCESS TO RECORDS. The Illinois Environmental Protection Agency, United States Environmental Protection Agency, or its authorized representative shall have access to any books, documents, papers and records of the Village which are applicable to the Village's system of user charges or industrial cost recovery for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of the special and general conditions to any state grant or loan.

38-4-76 APPEALS. The method for computation of rates and service charges established for user charges shall be made available to a user within **fifteen (15) days** of receipt of a written request for such. Any disagreement over the method used, or in the computation thereof, shall be remedied by a third party selected by both parties within **ninety (90) days** after notification of a formal written appeal outlining the discrepancies.

38-4-77 BASIS FOR WASTEWATER SERVICE CHARGES. The sewer service charge for the use of and for service supplied by the sewer facilities of the Village shall consist of a basic user charge, applicable surcharges, and debt service charge.

(A) The **debt service charge** is computed by dividing the annual debt service of all outstanding bonds by the number of users.

(B) The **basic user charge** shall be based on water usage as recorded by water meters for wastes having the following normal domestic concentrations:

- (1) A **five (5) day twenty degree centigrade (20°C)** biochemical oxygen demand **BOD of 200 mg/l**.
- (2) A suspended solids (SS) content of **250 mg/l**.

(C) It shall be computed as follows:

- (1) Estimate sewer volume, pounds of SS and pounds of BOD to be treated.
- (2) Estimate the projected annual revenue required to operate and maintain the sewer facilities including a replacement fund for the year, for all work categories.
- (3) Proportion the estimated operation, maintenance and replacement (OM&R) costs to each user class by volume, BOD, and SS.
- (4) Proportion the estimated operation, maintenance and replacement (OM&R) costs to sewer facility categories by Volume, Suspended Solids and BOD.
- (5) Compute costs per 1000 gal. for normal sewage strength.
- (6) Compute surcharge costs per pound per 1000 gal. in excess of normal sewage strength for BOD and SS.

(D) A **surcharge** will be levied to all users whose waste waters exceed the normal domestic concentrations of **BOD 200 mg/l and SS 225 mg/l**. The surcharge will be based on water usage as recorded by water meters or sewage meters for all wastes which exceed the **200 mg/l and 225 mg/l** concentration for BOD and SS respectively. (**Section 38-4-80** specifies the procedure to compute a surcharge.)

(E) The **adequacy of the sewer service charge** shall be reviewed, not less often than annually, by Certified Public Accountants for the Village in their annual audit report. The sewer service charge shall be revised periodically to reflect a change in operation and maintenance costs, replacement costs and reserve fund costs.

(F) The **capital improvement charge** is levied on users to provide for capital improvements, extensions or reconstruction of the sewage treatment works. The capital improvement charge is computed by apportioning the annual amount to be accrued as a charge per 1,000 gallons.

(G) The **users** of sewer treatment services will be notified annually, in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to the sewer treatment operation, maintenance and replacement.

38-4-78 MEASUREMENT OF FLOW. The volume of flow used for computing basic user charges and surcharges shall be the metered water consumption read to the lowest even increments of **one thousand (1,000) gallons.**

(A) If the person discharging wastes into the public sewer procures any part, or all, of his water from sources other than the Public Waterworks System, all or a part of which is discharged into the public sewer, the person shall install and maintain, at his expense, water meters of a type approved by the Village for the purpose of determining the volume of water obtained from these other sources.

(B) Devices for measuring the volume of waste discharged may be required by the Approving Authority if these volumes cannot otherwise be determined from the metered water consumption records.

(C) Metering devices for determining the volume of waste shall be installed, and maintained by the person and owned by the Village. Following approval and installation, such meters may not be removed, unless service is canceled, without the consent of the Village.

38-4-79 USER CHARGE SYSTEM. The following rates are established for the User Charge system:

(A) **Basic User Charge.** There shall be and there is hereby established a basic user charge of **\$9.97** per **2,000** gallons of metered water consumption to be applied to all users to recover O, M & R costs.

(B) **Debt Service Charge.** There shall be and there is hereby established a debt service charge of **\$0.00** per **1,000** gallons to each user of the sewer facility.

(C) **Rates.** A minimum charge of **\$9.97 per month** shall be applied to all users whose water consumption does not exceed **2,000 gallons** per month. This minimum charge includes \$____ for operations, maintenance and replacement costs, \$_____ for debt service costs, and \$_____ for administrative costs. Usage in excess of **2,000** gallons per month shall be charged **\$5.25** per **1,000 gallons.**

(Ord. No. 2012-08; 10-11-12)

38-4-80 COMPUTATION OF WASTEWATER SERVICE CHARGE. The sewer service charge shall be computed by the following formula:

$$CW = CC + CD + CM + (Vu-X)CU + CS$$

Where	CW	=	Amount of waste service charge (\$) per bill period.
	CC	=	Capital Improvement Charge
	CD	=	Debt Service Charge.
	CM	=	Minimum Charge for Operation, Maintenance and Replacement.
	Vu	=	Sewer Volume for the billing period.
	X	=	Allowable consumption in gallons for the minimum charge.
	CU	=	Basic User Rate for Operation, Maintenance and Replacement.
	CS	=	Surcharge, if applicable. (Section 38-4-81) .

38-4-81 **SURCHARGE RATE.** The rates of surcharges for BOD and SS shall be as follows:

per lb. of BOD:	<u>\$0.26</u> in excess of 200 mg/l
per lb. of SS:	<u>\$0.39</u> in excess of 225 mg/l

38-4-82 **SEWER TAP-IN FEE.** A connection charge of **One Thousand Dollars (\$1,000.00)** for the privilege of using the sewer system shall be made for each connection serving an applicant for each unit, as defined by this Code. For said fee, the Village will provide **one (1) four (4) inch** saddle; **one (1)** riser; **one (1)** elbow; **one (1) ten (10) foot** section PVC pipe; and labor to install same.

The connection charge is for dwellings within the Village limits only. Charges for connections to other users shall be made at the same charge, or actual costs, if greater. Additional charges shall be determined by the Village Board and paid in advance before the Village accepts the applicant's contract for service.

38-4-83 - 38-4-90 **RESERVED.**

DIVISION IX - PENALTIES

38-4-91 **PENALTY.** Any person found to be violating any provision of this Code except **Section 38-4-65** shall be served by the Village with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

The Village may revoke any permit for sewage disposal as a result of any violation of any provision of this Chapter.

38-4-92 **CONTINUED VIOLATIONS.** Any person who shall continue any violation beyond the time limit provided for in **Section 38-4-50** shall be, upon conviction, be fined in the amount not exceeding **Seven Hundred Fifty Dollars (\$750.00)** for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

38-4-93 **LIABILITY TO VILLAGE.** Any person violating any of the provisions of this Chapter shall become liable to the Village by reason of such violation.

ARTICLE V – WATER PURCHASE CONTRACT

38-5-1 **CONTRACT.** A certain contract for the sale and purchase of water between the City of Springfield and the Village of Loami is attached hereto as **Exhibit "A"** and included by reference.

(Ord. No. 2012-01; 03-26-12)

EXHIBIT "A"

**AN INTERGOVERNMENTAL COOPERATION AGREEMENT BETWEEN THE
VILLAGE OF LOAMI, THE CURRAN-GARDNER TOWNSHIPS PUBLIC
WATER DISTRICT, AND THE CITY OF SPRINGFIELD, ILLINOIS**

This agreement made this 26th day of March, 2012 ("Agreement"), by and between the Village of Loami, a municipal corporation of the State of Illinois ("Loami"), the Curran-Gardner Townships Public Water District, incorporated and organized under the laws of the State of Illinois ("Curran-Gardner"), and the City of Springfield, Illinois, a municipal corporation of the State of Illinois ("Springfield"), collectively referred to herein as the "Parties", with respect to water service.

RECITALS

WHEREAS, Springfield owns and operates a water source, treatment facility, and water distribution network in Springfield, Illinois; and

WHEREAS, Curran-Gardner owns and operates a water source, treatment facility, and water distribution network in its District; and

WHEREAS, Loami operates a water distribution network and currently receives its water from Springfield delivered to Loami via the Village of Chatham, Illinois water distribution network; and

WHEREAS, Loami desires to obtain an alternate point of connection with the Springfield water system; and

WHEREAS, such an alternate connection could be made through the construction of water mains from the Springfield system, through the Curran-Gardner District to a point of connection with the Loami system; and

WHEREAS, Springfield, under a separate Intergovernmental Agreement with Curran-Gardner, effective June 7, 2010 (the Curran-Gardner/Springfield Agreement), can provide water to Curran-Gardner for its use in areas of the Curran-Gardner Water District not presently served from the existing facilities of Curran-Gardner; and

WHEREAS, pursuant to Section 9 of the Public Water District Act (**70 ILCS 3705/9**), Curran-Gardner may be authorized to construct, maintain, alter and extend its water mains as a proper use of highways along, upon, under and across any highway, street, alley or public ground in the State, but so as not to inconvenience the public use thereof, and may construct, maintain and operate any conduit or conduits, water pipe or pipes, wholly or partially buried or otherwise in, upon and along any of the lands owned by the State of Illinois (the "State") under any of the public waters therein; provided that the right, permissions and authority granted shall be subject to all public rights of commerce and navigation and the authority of the United States on behalf of such public rights, and also to the laws of the State of Illinois to regulate and control the same; and

CHAPTER 38 EXHIBIT "A"

WHEREAS, pursuant to Section 10 of the Public Water District Act (**70 ILCS 3705/10**), Curran-Gardner has the right to supply water to any municipality, provided the water is delivered at the corporate limits of the Curran-Gardner District or from such waterworks properties of Curran-Gardner located outside the Curran-Gardner District that have been constructed or acquired as necessary and incidental to the furnishing of water to the inhabitants of Curran-Gardner; and

WHEREAS, intergovernmental agreements are expressly allowed by Article VII, Section 10 of the Illinois Constitution of 1970; and

WHEREAS, Section 3 of the Intergovernmental Cooperation Act (**5 ILCS 200/3**) provides that any power or powers, privileges, functions, or authority exercised or which may be exercised by a public agency of the State may be exercised, combined, transferred, and enjoyed jointly with any other public agency of the State except where specifically and expressly prohibited by law; and

WHEREAS, Section 5 of the Intergovernmental Cooperation Act (**5 ILCS 220/5**) provides that any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking or to combine, transfer, or exercise any powers, functions, privileges, or authority which any of the public agencies entering into the contract is authorized by law to perform, provided that such contract shall be approved by the governing bodies of each party to the contract and except where specifically and expressly prohibited by law, and provided that such a contract shall set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting Parties.

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

AGREEMENT

1. This Agreement is made by authority of Article 7, Section 10 of the Illinois Constitution of 1970, and Section 5 of the Illinois Intergovernmental Cooperation Act (**5 ILCS 220/1 et seq.**).

2. The foregoing Recitals are incorporated into this Agreement as if fully set forth herein.

3. **The Water Main.** The Parties agree to cooperate to construct a **ten (10) inch** minimum-sized Water Main connecting the Springfield water distribution system at a point of beginning located near Spaulding Orchard Road and Cockrell Lane with the existing Loami pump station near Curran Road and Road 9 South. The Water Main shall be divided into three Sections as follows: Section 1 shall be on Spaulding Orchard Road from a point approximately 2,190 feet west of Cockrell Lane to Curran Road. Section 2 shall be on Curran Road from Spaulding Orchard Road to the north side of Mansion Road. Section 3 shall be on Curran Road from the north side of Mansion Road to the Loami Pump Station. The cost of the Water Main shall include all labor, equipment, and materials to construct the **ten (10) inch** Water Main in Sections 1, 2, and 3. Included in said cost shall be the installation of fire hydrants and associated appurtenances located at approximately **two thousand (2,000) foot** intervals. The Water Main and fittings shall be constructed of PVC C900 DR 18 materials or better. All

materials used in the Water Main extension and appurtenances shall meet or exceed the applicable American Water Works Association Standard.

4. **Ownership and Maintenance.** Upon completion of the construction of the Water Main, Curran-Gardner shall own and maintain Sections 1 and 2 of the Water Main; Loami shall own and maintain Section 3 of the Water Main. Springfield shall own and maintain the meter vaults and associated appurtenances as identified in Section 10 B below.

5. **Engineering.** In consultation with Loami and Curran-Gardner, Springfield shall design the Water Main and provide construction plans and specifications for the Water Main. Loami and Curran-Gardner may review the plans and specifications for conformance with the standards of Loami and Curran-Gardner. Springfield shall prepare the Illinois Environmental Protection Agency (IEPA) permit applications for execution by Loami and Curran-Gardner authorities to obtain construction and operating permits for the Water Main. Execution of the respective permit applications by Loami and Curran-Gardner shall constitute acknowledgement by each entity that they are in agreement with the plans and specifications. All other permits, such as highway or environmental authorizations, shall be obtained by Curran-Gardner prior to construction.

6. **Construction Responsibilities.**

- (A) Curran-Gardner agrees to be the "General Contractor" for the installation of the Water Main.
- (B) Curran-Gardner agrees to obtain easements for the full length of the Water Main installation in Sections 1 and 2. Curran-Gardner and Loami shall work cooperatively to obtain easements for the full length for Section 3 of the Water Main.
- (C) Curran-Gardner agrees to provide or procure the labor and materials to complete the Water Main installation in accordance with the procurement requirements of Curran-Gardner.
- (D) Springfield shall install the Curran-Gardner master meter facilities near Cockrell Lane and Spaulding Orchard Road and shall also install the Loami Meter facilities on Curran Road south of Mansion Road, providing **ten (10) feet** of water main stubbed out of each facility for Curran-Gardner to hook to with its construction.

7. **Service to be Furnished.**

- (A) Service furnished to Curran-Gardner by Springfield shall be according to the terms of the Curran-Gardner/Springfield Agreement unless amended herein, and service shall also be intended to provide a supply of potable water to be conveyed through Sections 1 and 2 of the Water main to Loami's Section 3 of the Water Main.
- (B) Service furnished to Loami by Springfield shall be according to the terms of a Loami/Springfield Agreement to be passed by the corporate authorities of Loami and Springfield.
- (C) Loami and Curran-Gardner each agrees that the Water Main developed under this agreement and extensions thereof will carry only water provided by Springfield unless another source of water is agreed upon by written agreement of the Parties.
- (D) Any obligation of Springfield and Curran-Gardner to supply water hereunder to Loami shall be furnished by reasonable diligence in procuring labor or material to remedy any interruption in the provision of water to Loami.

- (E) This agreement shall be in force and continue in effect until **December 31, 2051**. The agreement shall automatically extend for additional **five (5) year** periods unless notice is otherwise provided by a Party to the other Parties **three (3) years** prior to expiration of this agreement.

8. **Quantity.**

- (A) The supply of water to be furnished hereunder to Curran-Gardner for transfer in the Water Main to Loami during the period of this Agreement shall be as follows:

Springfield agrees to provide water distribution capacity to the Curran-Gardner water distribution system for supplying up to **one hundred forty thousand (140,000) gallons** per day over and above the amount allotted to Curran-Gardner, for the sole purpose of serving Loami, maintained at a pressure of not less than **thirty (30) pounds per square inch** measured at ground level at the Loami meter. It is understood and agreed by Loami, Curran-Gardner, and Springfield that in the event of a water shortage, Act of God, natural disaster, or other circumstances beyond the control of Springfield or Curran-Gardner, which would affect Springfield's ability to provide water to Curran-Gardner or Springfield's or Curran-Gardner's ability to provide water to Loami, Springfield may impose restrictions on Curran-Gardner's use of Springfield's water, or Springfield or Curran-Gardner may impose restrictions on Loami's use of Springfield's water. Shortages affecting Springfield's entire system shall be shared proportionately among Springfield's purchasers, and water conservation measures imposed by Springfield on their retail customers shall likewise be imposed by Curran-Gardner and Loami on their respective customers.

- (B) Water delivered to Curran-Gardner, aside from that defined in Section 8A above, shall be per the conditions specified in the Curran-Gardner/Springfield Agreement.

9. **Costs and Payments.**

- (A) An Estimated Cost of the Water Main shall be compiled including all labor, equipment, and materials to construct a **ten (10) inch** Water Main for Sections 1, 2, and 3. Included in said cost shall be the installation of fire hydrants and associated appurtenances located at approximately **two thousand (2,000) foot** intervals.
- (B) In consideration for Curran-Gardner wheeling water through its system to Loami, Springfield shall waive the meter charge for the master meter identified in Section 10 herein, which would otherwise be charged per the Curran-Gardner/Springfield Agreement. Curran-Gardner shall not charge Loami or Springfield a fee to convey water through Sections 1 and 2 of the Water Main.
- (C) Curran-Gardner shall be responsible for the cost of upsizing of the Water Main pipe to **twelve (12) inch** water main constructed in Sections 1 and 2, over and above the cost of **ten (10) inch** water main. Curran-Gardner shall also be responsible for the cost of fittings, including but not limited to Ts, crosses, valves, and water main stubs and installation

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thereof for any connections to the Water Main to provide service to areas other than Loami.

