

Revised Code
-of-
Ordinances
of
New Athens,
Illinois

[2019]

PREPARED BY:
Illinois Codification Services

"Serving Illinois Since 1970"

Post Office Box 69

Freeburg, Illinois 62243-0069

Phone: (618) 539-5771

FAX: (618) 539-9890

VILLAGE OF NEW ATHENS, ILLINOIS

ORDINANCE NO. 2018-05

**AN ORDINANCE ADOPTING
A REVISED CODE OF ORDINANCES
FOR THE
VILLAGE OF NEW ATHENS, ILLINOIS**

**ADOPTED BY THE
VILLAGE BOARD OF TRUSTEES
OF THE
VILLAGE OF NEW ATHENS, ILLINOIS**

THIS 4TH DAY OF MARCH, 2019

Published in book form by authority of the Mayor and the Village Board of Trustees of the Village of New Athens, St. Clair County, Illinois this 4th day of March, 2019.

ORDINANCE NO. 2018-05

AN ORDINANCE ADOPTING A REVISED CODE OF ORDINANCES OF THE VILLAGE OF NEW ATHENS, ILLINOIS.

BE IT ORDAINED BY THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF NEW ATHENS, ILLINOIS, THAT:

SECTION 1: The following exhibit shall be "The Revised Code of Ordinances" of the Village of New Athens, St. Clair County, Illinois" and shall be as follows:

SEE EXHIBIT "A" FOLLOWING

SECTION 2: Severability of Provisions. Each section, paragraph, sentence, clause and provision of this Ordinance is severable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of the Ordinance, nor any part thereof, other than that part affected by such decision.

SECTION 3: Effective. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

SECTION 4: Passed this 4th day of March, 2019 by the Mayor and Village Board of Trustees of the Village of New Athens, St. Clair County, Illinois, and deposited and filed in the office of the Village Clerk in said Village on that date.

MICHELLE NEFF, VILLAGE CLERK
NEW ATHENS, ILLINOIS

NAME	AYE	NAY	ABSTAIN	ABSENT	CONFLICT OF INTEREST
Don Hall	X				
Ron Hampton	X				
Larry Weber	X				
Stan Ruhmann	X				
Arlene Geppert	X				
David Boden	X				

Approved by the Mayor of the Village of New Athens, St. Clair County, Illinois, this 4th day of March, 2019.

RICH KLEIN, MAYOR
NEW ATHENS, ILLINOIS

ATTEST:

MICHELLE NEFF, VILLAGE CLERK
NEW ATHENS, ILLINOIS

(SEAL)

Commented [JJK1]:

VILLAGE CLERK'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF ST. CLAIR)
VILLAGE OF NEW ATHENS)

ss. VILLAGE CLERK'S OFFICE

I, Michelle Neff, Village Clerk of the Village of New Athens, do hereby certify that the following Revised Code of Ordinances of the Village of New Athens, St. Clair County, Illinois, published by authority of the Village Board of Trustees was duly passed by the Village Board of Trustees of the Village of New Athens, 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 and affixed the Corporate Seal of the Village of New Athens, Illinois, this 4th day of March, 2019.

MICHELLE NEFF, VILLAGE CLERK
NEW ATHENS, ILLINOIS

(SEAL)

CHAPTER TITLES

1.	Administration	1-1
3.	Animals	3-1
5.	Buildings	5-1
7.	Business Code	7-1
8.	Cable Television	8-1
9.	Cemetery	9-1
11.	Employee Code	11-1
14.	Flood Plain Code	14-1
15.	Franchises	15-1
17.	Health Code	17-1
21.	Liquor	21-1
22.	Mandated Policies	22-1
23.	Manufactured Housing Code	23-1
24.	Motor Vehicle Code	24-1
25.	Nuisances	25-1
27.	Offenses	27-1
30.	Public Safety	30-1
32.	Stormwater Control Code	32-1
33.	Street Regulations	33-1
34.	Subdivision Code	34-1
36.	Taxation	36-1
38.	Utilities	38-1
40.	Zoning Code	40-1

NEW ATHENS, ILLINOIS

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

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
1	ADMINISTRATION (CONTINUED)	
	<i>Article II - Village Officials (Continued)</i>	
	<i>Division III - Ordinances</i>	
	Section 1-2-15 - Ordinances	1-12
	Section 1-2-16 - Reconsideration--Passing Over Veto	1-13
	Section 1-2-17 - No Vote to be Reconsidered at Special Meeting	1-13
	<i>Division IV - General Provisions</i>	
	Section 1-2-18 - Corporate Seal	1-13
	Section 1-2-19 - Elections	1-13
	Section 1-2-20 - Appointment of Elected Officials	1-13
	Section 1-2-21 - Municipal Officers - Regulations	1-14
	Section 1-2-22 - Resignation of Appointed Officials	1-15
	Section 1-2-23 - Qualifications; Elective Office	1-15
	Section 1-2-24 - Bonds of Village Officers	1-15
	Section 1-2-25 - Liability Insurance	1-16
	Section 1-2-25 - Interests in Contracts Prohibited	1-16
	Section 1-2-27 - Bidding and Contract Procedures	1-19
	Section 1-2-28 - Certificates of Insurance	1-20
	Section 1-2-29 - Salaries Regulation	1-20
	Section 1-2-30 - Claims	1-21
	Section 1-2-31 - Municipal Year	1-21
	Section 1-2-32 - Expense Reimbursement Policy	1-21
	Section 1-2-33 - Officials Records	1-22
	Section 1-2-34 - Federal Old Age and Survivor's Insurance System	1-22
	Section 1-2-35 - Illinois Municipal Retirement Fund	1-22
	Section 1-2-36 - Control of Property Owned by Village Outside of Village Limits	1-22
	Section 1-2-37 - Territorial Jurisdiction Established	1-22
	Section 1-2-38 - 1-2-39 Reserved	
	<i>Division V - Vacancies</i>	
	Section 1-2-40 - Vacancy by Resignation	1-22
	Section 1-2-41 - Vacancy by Death or Disability	1-23
	Section 1-2-42 - Vacancy by Other Causes	1-23
	Section 1-2-43 - Election of an Acting Mayor	1-23
	Section 1-2-44 - Appointment to Fill Trustee Vacancy	1-24
	Section 1-2-45 - Election to Fill Vacancies in Municipal Offices With Four (4) Year Terms	1-24
	Section 1-2-46 - Vacancies Due to Election Being Declared Void	1-25
	Section 1-2-47 - Owing a Debt to the Municipality	1-25
	Section 1-2-48 - 1-2-49 Reserved	
	<i>Article III - Village Officials</i>	
	<i>Division I - Mayor</i>	
	Section 1-3-1 - Election	1-26
	Section 1-3-2 - Mayor Pro-Tem; Temporary Chairman	1-26
	Section 1-3-3 - Chief Executive Officer	1-26
	Section 1-3-4 - Mayor's Signature	1-26
	Section 1-3-5 - Appointment of Officers	1-26
	Section 1-3-6 - Supervise Conduct of Officers; Removal of Officers	1-27

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
1	ADMINISTRATION (CONTINUED)	
	Article III - Village Officials (Continued)	
	Division I – Mayor (Continued)	
	Section 1-3-7 - Designation of Officers’ Duties	1-27
	Section 1-3-8 - Formal Occasions	1-27
	Section 1-3-9 - General Duties	1-27
	Section 1-3-10 - Business License Commissioner	1-27
	Section 1-3-11 - Local Liquor Commissioner	1-27
	Section 1-3-12 - Health Commissioner	1-27
	Section 1-3-13 - Deciding Vote - Mayor	1-28
	Section 1-3-14 - 1-3-16 Reserved	
	Division II - Village Clerk	
	Section 1-3-17 - Appointed	1-28
	Section 1-3-18 - Vacancy	1-28
	Section 1-3-19 - Village Clerk; Non-Attendance at Meetings	1-28
	Section 1-3-20 - Publication of Ordinances; Board Minutes; Records	1-28
	Section 1-3-21 - Delivery of Papers to Officers	1-29
	Section 1-3-22 - Preparation of Documents, Commissions and Licenses	1-29
	Section 1-3-23 - Report of Licenses	1-29
	Section 1-3-24 - Delivery of Licenses	1-29
	Section 1-3-25 - Administration of Oaths	1-29
	Section 1-3-26 - Outstanding Bonds	1-29
	Section 1-3-27 - Successor	1-29
	Section 1-3-28 - Financial Reports	1-30
	Section 1-3-29 - Notification to Persons Appointed to Office	1-30
	Section 1-3-30 - Other Duties	1-30
	Section 1-3-31 - Deputy Clerk	1-30
	Section 1-3-32 - 1-3-33 Reserved	
	Division III - Village Treasurer	
	Section 1-3-34 - Village Treasurer Established	1-30
	Section 1-3-35 - Treasurer Appointed; Vacancy	1-30
	Section 1-3-36 - Money; Warrants; Accounts; Payments	1-30
	Section 1-3-37 - Warrant Register	1-31
	Section 1-3-38 - Personal Use of Funds	1-31
	Section 1-3-39 - Bond	1-31
	Section 1-3-40 - Special Assessments	1-31
	Section 1-3-41 - Bookkeeping	1-31
	Section 1-3-42 - Statements	1-31
	Section 1-3-43 - Report Delinquent Officers	1-31
	Section 1-3-44 - Year-End Report	1-31
	Section 1-3-45 - Submit Appropriation to Village Board	1-32
	Section 1-3-46 - Deposit of Funds	1-32
	Section 1-3-47 - Authorized Investments	1-33
	Section 1-3-48 - 1-3-49 Reserved	
	Division IV - Village Collector	
	Section 1-3-50 - Established	1-33
	Section 1-3-51 - Appointment	1-33
	Section 1-3-52 - Term	1-33

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
1	ADMINISTRATION (CONTINUED)	
	<i>Article III - Village Officials (Continued)</i>	
	<i>Division IV – Village Collector (Continued)</i>	
	Section 1-3-53 - Bond	1-34
	Section 1-3-54 - Benefits and Compensation	1-34
	Section 1-3-55 - Duties	1-34
	Section 1-3-56 - Residency	1-34
	Section 1-3-57 - Reserved	
	<i>Division V - Superintendent of Public Works</i>	
	Section 1-3-58 - Established	1-34
	Section 1-3-59 - Appointment	1-34
	Section 1-3-60 - Term	1-35
	Section 1-3-61 - Benefits and Compensation	1-35
	Section 1-3-62 - Duties	1-35
	Section 1-3-63 - Residency	1-35
	Section 1-3-64 - Reserved	
	<i>Division VI - Building Administrator</i>	
	Section 1-3-65 - Established	1-35
	Section 1-3-66 - Appointment	1-35
	Section 1-3-67 - Term	1-35
	Section 1-3-68 - Compensation	1-35
	Section 1-3-69 - Residency	1-35
	Section 1-3-70 - Reserved	
	<i>Division VII – Emergency Management Agency Coordinator</i>	
	Section 1-3-71 - Established	1-36
	Section 1-3-72 - Appointment	1-36
	Section 1-2-73 - Term	1-36
	Section 1-2-74 - Compensation	1-36
	Section 1-2-75 - Residency	1-36
	Section 1-2-76 - Reserved	
	<i>Division VIII - Village Engineer</i>	
	Section 1-3-77 - Appointment	1-36
	Section 1-3-78 - Duties - Salary	1-36
	Section 1-3-79 - Reserved	
	<i>Division IX - Village Attorney</i>	
	Section 1-3-80 - Appointment of Attorney	1-36
	Section 1-3-81 - Compensation	1-37
	Section 1-3-82 - Duties	1-37
	Section 1-3-83 - Residency	1-37
	<i>Article IV - Salaries</i>	
	Section 1-4-1 - Salary Regulations; Elected Officials	1-38
	Section 1-4-2 - Established	1-38
	Section 1-4-3 - Salary Regulations; Appointed Officials	1-38

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
1	ADMINISTRATION (CONTINUED)	
	Article V - Management Association	
	Section 1-5-1 - Participation	1-39
	Section 1-5-2 - Contribution	1-39
	Article VI – Meeting Procedures	
	Division I - Recording Closed Meetings	
	Section 1-6-1 - Recording Closed Sessions	1-40
	Section 1-6-2 - Responsibility for Recording Closed Sessions and Maintaining Recordings	1-40
	Section 1-6-3 - Closed Session Minutes	1-40
	Section 1-6-4 - Procedure for Recording	1-40
	Section 1-6-5 - Back-Up Equipment/Procedure for Equipment Malfunction	1-40
	Section 1-6-6 - Procedure for Review of Closed Session Minutes and Recordings	1-40
	Section 1-6-7 - Maintenance and Public Release of Recordings and Access to Tapes	1-41
	Section 1-6-8 - Procedure for Destruction of Recordings	1-41
	Section 1-6-9 - Reserved	
	Division II - Remote Meeting Participation	
	Section 1-6-10 - Statutory Authority for Participation	1-41
	Section 1-6-11 - Definition of Meeting	1-41
	Section 1-6-12 - Amendment to Previous Terms	1-41
	Section 1-6-13 - Remote Participation Policy	1-41
3	ANIMALS	
	Article I - General Regulations	
	Section 3-1-1 - Definitions	3-1
	Section 3-1-2 - Injury to Property	3-2
	Section 3-1-3 - Manner of Keeping	3-3
	Section 3-1-4 - Dogs and Cats in Public Places	3-3
	Section 3-1-5 - Keeping Barking Dogs and Crying Cats	3-3
	Section 3-1-6 - Cruelty to Animals Prohibited	3-3
	Section 3-1-7 - Exhibiting Wild or Vicious Animals	3-3
	Section 3-1-8 - Animals in Village	3-4
	Section 3-1-9 - Limitation on Number of Dogs and Cats Kept	3-5
	Section 3-1-10 - Animal Feed Prohibited	3-6
	Article II – Dogs	
	Section 3-2-1 - Definitions	3-7
	Section 3-2-2 - Dogs to be Inoculated and to Have Name Tags Affixed to Collars	3-7
	Section 3-2-3 - Inoculation to be Performed by Licensed Veterinarian; Issuance of Certificate	3-7
	Section 3-2-4 - Duration of Inoculation	3-7
	Section 3-2-5 - Exhibition of Certificate Upon Request	3-7

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
3	ANIMALS (CONTINUED)	
	Article II – Dogs (Continued)	
	Section 3-2-6 - Restraint of Dogs	3-7
	Section 3-2-7 - Impoundment of Dogs Running At Large or Unlicensed Dogs; Citation of Owner or Keeper	3-7
	Section 3-2-8 - Impoundment Notice and Citation to Owner or Keeper of Impoundment	3-8
	Section 3-2-9 - Obstructing Poundmaster	3-8
	Section 3-2-10 - Impoundment of Dogs Which Have Bitten Persons	3-8
	Section 3-2-11 - Method of Impoundment	3-8
	Section 3-2-12 - Redemption of Impounded Animals	3-8
	Section 3-2-13 - Village Pound Designated	3-8
	Section 3-2-14 - Disposition of Dogs Deemed Nuisances	3-9
	Section 3-2-15 - Female Dog With Other Dogs	3-9
	Section 3-2-16 - Confinement in Motor Vehicles	3-9
	Section 3-2-17 - Vicious Animals Prohibited	3-9
	Article III – Dangerous Dog Code	
	Section 3-3-1 - Legislative Intent	3-10
	Section 3-3-2 - Definitions	3-10
	Section 3-3-3 - Keeping of Vicious Dogs Prohibited	3-10
	Section 3-3-4 - Keeping of Dangerous Dogs Prohibited	3-10
	Section 3-3-5 - Licensing of Dangerous Dogs	3-11
	Section 3-3-6 - Confinement of Dangerous Dog	3-11
	Section 3-3-7 - Reporting Requirements of Licensee	3-11
	Section 3-3-8 - Sign Required	3-12
	Section 3-3-9 - Fighting Prohibited	3-12
	Section 3-3-10 - Impoundment of Dangerous Dog	3-12
	Section 3-3-11 - Impoundment of Dangerous Dog Running at Large	3-12
	Section 3-3-12 - Redemption of Impounded Dangerous Dog	3-12
	Section 3-3-13 - Revocation of License	3-13
	Section 3-3-14 - Exceptions	3-13
	Section 3-3-15 - Failure to Comply	3-13
	Section 3-3-16 - Penalties	3-13
5	BUILDINGS	
	Article I - General Provisions	
	Section 5-1-1 - Adoption of Building Code	5-1
	Section 5-1-2 - Title	5-1
	Section 5-1-3 - Scope	5-1
	Section 5-1-4 - Application of References	5-1
	Section 5-1-5 - Intent	5-1
	Section 5-1-6 - General	5-1
	Section 5-1-7 - Existing Structures	5-2
	Section 5-1-8 - Matters Not Provided For	5-2
	Section 5-1-9 - Referenced Standards	5-2
	Section 5-1-10 - Partial Invalidity	5-2
	Section 5-1-11 - Segregation of Invalid Provisions	5-2
	Section 5-1-12 - Decisions Involving Existing Structures	5-2
	Section 5-1-13 - Workmanship	5-2

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
5	BUILDINGS (CONTINUED)	
	<i>Article II - Department of Building Inspections</i>	
	Section 5-2-1 - Building Administrator	5-3
	Section 5-2-2 - Appointment	5-3
	Section 5-2-3 - Organization	5-3
	Section 5-2-4 - Deputy	5-3
	Section 5-2-5 - Restriction of Employees	5-3
	Section 5-2-6 - Relief from Personal Responsibility	5-3
	Section 5-2-7 - Official Records	5-4
	Section 5-2-8 - Duties and Powers of the Building Administrator	5-4
	Section 5-2-9 - Applications and Permits	5-4
	Section 5-2-10 - Notices and Orders	5-4
	Section 5-2-11 - Inspections	5-4
	Section 5-2-12 - Identification	5-4
	Section 5-2-13 - Rule-Making Authority	5-4
	Section 5-2-14 - Department Records	5-5
	Section 5-2-15 - Annual Report	5-5
	Section 5-2-16 - Approval Materials and Equipment	5-5
	Section 5-2-17 - Modifications	5-5
	Section 5-2-18 - Used Materials and Equipment	5-5
	Section 5-2-19 - Alternative Materials and Equipment	5-5
	 <i>Article III - Applications for Permits</i>	
	Section 5-3-1 - Permit Application	5-6
	Section 5-3-2 - Form of Application	5-6
	Section 5-3-3 - By Whom Application is Made	5-6
	Section 5-3-4 - Description of Work	5-6
	Section 5-3-5 - Construction Documents	5-7
	Section 5-3-6 - Site Plan	5-7
	Section 5-3-7 - Private Sewage Disposal System	5-7
	Section 5-3-8 - Engineering Details	5-7
	Section 5-3-9 - Professional Architectural and Engineering Services	5-7
	Section 5-3-10 - Amendments to Application	5-8
	Section 5-3-11 - Time Limitations of Application	5-8
	Section 5-3-12 - Action on Application	5-8
	 <i>Article IV - Permits</i>	
	Section 5-4-1 - General Requirements	5-9
	Section 5-4-2 - Display	5-9
	Section 5-4-3 - Validity	5-9
	Section 5-4-4 - Signature to Permit	5-9
	Section 5-4-5 - Approved Construction Documents	5-10
	Section 5-4-6 - Revocation of Permit	5-10
	Section 5-4-7 - Approval of Part	5-10
	Section 5-4-8 - Payment of Fees	5-10
	Section 5-4-9 - Compliance with Code	5-10
	Section 5-4-10 - Compliance with Permit	5-10
	Section 5-4-11 - Compliance with Site Plan	5-10
	Section 5-4-12 - Types of Building Permit	5-10

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
5	BUILDINGS (CONTINUED)	
	<i>Article V - Demolition of Structures</i>	
	<i>Section 5-5-1 - General</i>	5-13
	<i>Section 5-5-2 - Disposal of Demolition Materials</i>	5-13
	<i>Section 5-5-3 - Service Connections</i>	5-13
	<i>Section 5-5-4 - Notice to Adjoining Owners</i>	5-13
	<i>Section 5-5-5 - Lot Regulations</i>	5-13
	 <i>Article VI - Temporary Structures</i>	
	<i>Section 5-6-1 - General</i>	5-14
	<i>Section 5-6-2 - Special Approval</i>	5-14
	<i>Section 5-6-3 - Termination of Approval</i>	5-14
	<i>Section 5-6-4 - Payment of Fees</i>	5-14
	<i>Section 5-6-5 - Compliance with Code</i>	5-14
	<i>Section 5-6-6 - Compliance with Permit</i>	5-14
	<i>Section 5-6-7 - Compliance with Site Plan</i>	5-14
	<i>Section 5-6-8 - Sheds/Outbuildings</i>	5-14
	 <i>Article VII - Fees</i>	
	<i>Section 5-7-1 - General</i>	5-15
	<i>Section 5-7-2 - Special Fees</i>	5-15
	<i>Section 5-7-3 - New Construction and Alterations</i>	5-15
	<i>Section 5-7-4 - Fee Schedule</i>	5-15
	 <i>Article VIII - Inspections</i>	
	<i>Section 5-8-1 - Preliminary Inspection</i>	5-18
	<i>Section 5-8-2 - Required Inspections</i>	5-18
	<i>Section 5-8-3 - Approved Inspection Agencies</i>	5-18
	<i>Section 5-8-4 - Plant Inspection</i>	5-18
	<i>Section 5-8-5 - Final Inspection</i>	5-18
	<i>Section 5-8-6 - Right to Entry</i>	5-18
	<i>Section 5-8-7 - Coordination of Inspections</i>	5-18
	 <i>Article IX - Certificate of Occupancy</i>	
	<i>Section 5-9-1 - General</i>	5-19
	<i>Section 5-9-2 - Temporary Occupancy</i>	5-19
	<i>Section 5-9-3 - Issuance of Certificate</i>	5-19
	 <i>Article X - Violations</i>	
	<i>Section 5-10-1 - Unlawful Acts</i>	5-20
	<i>Section 5-10-2 - Notice of Violation</i>	5-20
	<i>Section 5-10-3 - Penalty</i>	5-20
	<i>Section 5-10-4 - Prosecution</i>	5-20
	<i>Section 5-10-5 - Abatement of Violation</i>	5-20
	<i>Section 5-10-6 - Stop Work Order</i>	5-21
	<i>Section 5-10-7 - Unlawful Continuance</i>	5-21

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
5	<i>BUILDINGS (CONTINUED)</i>	
	<i>Article XI - Unsafe Structures and Emergency Measures</i>	
	<i>Section 5-11-1 - Conditions</i>	5-22
	<i>Section 5-11-2 - Record</i>	5-22
	<i>Section 5-11-3 - Notice</i>	5-22
	<i>Section 5-11-4 - Method of Service</i>	5-22
	<i>Section 5-11-5 - Restoration</i>	5-22
	<i>Section 5-11-6 - Disregard of Notice</i>	5-23
	<i>Section 5-11-7 - Imminent Danger</i>	5-23
	<i>Section 5-11-8 - Temporary Safeguards</i>	5-23
	<i>Section 5-11-9 - Closing Streets</i>	5-23
	<i>Section 5-11-10 - Emergency Measures</i>	5-23
	<i>Section 5-11-11 - Costs of Emergency Repairs</i>	5-23
	 <i>Article XII - Appeals</i>	
	<i>Section 5-12-1 - Zoning Board of Appeals</i>	5-24
	<i>Section 5-12-2 - Fees for Applications for Appeal</i>	5-24
	<i>Section 5-12-3 - Board Decision</i>	5-24
	<i>Section 5-12-4 - Resolution</i>	5-24
	<i>Section 5-12-5 - Disqualification of Member</i>	5-24
	<i>Section 5-12-6 - Administration</i>	5-24
	<i>Section 5-12-7 - Court Review</i>	5-24
	 <i>Article XIII – Adoption of Building Codes</i>	
	<i>Section 5-13-1 - Adoption</i>	5-25
	 <i>Article XIV - Erosion and Sedimentation Control</i>	
	<i>Section 5-14-1 - Adopted by Reference</i>	5-26
	<i>Section 5-14-2 - General</i>	5-26
	<i>Section 5-14-3 - Purpose</i>	5-26
	<i>Section 5-14-4 - Exceptions</i>	5-26
	<i>Section 5-14-5 - Principles and Standards</i>	5-26
	<i>Section 5-14-6 - Regional Information</i>	5-27
	<i>Section 5-14-7 - Fees</i>	5-27

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

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
7	BUSINESS CODE (CONTINUED)	
	<i>Article III – Peddlers (Continued)</i>	
	Section 7-3-6 - Fraud	7-12
	Section 7-3-7 - Photographs	7-12
	Section 7-3-8 - Unwanted Peddling	7-12
	Section 7-3-9 - Peddlers as Nuisance	7-12
	Section 7-3-10 - Duty of Police to Abate	7-12
	Section 7-3-11 - Local Businesses and Farmers Excluded	7-12
	Section 7-3-12 - Fees	7-12
	 <i>Article IV - Coin-Operated Machines</i>	
	Section 7-4-1 - Definitions	7-13
	Section 7-4-2 - License Required	7-13
	Section 7-4-3 - Application	7-13
	Section 7-4-4 - Prohibited Licensees	7-14
	Section 7-4-5 - Fees	7-14
	Section 7-4-6 - Non-Assignability of License	7-14
	Section 7-4-7 - Permitting Gambling	7-14
	Section 7-4-8 - Display of License	7-15
	Section 7-4-9 - Right of Entry	7-15
	Section 7-4-10 - Closing Hours	7-15
	 <i>Article V - Yard Sales</i>	
	Section 7-5-1 - Definitions	7-16
	Section 7-5-2 - Licenses	7-16
	Section 7-5-3 - Penalties	7-16
	Section 7-5-4 - Event Duration	7-16
	Section 7-5-5 - Signs	7-16
	 <i>Article VI – Raffles and Poker Runs</i>	
	Section 7-6-1 - Definitions	7-17
	Section 7-6-2 - Requirement of License	7-18
	Section 7-6-3 - Application for a License for a Raffle	7-18
	Section 7-6-4 - Application for a License for a Poker Run	7-19
	Section 7-6-5 - Licensee Qualifications	7-20
	Section 7-6-6 - License Issuance	7-20
	Section 7-6-7 - Conduct of Raffles and Poker Runs	7-21
	Section 7-6-8 - Manager – Bond for Raffles	7-22
	Section 7-6-9 - Records	7-22
	Section 7-6-10 - Limited Construction	7-23
	Section 7-6-11 - Prize Limitations; Term	7-23
	 <i>Article VII - Adult Use Licensing and Regulation</i>	
	Section 7-7-1 - Purpose	7-24
	Section 7-7-2 - Definitions	7-24
	Section 7-7-3 - License Required	7-26
	Section 7-7-4 - Issuance of License	7-27
	Section 7-7-5 - Liquor	7-28

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
7	BUSINESS CODE (CONTINUED)	
	Article VII - Adult Use Licensing and Regulation (Continued)	
	Section 7-7-6 - Fees	7-28
	Section 7-7-7 - Inspection	7-28
	Section 7-7-8 - Expiration of License	7-28
	Section 7-7-9 - Suspension	7-29
	Section 7-7-10 - Revocation	7-29
	Section 7-7-11 - Transfer of License	7-30
	Section 7-7-12 - Business Records	7-30
	Section 7-7-13 - Liquor License	7-30
	Section 7-7-14 - Adult Entertainment Cabarets - Restrictions	7-30
	Section 7-7-15 - Video Viewing Booths - Restrictions	7-30
	Section 7-7-16 - Hours of Operation	7-30
	Section 7-7-17 - Investigation	7-30
	 Article VIII – Fireworks Code	
	Section 7-8-1 - Definitions	7-31
	Section 7-8-2 - Sale of Fireworks Unlawful	7-31
	Section 7-8-3 - Possession, Use and Discharge of Dangerous Fireworks Unlawful	7-31
	Section 7-8-4 - Permit Required to Sell or Display Fireworks	7-31
	Section 7-8-5 - Time Limit Set on Sale and Use	7-31
	Section 7-8-6 - Permit Fees	7-32
	Section 7-8-7 - Issuance – Nontransferable Voiding	7-32
	Section 7-8-8 - Application for Public Display Permit	7-32
	Section 7-8-9 - Application for Seller’s Permit – Conditions for Issuance	7-32
	Section 7-8-10 - Sale from Stands – Exceptions	7-33
	Section 7-8-11 - Standards for Temporary Stands	7-33
	Section 7-8-12 - Standards for Public Fireworks Displays	7-34
	Section 7-8-13 - Use of Fireworks in Public Parks	7-35
	Section 7-8-14 - Special Effects for Entertainment Media	7-35
	Section 7-8-15 - Nonprohibited Acts	7-35
	Section 7-8-16 - Applicability	7-35
	Section 7-8-17 - Status of State Law	7-36
	Section 7-8-18 - Enforcement	7-36
	Section 7-8-19 - Reckless Discharge or Use Prohibited	7-36
8	CABLE TELEVISION	
	Article I - Cable/Video Service Provider Fee and PEG Access Fee	
	Section 8-1-1 - Definitions	8-1
	Section 8-1-2 - Cable/Video Service Provider Fee Imposed	8-3
	Section 8-1-3 - PEG Access Support Fee Imposed	8-4
	Section 8-1-4 - Applicable Principles	8-4
	Section 8-1-5 - No Impact on Other Taxes Due From Holder	8-4
	Section 8-1-6 - Audits of Cable/Video Service Provider	8-4
	Section 8-1-7 - Late Fees/Payments	8-5

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
8	CABLE TELEVISION (CONTINUED)	
	Article II - Cable and Video Customer Protection Law	
	Section 8-2-1 - Customer Service and Privacy Protection Law	8-6
	Section 8-2-2 - Enforcement	8-6
	Section 8-2-3 - Customer Credits	8-6
	Section 8-2-4 - Penalties	8-6
	Article III - New Wave Communications	
	Section 8-3-1 - Definitions	8-7
	Section 8-3-2 - Franchise Agreement	8-8
	Section 8-3-3 - Authority Not Exclusive	8-9
	Section 8-3-4 - Franchise Territory	8-9
	Section 8-3-5 - Operational Standards	8-9
	Section 8-3-6 - Construction Standards	8-9
	Section 8-3-7 - Conditions of Street Occupancy	8-11
	Section 8-3-8 - Franchise Fees	8-12
	Section 8-3-9 - Service Maintenance Standards	8-13
	Section 8-3-10 - Complaint Procedures	8-13
	Section 8-3-11 - Performance Bond	8-14
	Section 8-3-12 - Liability Insurance	8-15
	Section 8-3-13 - General Indemnification	8-16
	Section 8-3-14 - Assignment of Franchise	8-16
	Section 8-3-15 - Review and Renewal	8-16
	Section 8-3-16 - Revocation of Franchise	8-16
	Section 8-3-17 - Removal of Facilities	8-17
	Section 8-3-18 - Liquidated Damages	8-18
	Section 8-3-19 - Rights Reserved to the Village	8-18
	Section 8-3-20 - Compliance with Federal Laws, Rules and Regulations	8-18
	Section 8-3-21 - Notices to Franchisee	8-19
	Section 8-3-22 - Acceptance	8-19
	Article III - NewWave Cable Fee	
	Section 8-4-1 - Annual Fee Established	8-19
	Section 8-4-2 - Service Fee Due Quarterly	8-19
	Section 8-4-3 - Definition of Gross Revenues	8-19
	Section 8-4-4 - Revenues Not Included	8-20
	Section 8-4-5 - Invalid Provisions	8-20
9	CEMETERY	
	Article I - General Provisions	
	Section 9-1-1 - Management	9-1
	Section 9-1-2 - Established	9-1
	Section 9-1-3 - Duties	9-1
	Article II - Regulations	
	Section 9-2-1 - General Regulations for Grave Spaces	9-3
	Section 9-2-2 - Tombstones	9-3
	Section 9-2-3 - Burial Permits	9-4
	Section 9-2-4 - Establishing a Cemetery	9-4
	Section 9-2-5 - Hunting and Trespassing	9-4
	Section 9-2-6 - Closing Hours	9-5
	Section 9-2-7 - Damaged Cemetery	9-5
	Section 9-2-8 - Work in Cemetery	9-5

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
9	CEMETERY (CONTINUED)	
	Article III - Fees	
	Section 9-3-1 - Burial Permit Fees	9-6
	Section 9-3-2 - Interment Fees	9-6
	Section 9-3-3 - Waiver of Fees	9-6
11	EMPLOYEE CODE	
	Article I - Generally	
	Section 11-1-1 - Description	11-1
	 Article II - Village Administrator	
	Section 11-2-1 - Established	11-1
	Section 11-2-2 - Hired	11-1
	Section 11-2-3 - Qualifications	11-1
	Section 11-2-4 - Duties	11-1
	 Article III - Employees Description	
	Section 11-3-1 - Full-Time Employees	11-3
	Section 11-3-2 - Part-Time Employees	11-3
	Section 11-3-3 - Part-Time, Seasonal Employees	11-3
	Section 11-3-4 - Deputy Marshal	11-3
	Section 11-3-5 - General	11-3
	Section 11-3-6 - Residency	11-3
	 Article IV - Salaries	
	Section 11-4-1 - Village Administrator	11-4
	Section 11-4-2 - All Other Employees	11-4
	 Article V - Employee Policy for Village Employees	
	Section 11-5-1 - Application	11-5
	Section 11-5-2 - Employment	11-5
	Section 11-5-3 - Working Hours	11-5
	Section 11-5-4 - Supervision	11-6
	Section 11-5-5 - Time Off; Sick Day Benefits	11-7
	Section 11-5-6 - Funerals; Leave	11-8
	Section 11-5-7 - Vacations	11-8
	Section 11-5-8 - Holidays	11-9
	Section 11-5-9 - Duties	11-9
	Section 11-5-10 - Job Classifications	11-10
	Section 11-5-11 - Health Insurance	11-10
	Section 11-5-12 - Miscellaneous Provisions	11-11
	Section 11-5-13 - Police Employees	11-12
	Section 11-5-14 - Sexual Harassment Policy	11-12
	Section 11-5-15 - Drug and Alcohol Abuse Policy	11-12
	Section 11-5-16 - Compliance with Local, State, and Federal Laws	11-14

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
11	EMPLOYEE CODE (CONTINUED)	
	Article VI - Part-Time Village Employee Policy	
	Section 11-6-1 - Application	11-15
	Section 11-6-2 - Employment	11-15
	Section 11-6-3 - Working Hours	11-15
	Section 11-6-4 - Supervision	11-16
	Section 11-6-5 - Time Off	11-17
	Section 11-6-6 - Vacations	11-17
	Section 11-6-7 - Holidays	11-17
	Section 11-6-8 - Duties	11-17
	Section 11-6-9 - Job Classifications	11-18
	Section 11-6-10 - Health Insurance	11-18
	Section 11-6-11 - Village Issued Equipment	11-18
	Section 11-6-12 - Police Part-Time Employees	11-18
	Section 11-6-13 - Sexual Harassment Policy	11-19
	Section 11-6-14 - Drug and Alcohol Abuse Policy	11-19
	Section 11-6-15 - Compliance with Local, State, and Federal Laws	11-21
14	FLOOD PLAIN CODE	
	Article I - General Provisions	
	Section 14-1-1 - Purpose	14-1
	Section 14-1-2 - Definitions	14-1
	Section 14-1-3 - Base Flood Elevation	14-4
	Section 14-1-4 - Duties of the Building Administrator	14-4
	Article II - Construction Requirements	
	Section 14-2-1 - Development Permit	14-6
	Section 14-2-2 - Preventing Increased Flood Heights and Resulting Damages	14-6
	Section 14-2-3 - Protecting Buildings	14-7
	Section 14-2-4 - Subdivision Requirements	14-11
	Section 14-2-5 - Public Health and Other Standards	14-11
	Section 14-2-6 - Variances	14-12
	Section 14-2-7 - Disclaimer of Liability	14-13
	Section 14-2-8 - Penalty	14-13
	Section 14-2-9 - Abrogation and Greater Restrictions	14-13
15	FRANCHISES	
	Article I - Gas Franchise	
	Section 15-1-1 - Extension of Franchise	15-1
	Section 15-1-2 - Granting of Extension	15-1
	Section 15-1-3 - Construction of Mains	15-1
	Section 15-1-4 - Relocation Constraints	15-1
	Section 15-1-5 - Rates Charged	15-2
	Section 15-1-6 - Annual Fee	15-2
	Section 15-1-7 - Assigning Future Rights	15-2
	Section 15-1-8 - Time Constraints - Acceptance	15-2

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
15	FRANCHISES (CONTINUED)	
	<i>Article I - Gas Franchise (Continued)</i>	
	Section 15-1-9 - Term of Franchise	15-2
	Section 15-1-10 - Vacation of Streets, Etc.	15-3
	Section 15-1-11 - Conflicting Laws Repealed	15-3
	Section 15-1-12 - Written Permits Required	15-3
	Section 15-1-13 - Separability	15-3
	Section 15-1-14 - Additional Gas Utility Permitted	15-3
	Section 15-1-15 - Exemptions for Fees	15-4
	Section 15-1-16 - Vesting of Agreement	15-4
17	HEALTH CODE	
	<i>Article I - Trash Collectors Code</i>	
	<i>Division I - Licensing Requirements</i>	
	Section 17-1-1 - License Required	17-1
	Section 17-1-2 - Types of License, Limitation on Number	17-1
	Section 17-1-3 - License Application, Issuance and Renewal	17-2
	Section 17-1-4 - License Fee	17-2
	Section 17-1-5 - Vehicle Requirements	17-2
	Section 17-1-6 - Disposal Within Village Prohibited; Exception	17-3
	Section 17-1-7 - Violation Penalty	17-3
	<i>Article II - General Regulations</i>	
	Section 17-2-1 - Definitions	17-4
	Section 17-2-2 - Title to Waste	17-4
	Section 17-2-3 - Disposal of Yard Waste	17-4
	Section 17-2-4 - Depositing Materials on Another's Property	17-4
	Section 17-2-5 - Depositing Materials on Street	17-4
	<i>Article III - Residential Collections</i>	
	Section 17-3-1 - Collection Required	17-5
	Section 17-3-2 - Method of Collection	17-5
	Section 17-3-3 - Charges Imposed, Payment for Collection Services	17-5
	<i>Article IV - Non-Residential Collections</i>	
	Section 17-4-1 - Non-Residential Collection	17-7
	Section 17-4-2 - Disposal in Containers	17-7
	Section 17-4-3 - Approved Containers	17-7

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
21	LIQUOR	
	Article I - Generally	
	Section 21-1-1 - Definitions	21-1
	Article II - Licenses	
	Section 21-2-1 - License Required	21-5
	Section 21-2-2 - Applications	21-5
	Section 21-2-3 - Examination of Applicant	21-6
	Section 21-2-4 - Prohibited Licensees	21-6
	Section 21-2-5 - Term; Fee Submitted in Advance	21-8
	Section 21-2-6 - Classification; Fee; Term	21-8
	Section 21-2-7 - License by the Hour; Civic Organizations	21-9
	Section 21-2-8 - Restrictions and Number of Licenses Issued	21-9
	Section 21-2-9 - Nature of License	21-10
	Section 21-2-10 - Limitation of Licenses	21-10
	Section 21-2-11 - Dramshop Insurance	21-11
	Section 21-2-12 - Display of License	21-11
	Section 21-2-13 - Record of Licenses	21-11
	Section 21-2-14 - Display of Liquor	21-11
	Article III - Regulations	
	Section 21-3-1 - Closing Hours	21-12
	Section 21-3-2 - Happy Hour Restrictions	21-12
	Section 21-3-3 - Prohibited Locations	21-14
	Section 21-3-4 - Change of Location	21-14
	Section 21-3-5 - Stores Selling School Supplies, Lunches, Etc.	21-15
	Section 21-3-6 - Transporting, Etc., in Motor Vehicles	21-15
	Section 21-3-7 - Open Liquor - Cup-to-Go Prohibited	21-15
	Section 21-3-8 - Liquor in Vehicles; Underage	21-15
	Section 21-3-9 - Restricted Residential Areas	21-15
	Section 21-3-10 - Election Days	21-15
	Section 21-3-11 - Unlawful Acts	21-15
	Section 21-3-12 - Unlawful Entertainment	21-16
	Section 21-3-13 - Sanitary Conditions	21-16
	Section 21-3-14 - Diseased Employees	21-16
	Section 21-3-15 - Health Permit	21-16
	Section 21-3-16 - Peddling	21-16
	Section 21-3-17 - Gambling	21-17
	Section 21-3-18 - Disorderly House	21-17
	Section 21-3-19 - Prohibited Sales - Generally	21-17
	Section 21-3-20 - Persons Selling Liquor	21-17
	Section 21-3-21 - Underaged; Entry on Licensed Premises	21-18
	Section 21-3-22 - Unlawful Purchase of Liquor	21-18
	Section 21-3-23 - Identification Required	21-18
	Section 21-3-24 - Transfer of Identification Card	21-18
	Section 21-3-25 - Posting Warning	21-18
	Section 21-3-26 - Exclusionary Provision	21-18
	Section 21-3-27 - Inspections	21-19
	Section 21-3-28 - Books and Records---Available Upon Reasonable Notice and Maintained in State Records	21-19

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
21	LIQUOR (CONTINUED)	
	<i>Article III - Regulations (Continued)</i>	
	Section 21-3-29 - Restrictions on Licensee	21-19
	Section 21-3-30 - Selling False Identification	21-19
	Section 21-3-31 - False Identification	21-19
	Section 21-3-32 - Underaged Drinking in Streets	21-19
	Section 21-3-33 - Residential Drinking	21-20
	Section 21-3-34 - Renting Hotel Rooms for Drinking	21-20
	Section 21-3-35 - BASSET Training Required	21-20
	 <i>Article IV - Violations and Penalties</i>	
	Section 21-4-1 - Owner of Premises Permitting Violation	21-21
	Section 21-4-2 - Acts of Agent or Employee - Liability; Knowledge	21-21
	Section 21-4-3 - Revocation of License After Conviction	21-21
	Section 21-4-4 - Revocation of License When Employee Convicted	21-21
	Section 21-4-5 - Misbranding	21-21
	Section 21-4-6 - Abatement of Place Used in Violation	21-21
	Section 21-4-7 - Use of Premises for One Year After Revocation	21-22
	Section 21-4-8 - Revocation of Licenses	21-22
	Section 21-4-9 - Complaint by Residents	21-22
	Section 21-4-10 - Revocation or Suspension of Local License; - Notice and Hearing	21-23
	Section 21-4-11 - Appeals From Order of Liquor Commissioner	21-23
	Section 21-4-12 - Subsequent Violations in a Year	21-24
	Section 21-4-13 - Appeal Limitations for Subsequent Violation	21-24
 22	 MANDATED POLICIES	
	<i>Article I - Identity Theft Prevention Program</i>	
	Section 22-1-1 - Objective	22-1
	Section 22-1-2 - Scope	22-1
	Section 22-1-3 - Definitions	22-1
	Section 22-1-4 - Policy	22-2
	Section 22-1-5 - Program Management and Accountability	22-6
	Section 22-1-6 - Responsibility	22-6
	 <i>Article II - Investment Policy</i>	
	Section 22-2-1 - Investment Policy	22-10
	Section 22-2-2 - Scope	22-10
	Section 22-2-3 - Prudence	22-10
	Section 22-2-4 - Objective	22-10
	Section 22-2-5 - Delegation of Authority	22-10
	Section 22-2-6 - Ethics and Conflicts of Interest	22-10
	Section 22-2-7 - Authorized Financial Dealers and Institutions	22-10
	Section 22-2-8 - Authorized and Suitable Investments	22-11
	Section 22-2-9 - Collateralization	22-11
	Section 22-2-10 - Safekeeping and Custody	22-11
	Section 22-2-11 - Diversification	22-11
	Section 22-2-12 - Maximum Maturities	22-11

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
22	MANDATED POLICIES (CONTINUED)	
	<i>Article II - Investment Policy (Continued)</i>	
	Section 22-2-13 - Internal Control	22-11
	Section 22-2-14 - Performance Standards	22-12
	Section 22-2-15 - Reporting	22-12
	Section 22-2-16 - Investment Policy Adoption and Modification	22-12
	 <i>Article III - Ethics Code</i>	
	Section 22-3-1 - State Officials and Employees Ethics Act	22-13
	 <i>Article IV - Fair Housing Code</i>	
	Section 22-4-1 - Declaration of Policy	22-14
	Section 22-4-2 - Definitions	22-14
	Section 22-4-3 - Prohibited Acts	22-15
	Section 22-4-4 - Penalty	22-16
	 <i>Article V - Freedom of Information Policy</i>	
	Section 22-5-1 - Public Records Available	22-17
	Section 22-5-2 - Designation, Duties and Training of Freedom of Information Act Officers	22-17
	Section 22-5-3 - Procedures	22-17
	Section 22-5-4 - Requests to Inspect or Copy	22-18
	Section 22-5-5 - Requests for Commercial Purposes	22-19
	Section 22-5-6 - Fees	22-19
	Section 22-5-7 - Public File	22-19
	Section 22-5-8 - Granting or Denial of Requests	22-19
	Section 22-5-9 - Certain Information Exempt From Inspection and Copying	22-19
	Section 22-5-10 - Notice of Denial of Request; Appeals	22-20
	 <i>Article VI – Use of Social Security Numbers</i>	
	Section 22-6-1 - Definitions	22-21
	Section 22-6-2 - Prohibited Activities	22-21
	Section 22-6-3 - Public Inspection and Copying of Documents	22-22
	Section 22-6-4 - Applicability	22-22
	Section 22-6-5 - Compliance with Federal Law	22-22
	Section 22-6-6 - Embedded Social Security Numbers	22-23
	Section 22-6-7 - Identity – Protection Requirements	22-23
	Section 22-6-8 - Penalty	22-23
	Section 22-6-9 - Amendment of Privacy Policy	22-23
	Section 22-6-10 - Conflict with Stricter Laws	22-23
	 <i>Article VII – Equal Employment Policy</i>	
	Section 22-7-1 - Adoption of Codes	22-24
	Section 22-7-2 - Non-Discriminatory Practices	22-24
	Section 22-7-3 - Contracting with Non-Complaints	22-24
	Section 22-7-4 - Outreach to All	22-26

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
22	MANDATED POLICIES (CONTINUED)	
	<i>Article VII – Equal Employment Policy (Continued)</i>	
	Section 22-7-5 - Minority Hiring	22-26
	Section 22-7-6 - Accommodations for Disabled	22-27
	Section 22-7-7 - Compliance by Employees	22-26
	Section 22-7-8 - Designated Enforcers	22-26
	 <i>Article VIII – Policy Prohibiting Sexual Harassment</i>	
	Section 22-8-1 - Prohibition on Sexual Harassment	22-27
	Section 22-8-2 - Definition of Sexual Harassment	22-27
	Section 22-8-3 - Procedure for Reporting an Allegation of Sexual Harassment	22-27
	Section 22-8-4 - Prohibition on Retaliation for Reporting Sexual Harassment Allegations	22-28
	Section 22-8-5 - Consequences of a Violation of the Prohibition on Sexual Harassment	22-29
	Section 22-8-6 - Consequences for Knowingly Making a False Report	22-29
23	MANUFACTURED HOUSING CODE	
	<i>Article I – General Provisions</i>	
	Section 23-1-1 - Definitions	23-1
	Section 23-1-2 - State Requirements Adopted by Reference	23-3
	Section 23-1-3 - Illinois Department of Public Health Regulations	23-3
	Section 23-1-4 - Manufactured Home Occupancy Permit	23-4
	Section 23-1-5 - Manufactured Homes to be Properly Maintained	23-4
	Section 23-1-6 - Penalties/Fees	23-4
	 <i>Article II - Immobilized Manufactured Homes</i>	
	Section 23-2-1 - Immobilized Manufactured Homes	23-5
	Section 23-2-2 - Permit	23-5
	Section 23-2-3 - Lot Size and Distance	23-5
	Section 23-2-4 - Dependent Manufactured Homes	23-5
	Section 23-2-5 - Concrete Pads	23-5
	Section 23-2-6 - Off-Street Parking	23-5
	 <i>Article III – Manufactured Home Parks</i>	
	<i>Division I – Administration Requirements</i>	
	Section 23-3-1 - Compliance With Statutes, Applicability of Article	23-6
	Section 23-3-2 - Planning	23-6
	Section 23-3-3 - Local Government Requirements	23-6
	Section 23-3-4 - Permits	23-6
	Section 23-3-5 - Inspection of Manufactured Home Park	23-6
	Section 23-3-6 - Violation Proceedings	23-6
	Section 23-3-7 - 23-3-9 Reserved	

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
23	MANUFACTURED HOUSING CODE (CONTINUED)	
	Article III – Manufactured Home Parks (Continued)	
	Division II – Design and Construction Requirements	
	Section 23-3-10 - Plan Document	23-7
	Section 23-3-11 - Application	23-7
	Section 23-3-12 - Location	23-7
	Section 23-3-13 - Roadways and Parking	23-8
	Section 23-3-14 - 23-3-15 Reserved	
	Division III – Generally	
	Section 23-3-16 - Lot Size	23-8
	Section 23-3-17 - Miscellaneous Restrictions	23-8
	Section 23-3-18 - 23-3-19 Reserved	
	Division IV - Fees	
	Section 23-3-20 - License Fee	23-8
24	MOTOR VEHICLE CODE	
	Article I - Definitions	
	Section 24-1-1 - Illinois Vehicle Code; Definitions Adopted	24-1
	Article II - General Regulations	
	Section 24-2-1 - Obedience to Police	24-1
	Section 24-2-2 - Scene of Fire	24-1
	Section 24-2-3 - Signs and Signals	24-1
	Section 24-2-4 - Unauthorized Signs	24-2
	Section 24-2-5 - Interference with Signs or Signals	24-2
	Section 24-2-6 - Advertising Signs	24-2
	Section 24-2-7 - Animals or Bicycles	24-2
	Section 24-2-8 - Bicycle Lamps, Reflectors, and Equipment	24-2
	Article III - Stop and Through Streets	
	Section 24-3-1 - Through Streets	24-3
	Section 24-3-2 - One-Way Streets or Alleys	24-3
	Section 24-3-3 - Stop Streets	24-3
	Section 24-3-4 - Yield Right-of-Way Streets	24-3
	Section 24-3-5 - Posting Signs	24-3
	Article IV - Driving Rules	
	Section 24-4-1 - Illinois Vehicle Code; Rules of the Road Adopted	24-4
	Section 24-4-2 - Driving Rules	24-4
	Section 24-4-3 - Duty to Report Accident	24-5
	Section 24-4-4 - Transporting Liquor in Vehicles	24-5
	Section 24-4-5 - Excessive Noise - Stopped Vehicle	24-6
	Section 24-4-6 - Excessive Noise - Wheels	24-6

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
24	MOTOR VEHICLE CODE (CONTINUED)	
	<i>Article IV - Driving Rules (Continued)</i>	
	Section 24-4-7 - Excessive Noise - Squealing Tires	24-6
	Section 24-4-8 - Reckless, Negligent or Careless Driving	24-6
	Section 24-4-9 - Excessive Noise While Driving	24-6
	 <i>Article V - Equipment of Vehicles</i>	
	Section 24-5-1 - Illinois Vehicle Code; Equipment of Vehicles Adopted	24-7
	Section 24-5-2 - Muffler	24-7
	Section 24-5-3 - Sound Amplification System	24-7
	Section 24-5-4 - Excessive Engine Braking Noise Prohibited	24-7
	 <i>Article VI - Parking Rules</i>	
	Section 24-6-1 - Time Limited Parking	24-8
	Section 24-6-2 - Parking for Sale or Repair	24-8
	Section 24-6-3 - Private Property	24-8
	Section 24-6-4 - Vehicles on Blocks, Jacks	24-8
	Section 24-6-5 - Mailboxes	24-8
	Section 24-6-6 - Stopping, Standing or Parking Prohibited in Specified Places	24-8
	Section 24-6-7 - Parking for the Handicapped	24-9
	Section 24-6-8 - Load Limits	24-10
	Section 24-6-9 - Towing Cars Away	24-10
	Section 24-6-10 - Parking Violations	24-10
	Section 24-6-11 - Prima Facie Proof	24-11
	Section 24-6-12 - Parking Tickets - State Statute	24-11
	Section 24-6-13 - Definitions	24-11
	Section 24-6-14 - Residential Parking Regulations	24-12
	 <i>Article VII - Abandoned, Lost, Stolen or Unclaimed Vehicles</i>	
	Section 24-7-1 - Abandonment of Vehicles Prohibited	24-13
	Section 24-7-2 - Abandoned, Lost, Stolen or Unclaimed Vehicle Notification to Law Enforcement Agencies	24-13
	Section 24-7-3 - Removal of Motor Vehicles or Other Vehicles; Towing or Hauling Away	24-13
	Section 24-7-4 - Police Tows; Reports, Release of Vehicles; Payment	24-14
	Section 24-7-5 - Record Searches for Unknown Owner	24-14
	Section 24-7-6 - Identifying and Tracing of Vehicle	24-15
	Section 24-7-7 - Reclaimed Vehicles; Expenses	24-15
	Section 24-7-8 - Disposal of Unclaimed Vehicle	24-15
	Section 24-7-9 - Disposal of Unclaimed Vehicles Without Notice	24-16
	Section 24-7-10 - Disposal of Hazardous Dilapidated Motor Vehicles	24-16
	Section 24-7-11 - Collection of Unpaid Charges	24-17
	Section 24-7-12 - Police Record for Disposed Vehicle	24-17
	Section 24-7-13 - Public Sale Proceeds; Disposition Of	24-17
	Section 24-7-14 - Liability of Law Enforcement Officers	24-17
	Section 24-7-15 - Violations of Article	24-17
	Section 24-7-16 - Derelict Vehicles Prohibited	24-18

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
24	MOTOR VEHICLE CODE (CONTINUED)	
	<i>Article VII - Abandoned, Lost, Stolen or Unclaimed Vehicles (Continued)</i>	
	Section 24-7-17 - Immediate Removal of Vehicles Creating Traffic Hazard	24-18
	Section 24-7-18 - Responsibility for Payment of Towing and Storage Costs	24-18
	Section 24-7-19 - Procedure for Removal of Derelict/Inoperable Vehicles	24-18
	Section 24-7-20 - Disposal of Unclaimed Derelict/Inoperable Vehicles	24-19
	Section 24-7-21 - Removal at Expense of Property Owner	24-20
	<i>Article VIII - Snow Routes</i>	
	Section 24-8-1 - Winter Storm Alert	24-22
	Section 24-8-2 - Winter Storm Emergency	24-22
	Section 24-8-3 - Parking Prohibited	24-22
	Section 24-8-4 - Removal of Automobiles	24-22
	<i>Article IX - Impoundment</i>	
	Section 24-9-1 - Definitions	24-23
	Section 24-9-2 - Level 1 Violations Authorizing Impoundment	24-23
	Section 24-9-3 - Level 2 Violations Authorizing Impoundment	24-24
	Section 24-9-4 - Level 3 Violations Authorizing Impoundment	24-24
	Section 24-9-5 - Seizure and Impoundment	24-25
	Section 24-9-6 - Administrative Hearing	24-25
	Section 24-9-7 - Disposition of Impounded Motor Vehicle	24-26
	Section 24-9-8 - Posting of Bond	24-26
	Section 24-9-9 - Motor Vehicle Possession	24-27
	Section 24-9-10 - Towing Agency	24-27
	<i>Article X - Trucks</i>	
	Section 24-10-1 - Commercial Trucks	24-28
	Section 24-10-2 - Truck Routes	24-28
	Section 24-10-3 - Trucks Off Route	24-28
	Section 24-10-4 - Civil Liability	24-28
	<i>Article XI - Golf Carts and Utility-Terrain Vehicles</i>	
	Section 24-11-1 - Generally	24-29
	Section 24-11-2 - Definitions	24-29
	Section 24-11-3 - Requirements	24-29
	Section 24-11-4 - Permits	24-30
	Section 24-11-5 - Violations	24-31
	Section 24-11-6 - Miscellaneous	24-31
	Schedule "A" - Stop Intersections	MV-1
	Schedule "D" - Special Speed Limits	MV-4
	Schedule "E" - Parking	MV-5
	Schedule "H" - Handicapped Parking Zones	MV-7
	Schedule "J" - Loading Zones	MV-8
	Schedule "S" - Snow Routes	MV-9
	Schedule "T" - Truck Routes	MV-10

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
25	NUISANCES	
	Article I - Generally	
	Section 25-1-1 - Specific Nuisances Enumerated	25-1
	Section 25-1-2 - Nuisances Detrimental to Health Generally	25-3
	Section 25-1-3 - Notice to Abate	25-3
	Section 25-1-4 - Hearing	25-3
	Section 25-1-5 - Appeal	25-4
	Section 25-1-6 - Abatement by Village	25-4
	Section 25-1-7 - Failure to Comply with Notice	25-4
	Article II - Weeds	
	Section 25-2-1 - Definition	25-5
	Section 25-2-2 - Height	25-5
	Section 25-2-3 - Notice	25-5
	Section 25-2-4 - Service of Notice	25-5
	Section 25-2-5 - Abatement	25-5
	Section 25-2-6 - Lien	25-5
	Section 25-2-7 - Payment	25-6
	Section 25-2-8 - Foreclosure of Lien	25-6
	Article III - Garbage and Debris	
	Section 25-3-1 - Accumulation Prohibited	25-7
	Section 25-3-2 - Notice to Person	25-7
	Section 25-3-3 - Service of Notice	25-7
	Section 25-3-4 - Abatement	25-7
	Section 25-3-5 - Lien	25-7
	Section 25-3-6 - Payment	25-7
	Section 25-3-7 - Foreclosure of Lien	25-8
	Article IV - Abandoned Vehicles	
	Section 25-4-1 - Definitions	25-9
	Section 25-4-2 - Abandonment	25-9
	Section 25-4-3 - Possession of Vehicle by Other Party	25-9
	Section 25-4-4 - Declaration of Nuisance	25-10
	Section 25-4-5 - Records	25-10
	Section 25-4-6 - Penalties	25-10
	Article V - Dangerous and Unsafe Properties	
	Section 25-5-1 - Adoption by Reference	25-11
	Article VI - Penalties and Special Assessment	
	Section 25-6-1 - Special Assessment	25-11

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
27	OFFENSES	
	Article I - Definitions	
	Section 27-1-1 - Meanings of Words and Phrases	27-1
	Section 27-1-2 - Criminal Code Adopted	27-1
	Article II - Generally	
	Section 27-2-1 - Disturbing Police Officer	27-1
	Section 27-2-2 - Impersonation of Officer	27-1
	Section 27-2-3 - Disturbing Lawful Assemblies	27-1
	Section 27-2-4 - Mob Action	27-1
	Section 27-2-5 - Looting by Individuals	27-2
	Section 27-2-6 - Disturbing the Peace	27-2
	Section 27-2-7 - Admission Fees: Fraudulently Avoiding Payment Of	27-2
	Section 27-2-8 - Sale of Cigarettes or Tobacco to Minors	27-2
	Section 27-2-9 - Smokeless Tobacco	27-3
	Section 27-2-10 - Unlawful Conduct on a Public Way	27-3
	Section 27-2-11 - Aid in Escape	27-3
	Section 27-2-12 - Escapes	27-3
	Section 27-2-13 - False Pretenses	27-3
	Section 27-2-14 - Renting Premises for Unlawful Purposes	27-4
	Section 27-2-15 - Aid to an Offense	27-4
	Section 27-2-16 - Posting Bills	27-4
	Section 27-2-17 - Intoxication in Public	27-4
	Section 27-2-18 - Begging	27-4
	Section 27-2-19 - Concealed Weapons	27-4
	Section 27-2-20 - Discharge of Firearms or Bow and Arrow	27-4
	Section 27-2-21 - Games in Street	27-5
	Section 27-2-22 - Storage of Explosives	27-5
	Section 27-2-23 - Throwing Rocks	27-5
	Section 27-2-24 - Destruction of Public Property	27-5
	Section 27-2-25 - Fortune Telling	27-5
	Section 27-2-26 - Abandoned Refrigerators or Iceboxes	27-5
	Section 27-2-27 - Halloween Curfew	27-5
	Section 27-2-28 - Theft of Recyclables Unlawful	27-5
	Section 27-2-29 - Throwing Objects from Motor Vehicles	27-6
	Section 27-2-30 - Depositing of Snow and Ice Restricted	27-6
	Section 27-2-31 - Protective Covering or Fencing	27-6
	Section 27-2-32 - Curfew Hours for Minors	27-6
	Section 27-2-33 - Sanctity of Funeral and Memorial Services	27-8
	Section 27-2-34 - Use of Upholstered Furniture in Outdoor Locations Prohibited	27-8
	Section 27-2-35 - Noise	27-8
	Section 27-2-36 - False Report of Theft and Other Losses	27-9
	Section 27-2-37 - Harassing and Obscene Communications	27-9
	Section 27-2-38 - School Trespassing	27-10
	Article III - Offenses Against Property	
	Section 27-3-1 - Petty Theft	27-11
	Section 27-3-2 - Criminal Damage to Property	27-11
	Section 27-3-3 - Injury to Utility Wires and Poles	27-11

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
27	OFFENSES (CONTINUED)	
	<i>Article III - Offenses Against Property (Continued)</i>	
	Section 27-3-4 - <i>Damage or Destruction of Street Signs Prohibited</i>	27-11
	Section 27-3-5 - <i>Tampering With Public Notice</i>	27-11
	<i>Article IV - Public Health, Safety and Decency</i>	
	Section 27-4-1 - <i>Disorderly Conduct; Elements of the Offense</i>	27-12
	Section 27-4-2 - <i>Resisting or Obstructing a Peace Officer</i>	27-12
	Section 27-4-3 - <i>Refusing to Aid an Officer</i>	27-13
	Section 27-4-4 - <i>Assembling at Public Places and Businesses</i>	27-13
	<i>Article V - Anti-Litter</i>	
	Section 27-5-1 - <i>Definitions</i>	27-14
	Section 27-5-2 - <i>Littering Prohibited</i>	27-14
	Section 27-5-3 - <i>Prevention of Scattering</i>	27-14
	Section 27-5-4 - <i>Receptacles - Upsetting or Tampering</i>	27-15
	Section 27-5-5 - <i>Sidewalks and Alleys Free From Litter</i>	27-15
	Section 27-5-6 - <i>Owner to Maintain Private Premises</i>	27-15
	Section 27-5-7 - <i>Littering from Vehicles</i>	27-15
	Section 27-5-8 - <i>Littering from Aircraft</i>	27-15
	Section 27-5-9 - <i>Litter in Parks</i>	27-15
	Section 27-5-10 - <i>Handbills</i>	27-15
	Section 27-5-11 - <i>Posting Notices Prohibited</i>	27-16
	Section 27-5-12 - <i>Construction Sites</i>	27-16
	Section 27-5-13 - <i>Loading and Unloading Docks</i>	27-16
	Section 27-5-14 - <i>Parking Lots</i>	27-16
	<i>Article VI - Trespass</i>	
	Section 27-6-1 - <i>Trespasses Prohibited</i>	27-17
	Section 27-6-2 - <i>Specifically Enumerated Trespasses - Suppression</i>	27-17
	<i>Article VII - Parental Responsibility Regulations</i>	
	Section 27-7-1 - <i>Definitions</i>	27-18
	Section 27-7-2 - <i>Parents and Guardians Responsible for Acts</i>	27-18
	<i>Article VIII - Truancy and Curfew Code</i>	
	Section 27-8-1 - <i>Definitions</i>	27-19
	Section 27-8-2 - <i>Curfew Restrictions</i>	27-20
	Section 27-8-3 - <i>Truancy Restrictions</i>	27-20
	Section 27-8-4 - <i>Establishment Restrictions</i>	27-21
	Section 27-8-5 - <i>Enforcement Restrictions</i>	27-21
	Section 27-8-6 - <i>Penalty</i>	27-21
	Section 27-8-7 - <i>Civil Liability</i>	27-22
	<i>Article IX - Open Burning</i>	
	Section 27-9-1 - <i>Definitions</i>	27-23
	Section 27-9-2 - <i>Burning Prohibited</i>	27-23
	Section 27-9-3 - <i>Restrictions on Burning of Landscape Waste</i>	27-23

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
27	OFFENSES (CONTINUED)	
	<i>Article X - Skateboards and Toy Vehicles</i>	
	Section 27-10-1 - Definitions	27-24
	Section 27-10-2 - Skateboarding on a Street	27-24
	Section 27-10-3 - Clinging to a Vehicle	27-24
	Section 27-10-4 - Yield Right-of-Way	27-24
	Section 27-10-5 - Skateboarding on Private Property	27-24
	Section 27-10-6 - Skateboarding on Public Property	27-24
	Section 27-10-7 - Skateboarding in the Business District	27-24
	Section 27-10-8 - Damaging Village Property	27-24
	Section 27-10-9 - Skateboard Ramps	27-24
	Section 27-10-10 - Agreement for Impoundment	27-24
	 <i>Article XI - Adult Uses Regulated</i>	
	Section 27-11-1 - Purpose and Additional Findings	27-25
	Section 27-11-2 - Definitions	27-25
	Section 27-11-3 - Prohibition	27-26
	Section 27-11-4 - Limitation	27-26
	Section 27-11-5 - Adult Entertainment Facility	27-26
	 <i>Article XII - Obscenity</i>	
	Section 27-12-1 - Obscenity	27-27
	Section 27-12-2 - Harmful Material	27-28
	Section 27-12-3 - Tie-In Sales of Obscene Publications to Distributors	27-29
	 <i>Article XIII - Smoke Free Air Code</i>	
	Section 27-13-1 - Background	27-30
	Section 27-13-2 - Purpose	27-30
	Section 27-13-3 - Definitions	27-30
	Section 27-13-4 - Prohibition in Enclosed Public Places	27-31
	Section 27-13-5 - Prohibition in Unenclosed Public Places and Outdoor Venues	27-31
	Section 27-13-6 - Prohibition in Places of Employment	27-32
	Section 27-13-7 - Prohibition in Open Air Dining Areas	27-32
	Section 27-13-8 - Prohibition at Public Entrances	27-32
	Section 27-13-9 - Designation of Other No-Smoking Areas	27-32
	Section 27-13-10 - No Retaliation	27-32
	Section 27-13-11 - Signs	27-32
	Section 27-13-12 - Exemptions	27-33
	Section 27-13-13 - Penalties	27-33
	 <i>Article XIV – Synthetic Drugs</i>	
	Section 27-14-1 - Sale, Possession or Delivery of Synthetic Cocaine Prohibited	27-34
	Section 27-14-2 - Sale, Possession or Delivery of Synthetic Cannabis Prohibited	27-35

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
27	OFFENSES (CONTINUED)	
	Article XV – Regulation of Residences of Registered Sex Offenders	
	Section 27-15-1 - Definitions	27-37
	Section 27-15-2 - Prohibited Acts	27-37
	Section 27-15-3 - Penalty	27-38
	Section 27-15-4 - Other Provisions	27-38
	Article XVI – Drug Paraphernalia	
	Section 27-16-1 - Definitions	27-39
	Section 27-16-2 - Possession Unlawful	27-39
	Section 27-16-3 - Possession of Paraphernalia Related to the Use of Cannabis	27-39
	Section 27-16-4 - Exempt Items; Determination	27-40
	Section 27-16-5 - Exemption for Lawfully Prescribed Medical Use Marijuana	27-40
	Section 27-16-6 - Applicability of Provisions	27-40
30	PUBLIC SAFETY	
	Article I - Civil Emergency	
	Section 30-1-1 - Definitions	30-1
	Section 30-1-2 - Declaration of Emergency	30-1
	Section 30-1-3 - Curfew	30-1
	Section 30-1-4 - Authority of Mayor to Issue Orders	30-1
	Section 30-1-5 - Effectiveness	30-2
	Section 30-1-6 - Notification	30-2
	Article II - Police Department	
	Division I - Department Established	
	Section 30-2-1 - Department Established	30-3
	Section 30-2-2 - Police Code	30-3
	Section 30-2-3 - 30-2-4 Reserved	
	Division II - Police Chief	
	Section 30-2-5 - Established	30-3
	Section 30-2-6 - Appointment	30-3
	Section 30-2-7 - Term	30-3
	Section 30-2-8 - Duties	30-3
	Section 30-2-9 - Residency	30-3
	Section 30-2-10 - 30-2-14 Reserved	
	Division III - Village Patrolmen	
	Section 30-2-15 - Appointment of Patrolmen	30-4
	Section 30-2-16 - Duties	30-4
	Section 30-2-17 - Reserved	

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
30	PUBLIC SAFETY (CONTINUED)	
	<i>Article II - Police Department (Continued)</i>	
	<i>Division IV - Miscellaneous Provisions</i>	
	Section 30-2-18 - Mutual Aid Contract	30-4
	Section 30-2-19 - Legal Processes	30-4
	Section 30-2-20 - Assisting Police Officer	30-4
	Section 30-2-21 - Aiding Fire Department	30-5
	Section 30-2-22 - Failure to Perform	30-5
	Section 30-2-23 - Aiding in Escape	30-5
	Section 30-2-24 - Witness Fees	30-5
	Section 30-2-25 - Training	30-5
	Section 30-2-26 - Part-Time Police	30-5
	Section 30-2-27 - 30-2-29 Reserved	
	<i>Division V – Creation, Maintenance, and Expungement of Records in the Custody of Police</i>	
	Section 30-2-30 - Objective	30-7
	Section 30-2-31 - Policy	30-7
	Section 30-2-32 - Definitions	30-7
	Section 30-2-33 - Creation of Records	30-7
	Section 30-2-34 - Maintenance of Records	30-7
	Section 30-2-35 - Expungement of Records	30-7
	<i>Article III - Emergency Management Agency (EMA)</i>	
	Section 30-3-1 - Policy and Procedures	30-9
	Section 30-3-2 - Limitations	30-9
	Section 30-3-3 - Definitions	30-10
	Section 30-3-4 - Emergency Management Agency	30-10
	Section 30-3-5 - Emergency Management Powers of the Mayor	30-11
	Section 30-3-6 - Financing	30-13
	Section 30-3-7 - Local Disaster Emergencies	30-13
	Section 30-3-8 - Testing of Disaster Warning Devices	30-13
	Section 30-3-9 - Mutual Aid Arrangements Between Political Subdivisions	30-13
	Section 30-3-10 - Communications	30-14
	Section 30-3-11 - Immunity	30-14
	Section 30-3-12 - Professions, Trades and Occupations	30-14
	Section 30-3-13 - Appropriations and Levy of Tax	30-14
	Section 30-3-14 - Authority to Accept Services, Gifts, Grants or Loans	30-15
	Section 30-3-15 - Orders, Rules and Regulations	30-15
	Section 30-3-16 - Utilization of Existing Agency, Facilities and Personnel	30-15
	Section 30-3-17 - No Private Liability	30-15
	Section 30-3-18 - Succession	30-16
	Section 30-3-19 - Compensation	30-16
	Section 30-3-20 - Personnel Oath	30-16
	Section 30-3-21 - Emergency Termination or Reduction of Electrical Service	30-16
	Section 30-3-22 - Penalty	30-17