- (D) The Estimated Cost of the Water Main shall be determined as follows:
- (i) Curran-Gardner shall provide to Springfield and Loami a unit price for the open-cut installation of **ten (10) inch** water main. Said unit cost shall be applied to the linear footage of the installation of the Water Main. Said unit cost shall include the incidental installation of all necessary fittings, valves, fire hydrants, offsets, and appurtenances associated with this water main for service to Loami.
 - (ii) Curran-Gardner shall provide to Springfield and Loami a copy of the bid unit prices for the boring of **ten (10) inch** PVC water main. Said unit cost shall be applied to the linear footage of the water main to be bored.
 - (iii) Curran-Gardner shall provide to Springfield and Loami the bid unit prices for **ten (10) inch** water main, **ten (10) inch** valves, **ten (10) inch** couplings, fire hydrants, hydrant tees, and other associated fittings and appurtenances.
 - (iv) Said unit costs provided as above shall be used by Springfield to calculate the Estimated Cost of each Section of Water Main to be installed, with said Estimated Costs to be provided to each of the Parties.
 - (v) Springfield shall have the option of accepting or rejecting the Estimated Cost of Sections 1 and 2 of the Water Main. Loami shall have the option of accepting or rejecting the Estimated Cost of Section 3 of the Water Main. Upon both Loami's and Springfield's acceptance of the Estimated Costs of their respective sections of the Water Main, the project shall move forward. If either Springfield rejects the cost of Sections 1 and 2 of the Water Main or Loami rejects the Estimated Cost of Section 3 of the Water Main, the project shall not move forward and this Agreement shall become null and void. Said acceptances or rejections of the Estimated Costs of the Water Main shall be provided to all the Parties within **ten (10) business days** of receipt of the Estimated Costs. Failure to provide an acceptance or rejection within the **ten (10) business day** time frame shall constitute a rejection of the Estimated Cost. Each party recognizes that the Estimated Cost of the project shall be adjusted to Final Costs after project cost accounting is completed, and said Final Costs shall be the basis of reimbursements between the parties.
- (E) Upon project acceptance by Loami and Springfield, and upon receipt of all easements for the pipeline route, Curran-Gardner shall proceed in a workman-like manner to complete installation of the Water Main. The project shall be fully operational no later than **December 31, 2013**.
- (F) Springfield shall reimburse Curran-Gardner for the labor, equipment, and materials cost to construct **ten (10) inch** Water Main from the Springfield/Curran-Gardner master meter to the Loami pump station. Curran-Gardner shall invoice Springfield for its installation of the pipeline,

no more frequently than every **thirty (30) days** during construction. Springfield shall provide payment to Curran-Gardner within **thirty (30) days** of receipt of the invoice. Loami shall reimburse Springfield for the cost of Section 3 of the Water Main per the terms of the Loami/Springfield Agreement.

10. **Metering.**

- (A) A master meter (the Curran-Gardner Meter) shall meter all water delivered from the Water Main to both Curran-Gardner and Loami and shall be installed near the point of beginning with the Springfield system along Spaulding Orchard Road approximately **two thousand one hundred ninety (2,190) feet** west of Cockrell Lane. A second meter (the Loami Meter) shall be installed approximately **one thousand six hundred (1,600) feet** south of Mansion Road out of the floodplain on the south side of the Lick Creek floodplain at a location meeting good engineering standards. The Loami meter reading shall be used by Springfield to bill Loami for water use. The Loami meter reading shall be subtracted from the Curran-Gardner meter reading and the result shall be used by Springfield to bill Curran-Gardner for water use. The meter in the Loami pump station (the Old Loami Meter) that has historically been used by Springfield to bill Loami, shall no longer be a meter of record for billing purposes once the Water Main is placed in service. The Old Loami Meter shall be removed from the piping system and be replaced with a spool piece of pipe upon activation of the Loami Meter.
- (B)
 - (i) The control valves, meter(s), meter equipment, meter vaults, valves and **ten (10) feet** of water main outside the meter vault installed at the metering locations noted in 10A above, shall at all times be under the control of Springfield and the full and complete protection of the meter, meter equipment, and meter vaults shall be the obligation of Springfield.
 - (ii) The properly authorized officers, agents, and representatives of Loami and Curran-Gardner shall, at reasonable times, have free access to meter vaults, meter control valves, and meter equipment for the purpose of inspection to ascertain that said equipment is in proper operating condition and is accurately measuring the water flow.
 - (iii) If, at any time, said meter(s) shall fail to register correctly the quantity of water furnished and taken hereunder, or shall fail to register the flow of water through said meter, the unregistered, under-registered or over-registered amount of water furnished and taken shall be determined by taking an average of the monthly readings of such meter for the previous **twelve (12) month** period, exclusive of deficient or excessive readings. Where said meter had been installed for a period of less than **one (1) year** or where less than **twelve (12)** credible monthly readings exist, such average or estimate may be based upon a lesser number than **twelve (12) monthly** readings taken preceding or subsequent to such increased or stopped registrations.

11. **Defaults.** In the event that one Party believes another to be in default under this Agreement, that Party acting through its chief administrator, shall notify the other Party in

writing of the specified default. If such default shall continue for a period of **sixty (60) days** after the service of written notice of such default, the Chief Utility Engineer or Springfield's Office of Public Utilities (or a designee), the Curran-Gardner Board Chairman (or a designee) and the President of Loami (or a designee) shall meet jointly for the purpose of resolving the default. No waiver of any default shall be implied by the failure of either Party to give notice of default, and no express waiver shall affect any other default except the one specified in the waiver. The non-defaulting parties are entitled to all remedies at law.

12. **Notices.** Any notice or communication permitted or required under the Agreement shall be in writing and shall become effective on the day of mailing thereof by first class mail, registered or certified mail, postage prepaid, addressed to:

If to Loami to:

Village of Loami
Attention: Mayor
P.O. Box 46
Loami, IL 62661

With a copy to:
Sgro, Hanrahan & Durr, L.L.P.
Attn: Alex B. Rabin
1119 South 6th Street
Springfield, IL 62701

If to Curran-Gardner to:

Curran-Gardner Townships
Public Water District
Attention: Board of Trustees
3382 Hazlett Road
Springfield, IL 62707

With a copy to:
Brown, Hay & Stephens, LLP
Attn: Charles Y. Davis, Esq.
205 South Fifth Street
Springfield, IL 62705

If to Springfield to:

City of Springfield
Office of Public Utilities
Attention: Chief Utility Engineer
4th Floor, Municipal Center East
800 East Monroe
Springfield, IL 62757

With a copy to:
Office of Corporation Counsel
Room 313 Municipal Center East
800 East Monroe
Springfield, IL 62701

13. This Agreement shall be binding upon the successors and assigns of Loami, Curran-Gardner and Springfield and their respective governing bodies.

14. This Agreement is effective when duly approved by the corporate authorities of each Party and its execution by the chief executive officer of each Party and is further contingent upon execution of the Loami/Springfield Agreement by Loami and Springfield.

15. This Agreement is the entire agreement between the Parties with respect to its subject matter, and all prior representations relating thereto are expressly disclaimed.

16. This Agreement may be modified only in a writing approved by ordinance of the corporate authorities of each Party and signed by the Loami Village President, the Chairman of the Board of the Curran-Gardner Townships Public Water District and the Mayor of Springfield.

17. This Agreement shall be governed in accordance with Illinois law. In the event any portion of this Agreement is unenforceable, it shall not affect the enforceability of the remainder of the Agreement.

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18. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

19. In the event any third party challenges this Agreement, the Parties shall jointly defend this Agreement and shall share legal fees and expenses in equal amounts, or otherwise agreed by the Parties.

APPENDIX #1

VILLAGE OF LOAMI

APPLICATION FOR WATER SYSTEM SERVICE CONNECTION

The undersigned, representing himself as owner of the property located at _____, hereby makes application for connection to the Water System of the Village for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the Village now in effect or enacted and passed from time to time providing for the regulation of service furnished by the Village, it is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and water usage which shall become due as the result of the connecting of the water mains and the furnishing of water service to the above property, and that all such charges and fees for water service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the Village.
2. All bills for the aforesaid charges are payable on or before the due date following the receipt of said bill and if not paid, are subject to a **ten percent (10%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: \$ _____ is enclosed herewith, payable to the Village.
6. Permission is hereby granted to the Village and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the Water System.

CONNECTION MUST BE INSPECTED BEFORE BACKFILLING:

SIGNATURE: _____

(STREET NUMBER AND NAME OF STREET)

(VILLAGE, STATE AND ZIP CODE)

(TELEPHONE NUMBER) (DATE)

Do not fill in the spaces to the right if the information is the same as the applicant above.

MAIL BILLS TO: (_____)

(NAME)

(_____)

(STREET NUMBER AND NAME OF STREET)

(_____)

(VILLAGE, STATE AND ZIP CODE)

APPENDIX #2

VILLAGE OF LOAMI

UTILITY MAIN EXTENSION CONTRACT

AGREEMENT made and entered into this _____ day of _____, by and between the Utility System of the **Village of Loami, Illinois**, hereinafter called the "Utility Department" and _____, hereinafter called the "Depositor".

FIRST: That the Utility Department contracts and agrees to have installed by contract in accordance with its rules, utility mains as shown on the plat thereof, and the specifications are attached hereto and made a part hereof.

SECOND: Bids having been taken and the lowest responsible bid having been in the amount of \$_____, the Depositor agrees to deposit and does deposit herewith the cost thereof.

- (A) The lowest responsible bid \$_____.
- (B) Engineering and Inspection Charge \$_____.
- (C) TOTAL: \$_____.

THIRD: Final costs to be adjusted up or down according to completed job cost.

FOURTH: The ownership of the utility mains laid herein shall be at all times in the Utility Department, its successors and assigns.

FIFTH: This Agreement shall be valid and binding on the Utility Department only when signed by the Mayor and Clerk.

SIXTH: This Agreement shall be binding upon the heirs, executors, administrators, successors or assigns of the respective parties.

EXECUTED in duplicate by the parties hereto on the date first above written.

**UTILITY DEPARTMENT
VILLAGE OF LOAMI**

**BY: _____
SUPERINTENDENT**

ATTEST:

VILLAGE CLERK

DEPOSITOR

WITNESSES:

APPENDIX #3

VILLAGE OF LOAMI

PRIVATE WASTE DISPOSAL APPLICATION
(SEPTIC TANK ETC.)

The undersigned, being the _____ of the property
(owner, owner's agent)
located at _____ does hereby request a permit to install
(Number) (Street)
sanitary sewage disposal facilities to serve the _____ at the location.
(residence, commercial building, etc.)

1. The proposed facilities include: _____ to be constructed in complete accordance with the plans and specifications attached hereunto as **Exhibit "A"**.
2. The area of the property is [_____] square feet or [_____] square meters.
3. The name and address of the person or firm who will perform the work is _____
4. The maximum number of persons to be served by the proposed facilities is _____
5. The location and nature of all sources of private or public water supply within **one hundred (100) feet [30.5 meters]** of any boundary of said property are shown on the plat attached hereunto as **Exhibit "B"**.

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To furnish any additional information relating to the proposed work that shall be requested by the Village.
2. To accept and abide by all provisions of the **Revised Code** and of all other pertinent codes or ordinances that may be adopted in the future.
3. To operate and maintain the wastewater disposal facilities covered by this application in a sanitary manner at all times, in compliance with all requirements of the Village and at no expense to the Village.
4. To notify the Village **at least twenty-four (24) hours** to commencement of the work proposed, and again **at least twenty-four (24) hours** prior to the covering of any underground portions of the installation.

DATE: _____, 20____ SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CLERK)

\$ _____ (Inspection Fee Paid) DATE: _____, 20____

\$ _____ (Connection Fee Paid) SIGNED: _____
(CLERK)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 20____ SIGNED: _____
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

APPENDIX #4

VILLAGE OF LOAMI

APPLICATION FOR SANITARY SEWER SERVICE CONNECTION

The undersigned, representing himself as owner of the property located at _____, hereby makes application for Sanitary Sewerage Service for said property, and in consideration of the furnishing of said service covenants and agrees as follows:

1. I agree to abide by all rules and regulations as specified in and by the ordinances of the Village now in effect or ordinances enacted and passed from time to time providing for the regulation of the sanitary sewer system or specifying fees and rates to be charged for connection and sanitary sewer service furnished by the Village. It is further acknowledged and agreed that the undersigned, his heirs, executors, administrators, successors and assigns shall pay all charges for connection fees and sewer usage which shall become due as the result of the connecting of the sewerage mains and the furnishing of sanitary sewerage service to the above property, and that all such charges and fees for sanitary sewerage service rendered to the property, together with penalties, if any, and the costs of collection are to be considered and become a charge against the property, the lien so created to be enforced in accordance with the ordinances of the Village.
2. All bills for the aforesaid charges are payable on or before the due date following the receipt of said bill and if not paid, are subject to a **ten percent (10%)** penalty.
3. Each and all of the agreements and covenants herein contained shall run with the real estate above described whose present owner is signatory to this application.
4. I understand that after making this application, I am to await installation permit and instructions therewith.
5. SERVICE CONNECTION FEE: \$ _____ is enclosed herewith, payable to the Village.
6. Permission is hereby granted to the Village and its authorized representatives at any reasonable time to enter the premises of the applicant and any portion thereof for the purposes of inspecting all connections appurtenant to the sewerage outlets, pipes and mains.

(APPLICANT'S SIGNATURE)

(STREET NUMBER AND NAME OF STREET)

(OWNER'S SIGNATURE, IF NOT APPLICANT)

(VILLAGE, STATE AND ZIP CODE)

(TELEPHONE NUMBER) (DATE)

Do not fill in the spaces to the right if the information is the same as the applicant above.

MAIL BILLS TO:

 (_____
 (NAME)

 (STREET NUMBER AND NAME OF STREET)

 (VILLAGE, STATE AND ZIP CODE)

APPENDIX #4

VILLAGE OF LOAMI

INDUSTRIAL SEWER CONNECTION APPLICATION

The undersigned, being the _____ of the
(owner, owner's agent)
property located at _____ does hereby request a permit to _____
(Number) (Street) (install, use)
an industrial sewer connection serving the _____. which company is engaged in
_____ at said location.

1. A plan of the property showing accurately all sewers and drains now existing is attached hereunto as **Exhibit "A"**.
2. Plans and specifications covering any work proposed to be performed under this permit is attached hereunto as **Exhibit "B"**.
3. A complete schedule of all process waters and industrial wastes produced or expected to be produced at said property, including a description of the character of each waste, the daily volume and maximum rates of discharge and representative analyses is attached hereunto as **Exhibit "C"**.
4. The name and address of the person or firm who will perform the work covered by this permit is _____

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To furnish any additional information relating to the installation or use of the industrial sewer for which this permit is sought as may be requested by the Village.
2. To accept and abide by all provisions of the **Revised Code**, and of all other pertinent ordinances or codes that may be adopted in the future.
3. To operate and maintain a control manhole and any waste pretreatment facilities, as may be required as a condition of the acceptance into the public sewer of the industrial wastes involved in an efficient manner at all times, and at no expense to the Village.
4. To cooperate at all times with the Village and its representative(s) in their inspecting, sampling, and study of the industrial wastes, and any facilities provided for pretreatment.
5. To notify the Village immediately in the event of any accident, negligence, or other occurrence that occasions discharge to the public sewers of any wastes or process waters not covered by this permit.

DATE: _____, 20____ SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CLERK)

\$ _____ (Inspection Fee Paid) DATE: _____, 20____

\$ _____ (Connection Fee Paid) SIGNED: _____
(CLERK)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 20____ SIGNED: _____
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

APPENDIX #4
VILLAGE OF LOAMI
R E C E I P T

Receipt is hereby acknowledged of the executed Application for Sanitary Sewer Service Connection from the person and for the property indicated below.

This receipt does not authorize service connection is made, inspection and approval of the customer service line by an authorized representative of the Village is required, and approval of such connection and issuance of a Certificate of Inspection and Approval and Permit is conditioned upon compliance with all the Ordinances, Codes, Rules and Regulations of the **Village**.

NOTE:

1. In the event the location of the sewer service connection is unknown, the Superintendent is to be contacted.
2. This office is to be notified the day before the work is to be done so that inspection may be arranged in accordance with specifications furnished. For example, if you desire inspection on Tuesday, contact us on Monday. If you desire inspection on Monday, contact us on Friday, etc.
3. If the sewer line is deep enough to drain your basement, if you have one, then the wastes from the basement as well as the other floor(s) of the property must go into the sanitary sewers. Downspout and surface drainage are prohibited inasmuch as this is not a storm sewer system.

WARNING! In order to coordinate our inspections, we must be advised a day in advance before the work is done. The inspection must be made before the trench is backfilled. If trench is backfilled before the inspection is made, it will have to be reopened to permit inspection.

NO. _____

VILLAGE OF LOAMI
COUNTY OF SANGAMON

DATE: _____

ADDRESS: _____

OWNER(S): _____

APPENDIX #5

VILLAGE OF LOAMI

CERTIFICATE OF INSPECTION, APPROVAL AND PERMIT

IT IS HEREBY CERTIFIED THAT inspection has been made of the individually-owned sewer mains and sanitary service connection for the property described below, and said installation is hereby approved as in compliance with the Specifications, Rules and Regulations established by the Revised Code (Ch. 38) of this Municipality.

Permission is hereby granted to complete the construction of said individually-owned sewer main to the Village Sanitary Sewerage System and to utilize the same for waste disposal in compliance at all times, with the Revised Code of this Village.

NO. _____

ADDRESS: _____

TYPE OF CONNECTION:

- _____ Single-Family Residence
- _____ Multiple dwelling or trailer court
- _____ Commercial
- _____ Industrial
- _____ Institutional
- _____ Governmental

INSTALLATION BY: _____

THE SERVICE IS IN OPERATION AS OF THIS _____ DAY OF _____, 20_____.

**VILLAGE OF LOAMI
COUNTY OF SANGAMON**

SIGNED: _____

APPENDIX #6

VILLAGE OF LOAMI

UTILITY SHUTOFF HEARING NOTICE

This notice is being sent to you pursuant to the provisions of **CHAPTER 38 OF THE REVISED CODE OF ORDINANCES** as adopted by the corporate authorities.

CUSTOMER'S NAME: _____

ADDRESS: _____

TOTAL AMOUNT OF BILL: \$ _____ WATER

\$ _____ SEWER

\$ _____ OTHER

SUB-TOTAL: \$ _____

PENALTY: \$ _____

TOTAL DUE: \$ _____

DATE OF HEARING _____

TIME OF HEARING _____

LOCATION OF HEARING _____

PHONE: _____

If the consumer/customer fails to appear at the hearing, the applicable utility services shall be **terminated** [shut off] without further proceedings.

If payment for the charges and fees is received prior to the date of the hearing, you may disregard this hearing notice.

The Mayor and Village Clerk, or their designated representative(s), shall preside at the hearing.

VILLAGE CLERK

DATED THIS _____ DAY OF _____, 20_____.

NOTE: After services have been shut off there will be a reconnection fee of \$_____.

APPENDIX #7

VILLAGE OF LOAMI

OBJECTIONABLE MATERIAL EFFLUENT LIMITS

<u>Waste or Chemical</u>	<u>Concentration mg/l</u>
Boron	1.0
Chromium (Hexavalent)	5.0
Chromium (Trivalent)	10.0
Copper	3.0
Cyanide	0.005
Iron	15.0
Lead	0.1
Mercury or its compounds	0.005
Nickel	3.0
Oil & Grease, etc. (carbon tetrachloride extraction)	100.0
Temperature not over 150° F. (65° C.)	
Acid iron pickling waste or concentrated plating waste	Zero
Free acids and alkalis pH	Between 5.5 and 9.5
Zinc	2.0
Cadmium	2.0
Chlorine Demand	30.0
Phenols	0.5

CHAPTER 39
WIRELESS TOWERS

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CHAPTER 39

WIRELESS TOWERS

ARTICLE I – GENERALLY

39-1-1 **PURPOSE.** The purpose of this Chapter is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this Chapter 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, the Village shall give due consideration to its comprehensive plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

39-1-2 **RELATIONSHIP TO ZONING CODE.** This Chapter is closely related to and shall be interpreted together with the Zoning Code, Chapter 40, of the Village Code of Ordinances. All terms contained in this Chapter shall have the same meanings as when used in Chapter 40, unless the context clearly indicates otherwise. However, in the event of any conflict between this Chapter and Chapter 40, this Chapter shall control.

39-1-3 **DEFINITIONS.** As used in this Chapter, the following terms shall have the meanings set forth below:

- (A) **"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.
- (B) **"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.

(C) **"Backhaul Network"** means the lines that connect a provider's towers/cell sites to **one (1)** or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

(D) **"FAA"** means the Federal Aviation Administration.

(E) **"FCC"** means the Federal Communications Commission.

(F) **"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.

(G) **"Preexisting Towers and Preexisting Antennas"** means any tower or antenna for which a building permit or special use permit has been properly issued prior to the effective date of this Chapter, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

(H) **"Tower"** means any structure that is designed and constructed primarily for the purpose of supporting **one (1)** or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

(I) **"Village"** refers to the Village of Loami.

(J) **"Zoning Code"** refers to Chapter 40 of the Code of Ordinances of the Village of Loami.

39-1-4 APPLICABILITY.

(A) **New Towers and Antennas.** All new towers or antennas in the Village shall be subject to these regulations, except as provided in **Sections 39-1-2(B) through (D)**, inclusive.

(B) **Amateur Radio Station Operators/Receive Only Antennas.** This Chapter shall not govern any tower, or the installation of any antenna, that is under **seventy (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.

(C) **Preexisting Towers or Antennas.** Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Chapter, other than the requirements of **Sections 39-1-5(F) and 39-1-5(G)**.

(D) **AM Array.** For purposes of implementing this Chapter, an AM array, consisting of **one (1)** 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. Additional tower units may be added within the perimeter of the AM array by right.

39-1-5 GENERAL REQUIREMENTS.

(A) **Principal or Accessory Use.** Antennas and towers may be considered either principal or accessory uses under the Zoning Code. 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) **Lot Size.** For purposes of determining whether the installation of a tower or antenna complies with zoning district 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) **Inventory of Existing Sites.** Each applicant for an antenna and/or tower shall provide to the Zoning Administrator 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 **one (1) mile** of the border thereof, including specific information about the location, height, and design of each tower. The Zoning Administrator may share such information with other applicants applying for administrative approvals or special use permits under this Chapter or other organizations seeking to locate antennas within the jurisdiction of the Village, provided, however, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(D) **Aesthetics.** Towers and antennas shall meet the following requirements:

- (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- (2) 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.
- (3) 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) **Lighting.** 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) **State or Federal Requirements.** 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 Chapter shall bring such towers and antennas into compliance with such revised standards and regulations within **six (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) **Building Codes; Safety Standards.** 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 **thirty (30) days** to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said **thirty (30) days** shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(H) **Not Essential Services.** Towers and antennas shall be regulated and permitted pursuant to this Chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities.

(I) **Franchises.** 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 Administrator.

(J) **Public Notice.** For purposes of this Chapter, 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 **Section 39-1-8(B)(5)(ii)**, Table 2, in addition to any notice otherwise required by the Zoning Code.

(K) **Signs.** No signs shall be allowed on an antenna or tower.

(L) **Buildings and Support Equipment.** Buildings and support equipment associated with antennas or towers shall comply with the requirements of **Section 39-1-8.**

(M) **Multiple Antenna/Tower Plan.** 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.

39-1-6 PERMITTED USES.

(A) **General.** The uses listed in this Section are deemed to be permitted uses and shall not require administrative approval or a special use permit.

(B) **Permitted Uses.** 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.

39-1-7 ADMINISTRATIVELY APPROVED USES.

(A) **General.** The following provisions shall govern the issuance of administrative approvals for towers and antennas.

- (1) The Zoning Administrator may administratively approve the uses listed in this Section.
- (2) Each applicant for administrative approval shall apply to the Zoning Administrator providing the information set forth in **Sections 39-1-8(B)(1)** and **39-1-8(B)(3)** of this Chapter and a nonrefundable fee of **Two Hundred Fifty Dollars (\$250.00)** to reimburse the Village for the costs of reviewing the application.
- (3) The Zoning Administrator shall review the application for administrative approval and determine if the proposed use complies with **Sections 39-1-5, 39-1-8(B)(4)** and **39-1-8(B)(5)** of this Chapter.
- (4) The Zoning Administrator shall respond to each such application within **sixty (60) days** after receiving it by either approving or denying the application. If the Zoning Administrator fails to

respond to the applicant within said **sixty (60) days**, then the application shall be deemed to be approved.

- (5) In connection with any such administrative approval, the Zoning Administrator may, in a case involving shared use, administratively waive any zoning district setback requirements in **Section 39-1-8(B)(4)** or separation distances between towers in **Section 39-1-8(B)(5)** by up to **fifty percent (50%)**.
- (6) In connection with any such administrative approval, the Zoning Administrator 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's administrative remedy shall be limited to filing an application for a special use permit pursuant to **Section 39-1-8**.

(B) **List of Administratively Approved Uses.** The following uses may be approved by the Zoning Administrator 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 industrial zoning district.
- (2) Locating antennas on existing structures or towers consistent with the terms of subsections (a) and (b) below.
 - (a) **Antennas on Existing Structures.** Any antenna which is not attached to a tower may be approved by the Zoning Administrator as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of **eight (8)** or more dwelling units, provided:
 - (i) The antenna does not extend more than **thirty (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) **Antennas on Existing Towers.** An antenna which is attached to an existing tower may be approved by the Zoning Administrator 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 meet the requirements of **Section 39-1-5**; it shall be of the same tower type as the existing tower, unless the Zoning Administrator allows reconstruction as a monopole.
 - (ii) **Height.**
 - a. An existing tower may be modified or rebuilt to a taller height, not to exceed

thirty (30) feet over the tower's existing height, to accommodate the collocation of an additional antenna.

- b. The height change referred to in subsection (ii)a. may only occur one time per communication tower.
- c. The additional height referred to in subsection (ii)a. shall not require an additional distance separation as set forth in **Section 39-1-8**. The tower's premodification height shall be used to calculate such distance separations.

(iii) **Onsite Location.**

- a. A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within **fifty (50) feet** of its existing location.
- b. After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.
- c. A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to **Section 39-1-8(B)(5)**. The relocation of a tower hereunder shall in no way be deemed to cause a violation of **Section 39-1-8(B)(5)**.
- d. The onsite relocation of a tower which comes within the separation distances of residential units or residentially zoned lands as established in **Section 39-1-8(B)(5)** shall only be permitted when approved by the Zoning Administrator.

- (3) **New Towers in Non-Residential Zoning Districts.** Locating any new tower in a non-residential zoning district other than industrial provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Administrator concludes the tower is in conformity with the goals set forth in **Section 39-1-1** and the requirements of **Section 39-1-5**; the tower meets the setback requirements in **Section 39-1-8(B)(4)** and separation distances in **Section 39-1-8(B)(5)**; and the tower meets the following height and usage criteria:

- (a) for a single user, up to **ninety (90) feet** in height;
- (b) for **two (2) users**, up to **one hundred twenty (120) feet** in height; and

- (c) for **three (3)** or more users, up to **one hundred fifty (150) feet** in height.
- (4) 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.

39-1-8 **SPECIAL USE PERMITS.**

(A) **General.** The following provisions shall govern the issuance of special use permits for towers or antennas by the Zoning Board of Appeals.

- (1) If the tower or antenna is not a permitted use under **Section 39-1-6** of this Chapter or permitted to be approved administratively pursuant to **Section 39-1-7** of this Chapter, 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 the Zoning Code, except as modified in this Section.
- (3) In recommending the grant of a special use permit, the Zoning Board of Appeals may suggest conditions to the extent the Zoning Board of Appeals 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 licensed professional engineer.
- (5) An applicant for a special use permit shall submit the information described in this Section and a non-refundable fee of **Two Hundred Fifty Dollars (\$250.00)** plus a commitment to reimburse the Village its out-of-pocket costs for a review by a licensed engineer. This fee is in addition to any fees previously paid in connection with **Section 39-1-7(A)(2)**.

(B) **Towers.**

- (1) **Information Required.** In addition to any information required for applications for special use permits pursuant to the Zoning Code, applicants for a special use permit for a tower shall submit the following information:
 - (a) 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), zoning classification of the site and all properties within the applicable separation distances set forth in **Section 39-1-8(B)(5)**, 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 Administrator to be necessary to assess compliance with this Chapter.

- (b) Legal description of the parent tract and leased parcel (if applicable).
 - (c) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
 - (d) The separation distance from other towers described in the inventory of existing sites submitted pursuant to **Section 39-1-5(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.
 - (e) A landscape plan showing specific landscape materials.
 - (f) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
 - (g) A description of compliance with **Sections 39-1-5(C), (D), (E), (F), (G), (J), (L) and (M), 39-1-8(B)(4) and (B)(5)** and all applicable federal, state or local laws.
 - (h) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
 - (i) 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.
 - (j) 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.
 - (k) 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.
- (2) **Factors Considered in Granting Special Use Permits for Towers.** In addition to the standards for consideration of special use permit applications pursuant to the Zoning Code, the Zoning Board of Appeals shall consider the following factors in determining whether to recommend issuance of a special use permit, although the Zoning Board of Appeals may recommend waiver or reduction of the burden on the applicant of one or more of these criteria if the Zoning Board of Appeals concludes that the goals of this Chapter are better served thereby;
- (a) Height of the proposed tower;
 - (b) Proximity of the tower to residential structures and residential district boundaries;
 - (c) Nature of uses on adjacent and nearby properties;
 - (d) Surrounding topography;
 - (e) Surrounding tree coverage and foliage;

- (f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (g) Proposed ingress and egress; and
- (h) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in **Section 39-1-8(B)(3)** of this Chapter.

(3) **Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.**

No new tower shall be recommended unless the applicant demonstrates to the reasonable satisfaction of the Zoning Board of Appeals that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Zoning Board of Appeals 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:

- (a) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- (b) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (d) 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.
- (e) 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.
- (f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (g) 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.

- (4) **Setbacks.** The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Zoning Board of Appeals may recommend reduction of the standard setback requirements if the goals of this Chapter would be better served thereby:
 - (a) Towers must be set back a distance equal to at least **seventy-five percent (75%)** of the height of the tower from any adjoining lot line.
 - (b) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- (5) **Separation.** The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Zoning Board of Appeals may reduce the standard separation requirements if the goals of this Chapter would be better served thereby.
 - (a) **Separation From Off-Site Uses/Designated Areas.**
 - (i) Tower separation shall be measured from the base of the tower 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.
 - (ii) 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 ¹	200 feet or 300% height of tower whichever is greatest
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 ²
Vacant unplatted residentially zoned lands ³	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 greatest
Non-residentially zoned lands or non-residential uses	None; only setbacks apply

¹ Includes modular homes and mobile homes used for living purposes.

² Separation measured from base of tower to closest building setback line.

³ 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.

- (b) **Separation Distances Between Towers.**
 - (i) 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 distance (listed in linear feet) shall comply with the minimum standards set forth in Table 2.

TABLE 2

	Existing Towers (all distances in feet)			
	Lattice	Guyed	Monopole 75 Ft in Height or Greater	Monopole Less Than 75 Ft in Height
Lattice	5,000	5,000	1,500	750
Guyed	500	500	1,500	750
Monopole 75 Ft in Height or Greater	1,500	1,500	1,500	750
Monopole Less Than 75 Ft. in Height	750	750	750	750

New Towers

- (6) **Security Fencing.** Towers shall be enclosed by security fencing not less than **six (6) feet** in height and shall also be equipped with an appropriate anti-climbing device; provided, however, that the Zoning Board of Appeals may waive such requirements, as it deems appropriate.
- (7) **Landscaping.** The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Zoning Board of Appeals may waive such requirements if the goals of this Chapter would be better served thereby.
 - (a) 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

- four (4) feet** wide outside the perimeter of the compound.
- (b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
 - (c) 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.

39-1-9 BUILDINGS OR OTHER EQUIPMENT STORAGE. All buildings or equipment cabinets shall comply with the requirements of the zoning districts within which they are located, or the following requirements, whichever are more restrictive:

(A) **Antennas Mounted on Structures or Rooftops.** 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 **two hundred twenty-five (225) square feet** of gross floor area or be more than **fifteen (15) feet** in height. In addition, for buildings and structures which are less than **sixty-five (65) feet** in height, the related unmanned equipment structure, if over **one hundred fifty (150) square feet** of gross floor area or **eight (8) 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 **ten percent (10%)** of the roof area.
- (3) Equipment storage buildings or cabinets shall comply with all applicable building codes.

(B) **Antennas Mounted on Utility Poles or Light Poles.** 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 **three (3) feet** in height or **sixteen (16) square feet** of gross floor area and the cabinet/structure is located a minimum of **fifteen (15) feet** from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least **forty-two (42) to forty-eight (48) inches** and a planted height of at least **thirty-six (36) inches**.
 - (b) In a rear yard, provided the cabinet or structure is no greater than **five (5) feet** in height or **twenty-five (25) square feet** in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate

height of **eight (8) feet** and a planted height of at least **thirty-six (36) inches**.

- (2) In commercial or industrial districts the equipment cabinet or structure shall be no greater than **five (5) feet** in height or **twenty-five (25) square feet** in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of **eight (8) feet** and a planted height of at least **thirty-six (36) inches**.

(C) **Antennas Located on Towers.** The related unmanned equipment structure shall not contain more than **two hundred twenty-five (225) square feet** of gross floor area or be more than **fifteen (15) feet** in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

(D) **Modification of Building Size Requirements.** The requirements of **Sections 39-1-9(A)** through **(C)** may be modified by the Zoning Administrator in the case of administratively approved uses or by the Zoning Board of Appeals in the case of uses permitted by special use to encourage collocation.

39-1-10 REMOVAL OF ABANDONED ANTENNAS AND TOWERS. Any antenna or tower that is not operated for a continuous period of **twelve (12) months** shall be considered abandoned, and the owner of such antenna or tower shall remove the same within **ninety (90) days** of receipt of notice from the Village notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said **ninety (90) days** shall be grounds for the Village to remove the tower or antenna at the owner's expense. If there are **two (2)** or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

39-1-11 NONCONFORMING USES.