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
30	PUBLIC SAFETY (CONTINUED)	
	Article IV - Ambulances	
	Section 30-4-1 - Office of Director Established	30-18
	Section 30-4-2 - Direct Actions	30-18
	Section 30-4-3 - Powers of Director	30-18
	Section 30-4-4 - Reports to Board	30-18
	Section 30-4-5 - Responsibility for Charges	30-18
	Section 30-4-6 - Charges	30-18
	Section 30-4-7 - Director Appointed	30-18
	Section 30-4-8 - Payment	30-18
	Section 30-4-9 - Delinquent Charges	30-19
	Section 30-4-10 - Request for Service	30-19
	Section 30-4-11 - Depreciation Fund	30-19
	Section 30-4-12 - Mutual Aid Agreement	30-19
	Article V – Public Safety Employees Benefits Act	
	Section 30-5-1 - Purpose	30-20
	Section 30-5-2 - Definitions	30-20
	Section 30-5-3 - Application Procedure	30-20
	Section 30-5-4 - Administrative Composition	30-21
	Section 30-5-5 - Administrative Hearing	30-22
	Section 30-5-6 - Severability	30-23
32	STORMWATER CONTROL CODE	
	Article I - General Provisions	
	Section 32-1-1 - Title	32-1
	Section 32-1-2 - Purpose	32-1
	Section 32-1-3 - Definitions	32-1
	Article II - Applicability	
	Section 32-2-1 - Applicability	32-3
	Article III - Design Standards	
	Section 32-3-1 - Design Standards	32-4
	Section 32-3-2 - Specific Design Standards	32-4
	Section 32-3-3 - Safety Features	32-6
	Section 32-3-4 - Construction Facilities	32-6
	Section 32-3-5 - Maintenance Responsibility	32-6
	Section 32-3-6 - Administration	32-6
	Section 32-3-7 - Penalties	32-7

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
33	STREET REGULATIONS	
	<i>Article I - Department Established</i>	
	Section 33-1-1 - Department Established	33-1
	Section 33-1-2 - Committee on Streets	33-1
	 <i>Article II - General Regulations</i>	
	Section 33-2-1 - Undermining	33-1
	Section 33-2-2 - Open Doors	33-1
	Section 33-2-3 - Repairing Sidewalks, Etc.	33-1
	Section 33-2-4 - Stairway - Railing	33-1
	Section 33-2-5 - Closing Street	33-2
	Section 33-2-6 - Signs Across Street	33-2
	Section 33-2-7 - Vehicles and Skateboards on Sidewalks	33-2
	Section 33-2-8 - Deposits on Sidewalks	33-2
	Section 33-2-9 - Obstructing Street	33-2
	Section 33-2-10 - Rainwater Drains	33-3
	Section 33-2-11 - Building Materials in Street	33-3
	Section 33-2-12 - Merchandise on Public Street	33-3
	Section 33-2-13 - Encroachments	33-3
	Section 33-2-14 - Posting Bills	33-3
	Section 33-2-15 - Signs on Poles	33-4
	Section 33-2-16 - Injury to New Pavements	33-4
	Section 33-2-17 - Barbed-Wire Fences	33-4
	Section 33-2-18 - Burning on Public Streets	33-4
	Section 33-2-19 - Mowing Street Right-of-Way	33-4
	Section 33-2-20 - Location of Utility Poles	33-4
	 <i>Article III - Trees and Shrubs</i>	
	Section 33-3-1 - Planting	33-5
	Section 33-3-2 - Planting Trees in Right-of-Way	33-5
	Section 33-3-3 - Removal	33-5
	Section 33-3-4 - Injury	33-5
	Section 33-3-5 - Advertisements or Notices	33-5
	Section 33-3-6 - Dangerous Trees	33-5
	Section 33-3-7 - Wires	33-5
	Section 33-3-8 - Gas Pipes	33-6
	Section 33-3-9 - Tree Removal	33-6
	 <i>Article IV - Construction of Utility Facilities in the Rights-of-Way</i>	
	Section 33-4-1 - Purpose and Scope	33-7
	Section 33-4-2 - Definitions	33-8
	Section 33-4-3 - Annual Registration Required	33-11
	Section 33-4-4 - Permit Required; Applications and Fees	33-12
	Section 33-4-5 - Action on Permit Applications	33-14
	Section 33-4-6 - Effect of Permit	33-15
	Section 33-4-7 - Revised Permit Drawings	33-15
	Section 33-4-8 - Insurance	33-15
	Section 33-4-9 - Indemnification	33-17
	Section 33-4-10 - Security	33-17

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
33	<i>STREET REGULATIONS (CONTINUED)</i>	
	<i>Article IV - Construction of Utility Facilities in the Rights-of-Way (Continued)</i>	
	<i>Section 33-4-11 - Permit Suspension and Revocation</i>	<i>33-19</i>
	<i>Section 33-4-12 - Change of Ownership or Owner's Identity or Legal Status</i>	<i>33-20</i>
	<i>Section 33-4-13 - General Construction Standards</i>	<i>33-20</i>
	<i>Section 33-4-14 - Traffic Control</i>	<i>33-20</i>
	<i>Section 33-4-15 - Location of Facilities</i>	<i>33-21</i>
	<i>Section 33-4-16 - Construction Methods and Materials</i>	<i>33-24</i>
	<i>Section 33-4-17 - Vegetation Control</i>	<i>33-29</i>
	<i>Section 33-4-18 - Removal, Relocation, or Modification of Utility Facilities</i>	<i>33-30</i>
	<i>Section 33-4-19 - Cleanup and Restoration</i>	<i>33-31</i>
	<i>Section 33-4-20 - Maintenance and Emergency Maintenance</i>	<i>33-31</i>
	<i>Section 33-4-21 - Variances</i>	<i>33-32</i>
	<i>Section 33-4-22 - Penalties</i>	<i>33-33</i>
	<i>Section 33-4-23 - Enforcement</i>	<i>33-33</i>
	<i>Section 33-4-24 - Severability</i>	<i>33-33</i>
	 <i>Article V - Street Improvements</i>	
	<i>Section 33-5-1 - Sidewalks</i>	<i>33-34</i>
	<i>Section 33-5-2 - Curbs and Gutters</i>	<i>33-34</i>
	<i>Section 33-5-3 - Storm Sewers</i>	<i>33-34</i>
	 <i>Article VI - Culverts</i>	
	<i>Section 33-6-1 - Obstruction of Drain or Storm Sewer</i>	<i>33-35</i>
	<i>Section 33-6-2 - Permit Required</i>	<i>33-35</i>
	<i>Section 33-6-3 - Culvert Policy</i>	<i>33-35</i>
	<i>Section 33-6-4 - Type of Culvert</i>	<i>33-35</i>
	<i>Section 33-6-5 - Minimum Culvert Length</i>	<i>33-35</i>
	<i>Section 33-6-6 - Backfill Costs</i>	<i>33-35</i>
	<i>Section 33-6-7 - Replacement Costs</i>	<i>33-35</i>
	 <i>Article VII - Driveways</i>	
	<i>Section 33-7-1 - Permits Required</i>	<i>33-36</i>
	<i>Section 33-7-2 - Grade Surface</i>	<i>33-36</i>
	<i>Section 33-7-3 - Specifications</i>	<i>33-36</i>
	<i>Section 33-7-4 - Breaking Curb; Bond Required</i>	<i>33-36</i>
	<i>Section 33-7-5 - Repair</i>	<i>33-36</i>
	 <i>Article VIII - Street Numbering</i>	
	<i>Section 33-8-1 - Numbers Required</i>	<i>33-37</i>
	<i>Section 33-8-2 - Chart by Clerk</i>	<i>33-37</i>
	<i>Section 33-8-3 - Owner's Responsibility</i>	<i>33-37</i>
	<i>Section 33-8-4 - Penalty</i>	<i>33-37</i>

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
34	SUBDIVISION CODE	
	<i>Article I – Scope and Purpose</i>	
	Section 34-1-1 - Title	34-1
	Section 34-1-2 - Scope	34-1
	Section 34-1-3 - Purpose	34-1
	Section 34-1-4 - Jurisdiction	34-2
	Section 34-1-5 - Interpretation	34-2
	Section 34-1-6 - Application of Code	34-2
	Section 34-1-7 - Suitability of Land for Subdivision Development	34-2
	Section 34-1-8 - Interpretation of Terms	34-2
	Section 34-1-9 - Selected Definitions	34-3
	Section 34-1-10 - Instances When Plats Will Not Be Required	34-10
	Section 34-1-11 - Disclaimer of Liability	35-11
	Section 34-1-12 - 34-1-13 Reserved	
	 <i>Article II - Preliminary Plat</i>	
	<i>Division I - Procedure</i>	
	Section 34-2-1 - General Procedure	34-12
	Section 34-2-2 - Applicability of Article	34-12
	Section 34-2-3 - Minor Subdivisions	34-12
	Section 34-2-4 - Preliminary Plan and Plat	34-12
	Section 34-2-5 - Information Required	34-14
	Section 34-2-6 - 34-2-7 Reserved	
	 <i>Division II - Minimum Standards of Design</i>	
	Section 34-2-8 - General Statement	34-15
	Section 34-2-9 - Streets and Alleys	34-16
	Section 34-2-10 - Drainage	34-17
	Section 34-2-11 - Erosion and Sediment Control	34-17
	Section 34-2-12 - Easements	34-18
	Section 34-2-13 - Blocks - Crosswalks	34-18
	Section 34-2-14 - Parks and Other Public Areas	34-19
	Section 34-2-15 - Utilities	34-19
	Section 34-2-16 - Lots	34-19
	Section 34-2-17 - 34-2-19 Reserved	
	 <i>Division III - Approval of Preliminary Plan</i>	
	Section 34-2-20 - Checklist Completed	34-20
	Section 34-2-21 - Changes or Revisions	34-20
	Section 34-2-22 - Approval - Tentative	34-20
	Section 34-2-23 - Certificate	34-20
	 <i>Article III - Engineering Plans</i>	
	<i>Division I - Procedure</i>	
	Section 34-3-1 - Engineering Plan Procedure	34-21
	Section 34-3-2 - 34-3-3 Reserved	

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
34	SUBDIVISION CODE (CONTINUED)	
	<i>Article III - Engineering Plans (Continued)</i>	
	<i>Division II - Minimum Standards of Improvement</i>	
	Section 34-3-4 - General Statement	34-21
	Section 34-3-5 - Reference Monuments	34-21
	Section 34-3-6 - Street Improvements	34-22
	Section 34-3-7 - Storm Sewers and Other Drainage Appurtenances	34-23
	Section 34-3-8 - Public Utility Engineering Requirements	34-24
	Section 34-3-9 - Sanitary Sewers	34-24
	Section 34-3-10 - Water System	34-24
	Section 34-3-11 - Street Names and Signs	34-26
	Section 34-3-12 - Public Utilities - Underground	34-26
	Section 34-3-13 - Sidewalks	34-26
	Section 34-3-14 - 34-3-15 Reserved	
	<i>Division III - Approval of Design Plans</i>	
	Section 34-3-16 - Checklist	34-27
	Section 34-3-17 - Changes or Revisions	34-27
	Section 34-3-18 - Approval, Tentative	34-27
	Section 34-3-19 - Letter of Approval	34-27
	<i>Article IV - Final Plats</i>	
	<i>Division I - Procedure</i>	
	Section 34-4-1 - Subdivider	34-28
	Section 34-4-2 - Reserved	
	<i>Division II - Final Plat Requirements</i>	
	Section 34-4-3 - Requirements of Subdivider	34-29
	Section 34-4-4 - Appropriate Certificates	34-30
	Section 34-4-5 - Reserved	
	<i>Division III - Approval of Final Plat</i>	
	Section 34-4-6 - Requirements of Final Plat	34-34
	Section 34-4-7 - 34-4-8 Reserved	
	<i>Division IV - Guarantees</i>	
	Section 34-4-9 - Guarantees to Village	34-34
	Section 34-4-10 - Construction Time Constraints	34-35
	Section 34-4-11 - Inspection	34-35
	Section 34-4-12 - Release of Bond	34-35
	<i>Article V - Administration</i>	
	Section 34-5-1 - Enforcement Officer - Duties	34-36
	Section 34-5-2 - Subdivision Variances	34-36
	Section 34-5-3 - Amendments	34-37
	Section 34-5-4 - Advisory Report, Action by Village Board	34-37
	Section 34-5-5 - Schedule of Fees	34-37
	Section 34-5-6 - Recording	34-37
	Section 34-5-7 - Vacation of Plats	34-38
	Section 34-5-8 - Maintenance of Improvements	34-38

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
34	SUBDIVISION CODE (CONTINUED)	
	Article VI - Schedules and Bonds	
	Section 34-6-1 - Schedule "A" - Checklist for Preliminary Plan	34-39
	Section 34-6-2 - Schedule "B" - Checklist for Engineering Plans	34-45
	Section 34-6-3 - Schedule "C" - Checklist for Final Plat	34-48
	Section 34-6-4 - Schedule "D" - Village Checklist	34-49
	Section 34-6-5 - Surety Bond for Improvements	34-50
	Section 34-6-6 - Cash Bond	34-50
36	TAXATION	
	Article I – Generally	
	Section 36-1-1 - Corporate Rate	36-1
	Section 36-1-2 - Police Tax	36-1
	Section 36-1-3 - Audit Tax	36-1
	Section 36-1-4 - F.I.C.A. Tax	36-1
	Section 36-1-5 - General Liability	36-1
	Section 36-1-6 - Street Lighting Tax	36-1
	Section 36-1-7 - Garbage Tax	36-1
	Section 36-1-8 - Workmen's Compensation	36-1
	Section 36-1-9 - Street and Bridge	36-1
	Section 36-1-10 - I.M.R.F.	36-1
	Section 36-1-11 - Unemployment Insurance	36-1
	Article II – Taxpayer's Rights Code	
	Section 36-2-1 - Title	36-2
	Section 36-2-2 - Scope	36-2
	Section 36-2-3 - Definitions	36-2
	Section 36-2-4 - Notices	36-2
	Section 36-2-5 - Late Payment	36-3
	Section 36-2-6 - Payment	36-3
	Section 36-2-7 - Certain Credits and Refunds	36-3
	Section 36-2-8 - Audit Procedure	36-4
	Section 36-2-9 - Appeal	36-5
	Section 36-2-10 - Hearing	36-5
	Section 36-2-11 - Interest and Penalties	36-5
	Section 36-2-12 - Abatement	36-6
	Section 36-2-13 - Installment Contracts	36-6
	Section 36-2-14 - Statute of Limitations	36-6
	Section 36-2-15 - Voluntary Disclosure	36-7
	Section 36-2-16 - Publication of Tax Ordinances	36-7
	Section 36-2-17 - Internal Review Procedure	36-7
	Section 36-2-18 - Application	36-7
	Article III - Simplified Telecommunications Tax	
	Section 36-3-1 - Definitions	36-8
	Section 36-3-2 - Simplified Municipal Telecommunications Tax Imposed	36-11
	Section 36-3-3 - Collection of Tax by Retailers	36-11

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
36	TAXATION (CONTINUED)	
	Article III - Simplified Telecommunications Tax (Continued)	
	Section 36-3-4 - Returns to Department	36-12
	Section 36-3-5 - Resellers	36-12
	Article IV - Gas Tax	
	Section 36-4-1 - Tax Imposed	36-13
	Section 36-4-2 - Exceptions	36-13
	Section 36-4-3 - Additional Taxes	36-13
	Section 36-4-4 - Definitions	36-13
	Section 36-4-5 - Reports to Municipality	36-14
	Section 36-4-6 - Credit for Over-Payment	36-14
	Section 36-4-7 - Penalty	36-14
	Article V - Electric Utility Tax	
	Section 36-5-1 - Tax Imposed	36-15
	Section 36-5-2 - Type of Customer -- Rate Effective	36-15
	Section 36-5-3 - Effective Date for Article	36-15
	Section 36-5-4 - Exceptions	36-15
	Section 36-5-5 - Additional Taxes	36-16
	Section 36-5-6 - Collection	36-16
	Section 36-5-7 - Reports to Village	36-16
	Section 36-5-8 - Credit for Over-Payment	36-16
	Section 36-5-9 - Penalty	36-17
	Article VI - Service Occupation Tax	
	Section 36-6-1 - Business District Tax Imposed	36-18
	Section 36-6-2 - Enforcement	36-18
37	TAX INCREMENT FINANCING	
	Article I - Interested Parties Registry Registration Rules	
	Section 37-1-1 - Definitions	37-1
	Section 37-1-2 - Establishment of Registry	37-1
	Section 37-1-3 - Maintenance of Registry	37-1
	Section 37-1-4 - Registration by Residents	37-2
	Section 37-1-5 - Registration of Organizations	37-2
	Section 37-1-6 - Determination of Eligibility	37-2
	Section 37-1-7 - Renewal and Termination	37-2
	Section 37-1-8 - Amendment to Registration	37-3
	Section 37-1-9 - Registries Available for Public Inspection	37-3
	Section 37-1-10 - Notice to be Sent to Interested Parties	37-3
	Section 37-1-11 - Non-Interference	37-4
	Section 37-1-12 - Amendment of Registration Rules	37-4

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
38	UTILITIES	
	<i>Article I - Department Established</i>	
	Section 38-1-1 - Department Established	38-1
	Section 38-1-2 - Water and Sewer Committee	38-1
	Section 38-1-3 - Superintendent	38-1
	Section 38-1-4 - Duties of the Superintendent	38-1
	 <i>Article II – Utility Regulations</i>	
	Section 38-2-1 - Contract for Utility Services	38-2
	Section 38-2-2 - Consumer Lists	38-4
	Section 38-2-3 - Filed in Recorder of Deeds	38-4
	Section 38-2-4 - Liability for Charges	38-5
	Section 38-2-5 - Estimated Charge	38-5
	Section 38-2-6 - No Free Utility Service	38-5
	Section 38-2-7 - Utility Deposits	38-5
	Section 38-2-8 - Testing of Meters	38-5
	Section 38-2-9 - Disputes Between Village and Customer	38-5
	Section 38-2-10 - Request to Disconnect Services	38-5
	Section 38-2-11 - Request to Reconnect Services	38-6
	Section 38-2-12 - Tampering with System	38-6
	 <i>Article III – Water System</i>	
	<i>Division I – General Regulations</i>	
	Section 38-3-1 - Definitions	38-7
	Section 38-3-2 - Application for Taps and Service Connections to the Waterworks System	38-8
	Section 38-3-3 - All Service to be by Meter	38-8
	Section 38-3-4 - Removal of Meters	38-9
	Section 38-3-5 - Installing and Maintaining Service Lines	38-9
	Section 38-3-6 - Inspection	38-9
	Section 38-3-7 - Meter Damaged	38-9
	Section 38-3-8 - Damage Due to Interruption of Service; Liability	38-10
	Section 38-3-9 - Resale of Water	38-10
	Section 38-3-10 - Discontinuing Service – Dangerous Usage	38-10
	Section 38-3-11 - Electric Ground Wires	38-10
	Section 38-3-12 - Water for Building or Construction Purposes	38-10
	Section 38-3-13 - Fire Hydrants	38-11
	Section 38-3-14 - Limited Water Usage in Emergencies	38-11
	Section 38-3-15 - Shortage and Purity of Supply	38-11
	Section 38-3-16 - Non-Compliance with Rules and Regulations	38-11
	Section 38-3-17 - Easements	38-12
	Section 38-3-18 - Use of Water on Consumer’s Premises	38-12
	Section 38-3-19 - Allocation of Maintenance Costs Between User and Village	38-12
	Section 38-3-20 - Village Not Liable for Interruption of Supply	38-12
	Section 38-3-21 - Water Well Permits Required	38-12
	Section 38-3-22 - Abandoned Connection	38-13
	Section 38-3-23 - Alternative Water Source	38-13
	Section 38-3-24 - Rules to Become Part of Contract	38-13
	Section 38-3-25 - 38-3-30 Reserved	

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
38	UTILITIES (CONTINUED)	
	Article III – Water System (Continued)	
	Division II – Cross-Connections	
	Section 38-3-31 - Approved Backflow Device	38-14
	Section 38-3-32 - Cross-Connection Prohibited; Exception	38-14
	Section 38-3-33 - Investigations by Superintendent	38-14
	Section 38-3-34 - Right to Enter Premises	38-14
	Section 38-3-35 - Notice to Customer; Reconnect Fee	38-14
	Section 38-3-36 - Contaminations Cost and the Consumer	38-15
	Section 38-3-37 - 38-3-40 Reserved	
	Division III – Cross-Connection Control Code	
	Section 38-3-41 - Purpose	38-16
	Section 38-3-42 - Application	38-16
	Section 38-3-43 - Responsibility of Owner	38-16
	Section 38-3-44 - Definitions	38-16
	Section 38-3-45 - Water System	38-19
	Section 38-3-46 - Cross-Connection Prohibited	38-19
	Section 38-3-47 - Survey and Investigations	38-20
	Section 38-3-48 - Where Protection is Required	38-21
	Section 38-3-49 - Type of Protection Required	38-22
	Section 38-3-50 - Backflow Prevention Devices	38-22
	Section 38-3-51 - Inspection and Maintenance	38-23
	Section 38-3-52 - Booster Pumps	38-23
	Section 38-3-53 - Violations and Penalties	38-23
	Section 38-3-54 - 38-3-60 Reserved	
	Division IV – Watermain Extensions	
	Section 38-3-61 - Applications	38-25
	Section 38-3-62 - Plat of Proposed Extension	38-25
	Section 38-3-63 - Engineer to Prepare Plans	38-26
	Section 38-3-64 - Cost of Extensions	38-26
	Section 38-3-65 - 38-3-69 Reserved	
	Division V - Water Rates	
	Section 38-3-70 - Building Unit Defined	38-27
	Section 38-3-71 - Water Revenues	38-27
	Section 38-3-72 - Water Accounts	38-27
	Section 38-3-73 - Access to Books	38-27
	Section 38-3-74 - Notice of Rates	38-27
	Section 38-3-75 - Appeals	38-28
	Section 38-3-76 - Adequacy of Service Charges	38-28
	Section 38-3-77 - Computation	38-28
	Division VI – Kaskaskia Water Contract	
	Section 38-3-78 - Water Purchase Contract	38-28
	Article IV – Wastewater System	
	Division I – Definitions	
	Section 38-4-1 - Definitions	38-29
	Section 38-4-2 - 38-4-3 Reserved	

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
38	UTILITIES (CONTINUED)	
	<i>Article IV – Wastewater System (Continued)</i>	
	<i>Division II – Use of Public Wastewaters Required</i>	
	Section 38-4-4 - Deposit of Wastes	38-33
	Section 38-4-5 - Sewage in Natural Outlet	38-33
	Section 38-4-6 - Private System, Unlawful	38-33
	Section 38-4-7 - Connection to System Required	38-33
	Section 38-4-8 - 38-4-9 Reserved	
	<i>Division III – Private Sewage Disposal</i>	
	Section 38-4-10 - Private Sewage System	38-34
	Section 38-4-11 - Health Department Approval	38-34
	Section 38-4-12 - Permit Approval	38-34
	Section 38-4-13 - Compliance with State Requirements	38-34
	Section 38-4-14 - Availability of Public Wastewater	38-34
	Section 38-4-15 - Operation of Private System	38-34
	Section 38-4-16 - Additional Restrictions	38-35
	Section 38-4-17 - 38-4-20 Reserved	
	<i>Division IV – Building Wastewater and Connections</i>	
	Section 38-4-21 - Disturbing System Unlawful	38-36
	Section 38-4-22 - Compliance with Regulating Authorities	38-36
	Section 38-4-23 - Classes of Permits	38-36
	Section 38-4-24 - Cost Borne by Owner	38-36
	Section 38-4-25 - Separate Wastewater; Exception	38-36
	Section 38-4-26 - Old Building Wastewater	38-37
	Section 38-4-27 - Construction Methods	38-37
	Section 38-4-28 - Plumbing Code Requirements	38-37
	Section 38-4-29 - Elevation	38-37
	Section 38-4-30 - Prohibited Connections	38-37
	Section 38-4-31 - Connections to Wastewater Mains	38-37
	Section 38-4-32 - Capacity of Wastewater	38-38
	Section 38-4-33 - Tap-In Supervision and Testing	38-38
	Section 38-4-34 - Inspection	38-39
	Section 38-4-35 - Public Wastewater Connection	38-39
	Section 38-4-36 - Protection of Property	38-39
	Section 38-4-37 - Bond Required	38-39
	Section 38-4-38 - Unlawful Discharges	38-39
	Section 38-4-39 - 38-4-41 Reserved	
	<i>Division V - Sewer Main Extensions</i>	
	Section 38-4-42 - Applications	38-40
	Section 38-4-43 - Plat of Proposed Extension	38-40
	Section 38-4-44 - Engineer to Prepare Plans	38-41
	Section 38-4-45 - Cost of Extensions	38-41
	Section 38-4-46 - 38-4-48 Reserved	
	<i>Division VI – Use of Public Wastewater Facilities</i>	
	Section 38-4-49 - Discharge of Storm Water	38-42
	Section 38-4-50 - Storm Water	38-42
	Section 38-4-51 - Regulations of Wastes	38-42
	Section 38-4-52 - Harmful Effects of Certain Materials	38-42

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
38	UTILITIES (CONTINUED)	
	<i>Article IV – Wastewater System (Continued)</i>	
	<i>Division VI – Use of Public Wastewater Facilities (Continued)</i>	
	Section 38-4-53 - Harmful Wastes; Approval	38-43
	Section 38-4-54 - Interceptors Provided	38-44
	Section 38-4-55 - Flow-Equalizing Facilities	38-45
	Section 38-4-56 - Industrial Wastes Control Manhole	38-46
	Section 38-4-57 - Industrial Waste Testing	38-46
	Section 38-4-58 - Measurements and Tests	38-46
	Section 38-4-59 - Special Arrangements	38-46
	Section 38-4-60 - 38-4-64 Reserved	
	<i>Division VII - Inspections</i>	
	Section 38-4-65 - Damage	38-47
	Section 38-4-66 - Inspection and Testing	38-47
	Section 38-4-67 - Liability of Village	38-47
	Section 38-4-68 - Private Property Inspections	38-47
	Section 38-4-69 - 38-4-70 Reserved	
	<i>Division VIII - Sewer Rates</i>	
	Section 38-4-71 - Building Unit Defined	38-48
	Section 38-4-72 - Sewer Revenues	38-48
	Section 38-4-73 - Sewer Accounts	38-48
	Section 38-4-74 - Notice of Rates	38-48
	Section 38-4-75 - Access to Records	38-49
	Section 38-4-76 - Appeals	38-49
	Section 38-4-77 - Basis for Wastewater Service Charges	38-49
	Section 38-4-78 - Measurement of Flow	38-50
	Section 38-4-79 - User Charge System	38-50
	Section 38-4-80 - Computation of Wastewater Service Charge	38-50
	Section 38-4-81 - Surcharge Rate	38-50
	Section 38-4-82 - 38-4-90 Reserved	
	<i>Division IX – Penalties</i>	
	Section 38-4-91 - Penalty	38-51
	Section 38-4-92 - Continued Violations	38-51
	Section 38-4-93 - Liability to Village	38-51
	<i>Article V - Permits and Charges</i>	
	<i>Division I - Tap-In Regulations, Permits, Fees</i>	
	Section 38-5-1 - Permit Required for Making Tap-In Connections to Utility Systems	38-52
	Section 38-5-2 - Periodic Charge Imposed	38-52
	Section 38-5-3 - Water Tap-In Requirements and Fees	38-52
	Section 38-5-4 - Sewer Tap-In Requirements and Fees	38-53
	Section 38-5-5 - 38-5-10 Reserved	

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
38	UTILITIES (CONTINUED)	
	<i>Article V - Permits and Charges (Continued)</i>	
	<i>Division II - User Charges</i>	
	<i>Section 38-5-11 - Definition of Charges</i>	<i>38-54</i>
	<i>Section 38-5-12 - Water Rate Within the Village Limits</i>	<i>38-54</i>
	<i>Section 38-5-13 - Sewer Rate Within the Village Limits</i>	<i>38-54</i>
	<i>Section 38-5-14 - Water Rate outside the Village Limits</i>	<i>38-54</i>
	<i>Section 38-5-15 - Sewer Rate Outside the Village Limits</i>	<i>38-55</i>
	<i>Section 38-5-16 - Fire Protection District (Fire Protection Water)</i>	<i>38-55</i>
	<i>Section 38-5-17 - Bulk Water Rate</i>	<i>38-55</i>
	<i>Section 38-5-18 - Security Deposit</i>	<i>38-55</i>
	<i>Section 38-5-19 - Turn-On Fee</i>	<i>38-55</i>
	<i>Section 38-5-20 - Reconnection Fee</i>	<i>38-55</i>
	<i>Section 38-5-21 - Fees/Penalties</i>	<i>38-55</i>

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
40	ZONING CODE	
	<i>Article I – General Provisions</i>	
	Section 40-1-1 - Title	40-1
	Section 40-1-2 - Purpose and Intent	40-1
	Section 40-1-3 - Regulatory Powers	40-1
	Section 40-1-4 - General Prohibition	40-2
	Section 40-1-5 - Jurisdiction	40-2
	Section 40-1-6 - Interpretation	40-2
	Section 40-1-7 - Conflicting Laws	40-2
	Section 40-1-8 - Existing Agreements	40-2
	Section 40-1-9 - Existing Violations	40-2
	Section 40-1-10 - Existing Building Permits	40-2
	Section 40-1-11 - Existing Zoning Permits	40-2
	Section 40-1-12 - Contiguous Parcels	40-3
	Section 40-1-13 - Minimum Requirements	40-3
	Section 40-1-14 - Compliance	40-3
	Section 40-1-15 - Exemptions	40-3
	Section 40-1-16 - Disclaimer of Liability	40-4
	Section 40-1-17 - Separability	40-4
	 <i>Article II – Definitions</i>	
	Section 40-2-1 - Rules and Construction	40-5
	Section 40-2-2 - Selected Definitions	40-5
	 <i>Article III – Zoning Districts and Map</i>	
	Section 40-3-1 - Establishment of Districts	40-31
	Section 40-3-2 - Minimum Area Requirement for Districts	40-31
	Section 40-3-3 - Zoning Map	40-31
	Section 40-3-4 - District Boundaries	40-31
	Section 40-3-5 - Zoning of Annexed Land	40-32
	Section 40-3-6 - Zoning Subject to Pre-Annexation	40-32
	 <i>Article IV - General Zoning Regulations - All Districts</i>	
	Section 40-4-1 - Unlisted Uses Prohibited	40-35
	Section 40-4-2 - Registration Required for Non-Residential Use	40-35
	Section 40-4-3 - Meeting Minimum Area/Bulk Requirements	40-35
	Section 40-4-4 - Exceptions to Height Limits	40-35
	Section 40-4-5 - Exceptions to Setback Requirement	40-36
	Section 40-4-6 - Allowable Intrusions Into Yards	40-36
	Section 40-4-7 - Area/Bulk Restrictions - Accessory Uses	40-36
	Section 40-4-8 - Access to Lots Required	40-37
	Section 40-4-9 - Sewers and Private Sewage Systems	40-37
	Section 40-4-10 - Additional Restrictions - Specific Uses	40-37
	Section 40-4-11 - Kennels	40-37
	Section 40-4-12 - Aerials and Antennas	40-37
	Section 40-4-13 - Recreational Vehicles	40-38
	Section 40-4-14 - Service Stations	40-38
	Section 40-4-15 - Swimming Pools	40-38
	Section 40-4-16 - Utility Substations	40-39

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
40	ZONING CODE (CONTINUED)	
	<i>Article IV - General Zoning Regulations - All Districts (Continued)</i>	
	Section 40-4-17 - Home Occupations, as a Permitted Use	40-39
	Section 40-4-18 - Home Occupations, as a Special Use	40-39
	Section 40-4-19 - Agricultural Activities	40-40
	Section 40-4-20 - Fences, Walls	40-40
	Section 40-4-21 - Junk Yard	40-40
	Section 40-4-22 - Modular Homes	40-41
	Section 40-4-23 - Mobile and Manufactured Homes	40-41
	 <i>Article V – Zone Districts</i>	
	<i>Division I – Conservation District Regulations</i>	
	Section 40-5-1 - "C" - Conservation District	40-45
	Section 40-5-2 - Permitted Uses	40-45
	Section 40-5-3 - Special Uses	40-45
	Section 40-5-4 - Area/Bulk Restrictions	40-45
	Section 40-5-5 - Supplemental Regulations	40-45
	Section 40-5-6 - 40-5-10 Reserved	
	 <i>Division II - Single-Family Residential District Regulations</i>	
	Section 40-5-11 - "SR-1" - Single-Family Residential District	40-46
	Section 40-5-12 - Permitted Uses	40-46
	Section 40-5-13 - Special Uses	40-46
	Section 40-5-14 - Area/Bulk Restrictions	40-46
	Section 40-5-15 - Supplemental Regulations	40-46
	 <i>Division III - Single-Family Residential District Regulations</i>	
	Section 40-5-16 - "SR-2" - Single-Family Residential District	40-47
	Section 40-5-17 - Permitted Uses	40-47
	Section 40-5-18 - Special Uses	40-47
	Section 40-5-19 - Area/Bulk Restrictions	40-47
	Section 40-5-20 - Supplemental Regulations	40-48
	Section 40-5-21 - 40-5-26 Reserved	
	 <i>Division IV - Single-Family Residential District Regulations</i>	
	Section 40-5-27 - "SR-3" - Single-Family Residential District	40-48
	Section 40-5-28 - Permitted Uses	40-48
	Section 40-5-29 - Special Uses	40-48
	Section 40-5-30 - Area/Bulk Restrictions	40-49
	Section 40-5-31 - Supplemental Regulations	40-49
	Section 40-5-32 - 40-5-35 Reserved	
	 <i>Division V - Single-Family Residential District Regulations</i>	
	Section 40-5-36 - "SR-4" - Single-Family Residential District	40-49
	Section 40-5-37 - Permitted Uses	40-50
	Section 40-5-38 - Special Uses	40-50
	Section 40-5-39 - Area/Bulk Restrictions	40-50
	Section 40-5-40 - Supplemental Regulations	40-50
	Section 40-5-41 - 40-5-45 Reserved	

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
40	ZONING CODE (CONTINUED)	
	<i>Article V – Zone Districts (Continued)</i>	
	<i>Division VI - Planned Business Development</i>	
	Section 40-5-46 - "PB" - Supplemental Regulations for Planned Business Developments	40-51
	Section 40-5-47 - Permitted Uses	40-51
	Section 40-5-48 - Special Procedures for the "PB" Developments	40-52
	Section 40-5-49 - Issuance of Permits	40-53
	Section 40-5-50 - Reserved	
	 <i>Division VII - Multi-Family Residential District Regulations</i>	
	Section 40-5-51 - "MR" - Multi-Family Residential District	40-54
	Section 40-5-52 - Permitted Uses	40-54
	Section 40-5-53 - Special Uses	40-54
	Section 40-5-54 - Area/Bulk Restrictions	40-54
	Section 40-5-55 - Supplemental Regulations	40-55
	Section 40-5-56 - 40-5-60 Reserved	
	 <i>Division VIII - Recreational Districts</i>	
	Section 40-5-61 - "R" - Recreational	40-55
	Section 40-5-62 - Permitted Uses	40-55
	Section 40-5-63 - Special Uses	40-56
	Section 40-5-64 - Supplemental Regulations	40-56
	Section 40-5-65 - Issuance of Permits	40-57
	Section 40-5-66 - 40-5-70 Reserved	
	 <i>Division IX - Business Districts</i>	
	Section 40-5-71 - "B" - Business District	40-58
	Section 40-5-72 - Permitted Uses	40-58
	Section 40-5-73 - Special Uses	40-60
	Section 40-5-74 - Area/Bulk Restrictions	40-61
	Section 40-5-75 - Supplemental Regulations	40-62
	Section 40-5-76 - Special Regulations, Business Condominiums	40-62
	Section 40-5-77 - 40-5-80 Reserved	
	 <i>Division X - Industrial Districts</i>	
	Section 40-5-81 - "MI" - Manufacturing/Industrial District	40-63
	Section 40-5-82 - Permitted Uses	40-63
	Section 40-5-83 - Special Uses	40-63
	Section 40-5-84 - Area/Bulk Restrictions	40-64
	Section 40-5-85 - Supplemental Regulations	40-64
	Section 40-5-86 - Reserved	
	 <i>Division XI - "A-1" Agricultural Districts</i>	
	Section 40-5-87 - "A-1" - Agricultural District	40-64
	Section 40-5-88 - Permitted Uses	40-64
	Section 40-5-89 - Special Uses	40-65

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
40	ZONING CODE (CONTINUED)	
	<i>Article V – Zone Districts (Continued)</i>	
	<i>Division XI - "A-1" Agricultural Districts (Continued)</i>	
	Section 40-5-90 - Area/Bulk Restrictions	40-65
	Section 40-5-91 - Supplemental Regulations	40-65
	Section 40-5-92 - Reserved	
	 <i>Division XII - "A-2" Agricultural Districts</i>	
	Section 40-5-93 - "A-2" - Agricultural District	40-66
	Section 40-5-94 - Permitted Uses	40-66
	Section 40-5-95 - Special Uses	40-66
	Section 40-5-96 - Area/Bulk Restrictions	40-66
	Section 40-5-97 - Supplemental Regulations	40-67
	 <i>Article VI – Nonconformities</i>	
	Section 40-6-1 - Purpose and Intent	40-71
	Section 40-6-2 - Nonconforming Buildings and Structures	40-71
	Section 40-6-3 - Nonconforming Uses	40-72
	Section 40-6-4 - Nonconforming Vacant Lot of Record	40-72
	Section 40-6-5 - Two or More Lots in Common Ownership	40-72
	Section 40-6-6 - Nonconformities Under Permit Authority	40-72
	Section 40-6-7 - Certificates of Nonconformance	40-72
	 <i>Article VII – Administration and Enforcement</i>	
	<i>Division I - Generally</i>	
	Section 40-7-1 - Penalties	40-73
	Section 40-7-2 - Application Fees	40-73
	Section 40-7-3 - Authority	40-73
	Section 40-7-4 - Building Commissioner	40-74
	Section 40-7-5 - Appointment and Term of Office	40-74
	Section 40-7-6 - Compensation	40-74
	Section 40-7-7 - Duties and Responsibilities	40-74
	Section 40-7-8 - Complaints	40-75
	Section 40-7-9 - Corrective Action Order	40-75
	Section 40-7-10 - Contents of Order	40-75
	Section 40-7-11 - Service of Order	40-76
	Section 40-7-12 - Stop Work Orders	40-76
	Section 40-7-13 - Emergency Measures	40-76
	Section 40-7-14 - Initial Certificates of Zoning Compliance	40-76
	Section 40-7-15 - Final Certificates of Zoning Compliance	40-77
	Section 40-7-16 - Certificates of Nonconformance	40-77
	 <i>Division II - Appeals</i>	
	Section 40-7-17 - Appeals	40-78
	 <i>Division III - Variances</i>	
	Section 40-7-18 - Variations	40-79

<u>CHAPTER</u>	<u>TITLE</u>	<u>PAGE</u>
40	ZONING CODE (CONTINUED)	
	<i>Article VII – Administration and Enforcement (Continued)</i>	
	<i>Division IV - Special Uses</i>	
	<i>Section 40-7-19 - Special Use Permits</i>	40-81
	 <i>Division V - Amendments</i>	
	<i>Section 40-7-20 - Amendments to the Text</i>	50-83
	<i>Section 40-7-21 - Amendments to the Official Zoning Map</i>	40-84

NEW ATHENS, ILLINOIS

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
81-26	Village Clerk	02/02/81	Chapter 1
81-28	Administration	04/06/81	Section 1-2-19
81-29	Animals	04/20/81	Chapter 3
81-30	Appropriation	06/15/81	Special Legislation
81-31	Tax Levy	08/17/81	Special Legislation
81-32	Utilities: Sewer Rate	08/17/81	Chapter 38
81-33	Utilities: Sewer Rate	09/21/81	Chapter 38
81-34	Taxation: Municipal Utility Tax	09/21/81	Chapter 36
81-35	Taxation	10/19/81	Chapter 36
81-36	Senior Citizen	11/16/81	Special Legislation
81-37	Taxation	12/21/81	Chapter 36
82-1	Taxation: Auto Rent Use	01/04/82	Chapter 36
82-2	Taxation: Auto Rent Occupation	01/04/82	Chapter 36
82-2A	Electric Franchise	04/19/82	Special Legislation
82-2B	Electric Streets	04/19/82	Special Legislation
82-3	Business License	04/05/82	Chapter 7
82-4	Public Safety	04/19/82	Chapter 30
82-5	Appropriation	06/01/82	Special Legislation
82-6	Tax Levy	08/16/82	Special Legislation
82-7	Taxation (#81-34)	11/02/82	Chapter 36
82-8	Motor Vehicle	12/20/82	Chapter 24
82-9	Illinois Municipal League	12/20/82	Special Legislation
82-10	Cemetery	03/21/83	Chapter 10
83-1	Appropriation	06/06/83	Special Legislation
83-2	Utilities: Sewer System	06/15/83	Chapter 38
83-3	Fire Protection	06/15/83	Chapter 38
83-4	Liquor	10/03/83	Chapter 21
83-5	Telephone Franchise	01/16/84	Special Legislation
83-6	Tax Levy	09/06/83	Special Legislation
83-7	Motor Vehicles	03/05/84	Chapter 24
83-8	Motor Vehicles	03/19/84	Chapter 24
83-9	Annexation: Commercial	03/19/84	Special Legislation
83-10	Annexation: Ball Park	03/19/84	Special Legislation
83-11	Village Park	03/19/84	Chapter 29
83-12	Village Park	04/02/84	Chapter 29
84-1	Snow Plow	05/07/84	Special Legislation
84-2	Flood Plain Code	06/04/84	Chapter 6

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
86-06	Streets: Culverts	09/15/86	Ch. 33; Art. VI
86-09	Streets: Permits	05/04/87	Repealed
87-02	Vehicle Licenses: Penalty	06/15/87	Repealed
87-11	Public Safety: Ambulance	04/04/88	Chapter 30
90-13	Subdivision Code	02/04/91	Chapter 34
91-02	Business: Yard Sales	05/20/91	Ch. 7; Art. V
94-01	Streets: Closing	05/16/94	Section 33-2-5
94-03	Streets: Permits	07/18/94	Ch. 33 (Replaced)
94-09	Business: Yard Sales	11/21/94	Ch. 7; Art. V
95-09	Cable TV: Rifkin	12/12/95	Chapter 8
95-12	Subdivision: Preliminary Plat	02/05/96	Section 34-2-4
96-02	Vehicle Licenses: Penalty	05/20/96	Section 39-1-4
96-03	Prevailing Wage	07/01/96	Special Legislation
96-08	Subdivision: Utilities	11/18/96	Chapter 34
96-10	Liquor: Persons Selling	11/18/96	Repealed
97-	Zoning	05/19/97	Chapter 40
98-01	Zoning: Amendments	1998	Chapter 40
98-02	Zoning: Amendments	1998	Chapter 40
99-14	Subdivision: Streets	03/06/00	Chapter 34
00-11	Subdivision: Streets	02/05/01	Chapter 34
01-02	Liquor: Sellers	06/18/01	Section 21-3-20
02-03	Administration	06/18/02	Chapter 1
02-12	Stormwater Code	2002	Chapter 32
03-05	Flood Plain Code	10/20/03	Chapter 14
05-06	Zoning: Multi-Family	08/01/05	Chapter 40
05-08	Offenses	11/21/05	Chapter 27
05-09	Offenses: Truancy	11/21/05	Ch. 27; Art. VIII
05-11	Manufactured Housing	03/20/06	Chapter 23
05-14	Motor Vehicle Code	04/17/06	Chapter 24
05-15	Health: Trash Collection	04/17/06	Chapter 17

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
07-05	Employee Code	02/04/08	Chapter 11
09-03	Motor Vehicles: Golf Carts	11/02/09	Ch. 24; Art. XI
*09-09	Zoning: Fees: Penalties	02/16/10	Chapter 40
09-10	Motor Vehicles: Impound Fees	03/01/10	Chapter 24
09-11	Building Code: Fees	02/16/10	Section 5-7-1
09-12	Zoning: Variance: 708 Reinhardt	04/09/10	Special Legislation
10-01	Utilities: Wells	05/17/10	Ch. 38; Art. III
10-02	Business District	06/21/10	Special Legislation
10-03	Appropriation	07/19/10	Special Legislation
10-04	Prevailing Wages	07/19/10	Special Legislation
10-05	Taxation: Business District	09/20/10	Chapter 36
10-06	Employee Code	10/04/10	Chapter 11
10-07	Franchises: Gas	10/04/10	Chapter 15
10-08	Employee Code	12/20/10	Chapter 11
10-09	Employee Code	12/20/10	Chapter 11
10-10	Tax Levy	12/20/10	Special Legislation
10-13	Employee Code	03/07/11	Chapter 11
10-14	Tax Increment Financing	04/04/10	Chapter 37
11-01	Appropriation	07/18/11	Special Legislation
11-02	Employee Code	08/01/11	Ch. 11; Art. V
11-03	TIF Redevelopment Plan and Project	11/07/11	Special Legislation
11-04	TIF Redevelopment Project Area	11/07/11	Special Legislation
11-05	TIF Redevelopment Financing	11/07/11	Special Legislation
11-06	Motor Vehicles: Vehicle Impound Fees	09/06/11	Ch. 24; Art. IX Repealed
11-07	Motor Vehicles: Stop Intersections	11/21/11	Ch. 24; Schd. "A"
11-08	Tax Levy	01/03/12	Special Legislation
11-09	Motor Vehicles: Golf Carts	12/05/11	Ch. 24; Art. XI
11-10	Utilities: User Charges	04/02/12	Ch. 38; Art. V; Div. II
12-01	Public Safety: Part-Time Police	06/04/12	Section 30-2-26
12-02	Zoning: Variance: 916 S Mill	07/02/12	Special Legislation
12-03	Appropriation	07/16/12	Special Legislation
12-03A	Zoning: Map Amendment	08/20/12	Special Legislation
12-04	Borrowing of Funds	07/16/12	Special Legislation
12-04A	Zoning: Variance: 404 S Van Buren	08/20/12	Special Legislation
12-05	Motor Vehicles: Stop Signs	08/06/12	Ch. 24; Schd. "A"
12-06	Business & Liquor: Gambling	12/03/12	Secs. 7-4-1; 7-4-7 21-3-17
12-07	Tax Levy	12/17/12	Special Legislation
12-08	Motor Vehicles: Impoundment	03/18/13	Ch. 24; Art. IX
13-01	Residency Requirement	05/06/13	Secs. 1-2-107; 1-2-116; 1-2-123; 1-2-129; 11-3-6; 30-2-9

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
13-02	Appropriation	07/15/13	Special Legislation
13-03	Zoning: Variance: 605 S Johnson	09/16/13	Special Legislation
13-04	Tax Levy	12/16/13	Special Legislation
13-05	Taxation: Telecommunications	03/03/14	Chapter 36
14-01	Motor Vehicles: Police Tows	07/21/14	Section 24-7-4
14-02	Appropriation	08/18/14	Special Legislation
14-03	Sale of Personal Property	08/18/14	Special Legislation
14-04	Code: Content	09/02/14	Chs. 3; 9; 11; 36; 39
14-04A	Tax Levy	2014	Special Legislation
15-01	Prevailing Wage	06/01/15	Special Legislation
15-02	Cemetery	07/06/15	Section 9-2-1(I)
15-02A	Appropriation	07/20/15	Special Legislation
15-03	Utilities: Billing	09/08/15	Section 38-2-1
15-04	Business: Fireworks	11/16/15	Ch. 7; Art. VIII
15-05	Tax Levy	12/21/15	Special Legislation
15-06	Taxation: Gas & Electric Tax	01/18/16	Ch. 36; Art. IV & V
15-07	Zoning: Variance: 1113 Phillips	01/18/16	Special Legislation
15-08	Offenses: Concealed Weapons	02/16/16	Section 27-2-18
15-09	Motor Vehicles: Golf Carts	02/16/16	Chapter 24
15-10	Buildings: Fee	02/16/16	Section 5-7-4
15-11	Employees	02/16/16	Chapter 11
16-01	Animals: Chickens	05/16/16	Section 3-1-8
16-02	Utilities: Tampering	05/16/16	Section 38-2-12
16-03	Prevailing Wage	07/05/16	Special Legislation
16-04	Zoning: Classification	07/18/16	Special Legislation
16-05	Appropriation	08/01/16	Special Legislation
16-06	Tax Levy	12/19/16	Special Legislation
16-07	Sale of Property	01/03/17	Special Legislation
16-08	Motor Vehicles: Stop Signs	03/20/17	Ch. 24; Schd. "A"
17-01	Prevailing Wage	07/17/17	Special Legislation
17-02	Appropriation	07/17/17	Special Legislation
17-03	Motor Vehicles: Parking	09/05/17	Secs. 24-6-13; 24-6-14
17-04	Motor Vehicles: Abandoned Vehicles	09/05/17	Secs. 24-7-16 – 24-7-21
17-05	Offenses: Cannabis	10/02/17	Ch. 27; Art. XIV
17-06	Utilities: Sewer Rates	10/02/17	Secs; 38-5-13; 38-5-15
17-07	Tax Levy	12/04/17	Special Legislation
17-08	Mandated Policies: Sexual Harassment	01/15/18	Ch. 22; Art. VI

* Not Passed

<u>ORD. #</u>	<u>TITLE</u>	<u>DATE</u>	<u>LOCATION IN CODE</u>
2018-1	Utilities: Kaskaskia Contract	05/21/18	Ch. 38; Exhibit "A"
2018-2	Cable TV: New Wave	07/16/18	Chapter 8
2018-3	Appropriation	08/06/18	Special Legislation
2018-4	Tax Levy	11/19/18	Special Legislation
2018-5	Revised Code	03/04/19	New Code

EXHIBIT 'A'

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 ST. CLAIR) ss. VILLAGE CLERK'S OFFICE
VILLAGE OF NEW ATHENS)

I, **Michelle Neff**, Village Clerk of the **Village of New Athens, Illinois**, do hereby certify that the following **Revised Code of Ordinances of the Village of New Athens, Illinois of 2011**, published by authority of the Village Board of Trustees were duly passed by the Village Board of Trustees of the **Village of New Athens, 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 New Athens, Illinois**, this 19th day of February, 2019.

MICHELLE NEFF
VILLAGE CLERK
VILLAGE OF NEW ATHENS

(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 New Athens.

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

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

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

"EMPLOYEE" shall mean an employee of the Village of New Athens.

"FEE" OR "FEES" as used in this Code shall mean a sum of money charged by the Village.

"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. It does not require any knowledge of the unlawfulness of such act or omission.

"LICENSE". The issuance of permission by the Village to conduct a business, profession or occupation as outlined in this Code.

"LOWEST RESPONSIBLE BIDDER". The bidder who, by experience and other qualification is deemed the most capable of performing the work required in a satisfactory manner. It does NOT necessarily mean the lowest monetary bid.

"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.

"NEGLIGENT" (or a deviation thereof) imports a want of such attention to the nature of probable consequences of the act or 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.

"OFFICIAL TIME". Local time in effect at the address of the Village Hall.

"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.

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

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

"SHALL" as used in this Code means mandatory.

"STATE" shall mean the "State of Illinois".

"STREET". All property and improvements within the right-of-way of any street, alley, lane, court, boulevard, public square, public place or other dedicated property.

"TENANT". Any person who occupies the whole or any part of such building or land, whether alone or with others.

"WHOLESALE". A person engaged in the sale of goods, merchandise or services in quantities to persons who purchase for resale.

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

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

(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 **One Hundred Dollars (\$100.00)** 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 **SERVICE BY CERTIFIED MAIL.** In all actions for violation of any municipal ordinance where the fine would not be in excess of **Seven Hundred Fifty Dollars (\$750.00)** and no jail term could be imposed, service of summons may be made by the Municipal Clerk by certified mail, return receipt requested, whether service is to be within or without the State. **(65 ILCS 5/1-2-9.1)**

1-1-22 **APPLICATION.**
(A) The penalty provided in this Chapter shall be applicable to every section of this Village Code, the same as though it were a part of each and every separate section. Any person convicted of a violation of any section of this Village Code, where any duty is prescribed or obligation imposed, or where any act which is of a continuing nature or declared to be unlawful, shall be deemed guilty of a misdemeanor. A separate offense shall be deemed committed upon each day such duty or obligation remains unperformed or such act continues, unless otherwise specifically provided in this Village Code.

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

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

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

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

ARTICLE II - VILLAGE OFFICIALS

DIVISION I - VILLAGE BOARD OF TRUSTEES

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

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

1-2-3 SPECIAL MEETINGS. Special meetings of the Village Board may be called by the Mayor or any **three (3) Trustees** by giving at least **forty-eight (48) hours** notice thereof by delivering to them personally written or printed notices of the time of such meeting at the residences of the Trustees. Such notices shall be served by mail, by the 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. 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.

(A) The following standing committees of the Village Board are hereby established:

- | | |
|----------------------------------|-----------------------------|
| (1) Streets & Alleys | (5) Public Property & Parks |
| (2) Finance and Audit | (6) Cemetery |
| (3) Water & Sewer | (7) Improvements & Grants |
| (4) Personnel, Public Safety/ADA | (8) Ordinance |

(B) The Mayor may, from time to time, appoint an Ad-Hoc committee for any special purpose.

(C) The Mayor shall appoint the members of the standing committees on an annual basis. The first named Trustee of each committee shall be the chairman of that committee. The Mayor shall be the ex-officio chairman of each and every standing committee.

(D) The Chairman of each Committee, shall be responsible for compiling all minutes of their respective Committee meetings and shall be responsible for submitting the minutes of that meeting to the Village Clerk for recording and storage, prior to receiving compensation for meeting.

(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 Board of Trustees upon the request of any **two (2) Trustees. (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 EXECUTIVE SESSION MINUTES. It shall be the duty of the Village Board of Trustees to review the minutes of all executive session minutes on a semi-annual basis or more often at the direction of the Mayor, to determine which minutes are to be released for public access and which are to remain sealed.

1-2-8 MEMBERS; NON-ATTENDANCE AT MEETINGS. Any member of the Village Board who shall neglect or refuse to attend at least **two (2)** regular and/or special Village Board meetings per month 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. **(65 ILCS 5/3.1-40-20)**

1-2-9 - 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 Comment. *
- (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 by him to the Chairman for announcement, and no vote shall be changed after the tally list has passed from the hands of the Clerk.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) He or she shall rise (if not physically impaired) and state his or her name for the record and unless further time is granted by the Board to limit remarks to **five (5) minutes**. All remarks shall be addressed to the Village Board, not to any member thereof.
- (2) No person other than the Board member recognizing the individual addressing the Board and the person having the floor shall be permitted to enter into any discussion directly or through a member of the Board without the permission of the Mayor. No questions shall be asked of an

Trustee except through the Mayor. Any person making personal or

impertinent remarks or who shall become disruptive addressing the Village Board shall be forthwith evicted from the Board room by the Mayor.

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

- (1) The Village shall furnish appropriate auxiliary aid(s) and service(s) where necessary to afford qualified individuals with disabilities including applicants, participants, companions, and members of the public, an equal opportunity to participate in, and enjoy the benefits, of a service, program, or activity of the Village.
- (2) Auxiliary aids and services shall be provided in a timely manner.
- (3) Individuals shall notify the Village Clerk **fourteen (14) days** in advance specifying the appropriate auxiliary aids or services required. **(See Addendum "B", Request for Auxiliary Aid(s) and/or Services)**

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

1-2-14 RESERVED.

DIVISION III - ORDINANCES

1-2-15 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)**

1-2-16 RECONSIDERATION--PASSING OVER VETO. Every resolution and motion, specified in **Section 1-2-15** 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)**

1-2-17 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)**

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 New Athens, Illinois**" in the exterior circle, and the words "**Official Seal**" in the center. **(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.

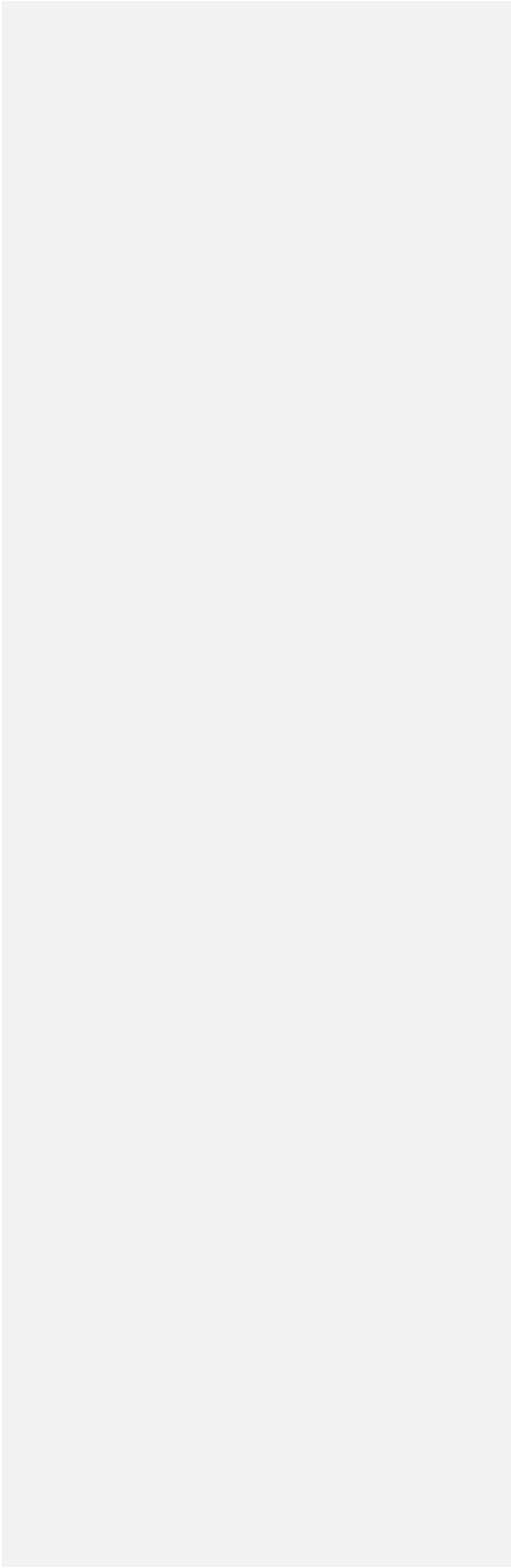
(A) **Election Procedure.** The provisions of the **Illinois Compiled Statutes, Chapter 10** concerning municipal elections shall govern the conduct of the Village elections. **(65 ILCS 5/3.1-10-10)**

(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 statute.

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

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

1-2-24 BONDS OF VILLAGE OFFICERS.

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

- (1) Mayor \$ 50,000.00
- (2) Village Treasurer 50,000.00
- (3) Village Clerk 50,000.00
- (4) Police Chief 50,000.00
- (5) Village Collector 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 INTERESTS IN CONTRACTS PROHIBITED.

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

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

This Section does not prohibit any person serving on a municipal advisory panel or commission or nongoverning board or commission from having an interest in a contract, work, or business of the

municipality unless the municipal officer's duties include evaluating, recommending, approving, or voting to recommend or approve the contract, work, or business.

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

- (1) If:
 - (a) the contract is with a person, firm, partnership, association in which the interested member of the governing body of the municipality member has less than a **seven and one-half percent (7 1/2%)** share in the ownership;
 - (b) the interested member publicly discloses the nature and extent of the interest before or during deliberations concerning the proposed award of the contract;
 - (c) the interested member abstains from voting on the award of the contract (though the member shall be considered present for the purposes of establishing a quorum);
 - (d) the contract is approved by a majority vote of those members presently holding office;
 - (e) the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds **One Thousand Five Hundred Dollars (\$1,500.00)** (but the contract may be awarded without bidding if the amount is less than **One Thousand Five Hundred Dollars (\$1,500.00)**; and
 - (f) the award of the contract would not cause the aggregate amount of all contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Twenty-Five Thousand Dollars (\$25,000.00)**.
- (2) If:
 - (a) the award of the contract is approved by a majority vote of the governing body of the municipality (provided that the interested member shall abstain from voting);
 - (b) the amount of the contract does not exceed **Two Thousand Dollars (\$2,000.00)**;
 - (c) the award of the contract would not cause the aggregate amount of all contracts so awarded to the same person, firm, association, partnership, corporation, or cooperative association in the same fiscal year to exceed **Four Thousand Dollars (\$4,000.00)**;
 - (d) the interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and
 - (e) the interested member abstains from voting on the award of the contract (though the member shall be considered present for the purposes of establishing a quorum).
- (3) In addition to the above exemptions, any elected or appointed member of the governing body may provide materials, merchandise, property, services, or labor if:
 - (a) the contract is with a person, firm, partnership, association, corporation, or cooperative association in which the interested member of the governing body of the municipality, advisory panel, or commission has less than a **one percent (1%)** share in the ownership; and

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

- (c) such interested member publicly discloses the nature and extent of his interest before or during deliberations concerning the proposed award of the contract; and
- (d) such interested member abstains from voting on the award of the contract, though he shall be considered present for the purposes of establishing a quorum.

(C) A contract for the procurement of public utility services by a municipality with a public utility company is not barred by this Section by one or more members of the governing body being an officer or employee of the public utility company, or holding an ownership interest in no more than **seven and one-half percent (7 1/2%)** in the public utility company, or holding an ownership interest of any size if the municipality has a population of less than **seven thousand five hundred (7,500)** and the public utility's rates are approved by the Illinois Commerce Commission. An elected or appointed member of the governing body or a nongovernmenting board or commission having an interest described in this subsection (D) does not have a prohibited interest under this Section.

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

(E) Nothing contained in this Section, including the restrictions set forth in subsections (B) and (C), shall preclude a contract of deposit of moneys, loans, or other financial services by a municipality with a local bank or local savings and loan association, regardless of whether a member of the governing body of the municipality is interested in the bank or savings and loan association as an officer or employee or as a holder of less than **seven and one-half percent (7 1/2%)** of the total ownership interest. A member holding an interest described in this subsection (E) in a contract does not hold a prohibited interest for purposes of this Act. The interested member of the governing body must publicly state the nature and extent of the interest during deliberations concerning the proposed award of the contract but shall not participate in any further deliberations concerning the proposed award. The interested member shall not vote on the proposed award. A member abstaining from participation in deliberations and voting under this Section may be considered present for purposes of establishing a quorum. Award of the contract shall require approval by a majority vote of those members presently holding office. Consideration and award of a contract in which a member is interested may only be made at a regularly scheduled public meeting of the governing body of the municipality.

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

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

- (1) If the municipal officer is appointed by the governing body of the municipality to represent the interests of the municipality on a not-for-profit corporation's board, then the municipal officer may actively vote on matters involving either that board or the municipality, at any time, so long as the membership on the not-for-profit board is not a paid position, except that the municipal officer may be reimbursed by the not-for-profit board for expenses incurred as the result of membership on the not-for-profit board.
- (2) If the municipal officer is not appointed to the governing body of a not-for-profit corporation by the governing body of the municipality, then the municipal officer may continue to serve; however, the municipal officer shall abstain from voting on any proposition before the municipal governing body directly involving the not-for-profit corporation and, for those matters, shall not be counted as present for the purposes of a quorum of the municipal governing body.

(65 ILCS 5/3.1-55-10)

1-2-27 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-Five Thousand Dollars (\$25,000.00)**, shall be purchased from the lowest responsible bidder, after due notice inviting bids, unless competitive bidding is waived by a vote of **two-thirds (2/3)** of the Trustees then holding office.

(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-Five Thousand Dollars (\$25,000.00)** shall be made in the open market, without newspaper advertisement and without observing the procedure prescribed by this Section for the award of formal contracts.

(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)**

1-2-28 CERTIFICATES OF INSURANCE. Any contract for construction entered into by the Village shall require the contractor to furnish to the Village a "Certificate of Insurance" indicating it is for the particular contract in question and specifically names the "Village of New Athens" as "Additional Insured" in the following minimum amounts:

- (A) Comprehensive Automobile Liability
 - (1) \$500,000.00 Bodily Injury Per Person
 - (2) \$1,000,000.00 Bodily Injury Per Occurrence
 - (3) \$500,000.00 Property Damage Per Occurrence

- (B) Workmen's Compensation
 - (1) Statutory Limits
 - (2) \$500,000.00 Employer's Liability Bodily Injury Per Person

(C) Comprehensive General Liability policy shall include coverage for premises and operations, contractor's protective liability, broad form property damage, and personal injury liability. Where the hazard exists, the Contractor shall purchase and maintain insurance to protect against claims to explosion, collapse or underground damage.

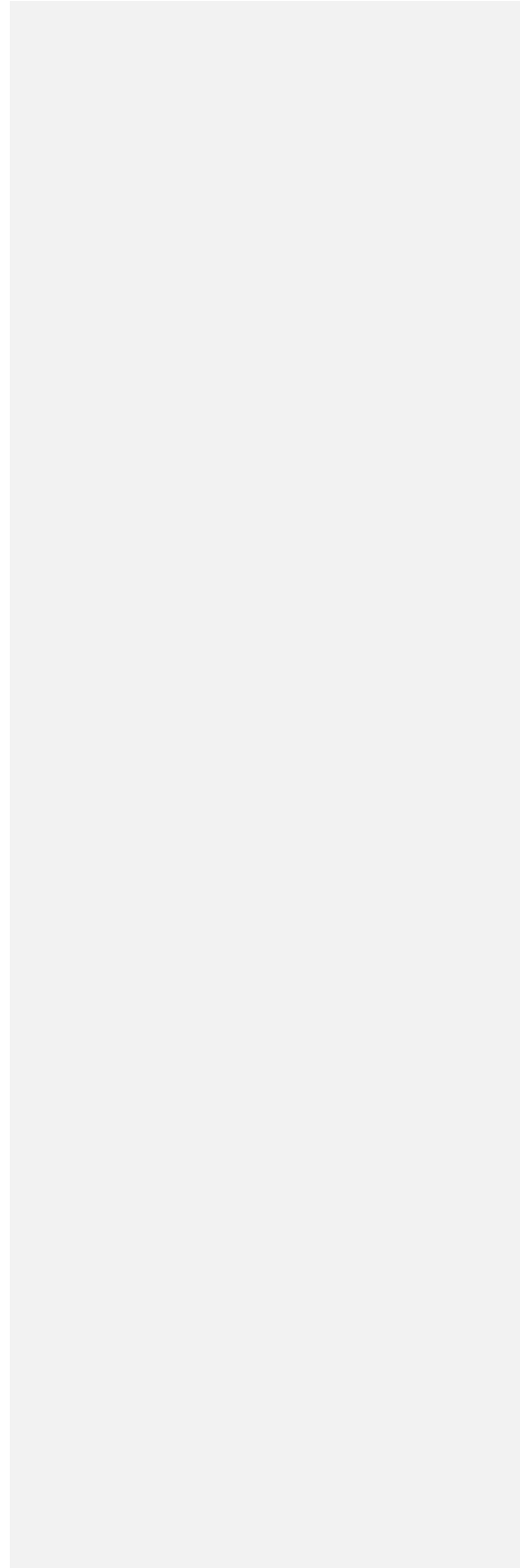
- (1) \$1,000,000.00 Bodily Injury Per Person
- (2) \$1,000,000.00 Bodily Injury Aggregate Limit
- (3) \$1,000,000.00 Property Damage Per Occurrence
- (4) \$1,000,000.00 Property Damage Aggregate Limit

1-2-29 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.

1-2-30 CLAIMS.

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

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

1-2-31 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.

1-2-32 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.

1-2-33 OFFICIAL RECORDS. All official records, including the Corporate Seal, shall be kept in the Village Hall.

1-2-34 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.)**

1-2-35 ILLINOIS MUNICIPAL RETIREMENT FUND.

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

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

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

1-2-36 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)**

1-2-37 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)**

1-2-38 - 1-2-39 RESERVED.

DIVISION V - VACANCIES

1-2-40 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 1-2-44**, 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.

1-2-41 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.

1-2-42 VACANCY BY OTHER CAUSES.

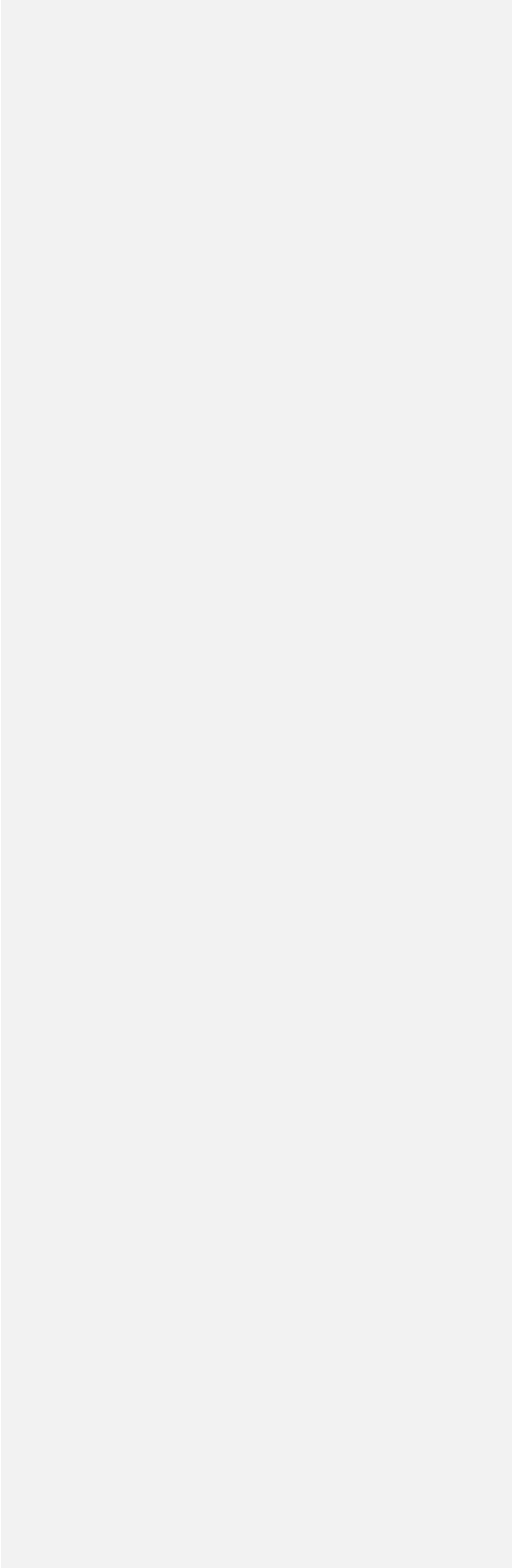
(A) **Abandonment and Other Causes.** A vacancy occurs in an office by reason of abandonment of office; removal from office; or failure to qualify; or more than temporary removal of residence from the Municipality, as the case may be. The corporate authorities have the authority to determine whether 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 1-2-44 or 1-2-45**.

(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.

1-2-43 ELECTION OF AN ACTING MAYOR. The election of an acting Mayor pursuant to **Section 1-2-45 or 1-2-46** 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.

1-2-44 **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.

1-2-45 **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 1-2-43**, 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 1-2-44**.

(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.

1-2-46 **VACANCIES DUE TO ELECTION BEING DECLARED VOID.** In cases of vacancies arising by reason of an election being declared void pursuant to **Section 1-2-42(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.

(65 ILCS 5/3.1-10-50)

1-2-47 **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)**.