(A) **No Expansion of Nonconforming Use.** Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Chapter shall not be deemed to constitute the expansion of a nonconforming use or structure.

(B) **Preexisting Towers.** 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 Chapter.

(C) **Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas.** Notwithstanding **Section 39-1-10**, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt at the same location without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in **Sections 39-1-8(B)(4)** and **39-1-8(B)(5)**. 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 **one hundred eighty (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 39-1-10**.

39-1-12 SPECIAL PROCEDURES FOR SPECIAL USE DETERMINATIONS.

The procedures for special uses shall be the same as in the Zoning Code with respect to a public hearing and approval of the special use by ordinance of the corporate authorities. However, the following requirements, peculiar to the Telecommunications Act, shall apply:

(A) If the applicant shows that the antenna tower and the equipment to be installed thereon meet all requirements of the FCC, the Zoning Board of Appeals shall disallow and disregard evidence regarding the environmental effects (including interference) of radio frequency emissions, and the Village Board shall disregard any such evidence in making its final determination.

(B) All findings of the Zoning Board of Appeals shall be in writing and shall be based on substantial evidence.

(C) Since the Telecommunications Act requires a written record, there shall be a certified shorthand reporter present at any public hearing, and a written transcript shall be prepared of any public hearing.

(D) The Village Board shall not take final action on a special use permit application until all fees required to be paid, including reimbursement of the cost of an engineering review, have been paid.

39-1-13 SEVERABILITY. The various parts, sections and clauses of this Chapter are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Chapter shall not be affected thereby.

(Ord. No. 99-03; 03-11-99)

CHAPTER 40
ZONING CODE

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CHAPTER 40

ZONING CODE

ARTICLE I – GENERAL PROVISIONS

40-1-1 ZONING MAP ADOPTED.

(A) **Official Zoning Map.** The Village is hereby divided into zones, or districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Code.

The Official Zoning Map shall be identified by the signature of the President attested by the Village Clerk, under the following words: "This is to certify that this is the Official Zoning Map referred to in **Section 40-1-1** of Ordinance Number 110778-1 of the Village of Loami, Illinois", together with the date of the adoption of this Code.

If, in accordance with the provisions of this Code and **Chapter 65, Illinois Compiled Statutes**, changes are made in district boundaries or other matters portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the Village Board, with an entry on the Official Zoning Map as follows: "On (date), by official action of the Village Board, the following (change) changes were made in the Official Zoning Map: (brief description of nature of change)," which entry shall be signed by the President and attested by the Village Clerk. No amendment to this Code which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this Code. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this Code and punishable as provided under **Section 40-9-6**.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map which shall be located in the office of the Village Clerk shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the Village.

[ED. NOTE: Annual Publication. In accordance with State Law, if any changes are made in the zoning districts or regulations during a calendar year, the Zoning Administrator shall publish the revised official zoning map of the Village not later than March 31st of the following year. (65 ILCS 5/11-13-19)

The map shall be published if there were any annexations or zone district changes in the previous year.]

(B) **Replacement of Official Zoning Map.** In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes and additions, the Village Board may by ordinance adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending thereof. The new Official Zoning Map shall be identified by the signature of the President attested by the Village Clerk, under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of Ordinance Number 110778-1 of the Village of Loami, Illinois."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

40-1-2 DEFINITIONS. For the purposes of this Code, certain terms or words used herein shall be interpreted as follows:

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation as well as an individual.

The present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular.

The word "shall" is mandatory, the word "may" is permissive.

The words used or occupied include the words intended, designed, or arranged to be used or occupied.

The word "lot" includes the words plot or parcel.

Accessory Use or Building: Any use or building customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building.

Agriculture: Land, including necessary buildings and structures which shall be used for agriculture including, but not limited to farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, as well as the necessary accessory uses; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities, and providing further that the above uses shall not include the commercial feeding of garbage or offal to swine or other animals.

Alley: A public way with a width not exceeding **twenty (20) feet** in right-of-way used primarily as a service access to the rear or side of a property which abuts on a street.

Automotive Service Station: Buildings and premises where gasoline, oil, grease, batteries, tires, and automobile accessories may be supplied and dispensed at retail, and where, in addition to, the following services may be rendered and sales made, and no other:

- (A) Sale and servicing of spark plugs, batteries, and distributors and distributor parts;
- (B) Tire servicing and repair, but not recapping and regrooving;
- (C) Replacement of mufflers and tail pipes, water hose, fan belts, brake fluid, light bulbs, fuses, floor mats, seat covers, windshield wipers and wiper blades, grease retainers, wheel bearings, mirrors and the like;
- (D) Radiator cleaning and flushing;
- (E) Washing and polishing, and sale of automotive washing and polishing materials;
- (F) Greasing and lubrication;
- (G) Providing and repairing fuel pumps, oil pumps and lines;
- (H) Minor servicing and repair of carburetors;
- (I) Emergency wiring repairs;
- (J) Adjusting and repairing brakes;
- (K) Minor motor adjustment not involving removal of the head or crankcase or racing the motor;
- (L) Sales of cold drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operation;
- (M) Provision of road maps and other informational material to customers; provision of restroom facilities.

Uses permissible at a filling station do not include major mechanical and body work, straightening of body parts, painting, welding, storage of automobiles not in operation condition, or other work involving noise, glare, fumes, smoke, or other characteristics to an extent greater than normally found in filling stations. A filling station is not a repair garage nor a body shop.

Basement: A portion of a building located partly underground, but having less than **one-half (1/2)** its clear floor-to-ceiling height below the average grade of the adjoining ground.

Buildable Area: The specified portion of lot immediately in back of the front yard setback.

Building: Any structure which is built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and which is permanently affixed to the land.

Building, Accessory: A subordinate building or a portion of a principal building, the use of which is incidental and customary to that of the principal building.

Building, Detached: A building surrounded by open space on the same lot.

Building, Principal: A non-accessory building in which the principal use of the lot on which it is located, is conducted.

Bulk: The term used to indicate the size and setbacks of buildings or structures and the location of same with respect to one another, and including the following:

- (A) Size and height of buildings;
- (B) Location of exterior walls at all levels in relation to lot lines, streets or to other buildings;
- (C) Gross floor area of buildings in relation to lot area (floor area ratio);
- (D) All open spaces allocated to buildings;
- (E) Amount of lot area provided per dwelling unit.

Cellar: The portion of a building located partly or wholly underground, and having **one-half (1/2)**, or more than **one-half (1/2)**, of its clear floor-to-ceiling height below the average grade of the adjoining ground.

Club or Lodge, Private: A non-profit association, or persons who are bona-fide members paying dues, which owns, hires, or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

Curb Level: The level of the established curb in front of a building or structure measured at the center of such front. Where no curb level has been established, it shall be deemed to be the established level of the center line of the street surface in front of a building or structure, measured at the center line of such front.

District: A section or part of the incorporated or unincorporated portion of the Village for which the use regulations are uniform.

Drive-In Establishment: An establishment which accommodates patrons' automobiles on the immediate premises allowing service to the patrons in their automobiles and/or self-service by the patrons.

Dwelling: A residential building or portion thereof, but not including hotels, motels, rest homes, rooming houses, tourist homes or trailers.

Dwelling Unit: One (1) room, or rooms connected together, constituting a separate, independent housekeeping establishment for owner occupancy, or rental or lease on a weekly, monthly, or longer basis, and physically separated from any other rooms or dwelling units which may be in the same structure and containing independent cooking and sleeping facilities.

Dwelling, Single-Family: A detached residential dwelling unit other than a mobile home, designed for and occupied by **one (1) family** only.

Dwelling, Two-Family (Duplex): A detached residential building designed for or occupied by **two (2) families**.

Family: **One (1)** or more persons related by blood, marriage or adoption, or a group of not more than **five (5) persons** not so related, together with his or their domestic servants or gratuitous guests, maintaining a common household in a dwelling unit.

Flood-Crest Elevation: The maximum instantaneous elevation of the water surface during the period of a 100-year flood as established by the Sangamon County Regional Planning Commission's report titled Flood Conditions, Sangamon County, Illinois, dated **July 1, 1961**.

Flood Plain Area: That continuous area, adjacent to a stream or stream bed or other natural drainage channels or areas, whose elevation is equal to or lower than the 100-year flood crest elevation as established by survey or as indicated in the Sangamon County Regional Planning Commission's report titled Flood Conditions, Sangamon County, Illinois, dated **July 1, 1961** including any land of higher elevation having an area of less than **ten (10) acres** which is completely surrounded by land equal to or lower than the flood crest elevation.

Floor Area, Gross: For the purpose of determining Floor-Area Ratio, the floor area of a building or buildings shall be the sum of the gross horizontal areas of the several floors of such building or buildings - measured from the exterior faces of exterior walls or from the center line of party walls separating **two (2) buildings**. In particular, "gross floor area" shall include:

(A) Basement space, if at least **one-half (1/2)** of the basement story height is above the established curb level.

(B) Elevator shafts and stairwells at each floor.

(C) Floor space used for mechanical equipment where the structural headroom exceeds **seven and one-half (7 1/2) feet**; except equipment, open or enclosed, located on the roof, i.e., bulkheads, water tanks, and cooling towers.

(D) Attic floor space where the structural headroom exceeds **seven and one-half (7 1/2) feet**.

(E) Interior balconies and mezzanines.

(F) Enclosed porches, but not terraces and breezeways.

Floor Area Ratio. The numerical value obtained through dividing the gross floor area of a building or buildings by the total area of the lot or parcel of land on which such building or buildings are located.

Garage, Public: Any building where automotive vehicles are painted, repaired, rebuilt, reconstructed and/or stored for compensation.

Home Occupation: An occupation conducted in a dwelling unit, provided that:

(A) No more than **two (2) persons** other than members of the family residing on the premises shall be engaged in such occupations;

(B) The use of the dwelling unit and accessory buildings for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than **twenty-five percent (25%)** of the floor area of the dwelling unit shall be used in the conduct of the home occupation;

(C) There shall be no change in the outside appearance of the dwelling unit, accessory building or premises, which gives other visible evidence of the conduct of such home occupation other than **one (1) sign**, not exceeding **one (1) square foot** in area, non-illuminated, and mounted flat against the wall of the principal building;

(D) Sales in connection with such home occupation shall be incidental to the occupation and shall not constitute the majority of income derived from such occupation;

(E) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.

(F) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

Junk Yard: An open area or fenced-in enclosure where used or second-hand materials are bought, sold, exchanged, stored, baled, packed, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires and bottles. A junk yard includes an auto-wrecking yard, but does not include uses established entirely within enclosed buildings.

Lodging Room: A room rented as sleeping and living quarters, but without cooking facilities and with or without an individual bathroom. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as **one (1)** lodging room.

Lot: For the purposes of this Code, a lot is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street and may consist of:

- (A) A single lot of record;
- (B) A portion of a lot of record;
- (C) A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record;
- (D) A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Code.

Lot Area: The area of a horizontal plane bounded by the vertical planes through front, side, and rear lot lines.

Lot, Corner: A lot situated at the junction of and abutting on **two (2)** or more intersecting streets; or a lot at the point of deflection in alignment of a single street, the interior angle of which is **one hundred thirty-five (135) degrees** or less.

Lot, Depth: The mean horizontal distance between the front lot line and the rear lot line of a lot measured within the lot boundaries.

Lot Line: A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way line.

Lot of Record: A lot which is part of a subdivision recorded in the office of the Sangamon County Recorder of Deeds, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

Lot Reversed: A lot on which the frontage is at right angles or approximately right angles (interior angle less than **one hundred thirty-five (135) degrees**) to the general pattern in the area.

Lot, Through: A lot defined as a lot other than a corner lot with frontage on more than **one (1) street**. Through lots abutting **two (2) streets** may be referred to as double frontage lots.

Lot, Trailer: The area assigned to a trailer in a trailer park.

Lot Width: Width of a lot shall be considered to be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the rear of the required front yard, provided, however, that width between side lot lines at their foremost points (where they intersect with the street line) shall not be less than **eighty percent (80%)** of the required

lot width except in the case of lots on the turning circle of cul-de-sacs, where the **eighty percent (80%)** requirement shall not apply.

Mini warehouse means a building or group of buildings in a controlled-access and fenced area that contains individual, and compartmentalized stalls or lockers of varying sizes for the storage of business and household goods which are leased or rented on an individual basis. Storage of business goods is limited to those not associated with any office, retail or other business or commercial use located on the same zoning lot. **(Ord. No. 03-01; 02-13-03)**

Mobile Home: A structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location, or subsequent locations, at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling for **one (1)** or more persons. The term "mobile home" shall include manufactured homes constructed after **June 30, 1976**, in accordance with the Federal "**National Manufactured Housing Construction and Safety Standards Act of 1974**". **(Ord. No. 97-13; 10-09-96)**

Mobile Home Subdivision: Any plot of ground for the accommodation of mobile homes with not more than **one (1) mobile home** per lot of record. Such lots typically are sold to individual mobile home occupants and are to be developed to the same standards as are required for mobile home parks.

Mobile Home Park: Any plot of ground upon which **two (2)** or more independent mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether or not a charge is made for such accommodation. A mobile home park shall also include an area where **two (2)** or more mobile homes are located next to each other on individual lots and are under the same ownership. Mobile home parks shall meet the standards required under **Section 40-6-9**.

Modular Home: A factory-built home which is:

- (A) subject to regulation by the Illinois Department of Public Health; and
- (B) not built on a permanent chassis.

By law, a modular home must have affixed to it a yellow seal in the shape of the State of Illinois on the electrical panel box or a similar seal of the State of Indiana. A modular home on a permanent perimeter foundation extending below the frost depth qualifies as a single-family structure in any zone in which single family structures are allowed. Should the Illinois Department of Public Health approve a factory-built home with a permanent chassis, such a home is not considered a "modular home" under this Code, but rather is considered a "mobile home" under this Code. **(Ord. No. 97-13; 10-09-96)**

Motel: A building containing lodging rooms having adjoining individual bathrooms; where each lodging room has a doorway opening directly to the outdoors; and where more than **fifty percent (50%)** of the lodging rooms are for rent to transient tourists for a continuous period of less than **thirty (30) days**.

Motor Freight Terminal: A building or premises in which freight is received or dispatched by motor vehicle.

Off-Street Loading: A space accessible from a street, alley or way, in a building or on a lot for the use of trucks while loading or unloading merchandise or materials.

Public Service Area: An area including such uses as fire and police stations, telephone exchanges, radio and television transmitting and relay stations and towers, filter plants and pumping stations and similar uses.

Refuse: All waste products resulting from human habitation, except sewage.

Rest Home (Nursing Home): A private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders. Such a home does not contain

equipment for surgical care or for treatment of disease or injury, nor does it include maternity care or mental illnesses or infirmities.

Rooming House (Tourist Home): A building, or portion thereof, containing lodging rooms which accommodate **three (3)** or more persons who are not members of the keeper's family, and where lodging rooms, or meals, or both, are provided for compensation.

Sanitary Landfill: A method of disposing of refuse by spreading and covering with earth to a depth of **two (2) feet** on the top surface and **one (1) foot** on the sides of the bank.

Semi-Trailer: "Semi-trailer" has the same meaning as in the Illinois Vehicle Code, and 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. **(Ord. No. 2015-07; 11-12-15)**

Setback, Front Yard: The minimum horizontal distance permitted between the front line or side line of the building and nearest the street line, disregarding steps and unroofed porches.

Sign: A name, identification, description, display or illustration which is affixed to or painted or represented directly or indirectly upon a building or other outdoor surface or piece of land; and which directs attention to an object, product, place, activity, person, institution, organization or business.

However, a sign shall not include any display of official court or public office notices nor shall it include a sign located completely within an enclosed building unless the context shall be exposed to view from a street. Each display surface of a sign shall be considered to be a sign.

Sign, Advertising: A sign which directs attention to a business, commodity, service, or entertainment not necessarily sold upon the premises where such sign is located, or to which it is affixed. A double face or V-type sign, erected on a single supporting structure where the interior angle does not exceed **one hundred thirty-five (135) degrees** shall, for the purpose of computing square foot area, be considered and measured as a single face sign.

Sign, Business: A sign which directs attention to a business or profession conducted, or to a commodity, service, or entertainment sold or offered, upon the premises where such sign is located, or to which it is affixed.

Sign, Flashing: Any illuminated sign on which the artificial light is not maintained stationary and/or constant in intensity and color at all times when such sign is in use. For the purpose of this Code, any moving, illuminated sign shall be considered a flashing sign.

Sign, Gross Surface Area Of: The entire area within a single, continuous perimeter enclosing the extreme limits of such sign and in no case passing through or between any adjacent elements of same. However, such perimeter shall not include any structural elements lying outside the limits of such sign and not forming an integral part of the display.

Special Use: A land use which because of its unique character and impact, cannot be properly classified in any particular district or districts, without consideration, in each case, of the impact of those uses upon neighboring lands and upon public need for the particular use at the particular location.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above, or if there is no floor above, the space between the floor and the ceiling next above. A basement shall be counted as a story for the purposes of this Code.