1-2-48 - 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)**

1-3-1 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 **LIQUOR COMMISSIONER.** The Mayor shall be designated as the Local Liquor Commissioner with all the powers and duties to issue and revoke any Village liquor license in accordance with the laws of the State of Illinois and the Municipal Code.

1-3-12 **HEALTH COMMISSIONER.** The Mayor, with the advice and consent of the Board of Trustees, shall have the authority to authorize the abatement and removal of any or all

nuisances or health hazards within the jurisdictional boundaries of the Village as prescribed by the laws of the State of Illinois and the Municipal Code.

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 - 1-3-16 **RESERVED.**

DIVISION II - VILLAGE CLERK

1-3-17 **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)**

1-3-18 **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)**

1-3-19 **VILLAGE CLERK; NON-ATTENDANCE AT MEETINGS.** If the Village Clerk should neglect or refuse to attend at least **two (2)** regular and/or special Village Board meetings per month, then the Village Clerk shall not receive compensation for that meeting. The Village Clerk shall be allowed **two (2) absences** in each fiscal year for which compensation shall be paid.

1-3-20 **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)**

1-3-21 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)**

1-3-22 PREPARATION OF DOCUMENTS, COMMISSIONS AND LICENSES. The Village Clerk shall prepare for delivery to the applicant and keep a record thereof all commissions, licenses, permits and other official documents of the Village required to be issued by him under the Municipal Code and shall attest the same with the corporate seal, and shall submit to the Board of Trustees on a monthly basis, a report of those items issued in the preceding month.

1-3-23 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.

1-3-24 DELIVERY OF 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 deliver such plates, tags, or stickers to the person paying the license fee.

1-3-25 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)**

1-3-26 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)**

1-3-27 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)**

1-3-28 **FINANCIAL REPORTS.** The Village Clerk shall, before the first meeting of the month, prepare and submit to the Board of Trustees in writing, a report of all the moneys received and warrants drawn by him during the preceding month, showing from what sources and on what account moneys were received, and for what purposes and on what account the warrants were drawn or paid, the date paid and to whom payable.

1-3-29 **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.

1-3-30 **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)**

1-3-31 **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)**

1-3-32 - 1-3-33 **RESERVED.**

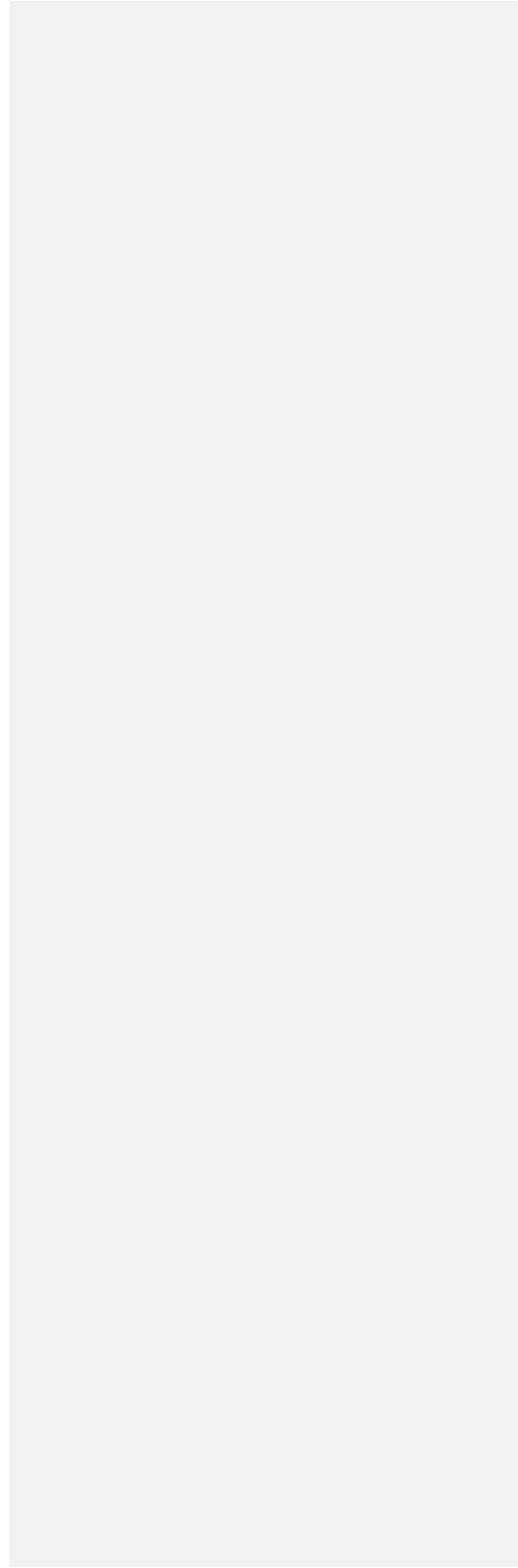
DIVISION III - VILLAGE TREASURER

1-3-34 **VILLAGE TREASURER ESTABLISHED.** There is hereby established the position of Village Treasurer whose duties shall include those listed in the Municipal Code and as established by the laws of the State of Illinois. The Village Treasurer shall not be required to reside within the corporate limits of the Village.

1-3-35 **TREASURER APPOINTED; VACANCY.** The Treasurer shall be appointed for a **one (1) 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)**

1-3-36 **MONEY; WARRANTS; ACCOUNTS; PAYMENTS.** The Village Treasurer shall receive all moneys 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. He shall give to every person paying money into the Village Treasury a receipt thereof, specifying the date of payment, and upon what account paid, and he shall file copies of such receipts with the Clerk with the monthly reports. The Treasurer shall prepare monthly an itemized list of all moneys received and shall deliver a copy of the same to the Village Board and shall also pay over to the Village Treasury all moneys received by him and take a

receipt



therefore. All bookkeeping shall be by acceptable accounting practices and in such a way that the books and accounts may be readily investigated and understood, and that all documents pertaining to his office shall be open at any time to inspection by the Village Board. **(65 ILCS 5/3.1-35-40)**

1-3-37 **WARRANT REGISTER.** The Treasurer shall keep a register of all warrants redeemed and paid by him, 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 he shall cancel all warrants as soon as redeemed by him. **(65 ILCS 5/3.1-35-40 and 5/3.1-35-45)**

1-3-38 **PERSONAL USE OF FUNDS.** The Village Treasurer shall keep all money belonging to the Village and in the Treasurer's custody separate and distinct from the Treasurer's own money and shall not use, either directly or indirectly, the Village'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)**

1-3-39 **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)**

1-3-40 **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)**

1-3-41 **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)**

1-3-42 **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)**

1-3-43 **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.

1-3-44 **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 distributed 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 65 ILCS 5/3.1-35-70.]

1-3-45 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)**

1-3-46 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 1-3-46(F)**. When requested by the Treasurer, the corporate authorities shall designate a bank or banks in which may be kept the funds and monies of the Village in the custody of the Treasurer. When a bank or savings and loan association has been designated as a depository, it shall continue as such depository until **ten (10) days** have elapsed after a new depository is designated and has qualified by furnishing the statements of resources and liabilities as required by this Section. When a new depository is designated, the corporate authorities shall notify the sureties of the Village Treasurer of that fact in writing at least **five (5) days** before the transfer of funds. The Treasurer shall be discharged from responsibility for all funds or money that the Treasurer deposits in a designated bank or savings and loan association while the funds and money are so deposited.

(B) The Village Treasurer may require any bank or savings and loan association to deposit with the Treasurer securities or mortgages that have a market value at least equal to the amount of the

funds or monies of the municipality deposited with the bank or savings and loan association that exceeds the insurance limitation provided by the Federal Deposit Insurance Corporation.

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

(D) Each Village Treasurer may:

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

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

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

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

- (1) Bank of America
- (2) Regions Bank
- (3) US Bank
- (4) The Village Bank
- (5) Citizens Community Bank
- (6) Wacovia/AG Edwards
- (7) Huntleigh Securities
- (8) Illinois State Treasurer's Investment Pool

1-3-47 **AUTHORIZED INVESTMENTS.** The following types of investments are hereby authorized for the deposit of surplus or reserve funds of the Village.

(A) General Obligation Securities of the United States or State of Illinois.

(B) Certificates of Deposit and Time Deposits where such deposits are insured by the FDIC.

(C) Short Term Obligations of the Federal National Mortgage Association.

(D) Money Markets Accounts.

(See Chapter 22 - Mandated Policies)

1-3-48 - 1-3-49 **RESERVED.**

DIVISION IV - VILLAGE COLLECTOR

1-3-50 **ESTABLISHED.** There is hereby established the position of Village Collector whose duties shall include those listed in the Municipal Code and as established by the laws of the State of Illinois.

1-3-51 **APPOINTMENT.** The appointment of the Village Collector shall be made by the Mayor with the advice and consent of the Village Board of Trustees.

1-3-52 **TERM.** The term of appointment of the Village Collector shall coincide with the fiscal year. He shall serve at the pleasure of the Mayor.

1-3-53 **BOND.** Before entering upon the duties of his office, the Village Collector shall execute and file with the Treasurer a bond in such amount, and with such sureties as may be required by the Village Board, conditioned upon the faithful performance of his duties. **(See Section 1-2-24)**

1-3-54 **BENEFITS AND COMPENSATION.** The Village Collector shall receive those benefits as listed in Chapter 11 - Employee Code, and shall receive compensation as established by Resolution of the Board of Trustees.

1-3-55 **DUTIES.** The following shall be the duties of the Village Collector:

- (A) The Village Collector shall have supervision over all officers and employees of the Village charged in any manner with the receipt, collection, or disbursement of the Village revenue into the Treasury.
- (B) He shall preserve all warrants returned to him.
- (C) He shall keep such books and accounts as the Village Board may direct.
- (D) He shall keep all warrants, books, vouchers, and papers pertaining to the office of the Collector open for the inspection of the Mayor and Board of Trustees.
- (E) The Collector shall at least once a week, deposit those funds or moneys collected during the preceding week in a depository designated by the Board of Trustees and deliver the receipts of said deposit to the Treasurer.
- (F) At the close of the fiscal year, the Collector shall place on file with the Village Board, a statement of all money collected by him during the year, the particular warrant, or special assessment or account on which collected, the balance of money uncollected on all warrants during the preceding fiscal year, and he shall cause such statement to be published by the Clerk as provided by the laws of the State of Illinois.
- (G) The Collector shall make such additional reports to the Board of the financial status of the Village as the Board of Trustees may request or require by ordinance.
- (H) The Collector shall perform such additional duties and have such additional powers as the Board of Trustees may, by ordinance or resolution, confer on him.

(65 ILCS 5/3-11-25)

1-3-56 **RESIDENCY.** The Village Collector shall be required to reside within **twenty (20) miles** from the New Athens Village Hall. Any newly appointed Village Collector who does not reside within the prescribed boundaries at the time of hire, shall have **fifteen (15) months** from the date of hire to establish residency within the prescribed boundaries. The Board of Trustees may extend this time constraint.

1-3-57 **RESERVED.**

DIVISION V - SUPERINTENDENT OF PUBLIC WORKS

1-3-58 **ESTABLISHED.** There is hereby established the position of Superintendent of Public Works, whose duties shall include those listed in the Municipal Code and as established by the laws of the State of Illinois.

1-3-59 **APPOINTMENT.** The appointment of the Superintendent of Public Works shall be made by the Mayor with the advice and consent of the Village Board of Trustees.

1-3-60 **TERM.** The term of appointment of the Superintendent of Public Works shall coincide with the fiscal year. He shall serve at the pleasure of the Mayor.

1-3-61 **BENEFITS AND COMPENSATION.** The Superintendent of Public Works shall receive those benefits as listed in Chapter 11, Employee Code, and shall receive compensation as established by Resolution of the Board of Trustees.

1-3-62 **DUTIES.** The Superintendent of Public Works shall have supervision over the employees of the Public Works Department of the Village and such other duties or obligations as the Mayor and Board of Trustees may delegate to him from time to time.

1-3-63 **RESIDENCY.** The Superintendent of Public Works shall be required to reside within **twenty (20) driving miles** from the New Athens village limits. Any newly appointed Superintendent of Public Works who does not reside within the prescribed boundaries at the time of hire, shall have **fifteen (15) months** from the date of hire to establish residency within the prescribed boundaries. The Board of Trustees may extend this time constraint. **(Ord. No. 13-01; 05-06-13)**

1-3-64 **RESERVED.**

DIVISION VI - BUILDING ADMINISTRATOR

1-3-65 **ESTABLISHED.** There is hereby established the position of Building Administrator whose duties shall include those listed in the Municipal Code for the Building Commissioner, Zoning Administrator, and Flood Plain Inspector.

1-3-66 **APPOINTMENT.** The appointment of the Building Administrator shall be made by the Mayor with the advice and consent of the Village Board of Trustees.

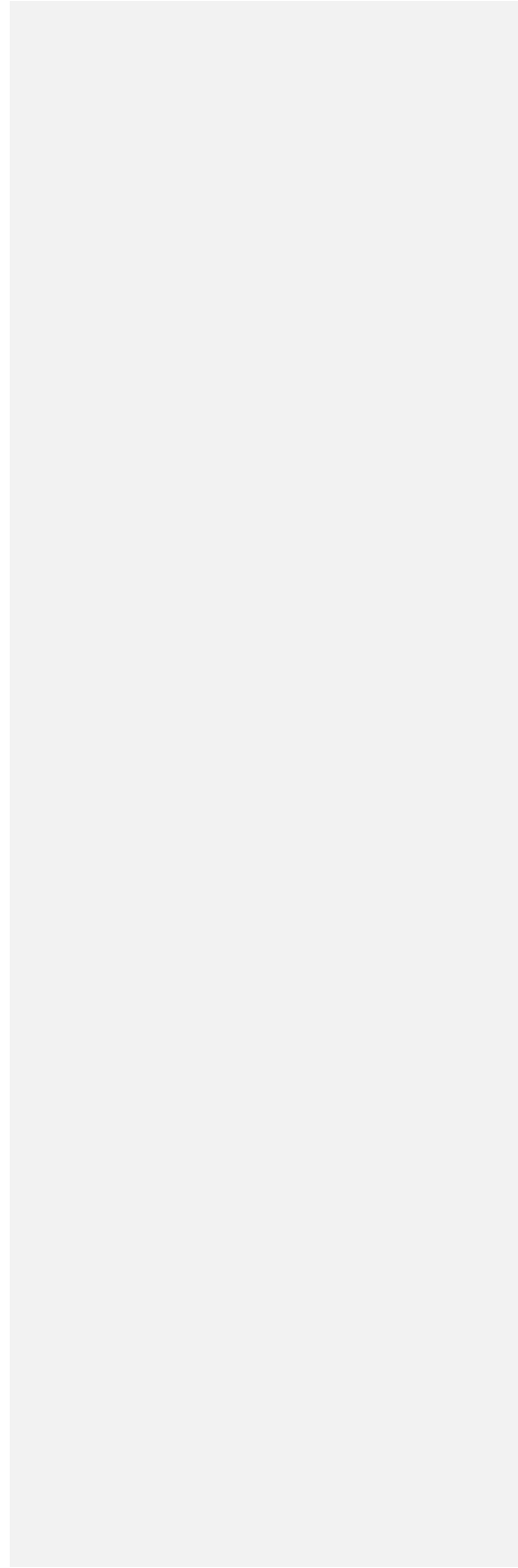
1-3-67 **TERM.** The term of appointment of the Building Administrator shall coincide with the fiscal year. He shall serve at the pleasure of the Mayor.

1-3-68 **COMPENSATION.** The position of Building Administrator shall be deemed a part-time position and is not eligible for any benefits of any kind. The total compensation for the positions of Building Administrator for performance of those duties as established herein, shall be as established by resolution of the Board of Trustees.

1-3-69 **RESIDENCY.** The Building Administrator shall be required to reside within **twelve (12) driving miles** from the New Athens village limits. Any newly appointed Building Administrator who does not reside within the prescribed boundaries at the time of hire, shall have **fifteen (15) months** from the date of hire to establish residency within the prescribed boundaries. The Board of Trustees may extend this time constraint. **(Ord. No. 13-01; 05-06-13)**

1-3-70

RESERVED.



DIVISION VII – EMERGENCY MANAGEMENT AGENCY COORDINATOR

1-3-71 **ESTABLISHED.** There is hereby established the position of EMA Coordinator.

1-3-72 **APPOINTMENT.** The appointment of the EMA Coordinator shall be made by the Mayor with the advice and consent of the Village Board of Trustees.

1-3-73 **TERM.** The term of appointment of the EMA Coordinator shall coincide with the fiscal year. He shall serve at the pleasure of the Mayor.

1-3-74 **COMPENSATION.** The position of EMA Coordinator shall be deemed a part-time position and is not eligible for any benefits of any kind. The total compensation for the positions of EMA Coordinator for performance of those duties as established herein, shall be as established by resolution of the Board of Trustees.

1-3-75 **RESIDENCY.** The EMA Coordinator shall be required to reside within **twelve (12) miles** from the New Athens Village Hall. Any newly appointed EMA Coordinator who does not reside within the prescribed boundaries at the time of hire, shall have **fifteen (15) months** from the date of hire to establish residency within the prescribed boundaries. The Board of Trustees may extend this time constraint.

1-3-76 **RESERVED.**

DIVISION VIII - VILLAGE ENGINEER

1-3-77 **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.

1-3-78 **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)**

1-3-79 **RESERVED.**

DIVISION IX - VILLAGE ATTORNEY

1-3-80 **APPOINTMENT OF ATTORNEY.** The Attorney shall be appointed by the Mayor, by and with the advice 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)**

1-3-81 COMPENSATION. The position of Village Attorney shall be deemed a part-time position and is not eligible for any benefits of any kind. The total compensation for the position of Village Attorney for performance of those duties as established herein, shall be as established by ordinance of the Board of Trustees.

1-3-82 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.

1-3-83 RESIDENCY. The Village Attorney shall not be required to reside within the corporate limits of the Village.

ARTICLE IV - SALARIES

1-4-1 SALARY REGULATIONS; ELECTED OFFICIALS. No salary or compensation of any elected municipal official who is elected for a definite term of office shall be increased or diminished during such term.

1-4-2 ESTABLISHED. The following salaries are hereby established for the various elected municipal officers:

(A) **Mayor.** The Mayor shall receive an annual salary of **One Hundred Dollars (\$100.00)** per regular and special meeting, and **Thirty Dollars (\$30.00)** per committee meeting. **(Ord. No. 2000-08; 10-16-00)**

(B) **Village Clerk.** The Village Clerk shall receive a salary of **Two Thousand Two Hundred Fifty-Two Dollars Twenty-Five Cents (\$2,252.25)** per year. The Village Clerk shall also receive **Fifty Dollars (\$50.00)** per regular or special meeting and **Thirty Dollars (\$30.00)** per committee meeting. **(Ord. No. 2004-05)**

(C) **Village Trustees.** Each Trustee shall receive a salary of **Seventy-Five Dollars (\$75.00)** per regular and special meeting and **Thirty Dollars (\$30.00)** per all committee meetings. **(Ord. No. 2000-08; 10-16-00)**

1-4-3 SALARY REGULATIONS; APPOINTED OFFICIALS.

(A) 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 during such term.

(B) The Village Board shall, by resolution, designate the salaries to be paid to the following appointed officials for performing those duties as listed in the Municipal Code and as required by the laws of the State of Illinois.

- (1) Village Treasurer
- (2) Village Attorney
- (3) Village Collector
- (4) Superintendent of Public Works
- (5) Chief of Police
- (6) Police Lieutenant
- (7) Building Administrator
- (8) EMA Coordinator

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

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

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

ARTICLE V - MANAGEMENT ASSOCIATION

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

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

ARTICLE VI – MEETING PROCEDURES

DIVISION I – RECORDING CLOSED MEETINGS

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

DIVISION II – REMOTE MEETING PARTICIPATION

1-6-10 **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.

1-6-11 **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 themembers of a public body held for the purpose of discussing public business" or such other definition as shall be contained within the state statutes.

1-6-12 **AMENDMENT OF PREVIOUS TERMS.** The definition of "meeting" set forth in **Section 1-6-11** shall supersede and replace any other definition used in any previous or existing ordinance.

1-6-13 **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 for 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 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.

VILLAGE OF NEW ATHENS, ILLINOIS

CLOSED SESSIONS – MINUTES

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

Table with columns: Inventory, Date, Purpose, Discussion, Proposed Action, Comments. The table contains multiple empty rows for data entry.

Key

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

CHAPTER 3

ANIMALS

ARTICLE I – GENERAL REGULATIONS

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

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

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

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

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

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

"DANGEROUS DOG" means:

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

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

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

"DOG". "Dog" means all members of the family Canidae. **(510 ILCS 5/2.11)**

"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 animal 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)**

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

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

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

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

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

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

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

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

3-1-2 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.

3-1-3 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, and capable of restraining the animal therein.

(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.

3-1-4 DOGS AND CATS IN PUBLIC PLACES. No dog or cat shall be permitted in any cemetery, park, swimming area or beach open to the public in the Village, unless on a leash.

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

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

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

3-1-6 CRUELTY TO ANIMALS PROHIBITED.

(A) **Unlawful Cruelty; Exceptions.** 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 St. Clair 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 3-1-1. (65 ILCS 5/11-5-6)**

3-1-7 KEEPING 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 shall this Section apply 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. A Dangerous Dog as defined in **Article III** shall be harbored or kept as set forth in **Article III**.

(D) The licensing authority may 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. **(See Definitions in Section 3-1-1)**

3-1-8 ANIMALS 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) Applicants shall register with Village Hall obtaining annual permit and have proof of registration on-site. Registration fee of **Ten Dollars (\$10.00)** per year.
- (6) 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.

(B) **Regulations.** Licenses for coops must be obtained and shall meet the rules of this Article where applicable.

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

- (2) 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.
- (3) 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.
- (4) The coop and run shall be located at least **ten (10) feet** from the property line and at least **twenty-five (25) feet** from any dwelling.
- (5) Coop licenses shall not run with the land.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) Applications shall be submitted to the City Clerk's office.
- (10) No person shall slaughter any Hobby Animal within Village limits in view of the public.
- (11) 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.
- (12) 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.
- (13) 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.
- (14) 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.
- (15) 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.

(C) **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.

(Ord. No. 2016-1; 05-16-16)

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

(A) **Nuisance.** The keeping of an unlimited number of dogs and cats in the Village for a considerable period of time detracts from and, in many instances, is detrimental to the healthful and comfortable life for which such areas were created. The keeping of an unlimited number of dogs and cats is, therefore, declared to be a public nuisance. The terms "dog" and "cat" shall be construed as provided in **Section 3-1-1.**

(B) **Limitation; Exception.**

- (1) It shall be unlawful for any person or persons to keep more than **five (5) dogs** and/or **five (5) 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 licensed establishment wherein dogs or cats are kept for breeding, sale, sporting purposes or boarding.

3-1-10 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.

**(See Section 1-1-20 for penalties.)
(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 3-1-1** 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. (**Ord. No. 14-04; 09-02-14**)

(B) The rabies tag issued shall be in such form as shall be determined by the Department of Agriculture.

3-2-3 **INOCULATION TO BE PERFORMED BY A 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 **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.

3-2-6 **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 3-1-1. (65 ILCS 5/11-20-9)**

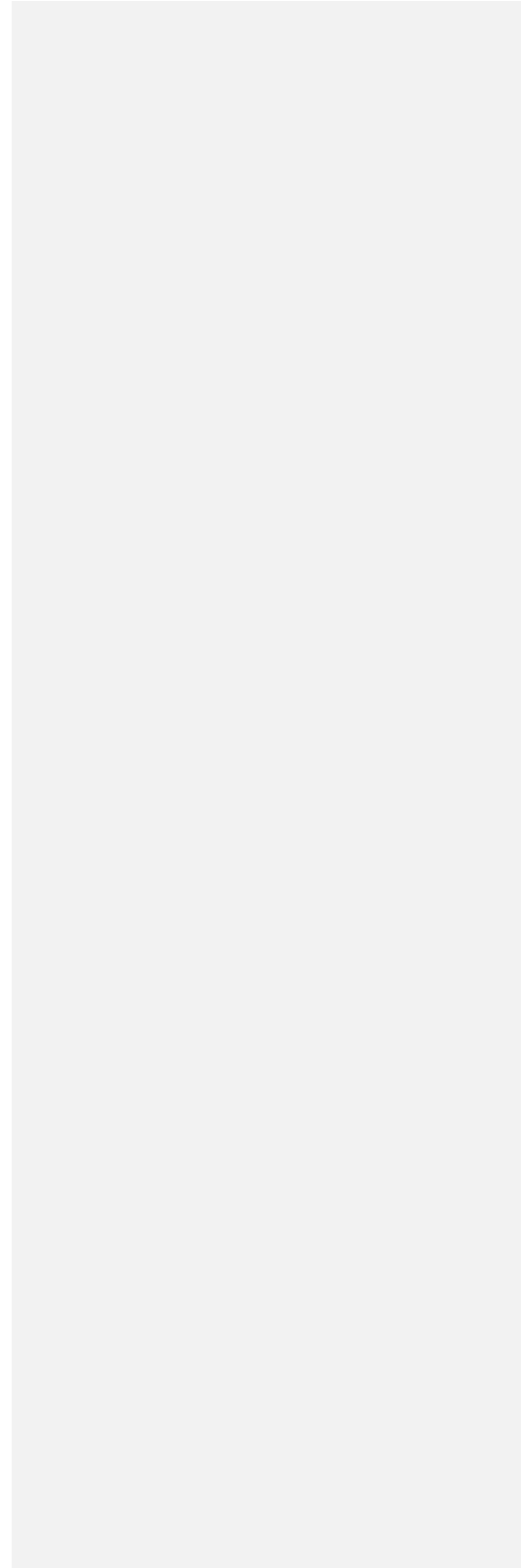
3-2-7 **IMPOUNDMENT OF DOGS RUNNING AT LARGE OR UNLICENSED DOGS; CITATION OF OWNER OR KEEPER.**

(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.

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

(C)
nuisance.

Any dog permitted to run at large within the Village is hereby declared to be a



(D) Any impounded dog which shall not be redeemed within **two (2) days** shall be turned over to St. Clair Animal Control.
(510 ILCS 5/10)

3-2-8 IMPOUNDMENT NOTICE AND CITATION TO OWNER OR KEEPER OF IMPOUNDMENT. In the 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.

3-2-9 OBSTRUCTING POUNDMASTER. It shall be unlawful for any person to resist, hinder, or molest the dogcatcher, police officer or any other Village employee acting while engaged in the duties imposed upon them by this Chapter. It shall also be unlawful for any person to break into the dog pound and release or deliver any dog therefrom without having first paid the fees herein specified. Any person found guilty of this offense shall be fined accordingly.

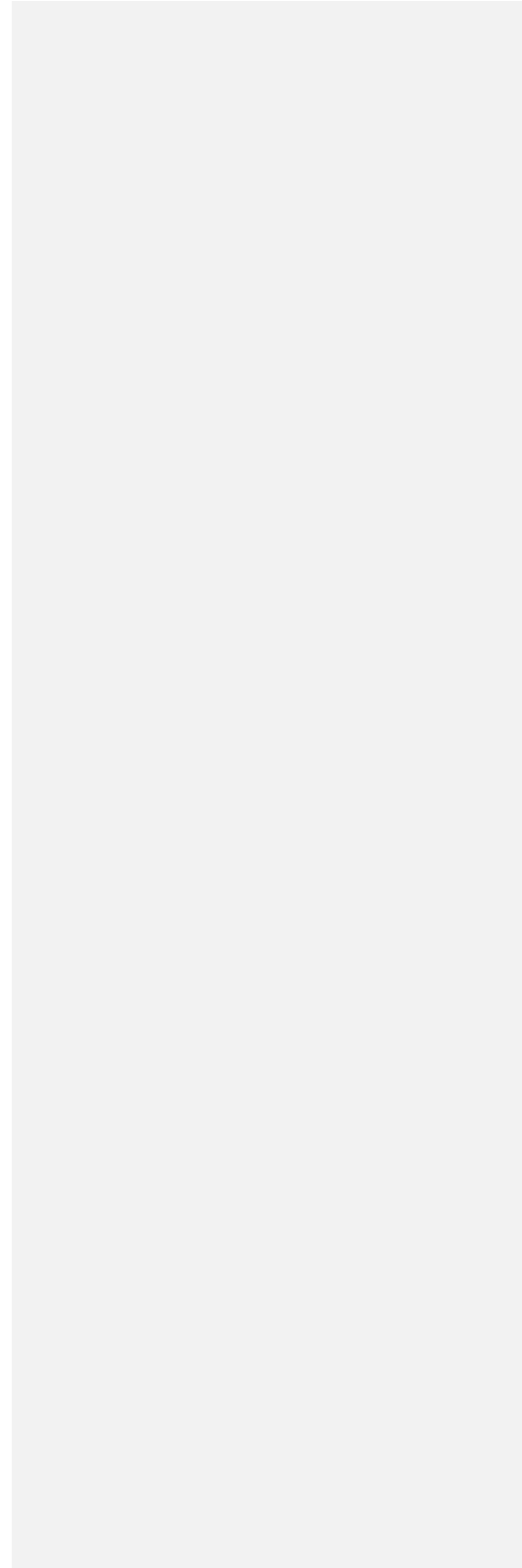
3-2-10 IMPOUNDMENT OF DOGS WHICH HAVE BITTEN PERSONS. Any dog which shall have bitten or otherwise injured any person so as to cause an abrasion or break of the skin shall be immediately taken, impounded by the Village or County Animal Control, and kept separated from other dogs for **ten (10) days**. 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 or County Animal Control. After having been notified that his dog has bitten, injured, or shown aggression towards 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)**

3-2-11 METHOD OF 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.

3-2-12 REDEMPTION OF IMPOUNDED DOGS. Any dog impounded under the provisions of this Chapter, except such as may have bitten any person as specified in **Section 3-2-10** of this Chapter shall, unless sooner redeemed, be held for the period of **two (2) days** in order to afford opportunity to the owner or keeper thereof to redeem the same. Any such owner or keeper thereof desiring to redeem his impounded dog shall pay an impounding fee of **Thirty-Five Dollars (\$35.00)** and also shall pay the cost of keeping such dog while impounded at the rate of **Ten Dollars (\$10.00)** per day. The owner shall show proof of inoculation prior to the dog's release.

3-2-13
Pound.

VILLAGE POUND DESIGNATED. The Village Board shall designate a Village



3-2-14 **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.

3-2-15 **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 to consort in an indecent manner or to breed with any other dog or dogs in any place of public view, whether upon his own or any other premises.

3-2-16 **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 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)**

3-2-17 **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 - DANGEROUS DOG CODE

3-3-1 **LEGISLATIVE INTENT.** This Article is adopted pursuant to the powers granted to municipalities in **Paragraphs 5/11-5-6 and 5/11-20-9 of Chapter 65, Illinois Compiled Statutes**, as amended.

3-3-2 **DEFINITIONS.** For the purpose of this Article the following words and phrases shall have the meanings set forth in this Section.

"Bite" means to seize, puncture, or cut with the teeth.

"Confinement Structure" means a securely locked pen, kennel or structure designed and constructed for the keeping of a Dangerous Dog and shall be designed, constructed and maintained in accordance with the standards provided herein. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used to confine a Dangerous Dog must be locked with a key or combination lock, when such animals are within the structure. Such structure must have a secure bottom or floor attached to the sides of the pen must be embedded in the ground no less than **two (2) feet**. All structures erected to house a Dangerous Dog must comply with all Village Zoning and Building regulations. All such structures must be adequately lighted, ventilated and kept in a clean and sanitary condition.

"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)

"Fight" means a prearranged conflict between **two (2)** or more animals, but does not include a conflict that is not organized or accidental.

"K-9 Patrol Dog or Police Dog" means a professionally trained dog used by law enforcement officers for law enforcement purposes and activities.

"Leash" means a cord, chain, rope, strap or other such physical restraint having a tensile strength of not less than **three hundred (300) pounds**.

"Muzzle" means a device constructed of strong, soft material or a metal muzzle. The muzzle must be made in a manner which will not cause injury to the dog or interfere with its vision or respiration, but must prevent it from biting any person or animal.

"Nip" means to pinch or squeeze with teeth with no breaking of skin or tissue.

"Running at Large" means the failure to confine a dangerous dog in accordance with a "leash" and "muzzle" as defined herein.

"Vicious Dog" means any dog that has, without provocation, attacked or bitten a human being or other animal causing injury, or a dog that, by its behavior or physical condition, constitutes an immediate and serious physical or health threat to human beings or animals, or any dog that has previously attacked or bitten any human being or other animal on **two (2)** or more reported occasions causing injury, or has been deemed vicious by a court.

3-3-3 **KEEPING OF VICIOUS DOGS PROHIBITED.** It shall be unlawful to keep, harbor, own, or in any way possess within the corporate limits of the Village any vicious dog. This Section shall not apply to Village employees holding vicious dogs subsequent to impoundment.

3-3-4 **KEEPING OF DANGEROUS DOGS PROHIBITED.** It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the Village any dangerous dog, provided that

a dangerous dog may be kept subject to the standards and requirements herein set forth. Dangerous dogs residing in the Village at the time of passage of this Code must also meet the standards in this Article.

3-3-5 LICENSING OF DANGEROUS DOGS.

(A) No person shall possess any dangerous dog for a period of more than **forty-eight (48) hours** without having first obtained a license from the Village.

(B) An application for a license to possess a dangerous dog shall be filed with the Village Clerk on a form prescribed and provided by the Village Clerk and shall be accompanied by all of the following:

- (1) Verification of the identity of the owner and current address by providing a photostatic copy of the owner's driver's license.
- (2) Proof of ownership of the dangerous dog.
- (3) A copy of the current immunization and health record of the dangerous dog prepared by a veterinarian licensed to practice in the State of Illinois.
- (4) A Certificate of Insurance evidencing coverage in an amount not less than **Three Hundred Thousand Dollars (\$300,000.00)** providing coverage for any injury, damage or loss caused by the dangerous dog.
- (5) **Two (2)** photographs of the dangerous dog to be licensed taken not less than **one (1) month** before the date of the application. **One (1)** photograph shall provide a front view of the dangerous dog and shall clearly show the face and ears of the vicious dog. **One (1)** photograph shall show a side view of the dangerous dog.
- (6) A license fee of **Fifty Dollars (\$50.00)**.
- (7) Such other information as may be required by the Village Clerk.

(C) Upon receipt of an application, the Village Clerk shall forward such application to the Police Department which shall cause an inspection of the premises on which the dangerous dog shall be kept to determine that all provisions of this Code relating to confinement and posting of signs have been complied with by the applicant. Upon completion of the inspection, the Police Department shall notify the Village Clerk in writing of the results of its inspection.

(D) Upon receipt of the results of the Police Department inspection, the Village Clerk shall notify the applicant of the approval or denial of the license. In the event that the license is denied, the notification shall be provided in writing and the reasons for such denial shall be stated. Upon approval, the Village Clerk shall issue a license to the applicant.

3-3-6 CONFINEMENT OF DANGEROUS DOG. No person shall possess any dangerous dog unless the dangerous dog is confined in accordance with this Article.

(A) **Confinement Indoors.** No dangerous dog may be kept on a porch, patio or in any part of a house or structure that would allow the dangerous dog to exit the structure on its own volition. No dangerous dog shall be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the dangerous dog from exiting the structure.

(B) **Confinement in an Exterior Yard.** No person shall confine a dangerous dog in an exterior area unless such dangerous dog is confined in a "confinement structure" constructed and maintained in accordance with this Code, except that a dangerous dog may be confined outside of a "confinement structure" in a manner set forth as provided in paragraph (C) below.

(C) **Confinement on Leash.** No person shall permit a dangerous dog to go outside a confinement structure, house, or other structure unless the dangerous dog is securely restrained with a leash no longer than **four (4) feet** in length and fitted with a muzzle. No person shall permit a dangerous dog to be kept on a leash unless a person is in physical control of the leash. No leash restraining any dangerous dog shall be attached to any inanimate object including, but not limited to, trees, posts, stakes and buildings.

3-3-7 REPORTING REQUIREMENTS OF LICENSEE. Any person holding a license pursuant to this Article shall report the incidence of any of the following events:

(A) The sale, barter, exchange, gift or death of any dangerous dog shall be reported within **forty-eight (48) hours**.

(B) The escape from confinement of any dangerous dog shall be reported to the Police Department immediately upon discovery of the escape.

(C) The biting or nipping of any person or animal by a dangerous dog shall be reported immediately.

(D) The birth of any offspring of a dangerous dog shall be reported within **forty-eight (48) hours** of the birth of the offspring.

(E) The permanent removal of any dangerous dog from the territorial limits of the Village shall be reported within **forty-eight (48) hours** of such removal by surrender of the license of the owner to the Village Clerk.

The report of any incident required to be reported under this Article shall be made to the Police Department.

3-3-8 **SIGN REQUIRED.** All persons possessing a dangerous dog shall display in a prominent place on the premises where a dangerous dog is to be kept a sign which is readable by the public from a distance of not less than **one hundred (100) feet** using the words "**BEWARE OF DOG**". A similar sign shall be posted on any confinement structure.

3-3-9 **FIGHTING PROHIBITED.** No person shall fight or bait, conspire to fight or bait, or keep, train, or transport for the purpose of fighting or baiting, any dangerous dog.

3-3-10 **IMPOUNDMENT OF DANGEROUS DOG.** Any dangerous dog which, without provocation, chases, bites, or attacks a person or animal shall be subject to immediate impoundment by the Police Department in a humane facility for the keeping of dogs. If the incident giving rise to the impoundment has resulted in an injury to a person or other animal, upon impoundment by the Police Department, the Chief of Police or his designee shall notify the Rabies Control Administrator of the County pursuant to **Paragraphs 5/12 of Chapter 510, Illinois Compiled Statutes**, as amended, and shall transfer control of the dangerous dog to the Administrator in accordance with **Paragraph 5/13 of Chapter 510, Illinois Compiled Statutes**, as amended.

3-3-11 **IMPOUNDMENT OF DANGEROUS DOG RUNNING AT LARGE.** Any dangerous dog found to be running at large by any member of the Police Department shall be presumed to be in violation of this Code and shall be subject to impoundment by the Police Department in a humane facility for the keeping of dogs.

3-3-12 **REDEMPTION OF IMPOUNDED DANGEROUS DOG.** An owner of a dangerous dog holding a license pursuant to this Code may redeem an impounded dangerous dog if:

(A) A dangerous dog has been impounded pursuant to **Section 3-3-11** of this Code, or

(B) A dangerous dog which has not caused an injury to a person.

(C) A dangerous dog may be redeemed by the owner after providing:

(1) Proof of a valid license issued by the Village under this Code, and

(2) Payment of the cost of keeping the dangerous dog during the period of impoundment, and

(3) Evidence of required inoculations.

(D) An owner of a dangerous dog which has caused an injury to a person resulting in the impoundment of the dangerous dog shall be entitled to redeem the dangerous dog in accordance with **Paragraph 5/13 of Chapter 510 of the Illinois Compiled Statutes**, as amended.

3-3-13 **REVOCAION OF LICENSE.** A license granted pursuant to this Code shall be automatically revoked upon ay violation by the licensee of any provision of this Article. In the event of a revocation of the license, the license fee shall be retained by the Village.

3-3-14 **EXCEPTIONS.** This Code shall not apply to any K-9 Patrol Dogs or Police Dogs as defined herein.

3-3-15 **FAILURE TO COMPLY.** It shall be unlawful for the owner, keeper, or harborer of a dangerous dog to fail to comply with the requirements and conditions set forth in this Code. Any dangerous dog found to be the subject of a violation of this Code shall be subject to immediate seizure and impoundment. In addition, failure to comply will result in the revocation of the license of such animal resulting in the immediate removal of the animal from the Village.

3-3-16 **PENALTIES.** Upon conviction of a violation of this Article the Court shall assess a fine as specified in **Section 1-1-20.**

Upon a finding by the Court that a licensee has violated this Article of this Code the Court shall enter an order revoking the license and ordering the former holder of the license to remove the dangerous dog from the Village.

(Ord. No. 2005-12; 04-03-06)

CHAPTER 5

BUILDINGS

ARTICLE I - GENERAL PROVISIONS

5-1-1 **ADOPTION OF BUILDING CODE.** Pursuant to an agreement between the Village of New Athens and the County of St. Clair, the building code and/or regulations as are now or hereafter adopted by the Zoning Administrator of St. Clair County, Illinois, are hereby adopted as the Building Code of the Village of New Athens; for the control of buildings and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions and terms of said code, are hereby referred to, adopted and made a part hereof as if fully set out in this Chapter, with the additions, insertions, deletions and changes, if any, as prescribed in the Code.

5-1-2 **TITLE.** These regulations shall be known as the Building Code of the Village of New Athens, Illinois, hereinafter referred to as "this Code".

5-1-3 **SCOPE.** These regulations shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, location, occupancy and maintenance of all buildings and structures, and shall apply to existing or proposed buildings and structures, except as such matters are otherwise provided for in other ordinances or statutes, or in the rules and regulations authorized for promulgation under the provisions of this Code.

5-1-4 **APPLICATION OF REFERENCES.** Unless otherwise specifically provided for in this Code, all references to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this Code.

5-1-5 **INTENT.** This Code shall be construed to secure its expressed intent, which is to ensure public safety, health and welfare insofar as they are affected by building construction, through structural strength, adequate means of egress facilities, sanitary equipment, light and ventilation, and fire safety, and, in general, to secure safety to life and property from all hazards incident to the design, erection, repair, removal, demolition or occupancy of buildings, structures or premises.

5-1-6 **GENERAL.** The provisions of this Code shall apply to all matters affecting or relating to structures, as set forth in **Section 5-1-1**. The construction, alteration, maintenance, repair, addition and removal of all structures shall comply with this Code.

5-1-7 **EXISTING STRUCTURES.** The legal occupancy of any structure existing on the date of adoption of this Code, or for which it has been heretofore approved, shall be permitted to continue without change, except as is specifically covered in this Code, or as is deemed necessary by the Building Administrator for the general safety and welfare of the occupants and the public.

5-1-8 **MATTERS NOT PROVIDED FOR.** The Building Administrator shall determine any requirements that are essential for the structural, fire, or sanitary safety of an existing or proposed building or structure, for the safety of the occupants thereof, or the safety of other persons or property which are not specifically provided for by this Code.

5-1-9 **REFERENCED STANDARDS.** The standards referenced in the Code as adopted by the St. Clair County Zoning Administrator shall be considered part of the requirements of this Code to prescribed extent of each such reference. Where differences occur between provisions of this Code and referenced standards, the stricter provision shall apply.

5-1-10 **PARTIAL INVALIDITY.** In the event any part or provision of this Code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions thereof, which are determined to be legal; and it shall be presumed that this Code would have been passed without such illegal or invalid parts or provisions.

5-1-11 **SEGREGATION OF INVALID PROVISIONS.** Any invalid part of this Code shall be segregated from the remainder of this Code by the court holding such part invalid, and the remainder shall remain effective.

5-1-12 **DECISIONS INVOLVING EXISTING STRUCTURES.** The invalidity of any provision in any section of this Code as applied to existing buildings and structures shall not be held to affect the validity of such section in its application to buildings and structures hereafter erected.

5-1-13 **WORKMANSHIP.** All work shall be conducted, installed and completed in a workmanlike and acceptable manner to as to secure the results intended by this Code.

ARTICLE II - DEPARTMENT OF BUILDING INSPECTIONS

5-2-1 **BUILDING ADMINISTRATOR.** The department of building inspection is hereby created and the executive official in charge thereof shall be known as the Building Administrator.

5-2-2 **APPOINTMENT.** The Building Administrator shall be appointed according to paragraph 9B, Article 2, Chapter 1 of the Municipal Code of Ordinances.

5-2-3 **ORGANIZATION.** The Building Administrator may appoint such number of officers, technical assistants, inspectors and other employees as shall be necessary for the administration of this Code and as authorized by the Mayor, with the consent of the Village Board. The Village may contract with another governmental entity to administer inspections, and to retain the records thereof.

5-2-4 **DEPUTY.** The Building Administrator is authorized to designate an employee as deputy who shall exercise all the powers of the Building Administrator during the temporary absence or disability of the Building Administrator, or until an appointment of a new Building Administrator or such a deputy is made by the Mayor with the consent of the Village Board.

5-2-5 **RESTRICTION OF EMPLOYEES.** An official or employee connected with the department of building inspection, except one whose only connection is that of a member of the board of appeals established under the provisions of Article 12 of Chapter 5, shall not be engaged in or directly or indirectly connected with the furnishing of labor, materials or appliances for the construction, *alteration* or maintenance of a building, or the preparation of *construction documents* thereof, unless that person is the *owner* of the building; nor shall such officer or employee engage in any work that conflicts with official duties or with interests of the department.

5-2-6 **RELIEF FROM PERSONAL RESPONSIBILITY.** The Building Administrator, officer, or employee charged with the enforcement of this Code, while acting for the jurisdiction, 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 any act required or permitted in the discharge of official duties. Any suit instituted against an 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 should be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The Building Administrator or any subordinate shall not be liable for costs in any action, suit or proceeding that is instituted in pursuance of the provisions of this Code; and any officer of the department of building inspection, acting in good faith and without malice, shall be free from liability for acts performed

under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

5-2-7 **OFFICIAL RECORDS.** An official record shall be kept of all business and activities of the department specified in the provisions of this Code, and all such records shall be open to public inspection at all appropriate times and according to reasonable rules to maintain the integrity and security of such records.

5-2-8 **DUTIES AND POWERS OF THE BUILDING ADMINISTRATOR.** The Building Administrator shall enforce all of the provisions of this Code and shall act on any question relative to the mode or manner of construction and materials to be used in the erection, addition, alteration, repair, removal, demolition or installation of service equipment and the location, occupancy, and maintenance of all buildings and structures, except as otherwise specifically provided for by statutory requirements.

5-2-9 **APPLICATIONS AND PERMITS.** The Building Administrator shall receive applications and issue permits for the erection and alteration of buildings and structures, inspect the premises for which such permits have been issued and enforce compliance with the provisions of this Code.

5-2-10 **NOTICES AND ORDERS.** The Building Administrator or his designee shall issue all necessary notices or orders to ensure compliance with this Code.

5-2-11 **INSPECTIONS.** The Building Administrator shall make all of the required inspections, or the Building Administrator 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 Building Administrator 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.

5-2-12 **IDENTIFICATION.** The Building Administrator shall carry proper identification when inspecting structures or premises in the performance of duties under this Code.

5-2-13 **RULE-MAKING AUTHORITY.** The Building Administrator shall have authority as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and regulation to interpret and implement the provisions of this Code to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this Code or of violating accepted engineering practice involving public safety.

5-2-14 **DEPARTMENT RECORDS.** The Building Administrator shall keep official records of applications received, permits and certificates issued, fees collected, reports of inspections, and notices and orders issued. Such records shall be retained in the official records as long as the building or structures to which they relate remains in existence, unless otherwise provided for by other regulations.

5-2-15 **ANNUAL REPORT.** At least annually, the Building Administrator shall submit to the chief authority of the jurisdiction a written statement of operations in the form and content as shall be prescribed by such authority.

5-2-16 **APPROVAL MATERIALS AND EQUIPMENT.** All materials, equipment and devices approved by the Building Administrator shall be constructed and installed in accordance with such approval.

5-2-17 **MODIFICATIONS.**
(A) When there are practical difficulties involved in carrying out provisions of this Code, the Building Administrator shall have the right to vary or modify such provisions upon application of the owner or the owner's representative, provided that the spirit and intent of the law is observed and that the public health, safety and welfare is assured.
(B) The application for modification and the final decision of the Building Administrator shall be in writing and shall be officially recorded with the application for the permit in the permanent records of the department of building inspection.

5-2-18 **USED MATERIALS AND EQUIPMENT.** Used materials, equipment and devices shall not be reused unless they have been reconditioned, tested and placed in good and proper working condition and/or approved by the Building Administrator.

5-2-19 **ALTERNATIVE MATERIALS 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 may be approved when the Building Administrator 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.

ARTICLE III

APPLICATIONS FOR PERMITS

5-3-1 **PERMIT APPLICATION.** An application shall be submitted to the Building Administrator for the following activities, and these activities shall not commence without a permit being issued in accordance with this Chapter.

- (A) Construct a new structure.
- (B) Construct an addition to an existing structure.
- (C) Modify any structural member or add walls to an existing structure.
- (D) Change in electrical service or re-wiring.
- (E) Change in plumbing drain, waste vent, or water piping.
- (F) Install or alter any equipment, which is regulated by this Code.
- (G) Move a lot line, which affects an existing structure.

5-3-2 **FORM OF APPLICATION.** The application for a permit shall be submitted in such written form as the Building Administrator prescribes and shall be accompanied by the required fee as prescribed in **Article VII**.

5-3-3 **BY WHOM APPLICATION IS MADE.** Application for a permit shall be made by the owner of the building or structure, or agent of either, or by the registered design professional employed in connection with the proposed work. If the application is made by a person other than the owner in fee, it shall be accompanied by an affidavit of the owner or the qualified applicant or a signed statement of the qualified applicant witnessed by the Building Administrator authorized by the owner in fee and that the applicant is authorized to make such application. The full names and addresses of the owner, lessee, applicant and the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

5-3-4 **DESCRIPTION OF WORK.** The application shall contain a general description of the proposed work, the location of the proposed work, the occupancy of all parts of the building or structure and of all portions of the site or lot not covered by the building or structure, provisions for special inspections required by the Zoning Administrator of the County of St. Clair or the Building Administrator, and such additional information as required by the Building Administrator.

5-3-5 CONSTRUCTION DOCUMENTS. The application for permit shall be accompanied by not less than two sets of construction documents. The Building Administrator is permitted to waive the requirements for filing construction documents when the scope of the work is of a minor nature. When the quality of the materials is essential for conformity to this Code, specific information shall be given to establish such quality, and this Code shall not be cited, or the term "legal" or its equivalent used as a substitute for specific information.

5-3-6 SITE PLAN. The application for permit shall be accompanied by a site plan showing the size and location of all new construction and all existing structures on the site, distances from lot lines, the established street grades and the proposed finished grades; and it shall be drawn in accordance with an accurate boundary line survey. In the case of demolition, the site plan shall show all construction to be demolished and the location and size of all existing structures and construction that are to remain on the site or plot.

5-3-7 PRIVATE SEWAGE DISPOSAL SYSTEM. The site plan shall indicate the location of a private sewage disposal system where a public sewer is not available, and all technical data and soil data required by the private sewage disposal code as adopted by the Zoning Administrator of the County of St. Clair. All plans shall be approved by the St. Clair County Health Department, or other agency as required.

5-3-8 ENGINEERING DETAILS. The Building Administrator shall require to be filed adequate details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data. All construction documents and engineering computations shall bear the date issued as well as the signature and seal of the registered design professional responsible for the design as required **Section 5-3-9.**

5-3-9 PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES.

(A) Construction documents for new construction, alterations, repairs, expansion, additions or modifications for buildings or structures used for commercial or public purposes, which involve the practice of architecture or engineering, as defined by the professional registration or licensing laws of the State, shall be prepared by a registered design professional consistent with the professional registration or licensing laws of the state in which the project is to be constructed. Construction documents shall include the name, address and license or registration number of the registered design professional and shall be signed, sealed and dated by the registered design professional in accordance with the professional registration or licensing laws, statutes, regulations or administration provisions of the state in which the project is to be constructed.

(B) Special inspections shall be made in accordance with the building code as adopted by the Zoning Administrator of the County of St. Clair.

(C) This special inspection requirement shall be determined prior to the issuance of the building permit and shall be a requisite for the permit issuance.

(D) All fees and costs related to the performance of special professional services shall be borne by the owner.

5-3-10 **AMENDMENTS TO APPLICATION.** Subject to the limitations of **Section 5-3-11**, amendments to a plan, application or other records accompanying the same shall be filed at any time before completion of the work for which the permit is sought or issued. Such amendments shall be deemed part of the original application and shall be filed therewith.

5-3-11 **TIME LIMITATION OF APPLICATION.** An application for a permit for any proposed work shall be deemed to have been abandoned **six (6) months** after the date of filing, unless such application has been diligently prosecuted or a permit shall have been issued; except that the Building Administrator shall grant one or more extensions of time for additional periods not exceeding **ninety (90) days** each if there is reasonable cause.

5-3-12 **ACTION ON APPLICATION.** The Building Administrator shall examine or cause to be examined all applications for permits and amendments thereto within a reasonable time after filing. If the application or the construction documents do not conform to the requirements of all pertinent laws, the Building Administrator shall reject such application in writing, stating the reasons therefore. If the Building Administrator is satisfied that the proposed work conforms to the requirements of this Code and all laws and ordinances applicable thereto, the Building Administrator shall issue a permit thereof as soon as practicable.

ARTICLE IV - PERMITS

5-4-1 GENERAL REQUIREMENTS.

(A) No building located within the Village, whether used for residential or commercial purposes, shall be erected, constructed, altered, remodeled or transported, unless prior to the start of such project there has been issued a Building Permit for such action.

(B) A Building Permit is not required for any remodeling or construction on the interior structure of a building unless such remodeling or construction provides for structural changes in the building. Such changes shall include, but not be limited to, removal, relocation or modification of any roof structure, support structure, wall, means of egress or window locations in the existing structure.

(C) No building permit shall be issued in any new subdivision or any new addition to a subdivision until all street, drainage, and utilities have been completed.

(D) No person(s) shall occupy the building or addition until the property has passed a final inspection. The inspection shall be made at the direction of the Building Administrator.

(E) Any person, who is delinquent in monetary payments including but not limited to real estate taxes, municipal utility charges, building code fees, trash collection fees, zoning fees, sales taxes, subdivision fees, license fees, fines and penalties, liquor fees and motor vehicle fees, shall not be eligible to apply for any permit of any kind until all monetary delinquencies to all units of government have been paid.

The Mayor does hereby designate the Village Collector as the "fiscal records coordinator" who shall monitor and compile a list of delinquent persons for municipal compliance purposes. All municipal officials shall be required to check with fiscal records coordinator to ensure no monetary amounts are owed to any unit of government.

5-4-2 DISPLAY. All Building Permits shall be displayed in a waterproof protective covering on the structure, or be readily assessable at all times during the construction.

5-4-3 VALIDITY.

(A) Any permit issued in compliance with this Chapter, shall be valid for **one (1) year** from date of issuance. The Building Administrator may waive this requirement for those projects of such complexity or size that are determined to require more than **one (1) year** to complete. Should the Building Administrator choose not to issue an extension, the Village Board may grant an extension by a majority vote.

(B) Any permit issued in compliance with this Chapter, shall become invalid if reference improvements are not commenced within **sixty (60) days** of issuance of the permit.

(C) Any permit issued in compliance with this Chapter, is only valid for those improvements listed on the application. Any improvement not specifically referenced in the permit, but still constructed, shall constitute a violation of this Code and subject to penalty as prescribed in **Article X**. Payment of any penalty for a violation of this Section does not relieve the applicant from obtaining a Building Permit for the additional improvements.

(D) Notification must be given to the Building Administrator at least **twenty-four (24) hours** prior to any construction listed in the permit.

5-4-4 SIGNATURE TO PERMIT. The Building Administrator's signature shall be attached to every permit, or the Building Administrator shall authorize a subordinate to affix such signature thereto.

5-4-5 APPROVED CONSTRUCTION DOCUMENTS. The Building Administrator shall stamp or endorse in writing both sets of construction documents "Approved," and one set of the approved construction documents shall be retained by the Building Administrator and the other set shall be kept at the building site, open to inspection of the Building Administrator or an authorized representative at all reasonable times.

5-4-6 REVOCAION OF PERMIT. The Building Administrator shall revoke a permit or approval issued under the provisions of this Code in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

5-4-7 APPROVAL OF PART. The Building Administrator is authorized to issue a permit for the construction of foundations or any other part of a building or structure before the construction documents for the whole building or structure have been submitted, provided that adequate information and detailed statements have been filed complying with all of the pertinent requirements of this Code. The holder of such permit for the foundation or other parts of a building or structure shall proceed at the holder's own risk with the building operation and without assurance that a permit for the entire structure will be granted.

5-4-8 PAYMENT OF FEES. A permit shall not be issued until the fees prescribed in **Article VII** have been paid.

5-4-9 COMPLIANCE WITH CODE. The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of this Code, except as specifically stipulated by modification or legally granted variation as described in the application.

5-4-10 COMPLIANCE WITH PERMIT. All work shall conform to the approved application and the approved construction documents for which the permit has been issued and any approved amendments to the approved application or the approved construction documents.

5-4-11 COMPLIANCE WITH SITE PLAN. All new work shall be located strictly in accordance with the approved site plan.

5-4-12 TYPES OF BUILDING PERMITS. All types of permits shall be subject to an Initial Certificate of Zoning Compliance unless indicated otherwise.

(A) **New Residential Construction Building Permit.**

(1) A "New Residential Construction Building Permit" shall be required for any new home, garage, outbuilding, accessory building; or any

room addition, building addition, or any remodeling which provides for a structural change to the building.

- (2) A New Residential Construction Building Permit does not include an "Electrical Permit" or a "Plumbing Permit".
 - (3) If construction or remodeling includes any modification, as defined herein, to any plumbing or electrical system, then a separate permit is required for the respective modification and is not included.
- (B) **New Commercial Construction Building Permit.**
- (1) A "New Commercial Construction Building Permit" shall be required for any new structure, home, garage, carport, outbuilding, etc.; any major remodeling, such as a room addition, building addition, etc.; or any remodeling which provides for a structural change to the building providing the intended use of such building or structure is of commercial nature or is intended for access and use by the general public.
 - (2) Any application for a New Commercial Construction Building Permit shall include engineering plans bearing the signature and seal of a registered professional engineer or architect as provided by the laws of the State of Illinois.
 - (3) A New Commercial Construction Building Permit does not include an "Electrical Permit" or a "Plumbing Permit".
 - (4) If construction or remodeling includes any modification, as defined herein, to any plumbing or electrical system, then a separate permit is required for the respective modification and is not included.
- (C) **Remodeling Permit.**
- (1) A "Remodeling Permit" shall be required for any remodeling or construction of a building that provides for structural changes to the building. Such changes shall include, but not be limited to, removal, relocation or modification of any roof structure, support structure, interior or exterior wall, doorway or window locations in the existing structure, or any modification that changes the structural integrity of the building.
 - (2) A Remodeling Building Permit shall not be subject to an Initial Certificate of Zoning Compliance.
 - (3) If construction or remodeling includes any modification, as defined herein, to any plumbing or electrical system, then a separate permit is required for the respective modification and is not included.
- (D) **Small Structures Building Permit.**
- (1) A "Small Structures Permit" shall only be required for the construction of the following new structures:
 - (a) concrete driveway
 - (b) concrete sidewalk
 - (c) concrete parking lot or entrance
 - (d) concrete patio or other slab
 - (e) wood or composite decks
 - (f) unenclosed porches
 - (g) wheelchair ramps
 - (h) permanent above ground or below ground swimming pool
 - (i) non-enclosed carport with permanent floor and foundation
 - (j) fence
 - (2) A "Small Structures Permit" shall NOT be required if any of the above list items are to be constructed in connection with a New Construction Permit and are specified on the permit application or

drawings. The cost of these improvements shall then be included in the declared cost of a "New Residential Building Permit" or a "New Commercial Building Permit."

- (3) A "Small Structures Permit" shall NOT be required for the removal and replacement of an existing concrete driveway, concrete parking lot or entrance, sidewalk, patio or other concrete slab unless the replacement slab is larger.

(E)

Electrical Permit.

- (1) An "*Electrical Permit*" shall be required for the following:
 - (a) installation of a new service breaker box
 - (b) replacement of an existing service breaker box
 - (c) modification of any existing circuit in an existing breaker box
 - (d) installation of any new circuit within an existing breaker box
 - (e) installation of any new service entry or meter canister
 - (f) replacement of any new service entry or meter canister
- (2) An Electrical Permit shall not be subject to an Initial Certificate of Zoning Compliance.

(F)

Plumbing Permit.

- (1) A "*Plumbing Permit*" shall be required for any work which involves any change of a drainage, waste or vent line or for any change in a potable water supply line that involves the addition or deletion of any plumbing fixture.
- (2) A Plumbing Permit is not required for any project that simply replaces an existing fixture, water heater, faucet, etc. and does not alter the DWV system or water system.
- (3) A Plumbing Permit shall not be subject to an Initial Certificate of Zoning Compliance.

(G)

Demolition Permit.

- (1) A "*Demolition Permit*" shall be required for the demolition or removal whether by hand or mechanical means of any building or structure located within the Village.
- (2) A Demolition Permit shall not be subject to an Initial Certificate of Zoning Compliance.

ARTICLE V - DEMOLITION OF STRUCTURES

5-5-1 **GENERAL.** The demolition of any structure shall not be commenced until a permit is obtained in compliance with this Chapter.

5-5-2 **DISPOSAL OF DEMOLITION MATERIALS.** Burning of any demolition materials within the corporate limits is prohibited. All demolition materials shall be disposed of in compliance with all laws of the Village, St. Clair County, and the State of Illinois.

5-5-3 **SERVICE CONNECTIONS.** Before a structure is demolished or removed, the owner or agent shall notify all utilities having service connections within the structure such as water, electric, gas, sewer and other connections. A permit to demolish or remove a structure shall not be issued until the utilities and their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner. Sewers must be capped or sealed with concrete, and inspected by the Building Administrator or his designee prior to demolition.

5-5-4 **NOTICE TO ADJOINING OWNERS.** Only when written notice has been given by the applicant to the owners of adjoining lots and to the owners of wired or other facilities, of which the temporary removal is necessitated by the proposed work, shall a permit be granted for the removal of a building or structure.

5-5-5 **LOT REGULATIONS.**
(A) Whenever a structure is demolished or removed, the premises shall be maintained free from all unsafe or hazardous conditions by the proper regulation of the lot, restoration of established grades and the erection of the necessary retaining walls and fences in accordance with the provisions of all laws and regulations of the Village, St. Clair County, and the State of Illinois.
(B) Upon completion of demolition of structure and restoration of lot grades, all temporary fencing and barricades shall be removed.

ARTICLE VI - TEMPORARY STRUCTURES

5-6-1 **GENERAL.** Pursuant to a variance granted by the board of appeals under the provisions of the Municipal Code, the Building Administrator may issue a permit for temporary construction. Such permits shall be limited as to time of service, but such temporary construction shall not be permitted for more than **one (1) year**.

5-6-2 **SPECIAL APPROVAL.** All temporary construction shall conform to the structural strength, fire safety, means of egress, light, ventilation and sanitary requirements of this Code as necessary to ensure the public health, safety and general welfare.

5-6-3 **TERMINATION OF APPROVAL.** The Building Administrator is hereby authorized to terminate such special approval and to order the demolition of any such construction at his discretion or as directed by a decision of the board of appeals.

5-6-4 **PAYMENT OF FEES.** A permit shall not be issued until the fees prescribed in **Division VII** have been paid.

5-6-5 **COMPLIANCE WITH CODE.** The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of this Code, except as specifically stipulated by modification or legally granted variation as described in the application.

5-6-6 **COMPLIANCE WITH PERMIT.** All work shall conform to the approved application and the approved construction documents for which the permit has been issued and any approved amendments to the approved application or the approved construction documents.

5-6-7 **COMPLIANCE WITH SITE PLAN.** All new work shall be located strictly in accordance with the approved site plan.

5-6-8 **SHEDS/OUTBUILDINGS.** Temporary sheds or outbuildings not permanently affixed by footing or foundation shall not require a permit to construct, maintain, or install.

ARTICLE VII - FEES

5-7-1 **GENERAL.** A permit to begin work for new construction, alteration, removal, demolition or other building operation shall not be issued until the fees prescribed in this Section shall have been paid to the department of building inspection or other authorized agency of the jurisdiction, nor shall an amendment to a permit necessitating an additional fee be approved until the additional fee has been paid.

5-7-2 **SPECIAL FEES.** The payment of the fee for the construction, alteration, removal or demolition for all work done in connection with or concurrently with the work contemplated by a building permit shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law or ordinance for water taps, sewer connections, electrical permits, erection of signs and display structures, marquees or other appurtenant structures, or fees of inspections, certificates of occupancy or other privileges or requirements, both within and without the jurisdiction of the department of building inspection.

5-7-3 **NEW CONSTRUCTION AND ALTERATIONS.** The fees for plan examination, building permit and inspections shall be as prescribed in this Section and the Building Administrator is authorized to establish by approved rules a schedule of unit rates for buildings and structures of all use group and types of construction as classified and defined in the building code regulations as adopted by the Zoning Administrator of the County of St. Clair.

5-7-4 **FEE SCHEDULE.**

(A) **New Residential Construction Building Permit.**

- (1) The fee for a New Residential Construction Building Permit for that work listed in **Section 5-4-12(A)**, shall be determined by applying the fee rates shown in **Schedule "A"** to the total estimated cost of construction as determined heretofore; or when the structure is a dwelling, by applying **One Hundred Dollars (\$100.00)** per square foot of construction, whichever is greater. Or by applying **Thirty Dollars (\$30.00)** per square foot for the construction for a shed. **(Ord. No. 2015-10; 02-16-16)**
- (2) Permit processing, plan review, and one set of inspection services are included in the fee rate.
- (3) A Plumbing Permit and/or Electrical Permit is not included in a New Residential Construction Building Permit.
- (4) The standard permit fee, plan review fee and inspection fee are all included in the total fee shown. Fees for any "additional inspection"* required including inspections for compliance with approved development or site plans OR fees for any "extra inspection"*** that may be required are not shown here and shall be added to the total payment fee at the rate established by the inspecting agency.

- (5) *An "additional inspection" is defined as an inspection, which is required as a result of unusual or complicated construction.

- (6) **An "extra inspection" is defined as an inspection that is made as a result of noncompliance, not ready, lock out, etc.
- (7) Permanent foundations installed for the placement of a manufactured home shall be inspected prior to the placement of said home. Permit processing, plan review and inspection charges are included in the fee rate shown.
- (8) Water and sewer tap-on fees shall be paid prior to the issuance of the permit.

(B) **New Commercial Construction Building Permit.**

- (1) The fee for a New Construction Building Permit and inspection of commercial and industrial construction as listed in **Section 5-4-12(B)** shall be determined by applying the fee rates as shown in **Schedule "B"** to the total estimated cost of construction, as determined heretofore.
- (2) Permit processing, plan review, and one set of inspection services are included in the fee rate.
- (3) A Plumbing Permit and/or Electrical Permit is not included in a New Commercial Construction Building Permit.
- (4) Fees for any "additional inspection"* required including inspections for compliance with approved development or site plans OR fees for any "extra inspection"** that may be required are not shown here and shall be added to the total payment fee at the rate established by the inspecting agency.
- (5) *An "additional inspection" is defined as an inspection, which is required as a result of unusual or complicated construction.
- (6) **An "extra inspection" is defined as an inspection that is made as a result of noncompliance, not ready, lock out, etc.
- (7) Public schools and township structures shall be exempt from building inspections and fees provided that the structure is used exclusively for related activity.
- (8) Water and sewer tap-on fees shall be paid prior to the issuance of the permit.

(C) **Remodeling Building Permit.**

- (1) The fee for a Remodeling Building Permit shall be determined by entering the estimated cost and using **Schedule "A"** (minimum \$75.00) for the work listed in **Section 5-4-12(C)**.
- (2) Permit processing, plan review, and one set of inspection services are included in the fee.
- (3) A Remodeling Building Permit does not include the cost of an Electrical Permit or a Plumbing Permit unless it is included in the total estimated cost.
- (4) An additional fee as determined by the inspecting agency shall apply for each additional or extra inspection, if required.

- (D) **Small Structures Permit.**
- (1) The fee for a Small Structures Permit shall be **Seventy-Five Dollars (\$75.00)** for that work listed in **Section 5-4-12(D)**.
 - (2) Permit processing, plan review, and one set of inspection services are included in the fee.
 - (3) A Small Structures Permit does not include the cost of an Electrical Permit or a Plumbing Permit.
 - (4) An additional fee as determined by the inspecting agency shall apply for each additional or extra inspection, if required.

- (E) **Electrical Permit.**
- (1) The fee for an Electrical Permit shall be **One Hundred Dollars (\$100.00)** for that work listed in **Section 5-4-12(E)**.
 - (2) Permit processing, plan review, and one set of inspection services are included in the fee.
 - (3) An additional fee as determined by the inspecting agency shall apply for each additional or extra inspection, if required.

- (F) **Plumbing Permit.**
- (1) The fee for a Plumbing Permit shall be **One Hundred Dollars (\$100.00)** for that work listed in **Section 5-4-12(F)**.
 - (2) Permit processing, plan review, and one set of inspection services are included in the fee.
 - (3) An additional fee as determined by the inspecting agency shall apply for each additional or extra inspection, if required.

- (G) **Demolition Permit.**
- (1) The fee for a Demolition Permit shall be **Fifty Dollars (\$50.00)** for that work listed in **Section 5-4-12(H)**.
 - (2) Permit processing and a final inspection are included in the fee amount.

(H) **Accounting.** The Village Collector shall keep an accurate account of all fees collected; and such collected fees shall be deposited monthly in the jurisdiction treasury, or otherwise disposed as required by law.

(I) **Refunds.** There shall be no refunds for permits in the case of a revocation of a permit or abandonment or discontinuance of a building project. A refund of all or part of the permit fee shall occur on a prorated basis according to the percentage of work completed as determined by the Building Administrator, should the Village be found in error on the calculation of fees. All plan examination and permit processing fees and all penalties that have been imposed on the permit holder under the requirements of this Code shall first be collected prior to any refund.

ARTICLE VIII - INSPECTIONS

5-8-1 **PRELIMINARY INSPECTION.** Before issuing a permit, the Building Administrator shall, if deemed necessary, examine or cause to be examined all buildings, structures and sites for which an application has been filed for a permit to construct, enlarge, alter, repair, remove, demolish or change the occupancy thereof.

5-8-2 **REQUIRED INSPECTIONS.** After issuing a building permit, the Building Administrator or designee shall conduct inspections from time to time during upon completion of the work for which a permit has been issued. A record of all such examinations and inspections and of all violations of this Code shall be maintained by the Building Administrator. The owner shall provide for special inspections as required in accordance with the Code as adopted by the Zoning Administrator for the County of St. Clair.

5-8-3 **APPROVED INSPECTION AGENCIES.** The Building Administrator shall accept reports of approval inspection agencies, provided such agencies satisfy the requirements as to qualifications and reliability.

5-8-4 **PLANT INSPECTION.** Where required by the provisions of this Code or by the approval rules, materials or assemblies shall be inspected at the point of manufacture or fabrication in accordance with the Code as adopted by the Zoning Administrator for the County of St. Clair.

5-8-5 **FINAL INSPECTION.** Upon completion of the building or structure, and before issuance of the certificate of occupancy required by **Article IX**, a final inspection shall be made. All violations of the approved construction documents and permit shall be noted and the holder of the permit shall be notified of the discrepancies.

5-8-6 **RIGHT TO ENTRY.**
(A) The Building Administrator shall have the authority to enter at any reasonable time any structure or premises for which a permit has been issued but has not received a certificate of occupancy.
(B) For all other structures or premises, when the Building Administrator has reasonable cause to believe that a code violation exists, the Building Administrator is authorized to enter the structure or premises at reasonable times to inspect subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused or not obtained, the Building Administrator is authorized to pursue recourse as provided by law.

5-8-7 **COORDINATION OF INSPECTIONS.** Whenever in the enforcement of this Code or another code or ordinance, the responsibility of more than one Building Administrator of the jurisdiction is involved, it shall be the duty of the Building Administrators 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 Building Administrator having jurisdiction.

ARTICLE IX - CERTIFICATE OF OCCUPANCY

5-9-1 **GENERAL.** A certificate of occupancy, indicating completion of the work for which a permit was issued, shall be obtained prior to any occupancy of a structure except as provided for in **Section 5-9-2.**

5-9-2 **TEMPORARY OCCUPANCY.** Upon the request of the holder of a permit, a temporary certificate of occupancy may be issued before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely prior to full completion of the structure without endangering life or public welfare. Any occupancy permitted to continue during the work shall be discontinued within **thirty (30) days** after completion of the work unless a certificate of occupancy is issued by the Building Administrator.

5-9-3 **ISSUANCE OF CERTIFICATE.** Upon written request from the owner of an existing structure, the Building Administrator shall issue a certificate of occupancy, provided that there are not violations of law or orders of the Building Administrator pending, and it is established all inspections of the structure have been completed. This Code shall not require, the removal, alteration or abandonment of, or prevent the continuance of, the occupancy of a lawfully existing structure, unless such use is deemed to endanger public safety and welfare.

ARTICLE X - VIOLATIONS

5-10-1 UNLAWFUL ACTS. It shall be unlawful for any person, firm or corporation to erect, construct, alter, extend, repair, remove, demolish or occupy any building, structure or equipment regulated by this Code, or cause same to be done, in conflict with or in violation of any of the provisions of this Code.

5-10-2 NOTICE OF VIOLATION. The Building Administrator shall serve a notice of violation or order on the person responsible for the erection, construction, alteration, extension, repair, removal, demolition or occupancy of a building or structure in violation of the provisions of this Code, or in violation of a detail statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this Code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

5-10-3 PENALTY.

(A) Any person who is found in violation of this Code, shall be fined as provided in **Section 1-1-20**. Each day that a violation continues shall be considered a separate offense.

(B) Nothing contained in this Section shall prevent the Village from taking any other lawful action that may be necessary to secure compliance with this Code.

(C) A **ten percent (10%)** late penalty on permits will be assessed where work requiring a permit was started prior to issuance of a permit.

5-10-4 PROSECUTION. In case of any unlawful acts the Building Administrator or designee shall initiate an appropriate action or proceeding at law to exact the penalty provided in **Section 5-10-3**. The Building Administrator may direct the Village Attorney to proceed with enforcement of the violation of this Chapter in a court of law against the person responsible for the violation for the purpose of ordering that person to:

(A) refrain, correct or remove the violation or refrain from any further execution of work;

(B) refrain or correction the erection, installation, maintenance, repair or alteration of such structure;

(C) require the removal of work in violation; and/or

(D) prevent the occupancy of the structure that is not compliance with the provisions of this Code.

5-10-5 ABATEMENT OF VIOLATION. The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or 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 occupancy of a building or structure on or about any premises.

5-10-6 **STOP WORK ORDER.** Upon notice from the Building Administrator that work on any building or structure is being conducted contrary to the provisions of this Code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work; and shall state the condition under which work will be permitted to resume.

5-10-7 **UNLAWFUL CONTINUANCE.** Any person who continues any work in or about the structure 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 as provided in **Section 1-1-20.**

ARTICLE XI - UNSAFE STRUCTURES AND EMERGENCY MEASURES

5-11-1 **CONDITIONS.** All structures or existing equipment which are or hereafter become unsafe, unsanitary, or deficient because of inadequate means of egress facilities, inadequate light, heat, and ventilation, or which constitute a fire hazard, or are otherwise dangerous to human life or public welfare; or which involve illegal or improper occupancy, inadequate maintenance, in disrepair, or left in an unfinished state shall be deemed an unsafe condition. All unsafe structures shall be taken down and removed or made safe, as the Building Administrator deems necessary and as provided for in this Section. A vacant structure that is not secured against entry shall be deemed unsafe.

5-11-2 **RECORD.** The Building Administrator 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. The Building Administrator may order the structure to be immediately vacated if there is a clear and present danger to the occupants or surrounding properties.

5-11-3 **NOTICE.** If an unsafe condition is found, the Building Administrator shall serve on the owner, agent or person in control of the structure, a written notice that describes the condition deemed unsafe and specifies the required repairs or improvements to be made to abate the unsafe condition, or that requires the unsafe structure to be demolished within **thirty (30) days**, or immediately if there is clear and present danger to persons and/or other property. Such notice shall require the person thus notified to declare in writing to the Building Administrator within **twenty-four (24) hours** his intentions to repair, replace, or demolish the structure.

5-11-4 **METHOD OF SERVICE.** Such notice shall be deemed properly served if a copy thereof is delivered to the owner personally; or sent by certified or registered mail addressed to the owner at the last known address with the return receipt requested. If the certified or registered letter 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. Service of such notice in the foregoing manner upon the owner's agent or upon the person responsible for the structure shall constitute service of notice upon the owner.

5-11-5 **RESTORATION.** The structure or equipment determined to be unsafe by the Building Administrator is permitted to be restored to a safe condition. If non-required repairs, alterations or additions are made, or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions or change of occupancy shall comply with the requirements the Code as adopted by the Zoning Administrator of the County of St. Clair.

5-11-6 **DISREGARD OF NOTICE.** Person(s) refusing or neglecting to comply with the abatement notice shall be in violation of this Code and subject to the penalties as enumerated in **Article X**. Upon refusal or neglect of the person served with an unsafe notice to comply with the requirements of the order to abate the unsafe condition, the legal counsel of the jurisdiction shall be advised of all the facts in order to pursue recourse provided by law.

5-11-7 **IMMINENT DANGER.** When, in the opinion of the Building Administrator, there is imminent danger of failure or collapse of a building or structure or any part thereof which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the building or structure, the Building Administrator is hereby authorized and empowered to order and require the occupants to vacate the same forthwith. The Building Administrator 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 Building Administrator." It shall be unlawful for any person to enter such structure except for the purpose of making the required repairs or of demolishing the same.

5-11-8 **TEMPORARY SAFEGUARDS.** When, in the opinion of the Building Administrator, there is imminent danger due to an unsafe condition, the Building Administrator shall cause the necessary work to be done to render such structure temporarily safe, whether or not the legal procedure herein described has been instituted.

5-11-9 **CLOSING STREETS.** When necessary for the public safety, the Building Administrator 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 used.

5-11-10 **EMERGENCY MEASURES.** For the purposes of this Section, the Building Administrator shall expeditiously employ the necessary labor and materials to make safe any condition that poses an imminent hazard to persons or property.

5-11-11 **COSTS OF EMERGENCY REPAIRS.** Costs incurred in the performance of emergency work shall be paid from the treasury of the jurisdiction on approval of the Building Administrator. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises where the unsafe structure is or was located.

ARTICLE XII - APPEALS

5-12-1 ZONING BOARD OF APPEALS.

(A) Any ruling made by the Building Administrator or his representative may be appealed to the Zoning Board of Appeals, as outlined in **Section 40-7-17**, who in turn shall make a recommendation to the Village Board of Trustees.

(B) The Village Board of Trustees shall then make a ruling on the validity of the appeal.

5-12-2 FEES FOR APPLICATIONS FOR APPEAL. Fees for application for appeal shall be as outlined in **Section 40-7-2**.

5-12-3 BOARD DECISION. The Village Board of Trustees may modify or reverse the decision of the Building Administrator by a concurring majority vote of the members.

5-12-4 RESOLUTION. The decision of the board shall be by resolution. Certified copies shall be furnished to the appellant and the Building Administrator.

5-12-5 DISQUALIFICATION OF MEMBER. A member shall not hear an appeal in which that member has any person, professional or financial interest.

5-12-6 ADMINISTRATION. The office of the Building Administrator shall take action within **five (5) working days** in accordance with the decision of the Village Board of Trustees.

5-12-7 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 chief administrative officer.

ARTICLE XIII – ADOPTION OF BUILDING CODES

5-13-1 **ADOPTION.** The Village does hereby adopt by reference the Building Codes listed in Exhibit "A" Part II and the content in Exhibit "A".

ARTICLE XIV - EROSION AND SEDIMENTATION CONTROL

5-14-1 **ADOPTED BY REFERENCE.** **Article 30 Precautions During Building Operations** of "International Building Code, 2009" is hereby amended to include the following additional sections.

5-14-2 **GENERAL.** Except as provided in **Section 5-14-3**, no building permit shall be issued unless the application therefore, particularly the items of information specified in **Section 5-14-4**, demonstrates compliance with the principles and standards set forth in **Section 5-14-5**.

5-14-3 **PURPOSE.** The purpose of this Section is to safeguard persons, protect property, prevent damage to the environment, and promote the public welfare by guiding, regulating and controlling construction activities that disturb or break the topsoil or otherwise result in the movement of earth on land situated in the Village.

5-14-4 **EXCEPTIONS.** The provisions of the section shall not apply to the following construction activities:

- (A) Development of a site for which a soil erosion and sedimentation control plan has been prepared and approved as a condition of issuance of a site development permit or the approval of a plat of subdivision, and on which the plan is being implemented.
- (B) Excavation of below final grade for the basement and footings of a single-family residence and appurtenant structures on a site in excess of **three (3) acres**.
- (C) Agricultural use of land, including the implementation of conservation measures included in farm conservation plan approved by the Soil and Water Conservation District, and including the construction of agricultural structures.
- (D) Installation, renovation or replacement of a septic system to serve an existing dwelling or structure.
- (E) Construction disturbing less than **one thousand (1,000) square feet**.

5-14-5 **PRINCIPLES AND STANDARDS.** No proposed construction shall be authorized unless the building permit application indicates that measures be taken to control erosion and sedimentation will be adequate to assure that sediment is not transported from the site by a storm event of ten-year frequency or less, and that the following principles will be applicable to all phases of any clearing, stripping, excavating, filling, grading, construction or other activities involving the disturbance of the natural terrain or vegetative ground cover:

- (A) Development should be related to the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required should be avoided whenever possible and natural contours should be followed as closely as possible.
- (B) Natural vegetation should be retained and protected whenever possible. Areas immediately adjacent to natural watercourses should be left undisturbed whenever possible.
- (C) The smallest practical area of land should be exposed for the shortest practical time during development.

(D) Sediment basins, debris basins, de-silting basins, or silt traps or filters should be installed and maintained to remove sediment from run-off waters from land undergoing development.

(E) The selection of erosion and sedimentation control measures should be based on assessment of the probable frequency of climatic and other events likely to contribute to erosion, and on evaluation of the risks, costs and benefits involved.

(F) In the design of the erosion control facilities and practices, aesthetics and the requirements of continuing maintenance should be considered.

(G) Provisions should be made to accommodate the increase run-of caused by changed soil and surface conditions during and after development. Drainage ways should be designed so that their final gradients and resultant velocities of discharge will not create additional erosion.

(H) Permanent vegetation and structures should be installed as soon as practical during development.

(I) Erosion control measures shall be designed in accordance with the standards and requirements contained in "Procedures and Standards for Soil Erosion and Sedimentation Control in Illinois" adopted by the St. Clair County Soil and Water Conservation District, which standards and requirements are hereby incorporated into this Chapter by reference.

(J) The code official may waive specific requirements for the content of submissions upon finding that the information submitted is sufficient to show will comply with the objectives and principles of this Chapter.

5-14-6 **REGIONAL INFORMATION.** Each building permit applications shall be accompanied by a site plan as required in **Section 5-3-6** of this Code and included a description of all soil and erosion and sedimentation control measures to be taken to meet the objectives of this Chapter throughout all phases of construction and permanently after completion of development of the site.

5-14-7 **FEES.** There shall be a charge for Sediment and Erosion Fee of **One Hundred Dollars (\$100.00)** per site plan filed.

(Ord. No. 2006-06; 03-19-07)

--	--	--	--	--	--	--	--

SCHEDULE "B"

COMMERCIAL AND INDUSTRIAL PERMIT FEE SCHEDULE

Effective Date 11/01/2018

Cost Thousand	Fee Amount	Cost Thousand	Fee Amount	Cost Thousand	Fee Amount	Cost Thousand	Fee Amount
Up to 1	\$140	Up to 37	\$635	Up to 115	\$1,506	Up to 390	\$4,284
Up to 2	192	Up to 38	656	Up to 120	1,575	Up to 400	4,373
Up to 3	226	Up to 39	659	Up to 125	1,616	Up to 420	4,548
Up to 4	263	Up to 40	678	Up to 130	1,685	Up to 440	4,745
Up to 5	328	Up to 42	700	Up to 135	1,728	Up to 460	4,922
Up to 6	373	Up to 44	721	Up to 140	1,793	Up to 480	5,116
Up to 7	393	Up to 46	741	Up to 145	1,836	Up to 500	5,291
Up to 8	436	Up to 48	767	Up to 150	1,901	Up to 520	5,466
Up to 9	455	Up to 50	786	Up to 155	1,946	Up to 540	5,665
Up to 10	460	Up to 52	810	Up to 160	1,990	Up to 560	5,838
Up to 11	460	Up to 54	851	Up to 165	2,054	Up to 580	6,015
Up to 12	460	Up to 56	853	Up to 170	2,098	Up to 600	6,186
Up to 13	460	Up to 58	872	Up to 175	2,167	Up to 620	6,363
Up to 14	460	Up to 60	898	Up to 180	2,210	Up to 640	6,540
Up to 15	460	Up to 62	918	Up to 185	2,253	Up to 660	6,713
Up to 16	462	Up to 64	942	Up to 190	2,318	Up to 680	6,888
Up to 17	479	Up to 66	961	Up to 195	2,361	Up to 700	7,065
Up to 18	479	Up to 68	985	Up to 200	2,404	Up to 720	7,238
Up to 19	505	Up to 70	1,006	Up to 210	2,515	Up to 740	7,413
Up to 20	505	Up to 72	1,028	Up to 220	2,623	Up to 760	7,588
Up to 21	505	Up to 74	1,050	Up to 230	2,724	Up to 780	7,763
Up to 22	507	Up to 76	1,071	Up to 240	2,822	Up to 800	7,940
Up to 23	507	Up to 78	1,093	Up to 250	2,930	Up to 820	8,113
Up to 24	525	Up to 80	1,114	Up to 260	3,016	Up to 840	8,265
Up to 25	525	Up to 82	1,138	Up to 270	3,128	Up to 860	8,440
Up to 26	548	Up to 84	1,160	Up to 280	3,128	Up to 880	8,615
Up to 27	548	Up to 86	1,179	Up to 290	3,325	Up to 900	8,790
Up to 28	568	Up to 88	1,203	Up to 300	3,409	Up to 920	8,943
Up to 29	568	Up to 90	1,246	Up to 310	3,450	Up to 940	9,118
Up to 30	568	Up to 92	1,268	Up to 320	3,610	Up to 960	9,291
Up to 31	589	Up to 94	1,292	Up to 330	3,692	Up to 980	9,447
Up to 32	589	Up to 96	1,311	Up to 340	3,803		
Up to 33	589	Up to 98	1,335	Up to 350	3,891		
Up to 34	611	Up to 100	1,354	Up to 360	3,999		
Up to 35	611	Up to 105	1,400	Up to 370	4,090		
Up to 36	633	Up to 110	1,465	Up to 380	4,174		

SCHEDULE "B"

COMMERCIAL AND INDUSTRIAL PERMIT FEE SCHEDULE

Effective Date 11/01/2018

Cost Millions	Fee Amount	Cost Millions	Fee Amount	Cost Millions	Fee Amount	Cost Millions	Fee Amount
Up to 1.1	\$10,453	Up to 5.4	\$11,437	Up to 16.5	\$12,512	Up to 34.5	\$13,689
Up to 1.2	10,479	Up to 5.6	11,465	Up to 17.0	12,543	Up to 40.0	14,031
Up to 1.3	10,506	Up to 5.8	11,494	Up to 17.5	12,575	Up to 40.5	14,382
Up to 1.4	10,632	Up to 6.0	11,523	Up to 18.0	12,606	Up to 41.0	14,742
Up to 1.5	10,558	Up to 6.2	11,551	Up to 18.5	12,638	Up to 41.5	15,110
Up to 1.6	10,585	Up to 6.4	11,580	Up to 19.0	12,669	Up to 42.0	15,488
Up to 1.7	10,611	Up to 6.6	11,609	Up to 19.5	12,701	Up to 42.5	15,875
Up to 1.8	10,638	Up to 6.8	11,638	Up to 20.0	12,733	Up to 43.0	16,272
Up to 1.9	10,664	Up to 7.0	11,667	Up to 20.5	12,765	Up to 43.5	16,679
Up to 2.0	10,691	Up to 7.2	11,696	Up to 21.0	12,797	Up to 44.0	17,096
Up to 2.1	10,718	Up to 7.4	11,726	Up to 21.5	12,829	Up to 44.5	17,523
Up to 2.2	10,744	Up to 7.6	11,755	Up to 22.0	12,861	Up to 45.0	17,961
Up to 2.3	10,771	Up to 7.8	11,784	Up to 22.5	12,893	Up to 45.5	18,410
Up to 2.4	10,798	Up to 8.0	11,814	Up to 23.0	12,925	Up to 46.0	18,871
Up to 2.5	10,825	Up to 8.2	11,843	Up to 23.5	12,957	Up to 46.5	19,342
Up to 2.6	10,852	Up to 8.4	11,873	Up to 24.0	12,990	Up to 47.0	19,826
Up to 2.7	10,879	Up to 8.6	11,903	Up to 24.5	13,022	Up to 47.5	20,322
Up to 2.8	10,907	Up to 8.8	11,932	Up to 25.0	13,055	Up to 48.0	20,830
Up to 2.9	10,934	Up to 9.0	11,962	Up to 25.5	13,087	Up to 48.5	21,351
Up to 3.0	10,961	Up to 9.2	11,992	Up to 26.0	13,120	Up to 49.0	21,884
Up to 3.1	10,989	Up to 9.4	12,022	Up to 26.0	13,153	Up to 49.5	22,431
Up to 3.2	11,016	Up to 9.6	12,052	Up to 27.0	13,186	Up to 50.0	22,992
Up to 3.3	11,044	Up to 9.8	12,082	Up to 27.5	13,219		
Up to 3.4	11,071	Up to 10.0	12,113	Up to 28.0	13,252		
Up to 3.5	11,099	Up to 10.5	12,143	Up to 28.5	13,285		
Up to 3.6	11,127	Up to 11.0	12,173	Up to 29.0	13,318		
Up to 3.7	11,155	Up to 11.5	12,204	Up to 29.5	13,351		
Up to 3.8	11,182	Up to 12.0	12,234	Up to 30.0	13,385		
Up to 3.9	11,210	Up to 12.5	12,265	Up to 30.5	13,418		
Up to 4.0	11,238	Up to 13.0	12,295	Up to 31.0	13,452		
Up to 4.2	11,266	Up to 13.5	12,326	Up to 31.5	13,485		
Up to 4.4	11,295	Up to 14.0	12,357	Up to 32.0	13,519		
Up to 4.6	11,323	Up to 14.5	12,388	Up to 32.5	13,553		
Up to 4.8	11,351	Up to 15.0	12,419	Up to 33.0	13,587		
Up to 5.0	11,380	Up to 15.5	12,450	Up to 33.5	13,621		
Up to 5.2	11,408	Up to 16.0	12,481	Up to 34.0	13,655		

EXHIBIT "A"

**ST. CLAIR COUNTY
BUILDING & ZONING DEPARTMENT
AGREEMENT FOR BUILDING INSPECTION PROGRAM**

I. Purpose of the Agreement.

THIS AGREEMENT IS MADE AND ENTERED THIS 1ST DAY OF DECEMBER, 2018, BY AND BETWEEN ST. CLAIR COUNTY BUILDING AND ZONING DEPARTMENT AND THE VILLAGE OF NEW ATHENS, ST. CLAIR COUNTY, ILLINOIS, TO PROVIDE BUILDING INSPECTIONS IN THE VILLAGE OF NEW ATHENS.

II. The Village of New Athens agrees to:

- A. Adopt "The International Building Code 2012", "The International Residential Code 2012", "The International Fuel Gas Code 2012", "The International Mechanical Code 2012", "The International Commercial Energy Conservation Code 2012", "The International Energy Conservation Code 2012", "The National Electrical Code NEC 2011", "The International Code Council Electrical Code Administrative Provisions 2012", "The International Code of Administrative Provisions", "The International Swimming Pool and Spa Code 2012", "NFPA 72 – National Fire Alarm and Signaling Code 2013", "The Illinois Accessibility Code" and "The current Illinois State Plumbing Code" (hereinafter "codes"), consistent with the codes utilized by the St. Clair County Building and Zoning Department and abide by the requirements therein.
- B. Accept applications for building permits and to forward the same to St. Clair County Building and Zoning Department (hereinafter "County") on a daily basis.
- C. Collect the fees as required in Section III(1)(b) and forward them to the County prior to the 5th day of any given month.
- D. Provide the homeowner/tenant with all St. Clair County materials regarding the Codes' requirements.
- E. Maintain an official record of all actions and activities related to building inspections conducted by the County in the Village of New Athens and any such notices, orders, or building permits issued by the Village of New Athens; as specified in the provisions of the Codes, and all such records shall be open for public inspection at appropriate times and within the provisions of Illinois Law.
- F. Notify the County ten (10) days prior to all building code hearings and board meetings pertaining to the building inspection program or appeals thereby generated. The Village of New Athens shall provide written notice to the County within forty-eight (48) hours of a special or emergency meeting of the board. The Village of New Athens shall appoint a separate board to hear all appeals at the municipal level. All costs of appeals shall be the Village of New Athens' responsibility.
- G. Perform inspections of pre-manufactured buildings under 300 square feet, driveways, sidewalks, decks, porches, parking lots, fences, and existing building appurtenances only.

H. HOLD THE COUNTY HARMLESS FROM ANY AND ALL LIABILITY, CLAIMS,
DAMAGE OR CAUSES OF ACTION WHICH MAY BE SUSTAINED OR ASSERTED

AGAINST SAID COUNTY AS A RESULT OF THE VILLAGE OF NEW ATHENS ADMINISTRATIVE PERFORMANCE OF THE INSPECTIONS AND FUNCTIONS DESCRIBED IN THE FOREGOING PARAGRAPHS.

- I. INDEMNIFY AND HOLD HARMLESS THE COUNTY OF ST. CLAIR AND THE DEPARTMENT OF BUILDING AND ZONING, AND ALL EMPLOYEES AND ASSIGNS FROM ANY AND ALL LIABILITY, CLAIMS, DAMAGE OR CAUSES OF ACTION WHICH MAY BE SUSTAINED OR ASSERTED AGAINST SAID COUNTY OR DEPARTMENT AS THE RESULT, DIRECTLY OR INDIRECTLY, OR IN ANY MANNER OF THE PERFORMANCE OR FAILURE OF PERFORMANCE ON THE PART OF THE COUNTY OR DEPARTMENT DURING THE PERFORMANCE OF ANY INSPECTION OR ACTIVITY TO BE CONDUCTED BY THE COUNTY OR DEPARTMENT UNDER THIS AGREEMENT. THE VILLAGE OF NEW ATHENS AGREES TO DEFEND ST. CLAIR COUNTY AND THE ST. CLAIR COUNTY BUILDING AND ZONING DEPARTMENT ITS EMPLOYEES, REPRESENTATIVES, AND ASSIGNS IF NAMED IN A SUIT BROUGHT PURSUANT TO THIS AGREEMENT.

III. St. Clair County agrees to:

- A. Provide building inspection services to the Village of New Athens as follows:
 1. The County will conduct all required inspections on new construction for framing of the building, plumbing installation, electrical installation, and existing appurtenances.
 2. All inspections and services will be subject to the following fees:
 - a. Fifty percent (50%) of the cost of the building permit for any improvement based on the Schedule A & B permit fees. (*Attached Schedule A & B*). Schedule is set for 5 years.
 - b. Fifty Dollars (\$50.00) for inspections of electrical service upgrades.
 - c. Twenty-Five Dollars (\$25.00) additional for additional electrical inspections (rewires).
 - d. Fifty Dollars (\$50.00) for all re-inspections, which result from either the premises failing an initial inspection or for no access to the building.
 - e. All fees shall be NON-REFUNDABLE.
 - f. Upon ninety (90) days written notice to the Village the above fees are subject to change by St. Clair County, said change in any contractual period (one year period) is limited to a maximum of ten percent (10%).
 3. The County agrees to secure and maintain during the life of this Agreement the following types of insurance with an insurance company licensed to do business in the State of Illinois or provide proof of self-insurance to the Village, to wit:
 - a. Worker's Compensation Insurance and Unemployment Insurance as prescribed by the Statutes of the State of Illinois.
 - b. In the event any insurance policy herein required is canceled; the County shall notify the Village of New Athens within thirty (30) days prior to such cancellation, if it is possible to do so.

IV. Term of Agreement:

This Agreement will automatically renew on its anniversary date (yearly) unless written notice to terminate is received by either party sixty (60) days prior to the anniversary date at the addresses indicated below. Notice of termination of the agreement to be sent via the U.S. Mail or via facsimile.

Any and all written communications between the parties to this agreement will be addressed to the representatives and addresses below.

The Village of New Athens
Attn: Mayor Richard Klein
905 Spotsylvania St
New Athens IL 62264
Phone (618) 475-2144
Fax (618) 475-9269

St. Clair County
Building & Zoning Department
Attn: Anne Markezich
#10 Public Square
Belleville IL 62220
Phone (618) 825-2530
Fax (618) 277-0482

County Board, Chairman

Date

Building & Zoning Department, Director

Date

Environment Committee, Chairman

Date

Village of New Athens, Mayor

Date

CHAPTER 7

BUSINESS CODE

ARTICLE I - ADMINISTRATION

7-1-1 APPLICATIONS.

(A) Applications for all licenses and permits required by this Chapter shall be made in writing to the Village Clerk in the absence of provision to the contrary.

(B) Each application shall contain:

- (1) the name of the applicant;
- (2) the permit or license desired;
- (3) the location to be used, if any;
- (4) Zoning district, if any;
- (5) the time covered; and
- (6) the fee to be paid.

(C) Each application shall also contain the number the Certificates of Registration required under the Retailer's Occupation Tax Act, Service Occupation Tax Act, and/or Use Tax Act, if applicable. Each application shall contain such additional information as may be needed for the proper guidance of the municipal officials in the issuing of the license or permit applied for.

7-1-2 PERSONS SUBJECT TO LICENSE. Any person, firm, company or corporation conducting business, performing services, or engaging in any occupation whose address is listed as within the corporate boundaries of the Village, shall be subject to a Business License.

7-1-3 FORM OF LICENSE. Every license shall be signed by the Mayor and attested by the Clerk under the corporate seal, and no license shall be valid until signed and countersigned as aforesaid, nor shall any person be deemed to be licensed until the same shall have been issued to him in due form.

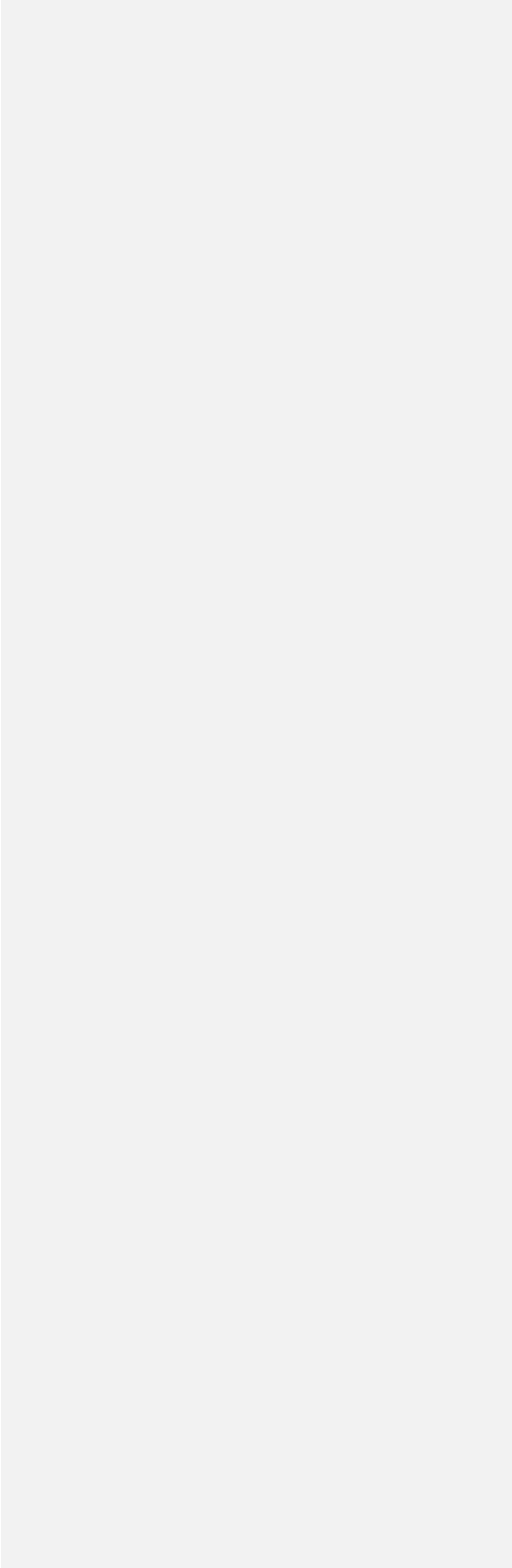
7-1-4 INVESTIGATIONS.

(A) Upon the receipt of an application for a license or permit, where an investigation or inspection is required by ordinance before the issuance of such permit or license, or where an inspection or investigation shall be deemed reasonably necessary or appropriate, the Clerk, within **forty-eight (48) hours** shall refer the application to the appropriate official(s) for the making of such investigation or inspection,

(B) The official(s) to whom the application has been referred shall make a report thereon, favorable or otherwise within **ten (10) days** after receiving such application or a copy thereof.

(C) The Chief of Police or the County Health Department shall make or cause to be made an inspection regarding such permits and licenses as relate to the care and handling of food, the prevention of nuisances and the spread of disease, and the protection of health. **[If a Zoning Code is in effect, the Zoning Administrator shall make or cause to be made**

any inspections which relate to compliance with the Zoning Code and



other related regulations.] All other investigations, except where otherwise provided, shall be made by the Chief of Police or by some other officer designated by the Mayor.

(D) Upon receipt of all related investigative reports, the Clerk shall forward such reports, together with the application, to the Mayor for evaluation and determination.

(E) If it shall appear to the Mayor that the matters and circumstances relating to an application require further information before a proper determination can be made, such application shall be returned to the Clerk for the inclusion of such additional information as may be specified necessary and appropriate.

(F) If, after due consideration of the information contained with the application and the related investigative reports, the Mayor shall determine that the matters concerning the application are unsatisfactory, he may disapprove such application, indicating the reasons therefor. Thereupon, the Clerk shall be directed to promptly notify the applicant that his application is disapproved and that no license or permit will be issued.

(G) If, after due consideration of the information contained within the application and the related investigative reports, the Mayor shall determine that the application is satisfactory, he shall approve the application. Thereupon, the Clerk shall be directed to promptly notify the applicant that his application is approved and the license or permit may be issued.

7-1-5 FEES.

(A) In the absence of provision to the contrary, all fees and charges for licenses or permits shall be paid in advance at the time application therefor is made to the Village Clerk in the amounts prescribed by the corporate authorities. When an applicant has not engaged in the business or activity until after the expiration of the current license year, the license fee shall be prorated by quarters and the fee paid for each quarter or fraction thereof during which the business or activity has been or will be conducted. Except as otherwise provided, all license and permit fees shall become a part of the corporate fund. In no event shall any rebate or refund be made of any license or permit fee, or part thereof, by reason of death or departure of the licensee or permittee; nor shall any rebate or refund be made by reason of non-use of the license or discontinuance of the operation or conduct of the licensed establishment, business or activity.

(B) Any person applying for an annual license when the remaining period in the fiscal year is **six (6) months** or less is required to pay only **one-half (1/2)** of the annual license fee with no discount. The license fee shall be **Ten Dollars (\$10.00)** per annum.

(C) Any person, who is delinquent in monetary payments including but not limited to real estate taxes, municipal utility charges, building code fees, trash collection fees, zoning fees, sales taxes, subdivision fees, license fees, fines and penalties, liquor fees and motor vehicle fees, shall not be eligible to apply for any permit of any kind until all monetary delinquencies to all units of government have been paid.

The Mayor does hereby designate the Village Collector as the "fiscal records coordinator" who shall monitor and compile a list of delinquent persons for municipal compliance purposes. All municipal officials shall be required to check with fiscal records coordinator to ensure no monetary amounts are owed to any unit of government.

7-1-6 TERMINATION OF LICENSES.

All annual licenses shall be operative and the license year for this Municipality shall commence on **May 1st of each year** and shall terminate on **April 30th** of the following year, where no provision to the contrary is made.

The Village Clerk shall notify all licensees of this Municipality of the time of expiration of the license held by the licensee (if an annual), **three (3) weeks** prior to the date of such expiration. Provided, however, that a failure to make such notification or the failure of the licensee to receive it

shall not excuse the licensee from the obligation to obtain a new license or a renewal thereof, nor shall it be a defense in an action based upon operation without a license.

7-1-7 **BUILDING AND PREMISES.** No license shall be issued for the conduct of any business, and no permit shall be issued for any purpose or activity, if the premises and building to be used for the purpose do not fully comply with all applicable ordinances and regulations of this Municipality and the State of Illinois. No such license or permit shall be issued for the conduct of any business or performance of any act which would involve a violation of this Code and/or other applicable regulations of this Municipality. **(See Chapter 40 - Zoning Code)**

7-1-8 **CHANGE OF LOCATION.** The location of any licensed business or occupation, or the location of any permitted act may be changed, provided that **ten (10) days** notice thereof is given to the Clerk, in the absence of any provision to the contrary; provided further, however, that all applicable ordinances and regulations of this Municipality shall be complied with. **(See Chapter 40 - Zoning Code)**

7-1-9 **LOCATION.** No license for the operation of a business or establishment in this Municipality shall be construed to permit the operation of a licensed business or establishment in more than **one (1) location** in this Municipality; a separate license shall be required for each location of a licensed establishment. For the purpose of this Code, the existence of a single location shall be evidenced by the fact that all buildings containing the principal or accessory uses shall be connected or shall be located on the same lot or parcel; shall be operated and managed by the same person or owner; and shall be an establishment with the same classification.

7-1-10 **NUISANCES PROHIBITED.**

7-1-10.1 **GENERALLY.** No business or establishment, whether licensed or not, shall be so conducted or operated as to constitute a nuisance in fact, and no building, vehicle or structure, yard, lot, premises or part thereof shall be used, kept, maintained, or operated in connection with any business or establishment so as to occasion any nuisance or so as to be dangerous to life or detrimental to health.

[ED. NOTE: The County Health Department should be consulted.]

7-1-10.2 **UNSAFE OR UNHEALTHFUL BUSINESS.**

(A) No building or structure utilized, constructed or maintained in connection with any business or occupation shall evidence an unsanitary, unsafe or dangerous condition.

(B) No substance, matter or thing of any kind whatsoever, which would be dangerous or detrimental to health, shall be allowed to exist in connection with any business or occupation, or be used in any work or labor performed in this Municipality.

7-1-10.3 **REFUSE DISPOSAL.**

(A) **Refuse Containers.** The standard refuse container required by this Code shall be a receptacle of not less than **twenty (20)**, nor more than **thirty-two (32) gallons**

capacity, constructed of impervious material and sturdy construction with a tight-fitting cover, and equipped with handles properly placed to facilitate handling.

(B) **Duty-to Provide Refuse Containers.** The occupant of every building, structure or premises used or maintained in connection with any business or occupation shall provide and maintain in good condition and repair a sufficient number of refuse containers for the temporary storage of all refuse accumulating between collections.

All refuse which is placed for collection service outside any building or structure must be kept in standard refuse containers.

(C) **Refuse Removal.** It shall be the duty of the occupant of every building, structure or premises used or maintained in connection with any business or occupation to cause to be removed, at his own cost and expense, at least once each week, all refuse produced therein.

(D) **Removal of Restaurant Garbage.** Every person owning or controlling any hotel, restaurant, cafe, or retail food establishment where more than **thirty-two (32) gallons** of refuse, is normally produced weekly shall cause all garbage to be placed in sanitary refuse containers and shall cause all substances deposited in such containers to be removed daily from his premises and to be disposed of at his own expense.

7-1-11 WORKING CONDITIONS.

7-1-11.1 HEALTH REQUIREMENTS. No owner, lessee, manager, or superintendent of any store, factory, workshop or other place where persons are employed shall cause or permit such place or any room or part thereof to be overcrowded or inadequate or faulty in respect to light, ventilation, heat or cleanliness.

7-1-11.2 SANITATION. All such places of employment shall be kept in a clean condition, free from effluvia of a sewer, drain, privy, stable or other nuisance(s); also as far as practicable, such premises shall be free from all gases, vapors, dust, or other impurities generated by manufacturing processes or otherwise which are injurious to health. Sufficient washroom facilities for male and female employees shall be provided and such facilities shall be properly ventilated.

7-1-11.3 HEAT REQUIRED.

(A) It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any factory or workshop to maintain a temperature within such factory or workshop of not less than **sixty-two degrees Fahrenheit (62°F.)** without such undue restriction of ventilation as to interfere with proper sanitary conditions therein; provided, however, that this requirement shall not apply to any factory or workshop where the business conducted therein is of such a nature that a higher or lower temperature than **sixty-two degrees Fahrenheit (62°F.)** is necessary or expedient for the work or manufacturing processes of such business.

(B) It shall be the duty of every person owning or controlling the heating plant which furnishes heat to any office, store, or other place of employment to maintain a temperature therein of not less than **sixty-two degrees Fahrenheit (62°F.)**, without such undue restriction of ventilation as to interfere with proper sanitary conditions therein between

the hours of **8:00 A.M. and 6:00 P.M. from October 1st of each year until June 1st of the succeeding year [Sundays and legal holidays excepted].**

7-1-11.4 **INSPECTION.** The Mayor or the Chief of Police shall visit or cause to be visited all places of employment in this Municipality as often as they shall deem necessary to assure compliance with the provisions of this Section, and to have such arrangements made as may be deemed necessary for the health and safety of the employees.

7-1-12 **INSPECTIONS.**

(A) Whenever inspections of the premises for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance or are reasonably necessary to assure compliance with the provisions of any ordinance or regulation of this Municipality, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to admit thereto, for the purpose of making the inspection, any officer or employee of this Municipality who is duly authorized to make such inspection at any reasonable time that such admission or entry is requested.

(B) Whenever an analysis of any commodity or material is reasonably necessary to assure compliance with the provisions of any ordinance or regulation, or to detect violations thereof, it shall be the duty of the licensee or the person in charge of the premises to give to any duly authorized officer or employee of this Municipality requesting the same, sufficient samples of such material or commodity for such analysis upon official request.

(C) In addition to any other penalty which may be provided, the Mayor may revoke the license of any owner or operator of a licensed business in this Municipality who refuses to permit any duly authorized officer or employee to make such inspection or to take adequate sample(s) of said commodity, or who interferes with such officer or employee while in the performance of his duties; provided, however, that no license shall be subject to revocation for such cause unless such officer or employee has been refused permission to enter upon the premises in the name of this Municipality after having first presented a warrant authorizing such entry.

7-1-13 **SUSPENSION, REVOCATION OF LICENSE OR PERMIT.**

7-1-13.1 **NUISANCE.** When the conduct or operation of any business or establishment, whether or not licensed, shall constitute a nuisance in fact and a clear and present danger to the public health, safety or general welfare, the Mayor shall be authorized to summarily order the cessation of business, the closing of the premises, and the suspension of any license or permit for a period not to exceed **ten (10) days.**

7-1-13.2 **HEARING.** Within **eight (8) days** after he has so acted, the Mayor shall call a hearing for the purpose of determining whether or not the license or permit should be revoked.

7-1-13.3 **REVOCATION.** Licenses and permits issued in this Municipality, unless otherwise provided, may be revoked by the Mayor after notice and hearing as provided in **Subsections 7-1-13.4** and **7-1-13.5** of this Section for any of the following causes:

(A) Any fraud, misrepresentation or false statement contained in the application for the license or permit;

(B) Any violation by the licensee or permittee of Code provisions relating to the license or permit, the subject matter of the license or permit, or the premises occupied;

(C) Conviction of the licensee or permittee of any felony or of a misdemeanor involving moral turpitude;

(D) Failure of the licensee or permittee to pay any fine or penalty owed to this Municipality;

(E) Refusal to permit an inspection or sampling, or any interference with a duly authorized officer or employee in the performance of his duties in making such inspections, as provided in **Section 7-1-12**.

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

7-1-13.4 HEARING NOTICE. Notice of the hearing for revocation of a license or permit shall be given in writing setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be sent by certified mail [return receipt requested] to the licensee or permittee at his last known address at least **five (5) days** prior to the date set for the hearing.

7-1-13.5 COUNSEL. At the hearing, the attorney for the Municipality shall present the complaint and shall represent the Municipality. The licensee or permittee shall be permitted counsel and shall have the right to submit evidence and cross-examine witnesses. The Mayor shall preside and shall render the decision.

7-1-14 APPEAL. Any person aggrieved by the decision of the Mayor regarding the denial of an application for a business license as provided in **Section 7-1-4** or in connection with the revocation of a license or permit as provided in **Section 7-1-13** shall have the right to appeal to the Village Board. Such appeal shall be taken by filing with the Clerk, within **ten (10) days** after notice of a denial of an application or a revocation of a license or permit, a written statement under oath setting forth specifically the grounds for appeal. The Mayor shall thereupon set the time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant or licensee or permittee in the same manner as provided in **Section 7-1-13** hereof. The decision of the Village Board on such appeal shall be final.

7-1-15 LICENSE TO BE POSTED. It shall be the duty of every person conducting a licensed business in this Municipality to keep his license posted in a prominent place on the premises used for such business at all times.

7-1-16 BUSINESS VEHICLE STICKER. Whenever the number of vehicles used is the basis in whole or in part for a license fee, the Clerk shall furnish the licensee with a tag or sticker for each vehicle covered by the license and such tag or sticker shall be posted or affixed in a conspicuous place on each business vehicle.

ARTICLE II - SOLICITORS

7-2-1 **DEFINITIONS.** For the purpose of this Chapter, the following words as used herein shall be construed to have the meanings herein ascribed thereto, to-wit:

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

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

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

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

(B) Seeking to obtain 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.

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

7-2-3 **APPLICATION FOR CERTIFICATE OF REGISTRATION.** Applications for a Certificate of Registration shall be made upon a form provided by the Chief of Police of this Municipality and filed with such Chief. The applicant shall truthfully state in full the information requested on the application, to-wit:

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

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

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

(D) Physical description of the applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7-2-4 ISSUANCE AND REVOCATION OF CERTIFICATE. The Chief of Police, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications for such Certificate as herein required, and that the issuance of a Certificate of Registration to the applicant would not be in accord with the intent and purpose of this Code. Endorsement shall be made by the Chief of Police upon the application of the denial of the application. When the applicant is found to be fully qualified, the Certificate of Registration shall be issued forthwith.

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

The Certificate of Registration shall state the expiration date thereof.

7-2-5 **POLICY ON SOLICITING.** It is declared to be the policy of this Municipality that the occupant or occupants of the residences in this Municipality shall make the determination of whether solicitors shall be or shall not be invited to their respective residences.

7-2-6 **NOTICE REGULATING SOLICITING.** Every person desiring to secure the protection intended to be provided by the regulations pertaining to soliciting contained in this Article shall comply with the following directions:

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

(B) A weatherproof card, approximately **three inches by 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.

7-2-7 **COMPLIANCE BY SOLICITORS.** It is the duty of every solicitor upon going onto any premises in this Municipality upon which a residence as herein defined is located to first examine the notice provided for in **Section 7-2-6** if any is attached and be governed by the statement contained on the notice.

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

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

7-2-8 **UNINVITED SOLICITING PROHIBITED.** It is declared to be unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, in defiance of the notice exhibited at the residence in accordance with the provisions of **Section 7-2-6.**

7-2-9 **TIME LIMIT ON SOLICITING.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of the occupant of such residence for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to **10:00 A.M. or after 5:00 P.M.** on any day of the week, including Saturday, or at any time on a Sunday or on a State or National holiday.

7-2-10 **SOLICITATIONS ON PUBLIC HIGHWAYS.** Charitable organizations shall be allowed to solicit upon public highways under the following terms and conditions:

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

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

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

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

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

(F) Solicit only during daylight hours.

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

(See 626 ILCS Sec. 5/11-1006)

7-2-11 **FEES.** Upon making an application for a Certificate, the applicant shall pay a license fee, which shall be as follows:

(A) **Daily License:** **\$10.00 per person per day.**

(B) **Annual License:** **\$50.00 per person per year.**

(See 65 ILCS Sec. 5/11-42-5)

ARTICLE III - PEDDLERS

7-3-1 **LICENSE REQUIRED.** It shall be unlawful for any person, firm or corporation to engage in the business of hawker or peddler of any merchandise, article or thing without having first secured a license therefor.

7-3-2 **DEFINITION.** "Peddle" shall mean the selling, bartering, or exchanging or the offering for sale, barter or exchange of any tangible personal property upon or along the streets, highways, or public places of this Municipality or from house-to-house, whether at one place thereon or from place-to-place, from any wagon, truck, pushcart, or other vehicle or from movable receptacles of any kind, but shall not include the delivery of any item previously ordered or the sale of items along delivery routes where the purchaser has previously requested the seller to stop and exhibit his items. Nor shall 'peddle' be taken to include the solicitation of orders by sample where the goods are not delivered at the time the order is taken.

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

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

7-3-4 **INVESTIGATION OF APPLICANTS.** Upon receipt of each application, it shall be referred to the Chief of Police, who shall investigate the business and moral character of the applicant. If the facts show the applicant unfit to receive the license, then it shall be denied.

7-3-5 **HOURS.** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Code or not, to engage in peddling as herein defined prior to **9:00 A.M.** or after **4:00 P.M.** on any day of the week, including Saturday, or at any time on a Sunday or on a State or National holiday.

7-3-6 **FRAUD.** No licensed peddler or hawker shall be guilty of any fraud, cheating or misrepresentation, whether through himself or through an employee while acting as a peddler in this Municipality, or shall barter, sell or peddle any goods or merchandise or wares other than those specified in his application for a license.

7-3-7 **PHOTOGRAPHS.** **Two (2) photographs** of the applicant and such of its employees as will be used in the peddling or merchandising, taken within **sixty (60) days immediately** prior to the filing of the application, which pictures shall be **two inches by two inches (2' x 2')**, showing the head and shoulders of the applicant or its agent(s) and/or employee(s) in a clear and distinguishing manner.

7-3-8 **UNWANTED PEDDLING.** Nothing contained in this Chapter, nor the issuance of any license hereunder shall entitle the licensee to go in or upon any private residence for the purpose of peddling if such licensee, his agents or employees are directed to depart from said private residence by the owner or person in charge thereof.

7-3-9 **PEDDLERS AS NUISANCE.** The practice of going in and upon private residences, business establishments or offices in the Municipality by peddlers, hawkers, itinerant merchants and transient vendors of merchandise without having been requested or invited to do so by the owner or owners, occupant or occupants of said private residences and business establishments or offices for the purpose of disposing of and/or peddling or hawking of merchandise is hereby declared to be a nuisance and is punishable as a violation of this Code. No person shall peddle in a public square.

7-3-10 **DUTY OF POLICE TO ABATE.** The Police Department of this Municipality is hereby required and directed to suppress the same and to abate any such nuisance as described in **Section 7-3-9.**

7-3-11 **LOCAL BUSINESSES AND FARMERS EXCLUDED.** The provisions of this Article shall not apply to persons employed or representing an established merchant, business firm, or corporation located and regularly doing business in the Municipality or to farmers selling any food items raised or produced by themselves and/or to permanently established residents who are voters in the Municipality or anyone duly licensed.

7-3-12 **FEES.** The license fees per person to be charged for licenses to peddle in this Municipality, each payable in advance, are hereby fixed and established as follows:

- (A) **Daily License:** **\$10.00 per person per day**
- (B) **Annual License:** **\$20.00 per person per year**

(See 65 ILCS Sec. 5/11-42-5)

ARTICLE IV - COIN-OPERATED MACHINES

7-4-1 **DEFINITIONS.** Definitions of terms as used in this Article, unless the context otherwise clearly indicates, are as follows:

"COIN-OPERATED AMUSEMENT DEVICE" means any amusement machine or device operated by means of the insertion of a coin, token, or currency for the purpose of amusement or skill and for the playing of which a fee is charged. The term includes, but is not limited to juke boxes, electronic video games, pinball machines or other similar games. The term does not include vending machines in which there are not incorporated gaming or amusement features. (**Ord. No. 2012-06; 12-03-12**)

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

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

7-4-2 **LICENSE REQUIRED.** No person, firm or corporation shall engage in the business of an operator of coin-operated amusement devices within the corporate limits of this Municipality without having first obtained the proper license therefor.

7-4-3 **APPLICATION.** Application for license shall be verified by oath or affidavit and contain the following information:

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

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

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

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

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

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

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

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

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

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

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

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

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

7-4-5 **FEES.** The annual fee for such license for the first **three (3) devices** shall be **Fifteen Dollars (\$15.00) per year** or part thereof for each coin-operated amusement device set up for operation, leased or distributed to a proprietor. For each device over **three (3)**, the license fee shall be **Twenty-Five Dollars (\$25.00)** per machine per year or part thereof for each coin-operated amusement device set up for operation, leased or distributed to a proprietor.

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

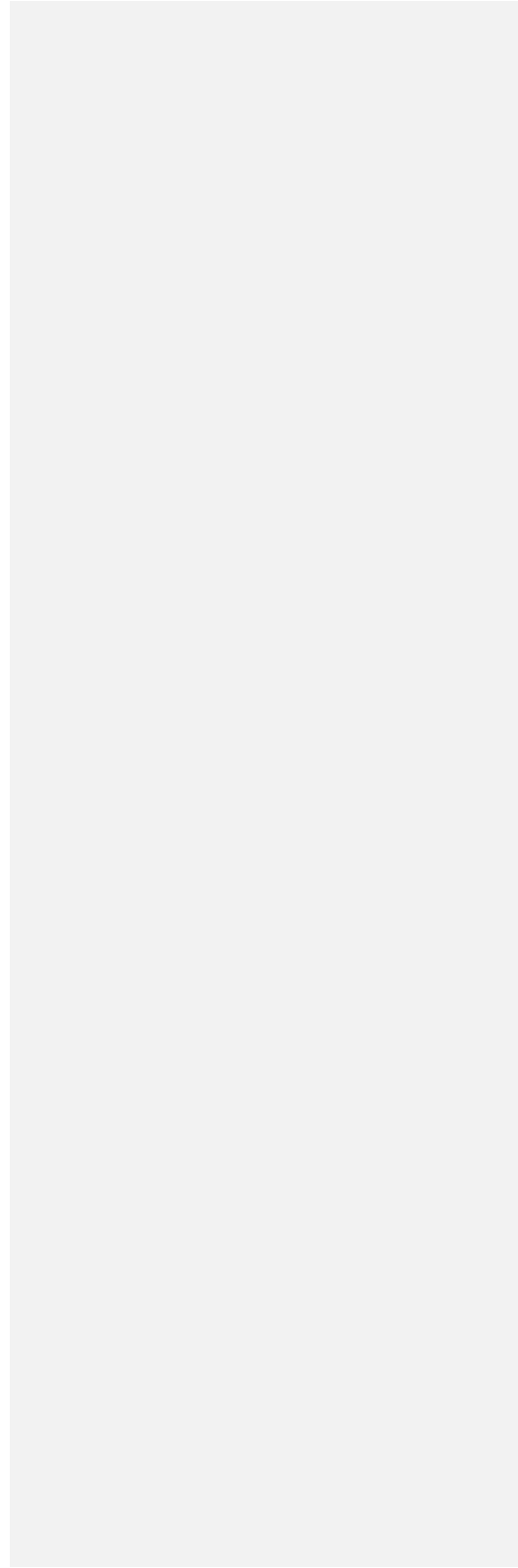
(B) The license period shall be for the fiscal year of the Village, and all applications for renewal shall be made to the Village Clerk.

7-4-6 **NON-ASSIGNABILITY OF LICENSE.** The location of a license may be changed only upon the written permission of the Mayor. Any license issued hereunder shall be non-assignable and non-transferable.

7-4-7 **PERMITTING GAMBLING.** The gambling prohibition shall not apply to any game or gaming event for which a license or permit has been issued 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 Section 21-3-17)**

(A) **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.

(Ord. No. 2012-06; 12-03-12)



7-4-8 **DISPLAY OF LICENSE.** Every licensee shall frame and hang his license in a conspicuous place in the licensed premises.

7-4-9 **RIGHT OF ENTRY.** The Chief of Police has the power to and shall inspect any place, building or premises in which any licensed device or devices are operated or set up for operation at such times and intervals as he may deem necessary for the proper enforcement of this Article.

7-4-10 **CLOSING HOURS.** No establishment operating under a license issued under this Article shall be open for use of any such devices between the hours of **12:00 Midnight and 6:00 A.M.** on any day or between **12:00 Midnight Saturday and 12:00 Noon** the following Sunday. All holders of liquor licenses are exempt from the hours in this paragraph. **(See Chapter 21)**

(See 65 ILCS Sec. 5/11-55-1)

ARTICLE V - YARD SALES

7-5-1 **DEFINITIONS.** For the purposes of this Article, unless the context otherwise clearly indicates, yard sales is defined as follows: any private sale in a residential area, including terms such as yard sale, garage sale, driveway sale, sidewalk sale, etc., by a person or persons for strictly private and non-business purposes. **(Ord. No. 91-2; 05-20-91)**

7-5-2 **LICENSES.** No person shall engage in the operation of a yard sale on more than **two (2) occasions** within any calendar year without first obtaining a proper business license as provided in this Code. **(Ord. No. 91-2; 05-20-91)**

7-5-3 **PENALTIES.** If anyone violates the provisions of this Article by having a yard sale on more than **two (2) occasions** during any calendar year, said person or persons shall be punished by a fine not to exceed **Twenty-Five Dollars (\$25.00)** per offense per day. **(Ord. No. 91-2; 05-20-91)**

7-5-4 **EVENT DURATION.** A single event will consist of not more than **two (2) consecutive days.** **(Ord. No. 94-9; 11-21-94)**

7-5-5 **SIGNS.** Yard sale signs fall under the jurisdiction of Ordinance numbers 33-2-13 and 33-2-14, and must be signed by the Village Clerk if erected on Village property or easements. **(Ord. No. 94-9; 11-21-94)**

ARTICLE VI – RAFFLES AND POKER RUNS

7-6-1 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 a number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;

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

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

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

7-6-2 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".

7-6-3 APPLICATION FOR A LICENSE FOR A RAFFLE.

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

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

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

(9) The area in which raffle chances will be sold or issued;

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

(C) An application for a license to conduct or operate a raffle shall be accompanied by a non-refundable **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.

7-6-4 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.

7-6-5 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.

7-6-6 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.

7-6-7 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.

7-6-8 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.

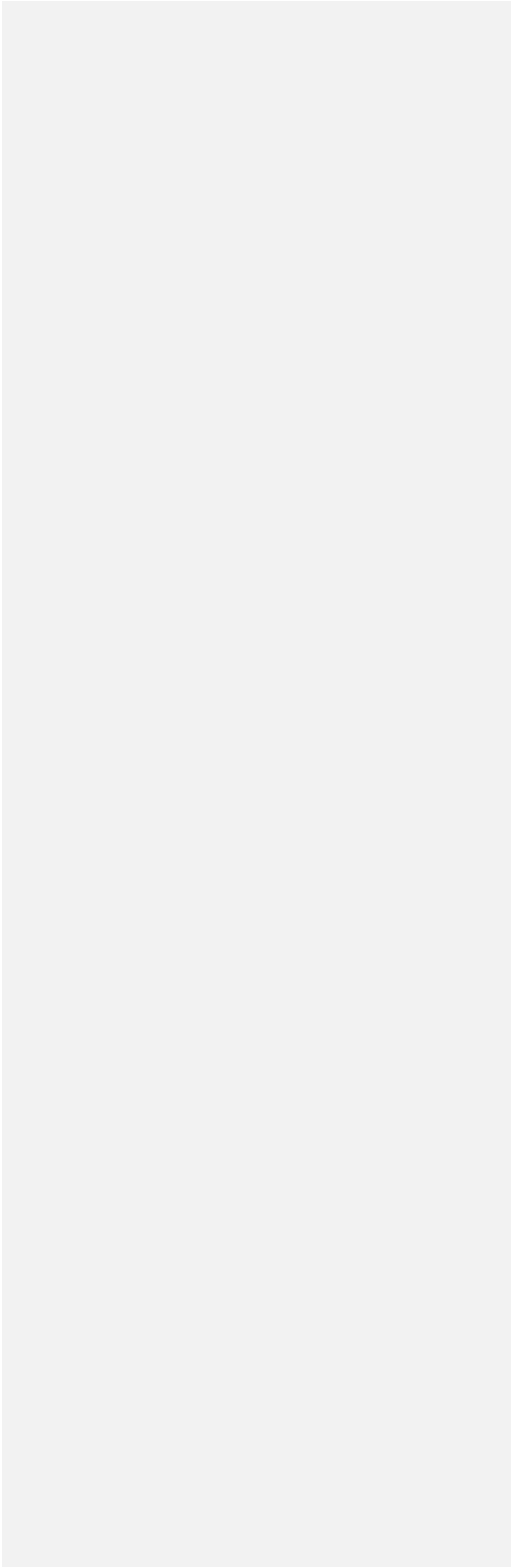
(C) The Mayor is authorized to waive this bond requirement by including a waiver provision in the license issued to an organization under this Article provided that a license containing such waiver provision shall be granted only by unanimous vote of the members of the licensed organization.

7-6-9 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.**

7-6-10 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.

7-6-11 PRIZE LIMITATIONS; TERM.

(A) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle or poker run shall not exceed **One Million Dollars (\$1,000,000.00)**;

(B) The maximum retail value of each prize awarded by a licensee in a single raffle or single poker run shall not exceed **One Million Dollars (\$1,000,000.00)**;

(C) The maximum price which may be charged for each raffle chance issued or sold or each poker hand shall not exceed **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 VII – ADULT USE LICENSING AND REGULATION

7-7-1 **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.

7-7-2 **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.

7-7-3 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.

7-7-4 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.

7-7-5 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.

7-7-6 FEES. Every application for an adult use business license (whether a new license or for renewal of an existing license) shall be accompanied by a **One Thousand Five Hundred Dollar (\$1,500.00)** non-refundable application and investigation fee.

7-7-7 INSPECTION.

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

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

7-7-8 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 7-7-4**. 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.

7-7-9 **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.

7-7-10 **REVOCAION.**

(A) The Village shall revoke a license if a cause of suspension in **Section 7-7-8** 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.

7-7-11 **TRANSFER OF LICENSE.** A licensee shall not transfer his/her license to another nor shall a license operate an adult use business under the authority of a license at any place other than the address on the license.

7-7-12 **BUSINESS RECORDS.** All adult uses shall file a verified report with the Village showing the licensee's gross receipts and amounts paid to employees during the preceding calendar year. In addition, all adult uses shall maintain and retain for a period of **two (2) years**, the names, addresses and ages of all persons employed, including independent contractors, by the licensee.

7-7-13 **LIQUOR LICENSE.** No adult use may be issued a liquor license. Nor shall any establishment with a liquor license operate as an adult use.

7-7-14 **ADULT ENTERTAINMENT CABARETS – RESTRICTIONS.** All dancing or other performances shall occur on a stage intended for that purpose which is raised at least **two (2) feet** from the level of the floor. No dancing or other performance shall occur closer than **ten (10) feet** to any patron. In addition, no dancer or performer shall fondle, caress or otherwise touch any patron and no patron shall fondle, caress or otherwise touch any dancer or performer. No patron shall directly pay or give any gratuity to any dancer or performer and no dancer shall solicit any pay or gratuity from any patron. Gratuities may be indirectly given to dancers or performers by placing the gratuity on the stage.

7-7-15 **VIDEO VIEWING BOOTHS – RESTRICTIONS.** No booths, stalls or partitioned portions of a room or individual rooms used for the viewing of motion pictures or other forms of entertainment shall have doors, curtains or portal partitions, but all such booths, stalls or partitioned portions or a room or individual rooms so used shall have at least **one (1) side** open to an adjacent public room so that the area inside is visible to persons in the adjacent public room. All such described areas shall be lighted in such a manner that the persons in the areas used for viewing motion pictures or other forms of entertainment are visible from the adjacent public rooms, but such lighting shall not be of such intensity as to prevent the view of the motion pictures or other offered entertainment.

7-7-16 **HOURS OF OPERATION.** No adult use shall be open prior to **10:00 A.M.** or after **2:00 A.M.**

7-7-17 **INVESTIGATION.** Any licensee hereunder shall permit law enforcement officials, free and unlimited access to the premises during hours of operation, upon reasonable request, for the purposes of investigating compliance with the provisions of this Article.

ARTICLE VIII – FIREWORKS CODE

7-8-1 **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 flitter sparklers;

(2) Smoke devices;

(3) Fireworks commonly known as helicopters, aerals, 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.

7-8-2 **SALE OF FIREWORKS UNLAWFUL.** It is unlawful for any person to sell any fireworks within the Village other than those fireworks designated in **Section 7-8-5** of this Article, provided that this prohibition shall not apply to duly authorized public displays.

7-8-3 **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.

7-8-4 **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.

7-8-5 **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.

7-8-6 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.

7-8-7 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 7-8-11** 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.

7-8-8 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 7-8-12** of this Article.

7-8-9 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 7-8-4** 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. **(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 7-8-5** 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 7-8-11** 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.

7-8-10 SALE FROM STANDS – EXCEPTIONS. All approved fireworks as set forth in **Section 7-8-5** 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.

7-8-11 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 (2 ½) 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.

7-8-12STANDARDS 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.

7-8-13 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 7-8-5** of this Article. Otherwise lawful discharge and possession of fireworks as allowed by **Section 7-8-5** 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.

7-8-14 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 7-8-7** and **7-8-8** of this Code.

7-8-15 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.

7-8-16 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.

7-8-17 **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.

7-8-18 **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.

7-8-19 **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.

(Ord. No. 2015-04; 11-16-15)

EXHIBIT "A"

APPLICATION FOR AN OUTDOOR PYROTECHNIC DISPLAY PERMIT

PART A – DISPLAY SPONSOR INFORMATION

Display Sponsor's Name	Telephone Number
Address	Cell Phone

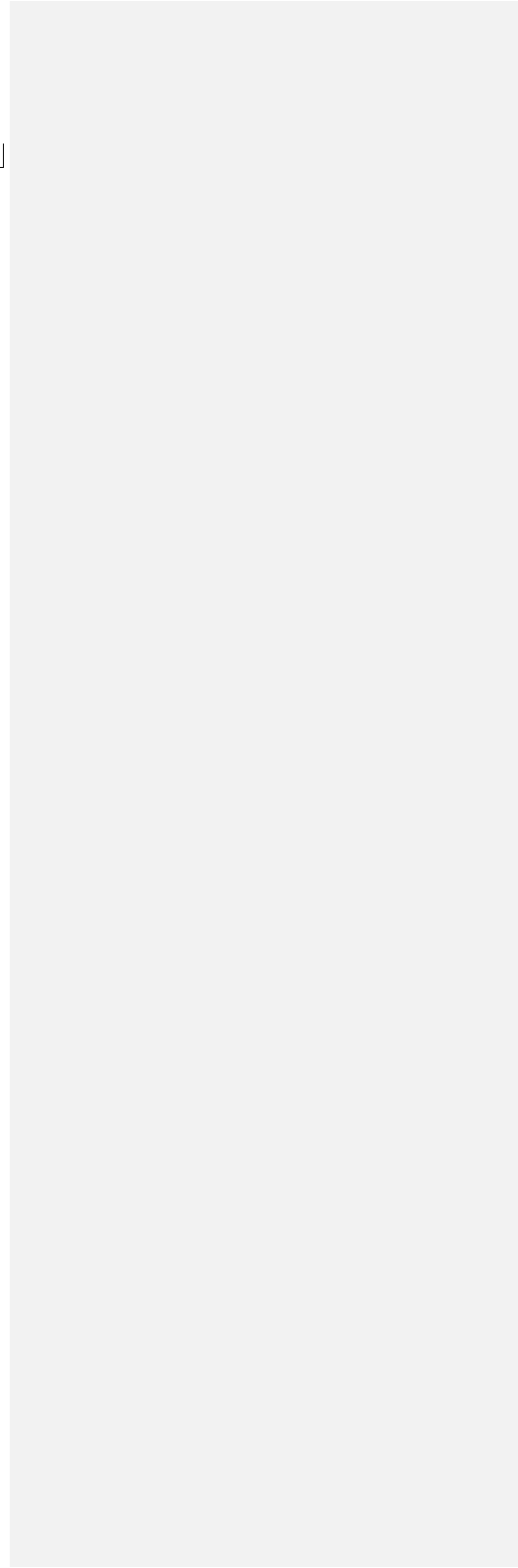
PART B – PYROTECHNIC DISTRIBUTOR INFORMATION

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)
Liability Insurance: (not less than \$1,000,000.00)		
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:

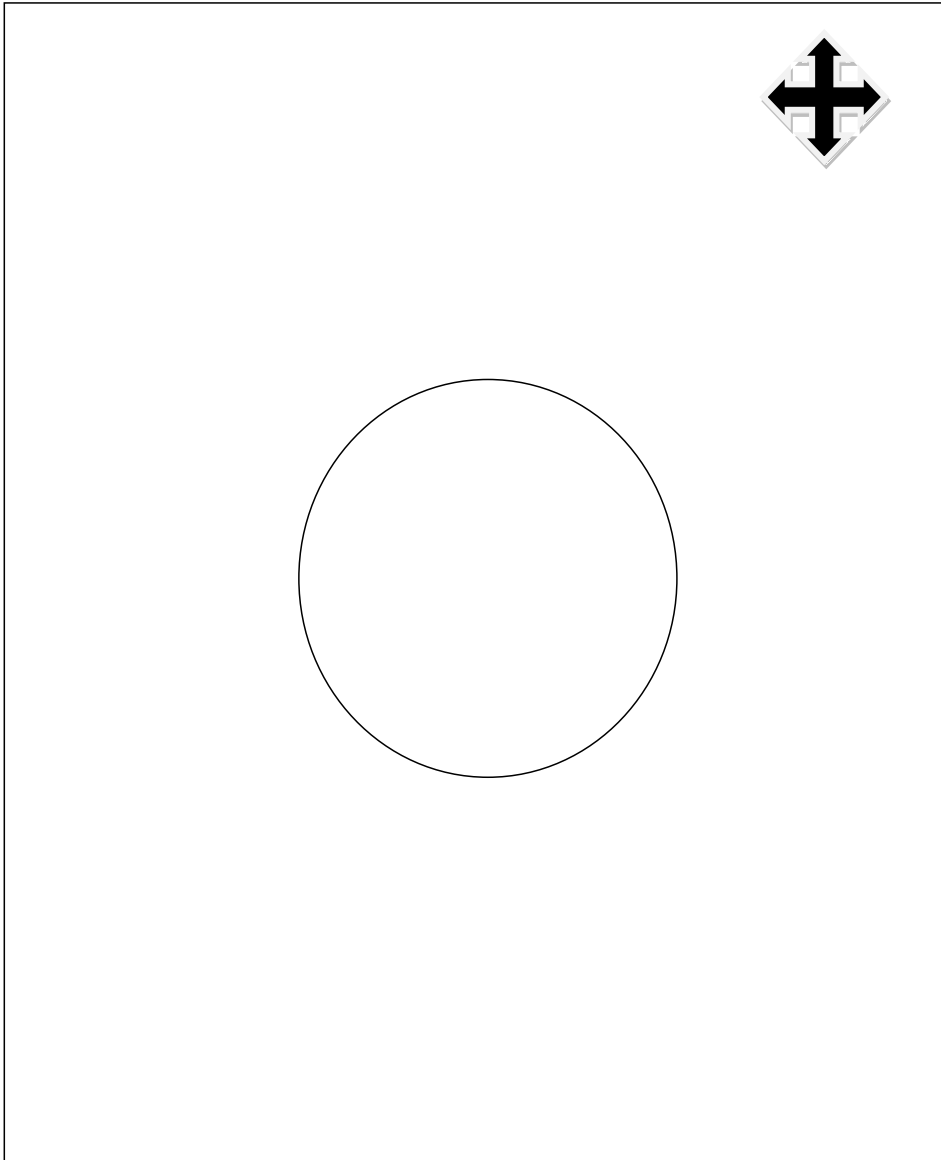


EXHIBIT "B"

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

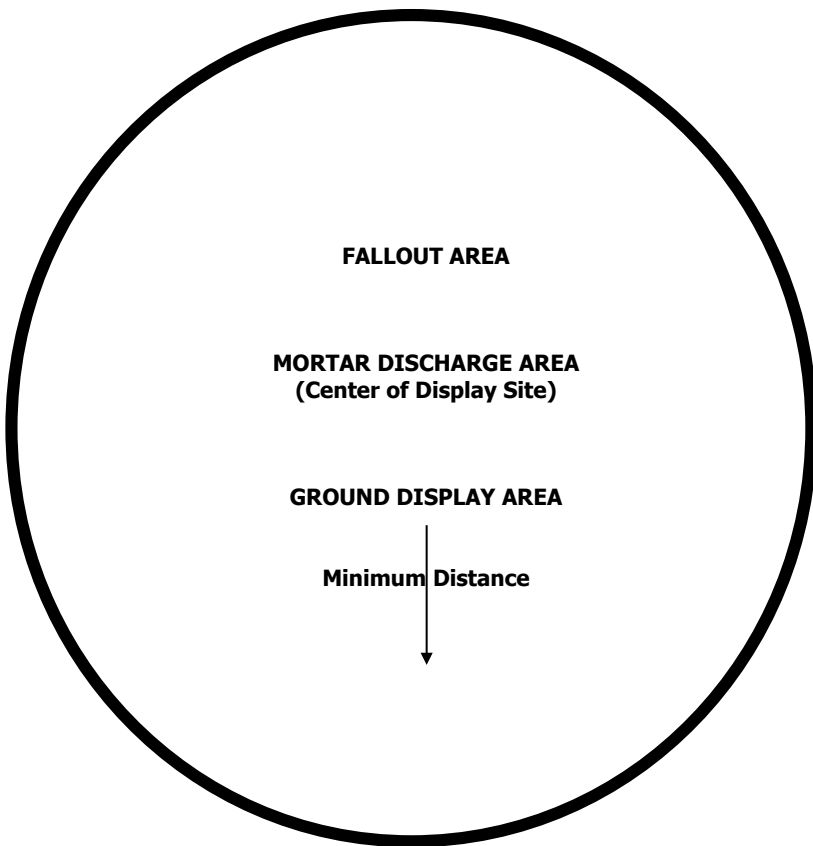
- Wherever, in the opinion of the authority having jurisdiction or the operator, any hazardous condition exists, the fireworks display shall be postponed until the condition is corrected. Such conditions include but are not limited to the following:
 - The lack of crowd control,
 - If high winds, precipitation, 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 NEW ATHENS

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 ST. CLAIR) ss.
VILLAGE OF NEW ATHENS)

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 New Athens, Illinois** in this behalf made and required license is, by authority of the **Village of New Athens, Illinois** given and granted to the _____ to _____ at _____
_____ in the **Village of New Athens, County of St. Clair, 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 New Athens, 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 New Athens, County of St. Clair, Illinois** and the seal thereof, this _____ day of _____, ____.