Street (Avenue, Drive, Place, Road, Terrace, Parkway, Boulevard, or Court): A right-of-way of a required width, which affords a primary means of access to abutting property.

Street Line: The dividing line between a lot and a contiguous street.

Structural Alterations. Any change, other than incidental repairs, in the supporting members of a building or structure, such as bearing walls or partitions, columns, beams or girders; or any substantial change in the roof or exterior walls.

Structure: Anything erected, the use of which requires a fixed location on the ground; or attached to something having a permanent location on the ground. A sign, billboard, or other advertising medium detached or projecting shall be construed to be a structure.

Tourist Home: 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.

Travel Trailer: House car, camp car, or any portable or mobile vehicle, which is designed to be used as a temporary dwelling for travel and recreational purposes.

Travel Park: Any premises on which are parked **two (2)** or more travel trailers or any premises used or held out for the purpose of supplying to the public a parking space for **two (2)** or more such trailers. Does not include sales lots on which automobiles or unoccupied trailers, new or used, are parked for purposes of inspection and sale.

Use: The purpose or activity for which land, or building thereon, is designed, arranged or intended, or for which it is occupied or maintained.

Use, Accessory: A subordinate use which is clearly and customarily incidental to the principal use of a building or premises and which is located on the same lot as the principal building or use except for such accessory parking facilities as are specifically authorized to be located elsewhere.

Vacant: A residential structure without any permanent residents.

Yard: An open space on a lot which is unoccupied and unobstructed from **thirty (30) inches** above general ground level to the sky. A yard extends along a line and at right angles to such lot line to a depth or width specified in the yard regulations for the zoning district in which such lot is located. A yard shall not include roof overhang.

Yard, Front: A yard extending along the full width of the front lot line between side lot lines.

Yard, Rear: A yard extending across the rear of the lot between inner side yard lines. In the case of through lots and corner lots, there will be no rear yards, but only front and side yards.

Yard, Side: A yard extending from the rear line of the required front yard to the rear lot line, or in the absence of any clearly defined rear lot line to the point on the lot farthest from the intersection of the lot line involved with the public street. In the case of through lots, side yards shall extend from the rear lines of front yards required. In the case of corner lots, yards remaining after full and half-depth front yards have been established shall be considered side yards.

Zoning Board: The Loami Zoning Board of Appeals.

(Ord. No. 110778; 11-07-78 unless otherwise noted)

ARTICLE II - RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES

40-2-1 **DISTRICT BOUNDARIES.** Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

(A) Boundaries indicated as approximately following the center lines of streets, highways, or alleys shall be construed to follow such center lines;

(B) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;

(C) Boundaries indicated as approximately following Village limits shall be construed as following such Village limits;

(D) Boundaries indicated as approximately following the center lines of streams, lakes, or other bodies of water shall be construed to follow such center lines;

(E) Boundaries indicated as parallel to or extensions of features indicated in paragraphs (A) through (D) above shall be construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map;

(F) Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by paragraphs (A) through (E) above, the Board of Appeals shall interpret the district boundaries;

(G) Where a district boundary line divides a lot which was in single ownership at the time of passage of this Code, the Board of Appeals may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed **fifty (50) feet** beyond the district line into the remaining portion of the lot.

ARTICLE III - APPLICATION OF DISTRICT REGULATIONS

40-3-1 UNIFORM APPLICATION. The regulations set by this Code within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

(A) No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.

(B) No building or other structure shall hereafter be erected or altered:

- (1) to exceed the height or bulk;
- (2) to accommodate or house a greater number of families;
- (3) to occupy a greater percentage of lot area;
- (4) to have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required; or in any other manner contrary to the provisions of this Code.

(C) No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this Code, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

(D) No yard or lot existing at the time of passage of this Code shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Code shall meet at least the minimum requirements established by this Code.

(E) All territory which may hereafter be annexed to the Village shall be considered to be in the "R-1" Single Family Residence District until otherwise classified.

ARTICLE IV - NON-CONFORMITIES

40-4-1 **INTENT.** Within the districts established by this Code or amendments that may later be adopted there exist:

- (A) lots,
- (B) structures,
- (C) uses of land and structures, and
- (D) characteristics of use

which were lawful before this Code was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this Code or future amendment. It is the intent of this Code to permit these non-conformities to continue until they are removed, but not to encourage their survival. It is further the intent of this Code that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this Code to be incompatible with permitted uses in the districts involved. A non-conforming use of a structure, a non-conforming use of land, or a non-conforming use of structure and land in combination shall not be extended or enlarged after passage of this Code by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses, of a nature which would be prohibited generally in the district involved.

To avoid undue hardship, nothing in this Code shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Code and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

40-4-2 **NON-CONFORMING LOTS OF RECORD.** In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this Code, notwithstanding limitations imposed by other provisions of this Code. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than these applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of yard requirements shall be obtained only through action of the Board of Appeals.

If **two (2)** or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this Code, and if all or part of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this Code, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this Code, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this Code.

40-4-3 NON-CONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY). Where at the time of passage of this Code lawful use of land exists which would not be permitted by the regulations imposed by this Code, and where such use involves no individual structure with a replacement cost exceeding **One Thousand Dollars (\$1,000.00)**, the use may be continued so long as it remains otherwise lawful, provided:

(A) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Code;

(B) No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this Code;

(C) If any such non-conforming use of land ceases for any reason for a period of more than **thirty (30) days**, any subsequent use of such land shall conform to the regulations specified by this Code for the district in which such land is located;

(D) No additional structure not conforming to the requirements of this Code shall be erected in connection with such non-conforming use of land.

40-4-4 NON-CONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this Code that could not be built under the terms of this Code by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

(A) No such non-conforming use may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity;

(B) Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than **fifty percent (50%)** of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Code;

(C) Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

40-4-5 NON-CONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION. If lawful use involving individual structures with a replacement cost of **One Thousand Dollars (\$1,000.00)** or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this Code, that would not be allowed in the district under the terms of this Code, the lawful use may be continued so long as it remains otherwise unlawful, subject to the following provisions:

(A) No existing structure devoted to a use not permitted by this Code in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located;

(B) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this Code, but no such use shall be extended to occupy any land outside such building;

(C) If no structural alterations are made, any non-conforming use of a structure, or structure and premises, may as a special exception be changed to another non-conforming use provided that the Board of Appeals, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use. In permitting such change, the Board of Appeals may require appropriate conditions and safeguards in accord with the provisions of this Code;

(D) Any structure, or structure and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the non-conforming use may not thereafter be resumed;

(E) When a non-conforming use of a structure, or structure and premises in combination, is discontinued or abandoned for **sixty (60) consecutive days** or for **twelve (12) months** during any **three (3) year** period (except when government action impedes access to the premises), the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located;

(F) Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the non-conforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than **fifty percent (50%)** of the replacement cost at time of destruction.

40-4-6 REPAIRS AND MAINTENANCE. On any non-conforming structure or portion of a structure containing a non-conforming use, work may be done in any period of **twelve (12) consecutive months** on ordinary repairs, or on repair or replacement of non-bearing walls, fixtures, wiring or plumbing, to an extent not exceeding **ten percent (10%)** of the current replacement cost of the non-conforming structure or non-conforming portion of the structure as the case may be, provided that the cubic content existing when it became non-conforming shall not be increased.

If a non-conforming structure or portion of a structure containing a non-conforming use becomes physically unsafe or unlawful due to lack of repairs and maintenance, and is declared by any duly authorized official to be unsafe or unlawful by reason of physical condition, it shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the district in which it is located.

Nothing in this Code shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

40-4-7 USES UNDER SPECIAL USE PROVISIONS NOT NON-CONFORMING. Any use which is permitted as a special use in a district under the terms of this Code (other than a change through Board of Appeals action from a non-conforming use to another use not generally permitted in the district) shall not be deemed a non-conforming use in such district, but shall without further action be considered a conforming use.

40-4-8 PROVISIONS APPLICABLE TO NONCONFORMING MOBILE HOMES.

(A) A mobile home located in a district which is zoned residential, and which is a nonconforming use or structure under this Chapter, may be replaced, repaired, enlarged or moved within the zoning lot on which it is located if all of the following conditions are met:

- (1) Prior to its replacement, repair, enlargement, or relocation the mobile home is a legal nonconforming use or structure, or has been legally permitted pursuant to a special use or variation,
- (2) The mobile home, after being replaced, repaired, enlarged or relocated, is tied down in accordance with the Mobile Home Tiedown Act; is placed on a permanent foundation; and skirting is placed and thereafter maintained all around the mobile home; and if the mobile home is replaced, is a HUD-approved structure; and
- (3) The owner of record of the property on which the mobile home is located has obtained a variation for the nonconforming mobile home in accordance with **Section 40-8-4** of this Code.

(B) In addition to the foregoing conditions, one of the following two conditions must also be met:

- (1) The mobile home, after being replaced, repaired, enlarged or relocated, meets all setback and yard requirements of the district in which it is located; or
- (2) If the mobile home is a replacement home, it is equal to or smaller in size than the original mobile home and is wholly within the area occupied by the original mobile home.

(Ord. No. 2000-10; 06-08-00)

ARTICLE V - SCHEDULE OF DISTRICT REGULATIONS

40-5-1 **SCHEDULE BY REFERENCE.** District regulations shall be as set forth in the Schedule of District Regulations, hereby adopted by reference in **Appendix "A"** and declared to be a part of this Code, and in **Article VI** of this Code, entitled "Supplementary District Regulations".

40-5-2 **ESTABLISHMENT OF DISTRICTS.** In order to carry out the purposes and provisions of this Code, the following districts are hereby established:

(A) **Agricultural District.**

(1) **"A-1" Agricultural District - Intent.** To accommodate and protect agricultural and related uses as well as other uses commonly located in rural areas that are of such low intensity that they do not attract large numbers of people. Residences are permitted only as an accessory use to the foregoing principal permitted uses conducted on a lot having an area of at least **ten (10) acres** per family.

(B) **Residential Districts.**

(1) **"R-1" Single-Family Residence District - Intent.** To provide for and preserve quiet single family residential neighborhoods as desired by large numbers of people, free from other uses except those which are both compatible with and convenient to the residents of such a district.

(2) **"R-2" Single and Two-Family Residence District - Intent.** To establish and preserve quiet neighborhoods of single and two-family homes, free from other uses except those which are both compatible with and convenient to the residents of such a district.

(3) **"R-3" General Residence District - Intent.** To establish and preserve medium density residential uses, excluding uses which are not compatible with residential use but permitting certain non-residential uses which are of particular convenience to the residents of the district.

(4) **"R-4" Mobile Home District - Intent.** To provide for mobile homes in mobile home parks in an appropriate, safe, sanitary, and attractive environment. Refer to **Article VI** for special requirements relating to mobile home parks.

(C) **Business Districts.**

(1) **"B-1" Retail and Office Business District - Intent.** To establish and preserve areas for those commercial facilities which are especially useful in close proximity to residential areas, while minimizing the undesirable impact of such uses on the neighborhoods which they service.

(2) **"B-2" General Business District - Intent.** To provide for and accommodate neighborhood and highway oriented retail stores and service establishments.

(D)

Industrial Districts.

- (1) **"I-1" Light Industrial District - Intent.** To establish and preserve areas for industrial and related uses of such a nature that they do not create serious problems of compatibility with other kinds of land uses and to make provision for certain kinds of commercial uses which are most appropriately located in proximity to industrial uses or which are necessary to service the immediate needs of people in these areas.
- (2) **"I-2" Heavy Industrial District - Intent.** To establish and preserve areas for necessary industrial and related uses of such a nature that they require isolation from many other kinds of land uses, and to make provisions for commercial uses which are necessary to service the immediate needs of people in their area.

40-5-3 INTERPRETATION OF DISTRICT REGULATIONS. When any question arises concerning the application of the Schedule of District Regulations, including, but not limited to what district a use is permitted in, which is not listed in the Code, the administrative official designated to administer and enforce this Code shall make the determination to resolve the question. The decision of the Administrative Official may be appealed to the Board of Appeals.

ARTICLE VI - SUPPLEMENTARY DISTRICT REGULATIONS

40-6-1 VISIBILITY AT INTERSECTIONS IN RESIDENTIAL DISTRICTS.

On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of **two and one-half (2 1/2)** and **ten (10) feet** above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines **thirty (30) feet** from the point of the intersection.

40-6-2 FENCES, WALLS, AND HEDGES.

Notwithstanding other provisions of this Code, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard, provided that no fence, wall, or hedge along the sides or front edge of any front yard shall be over **two and one-half (2 1/2) feet** in height on a corner lot.

40-6-3 ACCESSORY BUILDINGS.

No accessory building shall be erected in any required yard, and no separate accessory building shall be erected within **five (5) feet** of any other building.

40-6-4 ERECTION OF MORE THAN ONE (1) PRINCIPAL STRUCTURE ON

A LOT. In any district, more than **one (1) structure** housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this Code shall be met for each structure as though it were on an individual lot.

40-6-5 EXCEPTIONS TO HEIGHT REGULATIONS.

The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

40-6-6 STRUCTURES TO HAVE ACCESS.

Every building hereafter erected or moved shall be on a lot adjacent to a public street and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

40-6-7 PARKING AND STORAGE OF CERTAIN VEHICLES.

Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.

40-6-8 MOBILE HOMES OUTSIDE OF MOBILE HOME PARKS.

Mobile homes located outside of mobile home parks and allowed as a nonconforming use shall be provided with adequate skirting, from the bottom of the walls to the ground, made of durable material other than aluminum.

40-6-9 MOBILE HOME PARK REGULATIONS. Mobile homes have a number of characteristics which justify special treatment in this Code including but not limited to their unusual shape, their limited space, and their mobility. The following regulations are to make provisions for mobile home parks in an appropriate, safe, sanitary, and attractive environment.

(A) Density is limited to **eight (8)** mobile homes per acre.
 (B) Minimum lot area per mobile home park is **five (5) acres**.
 (C) No mobile home shall be located within **twenty (20) feet** of any other, within **five (5) feet** of any driveway or parking space, within **thirty (30) feet** of the right-of-way of any street or within **forty (40) feet** of any park boundary which is not the right-of-way line of a street.

(D) Each mobile home site shall be provided with a stand consisting of a solid, **six (6) inch** thick, poured Portland cement concrete apron not less than **eight (8) feet** wide and **forty-five (45) feet** long and a paved outdoor patio of at least **one hundred eighty (180) square feet** located at the main entrance to the mobile home.

(E) All utility wires, pipes and tanks shall be underground, except that oil tanks used as part of a central distribution system may be above ground if fully screened from view by a wood or masonry wall or fence.

(F) Each mobile home park shall have an underground master television antenna system, and exterior antennae shall not be permitted on individual mobile homes.

(G) Each mobile home park shall contain **one (1)** or more recreation areas totaling at least **three hundred (300) square feet** per mobile home. At least **one (1)** such area in each mobile home park shall be of such size and shape that a **one hundred (100) foot** square may be laid out within it and shall be substantially flat, without trees, bushes or other obstructions, and maintained as lawn. No mobile home shall be more than **five hundred (500) feet** distant from a recreation area. Streets, driveways, parking areas and buildings are not to be included in calculating the size of recreation area.

(H) A greenbelt, at least **thirty (30) feet** in width, shall be located along all boundaries of each mobile home park, except where it is crossed by driveways.

(I) Each mobile home shall be located on a lot having an area of at least **three thousand two hundred (3,200) square feet**, provided, however, that no motor vehicle shall be parked on any lot having an area of less than **four thousand (4,000) square feet**. **(See Revised Code Chapter 23 for more)**

(J) Each mobile home park shall be graded and drained so that rain water will not stand in pools or puddles.

(K) Each street and parking area in any mobile home park shall be bounded by a sidewalk at least **three (3) feet** wide.

(L) If the parking of motor vehicles other than passenger automobiles and motorcycles is allowed, it shall be restricted to areas surrounded, except at points of entry and exit, with a wood or masonry wall or fence at least **eight (8) feet** high.

(M) Each mobile home park shall provide refuse containers, compatible with mechanical lifting devices on garbage trucks, having a capacity of **one (1) cubic yard** for each **four (4) mobile homes**, so located that no mobile home is farther than **one hundred fifty (150) feet** from such a container.

(N) All refuse containers shall be located on Portland cement concrete stands, abutting and level with a driveway, which shall be surrounded except on the driveway side by a wood or masonry fence or wall at least **six (6) feet** high.

(O)	Minimum street widths in mobile home parks shall be as follows:		
	No parking on street	1 way	14
		2 way	20
	Parallel parking one side	1 way	20
		2 way	30
	Parallel parking both sides	1 way	26
		2 way	36

(P) A separate way of ingress and egress to a public street shall be provided for each **one hundred (100) mobile homes** contained in every mobile home park.

(Q) Each mobile home park shall provide to each mobile home an enclosed storage shed or partitioned space in such a shed, either of which shall have at least **three hundred sixty (360) cubic feet** and shall be located within **one hundred fifty (150) feet** of said mobile home. No outside storage shall be permitted by any mobile home park or committed by any occupant, including the storage of anything underneath any mobile home.

(R) No mobile home shall be occupied unless it is supported on masonry blocks or jacks, connected to utilities, and provided with skirting, from the bottom of the walls to the ground, made of aluminum or other durable material.

(See Chapter 23 also) (Ord. No. 93-12; 05-13-93) (Ord. No. 99-16; 06-10-99)

40-6-10 OFF-STREET PARKING AND LOADING. The following regulations are established to increase safety and lessen congestion in the public streets, to adequately provide for parking needs associated with the development of land and increased automobile usage, to set standards for the requirement of off-street parking according to the amount of traffic generated by each use, and to eliminate the on-street storage of vehicles.

(A) **Number of Spaces.** The following required off-street parking spaces for the particular use are minimum requirements:

- (1) **Amusement Parks** - **one (1)** for each **five hundred (500) square feet** of lot area for public use.
- (2) **Apartment, Hotels** - **one (1)** per dwelling unit.
- (3) **Aquariums** - **one (1)** per each **eight hundred (800) square feet** of floor area.
- (4) **Art Galleries** - **one (1)** per each **eight hundred (800) square feet** of floor area.
- (5) **Auditoriums** - **one (1)** per **eight (8) seats**.
- (6) **Automobile Service Stations** - **one (1)** per each **two (2) employees**, plus **one (1)** per owner or manager.
- (7) **Boarding and Lodging Houses** - **one (1)**, plus **one (1)** for each **two (2) persons** for whom living accommodations are provided.
- (8) **Bowling Alleys** - **five (5)** per each alley, plus **three (3)** per each **ten (10) persons** accommodated by affiliated uses.
- (9) **Business Offices and Banks** - **one (1)** per each **five (5) employees**, plus **one (1)** per each **two hundred (200) square feet** of floor area for customer, client, or patron use.
- (10) **Business Schools** - **one (1)** per each **two (2) employees**, plus **one (1)** per each **one hundred (100) square feet** of instruction space.
- (11) **Churches** - **one (1)** per **eight (8) seats**.

- (12) **Community Centers** - **three (3)** per each **ten (10) persons** accommodated.
- (13) **Cultural and Civic Institutions** - **one (1)** per **two (2) employees**, plus **one (1)** per each **eight hundred (800) square feet** of public area.
- (14) **Dance Halls** - **three (3)** per each **ten (10) persons** accommodated.
- (15) **Dancing Schools** - **one (1)** per each **two (2) employees**, plus **one (1)** per each **one hundred (100) square feet** of instruction space.
- (16) **Dental Offices or Clinics** - **one (1)** per each examining or treatment room, plus **one (1)** per doctor, plus **one (1)** per each **three (3)** other employees.
- (17) **Dwelling Units** - **one (1)** per dwelling unit.
- (18) **Eating and Drinking Establishments** - **one (1)** per each **one hundred (100) square feet** of floor area for public use.
- (19) **Elementary Schools** - **one (1)** per classroom.
- (20) **Fraternity and Sorority Houses** - **one (1)**, plus **one (1)** for each **two (2) persons** for whom living accommodations are provided.
- (21) **Funeral Parlors** - **one (1)** per funeral vehicle maintained on premises, plus **ten (10)** per chapel or parlor.
- (22) **Gymnasiums** - **one (1)** per **eight (8) seats**.
- (23) **Governmental Offices** - **one (1)** per each **five (5) employees**, plus **one (1)** per **two hundred (200) square feet** of floor area for customers, client or patron use.
- (24) **Health Institutions Other than Hospitals or Clinics** - **one (1)** per each **four (4) beds**, plus **one (1)** per each staff doctor, plus **one (1)** per each other **two (2) employees**.
- (25) **High Schools** - **three (3)** per classroom.
- (26) **Hospitals** - **one (1)** per each **three (3) beds**, plus **one (1)** per staff doctor, plus **one (1)** per each other **four (4) employees**.
- (27) **Hotels** - **one (1)**, plus **one (1)** for each **two (2) persons** for whom living accommodations are provided.
- (28) **Junior High School** - **one (1)** per classroom.
- (29) **Libraries** - **one (1)** per each **eight hundred (800) square feet** of floor area.
- (30) **Medical Offices or Clinics** - **one (1)** per each examining or treatment room, plus **one (1)** per doctor, plus **one (1)** per each **three (3)** other employees.
- (31) **Mobile Home Parks** - **one (1)** per mobile home.
- (32) **Motels** - **one (1)** per dwelling unit.
- (33) **Museums** - **one (1)** per each **eight hundred (800) square feet** of floor area.
- (34) **Music Schools** - **one (1)** per each **one hundred (100) square feet** of instruction space.
- (35) **Non-Business Clubs** - **one (1)** per each **three (3) members**.

- (36) **Nursing Homes** - **one (1)** per each **four (4) beds**, plus **one (1)** per each staff doctor, plus **one (1)** per each other **two (2) employees**.
- (37) **Private Clubs and Lodges** - **one (1)**, plus **one (1)** for each **two (2) persons** for whom living accommodations are provided.
- (38) **Professional Offices** - **one (1)** per each **five (5) employees**, plus **one (1)** per **two hundred (200) square feet** of floor area for customer, client or patron use.
- (39) **Retail Sales** - **one (1)** per **five (5) employees** and **one (1)** per each **two hundred (200) square feet** devoted to public.
- (40) **Savings and Loan Associations** - **one (1)** per each **five (5) employees**, plus **one (1)** per **two hundred (200) square feet** of floor area for customer, client or patron use.
- (41) **Stadiums and Grandstands** - **one (1)** per **eight (8) seats**.
- (42) **Swimming Pools** - **three (3)** per each **ten (10) persons** accommodated.
- (43) **Theaters, Indoor** - **one (1)** per each **eight (8) seats** up to **four hundred (400)**, plus **one (1)** per each **five (5) seats** over **four hundred (400)**.
- (44) **Tourist Homes and Cabins** - **one (1)** per dwelling unit.
- (45) **Trade Schools** - **one (1)** per each **two (2) employees**, plus **one (1)** per each **one hundred (100) square feet** of instruction space.
- (46) **Transient Trailer Camps** - **one (1)** per dwelling unit.
- (47) **Truck Terminals** - **one (1)** per **two (2) employees**.
- (48) **Undertaking Establishments** - **one (1)** per funeral vehicle maintained on premises, plus **ten (10)** per chapel or parlor.
- (49) **Wholesale, Manufacturing and Industrial Plants** - **one (1)** per **four (4) employees**.
- (50) **Wholesale Offices** - **one (1)** per each **five (5) employees**, plus **one (1)** per each **two hundred (200) square feet** of floor area for customer, client or patron use.

(B) **Calculation of Number of Spaces.** In any determination of total parking requirements, any fraction less than **one-half (1/2)** may be dropped and any fraction of **one-half (1/2)** or more shall be counted as **one (1) parking space**.

(C) **Size of Spaces.** Each parking space shall be at least **one hundred eighty (180) square feet** in area and shall be a definitely designated stall adequate for **one (1) motor vehicle** so that both doors may be opened. Adequate access to each stall and to the street shall be provided.

(D) **Multiple Uses.** If groups of buildings contain uses which vary in their parking requirements, the number of parking spaces shall be the sum of the individual requirements for each use. However, where peak parking requirements occur at distinctly different times of the day or at different times of the week as determined by the Zoning Official, joint parking facilities may be shared by **two (2)** or more uses.

(E) **Development.** All parking facilities and access ways to the parking areas shall be maintained in a dust-free condition. Any lighting shall be arranged and maintained so that it does not shine directly upon any adjacent residence or street and does not produce excessive glare. Uncovered parking spaces must be at least **three (3) feet** from any street right-of-way line.

(F) **Loading-Unloading Spaces.** All uses involving receipt or distribution of goods by vehicle shall have space on the premises for the pickup, delivery and service vehicles necessary for normal daily operations. These spaces shall be in addition to the above required parking spaces and shall be subject to paragraph (E) above.

40-6-11 LIVESTOCK IN AGRICULTURAL ZONES. The keeping of livestock in areas zoned agricultural is prohibited except as follows:

(A) A lot which is **two (2) acres** or more in size may have horses and ponies thereon, but no more than the lesser of **one (1)** such animal per acre or **four (4)** such animals in total.

(B) A lot which is **five (5) acres** or more in size may, in addition to the horses permitted by the previous section, have cattle thereon, but no more than **two (2) cattle.** (Ord. No. 97-12; 10-09-97)

40-6-12 FENCE REGULATIONS.

(A) **Requirements in Residential Districts.** No fence may be erected within the Village and within a residential district which does not comply with the following specifications:

- (1) Any fence in a front yard shall be at least **fifty percent (50%)** open, and no fence erected in a front yard may exceed **four (4) feet** in height measured from ground level. A clearance of **three (3) inches** shall be allowed for installation purposes and shall not count in determining the height of a fence. No privacy fence may be erected in the front of a residence. For through lots, that yard which is used as rear yard, and which would normally be considered a rear yard for lots other than through lots, shall be considered a rear yard for purposes of erecting a fence.
- (2) Any privacy fence on the side street of a corner lot shall be restricted to the same setback requirements as a building or structure.
- (3) No fence may be erected which exceeds **six (6) feet** in height above ground level.
- (4) No fence may be constructed with barbed wire, metal spikes, or any other sharp pointed materials. All chain link fences shall be installed with the knuckle portion of the fence up and with the barb portion of the fence at or near the ground. No fence may be electrified.

(B) **Requirements in Business and Industrial.** No fence may be erected within the Village and within a business or industrial district which does not comply with the following specifications:

- (1) Any fence erected in a front yard shall be at least **fifty percent (50%)** open.
- (2) Any privacy fence erected on the side street of a corner lot shall be restricted to the same setback requirements as a building or structure.
- (3) No fence may exceed a height of **eight (8) feet** above ground level. A clearance of **three (3) inches** shall be allowed for

installation purposes and shall not count in determining the height of a fence.

- (4) No fence may be constructed with barbed wire, metal spikes, or any other sharp pointed materials unless the sharp pointed material are erected at least **six (6) feet** above ground level, but not higher than **eight (8) feet** above ground level. All chain link fences shall be installed with the barbed portion of a fence at or near the ground unless it is installed at least **six (6) feet** above ground level. No fence may be electrified.

(C) **Permits.**

- (1) No fence may be erected within any residential, business or industrial district unless a fence permit is obtained from the Building Inspector at a cost of **Fifteen Dollars (\$15.00)**. The individual or agency actually constructing the fence shall be responsible for obtaining the permit. No work shall start until the permit has been obtained. Any individual or agency starting work prior to applying for, and receiving said permit shall be subject to a **Twenty-Five Dollar (\$25.00)** fine. This fine may in addition to, and not in lieu of, any additional fines or penalties that are provided for in this Code.
- (2) A fence permit will become null and void after **one (1) year** from the date of issuance if the fence authorized by said permit has not been completed.

(D) **Variances.** Application for a variance of any of the above provisions shall be made in the same manner as provided in the Zoning Code of the Village. Action by the Zoning Board of Appeals on fence variation applications shall be as provided in **Article VIII** of this Code. The filing fee for an application or a petition to vary any of the above provisions is **Ninety Dollars (\$90.00)**.

(E) **Recreational Purpose Fences.** Fences erected for purposes of providing fencing around sports or recreational facilities or areas as listed below, shall not be subject to the height restrictions specified elsewhere in this Section, provided that such facility or area is not located within **twenty (20) feet** of a zoning lot corner formed by the intersection of any **two (2) street lines**; the fence is at least **seventy-five percent (75%)** open; and a fence permit is obtained. The maximum height of a fence is listed by each sports or recreational facility or areas as follows:

Use	Maximum Height (feet)
Tennis court (public or private)	12
Baseball diamond backstop (public or private)	16
Swimming pools (public)	8
Elementary, middle or high schools (public or private)	8

(F) **Swimming Pool Fences.**

- (1) **Definitions.** As used in this Section, "Swimming Pool" shall mean any artificial basin of water which is constructed, modified, improved, or installed for the purpose of wading or swimming by human beings, and which has a depth of more than **twenty-four**

(24) inches covering more than **twenty-five (25) square feet** or contains or is capable of containing more than **two hundred (200) gallons** of water, including all appurtenances and equipment, constructed, installed, or maintained in or above the ground outside of a dwelling.

(2) **Barriers Required.**

- (a) Any swimming pool, except that having a walkway or deck area greater than **thirty (30) inches** in height from the ground with integral guards or rails and a means of egress which can be removed when the pool is not in use, shall be completely enclosed by a protective wall, fence, or other effective barrier. The entire wall, fence, or barrier, including door and gates, shall be a minimum of **four (4)** and a maximum of **six (6) feet** in height measured both on the inside and outside, and shall not provide ready footing for climbing. The height of any opening under the bottom of the wall, fence, or barrier shall not exceed **three (3) inches**. The openings in any wall, fence, or barrier shall not exceed **three (3) inches** in width.
- (b) Each entrance to the wall, fence, or barrier shall be equipped with a door or gate is self-closing and self-latching with a closure or latch installed not lower than **forty-two (42) inches** from the bottom of the door or gate.

(3) **Permit.** A permit shall be obtained from the Village Clerk prior to the construction of a swimming pool wall, fence, or barrier. The permit fee shall be **Fifteen Dollars (\$15.00)** unless the wall, fence, or barrier is included in the building permit for a new outdoor swimming pool in which case this permit fee will be waived.

(4) **Existing Installations.**

- (a) All existing residential swimming pools covered by this Section which do not conform to the regulations listed above shall be made to conform by **July 1, 1993**.
- (b) Any existing wall, fence, or other barrier which meets the requirements of this Section shall be deemed to be in compliance with this Section.

(G) **Continuation of Nonconforming Use.** Any fence lawfully existing on land within the Village or when annexed to the Village, but which does not conform with the use regulations of this Code may be continued under the regulation of this Code for a period of **two (2) years** from the date of this Code or annexation, but this Code shall not be interpreted as authorizing the continuation of any fence which was not lawfully existing on the effective date of this Code or when annexed to the Village. Upon the expiration of the **two (2) year** period the nonconforming fence must be altered or removed to conform to the regulations of this Code. **(Ord. No. 92-19; 10-08-92)**

40-6-13 **SEMI-TRAILERS.** In residential zones, no semi-trailer, whether attached to a tractor or unattached, may be parked on a lot except when actively engaged in loading or unloading household goods or the unloading of materials to be used for the construction of improvements on the lot. In business (B-1 and B-2) zones, no semi-trailer, whether attached to a tractor or unattached, may be parked on a lot except when actively engaged in the loading or unloading of goods used in or sold by the business, or the unloading of materials to be used for construction of improvements on the lot. In residential and business zones, no semi-trailer may be parked on a lot for any period of time exceeding **seventy-two (72) hours**; nor may a semi-trailer be used for storage.

**ARTICLE VII - ADMINISTRATION AND ENFORCEMENT -
CERTIFICATES OF ZONING COMPLIANCE**

40-7-1 PURPOSES. This Article provides procedures under which any construction or alteration of a building or other structure and any new use of land or a building shall be cleared with the appropriate administrative official to make certain that it is in compliance with this Code. The purpose of this requirement is to assure effective enforcement of zoning and also to afford protection to owners and users of property by providing for an advance determination of whether a proposed development or use will be in compliance with this Code.

40-7-2 ADMINISTRATION AND ENFORCEMENT. The President of the Village shall administer and enforce this Code. He may be provided with the assistance of such other persons as the Village Board may direct. Whenever the term "administrative official" is used in this Code, it shall be construed to mean the President of the Village of Loami until this Code is otherwise amended.

If the administrative official shall find that any of the provisions of this Code are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Code to ensure compliance with or to prevent violation of its provisions.

40-7-3 CERTIFICATES OF ZONING COMPLIANCE REQUIRED. No new building or other structure shall be erected, moved, added to or structurally altered without application being made for a Certificate of Zoning Compliance with the appropriate administrative official. In addition, it shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued therefore, by the administrative official stating that the proposed use of the building or land conforms to the requirements of this Code.

40-7-4 APPLICATION FOR CERTIFICATE OF ZONING COMPLIANCE. All applications for Certificates of Zoning Compliance shall be accompanied by plans in triplicate drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, that are to be added to, converted to a new use, if any; and/or the location and dimensions of the proposed building or alteration.

When the application for a Certificate of Zoning Compliance involves the erection of a new building or addition to an existing building, **one (1) copy** of the plans shall be returned to the applicant by the administrative official, after he shall have marked such copy either as approved or disapproved and attested to same by his signature on such copy. When the plan is returned and has been found to be in compliance with the provisions of the Code, the signed and returned copy shall serve as a temporary Certificate of Zoning Compliance and shall be deemed authorization to commence construction. The final Certificate of Zoning Compliance

shall be issued upon completion of construction and after final inspection by the administrative official has shown that construction was carried out in conformance with the approved plans.

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Zoning Compliance shall have been issued therefore by the administrative official stating that the proposed use of the building or land conforms to the requirements of this Code.

No non-conforming structure or use shall be maintained, renewed, changed, or extended until a Certificate of Zoning Compliance shall have been issued by the administrative official. The Certificate of Zoning Compliance shall state specifically wherein the non-conforming use differs from the provisions of this Code, provided that upon enactment or amendment of this Code, owners or occupants of non-conforming uses or structures shall have **three (3) months** to apply for Certificates of Zoning Compliance. Failure to make such application within **three (3) months** shall be presumptive evidence that the property was in conforming use at the time of enactment or amendment of this Code.