MAYOR
VILLAGE OF NEW ATHENS

COUNTERSIGNED:

VILLAGE CLERK
VILLAGE OF NEW ATHENS

(SEAL)

APPLICATION FOR RAFFLE LICENSE

Organization Name: _____
Address: _____
Type of Organization: _____
Length of Existence of Organization: _____

If organization is incorporated, what is the date and state of incorporation?
Date: _____ State: _____

List the organization's presiding officer, secretary, raffle manager, and any other members responsible for the conduct and operation of the raffle.

PRESIDENT:

SECRETARY: _____ Birth Date: _____
Address: _____
Social Security No.: _____ Phone No.: _____

RAFFLE MANAGER: _____ Birth Date: _____
Address: _____
Social Security No.: _____ Phone No.: _____

List any other members responsible for the conduct and operation of the raffle on the back of this page. List name, date of birth, address, social security number, and phone number.

_____ This request is for a single raffle license.
_____ This request is for a multiple raffle license.

The aggregate retail value of all prizes to be awarded: \$ _____
Maximum retail value of each prize to be awarded in the raffle: \$ _____
The maximum price charged for each raffle chance issued: _____
The area or areas in which raffle chances will be sold or issued: _____

Time period during which raffle chances will be issued or sold: _____

The date, time and location at which winning chances will be determined: _____

Date: _____ Time: _____
Location: _____

If multiple raffles license is requested, list on a separate sheet, the date, time, and location for each raffle to be held within the one (1) year period of time from the date of the issuance of the license.

THE APPLICATION FEES ARE NONREFUNDABLE EVEN SHOULD THE APPLICATION BE REJECTED BY THE VILLAGE BOARD.

APPLICATION FOR RAFFLE LICENSE

SWORN STATEMENT

The following officers attest to the not-for-profit character of the applicant organization.

(NAME OF ORGANIZATION)

Dated this _____ day of _____, _____.

PRESIDING OFFICER

SECRETARY

STATE OF ILLINOIS)
)
COUNTY OF ST. CLAIR) ss.

Signed and sworn to before me this _____ day of _____, _____.

PRESIDING OFFICER

SECRETARY

NOTARY PUBLIC

SINGLE RAFFLE LICENSE

License No.: _____

Organization Name: _____

Address: _____

Area or areas in which raffle chances may be sold or issued: _____

Period of time during which raffle chances may be sold: _____

Maximum price charged for each raffle chance issued or sold: \$ _____

Date, time and location at which winning chance will be determined:

Date: _____ Time: _____

Location: _____

THIS LICENSE SHALL BE PROMINENTLY DISPLAYED AT THE TIME AND LOCATION OF THE DETERMINATION OF THE WINNING CHANCES.

WITNESS the hand of the Mayor of the Village of New Athens and the Corporate Seal thereof, this _____ day of _____, _____.

MAYOR
VILLAGE OF NEW ATHENS

VILLAGE CLERK
VILLAGE OF NEW ATHENS

(SEAL)

MULTIPLE RAFFLE LICENSE

License No.: _____

Organization Name: _____

Address: _____

Area or areas in which raffle chances may be sold or issued: _____

Period of time during which raffle chances may be sold: _____

Maximum price charged for each raffle chance issued or sold: \$_____

This is a license for multiple raffles to be held within the maximum period of **one (1) year** from date of this license. The date, time and location of each raffle is as set forth on Exhibit 1, attached hereto and hereby incorporated by reference.

THIS LICENSE SHALL BE PROMINENTLY DISPLAYED AT THE TIME AND LOCATION OF THE DETERMINATION OF THE WINNING CHANCES.

WITNESS the hand of the Mayor of the Village of New Athens and the Corporate Seal thereof, this _____ day of _____, _____.

MAYOR
VILLAGE OF NEW ATHENS

VILLAGE CLERK
VILLAGE OF NEW ATHENS

(SEAL)

EXHIBIT 1

The following is the date, time and location at which winning chances will be determined for multiple raffles to be held within a maximum period of **one (1) year** from the date of issuance of this license.

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

Date: _____ Time: _____
Location: _____

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	
Weight	Eyes	Hair	
Complexion	Date of Birth		
Unusual Features:			
	Comments:		
Hat	Coat		Associates:
Cap	Jacket		
Blouse	Dress		
Shirt	Sweater		
Skirt	Trousers		
NOTICE TO APPLICANT: The Mayor shall have three (3) days to review the application and check the information.			

CHAPTER 8

CABLE TELEVISION

ARTICLE I - CABLE/VIDEO SERVICE PROVIDER FEE AND PEG ACCESS FEE

8-1-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

(A) **"Cable Service"** means that term as defined in 47 U.S.C. § 522(6).

(B) **"Commission"** means the Illinois Commerce Commission.

(C) **"Gross Revenues"** means all consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by the holder for the operation of a cable or video system to provide cable service or video service within the holder's cable service or video service area within the Village.

(1) Gross revenues shall include the following:

- (a) Recurring charges for cable or video service.
- (b) Event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges.
- (c) Rental of set top boxes and other cable service or video service equipment.
- (d) Service charges related to the provision of cable service or video service, including but not limited to activation, installation, and repair charges.
- (e) Administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges.
- (f) Late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments.
- (g) A *pro rata* portion of all revenue derived by the holder or its affiliates pursuant to compensation arrangements for advertising or for promotion or exhibition of any products or services derived from the operation of the holder's network to provide cable service or video service within the Village. The allocation shall be based on the number of subscribers in the Village divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.
- (h) Compensation received by the holder that is derived from the operation of the holder's network to provide cable service or video service with respect to commissions that are received by the holder as compensation for promotion or exhibition of any products or services on the holder's network, such as a "home shopping" or similar channel, subject to subsection (i).
- (i) In the case of a cable service or video service that is bundled or integrated functionally with other services,

capabilities, or applications, the portion of the holder's revenue attributable to the other services, capabilities, or applications shall be included in the gross revenue unless the holder can reasonably identify the division or exclusion of the revenue from its books and records that are kept in the regular course of business.

- (j) The service provider fee permitted by 220 ILCS 5/21-801(b).
- (2) Gross revenues do not include any of the following:
- (a) Revenues not actually received, even if billed, such as bad debt, subject to 220 ILCS 5/21-801(c)(1)(vi).
 - (b) Refunds, discounts, or other price adjustments that reduce the amount of gross revenues received by the holder of the State-issued authorization to the extent the refund, rebate, credit, or discount is attributable to cable service or video service.
 - (c) Regardless of whether the services are bundled, packaged, or functionally integrated with cable service or video service, any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunication services, information services, or the provision of directory or Internet advertising, including yellow pages, white pages, banner advertisement, and electronic publishing or any other revenues attributed by the holder to noncable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders.
 - (d) The sale of cable services or video services for resale in which the purchaser is required to collect the service provider fee from the purchaser's subscribers to the extent the purchaser certifies in writing that it will resell the service within the Village and pay the fee permitted by 220 ILCS 5/21-801(b) with respect to the service.
 - (e) Any tax or fee of general applicability imposed upon the subscribers or the transaction by a city, state, federal, or any other governmental entity and collected by the holder of the State-issued authorization and required to be remitted to the taxing entity, including sales and use taxes.
 - (f) Security deposits collected from subscribers.
 - (g) Amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.
- (3) Revenue of an affiliate of a holder shall be included in the calculation of gross revenues to the extent the treatment of the revenue as revenue of the affiliate rather than the holder has the effect of evading the payment of the fee permitted by 220 ILCS

5/21-801(b) which would otherwise be paid by the cable service or video service.

(D) **"Holder"** means a person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

(E) **"Service"** means the provision of "cable service" or "video service" to subscribers and the interaction of subscribers with the person or entity that has received authorization to offer or provide cable or video service from the Commission pursuant to 220 ILCS 5/21-401.

(F) **"Service Provider Fee"** means the amount paid under this Article and 220 ILCS 5/21-801 by the holder to a Village for the service areas within its territorial jurisdiction.

(G) **"Video Service"** means video programming and subscriber interaction, if any, that is required for the selection or use of such video programming services, and which is provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d) or any video programming provided solely as part of, and via, service that enables users to access content, information, electronic mail, or other services offered over the public Internet.

8-1-2 CABLE/VIDEO SERVICE PROVIDER FEE IMPOSED.

(A) **Fee Imposed.** A fee is hereby imposed on any holder providing cable service or video service in the Village.

(B) **Amount of Fee.** The amount of the fee imposed hereby shall be **three percent (3%)** of the holder's gross revenues.

(C) **Notice to the Village.** The holder shall notify the Village at least **ten (10) days** prior to the date on which the holder begins to offer cable service or video service in the Village.

(D) **Holder's Liability.** The holder shall be liable for and pay the service provider fee to the Village. The holder's liability for the fee shall commence on the first day of the calendar month following **thirty (30) days** after receipt of the ordinance adopting this Article by the holder. The ordinance adopting this Article shall be sent by mail, postage prepaid, to the address listed on the holder's application notice sent pursuant to 220 ILCS 5/21-401(b)(6) to the Village.

(E) **Payment Date.** The payment of the service provider fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(F) **Exemption.** The fee hereby imposed does not apply to existing cable service or video service providers that have an existing franchise agreement with the Village in which a fee is paid.

(G) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to 220 ILCS 5/21-301(c) with credit to prepaid franchise fees under that agreement may deduct the amount of such credit from the fees that operator owes under Section 116.02(b).

8-1-3 PEG ACCESS SUPPORT FEE IMPOSED.

(A) **PEG Fee Imposed.** A PEG access support fee is hereby imposed on any holder providing cable service or video service in the Village in addition to the fee imposed pursuant to **Section 8-1-2(B)**.

(B) **Amount of Fee.** The amount of the PEG access support fee imposed hereby shall be **one percent (1%)** of the holder's gross revenues or, if greater, the percentage of gross revenues that incumbent cable operators pay to the Village or its designee for PEG access support in the Village.

(C) **Payment.** The holder shall pay the PEG access support fee to the Village or to the entity designated by the Village to manage PEG access. The holder's liability for the PEG access support fee shall commence on the date set forth in **Section 8-1-2(D)**.

(D) **Payment Due.** The payment of the PEG access support fee shall be due on a quarterly basis, **forty-five (45) days** after the close of the calendar quarter. If mailed, the fee is considered paid on the date it is postmarked. Each payment shall include a statement explaining the basis for the calculation of the fee.

(E) **Credit for Other Payments.** An incumbent cable operator that elects to terminate an existing agreement pursuant to **220 ILCS 5/21-301(c)** shall pay, at the time they would have been due, all monetary payments for PEG access that would have been due during the remaining term of the agreement had it not been terminated pursuant to that section. All payments made by an incumbent cable operator pursuant to the previous sentence may be credited against the fees that the operator owed under **Section 8-1-3(B)**.

8-1-4 APPLICABLE PRINCIPLES. All determinations and calculations under this Article shall be made pursuant to generally accepted accounting principles.

8-1-5 NO IMPACT ON OTHER TAXES DUE FROM HOLDER. Nothing contained in this Article shall be construed to exempt a holder from any tax that is or may later be imposed by the Village, including any tax that is or may later be required to be paid by or through the holder with respect to cable service or video service. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the Village's simplified municipal telecommunications tax or any other tax as it applies to any telephone service provided by the holder. A State-issued authorization shall not affect any requirement of the holder with respect to payment of the local unit of government's 911 or E911 fees, taxes or charges.

8-1-6 AUDITS OF CABLE/VIDEO SERVICE PROVIDER.

(A) **Audit Requirement.** The Village will notify the holder of the requirements it imposes on other cable service or video service providers to submit to an audit of its books and records. The holder shall comply with the same requirements the Village imposes on other cable service or video service providers in its jurisdiction to audit the holder's books and records and to recomputed any amounts determined to be payable under the requirements of the Village. If all local franchises between the Village and cable operator terminate, the audit requirements shall be those adopted by the Village pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.* found in Chapter 36. No acceptance of amounts remitted should be construed as an accord that the amounts are correct. **(See Chapter 36 - Taxation)**

(B) **Additional Payments.** Any additional amount due after an audit shall be paid within **thirty (30) days** after the municipality's submission of an invoice for the sum.

8-1-7 **LATE FEES/PAYMENTS.** All fees due and payments which are past due shall be governed by ordinances adopted by this municipality pursuant to the Local Government Taxpayers' Bill of Rights Act, 50 ILCS 45/1 *et seq.*

(See 220 ILCS 5/21-801)

ARTICLE II - CABLE AND VIDEO CUSTOMER PROTECTION LAW

8-2-1 **CUSTOMER SERVICE AND PRIVACY PROTECTION LAW.**

(A) **Adoption.** The regulations of 220 ILCS 5/70-501 are hereby adopted by reference and may applicable to the cable or video providers offering services within the Village's boundaries.

(B) **Amendments.** Any amendment to the Cable and Video Customer Protection Law that becomes effective after the effective date of this Article shall be incorporated into this Article by reference and shall be applicable to cable or video providers offering services within the municipality's boundaries. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Article by reference without formal action by the corporate authorities of the Village.

8-2-2 **ENFORCEMENT.** The Village does hereby pursuant to law declare its intent to enforce all of the customer service and privacy protection standards of the Cable and Video Protection Law with respect to complaints received from residents within the Village.

8-2-3 **CUSTOMER CREDITS.** The Village hereby adopts the schedule of customer credits for violations. Those credits shall be as provided for in the provisions of 220 ILCS 5/70-501(s) and applied on the statement issued to the customer for the next billing cycle following the violation or following the discovery of the violation. The cable or video provider is responsible for providing the credits and the customer is under no obligation to request the credit.

8-2-4 **PENALTIES.** The Village, pursuant to 220 ILCS 5/70-501(r)(1), does hereby provide for a schedule of penalties for any material breach of the Cable and Video Protection Law by cable or video providers in addition to the penalties provided in the law. The monetary penalties shall apply on a competitively neutral basis and shall not exceed **Seven Hundred Fifty Dollars (\$750.00)** for each day of the material breach, and shall not exceed **Twenty-Five Thousand Dollars (\$25,000.00)** for each occurrence of a material breach per customer.

(A) Material breach means any substantial failure of a cable or video provider to comply with service quality and other standards specified in any provision of the law.

(B) The Village shall give the cable or video provider written notice of any alleged material breaches of the law and allow such provider at least **thirty (30) days** from the receipt of the notice to remedy the specified material breach.

(C) A material breach, for the purposes of assessing penalties, shall be deemed to occur for each day that a material breach has not been remedied by the cable or video service provider after the notice in (B).

ARTICLE III - NEW WAVE COMMUNICATIONS

8-3-1 **DEFINITIONS.** For the purposes of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein, unless the context clearly indicates that another meaning is intended. The word "shall" is always mandatory, and not merely directory:

(A) **Access Channels** shall mean those channels set aside for specific access purposes, as described in Section 611 and 612 of the Cable Act.

(B) **Annual Gross Revenue** shall mean all gross revenues received by the Franchisee from the operation of the Cable Television System pursuant to this Franchise, but shall not include any amount of (i) tax; fee; assessment; or charge of any kind collected by the Franchisee on behalf of any governmental authority or (ii) any amount assessed to satisfy any requirement imposed upon Franchisee to support public, educational, or governmental channels or the use of such channels.

(C) **Application** shall include all written communications, in whatever form, made by the Franchisee to the Village concerning the construction, rendition of services, maintenance, or any other matter pertaining to the Cable Television System contemplated herein.

(D) **Basic Cable Subscriber Services; Basic Cable Service** shall mean the lowest priced tier of service which includes the retransmission of local television broadcast signals as defined in the Cable Act.

(D) **Board of Trustees; Board** shall mean the present governing body of the Village or any successor to the legislative powers of the present Board of Trustees.

(E) **Cable Act** shall mean the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992.

(F) **Cable Television System** shall mean any facility which consists 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 provides other communications services.

(G) **Channel** shall mean a band of frequencies in the electromagnetic spectrum which is capable of carrying either **one (1)** audio-video television signal and/or a number of non-video signals.

(H) **Chief Administrative Officer** shall mean the existing or succeeding Clerk of the Village of New Athens, Illinois, or such other Village official as the Board of Trustees may designate as Chief Administrative Officer.

(I) **Federal Communications Commission, FCC** shall mean that administrative agency of the Federal government responsible for cable television regulation on a national level, or its lawful successor.

(J) **Franchise** shall mean the permission, license or authorization given hereunder to construct, operate and maintain a Cable Television System in the Village of New Athens, including this Ordinance.

(K) **Franchisee** shall mean any grantee under this Ordinance receiving a franchise granted herein; or the successors, transferees or assignees of such grantee.

(L) **Good Cause** shall represent that set of facts and circumstances which, in an individual case, a reasonable person would adjudge to be beyond Franchisee's reasonable control and which would, therefore, represent a justifiable excuse of nonperformance. Depending on the facts and circumstances, good cause may include, but shall not be limited to, delays or interruptions arising from necessary, utility changes, rearrangements, power outages, damage to the equipment of Franchisee by the Village or a third party, the fulfillment of any

Federal, state and/or local governmental or regulatory restrictions or requirements, national emergency, uncontrollable material shortages, fire, earthquakes or the elements and acts of God.

(M) **Normal Service Interval** shall mean the period between the time that Franchisee will begin working on service problems as specified in **Section 76.309(c)(2)(ii)** of the Rules and Regulations of the Federal Communications Commission as it may be amended from time to time.

(N) **Ordinance** as used herein shall include this Ordinance and as the same from time to time may be amended.

(O) **Person** shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

(P) **Mayor** shall mean the existing or succeeding Chief Executive Officer of the Village, or his/her designee.

(Q) **State** shall mean the State of Illinois.

(R) **Street** shall mean the surface of and the space above and between any public street, road, highway, freeway, lane, path, public way or place, alley, court, sidewalk, boulevard, parkway, drive or other easement now or hereafter held by the Village for the purpose of public travel and shall include such other easements or rights-of-way as shall be now held or hereafter held by the Village which shall, within their proper use and meaning, entitle the Village and its Franchisee to the use thereof for the purpose of installing or transmitting Cable Television System transmissions over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a Cable Television System.

(S) **Subscriber** shall mean a purchaser of any service delivered over the system to an individual dwelling unit or of service to be utilized in connection with a business, trade or profession.

(T) **Village** shall mean the Village of New Athens.

(U) **Village Engineer** shall mean the existing or succeeding Director of the Engineering Department of the Village, or his/her designee.

(V) **Village Clerk** shall mean the existing or succeeding Village Clerk of the Village of New Athens, Illinois.

(W) **Village Attorney** shall mean the existing or succeeding retained legal counsel of the Village or his/her assistants.

8-3-2 FRANCHISE AGREEMENT. There is hereby granted by the **Village of New Athens to New Wave Communications ("Franchisee")**, its successors and assigns, the right, privilege and Franchise to construct, operate, maintain and upgrade a Cable Television System within the franchise area as herein defined, for a period of **fifteen (15) years** from the effective date of this Ordinance, subject to the conditions and restrictions as hereinafter provided. On the **fifth (5th)** and **tenth (10th) anniversary** of this Ordinance, both the Village and the Franchisee may, at either party's option, review the franchise agreement, including but not limited to, performance, signal quality, local origination, and technical standards that have occurred which affect cable television system operations. The parties shall enter into good faith negotiations should it appear necessary to amend this Ordinance on the **fifth (5th)** or **tenth (10th) anniversary**.

8-3-3 **AUTHORITY NOT EXCLUSIVE.** The right to use and occupy said franchise Territory as defined in **Section 8-3-4** herein for the purposes herein set forth shall not be exclusive, and the Village reserves the right to grant a similar use of said franchise area to any person or entity at any time during the period of this Franchise, in accordance with state and federal law. The Village shall not authorize or permit another Cable Television System to operate within the franchise territory on terms or conditions more favorable or less burdensome to such operator than those applied to Franchise pursuant to this Franchise. If the Village authorizes or permits another Cable Television System to operate within the Franchise territory, it shall do so on condition that such Cable Television System indemnify and hold harmless the Franchisee for and against all costs and expenses incurred in strengthening poles, rearranging attachments, placing underground facilities, and all other costs including those of Franchisee, the Village, and utilities, incident to inspections, make ready, and construction of an additional Cable Television System in the Franchise territory, and Franchisee shall be designated a third party beneficiary of such conditions as are incorporated into the authorizations granted to another Cable Television System.

8-3-4 **FRANCHISE TERRITORY.** This Franchise is for the present territorial limits of the Village of New Athens, Illinois, and for any area henceforth added thereto during the term of this Franchise.

8-3-5 **OPERATIONAL STANDARDS.**

(A) **Technical Operations and Line Extensions.** The Cable Television System as contemplated herein shall be installed and maintained in accordance with the accepted industry standards and will meet all applicable technical standards of the Federal Communications Commission. The Cable Television System will be built in all areas of the Village having a density of **twenty-five (25)** occupied dwelling units per cable mile. The number of miles will be calculated starting at the closest point of the activated cable system where the extension must be connected and will continue until reaching **three hundred (300) feet** of the dwelling unit.

(B) **Access for Franchised Cable Television System.** In case of new construction or property development where utilities are to be placed underground, the developer or property owner shall give Franchisee reasonable notice of not less than **thirty (30) days** prior to such construction or development, and of the particular date on which open trenches will be available for Franchisee's installation of cable, conduit, pedestals and laterals to be provided at Franchisee's expense. Franchisee shall also provide specifications as needed for trenching. Cost of trenching and easements required to bring service to the development shall be borne by the developer or property owner.

(C) **Community Outlets.** Franchisee will provide, at the written request of the Village, at **six (6) locations** in publicly owned facilities, **one (1) outlet** each of Basic Cable Service so long as such location is passed by serviceable cable lines, and the installation of such outlet will not place an undue economic hardship on Franchisee, i.e. cost more than the average service drop.

8-3-6 **CONSTRUCTION STANDARDS.**

(A) **Reasonable Care.** Franchisee shall, at all times, employ reasonable care and shall install and maintain devices or systems for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

(B) **Interference.** Franchisee shall install and maintain its wires, cables, fixtures and other equipment so as not to interfere with the equipment of any utility serving the residents of the Village or any other entity lawfully and rightfully using the conduit, pole or other part of the right-of-way.

(C) **Construction and Maintenance Standards.** The Cable Television System shall at all times conform to the construction and maintenance standards set forth below:

- (1) Methods of construction, installation and maintenance of the Cable Television System shall comply with the National Electrical Safety Code 1975 (ANSI CI-1975), and any future amendments, modifications or replacements thereof, to the extent that such Code is consistent with the local law affecting the construction, installation and maintenance of electrical supply and communications lines. To the extent that such Code is inconsistent with the other provisions of this Franchise or with local law, the latter shall govern.
- (2) Any tower constructed or maintained in the Village for use in the Cable Television System shall comply with the standards contained in Structured Standards for Steel Antenna Towers and Antenna Supporting Structures, EIE Standards RS-222-A, as published by the Engineering Department of the Electronic Industries Association, and as the same may be, from time to time, modified, amended or replaced.
- (3) Installations and physical dimensions of any tower constructed in the Village for use in the Cable Television System shall comply with all appropriate Federal Aviation Agency Regulations including, but not limited to, Objectives Affecting Navigable Airspace, 14 C.F.R. Section 77.1 et seq., and as the same may be, from time to time, modified, amended or replaced.
- (4) Any antenna structure in the Cable Television System shall comply with Construction, Marking and Lighting of Antenna Structure, 47 C.F. R. Section 77.1 et seq., as the same may be, from time to time, modified, amended or replaced.
- (5) All working facilities and conditions used during construction, installation and maintenance of the Cable Television System shall comply with the standards of the Occupational Safety and Health Administration.
- (6) Franchisee shall at all times use reasonable care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

(D) **Published Standards.** As stated above, Franchisee shall be required to reasonably comply with standards as set forth in the publications recited above, this to include any modifications, replacements and/or amendments thereto. However, in the event any publications mentioned herein should become obsolete or should expire, then Franchisee shall be required to comply with the latest set of published standards available at such time of obsolescence or expiration to the extent practically and economically feasible.

- (1) Franchisee shall construct and operate the system and related facilities in accordance with generally accepted related industry

codes, standards and recommendations that are applicable now or that may hereafter become applicable.

(E) **Facilities Placement.** All conductors, cables, towers, poles and other components of the system shall be located and constructed by the Franchisee in back of the street curbs, except insofar as such components cross streets and public rights-of-way, so as to provide minimum interference with access by adjoining property owners to the streets and public ways, and no pole or other fixture of the Franchisee shall be placed in the public way so as to interfere with the usual travel on such public way.

(F) **Waiver.** The requirements of **Section 8-3-6(A)** through **(E)** above shall be waived by the Village upon showing of good cause.

8-3-7 CONDITIONS OF STREET OCCUPANCY.

(A) **Code Compliance.** All transmissions and distribution structures, lines and equipment erected by Franchisee within the franchise area shall be located so as to not cause unreasonable interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of said streets, alleys or other public ways and places. The Cable Television System shall be constructed and operated in compliance in all material respects with all adopted local, state and national construction and electrical codes which are in effect as of the date of this Ordinance.

(B) **Maps.** Prior to commencing any new construction, Franchisee shall submit to the Village upon request detailed maps showing proposed construction locations. These maps shall show the proposed placement of Franchisee's cables on the Village right-of-way, poles that are to be erected by Franchisee as required for construction, and locations where Franchisee proposes to attach to existing utility poles. Franchisee shall cooperate with the Village and any of its agents during any new construction period and throughout the full term of the Franchise in regards to construction procedures, practices and locations. All cable construction and installations located within Village property or Village rights-of-way shall be installed and maintained at such locations and depths so as to not interfere with any Village road or right-of-way maintenance.

(C) **Relocation of Facilities.** Whenever the Village or State of Illinois shall require the relocation or re-installation of any property of Franchisee in any of the streets of the franchise area, it shall be the obligation of the Franchisee, upon notice of such requirements, to cooperate in the timely removal and relocation or reinstallation of said property so as not to cause unreasonable delay. Such relocations, removal or reinstallations by Franchisee shall be at the cost of Franchisee unless funds are otherwise available to partially or wholly reimburse franchisee.

(D) **Facilities Placement.** Whenever in any place within the franchise area, all or any part of both the electric and telephone utilities shall be located underground, it shall be the obligation of the Franchisee to locate or to cause its property to be located underground within such places. If the electric and telephone utilities shall be relocated underground in any place within the franchise area after Franchisee shall have previously installed its property, Franchisee shall, nevertheless, at the same time or in a timely manner thereafter, remove and relocate its property also underground in such places. Any facilities of Franchisee placed underground at the property owner's request, in an area where electric or telephone facilities are aerial, shall be installed with the additional expense being paid by the property owner.

(E) **Tree Trimming.** Franchisee shall have the authority to trim trees upon and overhanging streets of the franchise area so as to prevent the branches of such trees from coming into contact with Franchisee's wires and cables. Franchisee shall obtain from the

Village, if required, a permit to conduct any such trimming and the same shall be conducted in strict obedience of all local laws and ordinances and at the expense of Franchisee.

(F) **Repair of Streets.** In the case of any disturbance of any road, ditch or other area within the Village right-of-way caused by Franchisee, Franchisee shall, at its own cost and expense and in a manner approved by the Village, replace and restore such street or sidewalk to its previous condition reasonable wear and tear excepted.

(G) **Repairs.** Franchisee shall maintain, repair and keep in good condition for a period of **one (1) year** following such disturbance all portions of a sidewalk or street disturbed by it or its agents, provided such maintenance and repair shall be made necessary because of defective workmanship or materials supplied by Franchisee.

(H) **Wire Raising.** Franchisee shall, upon the request of any person holding a building permit issued by the Village, temporarily remove, raise or lower its wires to permit the moving of such building(s). The expense of such temporary removal or raising or lowering of the wires shall be paid by the person requesting the same, and the Franchisee shall have the authority to require such payment in advance. Franchisee shall be given not less than **seventy-two (72) hours'** advance notice to arrange for such temporary wire changes.

(I) **Emergency Procedures.** If at any time, in case of fire or disaster in the franchise area, it shall become necessary in the judgment of the Chief Administrative Officer or the Head of the Department of Public Safety, Fire Department Division or like department, to cut or move any of the wire cables, amplifiers, appliances or other fixtures of Franchisee, this may be done and the repairs thereby rendered necessary shall be made by Franchisee, which expense shall be reimbursed by the Village.

(J) **Warning Devices.** Franchisee's work, while in progress, shall be properly executed at all times with suitable barricades, flags, lights, flares or other devices as are reasonably required to protect all members of the public having occasion to use the portion of the street involved or the adjacent property.

8-3-8 FRANCHISE FEES.

(A) **Payment to Village.** Franchisee herein shall pay to the Village for the use of the streets and other facilities of the Village in the operation of the Cable Television System and for the Village supervision thereof a sum equal to **three percent (3%)** of the Annual Gross Revenues, as defined herein from operations within the Village. Said fee shall be paid on a semi-annual basis within **sixty (60) days** after the end of June and December of each year. With such payment the Franchisee shall file with the Village a statement showing the Annual Gross Revenues received by the Franchisee during the preceding payment period.

(B) **Payment Upon Termination.** In the event this Franchise should be terminated or forfeited prior to the end of the Franchise term, as defined herein, Franchisee shall immediately submit to the Village a financial statement prepared by a certified public accountant or the chief financial officer of Franchisee showing the Annual Gross Revenues of Franchisee for the time elapsed since the last fiscal year report. Franchisee shall pay to the Village not later than **sixty (60) days** following the termination of this Franchise a like percentage of such Annual Gross Revenues and any other sums legally due and owing the Village.

(C) **Penalties.** In the event that any payment is not made on or before the applicable date fixed herein, Franchisee shall be subject to the penalty provided for hereinafter.

(D) **Right to Inspect Books.** The Village shall have the right to inspect the Franchisee's records showing the Annual Gross Revenues from which its franchise payments are computed. The right of audit and computation of any and all amounts paid under this Franchise shall always be accorded to the Village. Should the Village notify Franchisee in

writing of its desire to inspect and/or audit Franchisee's records, Franchisee shall be obligated to produce such records and make them available to the Village of New Athens within **twenty (20) working days** of such notification.

8-3-9 **SERVICE MAINTENANCE STANDARDS.**

(A) **Personnel.** Franchisee shall maintain sufficient repair and maintenance crews capable of responding to subscriber complaints or requests for service within the normal service interval as defined herein.

(B) **Service to Subscribers.** Service to Subscribers shall be as follows:

- (1) Any verbal, telephonic or written complaint relating to the quality or continuity of service shall be attended to within the normal service interval as defined herein.
- (2) The provisions contained in this Subsection shall not apply if the discontinuation of service is occasioned because of an act of God, strike, national emergency, or any other circumstance beyond the control of Franchisee. Similarly, this provision shall not apply to service requests or complaints pertaining to television set malfunctions or other breakdowns not related to the operation of the Cable Television System.
- (3) Franchisee shall have the right to prescribe reasonable service rules, regulations and rates for the conduct of its business; provided however that such service rules and regulations, as well as subsequent amendments or modifications thereof, shall be made available upon request for inspection by the Village.

8-3-10 **COMPLAINT PROCEDURES.**

(A) **Procedures and Logs.** Franchisee shall establish procedures for receiving, acting upon and resolving subscriber complaints. Franchisee shall furnish a notice of such procedures to each subscriber at the time of the initial subscription to the system. In addition, Franchisee shall maintain a written record, or "log", listing the date and time of each customer's complaints, identifying the subscriber, describing the nature of the complaints, and when and what action was taken by Franchisee in response thereto. Such records shall be kept for a period of **one (1) year** reflecting the operations to date and shall be available for inspection during normal business hours.

(B) **Village Complaint Officer.** The Chief Administrative Office or his/her authorized designee is hereby designated as the "Village Complaint Officer" and shall have the primary responsibility for the continuing administration of the complaint procedures hereunder.

- (1) Any subscriber, user, programmer or other interested person who has a complaint regarding the quality of cable television service, equipment malfunctions, billings, or any other matters, which remain unsolved for **thirty (30) days** after same have been brought to Franchisee's attention, may file a complaint in writing with the Village Complaint Officer.
- (2) Upon the filing of such a complaint, such Village Complaint Officer shall notify Franchisee and make an investigation to determine whether or not there is probable cause to credit the allegations. If he determines after such investigation that there is probable cause to credit the allegations of the complaint, he shall so notify

Franchisee and complainant in writing and promptly endeavor to resolve the matter.

- (3) In the event that the Village Complaint Officer is unable to obtain conciliation within a reasonable time, he shall promptly set the matter for a hearing where all parties may give evidence, and the merits of the dispute will be decided. The Village Complaint Officer shall make public his decision, along with a statement reciting the basis therefor.
- (4) Within **thirty (30) days** thereafter, either Franchisee or the complainant may appeal in writing the decision rendered by the Village Complaint Officer to the Board. At the appeal hearing, the aggrieved party may contest the findings of fact or interpretation of controlling law, at which time the Board may affirm, reject, or modify the decision of the Village Complaint Officer.
- (5) The affirmance, rejection or modification of said decision by the Board shall be final, subject to judicial review upon request of the Franchisee.

(C) **Subscriber Notification.** Franchisee shall notify each Subscriber at the time of initial installation and all Subscribers at least once a year of the name and address of the Village Complaint Officer and of the procedures contained in this Section in accordance with Section 76.607 of the FCC Rules and Regulations.

8-3-11 PERFORMANCE BOND.

(A) **Bond Amount.** Within **thirty (30) days** after acceptance of this Franchise, Franchisee shall deposit with the Village Clerk of the Village of New Athens a performance bond from surety authorized to do business in the State of Illinois, in the minimum amount of **Five Thousand Dollars (\$5,000.00)**. The form and content of such performance bond shall be acceptable to the Village. The Performance Bond shall be used to ensure the faithful performance by Franchisee of all provisions of this Ordinance; compliance with all orders, permits and direction of any agency, commission, board, department, division, or office of the Village having jurisdiction over its acts or defaults under this Franchise; and the payment by Franchisee of any claims, liens and taxes due the Village which arise by reason of the construction, operation or maintenance of the Cable Television System.

(B) **Use of Bond.** If Franchisee fails to pay the Village any compensation within the time fixed herein, and fails after **thirty (30) days'** written notice to pay to the Village any fees due and unpaid, or fails to repay the Village within such **thirty (30) days** any damages, costs or expenses which the Village is compelled to pay by reason of the acts of default of Franchisee in connection with this Franchise, and fails after receipt of **thirty (30) days'** written notice of such failure by the Village to comply with any provision of this Franchise which the Village reasonably determines can be remedied by demand on the performance bond, the Village may, subject to **Section 8-3-11(C)** herein, demand payment of the amount thereof, with interest and any penalties, from the performance bond. Upon such demand for payment, the Village shall notify Franchisee of the amount and date thereof.

(C) **Appeal.** Notwithstanding **Section 8-3-11(B)** hereinabove, in the case of a bona fide dispute regarding compliance, Franchisee may request a hearing before the Village's Chief Administrative Officer within **thirty (30) days** after written notification of non-compliance and penalty by the Village. At such hearing, all parties may file evidence and the merits of the dispute will be decided. The Chief Administrative Officer shall make public his/her decision, along with a statement reciting the basis therefor. Within **thirty (30) days**,

Franchisee may appeal to the Board, in writing, the decision rendered by the Chief Administrative Officer. At the appeal hearing, Franchisee may contest the findings of fact or interpretation of controlling law, at which time the Board may affirm, reject or modify the decision by the Chief Administrative Officer. The affirmance, rejection or modification of said decision by the Board shall be final, subject to judicial review upon request of Franchisee.

8-3-12 LIABILITY INSURANCE.

(A) **Maintenance of Insurance.** Franchisee shall maintain, and by its acceptance of this Franchise specifically agrees that it will maintain, throughout the term of this Franchise, liability insurance insuring the Village and Franchisee with regard to any and all damages for the following:

- (1) A general comprehensive public liability insurance policy indemnifying, defending and saving harmless the Village, its officers, boards, commissions, agents or employees from any and all claims by any person or entity whatsoever on account of injury to or death of a person or persons or derivative from any injury to or death of a person or persons (i.e., including but not limited to claims for loss of services, medical and other expenses) occasioned by the operation of Franchisee under this Franchise or alleged to have been so caused with a minimum liability of **Five Hundred Thousand Dollars (\$500,000.00)** per personal injury or death of any **one (1) person** and **One Million Dollars (\$1,000,000.00)** per personal injury or death of any **two (2)** or more persons in any **one (1) occurrence.**
- (2) Property damage insurance indemnifying, defending and saving harmless the Village, its officers, boards, commissions, agents and employees from and against all claims by any person or entity whatsoever for property damage, including loss of use and all consequential damages, occasioned by the operation of Franchisee under this Franchise or alleged to have been so caused with a minimum liability of **Two Hundred Fifty Thousand Dollars (\$250,000.00)** for property damage to any **one (1) person** and **Five Hundred Thousand Dollars (\$500,000.00)** for property damage to any **two (2) persons** in any **one (1) occurrence.**
- (3) **One Million Dollars (\$1,000,000.00)** for all other types of liability.
- (4) All insurance shall be kept in full force and effect by Franchisee throughout the term of this Franchise and until after the removal of all poles, wires, cables, underground conduits, manholes and other conductors and fixtures incident to the maintenance and operation of the Cable Television System as defined in this Franchise.

(B) **Certificate of Insurance.** An insurance certificate obtained by Franchisee in compliance with this Section shall be filed and maintained with the Village Clerk during the term of this Franchise.

(C) **No Limitation.** Neither the provision of this Section nor any damages recovered by the Village hereunder shall be construed as limiting the terms, obligations or liabilities imposed under any other Section of this Franchise.

8-3-13 GENERAL INDEMNIFICATION.

(A) **Liability and Indemnification Procedures.** By its acceptance of this Franchise specifically agrees that it will indemnify and hold the Village, including all its officials, employees and agents, harmless against any and all claims by third parties arising out of the Franchisee's exercise of its rights and obligations under this Franchise and the Franchisee's negligence with respect to the operation of its Cable Television System.

(B) **Cost of Defense.** Franchisee shall pay all reasonable expenses incurred by the Village in defending itself against all such claims, including all out-of-pocket expenses such as attorney fees, provided Franchisee had written notice of such claim and has declined to defend the Village.

8-3-14 ASSIGNMENT OF FRANCHISE.

(A) **Consent Necessary.** No assignment of this Franchise shall take place, whether by forced or voluntary sale, lease, or assignment, without prior written notice to and approval by the Board, which approval shall not be unreasonably withheld. The notice shall include full identifying particulars of the proposed transaction, and the Board shall act by resolution. The Board shall have **forty-five (45) days** within which to approve or disapprove an assignment. If no action is taken within such **forty-five (45) day** period, approval shall be deemed to have been given.

(B) **Hypothecation.** Franchisee shall have the right to mortgage, pledge or otherwise hypothecate the assets of its Cable Television System including the rights granted under this Franchise.

8-3-15 REVIEW AND RENEWAL.

(A) **Compliance with Cable Act.** The Board shall not make a decision involving the renewal, cancellation or expiration of Franchisee's Franchise unless the Village's Chief Administrative Officer has advised Franchisee in writing, at least **thirty (30) days** prior to such meeting, as to its time, place and purpose. Such renewal procedures will be conducted pursuant to Section 626 of the Cable Act.

(B) **New Developments.** It shall be the policy of the Village to amend this Franchise, upon application of the Franchisee, when necessary to enable Franchisee to take advantage of advancements in the state of the art which will afford it an opportunity to more effectively, efficiently or economically serve its Subscribers. No such amendment shall create any rights in Franchisee other than those specifically set out in such amendments.

8-3-16 REVOCATION OF FRANCHISE.

(A) **Revocation.** In addition to all other rights and powers reserved or pertaining to the Village, the Village reserves, as an additional and as a separate and distinct remedy, the right to revoke this Franchise and all rights and privileges of Franchisee hereunder in any of the following enumerated events or for any of the following reasons:

- (1) Franchisee violates a material or substantial term or condition of this Ordinance and fails within **sixty (60) days** following written notice by the Village to effect compliance; unless effecting compliance within the **sixty (60) days** is not reasonably practicable, in which case Franchisee fails to make a good faith effort to effect compliance within that **sixty (60) day** period; or

(2) Franchisee attempts to or does practice any fraud or deceit or pattern of material misrepresentation in its conduct or relations with the Village under this franchise.

(B) **Board Action.** No such revocation shall be effective unless or until the Board shall have adopted an Ordinance setting forth the cause and reason for the revocation and the effective date thereof, which Ordinance shall not be adopted without **thirty (30) days'** prior written notice thereof to Franchisee and an opportunity for the Franchisee to be heard upon the proposed adoption of said Ordinance. Franchisee shall furnish to the Village a written statement at least **ten (10) days** prior to the date on which Board convenes to consider such proposed Ordinance setting out its position relative to the cause(s) of such revocation. In the event the revocation as proposed in said Ordinance depends upon finding of fact, such finding of fact as made by the Board shall be in writing, after the hearing provided for, if requested by Franchisee.

(C) **Compliance with Act.** Notwithstanding the grounds for termination herein, no termination procedure shall be held except in compliance with FCC regulations and the Cable Act.

(D) **Judicial Review.** Franchisee shall not be declared in default nor be subject to any sanction under any provision of this Section in any case in which the performance of such provision is prevented for reasons of good cause. Any final determination on revocation shall be subject to judicial review upon request of the Franchisee and shall be in conformity with general remedy provisions contained in this Ordinance.

8-3-17 REMOVAL OF FACILITIES.

(A) **Requirements.** In the event of revocation of this Franchise as provided for in **Section 8-3-15** herein or in the event this Franchise is not renewed as provided for in **Section 8-3-16** herein, the Village shall have the option of either requiring Franchisee to remove from the public streets where its properties are located all or any part of its equipment and facilities so located within **ninety (90) days** of the effective date of such revocation or non-renewal, or of requiring Franchisee to leave all of its equipment and facilities in place within the Franchise area.

(B) **Enforcement.** The Chief Administrative Officer is hereby authorized to enforce the provisions of this Section as hereinafter provided.

(C) **Notification.** The Chief Administrative Officer shall immediately notify Franchisee in writing of such revocation or non-renewal. Within **ninety (90) days** following receipt of such notice, Franchisee shall, if required, remove from the streets of the Village upon, over and under which its properties are located all of said properties.

(D) **Manner of Removal.** such removal, if required, shall be performed by Franchisee in such a manner so as to not permanently destroy, mar or damage the Franchise areas in which such removal is being conducted. The Village Engineer shall make an inspection of the areas in which the removal is being or has been conducted, and should it be found that Franchisee has unreasonably destroyed, marred or damaged such areas, Franchisee shall be held responsible for the expenses of repairing such areas to the reasonable satisfaction of the Village.

(E) **Sale of Facilities.** In the event Franchisee has not removed its facilities within **ninety (90) days** as described herein, or in the event the Village elects not to require Franchisee to remove its facilities, Franchisee shall be obligated to sell its facilities in place within the Franchise area to either the Village or to any new franchise operator. Any sale of facilities as required by this subsection shall be pursuant to the valuation requirements of Section 627 of the Cable Act.

8-3-18 **LIQUIDATED DAMAGES.**

(A) **Procedures and Damages.** Should it be found after written notice and a reasonable opportunity to cure, and after conducting the hearing and appeal procedure provided for herein, and after written receipt by Franchisee of a finding of violation by the Chief Administrative Officer or his/her designee, that Franchisee is in violation of the terms of this Ordinance, the liquidated damages chargeable to the Performance Bond, provided for under **Section 8-3-11** herein, shall be as follows:

- (1) For failure to provide or maintain data and reports as requested by the Village or as required herein, Franchisee shall forfeit **One Hundred Dollars (\$100.00)** per day or part thereof that the violation continues, if after **twenty (20) days** written notice such data or reports are not supplied.
- (2) For failure to comply with the operation standards as specified in **Section 8-3-5** thereof, following the Board's Ordinance directing Franchisee to make improvements within a reasonable time period, Franchisee shall forfeit **Fifty Dollars (\$50.00)** per day or part thereof that the violation continues unless reasonable cause can be shown for said delay.
- (3) For failure to test, analyze and report on the performance of the system following the reasonable request of the Village, Franchisee shall forfeit **Fifty Dollars (\$50.00)** per day or part thereof that the violation continues unless reasonable cause can be shown for said delay.
- (4) For failure to pay the franchise fee when due pursuant to **Section 8-3-8**, Franchisee shall forfeit **One Hundred Dollars (\$100.00)** per day or part thereof that the violation continues after **twenty (20) days** written notice of such violation.

(B) **Separate Rights.** The rights in this Section are separate, distinct and in addition to those enumerated elsewhere in this Ordinance.

(C) **Force Majeure.** Any liquidated damages imposed by the Village in accordance with this Franchise may be reduced by the Village if it finds that the failure of the Franchisee resulted from conditions beyond the Franchisee's control and/or Acts of God.

(D) **Judicial Review.** Any damages assessed under this **Section 8-3-18** shall be subject to judicial review at the request of the Franchisee and shall be in conformity with general remedy provisions contained in this Ordinance.

8-3-19 **RIGHTS RESERVED TO THE VILLAGE.** The Franchisee shall, at all times during the life of this Franchisee, be subject to all lawful exercise of the police power by the Village and to such reasonable regulation as the Village shall hereafter provide, provided that such police power and reasonable regulation shall not alter the Franchisee's rights or obligations under this franchise.

8-3-20 **COMPLIANCE WITH FEDERAL LAWS, RULES AND REGULATIONS.** Franchisee and Village agree that each shall be subject to the Cable Act, and all applicable rules and regulations which from time to time, may be promulgated by the Federal Communications Commission.

8-3-21 **NOTICES TO FRANCHISEE.** Any time the Village's Chief Administrative Officer, Mayor, Board members or resident of the Village brings an issue regarding this Ordinance, agreements or applications thereunder, or the activities of any Franchisee to a meeting or work session of the Board, Chief Administrative Officer will notify Franchisee. Such notification shall take place at least **thirty (30) days** prior to the meeting.

8-3-22 **ACCEPTANCE.** This Ordinance shall, upon adoption of the Board of the Village of New Athens and its execution by the proper municipal officials and further acceptance by the Franchisee, be and become a valid and binding contract between the **Village of New Athens** and **New Wave Communications**, its successors and assigns.

(Ord. No. 95-9; 12-18-95)

ARTICLE IV – NEW WAVE CABLE FEE

8-4-1 **ANNUAL FEE ESTABLISHED.** Telecommunications Management LLC, dba NewWave shall pay an annual service provider fee to the Village in an amount equal to **three percent (3%)** of annual gross revenues derived from the provision of cable or video service to households located within the Village. The **twelve (12) month** period for the computation of the service provider fee shall be a calendar year.

8-4-2 **SERVICE FEE DUE QUARTERLY.** The service provider fee payment shall be due quarterly and payable within **forty-five (45) days** after the close of the preceding calendar quarter. Each payment shall be accompanied by a brief report prepared by a representative of the Grantee showing the basis for the computation. If mailed, the fee shall be considered paid on the date it is postmarked.

8-4-3 **DEFINITION OF GROSS REVENUES.** For purposes of the calculation of the service provider fee, "gross revenues" shall mean consideration of any kind or nature, including, without limitation, cash, credits, property, and in-kind contributions received by Telecommunications Management LLC, dba NewWave for the operation of its cable system to provide cable system to provide cable or video service within the Village, including the following: (i) recurring charges for cable service or video service; (ii) event-based charges for cable service or video service, including, but not limited to, pay-per-view and video-on-demand charges; (iii) rental of set-top boxes and other cable service or video service equipment; (iv) service charges related to the provision of cable service or video service, including, but not limited to, activation, installation, and repair charges; (v) administrative charges related to the provision of cable service or video service, including but not limited to service order and service termination charges; (vi) late payment fees or charges, insufficient funds check charges, and other charges assessed to recover the costs of collecting delinquent payments; (vii) a pro rata portion of all revenue derived by the cable system from advertising or for promotion or exhibition of any products or services; and (viii) a pro rata portion of compensation derived by the cable system from the promotion or exhibition of any products or services sold by "home shopping" channels or similar services carried by the cable system.

8-4-4 **REVENUES NOT INCLUDED.** For purposes of the calculation of the service provider fee, "gross revenues" shall not include: (i) revenues not actually received, even if billed, such as bad debt; (ii) the service provider fee or any tax, fee or assessment of general applicability; (iii) any revenues received from services not classified as cable service or video service, including, without limitation, revenue received from telecommunications services, voice over internet protocol (VoIP) services, information services, the provision of directory or Internet advertising, or any other revenues attributed by the holder to noncable service or non-video service in accordance with the holder's books and records and records kept in the regular course of business and any applicable laws, rules, regulations, standards, or orders; (vi) security deposits collected from subscribers, or (vii) any amounts paid by subscribers to "home shopping" or similar vendors for merchandise sold through any home shopping channel offered as part of the cable service or video service.

8-4-5 **INVALID PROVISIONS.** If any section, paragraph, subdivision, clause, sentence or provision of this Article shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

(Ord. No. 2018-02; 07-16-18)

CHAPTER 9

CEMETERY

ARTICLE I - GENERAL PROVISIONS

9-1-1 **MANAGEMENT.** General management of all cemeteries owned and operated by the Village shall be vested in the Cemetery Committee as established in Chapter 1 of the Municipal Code and as provided herein.

9-1-2 **ESTABLISHED.** There is hereby established, the position of Superintendent of Public Works, who shall oversee the operation and maintenance of all cemeteries owned by the Village. The Superintendent of Public Works shall be appointed by the Board of Trustees and shall remain in that position until removed by same and hereinafter be referred to as "Superintendent".

9-1-3 **DUTIES.**

(A)

It shall be the duty of the Superintendent to:

- (1) Perform necessary maintenance in regards to perpetual care of all grave spaces, in order to insure that the cemetery in his care is kept in a clean and orderly condition so as to present a dignified and suitable appearance for the repose of the mortal remains of the departed.
- (2) Take every precaution to preserve all established lot corner pins and monuments located within the cemetery.
- (3) Afford prospective purchasers of burial permits the opportunity to inspect the cemeteries under his jurisdiction for the availability of unsold grave spaces.
- (4) Have control of all workmen employed in the cemeteries and oversee the enforcement of all laws, rules and regulations as outlined in this Chapter.
- (5) Have charge of and keep account of all property, tools and implements belonging to the cemetery.
- (6) Keep a record of all interments within the cemetery and other records as may be required by the Board of Trustees.
- (7) Turn over any and all monies that may be received as Superintendent for work done by him or his subordinates at the cemeteries, or that may be received by him from any other source and belonging to the Village. The salary of such person shall be full compensation therefore.
- (8) Deliver any and all records, books, registers or other property belonging to the Village, upon his dismissal or resignation.
- (9) Dig the graves in a timely manner as directed by the Village Clerk. All graves shall be dug to accommodate the concrete vault or concrete grave liner as required. Minimum depth of all graves shall be **five feet six inches (5'6")** measured from the top of the ground to the bottom of the concrete vault or concrete grave liner.

(B)

It shall be the duty of the Village Clerk to:

- (1) Have charge of and keep track of the owners of all burial permits as they pertain to the grave spaces within the designated lots.
- (2) Update the official map of the cemetery as burial permits are issued.
- (3) Issue burial permits for all grave spaces within designated lots indicating the purchaser of records.

(Ord. No. 14-04; 09-02-14)

ARTICLE II - REGULATIONS

9-2-1 GENERAL REGULATIONS FOR GRAVE SPACES.

(A) No body shall be interred without a concrete grave vault or concrete grave liner as approved by the Superintendent.

(B) Interment of stillbirths, limbs of human beings, or cremations shall be in non-wooden containers specially designed for this purpose, so as to reduce the possibility of decay of the container. The Superintendent shall approve any special container for these purposes.

(C) No person shall plant flowers, shrubs or bushes etc. on or near any cemetery grave space. The Superintendent shall remove any such plantings.

(D) Only one grave bouquet or bouquet holder shall be permitted per grave space, except for the following holidays, Memorial Day, Veteran's Day, Easter, Mother's Day, Father's Day, and Christmas. Two additional bouquets per grave space may be placed **ten (10) days** prior to the listed holiday. All bouquets in excess of one, will be removed **ten (10) days** following said holiday.

(E) Any faded, worn or otherwise unsightly bouquets will be removed at the discretion of the Superintendent.

(F) No person shall use or place any glass containers, statuary, tin cans, boxes, exposed wires, baskets or buckets as bouquet holders on any grave space. The Superintendent shall immediately remove any such items.

(G) No person shall construct, or cause to be constructed any cornerstones, copings, fences, concrete curbing, and railings on or around any grave space. Any existing cornerstone, coping, fence, concrete curb or railing is hereby declared a nuisance, and may be removed by the Superintendent.

(H) Grieving benches made only of stone, marble, concrete or other like masonry material may be placed in the tombstone line. Such bench shall have a concrete foundation that extends **six (6) inches** beyond all sides of said bench and a minimum of **twenty-four (24) inches** below the ground and have a top surface level with the existing grade of the site. All concrete structures set or constructed within the cemetery shall be in compliance with the guidelines of this Chapter. Benches shall not be permitted on any grave space not having sufficient area within the tombstone line for both the bench and base. Placement of any structures must have prior approval of the Public Works Department.

(I) All grave spaces are allowed one cremation interment, in addition to, one full body interment. The full body interment must precede the cremation interment. All rules must still be followed set forth by **Section 9-2-1(A)** and **Section 9-2-1(B)**. (**Ord. No. 2015-02; 07-06-15**)

9-2-2 TOMBSTONES.

(A) The holder of a burial permit for any grave space shall be permitted to erect or cause to be erected a tombstone or monument under the following conditions:

- (1) Any upright or vertical tombstone or monument shall be placed on the "tombstone line" as defined herein.
- (2) Any tombstone or monument not placed in the tombstone line shall be of the "flat variety" and may not extend more than **one (1) inch** above the ground.
- (3) No tombstone or monument shall be so large as to interfere with digging of the grave on the grave space. No stone or monument footings shall extend beyond the boundary of the plot(s) for which it is intended. The Superintendent in order to allow for the digging of the grave shall remove any existing tombstone or monument that interferes with digging the grave. Cost to reset

said monument shall be the responsibility of the owner of the burial permit.

- (4) Any tombstone or monument so erected, shall remain the property of the holder of the burial permit for said grave space, and said owner shall remain responsible for all future maintenance of the tombstone or monument.
- (5) All tombstones or monuments shall be set on a concrete foundation that extends **six (6) inches** beyond the monument on all sides and shall be level with the surrounding ground. The foundation shall extend a minimum of **two (2) feet** below the ground. No tombstone shall exceed **thirty-six (36) inches** in height above ground.

(B) The tombstone line shall be defined as the western end of all grave spaces within the cemetery.

(C) No person shall erect or cause to be erected any monument or foundation unless a permit has been obtained and approved by the Superintendent.

9-2-3 BURIAL PERMITS.

(A) No grave shall be dug, body interred or disinterred, unless there shall have previously been issued a burial permit.

(B) Upon payment of the designated fee, a burial permit shall be delivered to the purchaser, but shall not be deemed or construed as the sale of the land described therein, but shall merely confer the privilege or benefit of interring the remains of the named decedent, either to the holder of the permit or such person as he shall designate.

(C) Burial Permits may be sold for any single grave space or combination thereof on any designated lot within the cemetery.

(D) The cost of a burial permit does not include the cost of interment fees.

(E) The cost of a burial permit does include perpetual care of the grounds and turf.

(F) A burial permit may be transferred by the surrender of the permit previously issued, duly endorsed by the registered holder thereof, or by his legatees or heirs at law, or representative of his estate, together with the transfer fee of **Ten Dollars (\$10.00)**.

9-2-4 ESTABLISHING A CEMETERY. No person shall establish or maintain any cemetery or place for burial purposes within **one (1) mile** of the Village limits. No person shall lie out any cemetery without first submitting a plat thereof to the Village Board of Trustees for approval.

9-2-5 HUNTING AND TRESPASSING.

(A) No person shall hunt, discharge a firearm or otherwise trespass upon any Village Cemetery.

(B) Vehicles shall not be operated or parked in cemetery unless upon the approved roadways. This shall not limit the use of Village or other approved vehicles when used off-road within the cemetery for bona fide maintenance or law enforcement purposes.

9-2-6 **CLOSING HOURS.** All Village Cemeteries shall be closed to visitors between sunset and sunrise. Any person in the cemeteries between sunset and sunrise shall be considered as trespassers on Village property and subject to a fine as provided in **Section 1-1-20** for each individual violation. Any person requesting to be present on the premises of Village cemetery between the hours of sunset and sunrise may do so with special permission from the Superintendent or by vote of the Board of Trustees.

9-2-7 **DAMAGED CEMETERY.**
(A) No person shall carry away or remove, or break, deface, destroy or otherwise injure any monument, tombstone, tree, shrub or flower, railing, fence or any other property, article or thing belonging to any Village owned cemetery or trespass upon or maltreat any grave, monument or lot.
(B) No person shall obstruct any street in any Village cemetery, by excavating, digging graves or erecting fences or monuments.

9-2-8 **WORK IN CEMETERY.**
(A) No person shall perform any work within any cemetery without first obtaining a permit from the Village. The permit shall be on a form provided and shall include a detailed description of the work to be performed.
(B) No permit for any work in the cemetery shall be issued unless the person applying therefore, shall have first procured public liability insurance in the amount of **One Hundred Thousand Dollars (\$100,000.00)** for injuries, including accidental death, to any one person and subject to the same limits for each person in an amount not less than **Three Hundred Thousand Dollars (\$300,000.00)** on account of one accident, and property damage insurance in an amount not less than **One Hundred Thousand Dollars (\$100,000.00)**. The Village shall be named as additional insured and a Certificate of Insurance shall be filed with the Village Clerk.

(Ord. No. 14-04; 09-02-14)

ARTICLE III - FEES

9-3-1 **BURIAL PERMIT FEES.** The fee for a Burial Permit for a single grave space shall be **Three Hundred Seventy-Five Dollars (\$375.00)**. **Three Hundred Dollars (\$300.00)** of said fee shall be designated for the lot and **Seventy-Five Dollars (\$75.00)** shall be designated for perpetual care fund.

9-3-2 **INTERMENT FEES.**
(A) An interment shall be defined as excavating and backfilling for placement of the grave vault or grave liner. The interment shall include labor and the equipment to perform these tasks. It does not include any grave vaults, grave liners, tents, lowering devices, chairs, heaters or other equipment necessary for the funeral.

- (1) The fee for an interment on a single grave space when the burial is on a non-holiday weekday shall be **Four Hundred Dollars (\$400.00)**.
- (2) The fee for an interment on a single grave space when the burial is on a Saturday shall be **Four Hundred Fifty Dollars (\$450.00)**.
- (3) The fee for an interment on a single grave space when the burial is on a Sunday shall be **Five Hundred Dollars (\$500.00)**.
- (4) The fee for an interment on a single grave space when the burial is on a recognized holiday of the Village shall be **Five Hundred Fifty Dollars (\$550.00)**.
- (5) The fee for an interment on a single grave space for stillbirths, limbs from human beings, ashes from cremations, etc., not to exceed **fifteen (15) cubic feet** of excavation, when the burial is on a weekday shall be **One Hundred Twenty-Five Dollars (\$125.00)**.
- (6) The fee for an interment on a single grave space for stillbirths, limbs from human beings, ashes from cremations, etc., not to exceed **fifteen (15) cubic feet** of excavation, when the burial is on a weekend day or a recognized holiday of the Village shall be **Three Hundred Fifty Dollars (\$350.00)**.

(B) A disinterment shall be defined as excavating and backfilling for the removal of a previously interred grave vault or grave liner. The disinterment shall include labor and equipment to perform these tasks. A disinterment does not include the removal of the grave vault or grave liner from the excavation nor the removal or resetting of any monument.

- (1) The fee for a disinterment on a single grave space when the disinterment is on a non-holiday weekday shall be **Four Hundred Fifty Dollars (\$450.00)**.
- (2) The fee for a disinterment on a single grave space when the disinterment is on a Saturday shall be **Five Hundred Dollars (\$500.00)**.
- (3) The fee for a disinterment on a single grave space when the disinterment is on a Sunday shall be **Five Hundred Fifty Dollars (\$550.00)**.
- (4) The fee for a disinterment on a single grave space when the disinterment is on a recognized holiday of the Village shall be **Six Hundred Dollars (\$600.00)**.
- (5) The fee for a disinterment on a single grave space for stillbirths, limbs from human beings, ashes from cremations, etc., not to exceed **fifteen (15) cubic feet** of excavation, when the disinterment is on a weekday shall be **One Hundred Seventy-Five Dollars (\$175.00)**.
- (6) The fee for a disinterment on a single grave space for stillbirths, limbs from human beings, ashes from cremations, etc., not to exceed **fifteen (15) cubic feet** of excavation, when the disinterment is on a weekend day or a recognized holiday of the Village shall be **Four Hundred Dollars (\$400.00)**.

9-3-3 **WAIVER OF FEES.** The Village Board of Trustees may waive any or all fees for any disinterment when such disinterment occurs as a result of a criminal investigation.

(Ord. No. 2005-13; 04-03-06)
CHAPTER 11

EMPLOYEE CODE

ARTICLE I – GENERALLY

11-1-1 **DESCRIPTION.** In general, an employee is a person who, under the “usual common law rules applicable in determining the employer-employee relationship,” has the status of an employee. A person shall be designated as an employee under the following classifications.

ARTICLE II - VILLAGE ADMINISTRATOR

11-2-1 **ESTABLISHED.** There is hereby established the position of Village Administrator, whose duties shall include those listed herein.

11-2-2 **HIRED.** The Village Administrator shall be hired by the Mayor and Board of Trustees per the terms of the “Village Administrator, Contract for Employment”, which shall be subject to negotiation.

11-2-3 **QUALIFICATIONS.** The Village Administrator shall be hired on the basis of education and professional ability. The hiring shall be made without regard to political considerations, race, religion, or sex. The successful candidate need not be a resident of the Village of New Athens at the time of hiring, but shall become a resident of the Village within **six (6) months** after assuming office, unless said residency requirements is waived by the Village Board of Trustees.

11-2-4 **DUTIES.** The Village Administrator shall:

- (A) Coordinate the various activities of the departments of the Village.
- (B) Oversee the day-to-day activities of each department through the appropriate department head.
- (C) Keep the Mayor and Board of Trustees informed of the activities of the various departments.
- (D) Assist the Village Clerk/Collector, when time permits, with various office duties such as; setting up and preparing the water bills and helping with preparation of quarterly taxes.
- (E) Act as purchasing agent for the Village within limitations and under conditions as established from time to time by the Board of Trustees.
- (F) Keep the Board of Trustees informed of updates needed to the Municipal Code and assist the Ordinance Committee to rewrite or add said changes.
- (G) Assist the Audit Committee to prepare the annual budget.

(H) Keep all Chairmen and their respective committees informed of all the necessary activities of their respective committee, and attend any committee meetings required by the Chairman of said committee.

(I) Recommend to the Board of Trustees various courses of action that need to be taken along with possible alternatives.

(J) Attend and participate in all meetings of the Board of Trustees, unless excused from the meeting.

(K) Verify that all necessary reports are being completed and sent in to the various Government entities, in a timely manner.

(L) Act as a representative from the Village for the Employee Health Insurance Plan.

(M) Supervise all employees of the Village and have the authority to issue disciplinary action when needed, with the full support of the Board of Trustees.

(N) Promote good relations with other government agencies, including but not limited to our State Senator and Representative.

(O) Represent the Village at all meetings in town and out of town, in the absence of the Mayor.

(P) Effectively and efficiently administer the policies adopted by the Board of Trustees.

(Q) Perform such additional duties that may be assigned by the Mayor and Board of Trustees.

ARTICLE III - EMPLOYEES DESCRIPTION

11-3-1 **FULL-TIME EMPLOYEES.** A person may be designated as a full time employee if the position they are hired to fill is expected to work a minimum of a **forty (40) hour** week and will exceed the **one thousand (1,000) hour** per year standard. All full-time employees are eligible for wages and benefits as listed in the Municipal Code.

11-3-2 **PART-TIME EMPLOYEES.** A person may be designated as a part-time employee if the position they are hired to fill is expected to work less than a minimum of a **forty (40) hour** week and will not exceed the **one thousand (1,000) hour** per year standard. Part-time employees are not eligible for benefits of any kind. Wages shall be established by Resolution of the Board of Trustees.

11-3-3 **PART-TIME, SEASONAL EMPLOYEES.** A person may be designated as a part-time seasonal employee if the position they are hired to fill is for a definite length of time. The maximum and minimum hours worked per week may vary. Part-time employees are not eligible for benefits of any kind. Wages shall be established by Resolution of the Board of Trustees.

11-3-4 **DEPUTY MARSHAL.**
(A) A person may be designated as a deputy marshal upon selection of candidate by the Chief of Police and appointment by the Village Board of Trustees. All Deputy Marshals serve on a volunteer basis and are not eligible for benefits of any kind.
(B) Wage shall be limited to special event pay as established by Resolution of the Board of Trustees.

11-3-5 **GENERAL.** All employee shall be hired per Chapter 1, Article VI - Employee Policy and per those additional requirements set forth by the Mayor and Board of Trustees.

11-3-6 **RESIDENCY.**
(A) All full time employees shall be required to reside within **twelve (12) miles** from the New Athens Village Hall. Any newly appointed Village Administrator or full time employee who does not reside within the prescribed boundaries at the time of hire, shall have **fifteen (15) months** from the date of hire to establish residency within the prescribed boundaries. The Board of Trustees may extend this time constraint.
(B) Other employees need not be residents of the Village.
(Ord. No. 2013-01; 05-06-13)

ARTICLE IV - SALARIES

11-4-1 **VILLAGE ADMINISTRATOR.** The Village Administrator shall receive the wages and benefits as listed in the "Village Administrator, Contract for Employment" for performance of those duties listed in the Municipal Code of Ordinances.

11-4-2 **ALL OTHER EMPLOYEES.** All other employees of the Village of New Athens shall receive those wages and benefits as follows:

(A) **Full-Time Employees** shall be employed under the terms and conditions outlined in **Chapter 11, Article V** of the Municipal Code of Ordinances and shall be compensated those wages as established by Resolution for performance of those duties as set forth by the Board of Trustees.

(B) **Part-Time Employees** shall be employed under the terms and conditions of **Chapter 11, Article V** and shall be compensated those wages as established by Resolution for performance of those duties as set forth by the Board of Trustees.

(C) **Deputy Marshals** shall be employed under the terms and conditions of **Chapter 11, Article V** and their compensation shall be limited to those wages for "Special Event Pay" as established by Resolution for performance of those duties as set for by the Board of Trustees.

(D) **Part-Time Seasonal Employees** shall be employed under the terms and conditions of **Chapter 11, Article V** and shall be compensated those wages as established by Resolution for performance of those duties as set forth by the Board of Trustees.

ARTICLE V - EMPLOYEE POLICY FOR VILLAGE EMPLOYEES

11-5-1 APPLICATION.

(A) As used in this Section, the term "full-time employee" shall apply to all persons employed **forty (40) hours** or more per week on a regular and continuous basis and are designated by the Village of New Athens to be employed in excess of the **one thousand (1,000) hour** standard as established by IMRF, except the Village Administrator or elected officials of the Village of New Athens.

(B) As used in this Section, the term "employee" shall apply to all persons employed by the Village of New Athens and includes those persons designated as part-time or those persons designated as seasonal who work less than the **one thousand (1,000) hour** per year standard.

(C) The benefits list herein are provided to those employees designated as a "full-time employee" unless specifically list as provided for a part-time employee. Part-time employees receive no benefits, unless specifically listed herein.

(D) "Benefit Year" shall begin on **July 1** and end on **June 30** of each year.

11-5-2 EMPLOYMENT.

(A) The Village Board of Trustees shall have the ultimate authority to dismiss or otherwise discipline any employee, whether or not said employee has completed his/her probationary period. The parties acknowledge that this Code is not a guarantee of future employment and that the employees remain employees at will. The purpose of this Code is to outline the conditions of their employment and not to guarantee future employment.

(B) All employees shall be employed on the basis of qualifications and then only on application filed with the Village.

(C) There is hereby established a probationary period, beginning with the first day of employment. For all non-police employees said probationary period shall be **six (6) months**. For all police employees said probationary period shall be **twelve (12) months**.

(D) All employees are to hold their position in high regard. Any personal action or activities on or of duty, which may be regarded as reflecting on the dignity and credibility of their fellow employees, the Mayor, Village Board of Trustees, Village Police Department or the Village of New Athens, shall subject such employee to disciplinary action, including dismissal.

11-5-3 WORKING HOURS.

(A) The first day of the workweek is Monday and the last day of the workweek is Sunday with payday on every other Friday.

(B) All full-time Public Works employees paid by the hour, shall be scheduled to work from **7:00 A.M.** until **3:30 P.M.**, Monday through Friday. An unpaid, **thirty (30) minute** lunch period shall be provided.

(1) Overtime pay shall be as follows:

(a) All hours worked beyond the regular scheduled hours, Monday through Friday shall be at time and one-half the base pay rate.

(b) All hours worked on Saturday shall be at time and one-half the base pay rate.

(c) All hours worked on Sunday shall be at double time the base pay rate.

(d) All hours worked on an observed holiday shall be at double time and one-half the base rate.

(C) The work schedule of all employees of the Police Department shall be determined by the Chief of Police.

(D) Full-time police employees with an annual salary shall be scheduled to work **eighty-four (84) hours** per **two (2) week** period. Those hours worked in excess of **eighty-four (84) hours** per pay period shall not be compensated.

(E) All police officers working grant-funded projects, shall be paid at a rate in accordance with the grant requirements.

(F) All full-time office personnel paid by the hour, shall be scheduled to work from **8:30 A.M.** until **5:00 P.M.** Monday through Friday. An unpaid, **thirty (30) minute** lunch period shall be provided.

(1) Overtime pay shall be as follows:

(a) All hours worked beyond the regular scheduled hours, Monday through Friday shall be at time and one-half the base pay rate.

(b) All hours worked on Saturday shall be at time and one-half the base pay rate.

(c) All hours worked on Sunday shall be at double time the base pay rate.

(d) All hours worked on an observed holiday shall be at double time and one-half the base rate.

(H) All full time office personnel with an annual salary, shall work from **8:30 A.M.** until **5:00 P.M.** Monday through Friday. An unpaid, **thirty (30) minute** lunch period shall be provided. Those hours worked in excess of **forty (40) hours** per pay period shall not be compensated.

(I) It is understood that no employee is guaranteed **forty (40) hours** per week and that periodic or seasonal layoffs may occur.