The administrative official shall maintain a record of all Certificates of Zoning Compliance, and a copy shall be furnished upon request to any person.

Failure to obtain a Certificate of Zoning Compliance shall be a violation of this Code and punishable under **Section 40-9-6** of this Code.

40-7-5 EXPIRATION OF A CERTIFICATE OF ZONING COMPLIANCE. If the work described in any building permit has not begun within **ninety (90) days** from the date of issuance thereof, said certificate shall expire; it shall be cancelled by the administrative official; and written notice thereof shall be given to the persons affected.

If the work described in any Certificate of Zoning Compliance has not been substantially completed within **two (2) years** of the date of issuance thereof, said certificate shall expire and be cancelled by the administrative official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the cancelled certificate shall not proceed unless and until a new certificate has been obtained.

40-7-6 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS, AND CERTIFICATES OF ZONING COMPLIANCE. Certificates of Zoning Compliance issued on the basis of plans and applications approved by the administrative official authorize only the use, arrangement, and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed violation of this Code, and punishable as provided by **Section 40-9-6** hereof.

ARTICLE VIII - ADMINISTRATION AND ENFORCEMENT

40-8-1 **DUTIES OF OFFICE OF THE ADMINISTRATIVE OFFICIAL.** In addition thereto and in furtherance of said authority, the Administrative Official shall:

(A) Examine, approve, and issue Certificates of Zoning Compliance that conform with the provisions of this Code and make and maintain records thereof.

(B) Conduct inspections of buildings, structures, and uses of land to determine compliance with the terms of this Code.

(C) Maintain permanent and current records of the Code, including, but not limited to, all maps, amendments, and special uses, variations, appeals, and applications therefore.

(D) Receive, file, and forward to the Zoning Board of Appeals, all applications for amendments, special uses, appeals, variations, and other matters on which the Zoning Board of Appeals is required to decide under this Code.

(E) Provide such clerical and technical assistance as may be required by the Zoning Board of Appeals in the exercise of its duties.

40-8-2 **ZONING BOARD OF APPEALS.** A Zoning Board of Appeals is hereby created for the Village. The Board of Appeals, shall consist of **seven (7) members** who shall serve for a term of **five (5) years**, provided that the members first appointed after the enactment of this Code shall serve terms as follows: **one (1)** shall serve a term of **one (1) year; one (1) for two (2) years; one (1) for three (3) years; one (1) for four (4) years; one (1) for five (5) years; one (1) for six (6) years; and one (1) for seven (7) years;** the successor to each member so appointed to serve a term of **five (5) years. One (1)** of the members so appointed shall be named as Chairman at the time of his appointment. The amount of compensation, if any, shall be fixed by the Village Board. The members shall be subject to removal by the Village Board for good cause after public hearing. Members of the Zoning Board of Appeals shall have the powers and duties assigned to the Zoning Board of Appeals by Statute and Ordinance.

(A) **Membership.** All appointments to the Zoning Board of Appeals shall be made by the President subject to approval of the Village Board. **One (1)** of the members so appointed shall be named as Chairman at the time of his appointment. Vacancies shall be filled as soon as possible for the unexpired term of any members whose place has become vacant. In the event that the office of Chairman is vacated for any reason, the Village Board shall immediately appoint, at its option, either **one (1)** of the remaining members on the Board, or any member who is appointed to fill such vacancy on the Board as the new Chairman.

(B) **Procedure.** All meetings of the Zoning Board of Appeals shall be held at the call of the Chairman, and at such other times as the Board may determine. All testimony by witnesses at any hearing provided for in this Code shall be given under oath. The Chairman, or in his absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Zoning Board of Appeals shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact, and shall also keep records of its examinations and other official actions. Every rule, regulations, amendment or repeal thereof, and every order, requirement, decision, or determination of the Zoning Board of Appeals shall immediately be filed in the office of the Village Clerk and shall be of public record.

The concurring vote of **four (4) members** of the Zoning Board of Appeals is necessary to reverse or affirm, wholly or partly, any order, requirements, decision or determination made by the Administrative Official, or to decide in favor of the applicant any matter upon which it is required to pass under this Code or to effect any variation in this Code, or to recommend any variation or modification in the Code to the Village Board.

(C) **Jurisdiction and Authority.** The Zoning Board of Appeals is hereby invested with the powers as granted by the Statutes of the State of Illinois and this Code as follows:

- (1) to hear and decide appeals from any order, requirement, decision, or determination made by the Administrative Official pertaining to conformance with requirements of this Code;
- (2) to hear and recommend variations from the terms provided in this Code in the manner and subject to the standards set forth in this Section;
- (3) to hear and recommend for decision by the Village Board only such special uses as the Zoning Board of Appeals is specifically authorized to by the terms of this Code; recommend for decision to such questions as are involved in determining whether special uses should be granted; and to recommend to grant special uses with such conditions and safeguards as are appropriate under this Code, or to recommend for denial special uses when not in harmony with the purpose and intent of this Code;
- (4) to make a written report and recommendations to the Village Board on any proposed amendment to the map or text of this Code; and
- (5) to hear and decide all matters referred to or upon which it is required to pass under this Code.

(D) **Decisions.** All decisions of the Zoning Board of Appeals on appeals from decisions of the Administrative Official shall, in all instances, be final administrative determinations, subject to judicial review in accordance with applicable Statutes of the State of Illinois.

(E) **Compensation.** The members of the Zoning Board of Appeals shall receive such fees for their compensation as shall be established from time to time by the Village Board.

40-8-3 **APPEALS.** The Zoning Board of Appeals shall hear and decide appeals from an administrative order, requirement, decision, or determination made by the Administrative Official or other authorized officials of the Village, relating to regulations of this Code.

(A) **Initiation.** An appeal to the Zoning Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the Village. The appeal shall be taken by the Administrative Official to the Zoning Board of Appeals within **thirty (30) days** or within such time as shall be prescribed by the Zoning Board of Appeals by a general rule for hearing appeals. The appeal shall be in writing specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the appeal action is taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal has been filed with him that, by

reason of fact stated in the written appeal, a stay would, in his opinion, cause imminent peril to life or property. In this event, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application and on notice to the officer from whom the appeal is taken, and on due cause shown.

(B) **Processing.** An appeal shall be filed with the Administrative Official. The Administrative Official shall forward the appeal to the Zoning Board of Appeals within **thirty (30) days** or less time as the Zoning Board of Appeals may prescribe for processing in accordance with the Statutes of the State of Illinois.

The Zoning Board of Appeals shall fix a reasonable time and place for the hearing of the appeal and give due notice thereof to parties and shall decide the appeal within reasonable time. At the hearing any party may appear, in person or by agent, or by attorney.

The Zoning Board of Appeals may reverse or affirm, wholly or partly, or may modify the order, requirement or decision or determination as in its opinion ought to be made on the premises and to that end has all powers of the officer from whom the appeal is taken.

(C) **Decisions.** All decisions, after the Zoning Board of Appeals' hearing on appeals from an administrative order, requirement, decision or determination of the Building Inspector or other authorized officials of the Village, shall, in all instances, be final administrative determinations and shall be subject to judicial review only in accordance with the applicable Statutes of the State of Illinois.

40-8-4 VARIATIONS. The Village Board shall decide variations of the provisions of this Code in harmony with the general purpose and intent of this Code and shall vary them only in the specific instances hereinafter set forth where the Zoning Board of Appeals shall have made findings of fact based upon the standards hereinafter prescribed that there are practical difficulties or a particular hardship in the way of carrying out the strict letter of the regulations of this Code.

(A) **Initiation.** An application for a variation may be made by any person, firm or corporation or by any office, department, board, bureau or commission requesting or intending to request application for a Certificate of Zoning Compliance. Such application shall be filed in writing and shall contain such information as the Zoning Board of Appeals may require by rule.

(B) **Processing.** An application for a variation shall be filed with the Administrative Official who shall forward such application to the Zoning Board of Appeals for processing in accordance with the applicable Statutes of the State of Illinois.

No variation shall be made by the Village Board except after a public hearing before the Zoning Board of Appeals of which there shall be a notice of time and place of the hearing published at least once, not more than **thirty (30)** or less than **fifteen (15) days** before the hearing, in **one (1)** or more newspapers with a general circulation within the Village, and a written notice is served at least **fifteen (15) days** before the hearing on the owners of the properties located adjacent to the location for which the variation is requested.

(C) **Standards for Variations.** The Zoning Board of Appeals shall not recommend to the Village Board that the regulations of this Code be varied as authorized in **Section 40-8-4** hereof, unless it shall make findings of fact based upon the evidence presented to it in each specific case that:

- (1) The granting of the variation will not be detrimental to the public welfare or injurious to other properties or improvements in the general vicinity in which the property is located;

- (2) The variation, if granted, will not be attributable to a reduction in the value of surrounding property;
- (3) The conditions upon which the petition for a variation is based are unique to the property for which the variation is sought and are not applicable generally, to other property within the same zoning classification;
- (4) The represented difficulty or hardship of the petition is caused by the Code and has not been created by any person presently having an interest in the property;
- (5) The physical surroundings, shape or topographical conditions of the specific property involved, would cause hardship to the owner as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out;
- (6) The proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire or otherwise endanger the public safety;
- (7) The proposed variation will not increase traffic congestion hazards in the public streets and highways.
- (8) If the variation is for a nonconforming mobile home, that the conditions of **Section 40-8-4** of this Code are met.

The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the above standards.

(D) **Authorized Variations.** Variations from the regulations established in this Code shall be recommended to the Village Board by the Zoning Board of Appeals only in accordance with standards established above and only in the following instances:

- (1) To permit a height greater than allowed.
- (2) To permit a yard less than the yard required by the applicable regulation;
- (3) To allow any permitted non-residential use in an agricultural or residential district to exceed the floor area ratio imposed by the applicable regulations;
- (4) To permit the use of a lot located in a residence district having insufficient area and width for a single-family dwelling, provided such lot is of record on the effective date of this Code;
- (5) To permit the use of any lot not covered above, for a use otherwise prohibited solely because of insufficient area of lot;
- (6) To permit the same off-street parking spaces to qualify as required spaces for **two (2)** or more uses, provided that the maximum use of such facility by each user does not take place during the same hours of the same days of the week;
- (7) To reduce the applicable off-street parking or loading requirements;
- (8) To increase by not more than **twenty percent (20%)** the gross area of any sign.
- (9) To permit the repair, replacement, enlargement or relocation of a nonconforming mobile home. **(Ord. No. 2000-10; 06-08-00)**

40-8-5 SPECIAL USES. The development and execution of the Zoning Code is based upon the division of the Village into districts, within any one of which the use of land and buildings and the bulk and location of buildings or structures, as related to the land, are essentially uniform. It is recognized, however, that there are special uses which, because of their unique character, cannot be properly classified in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring lands and upon public need for the particular use of the particular location. Such special uses fall into **two (2) categories**: (1) Uses operated by a public agency or publicly-regulated utilities, or uses traditionally affected with a public interest. (2) Uses entirely private in character, but of such nature that the operation may give rise to unique problems with respect to their impact upon neighboring property or public facilities.

(A) **Authorization.** Special uses shall be authorized by the Village Board provided that no application for a special use shall be acted upon by the Village Board until after a public hearing has been held by the Board of Appeals, after due notice by publication as provided by State Statutes for amendments, and its report of findings and recommendations have been transmitted to the Village Board.

(B) **Initiation.** An application for a special use may be made by any person, firm or corporation or by any office, department, board, bureau, or commission, requesting or intending to request a Certificate of Zoning Compliance.

(C) **Processing.** A special use shall not be recommended to be granted by the Zoning Board of Appeals unless and until:

- (1) A written application for a special use is submitted indicating the section of this Code under which the special use is sought and stating the grounds on which it is requested;
- (2) Notice shall be given at least **fifteen (15) days** in advance of public hearing. The owner of the property for which special use is sought or his agent shall be notified by mail. Notice of such hearings shall be posted on the property for which special use is sought, at the Village Hall, in one other public place at least **fifteen (15) days** prior to the public hearing;
- (3) The public hearing shall be held. Any party may appear in person, or by agent or attorney;
- (4) The Zoning Board of Appeals shall make a finding that the granting of the special use will not adversely affect the public interest.

(D) **Standards.** Before any special use shall be recommended to the Village Board, the Board of Appeals shall make written findings certifying compliance with the specific rules governing individual special uses and that satisfactory provision and arrangement has been made concerning the following, where applicable:

- (1) Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (2) Off-street parking and loading areas where required, with particular attention to the items in (1) above, the economic, noise, glare, or odor effects of the special exception on adjoining properties and properties generally in the district;
- (3) Refuse and service areas, with particular reference to the items in (1) and (2) above;

- (4) Utilities, with reference to locations, availability and compatibility;
- (5) Screening and buffering with reference to type, dimensions, and character;
- (6) Signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect and compatibility and harmony with properties in the district;
- (7) Required yards and other open space;
- (8) General compatibility with adjacent properties and other property in the district.

(E) **Decisions.** The Village Board, after receiving the report of the Zoning Board of Appeals and without further public hearing, may grant or deny by majority vote any proposed special use or may refer it back to the Zoning Board for further consideration.

40-8-6 AMENDMENTS. The regulations imposed and the districts created under the authority of this Code may be amended from time to time by Ordinance. An amendment shall be granted or denied by the Village Board only after a public hearing before the Zoning Board of Appeals and a report of its findings and recommendations has been submitted to the Village Board.

(A) **Initiation.** Amendments may be proposed by the Village Board, by the Zoning Board of Appeals, or by a resident of or owner of property in the Village.

(B) **Processing.** An application for an amendment shall be filed with the Administrative Official and thereafter introduced to the Village Board. Such application shall be forwarded from the Village Board by the Administrative Official to the Board of Appeals with a request to hold a public hearing.

Notice shall be given of the time and place of the hearing not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing, by publishing a notice thereof at least once in **one (1)** or more newspapers in general circulation within Loami and a written notice is served at least **fifteen (15) days** before the hearing on the owners of the properties located adjacent to the location to which the amendment is requested.

(C) **Review of the Zoning Board of Appeals.** Prior to the Village Board action on each and every proposed amendment to the regulations and the districts created by this Code, the Board of Appeals shall study the proposed amendment and transmit to the Village Board a written report setting forth pertinent facts and summary statements of the anticipated effect the proposed amendment may have on the particular locality and the region. The report will be of an advisory nature and may suggest any one of the following conclusions:

- (1) that the proposed amendment is advantageous to the immediate vicinity, the community or the region; or
- (2) that the proposed amendment with modification would be advantageous to the immediate vicinity, the community or the region; or
- (3) that the proposed amendment would be disadvantageous to the immediate vicinity, the community or the region.

(D) **Decisions.** The Village Board, after receiving the report of the Board of Appeals and without further public hearing, may grant or deny by majority vote any proposed amendment or may refer it back to the Zoning Board of Appeals for further consideration. In case of a written protest against any proposed amendment of the regulations or districts, signed and acknowledged by the owners of **twenty percent (20%)** of the frontage proposed to be altered, or by the owners of **twenty percent (20%)** of the frontage immediately

adjoining or across an alley therefrom, or by the owners of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered, is filed with the Village Clerk, the amendment shall not be passed except by a favorable vote of **two-thirds (2/3)** of the Board members of the Village then holding office.

After any application for an amendment has been action upon by the Village Board, another application requesting the same relief shall not be accepted or considered by the Village Board for a period of **nine (9) months** after such action, unless the application shows that there has been a substantial change in circumstances since such action.

ARTICLE IX - GENERAL PROVISIONS

40-9-1 APPEALS FROM THE BOARD OF APPEALS. Any person or persons, or any board, taxpayer, department, board, or bureau of the Village aggrieved by any decision of the Board of Appeals may seek review by a court of record of such decision, in the manner provided by the laws of the State of Illinois.

40-9-2 DUTIES OF ADMINISTRATIVE OFFICIAL, BOARD OF APPEALS, VILLAGE BOARD, AND COURTS ON MATTERS OF APPEAL. It is the intent of this Code that all questions of interpretation and enforcement shall be first presented to the Administrative Official and that such questions shall be presented to the Board of Appeals only on appeal from the decision of the Administrative Official, and that recourse from the decisions of the Board shall be to the courts as provided by the laws of the State of Illinois.

It is further the intent of this Code that the duties of the Village Board in connection with this Code shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this Section and this Code. Under this Code, the Village Board shall have only the duties (1) of considering and adopting or rejecting proposed amendments, and (2) of establishing a schedule of fees and charges as stated herein.

40-9-3 SCHEDULE OF FEES, CHARGES, AND EXPENSES. Any application for a variation, amendment or special use for all uses of land or buildings except agricultural use of land or buildings shall be accompanied by a fee of **Fifty Dollars (\$50.00)** for **one (1) acre** or less and an additional **Two Dollars (\$2.00)** for each acre or portion thereof over **one (1) acre**. Each applicant will be responsible for the payment of the legal publication. This filing fee is non-refundable after publication. If petitioner shall not appear at the scheduled hearing before the Zoning Board of Appeals, the petition shall be dismissed and the matter shall not be heard except upon the filing of a new petition and payment of a new filing fee.