(J) In the event of a reduction of work force, layoffs shall not necessarily be by seniority. Continued employment shall be based upon regular qualifications and job performance.

(K) Any full-time Public Works employee called out on an emergency, beyond their regular scheduled work time, shall receive a minimum of **two (2) hours** pay.

(L) All employees may have a rest period or coffee break twice per day, not to exceed **ten (10) minutes**.

(M) The Chief of Police shall attend all meetings of the Village Board of Trustees, unless previously excused by the Mayor.

11-5-4 SUPERVISION.

(A) The Chief of Police shall operate the Department in a professional manner. All police employees shall be accountable to the Chief of Police. The Chief of Police is responsible for making the decision as to specific work assignments and shall direct the operations of all police employees within the department, in performance of their duties. The Police Chief shall have no authority to discharge any employee. When, in the event any disciplinary action is deemed by him to be necessary, he shall submit in writing a report to the Personnel Committee Chairman, setting forth the factual grounds with a request for specific disciplinary action. It will then become the responsibility of the Personnel Committee to

investigate any and all allegations, including but not limited to speaking to the police employee in question. Unless the investigation is deemed to be criminal in nature, the police employee that is the subject of the investigation, shall cooperate fully and answer all questions truthfully. All other employees questioned in regard to any investigation of a police employee, whether criminal or administrative, will cooperate fully and answer all questions truthfully. The Personnel Committee will then make any and all recommendations to the Village Board for any action to be taken.

(B) The Superintendent of Public Works, or Public Works Foreman in the Superintendent's absence, shall assist all Public Works employees in the performance of their duties. The Superintendent or Foreman shall have no right to discharge any employee. However, in the event any disciplinary action is deemed necessary by him, he shall submit a written report to the Personnel Committee, setting forth the factual grounds, with a request for specific disciplinary action. It will then become the responsibility of the Personnel Committee to investigate any and all allegations, including but not limited to speaking to the employee in question. Unless the investigation is deemed to be criminal in nature, the employee that is the subject of the investigation, shall cooperate fully and answer all questions truthfully. All other employees questioned in regard to any investigation of a public works employee, whether criminal or administrative, will cooperate fully and answer all questions truthfully. The Personnel Committee will then make any and all recommendations to the Village Board for any action to be taken.

(C) The Village Administrator shall be in charge of all Office employees. The Village Administrator shall have no right to discharge any employee. However, in the event any disciplinary action is deemed necessary by the Village Administrator, the Village Administrator shall submit a written report to the Personnel Committee, setting forth the factual grounds, with a request for specific disciplinary action. It will then become the responsibility of the Personnel Committee to investigate any and all allegations, including but not limited to the employee in question. Unless the investigation is deemed to be criminal in nature, the employee that is the subject of the investigation, shall cooperate fully and answer all questions truthfully. Other employees shall cooperate fully in such investigation and shall answer all questions truthfully. The Personnel Committee will then make any and all recommendations to the Village Board for any action to be taken.

11-5-5 TIME OFF; SICK PAY BENEFITS.

(A) All full-time employees, subject to this Code, shall be awarded **thirty-two (32) hours** sick pay benefits on **January 1st** of each benefit year and **thirty-two (32) hours** sick pay benefits on **July 1st** of each benefit year, except for new full-time employees as outlined in **Section 11-5-5(E)** below.

(B) A full-time employee may accumulate up to a maximum of **one hundred twenty (120) hours** of sick pay benefits. When an employee accumulates a total of **one hundred twenty (120) hours** of sick pay benefits, they will cease accruing additional sick pay benefits until employees balance is less than **one hundred twenty (120) hours**.

(C) Upon retirement, a full-time employee will be paid **one-half (1/2)** of the accumulated sick pay benefits. In the event an employee chooses to accumulate and not use sick days over an extended period of time, this employee may be able to apply **one-half (1/2)** of the sick time accumulated to retirement.

(D) A full-time employee that leaves employment of the Village of New Athens for any reasons other than retirement, hereby forfeits accumulated sick pay benefits upon termination of employment.

(E) All new full-time employees will be awarded **thirty-two (32) hours** of sick pay benefits after **six (6) months** of full-time employment. The next award of sick pay benefits will be pro-rated from the **sixth (6th) month** anniversary date to **January 1st** or **July 1st** of each benefit year, whichever date comes first at a rate of **thirty-two (32) hours** per **six (6) months** of employment. All future awards will be made as outlined in **Section 11-5-5(A)** above.

(F) The total number of sick pay benefits accumulated for full-time employees must be verified and attested to by the employee and the Village Collector at the end of each benefit year.

(G) Full-time employees using more than **two (2)** consecutive sick leave days, or more than **three (3)** sick leave days in any **thirty (30) day** period, will provide their supervisor with a doctor's excuse from a licensed Medical Doctor. Employees failing to provide such medical excuse or otherwise abusing sick leave will be subject to disciplinary action from the Village Board at the recommendation of Personnel Committee. Abuse of sick leave time shall include but not be limited to knowingly requesting sick leave when the employee or family member is not ill or seeking medical attention.

11-5-6 FUNERALS; LEAVE.

(A) All full-time employees shall be entitled to receive up to **three (3) days** off, in the event of the death of the employees' grandfather, grandmother, father, mother, spouse, father-in-law, or mother-in-law, sister-in-law, brother-in-law, child, grandchild, sister, or brother. Employee will be paid for **three (3) days** of bereavement pay for the time off. Bereavement pay will only be paid at straight pay. No overtime shall be paid as a result of bereavement pay.

(B) All full-time employees shall be entitled to receive **one (1) day** off in the event of the death of the employee's aunt, uncle, cousin, daughter-in-law or son-in-law. Employee will be paid for **one (1) day** of bereavement pay for the time off.

(C) All full-time employees shall not be entitled to receive bereavement pay for the death of a stepfather, stepmother, stepchild, stepfather-in-law or stepmother-in-law.

(D) In order to be entitled to bereavement pay as outlined above, the full-time employee must furnish verification of his presence at the funeral of the deceased relative.

(E) In the event of multiple deaths, such as from an accident, all deceased shall be considered as one, with up to **three (3)** scheduled days off from the time of death.

(F) In the event of the death of a relative whereas the full-time employee shall receive up to **three (3)** bereavement days off, those **three (3) days** must be taken consecutively. In the event that **three (3) days** may not be needed, such as a funeral falling on the employee's regular day off, the employee may not use any extra bereavement days for future use.

(Ord. No. 2015-11; 02-16-16)

11-5-7 VACATIONS.

(A) Each full-time employee, who began employment by the Village prior to **July 1, 2005** shall be entitled to **forty (40) hours** per year of vacation after completion of **one (1) full year** of employment; **eighty (80) hours** per year after completion of **two (2) full years** of employment; and **one hundred twenty (120) hours** per year upon completion of **four (4) full years** of employment.

Each full-time employee, who began employment by the Village after **July 1, 2005** shall be entitled to **forty (40) hours** per year of vacation after completion of **one (1) full**

year of employment; **eighty (80) hours** per year after completion of **three (3) full years** of employment; and **one hundred twenty (120) hours** per year upon completion of **six (6) full years** of employment.

(B) Vacation time may not be carried over into the next fiscal year. No overtime shall be paid for vacation time. Vacation time not taken will be reimbursed, upon written request of the employee, at the current hourly rate at the conclusion of the anniversary year.

(C) Vacation time shall be paid at the existing wage rate in effect at the time and date of said vacation.

(D) Vacation periods shall be determined by the employee's supervisor who shall, if at all possible, honor special requests of each employee.

11-5-8 HOLIDAYS. The following shall be observed:

New Year's Day	Veteran's Day
President's Day	Thanksgiving Day
Good Friday	Friday after Thanksgiving
Memorial Day	Christmas Eve
Independence Day	Christmas Day
Labor Day	

If the holiday occurs on a Saturday, it shall be observed on Friday, if the holiday occurs on a Sunday, it shall be observed on Monday, as published as "Federal Holidays" annually.

(A) All non-police full-time employees shall receive time off for each of the holidays listed and shall be paid for **eight (8) hours** straight time for each such holiday.

(B) Each full-time police employee shall be entitled to receive **eight (8) hours** pay at straight time pay for each holiday listed. The holiday will be paid to the full-time police employee, in the pay period in which it is observed. In exchange for said pay, the police employee will be required to work any and all regularly scheduled holidays at regular salary pay. The Police Chief shall determine the schedule for holiday work.

11-5-9 DUTIES.
(A) Non-Police Employees.

- (1) All non-police employees shall perform all job services and functions as assigned to them by their Supervisor, and/or applicable laws, ordinances, and resolutions of the Village of New Athens.
- (2) There shall be no work stoppage because of differences that might occur. Any aggrieved employee shall first attempt to resolve his grievances with their Supervisor. If the employee feels the complaint has not been resolved, the matter shall be referred to the Personnel Committee.
- (3) The Village Board of Trustees shall retain the right to dismiss, suspend, or otherwise discipline any employee, probationary or otherwise.

(B) Police Employees.

- (1) All police employees shall perform all job services and functions as assigned to them by the Chief of Police, and/or applicable laws,

ordinances and resolutions of the Village of New Athens, or any other applicable state and federal laws.

- (2) There shall be no work stoppage because of differences that might occur. Any aggrieved Police employee shall first attempt to resolve his grievances with the Chief of Police. If the police employee feels the complaint is unresolved, then the matter shall be referred to the Personnel Committee.
- (3) Officers shall obey orders only when such orders are not contrary to, or in violation of the current New Athens Police Department Policy Manual, state or federal law.
- (4) The Village Board of Trustees shall retain the right to dismiss, suspend or otherwise discipline any police employee, probationary or otherwise.

11-5-10 JOB CLASSIFICATIONS.

(A) The base pay rate, either hourly or annual salary, for each of the following job classifications shall be as established by Resolution of the Board of Trustees.

- (1) Chief of Police
- (2) Police Lieutenant
- (3) Police Sergeant
- (4) Full-time police patrolman
- (5) Part-time police patrolman
- (6) Superintendent of Public Works
- (7) Public Works full-time employee
- (8) Public Works part-time seasonal employee
- (9) Village Collector
- (10) Office full-time employee
- (11) Office part-time employee

(B) All newly hired full-time non-police employees shall be paid a percentage of the prevailing base pay rate as follows in accordance with the minimum timetable. This timetable may be accelerated or the starting step position of new employees may be assigned at the discretion of the Village Board of Trustees.

- (1) Step 1 - Probationary period - 80% of base rate.
- (2) Step 2 - after **six (6) months** of continuous employment - 85% of the base rate.
- (3) Step 3 - after **one (1) year** of continuous service - 95% of base rate.
- (4) Step 4 - after **two (2) years** of continuous service - 100% of base rate.

(C) All full-time Village employees meeting the requirements of the Illinois Municipal Retirement Fund shall be included in the IMRF pension system.

11-5-11 HEALTH INSURANCE.

(A) It shall be the option of each full-time employee to participate in the Village sponsored hospitalization plan. The Village will contribute to the payment of the monthly premium for each participating full-time employee up to a maximum of **One Thousand Dollars (\$1,000.00)** per month. Any premium in excess of the **One Thousand Dollars (\$1,000.00)** contribution, shall be the responsibility of the full-time employee.

Acceptance of the insurance authorizes the Village to deduct the excess premium from the employee's paycheck.

(B) Additional family coverage hospitalization will be made available to each full-time employee, if they choose to accept such coverage, the full-time employee shall inform the Village Clerk of the coverage desired. Family coverage shall be included in the **One Thousand Dollars (\$1,000.00)** per month limit as contained in paragraph (A) above.

(C) Any full-time employee who elects to decline participation in the Village sponsored hospitalization plan shall not receive any type of additional compensation for his/her election.

11-5-12 MISCELLANEOUS PROVISIONS.

(A) If a full-time employee is called for jury duty, the Village will reimburse the employee between his/her jury pay and the full-time employee's regular straight time pay, not to exceed **eight (8) hours** per day. Time paid under this provision will not be counted toward overtime.

The full-time employee must notify their Supervisor within **forty-eight (48) hours** of the receipt of the jury summons.

On any day or half-day you are not required to serve, you will be expected to return to work. In order to receive jury pay, you must present a statement of the jury service and pay to your Supervisor. This document is issued by the court.

Any money received by the full-time employee for jury duty that is paid for mileage or meals need not be returned to the Village.

(B) All full-time Public Works employees shall be allowed the sum of **Three Hundred Sixty Dollars (\$360.00)** per benefit year as a clothing allowance for the purchase of work related clothing and other personal safety items.

(1) All full-time Public Works employees shall be required to wear personalized shirts and coats, as determined by the Village Board, identifying them as an employee of the Village of New Athens. All clothing worn by an employee shall not be faded, torn, or show signs of excessive wear. All required items will be made available for purchase from the Village, at the beginning of the benefit year. Cost of such items will be deducted from the clothing allocation prior to disbursement of the balance to the employee. All clothing allowance disbursements shall be subject to tax withholding per the requirements of the Internal Revenue Tax Code.

(2) All Public Works employees shall be required to wear job appropriate clothing as determined by their supervisor. If any article of clothing is deemed inappropriate for the job being performed, the employee shall not be permitted to work until the appropriate clothing is obtained.

(C) Each full-time Public Works employee shall be scheduled to check sewer plant operations on weekends and holidays on a rotating basis. Compensation shall be **Twenty-Five Dollars (\$25.00)** per day worked in addition to their regular salary.

(D) Any full-time employee of the Public Works Department holding the title of Department Foreman will be compensated as outlined by resolution at the end of each month in addition to their regular pay. Duties and job description of each foreman will be determined by the Personnel Committee.

11-5-13 POLICE EMPLOYEES.

(A) The Village shall provide police professional liability insurance for each Police employee. The Village responsibility is limited to coverage provided in such policy.

(B) Each Police employee shall be accountable for any equipment issued to them. The Chief of Police shall provide a list of all equipment and supplies, along with current values to the Village Clerk. Any Police employee receiving equipment from the Police Chief must sign a receipt therefore.

(C) Each Police employee shall appear in court when served with prior written notice requiring their appearance. Police employees failing to appear in court without prior excuse shall be subject to disciplinary action.

(D) No Police employee, shall at any time, accept on his own, any police related assignments or perform any police related duties for or at the request of any individual group or organization for police related work within the jurisdiction of the Village of New Athens.

(E) All requests for special police services, as may be required by those individuals, groups and organizations as noted above, must be made directly to any one of the following in this sequence: Chief of Police, Village Clerk, Police Committee, or Mayor. The Village Clerk shall render an invoice to the individual, group or organization for the police services rendered. Those Police employees performing the special police services shall be compensated by Village paycheck at the rate determined by resolution.

(F) Full-time police employees have the right of first refusal for each special event before part-time officers.

(G) The Village shall provide up to **five hundred (500) rounds** of practice ammunition and **fifty (50) rounds** of duty ammunition per full-time police employee and **one hundred (100) rounds** of practice ammunition for part-time police employees per year for department use to include yearly updates and weapons proficiency. Ammunition is to be distributed by the Chief of Police.

(H) All full-time police employees shall be allowed the sum of **Six Hundred Dollars (\$600.00)** per year as a uniform allowance for the purchase of work related clothing and other personal safety items. All required purchases will be billed directly to the Village of New Athens. Part-time police employees will be provided one full uniform (one short sleeve shirt, one long sleeve shirt and one duty pair of pants) after **one (1) year** of service. All uniform clothing ruined in the course of duty, will be replaced at no cost to the employee.

11-5-14 SEXUAL HARASSMENT POLICY. (See Chapter 22, Article VI)

11-5-15 DRUG AND ALCOHOL ABUSE POLICY.

(A) A "safety sensitive function" shall be defined as the period from the time an employee begins to work or is required to be in readiness to work, until the time he/she is relieved from work and all responsibility for performing work.

(B) Notwithstanding the disciplinary action as cited in this policy, under the Village of New Athens' independent authority, the unlawful manufacture, distribution, dispensation or possession of drugs are prohibited on any Village property, in any Village owned or leased vehicle, or other location at which the employee is to perform work for the Village of New Athens. If any employee is proven by a preponderance of the evidence to be engaging in any activities as stated above, the employee shall be subject to termination. Any employee who faces criminal action as a result of engaging in activities as stated above will be immediately suspended without pay until the court determines innocence or guilt. If the

employee is convicted, the employee will be immediately terminated. If the employee is found innocent, the employee may be placed back into a safety sensitive function if the evidence weighs in his favor. No retroactive pay will be given to the employee.

(C) The Village of New Athens reserves the right to conduct reasonable searches for illegal drugs and alcohol on the government premises or in Village owned or leased vehicles.

(D) No employee at any work site or in any Village owned or leased vehicle will possess any quantity of any controlled substance or alcohol, lawful or unlawful. The only exception will be a substance legally administered by or under the direction of a physician, or evidence seized and transported by a police officer. The employee shall provide the Village with written verification of such prescribed medication.

(E) Searches of employees and their personal property may be conducted when there is reasonable grounds to believe the employee is in violation of this policy.

(F) All employees are expected to cooperate in such searches. An employee's refusal to cooperate or consent to such searches may result in disciplinary action, including termination.

(G) The only exception to alcohol possession in this policy is denatured alcohol (not intended for human consumption), products containing alcohol which, when ingested would not impair driving ability while performing safety-sensitive functions (i.e. - cough medications), or to alcohol seized by police for evidentiary purposes or appropriate disposal.

(H) All new employees will be subject to a mandatory pre-employment drug test and may be required to undergo a physical examination by a licensed physician.

(I) All employees shall be subject to mandatory drug testing, if the employee is involved in an accident resulting in an injury requiring medical attention or an accident where property damage suffered to any party, including the Village, equals or exceeds **Five Hundred Dollars (\$500.00)**.

(J) No employee shall consume any illicit drug, any drug listed in the Schedule of Controlled Substances of the Drug Enforcement Administration (marijuana, cocaine, opiates, phencyclidine, amphetamines), or any other drug cited by the USDOT, Federal Highway Administration, while on or off duty, except as provided in **Section 11-5-15(D)**. No employee shall continue to perform safety-sensitive functions after a positive drug test result. Upon verification of the results of a positive drug test, the employee shall be subject to termination.

(K) All employees may be subject to random/mandatory drug testing where reasonable suspicion exists on the part of the employee's direct supervisor, to believe that the employee is under the influence of drugs or alcohol. An employee may also be subject to a mandatory drug test when a supervisor has a reasonable suspicion that an employee has used any illicit drug listed in paragraph (J) during said employee's off time. No employee may use marijuana at any time, even if it is prescribed.

(L) Refusal to provide a test sample under the circumstances indicated above shall result in termination of his/her employment.

(M) In the event an employee submits to a drug test which results in positive finding, then that employee shall be permitted to seek rehabilitation and/or drug or alcohol counseling. The employees shall be temporarily suspended from employment without pay during the period of said rehabilitation or counseling. Prior to returning to employment, the employee must submit a drug test indicating the employee is free from illicit drugs or alcohol and a written statement from the counselor or rehabilitation service that the employee is fit to return to employment. Thereafter, said employee shall be subject to random drug testing indefinitely during the remainder of their employment with the Village.

(N) In the event an employee submits to a drug test which results in a second positive test result, his/her employment shall be terminated.

(O) All tests herein may be performed as a urine test at the discretion of the employee's supervisor.

(P) The consumption of alcohol is prohibited while the employee is performing safety-sensitive functions. No employee shall report for duty or remain on duty, requiring the performance of safety-sensitive functions, while having consumed or having consumed alcohol within **four (4) hours** of reporting for such duties, or having a BAC greater than .000. Employees may not operate a commercial motor vehicle as defined in the Illinois Vehicle Code or a vehicle otherwise governed by Federal Motor Carrier Safety Regulations, with a BAC greater than .000. Any employee violating this Section shall be subject to disciplinary action, including possible termination of employment.

(Q) Police officers shall not be on duty with a BAC greater than .000.

(R) Any employee who has engaged in conduct prohibited in this Section shall be required to submit to the prescribed treatment under the Village's Health Plan in effect at the time of the infraction.

(Ord. No. 2015-11; 02-16-16)

11-5-16 COMPLIANCE WITH LOCAL, STATE, AND FEDERAL LAWS.

(A) No employee shall, while on duty, violate any local ordinance, state law, or federal law.

(B) Violation of paragraph (A) shall be subject to disciplinary action, including possible termination.

(Article V revised by Ord. No. 2011-02; 08-01-11)

ARTICLE VI - PART-TIME VILLAGE EMPLOYEE POLICY

11-6-1 APPLICATION.

(A) As used in this Section, the term "part-time employee" shall apply to all persons employed less than **forty (40) hours** per week or are designated by the Village to be employed less than the **one thousand (1,000) hour** standard as established by IMRF, in a seasonal or temporary position.

(B) The employment of all part-time employees shall be terminated prior to working **one thousand (1,000) hours** during any **one (1) calendar year**.

(C) All Ambulance personnel shall be classified as "part-time" employees.

(D) As used in this Section, the term "employee" shall apply to all persons employed by the Village and includes those persons designated as part-time or those persons designated as seasonal who work less than the **one thousand (1,000)** per year standard.

(E) Part-time employees receive no benefits, unless specifically listed herein.

(Ord. No. 2010-09; 12-20-10)

11-6-2 EMPLOYMENT.

(A) The Village Board of Trustees shall have the ultimate authority to dismiss or otherwise discipline any part-time employee. The parties acknowledge that this Article is not a guarantee of future employment and that the part-time employees remain employees at will. The purpose of this Article is to outline the conditions of their employment and not to guarantee future employment.

(B) All part-time employees shall be employed on the basis of qualifications and then only on application filed with the Village.

(C) All part-time Ambulance employees shall abide by the operational By-laws of the Ambulance Service as accepted by the membership and approved by the Board of Trustees.

(D) There is hereby established a probationary period, beginning with the first day of employment. For all non-police part-time employees said probationary period shall be **six (6) months**. For all police part-time employees said probationary period shall be **twelve (12) months**.

(E) All part-time employees are to hold their position in high regard. Any personal action or activities on or off duty, which may be regarded as reflecting on the dignity and credibility of their fellow employees, the Village President, Village Board of Trustees, Village Police Department or the Village of New Athens, shall subject such part-time employee to disciplinary action, including dismissal.

(Ord. No. 2010-09; 12-20-10)

11-6-3 WORKING HOURS.

(A) The first day of the workweek is Monday and the last day of the workweek is Sunday with payday on every other Friday.

(B) All part-time Public Works employees shall work the hours as scheduled by their supervisor, not to exceed **forty (40) hours** in any work week.

(C) All part-time Office employees shall work the hours as scheduled by their supervisor, not to exceed **forty (40) hours** in any work week.

(D) All part-time Police employees shall work the hours as scheduled by the Chief of Police, not to exceed **forty (40) hours** in any work week.

(E) Ambulance employees shall work the hours as registered on the Weekly Self Schedule Sign-up "on-call" schedule, and shall respond to all calls as dispatched during their scheduled sign-up times.

(Ord. No. 2010-09; 12-20-10)

11-6-4 SUPERVISION.

(A) The Chief of Police, working with the Police Committee of the Village Board, shall operate the Department in a professional manner. All part-time Police employees shall be accountable to the Chief of Police. The Chief of Police is responsible for making the decision as to specific work assignments and shall direct the operations of all part-time Police employees within the department, in performance of their duties. The Police Chief shall have no authority to discharge any part-time Police employee. When, in the event any disciplinary action is deemed by him to be necessary, he shall submit in writing a report to the Personnel Committee Chairman, setting forth the factual grounds with a request for specific disciplinary action. It will then become the responsibility of the Personnel Committee to investigate any and all allegations, including but not limited to, speaking to the part-time police employee in question. Unless the investigation is deemed to be criminal in nature, the part-time police employee that is the subject of the investigation, shall cooperate fully and answer all questions truthfully. All other employees questioned in regard to any investigation of a part-time police employee, whether criminal or administrative, will cooperate fully and answer all questions truthfully. The Personnel Committee will then make any and all recommendations to the Village Board for any action to be taken.

(B) The Superintendent of Public Works, or Public Works Foreman in the Superintendent's absence, shall assist all part-time Public Works employees in the performance of their duties. The Superintendent or Foreman shall have no right to discharge any part-time employee. However, in the event any disciplinary action is deemed necessary by him, he shall submit a written report to the Personnel Committee, setting forth the factual grounds, with a request for specific disciplinary action. It will then become the responsibility of the Personnel Committee to investigate any and all allegations, including but not limited to speaking to the part-time employee in question. Unless the investigation is deemed to be criminal in nature, the part-time employee that is the subject of the investigation, shall cooperate fully and answer all questions truthfully. All other employees questioned in regard to any investigation of a part-time public works employee, whether criminal or administrative, will cooperate fully and answer all questions truthfully. The Personnel Committee will then make any and all recommendations to the Village Board for any action to be taken.

(C) The Village Administrator shall be in charge of all part-time Office employees. The Village Administrator shall have no right to discharge any part-time employee. However, in the event any disciplinary action is deemed necessary by the Village Administrator, the Village Administrator shall submit a written report to the Personnel Committee, setting forth the factual grounds, with a request for specific disciplinary action. It will then become the responsibility of the Personnel Committee to investigate any and all allegations, including but not limited to the part-time employee in question. Unless the investigation is deemed to be criminal in nature, the part-time employee that is the subject of the investigation, shall cooperate fully and answer all questions truthfully. Other Employees shall cooperate fully in such investigation and shall answer all questions truthfully. The Personnel Committee will then make any and all recommendations to the Village Board for any action to be taken.

(Ord. No. 2010-09; 12-20-10)

(D) The Ambulance Service Director, shall be in charge of and assist all part-time Ambulance Service employees in the performance of their duties. The Ambulance Service

Director shall have no right to discharge any part-time employee. However, in the event any disciplinary action is deemed necessary by the Ambulance Service Director, the Ambulance Service Director shall submit a written report to the Personnel Committee, setting forth the factual grounds, with a request for specific disciplinary action. It will then become the responsibility of the Personnel Committee to investigate any and all allegations, including but not limited to the part-time employee in question. Unless the investigation is deemed to be criminal in nature, the part-time employee that is the subject of the investigation, shall cooperate fully and answer all questions truthfully. Other Employees shall cooperate fully in such investigation and shall answer all questions truthfully. The Personnel Committee will then make any and all recommendations to the Village Board for any action to be taken. **(Ord. No. 2010-13; 03-07-11)**

11-6-5 **TIME OFF.**

- (A) Part-time employees may be given time-off from their scheduled work time at the discretion of their supervisor.
- (B) Time-off work for all part-time employees shall be non-paid.

11-6-6 **VACATIONS.**

- (A) Part-time employees may be given time-off for vacation from their scheduled work time at the discretion of the supervisor.
- (B) Time-off work for all part-time employees shall be non-paid.

11-6-7 **HOLIDAYS.** Part-time employees have no paid holidays.

11-6-8 **DUTIES.**

(A) **Non-Police Part-Time Employees.**

- (1) All non-police part-time employees shall perform all job services and functions as assigned to them by their Supervisor, and/or applicable laws, ordinances, and resolutions of the Village.
- (2) There shall be no work stoppage because of differences that might occur. Any aggrieved part-time employee shall first attempt to resolve his grievances with their Supervisor. If the part-time employee feels the complaint has not been resolved, the matter shall be referred to the Personnel Committee.
- (3) The Village Board of Trustees shall retain the right to dismiss, suspend, or otherwise discipline any part-time employee, probationary or otherwise.

(B) **Police Part-Time Employees.**

- (1) All police part-time employees shall perform all job services and functions as assigned to them by the Chief of Police, and/or applicable laws, ordinances and resolutions of the Village, or any other applicable state and federal laws.
- (2) There shall be no work stoppage because of differences that might occur. Any aggrieved Police part-time employee shall first attempt to resolve his grievances with the Chief of Police. If the

- Police part-time employee feels the complaint is unresolved, then the matter shall be referred to the Personnel Committee.
- (3) Police part-time employees shall obey orders only when such orders are not contrary to, or in violation of the current Police Department Policy Manual, state or federal law.
 - (4) The Village Board of Trustees shall retain the right to dismiss, suspend, or otherwise discipline any Police part-time employee, probationary or otherwise.
 - (5) The Village may appoint, discipline, and discharge part-time police officers. The Village has hereby established a hiring standard for part-time police officers and shall submit those standards to the Illinois Law Enforcement Training Standards Board.
 - (6) Part-time police officer shall be members of the regular police department, except for pension purposes. Part-time police officers shall not be assigned under any circumstances to supervise or direct full-time police officers of a police department. Part-time police officers shall not be used as permanent replacements for permanent full-time police officers.
 - (7) Part-time police officers shall be trained under the Intergovernmental Law Enforcement Officer's In-Service Training Act in accordance with the procedures for part-time police officers established by the Illinois Law Enforcement Training Standards Board. A part-time police officer hired after **January 1, 1996** who has not yet received certification under Section 8.2 of the Illinois Police Training Act shall be directly supervised.

(Ord. No. 2010-13; 03-07-11)

11-6-9 **JOB CLASSIFICATIONS.** The base pay rate for each of the following job classifications shall be as established by Resolution of the Board of Trustees:

- (A) Part-time Public Work employee
- (B) Part-time police patrolman
- (C) Office part-time employee
- (D) Part-time Ambulance employee

11-6-10 **HEALTH INSURANCE.** Part-time employees are not eligible to participate in the Village sponsored Health Insurance program.

11-6-11 **VILLAGE ISSUED EQUIPMENT.** Each part-time employee shall be accountable for any equipment issued to them. The part-time employee's supervisor shall provide a list of all equipment and supplies, along with current values to the Village Clerk. Any part-time employee receiving equipment from the Village must sign a receipt therefore.

11-6-12 **POLICE PART-TIME EMPLOYEES.**
(A) The Village shall provide police professional liability insurance for each Police part-time employee. The Village responsibility is limited to coverage provided in such policy.

(B) Each Police part-time employee shall appear in court when served with prior written notice requiring their appearance. Police part-time employees failing to appear in court without prior excuse shall be subject to disciplinary action.

(C) No Police part-time employee, shall at any time, accept on his own, any police related assignments or perform any police related duties for or at the request of any individual group or organization for police related work within the jurisdiction of the Village.

(D) All requests for special police services, as may be required by those individuals, groups and organizations as noted above, must be made directly to any one of the following in this sequence: Chief of Police, Village Clerk, Police Committee, or Village President. The Village Clerk shall render an invoice to the individual, group or organization for the police services rendered. Those Police part-time employees performing the special police services shall be compensated by Village paycheck at the rate determined by resolution.

(E) Full-time Police employees have the right of first refusal for each special event before part-time officers.

(F) The Village shall provide up to **one hundred (100) rounds** of practice ammunition for Police part-time employees per year for department use to include yearly updates and weapons proficiency. Ammunition is to be distributed by the Chief of Police.

(G) Police part-time employees will be provided one full uniform (one short sleeve shirt, one long sleeve shirt and one duty pair of pants) after **one (1) year** of service. All uniform clothing ruined in the course of duty, will be replaced at no cost to the part-time employee.

11-6-13 SEXUAL HARASSMENT POLICY. (See Chapter 22, Article VI)

11-6-14 DRUG AND ALCOHOL ABUSE POLICY.

(A) A "safety sensitive function" shall be defined as the period from the time an employee begins to work or is required to be in readiness to work, until the time he/she is relieved from work and all responsibility for performing work.

(B) Notwithstanding the disciplinary action as cited in this policy, under the Village's independent authority, the unlawful manufacture, distribution, dispensation or possession of drugs are prohibited on any Village property, in any Village owned or leased vehicle, or other location at which the employee is to perform work for the Village. If any employee is proven by a preponderance of the evidence to be engaging in any activities as stated above, the employee shall be subject to termination. Any employee who faces criminal action as a result of engaging in activities as stated above will be immediately suspended without pay until the court determines innocence or guilt. If the employee is convicted, the employee will be immediately terminated. If the employee is found innocent, the employee may be placed back into a safety sensitive function if the evidence weighs in his favor. No retroactive pay will be given to the employee.

(C) The Village reserves the right to conduct reasonable searches for illegal drugs and alcohol on the government premises or in Village owned or leased vehicles.

(D) No employee at any work site or in any Village owned or leased vehicle will possess any quantity of any controlled substance or alcohol, lawful or unlawful. The only exception will be a substance legally administered by or under the direction of a physician, or evidence seized and transported by a police officer. The employee shall provide the Village with written verification of such prescribed medication.

(E) Searches of employees and their personal property may be conducted when there is reasonable grounds to believe the employee is in violation of this policy.

(F) All employees are expected to cooperate in such searches. An employee's refusal to cooperate or consent to such searches may result in disciplinary action, including termination.

(G) The only exception to alcohol possession in this Policy is denatured alcohol (not intended for human consumption), products containing alcohol which, when ingested would not impair driving ability while performing safety-sensitive functions (i.e., cough medications), or to alcohol seized by police for evidentiary purposes or appropriate disposal.

(H) All new employees will be subject to a mandatory pre-employment drug test and may be required to undergo a physical examination by a licensed physician.

(I) All employees shall be subject to mandatory drug testing, if the employee is involved in an accident resulting in an injury requiring medical attention or an accident where property damage suffered to any party, including the Village, equals or exceeds **Five Hundred Dollars (\$500.00)**.

(J) No employee shall consume any illicit drug, any drug listed in the Schedule of Controlled Substances of the Drug Enforcement Administration (marijuana, cocaine, opiates, phencyclidine, amphetamines), or any other drug cited by the USDOT, Federal Highway Administration, while on or off duty, except as provided in **Section 11-5-15(D)**. No employee shall continue to perform safety-sensitive functions after a positive drug test result. Upon verification of the results of a positive drug test, the employee shall be subject to termination.

(K) All employees may be subject to random/mandatory drug testing where reasonable suspicion exists on the part of the employee's direct supervisor, to believe that the employee is under the influence of drugs or alcohol. An employee may also be subject to a mandatory drug test when a supervisor has a reasonable suspicion that an employee has used any illicit drug listed in paragraph (J) during said employee's off time. No employee may use marijuana at any time, even if it is prescribed.

(L) Refusal to provide a test sample under the circumstances indicated above shall result in termination of his/her employment.

(M) In the event an employee submits to a drug test which results in positive finding, then that employee shall be permitted to seek rehabilitation and/or drug or alcohol counseling. The employees shall be temporarily suspended from employment without pay during the period of said rehabilitation or counseling. Prior to returning to employment, the employee must submit a drug test indicating the employee is free from illicit drugs or alcohol and a written statement from the counselor or rehabilitation service that the employee is fit to return to employment. Thereafter, said employee shall be subject to random drug testing indefinitely during the remainder of their employment with the Village.

(N) In the event an employee submits to a drug test which results in a second positive test result, his/her employment shall be terminated.

(O) All test herein may be performed as a urine test at the discretion of the employee's supervisor.

(P) The consumption of alcohol is prohibited while the employee is performing safety-sensitive functions. No employee shall report for duty or remain on duty, requiring the performance of safety-sensitive functions, while having consumed or having consumed alcohol within **four (4) hours** of reporting for such duties, or having a BAC of .000 or greater. Employees may not operate a commercial motor vehicle as defined in the Illinois Vehicle Code or a vehicle otherwise governed by Federal Motor Carrier Safety Regulations, with a BAC greater than .000. Any employee violating this Section shall be subject to disciplinary action, including possible termination of employment.

(Q) Police officers shall not be on duty with a BAC greater than .000.

(R) Any employee who has engaged in conduct prohibited in this Section shall be required to submit to the prescribed treatment under the Village's Health Plan in effect at the time of the infraction.

(Ord. No. 2015-011; 02-16-16)

11-6-15 COMPLIANCE WITH LOCAL, STATE, AND FEDERAL LAWS.

(A) No employee shall, while on duty, violate any local ordinance, state law, or federal law.

(B) Violation of subsection (A) shall be subject to disciplinary action, including possible termination.

(Ord. No. 10-09; 12-20-10)

CHAPTER 14

FLOOD PLAIN CODE

ARTICLE I - GENERAL PROVISIONS

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; and
- (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 aquality, 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.

BUILDING: A structure that is principally above ground and is enclosed by walls and a roof 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 public or private facility which, if flooded, would create an added dimension to the disaster or would increase the hazard to life and health. Examples are public buildings, emergency operations and communication centers, health care facilities and nursing homes, schools, and toxic waste treatment, handling or storage facilities.

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
- (H) Channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include routine maintenance of existing buildings and facilities; resurfacing roads; or gardening, plowing, and similar practices that do not involve filling, grading, or construction of levees.

FEMA: Federal Emergency Management Agency.

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.

FLOODPLAIN AND SPECIAL FLOOD HAZARD AREA (SFHA): They are synonymous. Those lands within the jurisdiction of the Village that are subject to inundation by the base flood. The floodplains of the Kaskaskia River, identified on the community floodplain map* are generally identified as such on the Flood Insurance Rate Map of the Village prepared by the Federal Emergency Management Agency and dated **November 5, 2003**. The floodplains of those parts of unincorporated Village that are within the extraterritorial jurisdiction of the Village that may be annexed into the Village are generally identified as such on the Flood Insurance Rate map prepared for St. Clair County by the Federal Emergency Management Agency and dated **November 5, 2003**. Floodplain also includes those areas of known flooding as identified by the community.

FLOODPROOFING: Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.

FLOODPROOFING CERTIFICATE: A form published by the Federal Emergency Management Agency that is used to certify that a building has been designed and constructed to be structurally dry floodproofed to the flood protection elevation.

FLOOD PROTECTION ELEVATION OR FPE: The elevation of the base flood plus **one (1) foot** of freeboard at any given location in the floodplain.

FLOODWAY: That portion of the floodplain required to store and convey the base flood. The floodway for the floodplains of Kaskaskia River shall be as delineated on the Flood Boundary and Floodway Map prepared by FEMA and dated **November 5, 2003**. The floodways for each of the remaining floodplains of the Village shall be according to the best data available from Federal, State, or other sources.

IDNR/OWR: Illinois Department of Natural Resources/Office of Water Resources.

MANUFACTURED HOME: A structure transportable in **one (1)** or more sections, that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

NFIP: National Flood Insurance Program.

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.

SUBSTANTIAL DAMAGE: Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed **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.

SUBSTANTIAL IMPROVEMENT: Any reconstruction, rehabilitation, addition, or improvement of a structure, the cost of which equals or exceeds **fifty percent (50%)** of the market value of the structure before the improvement or repair is started. "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

TRAVEL TRAILER (OR RECREATIONAL VEHICLE): 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 truck; and
- (D) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

14-1-3 BASE FLOOD ELEVATION.

(A) 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 FEMA and IDNR/OWR for approval prior any development of the site.**

(B) The base flood elevation for the floodplains of the Kaskaskia River shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of the Village prepared by the Federal Emergency Management Agency on **November 5, 2003.**

(C) The base flood elevation for each floodplain delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the Flood Insurance Rate Map of the Village.

(D) The base flood elevation for each of the remaining floodplains delineated as an "A Zone" on the Flood Insurance Rate Map of the Village shall be according to the best data available from federal, state or other sources. Should no other data exist, an engineering study must be financed to determine base flood elevations.

(E) The base flood elevation for the floodplains of those parts of unincorporated **St. Clair County** that are within the extraterritorial jurisdiction of the Village, or that may be annexed into the Village, shall be as delineated on the 100-year flood profiles of the Flood Insurance Study of **St. Clair County** prepared by the Federal Emergency Management Agency and dated **November 5, 2003.**

14-1-4 DUTIES OF THE BUILDING ADMINISTRATOR.

The Building 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 Building 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 standard of **Section 14-1-9;**

(F) If a variance is requested, ensure that the requirements of **Section 14-1-10** are met and maintain documentation of any variances granted;

(G) Inspect all development projects and take any and all actions outlined in **Section 14-1-12** 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; and

(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 and make substantial damage determinations for structures within the floodplain.

(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.

ARTICLE II - CONSTRUCTION REQUIREMENTS

14-2-1 DEVELOPMENT PERMIT.

(A) No person, firm, corporation, or governmental body not exempted by state law shall commence any development in the floodplain without first obtaining a development permit from the Building Administrator. The Building Administrator shall not issue a development permit if the proposed development does not meet the requirements of this Code.

(B) 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 basements) of all proposed buildings subject to the requirements of **Section 14-2-3** 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.

(C) Upon receipt of an application for a development permit, the Building 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 be higher than the current base flood elevation and which has not been filled 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 Building 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.

14-2-2 PREVENTING INCREASED FLOOD HEIGHTS AND RESULTING DAMAGES.

(A) Within the floodway identified on the Flood Boundary and Floodway Map, and within all other floodplains where a floodway has not been delineated, the following standards shall apply:

(B) Except as provided in **Section 14-2-2(B)**, no development shall be allowed which, acting in combination with existing and anticipated development, will cause any increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:

- (1) Barge fleeting facilities meeting the conditions of IDNR/OWR Statewide Permit No. 3;
- (2) Aerial utility crossings meeting the conditions of IDNR/OWR Statewide Permit No., 4;
- (3) Minor boat docks meeting the conditions of IDNR/OWR Statewide Permit No. 5;

- (4) Minor, non-obstructive activities meeting the conditions of IDNR/OWR Statewide Permit No. 6;
 - (5) Outfall structures and drainage ditch outlets meeting the conditions of IDNR/OWR Statewide Permit No. 7;
 - (6) Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit No. 8;
 - (7) Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit No. 9;
 - (8) Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit No. 10;
 - (9) Minor maintenance dredging activities meeting the conditions of IDNR/OWR Statewide Permit No. 11; and
 - (10) Bridge and culvert replacement structures and bridge widenings meeting the conditions of IDNR/OWR Statewide Permit No. 12; and
 - (11) Temporary construction activities meeting the conditions of IDNR/OWR Statewide Permit No. 13; and
 - (12) Any development determined by IDNR/OWR to be located entirely within a flood fringe area.
- (C) 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); and
 - (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.

14-2-3 PROTECTING BUILDINGS.

(A) In addition to the damage prevention requirements of **Section 14-2-2**, all buildings located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the following situations:

- (1) Construction or placement of a new building valued at more than **One Thousand Dollars (\$1,000.00) or seventy (70) square feet;**
- (2) Substantial improvements made to an existing building. This alteration shall be figured cumulatively beginning with any alteration which has taken place subsequent to the adoption of this Code;
- (3) repairs made to a substantially damaged building. These repairs shall be figured cumulatively beginning with any repairs which have taken place subsequent to the adoption of this Code;
- (4) Structural alterations made to an existing building that increase the floor area by more than **twenty percent (20%);**
- (5) Installing a manufactured home on a new site or a new manufactured home on an existing site (the building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage); and

- (6) Installing a travel trailer or recreational vehicle on a site for more than **one hundred eighty (180) days** per year.
- (7) 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 land fill 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; or
- (2) The building may be elevated in accordance with the following:
 - (a) The building or improvements shall be elevated on stilts, piles, walls, or other foundation that is permanently open to flood waters;
 - (b) The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation;
 - (c) If walls are used, all 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 registered professional engineer or by having a minimum of **one (1) permanent opening** on each wall no more than **one (1) foot** above grade. 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;
 - (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;
 - (e) The finished interior grade shall not be less than the finished exterior grade;
 - (f) All structural components below the flood protection elevation shall be constructed of materials resistant to flood damage;

- (g) Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed; and
 - (h) 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.
- (3) Manufactured homes or travel trailers to be permanently installed on site shall be:
- (a) elevated to or above the flood protection elevation; and
 - (b) 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.
- (4) Travel trailers and recreational vehicles on site for more than **one hundred eighty (180) days** shall meet the elevation requirements of **Section 14-2-3(B)** unless the following conditions are met:
- (a) the vehicle must be either self-propelled or towable by a light duty truck. The hitch must remain on the vehicle at all times; and
 - (b) the vehicle must not be attached to external structures such as decks and porches; and
 - (c) the vehicle must be designed solely for recreation, camping, travel, or seasonal use rather than as a permanent dwelling; and
 - (d) the vehicles largest horizontal projections must be no larger than **four hundred (400) square feet**; and
 - (e) the vehicle's wheels must remain on axles and inflated; and
 - (f) air conditioning units must be attached to the frame so as to be safe for movement out of the floodplain; and
 - (g) propane tanks, electrical and sewage connections must be quick-disconnect and above the 100-year flood elevation; and
 - (h) the vehicle must be licensed and titled as a recreational vehicle or park model; and
 - (i) the vehicle must be either (a) entirely supported by jacks rather than blocks or (b) have a hitch jack permanently mounted, have the tires touching the ground, and be supported by blocks in a manner that will allow the blocks to be easily removed by use of the hitch jack.
- (5) Non-Residential buildings may be structurally dry floodproofed (in lieu of elevation) provided a registered professional engineer certifies that:
- (a) below the flood protection elevation, the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood;

- (b) the building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and impact from debris and ice; and
- (c) floodproofing measures will be incorporated into the building design and operable without human intervention and without an outside source of electricity.

Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.

- (6) Garages or sheds constructed ancillary to a residential use may be permitted provided the following conditions are met:

- (a) The garage or shed must be non-habitable; and
- (b) The garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into another use; and
- (c) The garage or shed must be located outside of the floodway; and
- (d) The garage or shed must be on a single-family lot and be accessory to an existing principal structure on the same lot; and
- (e) Below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage; and
- (f) All utilities, plumbing, heating, air conditioning and electrical must be elevated above the flood protection elevation; and
- (g) The garage or shed must have at least **one (1)** permanent opening on each wall no more than **one (1) foot** above grade with **one (1) square inch** of opening for every square foot of floor area; and
- (h) The garage or shed must be less than **Seven Thousand Five Hundred Dollars (\$7,500.00)** in market value or replacement cost whichever is greater, or less than **five hundred (500) square feet**; and
- (i) The structure shall be anchored to resist flotation and overturning; and
- (j) All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation; and
- (k) The lowest floor elevation should be documented and the owner advised of the flood insurance implications.

- (7) A building may be constructed with a crawlspace located below the flood protection elevation provided that the following conditions are met:

- (a) 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; and
- (b) 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; and
- (c) 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; and
 - (d) the interior height of the crawlspace measured from the interior grade of the crawl to the top of the foundation wall must not exceed **four (4) feet** at any point; and
 - (e) 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; and
 - (f) portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage; and
 - (g) utility systems within the crawlspace must be elevated above the flood protection elevation.

14-2-4 SUBDIVISION REQUIREMENTS.

(A) The Village shall take into account flood hazards, to the extent that they are known, in all official actions related to land management use and development.

(B) 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 14-2-2 and 14-2-3** of this Code. Any proposal for such development shall include the following data:

- (1) The base flood elevation and the boundary of the floodplain (where the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation);
- (2) The boundary of the floodway when available; and
- (3) A signed statement by a Registered Professional Engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (**See 765 ILCS 205/2**).

14-2-5 PUBLIC HEALTH AND OTHER STANDARDS.

(A) Public health standards must be met for all floodplain development. In addition to the requirements of **Sections 14-2-2 and 14-2-3**, 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 14-2-3** 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) Critical facilities shall be protected to the 500-year flood elevation. In addition, all ingress and egress from any critical facility must be protected to the 500-year flood elevation.
 - (B) All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

14-2-6 VARIANCES.

(A) Whenever the standards of this Code place undue hardship on a specific development proposal, the applicant may apply to the Village Zoning Board of Appeals for a variance. The Village Zoning Board of Appeals shall review the applicant's request for a variance and shall submit its recommendation to the Village Board of Trustees. The Village Board of Trustees may attach such conditions to granting of a variance as it deems necessary to further the intent of this Code.

(B) 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 or safety, or creation of a nuisance;
- (5) There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities;
- (6) The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP; and
- (7) All other required local, state and federal permits have been obtained.

(C) The Village Zoning Board of Appeals shall notify an applicant in writing that a variance from the requirements of the building protection standards of **Section 14-2-3** that 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.

(D) Variances to the building protection requirements of **Section 14-2-3** of this Code requested in connection with the reconstruction, repair or alteration of a site or building included on the National Register of Historic Places or the Illinois Register of Historic Places may be granted using criteria more permissive than the requirements of **Section 14-2-5(A)(1-5)**.

14-2-7DISCLAIMER 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.

14-2-8 PENALTY.

(A) 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 Building Administrator may determine that a violation of the minimum standards of this Code exists. The Building Administrator shall notify the owner in writing of such violation.

(B) 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 as provided in **Section 1-1-20** for each offense; and
- (3) A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

(4) The Village shall record a notice of violation on the title to the property.

(C) The Building Administrator 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.

(D) 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.

14-2-9 ABROGATION AND GREATER RESTRICTIONS. This Code repeals and replaces other ordinances adopted by the Village on or before **October 20, 2003**, in order to fulfill the requirements of the National Flood Insurance Program. However, this Code does not repeal the original resolution or ordinance adopted to achieve eligibility in the Program. Nor does this Code repeal, abrogate, or impair any existing easements, covenants or deed restrictions. Where this Code and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 2003-05; 10-20-03)

CHAPTER 15

FRANCHISES

ARTICLE I - GAS FRANCHISE

15-1-1 **EXTENSION OF FRANCHISE.** 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 AmerenIP, its successors and assigns, to construct, operate and maintain a gas utility system within the Village as originally authorized by Ordinance No. 260 approved on November 7, 1960. The parties acknowledge that by so doing they are continuing an existing relationship authorizing the services of a utility for the provision of gas energy and other purposes within the Village for the benefit of its citizens and residents as well as other consumers of gas energy located within its corporate limits.

15-1-2 **GRANTING OF EXTENSION.** There is hereby given and granted to AmerenIP, 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 New Athens (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, ridges, easements, rights of way and/or other public places.

15-1-3 **CONSTRUCTION OF MAINS.** All mains, pipes, valves and apparatus shall, so far as practicable, be placed underground and shall be so located and laid as not to interfere with any pipes, conduits, sewers, drains, pavements or other public improvements existing at the time of such location, and said Company shall forthwith repair any damage caused to such improvements to the satisfaction of the official or officials of said Municipality having charge of the supervision thereof. There shall be no unnecessary obstruction to the streets, avenues, alleys and public places of said Municipality in the laying, installation, operation or maintenance of any of said mains, pipes, valves or apparatus. All facilities of Company in said Municipality shall be installed and maintained in accordance with the applicable rules and regulations of the Illinois Commerce Commission.

15-1-4 **RELOCATION CONSTRAINTS.** 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. **(See Chapter 33)**

15-1-5 **RATES CHARGED.** 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.

15-1-6 **ANNUAL FEE.** 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 **Four Thousand One Hundred Sixty Dollars (\$4,160.00)**, 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.

15-1-7 **ASSIGNING FUTURE RIGHTS.** 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.

15-1-8 **TIME CONSTRAINTS - ACCEPTANCE.** 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.

15-1-9 **TERM OF FRANCHISE.** All rights, privileges and authority given and granted by this Chapter are granted for a term of **twenty (20) years** from and after the passage and acceptance of this Chapter by the Municipality, as hereinafter provided (the "Initial Term"), and thereafter on a year-to-year basis (each a "Subsequent Term") unless either the Company or Municipality notifies the other in writing of its desire to terminate this Chapter at least **six (6) months** prior to the expiration of the Initial Term or any Subsequent Term.

15-1-10 VACATION OF STREETS, ETC. 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.

15-1-11 CONFLICTING LAWS REPEALED. All ordinances and parts of ordinance in conflict with this Chapter or with any of its provisions are, to the extent of such conflict, hereby repealed.

15-1-12 WRITTEN PERMITS REQUIRED. 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.

15-1-13 SEPARABILITY. 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.

15-1-14 ADDITIONAL GAS UTILITY PERMITTED. 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.

15-1-15 **EXEMPTIONS FOR FEES.** 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.

15-1-16 **VESTING OF AGREEMENT.** 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. 2010-07; 10-04-10)

CHAPTER 17

HEALTH CODE

ARTICLE I - TRASH COLLECTORS CODE

DIVISION I - LICENSING REQUIREMENTS

17-1-1 **LICENSE REQUIRED.**

(A) No person, firm or corporation shall engage in the business of refuse collection, namely, the collection or disposal of animal, human or vegetable refuse, or offal, or refuse of any kind, without having first secured a license from the Village therefore. Any such license shall be issued for the period beginning **May 1st** and ending **April 30th** of the following year. Any such license may not be assigned, transferred, or conveyed in any manner without the written consent and approval of the Board of Trustees of the Village.

(B) The Village retains the authority to withdraw any license issued under this Chapter for cause, and refund a pro rate share of the license fee paid, at any time during the license year. In the event a license is recommended for withdrawal, the Mayor shall call a public hearing, conducted by the Mayor and Board of Trustees, and hear testimony supporting withdrawal of the license. At least a **three (3) day** written notice shall be provided to the licensee, affording the Licensee an opportunity to appear and present opposing testimony at said hearing. Delivery of the required notice shall be by certified mail to the address of record for the licensee.

17-1-2 **TYPES OF LICENSE, LIMITATION ON NUMBER.**

(A) **Residential Solid Waste Collection and Disposal License.** A Residential Solid Waste Collection and Disposal License shall permit the licensee to collect garbage and rubbish, compostable material, and recyclable material from any residential location within the Village when comprised of one, two or three dwelling units on one parcel. The Residential Solid Waste Collection and Disposal Licensee shall provide dumpster service to the Village at no charge. There shall be only **one (1)** residential solid waste collection and disposal license issued by the Village and in effect at any time.

(B) **Non-Residential Solid Waste Collection and Disposal License.** A Non-Residential Solid Waste Collection and Disposal License shall permit the licensee to collect garbage and refuse, compostable material and recyclable material from any location in the Village other than those comprised of one, two or three dwelling units on one parcel. Authorized collection locations shall therefore include multiple-family dwellings of four or more units, commercial locations, and industrial locations. Holders of a non-residential license shall also be authorized to collect home remodeling, construction and repair materials from buildings comprised of one, two or three dwelling units whenever such buildings are under construction or remodeling and require a "roll-off" container or "dumpster" for building material waste. There shall be no more than **eight (8)** non-residential solid waste collection and disposal licenses issued by the Village and in effect at any time.

17-1-3 LICENSE APPLICATION, ISSUANCE AND RENEWAL.

(A) Application for an initial license shall be made to the Village Clerk, and thereafter shall be referred by her to the Mayor and Board of Trustees for approval. No such license shall be issued except on order of the Mayor and Board of Trustees.

(B) Application for each renewal license shall be made to the Village Clerk, by the **first (1st) Monday in April** of each calendar year. A renewal license may be approved and issued by the Mayor, independent of the Board of Trustees, provided the licensee has duly completed the required application, given the information required and paid the appropriate fee.

(C) In the event that renewal has not been completed on or before **May 1st** of the license year, the license shall expire and the refuse collector shall be required to re-apply as an applicant for an initial license.

(D) With each application for license or application for renewal license, each refuse collector shall file with the Village Clerk, a complete list of its charges for multi-family, commercial, business and industrial establishments that will be in effect during the license year. In addition, each refuse collector shall provide proof of general liability insurance coverage of at least **One Million Dollars (\$1,000,000.00)** and bodily injury and property damage coverage of at least **One Million Dollars (\$1,000,000.00)**.

17-1-4 LICENSE FEE.

(A) Both residential and non-residential solid waste collection and disposal license holder shall be required to purchase a Village business license in compliance with **Chapter 7** of the Municipal Code.

(B) **Residential Solid Waste Collection and Disposal License.** There shall be no charge for a residential refuse collector license.

(C) **Non-Residential Solid Waste Collection and Disposal License.** The fee for a non-residential refuse collector license shall be **Fifty Dollars (\$50.00)** in addition to the cost of an annual business license fee.

17-1-5 VEHICLE REQUIREMENTS.

(A) Each licensee shall provide an adequate number of vehicles to assure regular collection of refuse. Every such vehicle shall be kept in good repair and appearance, painted, maintained in a sanitary condition at all times, and shall be clearly marked with the name of the licensee. No such vehicle shall leak fluids, oil, hydraulic fluids, or other such materials.

(B) Each vehicle shall also be watertight and equipped with airtight covers for such portions as are used for the transportation of garbage or similar refuse, so that offensive odors are not allowed to permeate the air and cause a nuisance within the Village.

(C) The Village reserves the right to inspect any vehicles used for collection in the Village in order to assure that each is maintained in satisfactory condition and in accordance with the terms of this Section. Upon finding any vehicle which is not in compliance, the licensee shall immediately provide a replacement and not return the offending vehicle to service until it has been properly repaired.

17-1-6 **DISPOSAL WITHIN VILLAGE PROHIBITED; EXCEPTION.** No refuse collector shall dispose of or store any refuse in any place within the Village limits or within **one and one-half (1 ½) miles** thereof, except with the permission of the Mayor.

17-1-7 **VIOLATION PENALTY.** Any person, firm or corporation violating any provision of this Chapter shall be fined as provided in **Section 1-1-20** for each offense. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

ARTICLE II - GENERAL REGULATIONS

17-2-1 **DEFINITIONS.** As used in this Chapter, the following words shall have the meanings ascribed to them as follows;

"Refuse" shall include the following classes:

(A) **Class 1:** Kitchen wastes, such as discarded food, vegetable matter, food residues, and the paper necessarily used for wrapping same, aluminum cans, bi-metal cans, steel (tin) cans, bottles, boxes, cartons, crates, bags, books, magazines, newspapers, cloth material, discarded toys, discarded clothing, and similar materials.

(B) **Class 2:** Sod, earth and rock.

(C) **Class 3:** Furniture; appliances without Freon or other refrigerant chemical, such as ranges, televisions, microwave ovens, dishwashers, washing machines, dryers and hot water heaters; automobile wheels; rolls of carpeting.

(D) **Class 4:** Home remodeling, construction and repair materials.

(E) **Class 5:** Appliances which contain Freon or other refrigerant chemical, including but not limited to window air conditioners, outside air conditioner units, refrigerators, freezers, and dehumidifiers.

17-2-2 **TITLE TO WASTE.** All refuse, yard waste and recyclable materials collected in accordance with the terms hereof shall become and be the property of the licensee as soon as the same is picked up or otherwise placed in the contractor's vehicle. Prior to such collection by the licensee, title to all such wastes remain with the property owner and shall not be removed by any other person.

17-2-3 **DISPOSAL OF YARD WASTE.** Yard waste shall not be commingled with refuse or with recyclable materials, but shall be disposed of in compliance with state law.

17-2-4 **DEPOSITING MATERIALS ON ANOTHER'S PROPERTY.** It shall be unlawful for any person to deposit or dump refuse, yard waste, recyclable materials or garbage containers, upon the property of another, or on the public right-of-way or any public property, without the consent of the owner.

17-2-5 **DEPOSITING MATERIALS ON STREET.** It shall be unlawful to deposit or permit to fall from any vehicle any refuse, yard waste or recyclable material on any public street or alley in the Village; provided that this Section shall not be construed to prohibit placing refuse, recyclable material and yard waste as herein defined in a container complying with the provisions of this Chapter preparatory to having such refuse, recyclable material and yard waste collected and disposed of in the manner provided in this Chapter.

ARTICLE III - RESIDENTIAL COLLECTIONS

17-3-1 **COLLECTION REQUIRED.** Within the Village, all owners and occupiers of residential structures of one, two or three dwelling units, including mobile or manufactured homes on private lots, shall be charged for the collection and disposal of accumulations of refuse, by the refuse collector contracted and licensed by the Village for collection and disposal of residential refuse, pursuant to the manner provided for in this Chapter.

17-3-2 **METHOD OF COLLECTION.**

(A) For single-family dwellings and multi-family dwellings of two or three units, it shall be unlawful to dispose of any refuse or yard waste anywhere in the Village except through the collection of said materials through the manner described in this Chapter, and placed for collection as herein prescribed, provided however, that nothing in this Section shall prevent individual composting of yard wastes, or the recycling of materials elsewhere within the Village, by taking those materials to a recycling drop-off location which agrees to accept same.

(B) The Village provides once per week residential trash collection services through a contract operation with an independent contractor. Regular collection day will be determined by agreement between the Village and the service provider. Should the regular collection day be delayed by weather or holiday, the service provider will collect on an alternate day of the same week. Then collection will be on the next available day. This residential trash collection service will be billed by the Village and included on the billing for water and sewer service. There is a **five (5) bag** MAXIMUM per week for residential service.

(C) Included in the cost of residential trash collection is a "large item collection". This collection is performed in May and October and includes those large items not picked up in the regular weekly service. All large items must have Freon or other refrigerant chemicals removed prior to pickup.

(D) Commercial dumpster pickup is not included in this service. Commercial or multi-family zoned property owners wishing to utilize dumpster service must contract with a trash hauler on their own. Those using a privately contracted dumpster will not be billed for trash service by the Village, but will be billed directly by the service chosen. Commercial establishments or multi-family zoned property owners not utilizing a dumpster may choose to use the Village's trash service. Commercial establishments choosing this option will be billed by the Village at the commercial rate. There is a **five (5) bag** MAXIMUM for this commercial service.

(E) It is the responsibility of the customer to notify the Village Hall if they desire to have dumpster service and wish to retain their own trash hauler (dumpster service). If a customer does not contact the Village Hall to be removed from the regular residential billing, they will be billed for trash pickup as a residential customer.

17-3-3 **CHARGES IMPOSED, PAYMENT FOR COLLECTION SERVICES.**

(A) Request for in-town water service or in-town sewer service is also a commitment for residential trash collection. All residential customers will be charged a residential trash collection fee.

(B) Residents shall pay for collection of refuse through their monthly water/sewer/utility bill.

(C) Cost for residential trash collection shall be determined by agreement between the Village and the contracted trash service. The Village may adjust the fees to the customer to cover administrative costs.

ARTICLE IV - NON-RESIDENTIAL COLLECTIONS

17-4-1 **NON-RESIDENTIAL COLLECTION.** Within the Village, all owners and occupiers of non-residential structures, multi-family structures of four or more dwelling units, shall provide for the collection and disposal of accumulations of garbage and refuse, recyclable material, and compostable material regularly and systematically, at least once every **fourteen (14) days**, by a refuse collector licensed by the Village pursuant to **Section 17-1-2(B)** of this Chapter.

17-4-2 **DISPOSAL IN CONTAINERS.** For non-residential structures, multi-family structures of four or more dwelling units, shall be unlawful to dispose of any garbage and rubbish or compostable material anywhere in the Village except through placement of such material in appropriate containers serviced by a refuse collector licensed by the Village pursuant to **Section 17-1-2(B)**, provided however, that nothing in this Section shall prevent individual composting of yard waste, or the recycling of materials elsewhere within the Village, by taking those materials to a recycling drop-off location which agrees to accept same.

17-4-3 **APPROVED CONTAINERS.** Containers to be used for the collection of garbage and refuse from non-residential premises shall be tightly covered metal or other non-corrodible, watertight containers. Mobile garbage and refuse containers required to be left at curb side shall be placed at curb side no earlier than **7:00 P.M.** on the day preceding the day on which collection is scheduled, and shall be removed from curb side no later than **7:00 P.M.** on the day of collection.

(Ord. No. 2005-15; 04-17-06)

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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 5/1-3.06)**

"PACKAGE LIQUOR STORE" means any public place where packaged liquors are offered for sale in the original, unopened container for consumption away from the premises.

"PARTNER" is any individual who is a member of a co-partnership. "Co-partnership" means an association of **two (2)** or more persons to carry on as co-owners of a business for profit. **(Rules and Regulations 100.10(d)(e))**

"PREMISES/PLACE OF BUSINESS" means the place or location where alcoholic beverages are manufactured, stored, displayed, offered for sale or where drinks containing alcoholic beverages are mixed, concocted and served for consumption. Not included are sidewalks,

street, parking areas and grounds adjacent to any such place or location. **(Rules and Regulations 100.10(g))**

"PRIVATE FUNCTION" means a prearranged private party, function, or event for a specific social or business occasion, either by invitation or reservation and not open to the general public, where the guests in attendance are served in a room or rooms designated and used exclusively for the private party, function or event.

"PUBLIC PLACE" means any premises enclosed or unenclosed or partly enclosed and partly unenclosed wherein any service or goods, chattels or merchandise are offered for sale to the public or any such premises used as a clubhouse, club room or meeting place. The terms **"public place"** and **"public premises"** shall be interchangeable for the purposes of this Chapter.

"RESIDENT" means any person (other than a corporation) who has resided and maintained a bona fide residence in the State of Illinois for at least **one (1) year** and in the city, village and county in which the premises covered by the license are located for at least **ninety (90) days** prior to making application for such license. **(Rule 100.10(a))**

"RESTAURANT" means any public place kept, used, maintained, advertised, and held out to the public as a place where meals are served, and where meals actually are served and regularly served, without sleeping accommodations, such space being provided with adequate and sanitary kitchen and dining room equipment and capacity and having employed therein a sufficient number and kind of employees to prepare, cook and serve suitable food for its guests. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 5/1-3.18)**

"SPECIAL EVENT" means an event conducted by an educational, fraternal, political, civic, religious or non-profit organization. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 5/1-3.02)**

"TO SELL" includes to keep or expose for sale and to keep with intent to sell. (See 235 ILCS Sec. 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. (See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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 **one (1) member** of such partnership, firm, association or club, or by the president and secretary of such corporation.

One (1) copy of the application shall be retained by the 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 5/4-5)**

21-2-4 PROHIBITED LICENSEES. Except as otherwise provided in paragraph (U) of this Section, no license of any kind shall be issued by the Mayor to the following:

(A) A person who is not a resident of the Village except for; an Illinois Corporation, an Illinois Limited Liability Company, or a foreign Corporation licensed to do business in the State of Illinois.

(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, including members of local liquor control commissions, any president of the village board of trustees, any member of a village board of trustees, and no such official shall be interested directly in the manufacture, sale, or distribution of alcoholic liquor, except that 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 member of a village board of trustees 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 proscribed 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 City;

(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. **(See 235 ILCS Sec. 5/6-2)**

21-2-5 **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.

License fees are payable in semi-installments in advance, except that the license fee for a Class "E" license and a Class "F" license for religious organizations and not-for-profit organizations that do business only intermittently shall be payable in full, in advance.

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. **(See 235 ILCS Sec. 5/4-1)**

21-2-6 **CLASSIFICATION; FEE; TERM.** There shall be **six (6)** classes of licenses issued by the Village and the fees to be charged for each class of license shall be as follows:

(A) **Class "A".** A Class "A" license shall authorize the sale of liquor for consumption on the premises as well as other retail sales of such alcoholic liquor. The license fee for a Class "A" license shall be **Two Hundred Fifty Dollars (\$250.00)** per year.

(B) **Class "B".** A Class "B" license shall authorize the retail sale of liquor not for consumption on the premises where sold. The license fee for a Class "B" license shall be **Two Hundred Fifty Dollars (\$250.00)** per year.

(C) **Class "C".** A Class "C" license shall authorize the retail sale of liquor for consumption on the premises, as well as other retail sales of such alcoholic liquor, where the holder of the license derives at least **fifty percent (50%)** of its annual gross revenue from the sale of food. The license fee for a Class "C" license shall be **Two Hundred Fifty Dollars (\$250.00)** per year.

(D) **Class "D".** A Class "D" license shall authorize the retail sale of liquor for consumption on the premises as well as other retail sales of alcoholic liquor. The closing hour shall be **one (1) hour** later than a Class "A" license. The license fee for a Class "D" license shall be **Three Hundred Dollars (\$300.00)** per year.

(E) **Class "E".** A Class "E" license, which may be issued only to religious organizations or a not-for-profit organization that does business not exceeding **two (2) days**

per week. The license fee for a Class "E" license shall be **One Hundred Dollars (\$100.00)** per year.

(F) **Class "F".** A Class "F" license shall authorize any civic organization to sell or offer for sale alcoholic liquor for a period not to exceed **twenty-four (24) hours** within any one day. The license fee for a Class "F" license shall be **Two Dollars (\$2.00)** per a period of more than **twelve (12) hours** and not for a period more than **twenty-four (24) hours** within any one day.

(G) **Duplicate; Fee.** In the event of a loss or destruction of a license issued pursuant to this Chapter, the Village Clerk, upon written application stating such fact, and accompanied by the required fee shall issue a duplicate of such license. The fee for the issuance of a duplicate license shall be **Ten Dollars (\$10.00)**.

(H) **Change of Location; Fee.** In the event that a licensee shall change the location of the licensed premises, the licensee shall notify the Village Clerk and a corrected license shall be issued to the licensee. The fee for the issuance of such corrected license shall be **Ten Dollars (\$10.00)**.

(Ord. No. 83-4; 10-03-83)

21-2-7 LICENSE BY THE HOUR; CIVIC ORGANIZATIONS.

(A) Upon application, the Local Liquor Control Commissioner is authorized to issue a license for a period of **twelve (12) hours** or **twenty-four (24) hours** to any civic organization who 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 for more than **twelve (12) hours** and not more than **twenty-four (24) hours** within any one day, the fee shall be **Two Dollars (\$2.00)** subject to the provisions of this Chapter.

(B) Such organization shall provide evidence of dram shop insurance as required by law and this Chapter governing the sale or giving away of alcoholic liquors.

(C) No such license shall be transferable.

21-2-8 RESTRICTIONS AND NUMBER OF LICENSES ISSUED.

(A) The total number of licenses to be issued under this Chapter shall be as follows:

- (1) **Class "A".** The number of Class "A" licenses to be issued at one time shall be limited to **two (2)**.
- (2) **Class "B".** The number of Class "B" licenses to be issued at one time shall not be limited.
- (3) **Class "C".** The number of Class "C" licenses to be issued at one time shall not be limited.
- (4) **Class "D".** The number of Class "D" licenses to be issued at one time shall be limited to **five (5)**.
- (5) **Class "E".** The number of Class "E" licenses to be issued at one time shall not be limited.
- (6) **Class "F".** The number of Class "F" licenses to be issued at one time shall not be limited.

(B) This restriction upon the number of licenses shall not limit the right to renewal of any existing license, nor to the issuance of a license to the purchaser of or lessor of an established licensed business as a going concern, nor to the issuance of a license to an

operator of an established liquor business at a different location, provided such licenses do not increase the number of licenses in existence; nor to the issuance of a license to the purchaser or lessor of, lessee of a business where a license has been revoked and not restored, but as licenses are revoked and not restored, or the business not transferred by lease or sale, expire without renewal; or for any other reason cease to exist, then the total number of licenses shall be reduced until the total of all licenses shall not exceed the number authorized.

(C) The restrictions contained in this Section shall in no way affect taverns and other businesses holding retail liquor licenses, duly licensed by the County or other municipalities which are located in territories next to the Village. Licenses may be issued to them by the duly constituted authorities upon annexation; provided that thereafter, all of the restrictions contained in this Section shall apply to the contingencies herein set forth. **(Ord. No. 83-4; 10-03-83)**

21-2-9 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. **(See 235 ILCS Sec. 5/6-1) (See Attorney General's Report No. 703; 01-08-48)**

21-2-10 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. **(See 235 ILCS Sec. 5/4-1)**

21-2-11 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. **(See 235 ILCS 5/6-21)**

21-2-12 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. **(See 235 ILCS Sec. 5/6-24)**

21-2-13 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.** **(See 235 ILCS Sec. 5/4-1)**

21-2-14 DISPLAY OF LIQUOR. No licensee shall display or permit to be displayed alcoholic liquors, wines or beer of any kind or character, nor advertisements thereof in the display window or windows of any licensed premises.

ARTICLE III - REGULATIONS

21-3-1 **CLOSING HOURS.** The closing hours for the various classifications of licenses to sell alcoholic liquor shall be as follows:

(A) **Class "A".** Any license issued by the Village listed as Class "A" shall make it unlawful for the licensee to sell or offer for sale at retail, or to give away, or for entry upon any licensed premises for the purpose of the sale of any alcoholic liquor or the giving away of alcoholic liquor between the hours of **1:00 A.M.** and **5:00 A.M.** It shall also be unlawful to keep open for business or to admit the public, or to permit the public to remain within the premises, or to permit the consumption of alcoholic liquor in or upon any premises in which alcoholic liquor is sold at retail during the hours within which the sale of such liquor is prohibited.

(B) **Class "B".** Any license issued by the Village as Class "B" shall make it unlawful for the licensee to sell or offer for sale at retail or to give away or enter upon any licensed premises any alcoholic liquor between the hours of **1:00 A.M.** and **5:00 A.M.**

(C) **Class "C".** Any license issued by the Village listed as Class "C" shall make it unlawful for the licensee to sell or offer for sale at retail or to give away or enter upon any licensed premises any alcoholic liquor between the hours of **1:00 A.M.** and **5:00 A.M.**

(D) **Class "D".** Any license issued by the Village listed as Class "D" shall make it unlawful for the licensee to sell at retail, offer for sale at retail, or to give away, or for entry upon any licensed premises for the purpose of the sale of any alcoholic liquor or the giving away of alcoholic liquor between the hours of **2:00 A.M.** and **5:00 A.M.**, and it shall also be unlawful to keep open for business or to admit the public, or to permit the public to remain within the premises, or to permit the consumption of alcoholic liquor in or upon any premises in which alcoholic liquor is sold at retail during the hours within which the sale of such liquor is prohibited.

(E) **Class "E".** It shall be unlawful for any licensee holding a Class "E" license to sell or offer for sale at retail, or to give away, enter upon any licensed premises for the purpose of the sale or giving away of any alcoholic liquor between the hours of **1:00 A.M.** and **5:00 A.M.** It shall be unlawful to keep open for business, or to admit the public, or to permit the public to remain within, or to permit the consumption of alcoholic liquor in or upon any premises in which alcoholic liquor is sold at retail during the hours within which the sale of such liquor is prohibited.

(F) **Class "F".** It shall be unlawful for any licensee holding a Class "F" license to sell or offer for sale at retail, or to give away, enter upon any licensed premises for the purpose of the sale or giving away of any alcoholic liquor, except for the period of **twelve (12) hours** and not more than **twenty-four (24) hours** within any one day during which the Class "F" license shall be in effect. It shall be unlawful to keep open for business, or to admit the public or to permit the public to remain within, or to permit the consumption of alcoholic liquor in or upon any premises in which alcoholic liquor is sold at retail during the hours within which the sale of such liquor is prohibited.

(G) All times stated herein shall be Daylight Savings Time when that time is in effect, and Central Standard Time when that time is in effect.

(See 235 ILCS Sec. 5/4-1)

21-3-2 **HAPPY HOUR RESTRICTIONS.**

(A) All retail licensees shall maintain a schedule of the prices charged for all drinks of alcoholic liquor to be served and consumed on the licensed premises or in any room or part thereof. Whenever a hotel or multi-use establishment which holds a valid retailer's license operates on its premises more than one establishment at which drinks of alcoholic liquor are sold at retail, the hotel or multi-use establishment shall maintain at each such establishment a separate schedule of the prices charged for such drinks at the establishment.

(B) No retail licensee or employee or agent of such licensee shall:

- (1) Sell more than **one (1) drink** of alcoholic liquor for the price of **one (1) drink** of alcoholic liquor;

- (2) Sell, offer to sell or serve to any person an unlimited number of drinks of alcoholic liquor during any set period of time for a fixed price, except at private functions not open to the general public or as provided by **235 ILCS 5/6-28.5**;
- (3) Increase the volume of alcoholic liquor contained in a drink, or the size of a drink of alcoholic liquor, without increasing proportionately the price regularly charged for the drink on that day;
- (4) Encourage or permit, on the licensed premises, any game or contest which involves drinking alcoholic liquor or the awarding of drinks of alcoholic liquor as prizes for such game or contest on the licenses premises; or
- (5) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under paragraphs (1) through (4).

(C) packages.

Permitted happy hours and meal packages, party packages, and entertainment

- (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 **two hundred (200) 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 **two hundred (200) feet** of any church or school where such church or school has been established within such **two hundred (200) feet** since the issuance of the original license. In the case of a church, the distance of **two hundred (200) 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)**

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. **(See 235 ILCS Sec. 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.

21-3-10 ELECTION DAYS. All such licensees may sell alcoholic liquor at retail, by the drink or in the original package for consumption either on or off the premises licensed on the day of any national, state, county or municipal election, including primary elections during the hours the polls are open within the political area in which such election is being held and on Sundays; subject to all the remaining terms, conditions and opening hours and closing hours as set forth in this Chapter.

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 on any private property without permission of an owner thereof.
- (D) Appear on or in any public street, alley, sidewalk or other public place, including parks and recreation areas, in an intoxicated condition.

21-3-12 UNLAWFUL ENTERTAINMENT. No licensee, his agent, servant or employee shall permit or allow any lewd or lascivious act or any topless and/or bottomless employee and/or employees [**topless being defined as naked and substantially without clothing or covering of the body from the waist to the neckline and bottomless being defined as naked and substantially without clothing or covering of the body from the waist downward**], or entertainment to be performed within the licensed premises by an entertainer employed therein, or by any employee or guest.

Nor shall any licensee, his agent, servant or employee permit or allow any employee or guest or any other person whomever to solicit or encourage the purchasing of any alcoholic liquor or beverage of any description, or the giving of any gratuity or gift by any patron or guest to or for the benefit of such employee or guest.

The following kinds of conduct on premises in this 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. **(See 410 ILCS Sec. 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. **(See 410 ILCS Sec. 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. **(See 235 ILCS Sec. 5/4-1)**

21-3-17 **GAMBLING.**

(A) 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. It shall be unlawful for any licensee, or his agent and/or employee, to give or award a cash prize or equivalent to any person playing any devices or machines defined as a coin-operated amusement device. **(See 720 ILCS Sec. 5/28-1)**

(B) The foregoing gambling prohibitions shall not apply to any game or gaming event for which a license or permit has been issued by the Illinois Gaming Board pursuant to the Illinois Video Gaming Act **(230 ILCS 40/1 et seq.)**, so long as such game or gaming event is conducted in compliance with all requirements of said Act and all rules and regulations of the Illinois Gaming Board.

(C) The annual license fee shall be **Twenty-Five Dollars (\$25.00)** per machine.

(D) No licensed premises shall pay more than **One Hundred Twenty-Five Dollars (\$125.00)** per year.
(Ord. No. 2012-06; 12-03-12)

21-3-18 **DISORDERLY HOUSE.** Any person licensed under this Chapter shall not suffer or permit any disorder, drunkenness, quarreling, fighting, unlawful games, or riotous or disorderly conduct in any house or premises kept or occupied by him for the sale of liquor. **(235 ILCS 5/4-1)**

21-3-19 **PROHIBITED SALES - GENERALLY.** No licensee, nor any officer, associate, member, representative, agent or employee of such licensee shall sell, give or deliver alcoholic liquor to any person under the age of **twenty-one (21) years**, or to any intoxicated person or to any person known by him to be a habitual drunkard, spendthrift, insane, or mentally ill. No person, after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of **twenty-one (21) years**, except in the performance of a religious ceremony or service. **(235 ILCS 5/6-16)**

21-3-20 **PERSONS SELLING LIQUOR.**

(A) 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 bar, tavern or establishment where alcohol is purchased at retail to be consumed on the premises, unless said person meets the criteria set forth as follows:

- (1) That said person must have attained the age of **nineteen (19) years** of age;
- (2) That no person who would not meet the eligibility requirements of **Section 21-2-3(B)** through **(P)** shall be qualified under this Section.
- (3) That such a person shall submit to the Mayor, all information necessary to and shall submit to a criminal background search, to be completed to the satisfaction of the Mayor.
- (4) That any person who meets the criteria of this Section shall be granted a permit to work in such an establishment.
- (5) In the event that a person is granted a permit under this Section and is subsequently determined, by the local liquor control commissioner, to have violated any of the provisions of the Ordinances of the Village of New Athens regarding the sale of alcohol, then the permit of such person shall be revoked by the Mayor.

(B) It shall be unlawful for any person under the age of **eighteen (18) years** to sell, draw, pour or mix any alcoholic liquor in any convenience store or supermarket for consumption off premises. **(Ord. No. 2001-02; 06-18-01) (235 ILCS 5/4-1)**

21-3-21 **UNDERAGED; ENTRY ON LICENSED PREMISES.** It shall be unlawful for any person under the age of **sixteen (16) years** to enter upon premises where alcoholic liquors, spirits, beer or wine are sold by the holder of a Class "A" or a Class "B" license unless accompanied by a parent or legal guardian. No holder of a Class "A" or Class "B" license, nor any officer, associate, member, representative, agent or employee of such licensee shall permit any person under the age of **sixteen (16) years** not accompanied by a parent or legal guardian to enter the licensed premises or with the permission of the licensee. For the purpose of preventing the violation of this section, any holder of a Class "A" or a Class "B" license, or his agent or employee, may refuse to permit entry onto the licensed premises of any person under the age of **sixteen (16) years** who is unable to produce adequate written evidence of the fact that the person accompanying such person under the age of **sixteen (16) years** is that person's parent or legal guardian. **(235 ILCS 5/4-1)**

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 Village 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 5/7-7)**

21-4-10 REVOCAION 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. (See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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.** **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 5/7-9)**

VILLAGE OF NEW ATHENS
APPLICATION FOR LIQUOR RETAILER'S LICENSE

TO: _____

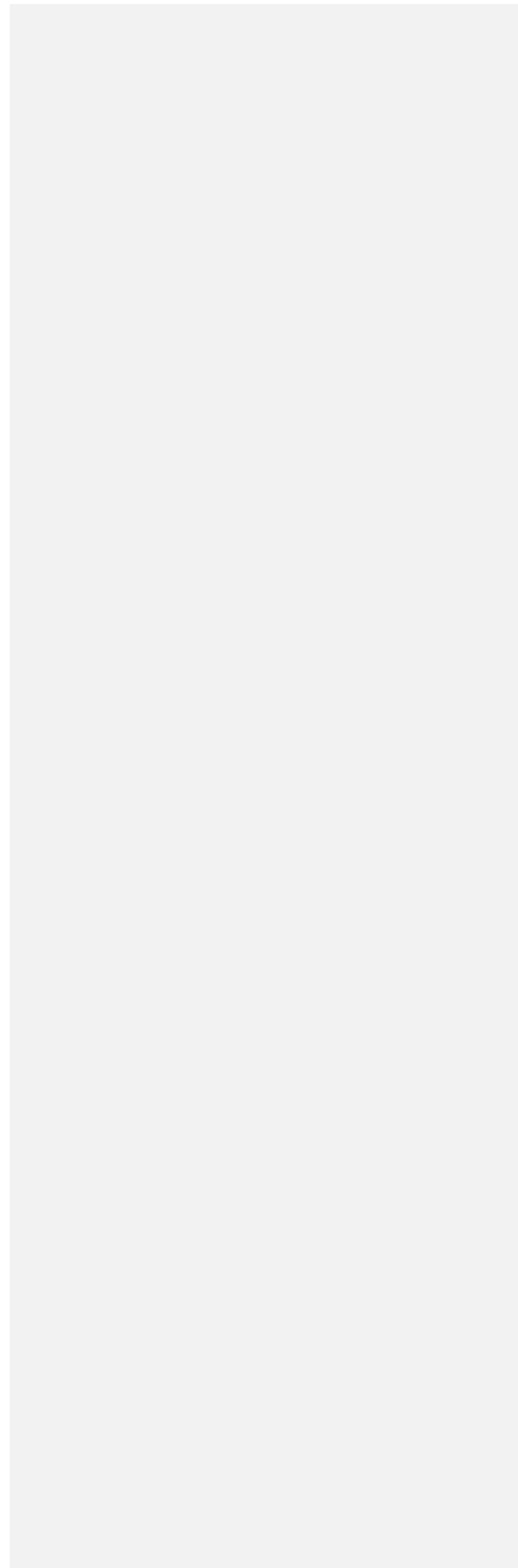
The undersigned hereby make(s) application for the issuance of a retailer's license for the sale of alcoholic liquor for the term beginning _____, 20____, and ending _____
_____, 20____, and hereby certify(ies) to the following facts:

- 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, alderman, member of the city council or commission, 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? _____
(City 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 _____
(City 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? _____

(City 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)
) **SS**
COUNTY OF ST. CLAIR)

I (or we) swear (or affirm) that I (or we) will not violate any of the ordinances of the Village of New Athens 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

ARTICLE I – IDENTITY THEFT PREVENTION PROGRAM

22-1-1 **OBJECTIVE.** The purpose of this Identity Theft Prevention Program (Program) is to protect customers of the Village’s utility services from identity theft. The Program is intended to establish reasonable policies and procedures to facilitate the detection, prevention and mitigation of identity theft in connection with the opening of new Covered Accounts and activity on existing Covered Accounts.

22-1-2 **SCOPE.** This Program applies to the creation, modification and access to Identifying Information of a customer of one or more of the utilities operated by the Village (water, sewer, and refuse) by any and all personnel of the Village, including management personnel. This Program does not replace or repeal any previously existing policies or programs addressing some or all of the activities that are the subject of this Program, but rather it is intended to supplement any such existing policies and programs.

22-1-3 **DEFINITIONS.** When used in this Program, the following terms have the meanings set forth opposite their name, unless the context clearly requires that the term be given a different meaning:

"Covered Account": The term "covered account" means an account that the Village offers or maintains, primarily for personal, family or household purposes, that involves or is designed to permit multiple payments of transactions. (16 CFR 681.2(b)(3)(i)) A utility account is a "covered account". The term "covered account" also includes other accounts offered or maintained by the Village for which there is a reasonably foreseeable risk to the Village or its customers from identity theft. (16 CFR 681.2(b)(3)(ii))

"Identity Theft": The term "identity theft" means a fraud committed or attempted using the identifying information of another person without authority. (16 CFR 681.2(b)(8) and 16 CFR 603.2(a))

"Identifying Information": The term "identifying information" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including any name, social security number, date of birth, official State or government issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number. Additional examples of "identifying information" are set forth in 16 CFR 603.2(a).

"Red Flag": The term "Red Flag" means a pattern, practice or specific activity that indicates the possible existence of identity theft.

Certain terms used but not otherwise defined herein shall have the meanings given to them in the FTC’s Identity Theft Rules (16 CFR Part 681) or the Fair Credit Reporting Act of 1970 (15 U.S.C. §1681 *et seq.*), as amended by the Fair and Accurate Credit Transactions Act of 2003 into law on December 4, 2003. (Public Law 108-159).

22-1-4 POLICY.

(A) **Administration of the Program.** Issues to be addressed in the annual Identity Theft Prevention Report include:

- (1) The effectiveness of the policies and procedures in addressing the risk of Identity Theft in connection with the opening of new Covered Accounts and activity with respect to existing Covered Accounts.
- (2) Service provider arrangements.
- (3) Significant incidents involving Identity Theft and management's response.
- (4) Recommendations for material changes to the Program, if needed for improvement.

(B) **Identity Theft Prevention Elements; Identification of Relevant Red Flags.** The Village has considered the guidelines and the illustrative examples of possible Red Flags from the FTC's Identity Theft Rules and has reviewed the Village's past history with instances of identity theft, if any. The Village hereby determines that the following are the relevant Red Flags for purposes of this Program given the relative size of the Village and the limited nature and scope of the services that the Village provides to its citizens:

- (1) **Alerts, Notifications, or Other Warnings Received From Consumer Reporting Agencies or Service Providers.**
 - (a) A fraud or active duty alert is included with a consumer report or an identity verification response from a credit reporting agency.
 - (b) A consumer reporting agency provides a notice of credit freeze in response to a request for a consumer report.
 - (c) A consumer reporting agency provides a notice of address discrepancy, as defined in §681.1(b) of the FTC's Identity Theft Rules.
 - (d) A consumer report indicates a pattern of activity that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
 - (i) A recent and significant increase in the volume of inquiries;
 - (ii) An unusual number of recently established credit relationships;
 - (iii) A material change in the use of credit, especially with respect to recently established credit relationships; or
 - (iv) An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.
- (2) **The Presentation of Suspicious Documents.**
 - (a) Documents provided for identification appear to have been altered or forged.
 - (b) The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification.

- (c) Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification.
- (d) Other information on the identification is not consistent with readily accessible information that is on file with the Village, such as a signature card or a recent check.
- (e) An applicant appears to have been altered or forged, or gives the appearance of having been destroyed or reassembled.

(3) **The Presentation of Suspicious Personal Identifying Information, Such as a Suspicious Address Change.**

- (a) Personal identifying information provided is inconsistent when compared against external information sources used by the Village. For example:
 - (i) The address does not match any address in the consumer report or CRA ID Check response; or
 - (ii) The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.
- (b) Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.
- (c) Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the Village. For example:
 - (i) The address on an application is the same as the address provided on a fraudulent application; or
 - (ii) The phone number on an application is the same as the number provided on a fraudulent application.
- (d) Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the Village. For example:
 - (i) The billing address on an application is fictitious, a mail drop, or a prison; or
 - (ii) The phone number is invalid, or is associated with a pager or answering service.
- (e) The SSN provided is the same as that submitted by other persons opening an account or other customers.
- (f) The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of other persons opening accounts or other customers.
- (g) The person opening the covered account or the customer fails to provide all required personal identifying information

on an application or in response to notification that the application is incomplete.

- (h) Personal identifying information provided is not consistent with personal identifying information that is on file with the Village.
- (i) If the Village uses challenge questions, the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.

(4) **The Unusual Use of, or Other Suspicious Activity Related to, a Covered Account.**

- (a) Shortly following the notice of a change of address for a covered account, the Village receives a request for the addition of authorized users on the account.
- (b) A new utility account is used in a manner commonly associated with known patterns of fraud patterns. For example: the customer fails to make the first payment or makes an initial payment but no subsequent payments.
- (c) A covered account with a stable history shows irregularities.
- (d) A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
- (e) Mail sent to the customer is returned repeatedly as undeliverable although usage of utility products or services continues in connection with the customer's covered account.
- (f) The Village is notified that the customer is not receiving paper account statements.
- (g) The Village is notified of unauthorized usage of utility products or services in connection with a customer's covered account.

- (5) **Notice of Possible Identity Theft.** The Village is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft.

(C) **Detection of Red Flags.** The employees of the Village who interact directly with customers on a day-to-day basis shall have the initial responsibility for monitoring the information and documentation provided by the customer and any third-party service provider in connection with the opening of new accounts and the modification of or access to existing accounts and the detection of any Red Flags that might arise. Management shall see to it that all employees who might be called upon to assist a customer with the opening of a new account or with modifying or otherwise accessing an existing account are properly trained such that they have a working familiarity with the relevant Red Flags identified in this Program so as to be able to recognize any Red Flags that might surface in connection with the transaction. An Employee who is not sufficiently trained to recognize the Red Flags identified in this Program shall not open a new account for any customer, modify any existing account or otherwise provide any customer with access to information in an existing account without the

direct supervision and specific approval of a management employee. Management employees shall be properly trained such that they can recognize the relevant Red Flags identified in this Program and exercise sound judgment in connection with the response to any unresolved Red Flags that may present themselves in connection with the opening of a new account or with modifying or accessing of an existing account. Management employees shall be responsible for making the final decision on any such unresolved Red Flags.

The Program Administrator shall establish from time to time a written policy setting forth the manner in which a prospective new customer may apply for service, the information and documentation to be provided by the prospective customer in connection with an application for a new utility service account, the steps to be taken by the employee assisting the customer with the application in verifying the customer's identity and the manner in which the information and documentation provided by the customer and any third-party service provider shall be maintained. Such policy shall be generally consistent with the spirit of the Customer Identification Program rules (31 CFR 103.121) implementing Section 326(a) of the USA PATRIOT Act but need not be as detailed. The Program Administrator shall establish from time to time a written policy setting forth the manner in which customers with existing accounts shall establish their identity before being allowed to make modifications to or otherwise gain access to existing accounts.

(D) **Response to Detected Red Flags.** If the responsible employees of the Village as set forth in the previous section are unable, after making a good faith effort, to form a reasonable belief that they know the true identity of a customer attempting to open a new account or modify or otherwise access an existing account based on the information and documentation provided by the customer and any third-party service provider, the Village shall not open the new account or modify or otherwise provide access to the existing account as the case may be. Discrimination in respect to the opening of new accounts or the modification or access to existing accounts will not be tolerated by employees of the Village and shall be grounds for immediate dismissal.

The Program Administrator shall establish from time to time a written policy setting forth the steps to be taken in the event of an unresolved Red Flag situation. Consideration should be given to aggravating factors that may heighten the risk of Identity Theft, such as a data security incident that results in unauthorized access to a customer's account, or a notice that a customer has provided account information to a fraudulent individual or website. Appropriate responses to prevent or mitigate Identity Theft when a Red Flag is detected include:

- (1) Monitoring a Covered Account for evidence of Identity Theft.
- (2) Contacting the customer.
- (3) Changing any passwords, security codes, or other security devices that permit access to a Covered Account.
- (4) Reopening a Covered Account with a new account number.
- (5) Not opening a new Covered Account.
- (6) Closing an existing Covered Account.
- (7) Not attempting to collect on a Covered Account or not selling a Covered Account to a debt collector.
- (8) Notifying law enforcement.
- (9) Determining that no response is warranted under the particular circumstances.

22-1-5 PROGRAM MANAGEMENT AND ACCOUNTABILITY.

(A) **Initial Risk Assessment; Covered Account.** Utility accounts for personal, family and household purposes are specifically included within the definition of "covered account" in the FTC's Identity Theft Rules. Therefore, the Village determines that with respect to its residential utility accounts it offers and/or maintains covered accounts. The Village also performed an initial risk assessment to determine whether the utility offers or maintains any other accounts for which there are reasonably foreseeable risks to customers or the utility from identity theft. In making this determination the Village considered (1) the methods it uses to open its accounts, (2) the methods it uses to access its accounts, and (3) its previous experience with identity theft, and it concluded that it does not offer or maintain any such other covered accounts.

(B) **Program Updates; Risk Assessment.** The Program, including relevant Red Flags, is to be updated as often as necessary but at least annually to reflect changes in risks to customers from Identity Theft. Factors to consider in the Program update include:

- (1) An assessment of the risk factors identified above.
- (2) Any identified Red Flag Weaknesses in associated account systems or procedures.
- (3) Changes in methods of Identity Theft.
- (4) Changes in methods to detect, prevent, and mitigate Identity Theft.
- (5) Changes in business arrangements, including mergers, acquisitions, alliances, joint ventures, and service provider arrangements.

(C) **Training and Oversight.** All staff and third-party service providers performing any activity in connection with one or more Covered Accounts are to be provided appropriate training and receive effective oversight to ensure that the activity is conducted in accordance with policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.

(D) **Other Legal Requirements.** Awareness of the following related legal requirements should be maintained:

- (1) 31 U.S.C. 5318(g) - Reporting of Suspicious Activities
- (2) 15 U.S.C. 1681 c-1(h) - Identity Theft Prevention; Fraud Alerts and Active Duty Alerts - Limitations on Use of Information for Credit Extensions
- (3) 15 U.S.C. 1681 s-2 - Responsibilities of Furnishers of Information to Consumer Reporting Agencies
- (4) 15 U.S.C. 1681 m - Requirements on Use of Consumer Reports

22-1-6 RESPONSIBILITY. The initial adoption and approval of the Identity Theft Prevention Program shall be by Ordinance of the Village Board. Thereafter, changes to the Program of a day-to-day operational character and decisions relating to the interpretation and implementation of the Program may be made by the Director of Finance (Program Administrator). Major changes or shifts of policy positions under the Program shall only be made by the Village Board

Development, implementation, administration and oversight of the Program will be the responsibility of the Program Administrator. The Program Administrator may, but shall not be required to, appoint a committee to administer the Program. The Program Administrator shall be the head of any such committee. The Program Administrator will report at least annually to the Village Board regarding compliance with this Program.

"IDENTITY THEFT" (FRAUD) TYPE 1 - NEW ACCOUNTS

Establishing utility service using another person's identity

Why would someone do it?

- The perpetrator defaulted on a past utility account or other account and so would not be eligible for service under his or her own name.
- The perpetrator intends to establish fraudulent proof of residency in order to commit fraud elsewhere.

Red flag:	Detect whether fraud is Being attempted or Committed:	Prevent or mitigate detected fraud:
ID picture doesn't match person	Request additional ID	Do not open account
ID information doesn't match person	Request additional ID	Do not open account
ID does not look authentic	Request additional ID	Do not open account
ID looks doctored	Request additional ID	Do not open account
Using a suspicious name	Request additional ID	Do not open account
Applicant requests that bill be sent to address different from where service is received	Verify that customer is connected to billing address (But be aware of the state's "Safe at Home" program)	Do not open account
Account for a residential address established under business name (to avoid using own bad name)	Obtain credit report on the individual	Do not open account
Credit report contains fraud warning, credit freeze notice or active duty alert	This may be an automatic fraud detection Red Flag	Notify Program Administrator; If warranted, notify law enforcement
Bill payment made under name other than that on utility account	Request proof of residence (other bills, etc.)	Close account
Other?		
Other?		
Other?		

"IDENTITY THEFT" (FRAUD) TYPE 2 - EXISTING ACCOUNTS

Continuing utility service under another customer's name after he or she moves out.

Why would someone do it?

- The perpetrator wants to avoid paying for service.
- The perpetrator defaulted on a past utility account or other account and so would not be eligible for service under his or her own name.

Red flag:	Detect whether fraud is Being committed Committed:	Mitigate detected fraud:
Non-payment of previously current account	Call customer phone number on file	Discontinue service; close account
Utility service utilized after known move-out with no change of customer notice received by utility	Call customer phone number on file	Discontinue service; close account
Bill payment made under a name other than name on utility account	Call customer phone number on file	Discontinue service; close account
Other?		
Other?		
Other?		

Alerts; Notifications or Theft Warnings from Consumer Reporting Agency	Suspicious Documents	Suspicious Personal ID Information	Unusual Use or Suspicious Activity Related to the Covered Account	Notice of
1. A fraud or active duty alert is included with a consumer report.	5. Documents provided for ID appeared altered or forged.	10. Personal ID is inconsistent with external information sources: addresses do not match consumer report or social security (SS) number has not been issued or is listed on the SS Administration Death Master File.	19. Change of billing address is followed by request for adding additional properties to the account (or shortly following the notification of a change in address, the utility receives a request for the addition of authorized users on the account).	26. Utility is notified by law officials or others, that it has opened a fraudulent account for a person engaged in identity theft.
2. Consumer reporting agency Provides a credit freeze on The customer report.	6. The photo or physical description Is not consistent With the appearance Of the applicant	11. Personal ID given by customer is not consistent with other personal ID info. Ex.: There is a lack of Correlation between The SSN# range and DOB.	20. Payments are made in a manner associated with fraud. For example, deposit or initial payment is made and no payments are made thereafter.	
3. Consumer Reporting Agency Provides a notice of address Discrepancy.	7. Other information given to open the New account is not Consistent with the ID of the applicant	12. Personal ID provided is associated with known fraudulent activity. Using same addresses and/or Phone numbers.	21. Existing account with a stable history shows irregularities.	
4. A consumer report indicates a pattern of activity that is inconsistent with the history and usual pattern of activity of an applicant or customer such as:	8. Other information on the identification is not consistent with readily accessible info on file such as signature or recent check.	13. Personal ID is of the same type associated with fraudulent activity.	22. An account with low activity unexpectedly jumps to high consumption. Ex. 1000 kwh to 2801 kwh.	
a. recent or significant increase in the number of inquiries	9. An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.	14. The SS# is the same as customers opening other accounts.	23. Mail sent to customer is repeatedly returned.	
b. an unusual number of recently established credit relationships		15. The address or phone number is the same as a large number of other applicants.	24. Customer notifies utility that they are not receiving their bill.	
c. A material change in the use of credit especially with respect to new established credit relationships.		16. The customer fails to provide all needed personal ID upon Request.	25. The utility is notified of unauthorized charges or transactions in connection With a customer's account.	
d. an account that was closed for cause or identified for abuse of account privileges.		17. Personal ID is inconsistent with Utility records.		
		18. For institutions Using challenge Questions, the person Attempting to access or open the account cannot provide any information beyond what would typically be found in a wallet or consumer report		

ARTICLE II – INVESTMENT POLICY

22-2-1 **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.

22-2-2 **SCOPE.** This policy includes all public funds of the Village.

22-2-3 **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.

22-2-4 **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.

22-2-5 **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.

22-2-6 **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.

22-2-7 **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.

22-2-8 **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.

22-2-9 **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.

22-2-10 **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.

22-2-11 **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.

22-2-12 **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.

22-2-13 **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.

22-2-14 **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).

22-2-15 **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.

22-2-16 **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.

ARTICLE III – ETHICS CODE

22-3-1 STATE OFFICIALS AND EMPLOYEES ETHICS ACT.

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

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

(C) The offering or making of gifts prohibited to be offered or made to an officer or employee of the Village, is hereby prohibited.

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

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

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

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

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

(I) If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court’s decision becomes final and not subject to any further appeals or rehearings. This Section shall be deemed repealed without further action by the Corporate Authorities of the Village if the Act is found unconstitutional by the Illinois Supreme Court.

(J) If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the Village.

ARTICLE 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 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.

(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 as provided in **Section 1-1-20**. 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.

ARTICLE V - FREEDOM OF INFORMATION POLICY

22-5-1 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.**

22-5-2 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.

22-5-3 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.

22-5-4 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 designated representative. If neither the Village Clerk nor the designated representative 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 days** 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.

22-5-5 **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.

22-5-6 **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.

22-5-7 **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.

22-5-8 **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.

22-5-9 **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.

22-5-10 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 VI - USE OF SOCIAL SECURITY NUMBERS

22-6-1 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).

22-6-2 PROHIBITED ACTIVITIES.

(A) No officer or employee of the Village shall do any of the following:

- (1) Publicly post or publicly display in any manner an individual's Social Security Number.
- (2) Print an individual's Social Security Number on any card required for the individual to access products or services provided by the person or entity.
- (3) Require an individual to transmit his or her Social Security Number over the Internet, unless the connection is secure or the Social Security Number is encrypted.
- (4) Print an individual's Social Security Number on any materials that are mailed to the individual, through the United States Postal Service, any private mail service, electronic mail, or a similar method of delivery, unless Illinois or federal law requires the Social Security Number to be on the document to be mailed. Notwithstanding any provision in this Section to the contrary, Social Security Numbers may be included in applications and forms sent by mail, including, but not limited to, any material mailed in connection with the administration of the Illinois Unemployment Insurance Act, any material mailed in connection with any tax administered by the Illinois Department of Revenue, and documents sent as part of an application or enrollment process or to establish, amend, or terminate an account, contract, or policy or to confirm the accuracy of the Social Security Number. A Social Security Number that may permissibly be mailed under this Section may not be printed, in whole or in part, on a postcard or other mailer that does not require an envelope or be visible on an envelope without the envelope having been opened.

(B) Except as otherwise provided in this policy, beginning immediately on the effective date of the Village's authorizing Ordinance, no officer or employee of the Village shall do any of the following:

- (1) Collect, use, or disclose a Social Security number from an individual, unless (i) required to do so under State or Federal law, rules, or regulations, or the collection, use, or disclosure of the Social Security Number is otherwise necessary for the performance of that agency's duties and responsibilities; (ii) the need and purpose for the Social Security Number is documented before collection of the Social Security Number; and (iii) the Social Security Number collected is relevant to the documented need and purpose.
- (2) Require an individual to use his or her Social Security Number to access an Internet website.

- (3) Use the Social Security Number for any purpose other than the purpose for which it was collected.

- (C) The prohibitions in subsection (B) do not apply in the following circumstances:
- (1) The disclosure of Social Security Numbers to agents, employees, contractors, or subcontractors of the Village or disclosure to another governmental entity or its agents, employees, contractors, or subcontractors if disclosure is necessary in order for the entity to perform its duties and responsibilities; and, if disclosing to a contractor or subcontractor, prior to such disclosure, the officer or employee of the Village must first receive from the contractor or subcontractor a copy of the contractor's or subcontractor's policy that sets forth how the requirements imposed under this Policy on the Village to protect an individual's Social Security Number will be achieved.
 - (2) The disclosure of Social Security Numbers pursuant to a court order, warrant, or subpoena.
 - (3) The collection, use, or disclosure of Social Security Numbers in order to ensure the safety of: Village employees; persons committed to correctional facilities, local jails, and other law enforcement facilities or retention centers; wards of the State; and all persons working in or visiting a Village facility.
 - (4) The collection, use, or disclosure of Social Security Numbers for Internal verification or administrative purposes.
 - (5) The collection or use of Social Security Numbers to investigate or prevent fraud, to conduct background checks, to collect a debt, to obtain a credit report from a consumer reporting agency under the federal Fair Credit Reporting Act, to undertake any permissible purpose that is enumerated under the federal Gramm Leach Bliley Act, or to locate a missing person, a lost relative, or a person who is due a benefit such as a pension benefit or an unclaimed property benefit.

(D) Any standards of the Village for the collection, use, or disclosure of Social Security Numbers that are stricter than the standards under this Policy with respect to the protection of those Social Security Numbers, then, in the event of any conflict with the provisions of this Policy, the stricter standards adopted by the Village shall control.

22-6-3 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.

22-6-4 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.

22-6-5 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.

22-6-6 **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.

22-6-7 **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.

22-6-8 **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.

22-6-9 **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.

22-6-10 **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 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 – POLICY PROHIBITING SEXUAL HARASSMENT

22-8-1 PROHIBITION ON SEXUAL HARASSMENT. It is unlawful to harass a person because of that person's sex. The courts have determined that sexual harassment is a form of discrimination under Title VII of the U.S. Civil Rights Act of 1964, as amended in 1991. All persons have a right to work in an environment free from sexual harassment. Sexual harassment is unacceptable misconduct which affects individuals of all genders and sexual orientations. It is a policy of this Village to prohibit harassment of any person by any municipal official, municipal agent, municipal employee or municipal agency or office on the basis of sex or gender. All municipal officials, municipal agents, municipal employees and municipal agencies or offices are prohibited from sexually harassing any person, regardless of any employment relationship or lack thereof.

22-8-2 DEFINITION OF SEXUAL HARASSMENT. This policy adopts the definition of sexual harassment as stated in the Illinois Human Rights Act, which currently defines sexual harassment as:

(A) Any unwelcome sexual advances or requests for sexual favors or any conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

(B) Conduct which may constitute sexual harassment includes:

- (1) **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.
- (2) **Non-verbal.** Suggestive or insulting sounds (whistling), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.
- (3) **Visual.** Posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.
- (4) **Physical.** Touching, unwelcome hugging or kissing, pinching, brushing the body, any coerced sexual act or actual assault.
- (5) **Textual/Electronic.** "Sexting" (electronically sending messages with sexual content, including pictures and video), the use of sexually explicit language, harassment, cyber stalking or threats via all forms of electronic communication (e-mail, text/picture/ video messages, intranet/on-line postings, blogs, instant messages and social network websites like Facebook and Twitter).

(C) The most severe and overt forms of sexual harassment are easier to determine. On the other end of the spectrum, some sexual harassment is more subtle and depends, to some extent, on individual perception and interpretation. The courts will assess sexual harassment by a standard of what would offend a "reasonable person."

22-8-3 PROCEDURE FOR REPORTING AN ALLEGATION OF SEXUAL HARASSMENT.

(A) An employee who either observes sexual harassment or believes herself/himself to be the object of sexual harassment should deal with the incident(s) as directly and firmly as possible by clearly communicating his/her position to the offending employee, and his/her immediate supervisor. It is not necessary for sexual harassment to be directed at the person making the report.

(B) Any employee may report conduct which is believed to be sexual harassment, including the following:

- (1) **Electronic/Direct Communication.** If there is sexual harassing behavior in the workplace, the harassed employee should directly and clearly express his/her objection that the conduct is unwelcome and request that the offending behavior stop. The initial message may be verbal. If subsequent messages are needed, they should be put in writing in a note or a memo.
- (2) **Contact with Supervisory Personnel.** At the same time direct communication is undertaken, or in the event the employee feels threatened or intimidated by the situation, the problem must be promptly reported to the immediate supervisor of the person making the report, a department head, a director of human resources, an ethics officer, the village manager or administrator, or the chief executive officer of the Municipality.
The employee experiencing what he or she believes to be sexual harassment must not assume that the employer is aware of the conduct. If there are no witnesses and the victim fails to notify a supervisor or other responsible officer, the Municipality will not be presumed to have knowledge of the harassment.
- (3) **Resolution Outside Municipality.** The purpose of this policy is to establish prompt, thorough and effective procedures for responding to every report and incident so that problems can be identified and remedied by the Municipality. However, all municipal employees have the right to contact the Illinois Department of Human Rights (IDHR) or the Equal Employment Opportunity Commission (EEOC) for information regarding filing a formal complaint with those entities. An IDHR complaint must be filed within **three hundred (300) days** of the alleged incident(s) unless it is a continuing offense. A complaint with the EEOC must also be filed within **three hundred (300) days**.

(C) Documentation of any incident may be submitted with any report (what was said or done, the date, the time and the place), including, but not limited to, written records such as letters, notes, memos and telephone messages.

(D) All allegations, including anonymous reports, will be accepted and investigated regardless of how the matter comes to the attention of the Municipality. However, because of the serious implications of sexual harassment charges and the difficulties associated with their investigation and the questions of credibility involved, the claimant's willing cooperation is a vital component of an effective inquiry and an appropriate outcome.

22-8-4 PROHIBITION ON RETALIATION FOR REPORTING SEXUAL HARASSMENT ALLEGATIONS.

(A) No municipal official, municipal agency, municipal employee or municipal agency or office shall take any retaliatory action against any municipal employee due to a municipal employee's:

- (1) Disclosure or threatened disclosure of any violation of this policy,
- (2) The provision of information related to or testimony before any public body conducting an investigation, hearing or inquiry into any violation of this policy, or
- (3) Assistance or participation in a proceeding to enforce the provisions of this policy.

(B) For the purposes of this policy, retaliatory action means the reprimand, discharge, suspension, demotion, denial of promotion or transfer, or change in the terms or conditions of employment of any municipal employee that is taken in retaliation for a municipal employee's involvement in protected activity pursuant to this policy.

(C) No individual making a report will be retaliated against even if a report made in good faith is not substantiated. In addition, any witness will be protected from retaliation.

(D) Similar to the prohibition against retaliation contained herein, the State Officials and Employees Ethics Act (**5 ILCS 430/15-10**) provides whistleblower protection from retaliatory action such as reprimand, discharge, suspension, demotion, or denial of promotion or transfer that occurs in retaliation for an employee who does any of the following:

- (1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation;
- (2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency or other State employee; or
- (3) Assists or participates in a proceeding to enforce the provisions of the State Officials and Employees Ethics Act.

(E) Pursuant to the Whistleblower Act (**740 ILCS 174/15(a)**), an employer may not retaliate against an employee who discloses information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. In addition, an employer may not retaliate against an employee for disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation. (**740 ILCS 174/15(b)**).

(F) According to the Illinois Human Rights Act (**775 ILCS 5/6-101**), it is a civil rights violation for a person, or for two or more people to conspire, to retaliate against a person because he/she has opposed that which he/she reasonably and in good faith believes to be sexual harassment in employment, because he/she has made a charge, filed a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing under the Illinois Human Rights Act.

(G) An employee who is suddenly transferred to a lower paying job or passed over for a promotion after filing a complaint with IDHR or EEOC, may file a retaliation charge – either due within **three hundred (300) days** of the alleged retaliation.

22-8-5 CONSEQUENCES OF A VIOLATION OF THE PROHIBITION ON SEXUAL HARASSMENT. In addition to any and all other discipline that may be applicable pursuant to municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreement, any person who violates this policy or the Prohibition on Sexual Harassment contained in **5 ILCS 430/5-65**, may be subject to a fine of up to **Seven Hundred Fifty Dollars (\$750.00)** per offense, applicable discipline or discharge by the Municipality and any applicable fines and penalties established pursuant to local ordinance, State law or Federal law. Each violation may constitute a separate offense. Any discipline imposed by the Municipality shall be separate and distinct from any penalty imposed by an ethics commission and any fines or penalties imposed by a court of law or a State or Federal agency.

22-8-6 CONSEQUENCES FOR KNOWINGLY MAKING A FALSE REPORT. A false report is a report of sexual harassment made by an accuser using the sexual harassment report to accomplish some end other than stopping sexual harassment or retaliation for reporting sexual harassment. A false report is not a report made in good faith which cannot be proven. Given the seriousness of the consequences for the accused, a false or frivolous report is a severe offense that can itself result in disciplinary action. Any person who intentionally makes a false report alleging a violation of any provision of this policy shall be subject to discipline or discharge pursuant to applicable municipal policies, employment agreements, procedures, employee handbooks and/or collective bargaining agreements.

In addition, any person who intentionally makes a false report alleging a violation of any provision of the State Officials and Employees Ethics Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor. An ethics commission may levy an administrative fine of up to **Seven Hundred Fifty Dollars (\$750.00)** against any person who intentionally makes a false, frivolous or bad faith allegation.

(Ord. No. 2017-08; 01-15-18)

CHAPTER 23

MANUFACTURED HOUSING CODE

ARTICLE I - GENERAL PROVISIONS

23-1-1 **DEFINITIONS.** The terms used in this Code shall have the following meanings:

"AFFIDAVIT" means an oath in writing, sworn before and attested by an individual who has authority to administer an oath.

"APPLICANT" means any person making application for a license or permit.

"CORPORATE AUTHORITIES" shall mean the Mayor and the Village Board of Trustees.

"IMMOBILIZED MANUFACTURED HOME": As applied to a manufactured home, "immobilize" means to remove the wheels, tongue and hitch and to affix to a permanent foundation. The term implies that, once affixed to a permanent foundation, the destruction of said foundation would be necessary in order to move the dwelling to another location.

"LICENSE" means a license certificate issued by the Village allowing a person to operate and maintain a manufactured home park under the provisions of this Code and the rules and regulations issued hereunder.

"LICENSEE" means any person having a license or permit under this Chapter.

"MANUFACTURED HOME": A structure designed for permanent habitation and so constructed as to permit its transport on wheels, temporarily or permanently attached to its frame, from the place of its construction to the location or subsequent location at which it is intended to be a permanent habitation and designed to permit the occupancy thereof as a dwelling place for **one (1)** or more persons. The term shall only include manufactured homes constructed after **June 30, 1976**, in accordance with the Federal "**National Manufactured Housing Construction and Safety Standards Act of 1974**". Compliance with this standard is indicated by a 2-inch by 4-inch metal plate attached to the exterior tail light end of the manufactured home. The average width and/or length of the living area (excluding garages, carports, porches, or attachments) of a manufactured home shall not exceed a ratio of 3 to 1. As with all residences, a manufactured home shall have a minimum 4/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **nine hundred (900) square feet**. Provided that any such structure resting on a permanent foundation with wheels, tongue and hitch permanently removed shall not be construed as a "**manufactured home**", but shall be an "**immobilized manufactured home**". A manufactured home should not be confused with a "**camping trailer**" or "**recreational vehicle**". **(See 210 ILCS Sec. 115/2.10)**

"MANUFACTURED HOME, DEPENDENT" means a manufactured home which does not have a toilet and bath or shower facilities. **(See 210 ILCS Sec. 115/2.3)**

"MANUFACTURED HOME, DOUBLE-WIDE" consists of **two (2) mobile units** joined at the side into a single home, but kept on their separate chassis for repeated transportation to a site.

"MANUFACTURED HOME, INDEPENDENT" means a manufactured home which has self-contained toilet and bath or shower facilities. **(See 210 ILCS Sec. 115/2.4)**

"MANUFACTURED HOME LOT" means a parcel of land for the placement of a manufactured home and the exclusive use of its occupants.

"MANUFACTURED HOME PAD" means that part of an individual manufactured home space or lot beneath the manufactured home, including the concrete portion of the pad.

"MANUFACTURED HOME PARK" means a tract of land or **two (2)** or more contiguous tracts of land upon which contain sites with the necessary utilities for **two (2)** or more independent manufactured homes for permanent habitation either free of charge or for revenue purposes, and shall include any building, structure, vehicle, or enclosure used or intended for use as a part of the equipment of such manufactured home park. Separate ownership of contiguous tracts of land shall not preclude the tracts of land from common licensure as a manufactured home park if they are maintained and operated jointly. Neither an immobilized manufactured home nor a motorized recreational vehicle shall be construed as being a part of a manufactured home park. **(See 210 ILCS Sec. 115/2.5)**

"MANUFACTURED HOME 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 on a full perimeter foundation, extending below the frost depth. All wheels and towing devices shall be removed. As with all residences, a modular home shall have a minimum 4/12 pitch roof with residential style siding and roofing, **six (6) inch** minimum eave overhang, and shall have a minimum living area of not less than **nine hundred**

(900) square feet. Modular homes shall have a yellow seal in the shape of the State of Illinois on the electrical panel box of the home or on the inside of the kitchen sink cabinet. Local officials may require additional items other than the minimum state requirements such as the National Manufactured Home Construction and Safety Standards (HUD Code) or the International Building Code (IBC). All structures shall be placed on a permanent foundation in order that they may be assessed as real estate.

"OWNER" or "OPERATOR" means the licensee.

"PERMANENT FOUNDATION": A foundation which extends into the ground below the frost line so as to attach and become a part of the real estate. Materials such as concrete, mortared concrete block, poured wall or mortared brick extending into the ground below the frost line shall satisfy the requirement for a permanent foundation. In addition, piers may be used, extending into the ground below the frost line, and sufficient in number to properly support the structure, provided the support beams are affixed to the permanent perimeter foundation.

"PERMANENT HABITATION" means a period of **two (2) or more months**.

"PERMIT" means a certificate issued by the Building or Zoning Inspector, permitting the construction, alteration, or reduction in number of spaces of a manufactured home park under the provisions in this Code.

"PERSON" means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, county, municipality, the State of Illinois, or any political subdivision or department thereof or any other entity.

"REVOCATION" means to declare invalid a permit or license issued to the applicant or licensee by this Village for an indefinite period of time.

"SITE" means the lot on which the manufactured home is located for permanent habitation. **(See 210 ILCS Sec. 115/2.7)**

"SPACE" shall be synonymous with **"Manufactured Home Space"**.

"SUSPENSION" means to declare invalid a permit or license issued to the applicant or licensee by this Village for a temporary period of time with an expectation of resumption.

23-1-2 STATE REQUIREMENTS ADOPTED BY REFERENCE. The Illinois **Mobile Home Park Act** and the **Mobile 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 shall be controlling and enforceable on any immobilized manufactured home, manufactured home, or other manufactured structure within the corporate limits of the Village, whether located within or without a manufactured home park.

23-1-3 ILLINOIS DEPARTMENT OF PUBLIC HEALTH REGULATIONS. The **Rules and Regulations for Manufactured Home Parks** and **Title 77, Chapter I, Subchapter g, Section 880** of the Illinois Joint Committee on **Administrative Rules -**

Administrative Code as approved and hereafter amended by the **Illinois Department of Public Health** is hereby adopted by the Village. The applicable provisions shall be controlling and enforceable on any immobilized manufactured home, manufactured home, or other manufactured structure within the Village, whether located within or without a manufactured home park.

23-1-4 MANUFACTURED HOME OCCUPANCY PERMIT. All owners of immobilized manufactured homes shall be required to purchase an occupancy permit from the Village prior to occupancy or re-occupancy. Each manufactured home shall be subject to a general walk-through health and safety inspection and shall, prior to occupancy, be in compliance with all of the applicable regulations as set forth in this Chapter. Owners of manufactured homes left vacant for any period exceeding **one hundred eighty (180) days** shall be required to purchase an occupancy permit and submit to inspection. Owners of vacant manufactured homes shall purchase an additional permit every **one hundred eighty (180) days** and submit re-inspection until the manufactured home is legally occupied. The owner shall be solely responsible for compliance with all laws, codes, and regulations. The Village will assume no responsibility for any loss, damage, or injury for any non-compliance to any law, code, or regulation by the owner.

23-1-5 MANUFACTURED HOMES TO BE PROPERLY MAINTAINED. All manufactured homes and lots shall be properly maintained and kept free of debris so as to guarantee the health, safety, and welfare of the occupants, residents, and surrounding properties. Vacant manufactured homes shall be secured so as to prevent unauthorized entry or criminal activity therein. Manufactured homes allowed to deteriorate and become unsightly, fall into disrepair, or be vacant and left unsecured are hereby declared a public nuisance and in violation of this Chapter. Owners and/or adult occupants of the manufactured home or lot shall be issued an abatement notice and given **five (5) days** to clear debris from said premises, or **thirty (30) days** to repair said premises so as to bring it into compliance with this Chapter.

23-1-6 PENALTIES/FEES. A violation of or non-compliance with any section of this Chapter shall be subject to a fine as provided in **Section 1-1-20**. Each day of non-compliance past the expiration of the abatement shall constitute a separate violation. The fee for a manufactured home occupancy permit shall be **Seventy-Five Dollars (\$75.00)**, which shall include the first or primary inspection. The fee for re-inspection of corrections or repairs subsequent to failing the primary inspection shall be **Twenty-Five Dollars (\$25.00)**. No owner shall require the occupant to seek or pay for a permit or inspection. Occupants shall be required to furnish the owner's name, address, and telephone number to a Village official when notified that the manufactured home or owner is not in compliance with this Chapter.

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 affix the manufactured home to the ground in a manner that conforms to the definition of an Immobilized Manufactured Home in **Section 23-1-1**. All existing manufactured homes, when replaced, shall comply with the immobilization provisions of this Code. Existing manufactured homes may only be replaced with a manufactured home that is **three (3) years** old or less, and the same size or larger than the existing home. No other manufactured home shall be located within the Village unless within a manufactured home park or manufactured home sales area. Modular homes will be considered permanent structures and shall be subject to the regulations as set forth by the Village for single family dwellings.

23-2-2 **PERMIT.** All persons seeking to locate or replace a manufactured home or a manufactured home park, or replace an immobilized manufactured home outside of a manufactured home park shall obtain a **Building Permit** from the Village. No utility service shall be connected to the unit until the Village has issued a building permit. All units located outside a manufactured home park shall be maintained on a lot owned by the owner of the unit.

23-2-3 **LOT SIZE AND DISTANCE.** The minimum lot size for the location of a manufactured home or an immobilized manufactured home shall be in accordance with the Zoning district in which it is located.

23-2-4 **DEPENDENT MANUFACTURED HOMES.** No dependent manufactured homes shall be permitted in the Village unless located in a license travel trailer park. At no time shall anyone use a dependent manufactured home as a temporary or permanent residence or dwelling without the approval of the Board of Trustees.

23-2-5 **CONCRETE PADS.** All immobilized manufactured homes shall be placed on a reinforced concrete pad the length and width of the manufactured home, unless permanently mounted as set forth in the definition titled Immobilized Manufactured Home. The concrete pad shall consist of **four (4) inches** of reinforced concrete, or **six (6) inches** of concrete. A concrete footing is optional. All footing for immobilized manufactured homes shall comply with the definition of the same. Expandable units shall be provided with approved concrete supports or their equivalent at each corner of the unit.

23-2-6 **OFF-STREET PARKING.** Each owner of an immobilized manufactured home shall provide for a dustless, off-street parking area of at least **four hundred (400) square feet**.

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 or annexed into the Village shall, at a minimum, conform to the requirements of:

(A) **"An Act to Provide for, License, and Regulate Mobile Homes and Mobile Home Parks"** of the **Illinois Compiled Statutes** as passed and hereafter amended by the State of Illinois,

(B) **"Rules and Regulations for Mobile Homes Parks"** as maintained and hereafter amended by the **Illinois Department of Public Health**, and

(C) **This Code.**

In case of conflict between any provisions of law, the more stringent requirement shall prevail. Manufactured home parks may only be allowed by permit within the Village.

23-3-2 **PLANNING.** Any person seeking to establish, operate, alter, or expand a manufactured home park shall obtain a permit to construct or license to operate a manufactured home park. The phrase **"Construct or operate a manufactured home park"**, as used in this Code shall include, but not be limited to supplying or maintaining common water, sewer, or other utility or service, or the collection of rents directly or indirectly from **two (2)** or more independent manufactured homes. **All plans shall be submitted to the Planning Commission for approval prior to the granting of a permit by the Village Board.**

23-3-3 **LOCAL GOVERNMENT REQUIREMENTS.** A permit does not relieve the applicant from complying with this Code, the Zoning Code, or other ordinance(s) applicable thereto.

23-3-4 **PERMITS.** The Planning Commission shall review each application and plan documents submitted. When the application and plan documents are found to be in compliance with the **"Rules and Regulations for Mobile Home Parks"**, as promulgated by the **Illinois Department of Public Health**, the Village Board may issue the proper permit to construct or alter such 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 or alteration of a manufactured home park, the applicant shall notify the Village for an inspection of the completed facilities.

23-3-6 **VIOLATION PROCEEDINGS.** Any license granted hereunder shall be subject to revocation or suspension by the Mayor. However, the Mayor shall first serve or cause to be served upon the licensee in writing the failure to comply with or violations of any of the statutes, 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 an extended period of time as may be determined by the Mayor. If the licensee fails to comply with the terms and conditions of the notice within the time specified, the Mayor may revoke or suspend such license.

23-3-7 - 23-3-9 **RESERVED.**

DIVISION II - DESIGN AND CONSTRUCTION REQUIREMENTS

23-3-10 **PLAN DOCUMENT.** In order to obtain a permit to construct or an original license to operate a manufactured home park, the applicant shall file with the Village a written application and plan documents that are prepared by a registered engineer or architect licensed to practice within the State of Illinois, with registration seal affixed. **Two (2) copies** of the plan document shall accompany the application filed with the Village 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 Village. 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 Mayor a written application and plan documents for the proposed construction or alteration of a manufactured home park. The plan documents shall be prepared by the registered engineer or architect licensed to practice within the State of Illinois, with registration seal affixed to the plan.

(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 structures or 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 **Fifty Dollars (\$50.00)** for a permit to construct, or **Twenty-Five Dollars (\$25.00)** for a permit to alter 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 proper residential environment. The manufactured home development shall not be located near swamps, marshes, or other breeding places of insects, rats, or other vermin. When good, natural drainage is not available, storm drainage shall be provided and such drainage shall not endanger any water supply or surface watercourse.

(B) The Mayor may conduct a site survey to ascertain that the proposed location complies with the above requirements.

23-3-13 **ROADWAYS AND PARKING.**

(A) All streets and driveways in every manufactured home park shall be constructed in compliance with the Subdivision Code.

(B) All streets in manufactured home parks constructed shall have a minimum road width of **thirty (30) feet** and shall be considered private streets. If a manufactured home park has more than **fifty (50) units**, then the planning commission may require a road width of **thirty-two (32) feet**.

(C) When sidewalks and walkways are constructed abutting a street in a manufactured home park, they shall be a minimum of **four (4) feet** wide; provided, however, there shall be no minimum width requirement for sidewalks on each individual lot. No portion of a manufactured home shall block, in any way, the pedestrian traffic on the sidewalks.

23-3-14 - 23-3-15 **RESERVED.**

DIVISION III - GENERALLY

23-3-16 **LOT SIZE.** The minimum lot size in a manufactured home park shall be **six thousand (6,000) square feet**.

23-3-17 **MISCELLANEOUS RESTRICTIONS.**

(A) Not more than **one (1) manufactured home** shall be parked on any lot.

(B) No travel trailers shall be permitted in any manufactured home park.

23-3-18 - 23-3-19 **RESERVED.**

DIVISION IV - FEES

23-3-20 **LICENSE FEE.** The annual license fee per manufactured home park shall be **Twenty-Five Dollars (\$25.00)** per manufactured home lot, and shall be due and payable **on or before May 1st of each year**.

(Ord. No. 2005-11; 03-20-06)

CHAPTER 24

MOTOR VEHICLE CODE

ARTICLE I - DEFINITIONS

24-1-1 **ILLINOIS VEHICLE CODE; DEFINITIONS ADOPTED.**

(A) 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. **(See 65 ILCS Sec. 5/1-3-2 and 5/11-1-1)**

(B) In referring to a violation of any of the provisions of the Illinois Vehicle Code, as adopted in paragraph (A), except for provisions included in this Code, the violation shall be noted by referring to paragraph (A), and then citing the appropriate chapter and section number of the Illinois Vehicle Code as set forth therein.

(C) Words and phrases used in this title shall have the same meaning as that which is given to them in the Illinois Vehicle Code.

(D) Those vehicle code offenses enumerated as felonies under state law shall not be subject to enforcement under Village ordinance and shall be referred to the St. Clair County State's Attorney for prosecution.

(Ord. No. 2005-14; 04-17-06)

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. **(See 625 ILCS Sec. 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. **(See 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. **(See 625 ILCS Sec. 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.

(In Part Ord. No. 2005-14; 04-17-06)

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. **(See 625 ILCS Sec. 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. **(See 625 ILCS Sec. 5/11-302)**

24-3-4 **YIELD RIGHT-OF-WAY STREETS.** The driver of a vehicle approaching a yield sign, in obedience to such sign, shall slow down to a speed reasonable for the existing conditions and if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. **(See Schedule "C")**

24-3-5 **POSTING SIGNS.** Appropriate signs shall be posted to show all through, stop and yield right-of-way streets, all one-way streets and alleys and all stop intersections. **(See 625 ILCS Sec. 5/11-304)**

(In Part Ord. No. 2005-14; 04-17-06)

ARTICLE IV - DRIVING RULES

24-4-1 **ILLINOIS VEHICLE CODE; RULES OF THE ROAD ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Section 11**, 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 Sec. 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. **(See 625 ILCS Sec. 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. **(See 625 ILCS Sec. 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") (See 625 ILCS Sec. 5/11-604) (See 65 ILCS Sec. 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. **(See 625 ILCS Sec. 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. **(See 625 ILCS Sec. 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. **(See 625 ILCS Sec. 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. **(See 625 ILCS Sec. 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. **(See 625 ILCS Secs. 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. **(See 625 ILCS Sec. 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. **(See 625 ILCS Sec. 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. **(See 625 ILCS 5/12-602.1)**

ARTICLE VI - PARKING RULES

24-6-1 **TIME LIMIT PARKING.** It shall be unlawful to park any motor vehicle for a period of time in excess of the amount of time designated by law and so posted, or on any public street for a period in excess of **forty-eight (48) hours**, unless the vehicle is parked on that section of street adjacent to the owner's abode or other property under their control.

24-6-2 **PARKING FOR SALE OR REPAIR.** No person shall park a vehicle:
(A) upon any section of highway not adjacent to their residence for the purpose of:
 (1) displaying such vehicle for sale, or
 (2) washing or greasing such vehicle; or
(B) upon any highway for the purpose of repair, unless repairs are emergency in nature and are required for the immediate removal of such vehicle.

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 **VEHICLES ON BLOCKS, JACKS.** No vehicle shall be left unattended on any jack, jack stand, or block, whether parked on public or private property. This Section shall not apply to vehicles secured in a locked garage, shed, or other building.

24-6-5 **MAILBOXES.** No driver or owner shall park or allow to be parked a vehicle within **fifteen (15) feet** of a mailbox approved by the United States Mail to receive mail.

24-6-6 **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. (See 625 ILCS Sec. 5/3-815)**

24-6-7PARKING 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. **(See 625 ILCS Sec. 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. **(See 625 ILCS Sec. 5/11-1301.3(C))**

(E) **Handicapped Parking Areas.** Those places designated as "Handicapped Parking Spaces" are listed in **Schedule "H"**.

24-6-8 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.

24-6-9 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).

24-6-10 PARKING VIOLATIONS. Any person cited for a violation of **Sections 24-6-1, 24-6-3, 24-6-3, or 24-6-4** may settle the claim against them by paying to the

Village Clerk a **Ten Dollar (\$10.00)** fee, provided the payment is received by the Clerk or Village drop box within **seventy-two (72) hours** of the violation. The fee for payments received after **seventy-two (72) hours**, but not after **ten (10) days** shall increase to **Twenty Dollars (\$20.00)**. Violators not satisfying the fee by payment within **ten (10) days** shall be issued a uniform traffic citation for the parking offense. The parking citation shall be filed with the St. Clair County Circuit Court. A person found guilty of **Article VI** by a court of law shall be fined not less than **Seventy-Five Dollars (\$75.00)**.

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:

24-6-11 **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.

24-6-12 **PARKING TICKETS - STATE STATUTE.** The Village Board intends to utilize **Illinois Compiled Statutes, Chapter 625; Section 5/6-306.5** and the procedure set forth therein.

The appropriate authorities are hereby authorized to utilize the statute and the procedure set forth therein.

24-6-13 **DEFINITIONS.** Definition of a vehicle, recreational vehicle, and commercial vehicle as defined in the Illinois Vehicle Code:

(A) **Vehicle.** Every device in, upon or by which any person or property is or may be transported or drawn upon a highway or requiring a certificate of title under Section 3-101(d) of this Code, except devices moved by human power, devices used exclusively upon stationary rails or tracks, and snowmobiles as defined in the Snowmobile Registration and Safety Act. For the purposes of this Code, unless otherwise prescribed, a device shall be considered to be a vehicle until such time it either comes within the definition of a junk vehicle, as defined under this Code, or a junking certificate is issued for it. For this Code, vehicles are divided into two divisions: **(615 ILCS 5/1-217)**

(1) **First Division.** Those motor vehicles which are designed for the carrying of not more than **ten (10) persons**.

(2) **Second Division.** Those vehicles which are designed for carrying more than **ten (10) persons**, those designed or used

for living quarters, those vehicles which are designed for pulling or carrying property, freight or cargo, those motor vehicles of the First Division remodeled for uses and used as motor vehicles of the Second Division, and those motor vehicles of the First Division used and registered as school buses. **(P.A. 92-812, eff. 8-21-02)**

(B) **Recreational Vehicle.** Every camping trailer, motor home, mini motor home, travel trailer, truck camper or van camper used primarily for recreational purposes and not used commercially nor owned by a commercial business. **(P.A. 84-986) (625 ILCS 5/1-169)**

(C) **Commercial Vehicle.** Any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise, for-hire or not-for-hire, but not including a commuter van, a vehicle used in a ridesharing arrangement when being used for that purpose, or a recreational vehicle not being used commercially. **(P.A. 90-89, eff. 1-1-98) (6256 ILCS 5/1-111.8)**

The purpose of this Section is to improve both the aesthetics of the Village and parking availability for citizens in residential areas.

(Ord. No. 2017-03; 09-05-17)

24-6-14 RESIDENTIAL PARKING REGULATIONS.

(A) It shall be unlawful to park any vehicle in front of a house, unless it is parked on a clearly defined driveway or on-street parking parallel to the house in the same direction as the flow of traffic.

(B) A residential property is allowed to have one legally titled and registered vehicle parked on the side of the house in a way that it does not obstruct the frontal view of the house. A boat on a boat trailer would be recognized as a single vehicle.

(C) Any vehicle used as a living quarters, commonly known as a recreational vehicle, would be permitted to sit in front of a house legally parked not longer than **seven (7) consecutive days** for the purpose of loading and unloading. It is permitted to park a properly registered recreational vehicle on the side of the house or in a driveway indefinitely.

(D) Any residence zoned residential and used as a business office shall be allowed no more than **two (2)** commercial vehicles parked in the residential area. The **two (2)** commercial vehicles must be legally parked either on the business property or parked adjacent to the business property. For purposes of this Section, adjacent property must border or touch the business property only. All other vehicles used for commercial purposes must be parked at an off-site location that can legally accommodate said vehicles.

(Ord. No. 2017-03; 09-05-17)

**ARTICLE VII – ABANDONED, LOST, STOLEN OR
UNCLAIMED VEHICLES**

24-7-1 ABANDONMENT OF VEHICLES PROHIBITED.

(A) The abandonment of a vehicle or any part thereof on any highway in this Village is unlawful and subject to penalties as set forth under **Section 1-1-20** of this Code.

(B) The abandonment of a vehicle or any part thereof on private or public property, other than a highway, in view of the general public, anywhere in this Village is unlawful except on property of the owner or bailee of such abandoned vehicle. A vehicle or any part thereof so abandoned on private property shall be authorized for removal, by the Village, after a waiting period of **seven (7) days** or more, or may be removed immediately if determined to be a hazardous dilapidated motor vehicle under Section 5/11-40-3.1 of the Illinois Municipal Code. A violation of subsections (A) or (B) of this Section is subject to penalties as set forth under **Section 1-1-20** of this Code.

(C) A towing service may begin to process an unclaimed vehicle as abandoned by requesting a record search by the Secretary of State up to **ten (10) days** after the date of the tow, or any later date acceptable to the Secretary of State. This paragraph shall not apply to vehicles towed by order or authorization of the Village or a law enforcement agency. **(625 ILCS 5/4-201)**

**24-7-2 ABANDONED, LOST, STOLEN OR UNCLAIMED VEHICLE
NOTIFICATION TO LAW ENFORCEMENT AGENCIES.**

When an abandoned, lost, stolen or unclaimed vehicle comes into the temporary possession or custody of a person in this Village, not the owner of the vehicle, such person shall immediately notify the municipal police when the vehicle is within the corporate limits of any Village having a duly authorized police department, or the State Police or the county sheriff when the vehicle is outside the corporate limits of the Village. Upon receipt of such notification, the municipal police will authorize a towing service to remove and take possession of the abandoned, lost, stolen or unclaimed vehicle. The towing service will safely keep the towed vehicle and its contents, maintain a record of the tow as set forth in **625 ILCS 5/4-204** for law enforcement agencies, until the vehicle is claimed by the owner or any other person legally entitled to possession thereof or until it is disposed of as provided in this Code. **(625 ILCS 5/4-202)**

**24-7-3REMOVAL OF MOTOR VEHICLES OR OTHER VEHICLES; TOWING OR
HAULING AWAY.**

(A) When a vehicle is abandoned on a highway in an urban district **ten (10) hours** or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(B) When a vehicle is abandoned or left unattended on a highway other than a toll highway, interstate highway, or expressway, outside of an urban district for **twenty-four (24) hours** or more, its removal by a towing service may be authorized by a law enforcement agency having jurisdiction.

(C) When an abandoned, unattended, wrecked, burned or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the highway or its physical appearance is causing the impeding of traffic, its immediate removal from the highway or private property adjacent to the highway by a towing service may be authorized by a law enforcement agency having jurisdiction. **(625 ILCS 5/4-203)**

24-7-4 POLICE TOWS; REPORTS, RELEASE OF VEHICLES, PAYMENT.

When a vehicle is authorized to be towed away as provided in **Section 24-7-2** or **24-7-3** or **General Order 3.9:**

(A) The authorization of any release shall be in writing, or confirmed in writing, with a copy given to the towing service.

(B) The police headquarters or office of the law officer authorizing the towing shall keep and maintain a record of the vehicle towed, listing the color, year of manufacture, manufacturer's trade name, manufacturer's series name, body style, Vehicle Identification Number, license plate year and number and registration sticker year and number displayed on the vehicle. The record shall also include the date and hour of tow, location towed from, location towed to, reason for towing and the name of the officer authorizing the tow.

(C) The owner, operator, or other legally entitled person shall be responsible to the towing service for payment of applicable removal, towing, storage, and processing charges and collection costs associated with a vehicle towed or held under order or authorization of the law enforcement agency. If a vehicle towed or held under order or authorization of a law enforcement agency is seized by the ordering or authorizing agency or any other law enforcement or governmental agency and sold, any unpaid removal, towing, storage, and processing charges and collection costs shall be paid to the towing service from the proceeds of the sale. If applicable law provides that the proceeds are to be paid into the treasury of the appropriate civil jurisdiction, then any unpaid removal, towing, storage, and processing charges and collection costs shall be paid to the towing service from the treasury of the civil jurisdiction. That payment shall not, however, exceed the amount of proceeds from the sale, with the balance to be paid by the owner, operator, or other legally entitled person.

(D) Upon delivery of a written release order to the towing service, a vehicle subject to a hold order shall be released to the owner, operator, or other legally entitled person upon proof of ownership or other entitlement and upon payment of applicable removal, towing, storage, and processing charges and collection costs. **(625 ILCS 5/4-204) (Ord. No. 14-01; 07-21-14)**

24-7-5 RECORD SEARCHES FOR UNKNOWN OWNER.

(A) When a law enforcement agency authorizing the impounding of a vehicle does not know the identity of the registered owner, lienholder or other legally entitled person, that law enforcement agency will cause the vehicle registration records of the State of Illinois to be searched by the Secretary of State for the purpose of obtaining the required ownership information.

(B) The law enforcement agency authorizing the impounding of a vehicle will cause the stolen motor vehicle files of the State Police to be searched by a directed communication to the State Police for stolen or wanted information on the vehicle. When the State Police files are searched with negative results, the information contained in the National Crime Information Center (NCIC) files will be searched by the State Police. The information determined from these record searches will be returned to the requesting law enforcement agency for that agency's use in sending a notification by certified mail to the registered owner, lienholder and other legally entitled persons advising where the vehicle is held, requesting a disposition be made and setting forth public sale information. Notification shall be sent no later than **ten (10) business days** after the date the law enforcement agency impounds or authorizes the impounding of a vehicle, provided that if the law enforcement agency is unable to determine the identity of the registered owner, lienholder or other person legally entitled to ownership of the impounded vehicle within a **ten (10) business day period** after impoundment, then notification shall be sent no later than **two (2) days** after the date the identity of the registered owner, lienholder or other person legally entitled to ownership of the

impounded vehicle is determined. Exceptions to a notification by certified mail to the registered owner, lienholder and other legally entitled persons are set forth in **625 ILCS 5/4-209**.

(C) When ownership information is needed for a towing service to give notification as required under this Code, the towing service may cause the vehicle registration records of the State of Illinois to be searched by the Secretary of State.

The written request of a towing service, in the form and containing the information prescribed by the Secretary of State by rule, may be transmitted to the Secretary of State in person, by U.S. Mail or other delivery service, by facsimile transmission, or by other means the Secretary of State deems acceptable.

The Secretary of State shall provide the required information, or a statement that the information was not found in the vehicle registration records of the State, by U.S. Mail or other delivery service, facsimile transmission, as requested by the towing service, or by other means acceptable to the Secretary of State.

(D) The Secretary of State may prescribe standards and procedures for submission of requests for record searches and replies via computer link.

(E) Fees for services provided under this Section shall be in amounts prescribed by the Secretary of State under Section 3-821.1 of the Illinois Municipal Code. Payment may be made by the towing service using cash, any commonly accepted credit card, or any other means of payment deemed acceptable by the Secretary of State. **(625 ILCS 5/4-205)**

24-7-6 IDENTIFYING AND TRACING OF VEHICLE. When the registered owner, lienholder or other person legally entitled to the possession of a vehicle cannot be identified from the registration files of this State or from the registration files of a foreign state, if applicable, the law enforcement agency having custody of the vehicle shall notify the State Police, for the purpose of identifying the vehicle owner or other person legally entitled to the possession of the vehicle. The information obtained by the State Police will be immediately forwarded to the law enforcement agency having custody of the vehicle for notification purposes as set forth in **Section 24-7-5** of this Code. **(625 ILCS 5/4-206)**

24-7-7 RECLAIMED VEHICLES; EXPENSES.