An application for a Certificate of Zoning Compliance shall be accompanied by a fee of **Twenty-Five Dollars (\$25.00)** except that no fee shall be collected for agricultural uses of land as defined in this Code.

All fees shall be paid to the Village Treasurer. There shall be no such fee, however, in the case of application filed in the public interest by members of the Village Board or other appropriate officials.

40-9-4 PROVISIONS OF CODE DECLARED TO BE MINIMUM REQUIREMENTS. In their interpretation and application, the provisions of this Code shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals, or general welfare. Wherever the requirements of this Code are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards, shall govern.

40-9-5 **COMPLAINTS REGARDING VIOLATIONS.** Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Administrative Official. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this Code.

40-9-6 **PENALTIES FOR VIOLATION.** Violation of the provisions of this Code or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this Code or fails to comply with any of its requirements shall upon conviction thereof be fined not more than **One Hundred Dollars (\$100.00)** or imprisoned for not more than **thirty (30) days**, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the Village from taking such other lawful action as is necessary to prevent or remedy any violation.

APPENDIX "A"

SCHEDULE OF DISTRICT REGULATIONS

A-1 AGRICULTURAL DISTRICT

Permitted Uses			Special Uses						
Agricultural Uses Antenna Utility Towers Auction & Wholesale Establishments Restrict to Sale of Agricultural Products Only Churches Dog Kennels Electric Distribution Centers Electric & Telephone Substations Elementary Schools Food Sales Fertilizer Sales and Service Golf Courses Grain Elevators & Storage Greenhouses High Schools			Junior High Schools Nurseries Nursery Schools Public Parks & Recreational Areas Religious Institutions Riding Stables Single Family Residences as an accessory use only Telephone, Radio, * Television Transmitter or Relay Stations Truck Gardening Veterinary Hospitals Waterworks Accessory Uses Incidental to the above uses			Airports Camping & Tenting Parks Cemeteries Colleges, Junior Colleges & Universities Crematories Disposal Area & Sanitary Landfills Fairgrounds Heliports Hospitals Mining Sewage Treatment Plants Slaughterhouses			
Yard Regulations (Minimum)			Maximum Height Permitted	Floor Area Ratio Not to Exceed	Minimum Lot Area - D.U. = Dwelling Unit	Lot Width Not Less Than			
Front	Side	Rear							
30'	10'	40'	None	0.2	10 Acres	150'			
Sign Regulations			Transitional Yard						
Same as I-1			Same as I-1						

R-1 SINGLE FAMILY RESIDENCE DISTRICT

Schedule of District Regulations

Permitted Uses			Special Uses			
Single Family Residences			Cemeteries	Radio Transmitting		
Home Occupations			Colleges, Junior	or Relay Stations		
The following institutional uses, provided that			Colleges/Universities	and Antenna		
Towers			Dog Kennels	Railroad Stations		
principal buildings shall be located not less than			Electrical Substations	Rest Homes		
20 feet from adjoining lot lines in a residential			Hospitals	Sanitariums		
district			Nursing Homes	Sewage Treatment		
Churches			Outdoor Coin	Plants		
Unlighted Golf Courses			Telephone Booths	Telephone		
Public Open Space, including customary public parks			Police and Fire	Telephone		
Exchanges			Stations	Television Trans-		
Schools, public or private, to be used for nursery,			Private Outdoor	mitting or Relay		
Substations			Recreation Centers	Stations and		
elementary, junior and senior high, with adjacent			Public Libraries	Towers		
space for playgrounds, athletic fields, dormitories			Public Outdoor	Waterworks		
and other accessory uses required for operation			Recreation Centers	(Ord. No. 93-12)		
Antenna						
Seminaries, Convents, Monasteries and similar						
religious institutions, including dormitories and other						
accessory uses required for operation						
Accessory uses, customarily incidental to the above uses						
Yard Regulations (Minimum)			Maximum Height Permitted	Floor Area Ratio Not to Exceed	Minimum Lot Area - D.U. = Dwelling Unit	Lot Width Not Less Than
Front	Side	Rear				
25'	10'	15'	35'	0.50	12,000 Sq. Ft. with public water or sewer. 43,560 Sq. Ft. without Public sewer or water	60'
Sign Regulations					Transitional Yard	
Nameplate and identification signs are permitted subject to the following: (1) the area shall not exceed one square foot and shall indicate only the name or address of the occupant and/or a permitted home occupation, (2) illuminated signs are not permitted except illuminated non-flashing church bulletins are permitted and shall not exceed 18 square feet, (3) one temporary "For Sale" or "For Rent" sign, with an area not exceeding 9 square feet is permitted per building, and (4) for community facility uses, a bulletin board with an area not exceeding 18 square feet is permitted					None	

R-2 SINGLE AND TWO-FAMILY RESIDENCE DISTRICT

Schedule of District Regulations

Permitted Uses			Special Uses			
Uses Permitted in the R-1 District Two-Family Dwelling Units Art Galleries Museums Public Libraries			Same as R-1 Special Uses			
Yard Regulations (Minimum)			Maximum Height Permitted	Floor Area Ratio Not to Exceed	Minimum Lot Area - D.U. = Dwelling Unit	Lot Width Not Less Than
Front	Side	Rear				
20'	8'	15'	35'	0.50 for Single Family use 0.50 for Two Family Use	10,000 Sq. Ft. per single-family D.U., 12,000 Sq. Ft. per two family D.U., both with public water Or sewer; without Public water or Sewer – 1 acre Per D.U.	60'
Sign Regulations				Transitional Yard		
Same as R-1				None		

R-3 GENERAL RESIDENCE DISTRICT

Schedule of District Regulations

Permitted Uses			Special Uses			
Multiple Family Dwelling Units Uses Permitted in R-2 District			Same as R-2			
Yard Regulations (Minimum)			Maximum Height Permitted	Floor Area Ratio Not to Exceed	Minimum Lot Area - D.U. = Dwelling Unit	Lot Width Not Less Than
Front	Side	Rear				
15'	8'	15'	85'	0.50 for Single Family use 0.5 for Two Family use 0.8 for Multiple Family use	10,000 Sq. Ft. per single-family D.U., 12,000 Sq. Ft. per two family D.U., 5,000 Sq. Ft. per multiple family D.U., all with public water or Sewer; without Public water or Sewer – 1 acre per D.U.	60'
Sign Regulations				Transitional Yard		
Same as R-1 plus: (1) for multiple dwellings, including apartments and hotels, one identification sign with an area not exceeding 24 square feet and indicating only the name and/or address of the building(s) and/or the management thereof is permitted, and (2) one sign with an area not exceeding two square feet and a height no greater than seven feet above the ground, designating each entrance or exit of an off-street parking area is permitted.				None		

R-4 MOBILE HOME DISTRICT

Schedule of District Regulations

Permitted Uses				Special Uses		
Mobile Home Parks subject to the Supplementary District Regulations - Section VI				Special Uses Permitted in the R-1 District Mobile Home Sales		
Yard Regulations (Minimum)			Maximum Height Permitted	Floor Area Ratio Not to Exceed	Minimum Lot Area - D.U. = Dwelling Unit	Lot Width Not Less Than
Front	Side	Rear				
NA	NA	NA	NA	NA	NA	NA
Refer to The Supplementary Regulations in Section VI	Refer to the Supplementary Regulations in Section VI	Refer to the Supplementary Regulations in Section VI	Refer to the Supplementary Regulations in Section VI	Refer to the Supplementary Regulations in Section VI	Refer to the Supplementary Regulations in Section VI	Refer to the Supplementary Regulations in Section VI
Sign Regulations				Transitional Yard		
Same as R-3 plus: (1) mobile home courts shall be restricted To one identification sign with an area not exceeding 24 square feet and indicating the name and/or the address of the court and the management thereof.				None		

B-1 RETAIL AND OFFICE BUSINESS DISTRICT

Schedule of District Regulations

Permitted Uses			Special Uses					
Retail Sales and Shops - Personal Service Establishments Auto Parking Banks and Financial Institutions Barber Shops Beauty Shops Book Stores Candy Shops Clubs - Public and Private Cultural Facilities Delicatessens Drug Stores Dry Cleaning (Automatic, Self Service) Dwelling Units above the First floor Motels Office, Business, Professional And Public Restaurants Accessory Uses to the above Permitted Uses			Dwelling Units for Watchman and family, when located on the premises where employed Fishing and hunting equipment sales Flower Shops Funeral Parlors Furniture Stores Garden Supply and Seed Stores Gift Shops Grocery Stores Hardware Stores Hobby Shops Hotels Ice Cream Shops Jewelry Store Laundries (automatic, self service) Libraries Meat Markets Newspaper Offices Post Offices Reducing Salons Shoe Repair			Animal Hospitals Automobile Sales and Service Automobile Service Stations Bakers Car Washes Churches Drive-in Theaters Electric Distribution Center Electric, Telephone & Gas Substations Fire Stations Hospitals Police Stations Radio Relay Stations Radio Transmitting Stations Rest Homes Taverns Telephone Booths Television Relay or Transmitting Stations Waterworks		
Yard Regulations (Minimum)			Maximum Height Permitted	Floor Area Ratio Not to Exceed	Minimum Lot Area - D.U. = Dwelling Unit	Lot Width Not Less Than		
Front	Side	Rear						
10'	None	20'	40'	0.8	5,000 Sq. Ft. per D.U. with public water or sewer, 43,560 Sq. Ft. without public water or sewer	None		
Sign Regulations				Transitional Yard				
(1) No sign is permitted within 30' of any residential district boundary line, (2) The gross surface area in square feet of all signs on a lot shall not exceed 5 times the lineal feet frontage of said lot, (3) No sign shall project more than 4' from the face of the wall of any building or 2/3 of the distance to the pavement edge whichever is less, (4) No sign attached to a building shall project higher than the building height, (5) No free standing business or advertising sign shall project over any public easement more than 2/3 of the distance to the pavement edge or 6 feet, whichever is the lesser, (6) No free standing business or advertising signs shall project over 10 feet above the highest roof point on the related building, (7) Illuminated signs are permitted but flashing signs are not, and (8) One corner lots, no sign shall be placed within the triangle formed by running back 25 feet from the corner along the frontage of each street.				a) Where a lot line coincides with a side or rear lot line in an adjacent residence district, a yard of not less than 30' in width shall be provided along such lot line. b) Where the extension of a front or side lot line coincides with a front lot line of an adjacent lot located in a residence or agricultural district, a yard equal in depth to the minimum front yard required by this Code on such a residential lot shall be provided along such frontage or side lot lines.				

B-2 GENERAL BUSINESS DISTRICT

Schedule of District Regulations

Permitted Uses				Special Uses		
Uses permitted in the B-1 District Job Printing Shops with presses having not Permitted Advertising Sign Shops more than 14" x 20" beds Auction Houses and Rooms Liquor Stores - Retail Sales Automobile Accessory Stores Lodging Rooms above the first floor Automobile Service Stations Machinery Sales Establishments Bakers (not more than 50% of floor area to be devoted to processing) Mini-warehouses (#2003-01) Monument Sales Boat Sales and Service Establishments Motor Vehicle Equipment Sales Motor Vehicle Sales Paint Stores Bowling Alleys Plumbing Shops Building Material Sales Pool Halls Without Outdoor Storage Radio Broadcasting Studios Car Washes Research Laboratories Clubs – Private and Public Restaurants, including live entertainment and dancing Cocktail Lounges Construction Offices Skating Rinks, indoors Contractor's Offices Taverns, including live entertainment and dancing Dance Halls Telephone Booths, Outdoor Drive-in Restaurants Television Sales, Repair Shops Dwelling Unit for Watchman and Family, when located on the Premises where employed Temporary Buildings for Construction, for a period not to exceed the duration of active construction Theaters Exterminating Shops Theaters, Drive-in Farm Machinery Sales and Service Trailer Sales Feed Stores Undertaking Establishments Frozen Food Lockers Vehicle Sales and Service Fuel Sales – Retail Only Wholesale Establishments, with storage of merchandise limited to samples only Garages (not including body painting) Accessory Uses to above permitted uses such as accessory uses shall not include the keeping or propagation of pigeons, poultry, livestock - whether or not for profit Greenhouses				Special Uses in the B-1		
Yard Regulations (Minimum)			Maximum Height Permitted	Floor Area Ratio Not to Exceed	Minimum Lot Area - D.U. = Dwelling Unit	Lot Width Not Less Than
Front	Side	Rear				
10'	None	20'	65'	1.0	5,000 Sq. Ft. per D.U. with public water or sewer, 43,560 Sq. Ft. without public water or sewer	None
Sign Regulations				Transitional Yard		
Same as B-1				Same as B-1		

I-1 LIGHT INDUSTRIAL DISTRICT

Schedule of District Regulations

Permitted Uses			Special Uses					
<p>Uses permitted in the I-1 District are subject to the following condition: Dwelling units and lodging rooms are not permitted, except for watchman's quarters.</p> <p>Uses permitted in the B-1 and B-2 Districts</p> <p>Arenas, open or enclosed Auditoriums, open or enclosed Building Material Sales with outside Storage Bus Stations, Terminals, and Garages Cartage and Express Facilities Construction Machinery Repair and Storage Dental Service Facilities and Clinics Dwelling Unit for Watchman and family, When located on the premises where Employed Electric, Gas, Telephone and Water Service Substations Feed Sales and Service Fertilizer Sales and Service Fire Stations Fuel Sales Garages for storage, repair and Servicing of motor vehicles Gas Regulator Stations Grain Elevators Greenhouses - wholesale Highway Maintenance Shops and Yards Hotels - Camps for railroad labor - Sleeping, lodging, eating and related Facilities Ice Sales Mail Order Houses Medical Service Facilities & Clinics Microwave Relay Towers Motor Freight Terminals</p>			<p>Office & Lodges of Labor Organizations Packing and Crating Police Stations Printing Publishing Establishments Radar Installations and Towers Radio Studios, Stations and Towers for transmitting and receiving Railroad Passenger Stations Recreational Center Buildings (Public and Private) Restaurants - Including the sale of liquor in conjunction therewith Stadiums, open or enclosed Telephone Exchanges Telephone Transmission Equipment Buildings Television Studios, Stations and Towers for transmitting and receiving Temporary Real Estate Tract Offices, for the purposes of conducting the sale of lots of the tract upon which such tract office is located, for a period not to exceed two years Trade Schools Warehouses Waterworks Weighing Stations Accessory uses incidental to and on the same lot and zoning district as the principal use</p>				<p>Airports, private and Commercial Automobile Body and Paint Shops Trucking and Freight Offices and Yards</p>	
Yard Regulations (Minimum)			Maximum Height Permitted	Floor Area Ratio Not to Exceed	Minimum Lot Area - D.U. = Dwelling Unit	Lot Width Not Less Than		
Front	Side	Rear						
40'	None, except that on a corner lot, a side yard adjoining a street shall not be less than 35' in depth	20'	100'	1.0	NA D.U. not permitted except for watchman's quarters	None		
Sign Regulations				Transitional Yard				
<p>Signs on buildings and free-standing shall be permitted subject to the following conditions: (a) The gross area in square feet of all signs on a lot shall not exceed 15 times the lineal frontage of such lot. (b) No sign shall project more than 8 feet from the face of the wall of any building or structure. (c) No free-standing business or advertising sign shall exceed 50 feet. (d) Illuminated signs are permitted provided they are non-flashing. such lot line. (e) No sign shall be erected closer than 200 feet to any residential district boundary</p>				<p>a) Where a lot line coincides with a side or rear lot line in an adjacent residence district, a yard of not less than 75' in width shall be provided along such lot line. b) Where a lot line coincides with a lot line in an adjacent business district, a yard of not less than 50' in width shall be provided along (c) Where the extension of a front or side lot line coincides with a front lot line of an adjacent lot located in a residence or agricultural district, a yard equal in depth to the minimum front yard required by this Code on such adjacent residential lot shall be provided along such front or side lot lines.</p>				

I-2 HEAVY INDUSTRIAL DISTRICT

Schedule of District Regulations

Permitted Uses			Special Uses			
Uses permitted in the I-2 District are subject to the following conditions: Permitted Dwelling units and lodging rooms are not permitted, except for watchman's Quarters. Any use permitted in the I-1 District Air Freight Terminals Concrete Batch Plants Fertilizer Manufacturing Railroad Classification Yards Railroad Freight Terminals Railroad Switching Yards Repair Shops Roundhouses Warehouses			Special Uses in the I-1 District Automobile Wrecking Yards Junk Yards			
Yard Regulations (Minimum)			Maximum Height Permitted	Floor Area Ratio Not to Exceed	Minimum Lot Area - D.U. = Dwelling Unit	Lot Width Not Less Than
Front	Side	Rear				
40'	None, except that on a corner lot, a side yard adjoining a street shall not be less than 35' in depth	20'	150'	1.0	NA D.U. not permitted except for watchman's quarters	None
Sign Regulations				Transitional Yard		
Same as I-1				Same as I-1		

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