(A) Any time before a vehicle is sold at public sale or disposed of as provided in **Section 24-7-8**, the owner, lienholder or other person legally entitled to its possession may reclaim the vehicle by presenting to the law enforcement agency having custody of the vehicle proof of ownership or proof of the right to possession of the vehicle.

(B) No vehicle shall be released to the owner, lienholder, or other person under this Section until all towing, storage, and processing charges have been paid. **(625 ILCS 5/4-207)**

24-7-8 DISPOSAL OF UNCLAIMED VEHICLE.

(A) When an abandoned, lost, stolen or unclaimed vehicle **seven (7) years** of age or newer remains unclaimed by the registered owner, lienholder or other legally entitled person for a period of **thirty (30) days** after notice has been given as provided in **Sections 24-7-5** and **24-7-6** of this Article, the law enforcement agency or towing service having possession of the vehicle shall cause it to be sold at public auction to a person licensed as an automotive parts recycler, rebuildier or scrap processor under **Article 5 of Chapter 625 of the Illinois Compiled Statutes** or the towing operator which towed the vehicle. Notice of the

time and place of the sale shall be posted in a conspicuous place for at least **ten (10) days** prior to the sale on the premises where the vehicle has been impounded. At least **ten (10) days** prior to the sale, the law enforcement agency where the vehicle is impounded, or the towing service where the vehicle is impounded, shall cause a notice of the time and place of the sale to be sent by certified mail to the registered owner, lienholder, or other legally entitled persons. Notice as provided in **Sections 24-7-5** and **24-7-6** of this Article as provided in this Section shall state the time and place of sale and shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled persons to reclaim the vehicle.

(B) If an abandoned, lost, stolen, or unclaimed vehicle displays dealer plates, notice under this Section and **Section 24-7-9** of this Code shall be sent to both the dealer and the registered owner, lienholder, or other legally entitled persons.

(C) In those instances where the certified notification specified in **Section 24-97-5** and **24-7-6** of this Article has been returned by the postal authorities to the law enforcement agency or towing service, the sending of a second certified notice will not be required. **(625 ILCS 5/4-208)**

24-7-9 DISPOSAL OF UNCLAIMED VEHICLES WITHOUT NOTICE.

(A) **New Car.** When the identity of the registered owner, lienholder, or other person legally entitled persons of an abandoned, lost, or unclaimed vehicle of **seven (7) years** of age or newer cannot be determined by any means provided for in this Article, the vehicle may be sold as provided for in **Section 24-7-8** without notice to any person whose identity cannot be determined.

(B) **Old Car.** When an abandoned vehicle of more than **seven (7) years** of age is impounded as specified by this Article, or when any such vehicle is towed at the request or with the consent of the owner or operator and is subsequently abandoned, it will be kept in custody or storage for a minimum of **ten (10) days** for the purpose of determining the identity of the registered owner, lienholder, or other legally entitled persons and contacting the registered owner, lienholder, or other legally entitled persons by the U.S. Mail, public service or in person for a determination of disposition; and an examination of the State Police stolen vehicle files for theft and wanted information. At the expiration of the **ten (10) day** period, without the benefit of disposition information being received from the registered owner, lienholder, or other legally entitled persons, the vehicle may be disposed of in either of the following ways:

(1) The law enforcement agency having jurisdiction will authorize the disposal of the vehicle as junk or salvage.

(2) The towing service may sell the vehicle in the manner provided in **Section 24-7-8** of this Article, provided that the paragraph shall not apply to vehicles towed by order or authorization of a law enforcement agency.

(C) **Antique Vehicle.** A vehicle classified as an antique vehicle, custom vehicle, or street rod may, however, be sold to a person desiring to restore it. **(625 ILCS Sec. 5/4-209)**

24-7-10 DISPOSAL OF HAZARDOUS DILAPIDATED MOTOR VEHICLES.

Any hazardous dilapidated motor vehicle impounded pursuant to the provisions of this Article and **65 ILCS 5/11-40-3.1**, whether impounded at a public facility or on the property of private towing service, shall be kept in custody for a period of **ten (10) days** for the purpose

of determining the identity of the registered owner or lienholder and contacting such owner or lienholder, if known, by regular U.S. Mail. At the expiration of the **ten (10) day** period, without benefit of disposition information being received from the registered owner or lienholder, the law enforcement agency having jurisdiction will authorize the disposal of the vehicle as junk. **(65 ILCS 5/4-209.1)**

24-7-11 **COLLECTION OF UNPAID CHARGES.** In an action to collect towing, storage, and processing charges that remain unpaid after disposition of a vehicle towed or relocated under this Code, the towing service may recover reasonable collection costs.

24-7-12 **POLICE RECORD FOR DISPOSED VEHICLE.** When a vehicle in the custody of the Village or law enforcement agency is reclaimed by the registered owner, lienholder or other legally entitled person, or when the vehicle is sold at public sale or otherwise disposed of as provided in this Article, a report of the transaction will be maintained by that law enforcement agency for a period of **one (1) year** from the date of the sale or disposal. **(625 ILCS 5/4-210)**

24-7-13 **PUBLIC SALE PROCEEDS; DISPOSITION OF.**

(A) When a vehicle located within the corporate limits is authorized to be towed away by a law enforcement agency having jurisdiction and disposed of as set forth in this Article, the proceeds of the public sale or disposition after the deduction of towing, storage and processing charges shall be deposited in the treasury of the Municipality.

(B) The provisions of this Section shall not apply to vehicles disposed of or sold at public sale under subsection (k) of **625 ILCS 5/4-107** of the Illinois Vehicle Code. **(625 ILCS 5/4-211)**

24-7-14 **LIABILITY OF LAW ENFORCEMENT OFFICERS.**

(A) A law enforcement officer or agency, a department of municipal government designated under **625 ILCS 5/4-212.1** or its officers or employees, or a towing service owner, operator, or employee shall not be held to answer or be liable for damages in any action brought by the registered owner, former registered owner, or his legal representative, lienholder or any other person legally entitled to the possession of a vehicle when the vehicle was processed and sold or disposed of as provided by this Article.

(B) A towing service, and any of its officers or employees, that removes or tows a vehicle as a result of being directed to do so by a law enforcement officer or agency or a department of municipal government or its officers or employees shall not be held to answer or be liable for injury to, loss of, or damages to any real or personal property that occurs in the course of the removal or towing of a vehicle or its contents on a limited access highway in a designated Incident Management Program that uses fast lane clearance techniques as defined by the Department of Transportation. **(625 ILCS 5/4-213)**

24-7-15 **VIOLATIONS OF ARTICLE.**

(A) Any person who violates **Section 24-7-1** of this Article or who aids and abets in that violation:

- (1) shall be subject to a mandatory fine of **Two Hundred Dollars (\$200.00)**; and
- (2) shall be required by the court to make a disposition on the abandoned or unclaimed vehicle and pay all towing, storage, and processing charges and collection costs pursuant to **Section 24-7-3(A) and (E)**.

(B) When a vehicle is abandoned, it shall be presumed that the last registered owner is responsible for the abandonment and shall be liable for all towing, storage, and processing charges and collection costs, less any amounts realized in the disposal of the vehicle. The last registered owner's liability for storage fees may not exceed a maximum of **thirty (30) days'** storage fees.

The presumption established under this paragraph may be rebutted by a showing that, prior to the time of the tow:

- (1) a report of vehicle theft was filed with respect to the vehicle; or
- (2) the vehicle was sold or transferred and the last registered owner provides the towing service with the correct identity and address of the new owner at the time of the sale or transfer.

If the presumption established under this Section is rebutted, the person responsible for theft of the vehicle or to whom the vehicle was sold or transferred is liable for all towing, storage, and processing charges and collection costs. **(625 ILCS 5/4-214)**

24-7-16 DERELICT VEHICLES PROHIBITED. No person shall leave or have placed any derelict or inoperable vehicle on any private property in the Village. **(Ord. No. 2017-04; 09-05-17)**

24-7-17 IMMEDIATE REMOVAL OF VEHICLES CREATING TRAFFIC HAZARD. When any inoperable, unattended, wrecked, burnt, derelict or partially dismantled vehicle is creating a traffic hazard because of its position in relation to the highway or street or because its physical appearance is causing traffic to be impeded, its immediate removal from private property adjacent to the highway by a towing service may be authorized by the Police Department. **(Ord. No. 2017-04; 09-05-17)**

24-7-18 RESPONSIBILITY FOR PAYMENT OF TOWING AND STORAGE COSTS. Whenever vehicle removal is authorized by the Police Department from private property, the owner or person entitled to possession of the vehicle will be responsible for all towing and storage costs. **(Ord. No. 2017-04; 09-05-17)**

24-7-19 PROCEDURE FOR REMOVAL OF DERELICT/INOPERABLE VEHICLE. Whenever removal of a derelict vehicle from private property is required, the Police Department shall proceed as follows:

(A) The owner, operator or person in physical control of the vehicle shall be notified that a violation of this Article exists.

(B) The notice referred to in paragraph (A) of this Section shall be served by a police officer, or any person authorized by law to make personal service, upon the owner, operator or person having physical control of the vehicle, stating the intent of the Village to remove the vehicle.

(C) Such notice shall be made by means of personal service, advising the owner, person in control or operator of the motor vehicle at his address as determined by the Police Department that the vehicle shall be removed. If the owner, operator or person in physical control of the vehicle cannot be ascertained or served, notice shall be affixed to the vehicle in a visible place. The owner, operator, or person in physical control of the vehicle shall also be notified pursuant to such notice that he may, within **forty-eight (48) hours** of such service, request in writing, which request shall be delivered to the Village Clerk, a hearing before the Mayor, Village Attorney and Police Chief to determine if a violation exists and, if so, if it can be corrected.

(D) If a hearing is requested, the Mayor shall conduct a prompt hearing concerning the violation and whether correction of the violation can be made prior to removal of the vehicle. All decisions of the Mayor concerning violations shall be in writing and shall be final.

(E) **Forty-eight (48) hours** after service of notice as provided in this Section or subsequent to any hearing, if the violation has not been corrected, the Village may proceed to remove the vehicle from private property. Any objections to notice or hearing procedures as provided in this Section shall not restrict the power of the Village to remove any derelict automobile and to affect its disposal pursuant to procedures provided in this Article.

(F) Physical removal of the vehicle shall be by towing agencies who have registered with the Police Department. The towing agencies shall be utilized on a rotating basis. All towing agencies shall be insured for any loss or damage done to any vehicles while in their custody. The Village shall not assume any responsibility for any damage or loss of property done to or by such vehicle in the custody of the towing agency.

(G) All storage and towing fees and costs shall be authorized by the Village Board, and a schedule of such fees, identified as the Towing and Storage Fee Schedule, shall be kept on file with the Village Clerk. Any and all towing fees shall be paid in full to such towing agency, including storage, by the owner, possessor or operator of the vehicle so towed before the vehicle shall be released.

(Ord. No. 2017-04; 09-05-17)

24-7-20 DISPOSAL OF UNCLAIMED DERELICT/INOPERABLE VEHICLES.

(A) Sold at Public Sale.

- (1) When a derelict vehicle **seven (7) years** of age or newer remains unclaimed by the registered owner, lienholder or other person legally entitled to possession for a period of **seven (7) days** after notice has been given as provided in this Section, the Police Department shall cause it to be sold at public sale to the highest bidder. Notice of the time and place shall be posted in a conspicuous place for at least **ten (10) days** prior to sale. The Police Department shall cause a notice of the time and place of sale to be sent by certified mail to the registered owner, lienholder or other persons known by the law enforcement agency to be legally entitled to possession of the vehicle. Such notice shall contain a complete description of the vehicle to be sold and what steps must be taken by any legally entitled person to reclaim the vehicle.
- (2) In those cases where the certified notification as provided in this Section has been returned by the postal authorities to the law enforcement agency due to the addressee having moved or being

unknown at the address obtained from the registration records of the state, the sending of a second certified notice will not be required.

(B) **Procedure When Owner's Identity is Unknown.** When the Police Department does not know the identity of a registered owner, lienholder or other legally entitled person, the Police Department will cause the vehicle registration record to be searched by the secretary of state for the purpose of obtaining the required ownership information. The Police Department will cause the stolen vehicle files of the state police to be searched by direct communication to the state police for stolen or wanted information on the vehicle. When the state police files are searched with negative results, the information contained in the National Crime Information Center files shall be searched by the state police. The information determined from these records will be returned to the Police Department for the Police Department's use, and the Police Department shall send a notification by certified mail to the registered owner, lienholder or other legally entitled persons advising where the vehicle is held, requesting that a disposition be made, and setting forth public sale information. This procedure is not required for disposal of unclaimed or derelict motor vehicles **seven (7) years** of age or newer if the identity, pursuant to the procedure provided in this paragraph, of the registered owner or lienholder or other person entitled to possession cannot be determined.

(C) **Vehicles More Than Seven (7) Years of Age.** When an unclaimed or derelict motor vehicle more than **seven (7) years** of age has been impounded by the Police Department as provided by this Article, it will be kept in custody for a minimum of **thirty (30) days** for the purpose of determining the identity of the registered owner or lienholder and contacting the registered owner or lienholder by United States mail, by public service or in person for a determination of disposition; and an examination of the state police stolen vehicle files for theft and wanted information. At the expiration of the **thirty (30) day** period, without benefit of disposition information being received from the registered owner or lienholder, the Police Department may authorize the disposal of vehicle as junk. If, in the opinion of the Police Department, the motor vehicle to be processed has a value of **Two Hundred Dollars (\$200.00)** or more and can be restored to a safe operating condition, the Police Department may authorize its purchase as salvage and the secretary of state may issue a salvage certificate if the vehicle is bonded in the manner as provided for certificate of title under **625 ILCS 5/3-100**.

(D) **Report of Transaction; Disposition of Proceeds of Sale.** Whenever any vehicle is sold a public sale or otherwise disposed of as provided in this Section, a report of the transaction will be maintained by the Police Department for a period of **one (1) year** from reclamation, sale or disposal. The proceeds of any sale, after deducting expenses of sale and storage and other costs, shall be deposited in the general fund of the Village.
(Ord. No. 2017-04; 09-05-17)

24-7-21 REMOVAL AT EXPENSE OF PROPERTY OWNER.

(A) **Declaration of Nuisance.** Derelict and inoperable motor vehicles on private property are hereby declared to be a public nuisance. State Law reference—Authority to define, prevent and abate nuisances, **625 ILCS 5/11-60-2**.

(B) **Liability of Property Owner for Costs; Filing of Notice of Lien.** The cost and expense of removing inoperable or derelict vehicles as provided in this Article from private property shall be recoverable from the owner of the real estate and shall be a lien thereon, which lien shall be superior to all prior existing liens and encumbrances, except taxes; provided, however, that within **ninety (90) days** after the completion of removing and

disposing of such vehicle, the Village Attorney shall file notice of lien for the cost and expenses incurred by the Village in the office of the County Recorder of Deeds. Upon payment of all costs of removing and/or disposing of the motor vehicle, the lien shall be released by the Village Attorney.

(C) **Foreclosure of Lien.** The lien may be enforced by a proceeding to foreclose as in the case of mortgages or mechanic's liens. A suit to foreclose this lien shall be commenced by the Village Attorney within **two (2) years** after the filing of notice of lien.

(D) **Court Action for Personal Judgment.** If the Village's cost of removing or disposing of the inoperable or derelict vehicle is not paid to the Village within **fifteen (15) days** of the filing of the notice of lien, the Village Attorney may commence proceedings in the Circuit Court seeking a personal judgment from the owner, occupier or person in possession of the vehicle at the time the proceedings are commenced in the amount of such cost. The action authorized by this paragraph shall be in addition to and without waiver of any other remedies.

(Ord. No. 2017-04; 09-05-17)

ARTICLE VIII - SNOW ROUTES

24-8-1 **WINTER STORM ALERT.** A winter storm alert may be called when an accumulation of snow greater than **two (2) inches** occurs, or road conditions become such that they are deemed hazardous for travel within the Village. When the aforementioned conditions exist, the Police Department shall notify the Public Works Department of the conditions. The Public Works Department shall evaluate the conditions and may, if necessary, mobilize for snow removal and/or other such action deemed necessary.

24-8-2 **WINTER STORM EMERGENCY.** A winter storm emergency shall be called when an accumulation of snow greater than **six (6) inches** occurs, or when road conditions exist which are deemed extremely hazardous for travel within the Village. When such conditions are present, a winter storm emergency may be issued by the area Emergency Services and Disaster Agency, or the Mayor or his designee. When a winter storm emergency is issued, the following statement shall be issued to a radio station, television station, cable or satellite company which broadcasts to the residents of the Village.

“The Village of New Athens has declared a winter storm emergency. Parking on any snow route within the Village is prohibited until further notice. Violator’s vehicles will be towed at the owner’s expense.”

24-8-3 **PARKING PROHIBITED.** When signs are posted giving notice thereof, no person shall park a vehicle during a winter storm alert or winter storm emergency on any street designated as a snow route on the attached **Schedule “S”**.

24-8-4 **REMOVAL OF AUTOMOBILES.** The Police Department and its members are hereby authorized to remove and tow away, or have moved and towed away any vehicle unlawfully parked on a designated snow route during a winter storm alert or a winter storm emergency. The owner may redeem a towed vehicle after payment in full of the tow bill and storage fee to the tow service.

ARTICLE IX - IMPOUNDMENT

24-9-1 DEFINITIONS.

(A) **Controlled Substances** means any substance as defined and included in the schedules of Article II of the Illinois Controlled Substances Act, **720 ILCS 570/201 et seq.**, cannabis as defined in the Cannabis Control Act, **720 ILCS 550/1 et seq.**, Methamphetamine Control and Community Protection Act, **720 ILCS 646/1 to 646/9999 et seq.**

(B) **Drug Paraphernalia** means any equipment, products and materials as defined in **720 ILCS 600/2.**

(C) **"Weapons offense"** means any of the following offenses contained within Article 24 of Chapter 720 of the Illinois Compiled Statutes: **720 ILCS 5/24-1, 24-1.1, 24-1.2, 24-1.2-5, 24-1.5, 24-1.6, 24-2.1, 24-2.2, 24-3, 24-3.1, 24-3.2, 24-3.3, 24-3.4, 24-3.5, 24-3.6 and 24-3A.**

(D) **Driving under the influence of alcohol, drugs and/or intoxicating compounds** means any offenses as defined in Section 5/11-501 of the Illinois Vehicle Code, **625 ILCS 5/22-501.**

(E) **Driving on a suspended or revoked license** means any offenses as defined in Section 5/6-303 of the Illinois Vehicle Code, **625 ILCS 5/6-303.**

(F) **Fleeing or attempting to elude a police officer** means any offenses as defined in Section 5/11-204 or 11-204.1 of the Illinois Vehicle Code, **625 ILCS 5/11-204 and 204.1.**

(G) **Leaving the scene of a personal injury or property damage accident** means any offenses as defined in Sections 5/11-401, 5/11-402 and 5/11-403 of the Illinois Vehicle Code, **625 ILCS 5/11-401, 402 and 403.**

(H) A **misdemeanor** means any misdemeanor offense as defined by an Illinois statute or the New Athens Code of Ordinances.

(I) A **felony** means any felony offense as defined by the Illinois statute or the New Athens Code of Ordinances.

(J) A **traffic violation** means any offense as defined by the Illinois Vehicle Code.

(K) **Business day** means any day in which the offices of the Village Hall are open to the public for a minimum of **seven (7) hours.**

(L) **Motor Vehicle** means every vehicle which is self-propelled, including but not limited to automobiles, trucks, vans, motorcycles and motor scooters.

(M) **Owner of Record** means the recorded title holder(s) of the motor vehicle as registered with the Secretary of State, State of Illinois; or if not registered in Illinois, the particular state where the motor vehicle is registered.

24-9-2 LEVEL 1 VIOLATIONS AUTHORIZING IMPOUNDMENT.

A motor vehicle, operated with the express or implied permission of the owner of record, that is used in connection with the following violations, shall be subject to seizure and impoundment by the Village, and the registered owner of record or agents of that owner of said motor vehicle shall be liable to the Village for an administrative fee of **Three Hundred Fifty Dollars (\$350.00)**, in addition to any penalties that may be assessed by a Court of law for the underlying violations, towing, and storage fees, or both, charged by the towing company. The administrative fees shall be collected by the municipality.

(A) A fee of **Three Hundred Fifty Dollars (\$350.00)** payable to the Village of New Athens and a fee of **One Hundred Fifty Dollars (\$150.00)** payable to the Drug Enforcement Fund, per vehicle, shall be paid in connection with the custodial arrest of any driver of a vehicle for any felony level offense or the following offense(s), as defined by the State of Illinois or the United States of America.

- (1) 720 ILCS 550/Cannabis Control Act
- (2) 720 ILCS 570/Illinois Controlled Substances Act
- (3) 720 ILCS 600/Drug Paraphernalia Control Act
- (4) 720 ILCS 602/Ephedra Prohibition Act
- (5) 720 ILCS 635/Hypodermic Syringes and Needles Act
- (6) 720 ILCS 646/Methamphetamine Control and Community Protection Act

24-9-3 LEVEL 2 VIOLATIONS AUTHORIZING IMPOUNDMENT. A motor vehicle, operated with the express or implied permission of the owner of record, that is used in connection with the following violations, shall be subject to seizure and impoundment by the Village, and the registered owner of record or agents of that owner of said motor vehicle shall be liable to the Village for an administrative fee of **Two Hundred Dollars (\$200.00)**, in addition to any penalties that may be assessed by a Court of law for the underlying violations, towing, and storage fees, or both, charged by the towing company. The administrative fees shall be collected by the municipality.

(A) A fee of **Two Hundred Dollars (\$200.00)**, per vehicle, shall be paid in connection with the custodial arrest of any driver of a vehicle for any felony level offense or the following offense(s), as defined by the State of Illinois or the United States of America.

- (1) 625 ILCS 5/11-204 Fleeing or Attempting to Elude Police Officer
- (2) 625 ILCS 5/11-501 Driving Under the Influence
- (3) 625 ILCS 5/11-503 Reckless Driving
- (4) 625 ILCS 5/11-506 Street Racing (Drag)
- (5) 625 ILCS 5/3-708 Driving with Suspended Registration
- (6) 625 ILCS 5/6-303 Driving with Revoked License

24-9-4 LEVEL 3 VIOLATIONS AUTHORIZING IMPOUNDMENT. A motor vehicle, operated with the express or implied permission of the owner of record, that is used in connection with the following violations, shall be subject to seizure and impoundment by the Village, and the owner of record of said motor vehicle shall be liable to the Village for an administrative fee of **One Hundred Dollars (\$100.00)**, in addition to any towing and storage fees as hereinafter provided.

(A) A motor vehicle used in the commission of a misdemeanor as determined by Illinois Compiled Statutes.

(B) Where the police make a custodial arrest of the driver of a vehicle as the result of a misdemeanor, traffic violation or on a warrant where the driver's vehicle is not considered an instrumentality of the crime, the driver's vehicle shall be subject to seizure and impoundment under the subsection as an exercise of the police officer's community caretaking functions if the officer determines that the driver is unable to remove the vehicle from a public location within continuing its illegal operation, the location of the vehicle creates a need for the police to protect the vehicle from theft for vandalism or the location of the vehicle may jeopardize public safety and the efficient movement of vehicular traffic. The arrestee may give custody of the vehicle to his or her un-arrested associates, who are present and capable of

taking custody of the vehicle, in lieu of impoundment, provided he/she has the capacity to make that decision. The arrestee may call another person to take the vehicle if it is in a non-emergency situation.

24-9-5 SEIZURE AND IMPOUNDMENT.

(A) Whenever a police officer has cause to believe that a vehicle is subject to seizure and impoundment pursuant to this Article, the police officer shall provide for the towing of the motor vehicle to a facility approved by the Village. This Article shall not apply if upon verifiable proof the vehicle used in the violation was stolen at the time of impound.

(B) The police officer shall notify or make a reasonable attempt to notify any person identifying himself as the owner or the lessee of the motor vehicle or any person who is found to be in control of the motor vehicle at the time of the alleged violation, of the fact of the seizure, and of the motor vehicle owner's or lessee's right to request an administrative hearing to be conducted under this Section, and further advise that the motor vehicle will remain impounded pending the completion of an administrative hearing, unless the owner or lessee of the vehicle or a lienholder post with the municipality a bond equal to the administrative fee as provided by ordinance and pay for all towing and storage charges. The notice provided by the police officer shall provide a Request for Hearing form for use in obtaining an Administrative Hearing.

(C) Notice of the administrative hearing shall:

- (1) be served upon the owner, lessee, and any lienholder of record either by personal service or by first class mail to the interested parties address as registered with the Secretary of State;
- (2) be served upon interested parties within **ten (10) days** after a vehicle is impounded by the municipality; and
- (3) contain the date, time, and location of the administrative hearing. An initial hearing shall be scheduled and convened no later than **forty-five (45) days** after the date of the mailing of the notice of hearing.

24-9-6 ADMINISTRATIVE HEARING.

(A) All interested persons shall be given a reasonable opportunity to be heard at the hearing. The formal rules of evidence shall not apply at the hearing and hearsay evidence shall be admissible.

- (1) administrative hearings shall be conducted by a hearing officer who is an attorney licensed to practice law in this State for a minimum of **three (3) years**;
- (2) at the conclusion of the administrative hearing, the hearing officer shall issue a written decision either sustaining or overruling the vehicle impoundment;
- (3) if the basis for the vehicle impoundment is sustained by the administrative hearing officer, any administrative fee posted to secure the release of the vehicle shall be forfeited to the municipality;
- (4) all final decisions of the administrative hearing officer shall be subject to review under the provisions of the Administrative Review Law; and

(5) unless the administrative hearing officer overturns the basis for the vehicle impoundment, no vehicle shall be released to the owner, lessee, or lienholder of record until all administrative fees and towing and storage charges are paid.

(B) If, after the hearing, the hearing officer determines by a preponderance of evidence that the motor vehicle was used in violation of this Article, then the hearing officer shall enter an order finding the owner of record of the motor vehicle civilly liable to the Village for the administrative fee of **Three Hundred Fifty Dollars (\$350.00)** for a Level 1 Violation, **Two Hundred Dollars (\$200.00)** for a Level 2 Violation or **One Hundred Dollars (\$100.00)** for a Level 3 Violation.

(C) If, after a hearing, the hearing officer does not determine by a preponderance of the evidence that the motor vehicle was used in such a violation, the hearing officer shall enter an order finding for the owner and for the return of the motor vehicle.

(D) If the owner of record requests a hearing but fails to appear at the hearing or fails to request a hearing in a timely manner, the owner of record shall be deemed to have waived his or her right to a hearing and the hearing officer shall enter a default order in favor of the Village in the amount of the administrative fee.

However, if the owner of record pays such administrative fee and the motor vehicle is returned to the owner, no default order need be entered if the owner is informed of his or her right to a hearing and signs a written waiver, in which case an order of liability shall be deemed to have been made when the Village receives the written waiver.

(E) Unless stayed by a court of competent jurisdiction, any fine, penalty, or administrative fee is imposed under this Section which remains unpaid in whole or in part after the expiration of the deadline for seeking judicial review under the Administrative Review Law may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

24-9-7 DISPOSITION OF IMPOUNDED MOTOR VEHICLE. An administrative fee imposed pursuant to this Article shall constitute a debt due and owing the Village. A motor vehicle impounded pursuant to this Section shall remain impounded until:

(A) The administrative fee of **Three Hundred Fifty Dollars (\$350.00)** for a Level 1 Violation, **Two Hundred Dollars (\$200.00)** for a Level 2 Violation, or **One Hundred Dollars (\$100.00)** for a Level 3 Violation is paid by an owner of record to the Village and all applicable towing and storage fees are paid to the towing agent, in which case the owner of record, lessee or a lienholder of record shall be given possession of the motor vehicle; or

(B) A bond in the amount of **Three Hundred Fifty Dollars (\$350.00)** for a Level 1 Violation, **Two Hundred Dollars (\$200.00)** for a Level 2 Violation, or **One Hundred Dollars (\$100.00)** for a Level 3 Violation is posted with the Police Department and all applicable towing and storage fees are paid to the towing agent, at which time the motor vehicle will be released to the owner of record, lessee or a lienholder of record; or

(C) The motor vehicle is deemed abandoned, in which case the motor shall be disposed of in the manner provided by law for the disposition of abandoned motor vehicles.

24-9-8 POSTING OF BOND. If a bond in the amount of **Three Hundred Fifty Dollars (\$350.00)** for a Level 1 Violation, **Two Hundred Dollars (\$200.00)** for a Level 2 Violation, or **One Hundred Dollars (\$100.00)** for a Level 3 Violation is posted by the owner, lessee of the vehicle or a lienholder with the Police Department, the impounded motor vehicle

shall be released to the owner of record, lessee of the vehicle or lienholder. The owner of the motor vehicle shall still be liable to the towing agent for any applicable towing or storage fees. If after the Administrative fee is imposed for a Violation of this Article, the bond will be forfeited to the Village; however if a violation of this Article is not proven by a preponderance of the evidence, the bond will be returned to the person posting the bond. All bond money posted pursuant to this Article shall be held by the Village until the hearing officer issues a decision, or, if there is a judicial review, until the court of jurisdiction issues its orders.

24-9-9 MOTOR VEHICLE POSSESSION. Any motor vehicle that is not reclaimed within **thirty-five (35) days** after the expiration of the time during which the owner of record may seek judicial review of the Village's action under this Article, or the time at which a final judgment is rendered in favor of the Village, or the time a final administrative decision is rendered against an owner of record who is in default, may be disposed of an unclaimed motor vehicle as provided by law, provided, however, that where proceedings have been instituted under state or federal drug asset forfeiture laws, the subject motor vehicle may not be disposed of by the Village except as consistent with those proceedings.

24-9-10 TOWING AGENCY.

(A) It shall be the duty of the towing or storage company in possession of the motor vehicle to obtain documentation issued by the New Athens Police Department confirming compliance with the foregoing requirements and to retain photocopies of that documentation in their files for a period of not less than **six (6) months** following release of the motor vehicle. The foregoing information shall be made available to the authorities of the Village of New Athens for inspection and copying, upon their request, by the towing or storage company. The towing or storage company is prohibited from releasing any motor vehicle they may tow within the Village of New Athens until and unless they obtain the documentation as aforesaid.

(B) The towing or storage company shall be entitled to receive a reasonable fee from the owner or person entitled to possession of any such motor vehicle prior to the release of the motor vehicle. The fee shall be to cover the cost of removing said motor vehicle and, in addition thereto, the cost of storage of said motor vehicle for each day or fraction thereof that said motor vehicle shall have remained stored.

(C) The fees in this Section shall be in addition to any fee levied or assessed against the owner or operator of said motor vehicle by reason of violation of any ordinance or statute and any arrest which may have resulted from such violation.

(Ord. No. 2012-08; 03-18-13)

ARTICLE X - TRUCKS

24-10-1 **COMMERCIAL TRUCKS.** It shall be unlawful to park any semi-trailer or any truck-tractor in combination with a semi-trailer on a highway within the Village, except that a truck-tractor in combination with a semi-trailer may park temporarily on a highway for the purpose of loading and unloading.

24-10-2 **TRUCK ROUTES.** Truck routes are hereby established and enumerated in **Schedule "T"**. Truck routes shall be posted by official sign and shall allow the same rights and privileges with regard to weight and dimension as a Class 3 truck route as it is defined in Chapter 15 of the Illinois Vehicle Code.

24-10-3 **TRUCKS OFF ROUTE.** Trucks traveling on streets not designated as truck routes shall be governed by Chapter 15 of the Illinois Vehicle Code with regard to weight and dimension.

24-10-4 **CIVIL LIABILITY.** The driver or owner of a vehicle used in violation of any applicable weight laws shall be responsible for any damages incurred upon any highway.

ARTICLE XI - GOLF CARTS AND UTILITY-TERRAIN VEHICLES

24-11-1 **GENERALLY.** Golf carts and utility-terrain vehicles, as defined and qualified herein shall be allowed on Village streets under the conditions as stated herein.

24-11-2 **DEFINITIONS.**

(A) 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 condition 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 **thirty-five (35) miles per hour** and which conforms to the federal regulations under Title 49 C.F.R. Part 571.500.

(C) "Village Streets" means any of the municipal streets within the boundaries of the Village. It does not include those streets maintained by St. Clair County and the State of Illinois. **(Ord. No. 2015-09; 02-16-16)**

24-11-3 **REQUIREMENTS.** All persons wishing to operate a golf cart or a utility-terrain 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 have the vehicles certified with the Village by inspection by the Police Chief or designated representative.

(C) Must display Village decal on the rear of the vehicle.

(D) Must have a current, valid Illinois drivers license.

(E) Golf carts must be equipped as follows:

(1) Horn;

(2) Brakes and brake lights;

(3) Turn signals;

(4) A steering wheel apparatus;

(5) Tires;

(6) Rearview mirror;

(7) Approved "Slow Moving Vehicle" emblem on the rear of the vehicle **(625 ILCS 5/12-709);**

(8) Headlight that emits a white light visible from a distance of **five hundred (500) feet** to the front which must illuminate when in operation;

(9) 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;

(10) Any additional requirements which may be amended to **65 ILCS 5/11-1426.1** or the Illinois Motor Vehicle Code. **(Ord. No. 2015-09; 02-16-16)**

(F) Utility-Terrain Vehicles must be equipped as follows:

(1) Brakes and brake lights;

- (2) Turn signals on the front and rear;
- (3) A steering wheel apparatus;
- (4) Tires;
- (5) Rearview mirror;
- (6) Approved "Slow Moving Vehicle" emblem on the rear of the vehicle (**625 ILCS 5/12-709**);
- (7) Headlight that emits a white light visible from a distance of **five hundred (500) feet** to the front which must illuminate when in operation;
- (8) 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;
- (9) Any additional requirements which may be amended to **65 ILCS 5/11-1426.1** or the Illinois Motor Vehicle Code.

(G) Must obey all traffic laws of the State of Illinois and the Village.

(H) Must be **twenty-one (21) years** of age.

(I) Must be operated only on Village streets, except where prohibited.

(J) Must not be operated in excess of posted speed limit and, with respect to utility-terrain vehicles, may not exceed **thirty-five (35) miles per hour**.

(K) A person operating or who is in actual physical control of a golf cart or utility-terrain vehicle as described herein on a roadway while under the influence is subject to Section 11-500 through 11-502 of the Illinois Compiled Statutes.

(L) Golf carts and utility-terrain vehicles shall not be operated on sidewalks or in Village Parks other than parking areas.

(M) Golf carts and utility-terrain vehicles may not be operated on streets and highways and roads under the jurisdiction of the Illinois Department of Transportation (Illinois State Route 13) or the County Highway Department except to cross at designated streets.

24-11-4 PERMITS.

(A) No person shall operate a qualified golf cart or utility-terrain vehicle without first obtaining a permit from the Police Chief as provided herein. Permits shall be granted for a period of **one (1) year** and renewed annually. The cost of the permit is **Twenty-Five Dollars (\$25.00)**. Insurance coverage is to be verified to be in effect by the Police Department 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 golf cart or utility-terrain 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 their golf cart or utility-terrain 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 require.

- (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 golf cart or utility-terrain 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 golf cart or utility-terrain vehicle on the designated roadways.

24-11-5 **VIOLETIONS.** Any person who violates any provision of this Article shall upon conviction be punished by a fine of **Seventy-Five Dollars (\$75.00)**. Any second or subsequent offense shall result in the revocation of the permit for a period of not less than **three (3)** nor more than **five (5) years**. To the extent that any violation of this Article also constitutes a violation of a criminal statute of the State of Illinois, then the violator shall also be subject to criminal prosecution.

24-11-6 **MISCELLANEOUS.**

(A) In the event that a court of competent jurisdiction declares any particular provision of this Article to be invalid or unenforceable, the remaining provisions of this Article shall be construed to be valid and enforceable. The invalidity of any part of this Article shall not affect any part or parts thereof.

(B) This Article shall be in full force and effect from and after passage and approval as provided by law.

(C) Any Article, or portion thereof, of the Village which is contrary to this Article shall be deemed to be repealed.

(See 625 ILCS 5/11-1426.1)

(Ord. No. 2011-09; 12-05-11, unless otherwise noted)

**NEIGHBORHOOD VEHICLE PERMIT
AS REFERENCED BY CHAPTER 24 ARTICLE XI**

A neighborhood vehicle permit authorizes the operation of a neighborhood vehicle, or a utility-terrain vehicle on any street within the boundaries of the Village of New Athens in accordance with Section 24-11-4. This excludes Illinois Route 13.

The Village of New Athens is not responsible for any future claims resulting from the operation of a neighborhood or utility-terrain vehicle on the Village streets.

It is the responsibility of the vehicle owner to know what roads are designated as permissible for the operation of a neighborhood vehicle.

The owner of the vehicle must provide proof of liability insurance at the time of application.

The vehicle owner must be at least 21 years of age and have a current, valid Illinois driver's license.

The Village decal must be displayed on the vehicle.

All traffic laws must be obeyed, and the vehicle may only be operated between sunrise and sunset.

Each neighborhood/utility vehicle must be equipped with brakes, tires, headlamps, front and rear turn signal lamps, tail lamps, stop lamps, reflex reflectors, exterior mirror(s), windshield, and a parking brake.

The cost of the permit is \$25, and must be renewed annually.

Applicant's Name _____
 First Middle Last

Address _____ Telephone Number _____

Insurance Carrier _____

Serial Number _____ Make _____ Model _____

Description of neighborhood vehicle _____

Decal Number _____ Expiration Date _____

Applicant's Signature _____ Date _____

NEIGHBORHOOD VEHICLE INSPECTION
(To be completed by the Police Chief or designated representative)

Date _____

I certify that I have examined the following vehicle:

Year _____ Make _____ Model _____ Body Type _____

Vehicle Identification Number

This NV/UTV conforms to the guidelines and requirements as specified in Ordinance 2011-09.

_____ Brakes	_____ Tires
_____ Headlamps	_____ Front Turn Signals
_____ Rear Turn Signals	_____ Tail Lamps
_____ Stop Lamps	_____ Reflex Reflectors
_____ Exterior Mirror(s)	_____ Parking Brake
_____ Windshield	_____ Bench/Bucket Seats
_____ Steering Wheel	_____ Seatbelts
_____ Horn	_____ Rear view mirror
	_____ Slow moving vehicle emblem

Inspected by _____

Inspector's Signature _____

SCHEDULE "A"
STOP INTERSECTIONS

In accordance with **Article IIII**, the following are hereby declared to be through and stop intersections, to-wit:

I. ONE-WAY STOP INTERSECTIONS

THROUGH STREET		STOP STREET (DIRECTION)
Belsha St.	at	Church St. (North Bd.)
Belsha St.	at	Eastlawn St. (South Bd.)
Church St.	at	Lela Drive (West Bd.)
East St.	at	Chester St. (East Bd.)
East St.	at	Illinois St. (East Bd.)
East St.	at	Kaskaskia St. (East Bd.)
East St.	at	Oakridge Rd. (West Bd.)
East St.	at	Spring St. (East Bd.)
Highland St.	at	South St. (North Bd.)
Keim Rd.	at	River Rd. (East Bd.)
Keim Rd.	at	White Elm Dr. (West Bd.)
Mari Lane	at	Linda Ln. (West Bd.)
Market St.	at	North St. (East Bd.)
Market St.	at	Spring St. (West Bd.)
New Baldwin Rd.	at	Brooke Lane (West Bd.)
New Baldwin Rd.	at	Keel St. (West Bd.)
New Baldwin Rd.	at	Old Baldwin Rd. (East Bd.)
Old Baldwin Rd.	at	Dudeck Ln. (North Bd.)
Old Baldwin Rd.	at	Juanita (East Bd.)
Old Baldwin Rd.	at	Linda Ln. (East Bd.)
Old Baldwin Rd.	at	Meadowlark Dr. (Both)
Old Baldwin Rd.	at	Phillips St. (West Bd.)
Spotsylvania	at	Church St. (South Bd.)
Spotsylvania	at	Hanft St. (South Bd.)
Spotsylvania	at	Highland (South Bd.)
Spotsylvania	at	New Baldwin Rd. (North Bd.)
Spotsylvania	at	Old Baldwin Rd. (North Bd.)
Spring St.	at	Benton St. (North Bd.)
Spring St.	at	Clinton St. (South Bd.)
Van Buren	at	Belsha St. (West Bd.)
Van Buren	at	Chester St. (West Bd.)
Van Buren	at	Illinois St. (West Bd.)
Van Buren	at	Kaskaskia St. (West Bd.)
Van Buren	at	South St. (West Bd.)

II. TWO-WAY STOP INTERSECTIONS

THROUGH STREET		STOP STREET (DIRECTION)
Belsha St.	at	Benton St. (Both)
Belsha St.	at	Clinton St. (Both)
Belsha St.	at	Elizabeth St. (Both)
Belsha St.	at	Market St. (Both)
Benton St.	at	Illinois St. (Both)
Benton St.	at	South St. (Both)
Bertholdt St.	at	East St. (Both)
Chester St.	at	Clinton St. (Both)
Chester St.	at	Jackson St. (Both)
Chester St.	at	Johnson St. (Both)
Chester St.	at	Market St. (Both)
East St.	at	Mill St. (Both)
East St.	at	South St. (Both)
Jackson St.	at	St. Clair St. (Both)
Kaskaskia St.	at	Clinton St. (Both)
Kaskaskia St.	at	Johnson St. (Both)
Kaskaskia St.	at	Market St. (Both)
Market St.	at	Illinois St. (Both)
Market St.	at	St. Clair St. (Both)
Mill St.	at	Clinton St. (Both)
Mill St.	at	Elizabeth St. (Both)
Mill St.	at	Johnson St. (Both)
New Baldwin Rd.	at	Phillips St. (Both)
St. Clair St.	at	Clinton St. (Both)
St. Clair St.	at	Johnson St. (Both)
South St.	at	Jackson St. (Both)
Spotsylvania	at	Benton St. (Both)
Spotsylvania	at	Clinton St. (Both)
Spotsylvania	at	East St. (Both)
Spotsylvania	at	Elizabeth St. (Both)
Spotsylvania	at	Jackson St. (Both)
Spotsylvania	at	Johnson St. (Both)
Spotsylvania	at	Market St. (Both)
Van Buren	at	Mill St. (Both)
Van Buren	at	Spotsylvania (Both)

III. THREE-WAY STOP INTERSECTIONS

<u>THROUGH STREET</u>		<u>STOP STREET (DIRECTION)</u>
Belsha St.	at	Hanft St. (all traffic stops)
Lela Dr.	at	Hanft St. (all traffic stops)

IV. FOUR-WAY STOP INTERSECTIONS

<u>THROUGH STREET</u>		<u>STOP STREET (DIRECTION)</u>
Belsha St.	at	Johnson St.
Benton St.	at	Chester St.
Benton St.	at	Kaskaskia St.
Benton St.	at	Mill St.
Benton St.	at	St. Clair St.
Clinton St.	at	South St.
East St.	at	Belsha St.
East St.	at	St. Clair St.
Highland St.	at	Belsha St.
Jackson St.	at	Belsha St.
Jackson St.	at	Kaskaskia St.
Jackson St.	at	Mill St.
Johnson St.	at	Illinois St.
Market St.	at	Mill St.
Market St.	at	South St.
Mill St.	at	East Lawn St.
South St.	at	East Lawn St.
South St.	at	Elizabeth St.
South St.	at	Johnson St.

(Ord. No. 2016-08; 03-20-17)

SCHEDULE "D"

SPECIAL SPEED LIMITS

In accordance with the provisions of **Section 24-4-2(F)**, the following shall be declared as special speed limit streets:

<u>STREET – LIMIT</u>	<u>LOCATION</u>
<u>25 MILES PER HOUR</u>	
East St.	Entire length
Van Buren St. starting at Spotsylvania	Entire length
<u>30 MILES PER HOUR</u>	
Old Baldwin Rd.	From Spotsylvania to New Baldwin Rd.
<u>35 MILES PER HOUR</u>	
Spotsylvania St.	From Van Buren to New Baldwin Rd.
Van Buren St.	From Spotsylvania to IL Rt. 13
<u>45 MILES PER HOUR</u>	
New Baldwin Rd.	From IL 13 to Spotsylvania
1300 Old Rt. 13	To the 1100 Block of Spotsylvania

SCHEDULE "E"

PARKING

In accordance with **Section 24-6-4(C)**, the following shall apply for parking motor vehicles:

- (A) **Angle Parking:** No person shall park a vehicle at the following locations except at an angle to the edge of the street as indicated by the markings thereon:

<u>STREET (SIDE)</u>		<u>LOCATION</u>
S. Benton St. (West)	From	St. Clair to the Post Office parking lot entrance
S. Benton St. (East)		A distance of 157' north from St. Clair St.
Kaskaskia St. (North)	Between	Van Buren and Benton Sts.
St. Clair (South)	Between	Clinton Sr. and alley

- (B) **No Parking at Any Time.**

S. Clinton St. (Both)	From	Spotsylvania, north for 20'
Elizabeth St. (East)	Between	South St. and Belsha St.
Illinois St. (North)	From	Jackson St. to Market St.
Jackson St. (East)	From	Illinois St. south as posted
Jackson St. (West)	From	St. Clair St. to Kaskaskia St. as posted
Lela Dr. (North)	From	Hanft St. west 100' as posted
St. Clair St. (Both)	From	Van Buren to Albert A. Wilson Memorial Dr.
Van Buren (East)	From	Spring St. south for 66'

- (C) **Parallel Parking Only.**

Johnson St. (Both)		Full 200 block
Kaskaskia St. (South)	From	Van Buren to Benton

- (D) **No Parking from 8:00 A.M. to 4:00 P.M., except Saturday, Sunday, and State Holidays.**

Belsha St. (North)	Between	Eastlawn St. and Hanft St.
Belsha St. (North)		East from Hanft St.

- (E) **No Parking from 9:00 A.M. to 3:00 P.M. on Monday through Thursday, and 9:00 A.M. to 6:00 P.M. on Friday.**

- (F) **No Parking from 7:45 A.M. to 10:30 A.M. while school is in session.**

Lela Dr. (South)	Between	Hanft St. and Church St. as posted
------------------	---------	------------------------------------

SCHEDULE "E" (CONT'D.)

(G) **No Parking from 7:45 A.M. to 8:45 A.M. and from 2:45 P.M. to 3:45 P.M.**

Hanft St. (East) From Lela Dr. for a distance of 300' north
as posted

(H) **No Parking Bus Unloading Zone 7:45 A.M. to 1:00 P.M.**

Hanft St. (East) From Lela Dr. for a distance of 300' north
as posted

SCHEDULE "H"
HANDICAPPED PARKING ZONES

In accordance with **Section 24-6-5**, the Handicapped Drop-off Parking zones permitted while displaying a state issued registration plate, decal, or permit as follows:

<u>STREET (SIDE)</u>	<u>LOCATION</u>
Hanft St. (East)	Approximately 40' north of Lela, as marked
Handicapped Parking in the designated area permitted while displaying a state issued registration plate, decal, or permit as follows:	
Hanft St. (East)	Approximately 200' south of Belsha, as marked

SCHEDULE "J"
LOADING ZONES

In accordance with **Section 24-6-6**, the following areas in the vicinity of the intersection of N. Benton and Spring Streets in the Village of New Athens are hereby declared to be Loading Zones, to-wit:

Commencing at the Southeast corner of said intersection and for a distance of 50' south therefrom on the East side of N. Benton St.

Commencing at the Southwest corner of said intersection and for a distance of 50' south therefrom on the West side of N. Benton St.

Commencing at the Southwest corner of said intersection and for a distance of 350' west therefrom on the South side of Spring St.

Commencing at the Northeast corner of said intersection and for a distance of 150' north therefrom on the East side of N. Benton St.

Commencing at a point 50' north of the Northwest corner of said intersection and for a distance of 100' north of said point on the West side of N. Benton St.

NOTE: The parking of a vehicle at any time in the above-described areas, when signs are erected giving notice thereof is prohibited, except when loading or unloading the vehicle.

SCHEDULE "S"

SNOW ROUTES

In accordance with **Article VI**, the following streets are designated as "snow routes",
to-wit:

STREET	LOCATION
Belsha St.	From Eastlawn to Hanft St.
S. Benton St.	From Van Buren St. to Spotsylvania St.
East St.	From Spotsylvania St. to North St.
Eastlawn St.	From Mill St. to Belsha St.
Hanft St.	From Belsha St. to Spotsylvania St.
Market St.	From Hughes St. to North St.
Mill St.	From Van Buren St. to Eastlawn St.
Old Baldwin Rd.	From Spotsylvania St. to New Baldwin Rd.
Spotsylvania St.	From Van Buren St. to New Baldwin Rd.
Van Buren St.	From Spring St. to IL 13

SCHEDULE "T"

TRUCK ROUTES

In accordance with **Article VII**, the following streets are designated as "truck routes", to-wit:

STREET	LOCATION
Benton St. - North	From Van Buren St. to Spotsylvania St.
East St. - North	From Spotsylvania St. to Oakridge Rd.
Illinois St. - East	From Van Buren St. to Market St.
Market St. - North	From Illinois St. to North St.
Oakridge Rd. - East	From East St.
Spotsylvania St. - East	From Van Buren to East St.
Van Buren St. - North	From IL 13 to Illinois St.

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.

(M) **Harassment.** To harass, intimidate or threaten any person who is about to sell or lease or has sold or leased a residence or other real property, or is about to buy or lease, or has bought or leased a residence or other real property, when the harassment, intimidation, or threat relates to a person's attempt to sell, buy or lease a residence, or other real property, or refers to a person's sale, purchase or lease of a residence or other real property.

(N) **Business.** To establish, maintain, and carry on any offensive or unwholesome business or establishment within the limits of the Village or within **one and one-half (1 ½) miles** of the Village limits.

(O) **Filthy Premise Conditions.** To keep or suffer to be kept any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by any person, or any railroad car, building, yard, grounds, and premises belonging to or occupied by any person.

(P) **Expectorate.** To expectorate on any public sidewalk or street, or other public building or floor or walk of any public vehicle or hall.

(Q) **Litter on Streets.** It shall be unlawful for any person to deposit or allow trash, paper, cardboard, wire, dirt, rock, stone, glass, brick, lumber, wood or litter of material objects of any size or description to fall upon the streets of the Village from any moving vehicle, or to be thrown from a moving vehicle, or to throw from a moving vehicle and to remain thereon.

(R) **Accumulation of Junk And Trash.** To deposit or pile up any rags, old rope, paper, iron, brass, copper, tin, aluminum, used lumber, derelict truck trailers, camping trailers, or boats, appliances, construction materials, demolition debris, ashes, garbage, refuse, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any residential home lot, piece or parcel of land or upon any public or private alley, street or public way within the Village.

(S) **Rodents.** To cause or permit any condition or situation to exist that shall attract, harbor, or encourage the infestation of rodents.

(T) **Bringing Nuisances into the Village.** To bring into the Village or keep therein for sale or otherwise, either for food or for any other purpose, any dead or live animal or any matter, substance, or thing which shall be a nuisance or which shall occasion a nuisance in the Village, or which may or shall be dangerous or detrimental to health.

(U) **Offensive Liquids.** To keep nauseous, foul or putrid liquid or substance or any liquid or substance likely to become nauseous, foul, offensive, or putrid, nor permit any such liquid to be discharged, placed, thrown, or to flow from or out of any premise into or upon any adjacent premises or any public street or alley, nor permit the same to be done by any person connected with the premises.

(V) **Dense or Offensive Smoke.** To cause or permit the emission of dense smoke from any fire, chimney, engine, oil burner or any other agency in the Village so as to cause annoyance or discomfort to the residents thereof.

(W) **Scrap Tires, Both Mounted and Dismounted.** To keep any scrap tires, either mounted or dismounted, in open view, or so as to allow such tires to accumulate stagnant water so as to provide a breeding ground for mosquitoes and other pests.

(X) **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) **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. **(See 740 ILCS Secs. 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. **(See 65 ILCS Sec. 6/11-60-2)**

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.

(See 65 ILCS Sec. 5/11-60-2 and 720 ILCS Secs. 5/47-5; 5/47-10 and 5/47-15)

ARTICLE II - WEEDS

25-2-1 **DEFINITION.** "Weeds" as used in this Code shall include, but not be limited to the following:

Burdock, Rag Weed (giant), Rag Weed (Common), Thistle, Cocklebur, Jimson, Blue Vervain, Common Milk Weed, Wild Carrot, Poison Ivy, Wild Mustard, Rough Pigweed, Lambsquarter, Wild Lettuce, Curled Dock, Smartweeds (all varieties), Poison Hemlock, Wild Hemp, Johnson Grass, grass and all other noxious weeds as defined by the statutes of the State of Illinois.

25-2-2 **HEIGHT.** It shall be unlawful for anyone to permit any weeds, grass, or plants, other than trees, bushes, flowers or other ornamental plants, to grow to a height exceeding **eight (8) inches** anywhere in the Village. Any such plants, weeds, or grass exceeding such height are hereby declared to be a nuisance.

25-2-3 **NOTICE.** The 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 **five (5) days** after such notice has been duly served.

25-2-4 **SERVICE OF NOTICE.** Service of the notice provided for herein may be effected by handing the same to the owner, occupant or lessee of the premises, or to any member of his household of the age of **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.**

(See 65 ILCS Secs. 5/11-20-6 and 5/11-20-7)

ARTICLE III - GARBAGE AND DEBRIS

25-3-1 **ACCUMULATION PROHIBITED.** No person shall permit any garbage or trash to accumulate on their premises or private property. It is hereby declared to be a nuisance and it shall be unlawful for the owner or occupant of real estate to refuse or neglect to remove the garbage or debris.

25-3-2 **NOTICE TO PERSON.** The Chief of Police or a designated representative may issue a written notice for removal of garbage or debris. Such garbage or debris shall be removed by the owner or occupant within **five (5) days** after such notice has been duly served.

25-3-3 **SERVICE OF NOTICE.** Service of notice provided for herein may be effected by handing of the same to the owner, occupant, or lessee of the premises, or to any member of his household of the age of **fifteen (15) years** or older found on the premises or by mailing such notice to the last known residence address of the owner; provided that if the premises are unoccupied and the owner's address cannot be obtained, then the notice may be served by posting the same upon the premises.

25-3-4 **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.

25-3-5 **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.

(See 65 ILCS Sec. 5/11-20-13 and 720 ILCS Sec. 5/47-10)

ARTICLE IV - ABANDONED VEHICLES

25-4-1 **DEFINITIONS.** For the purpose of this Code, the following words and terms shall have the meanings ascribed to them as follows:

"ABANDONED VEHICLE": Any motor vehicle or other vehicle in a state of disrepair, rendering the vehicle incapable of operation; or any vehicle that has not been moved or used for a period of **seven (7) consecutive days** or more; or any vehicle that is apparently deserted.

"ANTIQUE VEHICLE": Any vehicle **twenty-five (25) years** or older.

"COMPONENT PART": Any part of a vehicle, other than a tire, having a manufacturer's identification number, or an identification number issued by the State of Illinois.

"DERELICT VEHICLE": Any inoperable or unregistered vehicle, or any discarded vehicle having lost its character as a substantial property, regardless of title.

"HIGHWAY": Any public highway as defined by the Illinois Vehicle Code.

"REMOVE": To remove, destroy, or garage.

"VEHICLE": A vehicle as defined by the Illinois Vehicle Code.

"DERELICT VEHICLE": A vehicle which, for a period exceeding **thirty (30) days**, has had a portion or all of its drive train, wheel(s), or other part(s) removed, or otherwise deteriorated or left in disrepair where the vehicle is not capable of being used for its intended capacity, and constitutes a safety hazard or produces a scenic blight.

25-4-2 **ABANDONMENT.**

(A) **Highway.** The abandonment of a vehicle or any part thereof on any highway is unlawful and is subject to the penalties and removal as set forth in the Illinois Vehicle Code.

(B) **Private Property.** A derelict vehicle or an abandoned vehicle or any part thereof on private or public property, not on a highway, in view of the general public anywhere is unlawful.

(C) **Owner or Tenant's Property.** The removal by the Village of a derelict vehicle, or a vehicle or any part thereof abandoned on private property, shall be authorized. The Officer ordering such removal shall do so only after serving written notice to the tenant or owner of the property where the vehicle rests, and waiting **seven (7) days** for the tenant or owner of the property to comply by removing the vehicle. Any such vehicle not removed by the tenant or owner within **seven (7) days** is subject to impoundment and tow at the vehicle owner's expense. The tenant or property owner shall then be deemed in violation of paragraph (B) and subject to a citation.

25-4-3 **POSSESSION OF VEHICLE BY OTHER PARTY.**

When an abandoned, lost, stolen, or otherwise unclaimed vehicle comes into the temporary possession of custody of a person other than the owner of the vehicle, such person shall immediately notify the Police Department. The Police Department or its personnel shall remove the vehicle as set forth by the Illinois Vehicle Code.

25-4-4 **DECLARATION OF NUISANCE.** All abandoned or derelict vehicles in view of the general public, whether on public or private property, are hereby declared a public nuisance.

25-4-5 **RECORDS.** The Police Department shall keep record of any tow or impoundment that was ordered or authorized by an Officer of the Department to be towed for a period of at least **two (2) years** from the disposition of the vehicle.

25-4-6 **PENALTIES.** Any person found in violation of this Article shall be fined not less than **Seventy-Five Dollars (\$75.00)** for the first offense, and not less than **One Hundred Dollars (\$100.00)** but not more than **Five Hundred Dollars (\$500.00)** for any subsequent offense.

(See 65 ILCS Sec. 5/11-40-3)

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.

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.

VILLAGE OF NEW ATHENS

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 NEW ATHENS

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 NEW ATHENS

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 NEW ATHENS

Dated this _____ day of _____, _____.

VILLAGE OF NEW ATHENS

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 NEW ATHENS

Dated this _____ day of _____, _____.

VILLAGE OF NEW ATHENS

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 NEW ATHENS

Dated this _____ day of _____, _____.

VILLAGE OF NEW ATHENS
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 New Athens, 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 NEW ATHENS

(SEAL)

CHAPTER 27

OFFENSES

ARTICLE I – DEFINITIONS

27-1-1 **MEANINGS OF WORDS AND PHRASES.** For the purpose of this Chapter the words and phrases of the **Illinois Compiled Statutes, Chapter 720, Sections 2-1 through 2-11; 2-13 through 2-22**, as approved, adopted and amended are hereby adopted by the Village, as fully as if set out herein. **(65 ILCS 5/1-3-2)**

27-1-2 **CRIMINAL CODE ADOPTED.** The **Illinois Criminal Code, Illinois Compiled Statutes, Chapter 720**, as passed, approved and amended by the Illinois General Assembly is hereby adopted by the Village; the provisions thereof shall be controlling within the corporate limits of the Village; provided, however, the penalties as provided by this Code shall apply. **(65 ILCS 5/1-3-2 and 5/11-1-1)**

ARTICLE II - GENERALLY

27-2-1 **DISTURBING POLICE OFFICER.** No person shall, by violent conduct, disturb any police officer in the discharge of his duties; nor shall any person assault, strike, or fight with any police officers in the discharge of his/her duties or permit such conduct in or upon any house or premises in the Village owned or possessed by him/her or under his/her management and control. Abusive or vulgar language in the presence of an officer does not constitute a crime unless the language is directed at the officer and provokes a breach of the peace. **(65 ILCS 5/11-1-1)**

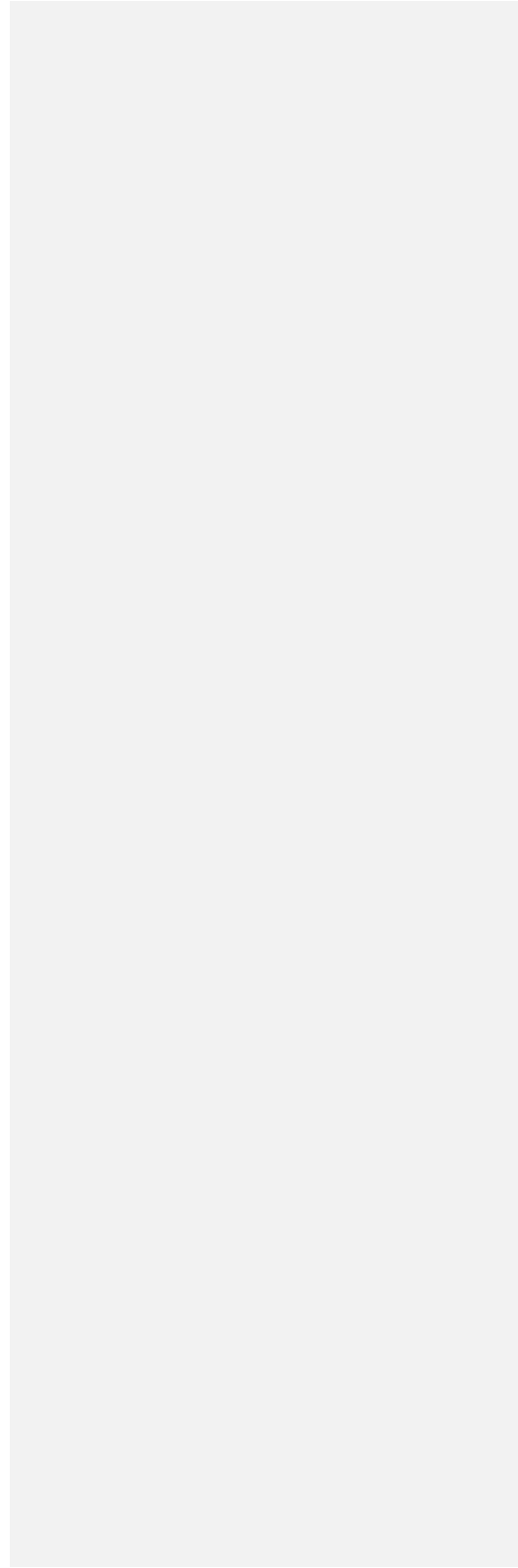
27-2-2 **IMPERSONATION OF OFFICER.** No person in the Village shall falsely represent himself to be an officer of the Village or shall, without being duly authorized by the Village, exercise or attempt to exercise any of the duties, functions or powers of the Village officer, or hinder, obstruct, resist or otherwise interfere with any Village officer in the discharge of the duties of his office. **(65 ILCS 5/11-1-1)**

27-2-3 **DISTURBING LAWFUL ASSEMBLIES.** It shall be unlawful for any person to willfully interrupt or disturb any funeral assembly, funeral procession, school, any assembly met for the worship of God or any other assembly met for a lawful purpose by any offensive behavior, or by any disorderly conduct. **(65 ILCS 5/11-5-2)**

27-2-4 **MOB ACTION.** A person commits mob action when he or she engages in any of the following:

- (A) the knowing or reckless use of force or violence disturbing the public peace by **two (2)** or more persons acting together and without authority of law;
- (B) the knowing assembly of **two (2)** or more persons with the intent to commit or facilitate the commission of a felony or misdemeanor; or
- (C) the knowing assembly of **two (2)** or more persons, without authority of law, for the purpose of doing violence to the person or property of anyone supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.

(720 ILCS 5/25-1)



27-2-5 **LOOTING BY INDIVIDUALS.** A person commits looting when he or she knowingly without authority of law or the owner enters any home or dwelling or upon any premises of another, or enters any commercial, mercantile, business, or industrial building, plant, or establishment, in which normal security of property is not present by virtue of a hurricane, fire, or vis major of any kind or by virtue of a riot, mob, or other human agency, and obtains or exerts control over property of the owner. **(720 ILCS 5/25-4)**

27-2-6 **DISTURBING THE PEACE.**
(A) No person shall disturb the good order of society, or the peace of any private family, or of any congregation within the Village by any unreasonable noise or amusement, or by vulgar or profane language, or by any disorderly or immoral conduct.

(B) No person(s) shall operate or play or cause to be played any device, whereby sound is amplified, during the hours of **10:00 P.M.** and **8:00 A.M.** in a residential district, in such a manner or volume that the sound emitted is audible to human beings beyond a distance of **one hundred (100) feet** beyond the property where the device is being operated. Such device may not be operated between the hours of **12:30 A.M.** and **8:00 A.M.** in a business district, in such a manner or volume that the sound emitted is audible to human beings beyond a distance of **five hundred (500) feet** beyond the property where the device is being operated. For the purposes of this Section, Officers of the Village may cause the amplification device to be shut off and the noise terminated upon a second violation after the issuance of a prior warning based upon a citizen complaint of the violation. Operators of special events may, with the consent of the Village Board, exceed the time and distance requirements of this Section. **(Ord. No. 2005-08; 11-21-05)**
(65 ILCS 5/11-5-2)

27-2-7 **ADMISSION FEES: FRAUDULENTLY AVOIDING PAYMENT OF.** It shall be unlawful for any person to fraudulently enter, without payment of the proper admission fee, any theater, ballroom, lecture, concert or other place where admission fees are charged; provided, however, that nothing herein contained shall be deemed to prohibit or restrict the free admission of police officers engaged in the performance of police duties to any place of public entertainment or amusement.

27-2-8 **SALE OF CIGARETTES OR TOBACCO TO MINORS.**
(A) No 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.**

(B) No minor under **sixteen (16) years of age** may sell any tobacco product at a retail establishment selling tobacco products. This subsection does not apply to a sales clerk in a family-owned business which can prove that the sales clerk is in fact a son or daughter of the owner.

(C) No minor under **eighteen (18) years of age** in the furtherance or facilitation of obtaining any tobacco product shall display or use a false or forged identification card or transfer, alter, or deface an identification card.

(D) No minor under **eighteen (18) years of age** shall possess any cigar, cigarette, smokeless tobacco, or tobacco in any of its forms.

(E) A person shall not distribute without charge samples of any tobacco product to any other person, regardless of age:

- (1) within a retail establishment selling tobacco products, unless the retailer has verified the purchaser's age with a government issued identification;
- (2) from a lunch wagon; or
- (3) on a public way as a promotion or advertisement of a tobacco manufacturer or tobacco product.

This subsection (E) does not apply to the distribution of a tobacco product sample in any adult-only facility.

(F) Tobacco products listed in this Section may be sold through a vending machine only if such tobacco products are not placed together with any non-tobacco product, other than matches, in the vending machine and the vending machine is in any of the following locations:

- (1) places to which minors under **eighteen (18) years of age** are not permitted access.
- (2) places where alcoholic beverages are sold and consumed on the premises and vending machine operation is under the direct supervision of the owner or manager.
- (3) places where the vending machine can only be operated by the owner or an employee over age **eighteen (18)** either directly or through a remote control device if the device is inaccessible to all customers.

(G) The sale or distribution by any person of a tobacco product in this Section, including but not limited to a single or loose cigarette, that is not contained within a sealed container, pack, or package as provided by the manufacturer, which container, pack, or package bears the health warning required by federal law, is prohibited.

(720 ILCS 675/1)

27-2-9 SMOKELESS TOBACCO.

(A) **Definition.** For the purposes of this Section, the term "smokeless tobacco" means any finely cut, ground, powdered, or leaf tobacco that is intended to be placed in the oral cavity.

(B) **Sales of Smokeless Tobacco Products to Persons Under Eighteen (18).** No person shall sell any smokeless tobacco product to any person under the age of **eighteen (18)**.

(C) **Distribution.** No person shall distribute or cause to be distributed to any person under the age of **eighteen (18)**, without charge or at a nominal cost, any smokeless tobacco product. **(720 ILCS 680-1 et seq.)**

27-2-10 UNLAWFUL CONDUCT ON A PUBLIC WAY.

(A) It shall be unlawful for a pedestrian to stand upon any sidewalk or public way, except as near as reasonably possible to the building line or curb line if such standing interferes with the use of said sidewalk by other pedestrians.

(B) It shall be unlawful to impede or interfere with another person's use of a public way.

27-2-11 AID IN ESCAPE. It shall be unlawful to rescue or attempt to rescue or shall abet or encourage the rescue or escape of any person from the custody of any officer or other person legally having him in charge, or shall molest or interfere with any officer or other person so legally having him in charge, or shall, in any manner, aid, abet or encourage the rescue or the attempt to escape from any person legally committed thereto, or shall supply or attempt to supply any such person with any weapon or with any implement or means whereby an escape might be affected, or with any intoxicating liquors, drugs or other article(s) without the consent of the officer in charge. **(720 ILCS 5/31-7)**

27-2-12 ESCAPES. It shall be unlawful for any person convicted of any offense or in lawful custody to escape or attempt to escape from custody. **(720 ILCS 5/31-6(C))**

27-2-13 FALSE PRETENSES. It shall be unlawful for any person to obtain any food, drink, goods, wares, or merchandise under false pretenses, or to enter public places and call for refreshments or other articles and receive and refuse to pay for same, or to depart without paying for or satisfying the person from whom he received the food, goods, wares, and/or merchandise.

27-2-14 RENTING PREMISES FOR UNLAWFUL PURPOSES.

(A) It shall be unlawful for any person, owning or controlling a building or property, to rent, use, or allow to be used, any such building or property where unlawful conduct occurs.

(B) It shall be an affirmative defense if such owner or controlling party notifies, or causes the notification of, the police to take appropriate action and make arrests for such unlawful conduct. **(Ord. No. 2005-08; 11-21-05)**

27-2-15 AID TO AN OFFENSE.

(A) 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 unlawful act.

(B) Parents or guardians having legal custody of a child under the age **eighteen (18)**, or sharing a common dwelling with a person under age **eighteen (18)**, shall be deemed in violation of this Section when such child has not been emancipated and has violated any ordinance or law within the Village. This paragraph shall not apply to petty traffic offenses. **(Ord. No. 2005-08; 11-21-05)**

27-2-16 POSTING BILLS. It shall be unlawful for any person to paste, post, paint, print or nail any handbill, sign, poster, advertisement, or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door, or gate without the consent, in writing, of the owner of the wall, door or gate; provided, however, that this Section shall not prevent posting by proper Village and County officials of election signs, polling place signs and other signs or placards necessary under the law to the conduct of elections, except they may not be attached to a tree.

27-2-17 INTOXICATION IN PUBLIC. No person shall, in the Village, be found in a state of intoxication or drunk in any street or other public place, or shall be found drunk lying or roving about the streets, alleys, or sidewalks of this Village or the private grounds of any of the inhabitants thereof, or being drunk as aforesaid, shall disturb the peace, order and quiet of the Village, or the peace and quiet of the citizens thereof by loud and unusual noises, disorderly conduct, indecent language or behavior or in any other manner. **(65 ILCS 5/11-5-3)**

27-2-18 BEGGING. No person shall beg or solicit alms within the Village without having obtained permission in writing from the Mayor. **(65 ILCS 5/11-5-4)**

27-2-19 CONCEALED WEAPONS. A person may, within the Village, carry or wear under his clothes or conceal about his person a pistol or colt, if and only if, it is legal with the State of Illinois for that person to possess such pistol or colt, and the carrying of that pistol or colt in a concealed fashion does not violate any state or federal ordinance of law. No person may enter into a premises where it is posted by the owners or managers of that premises that concealed weapons are precluded. This Section shall not apply to the officers or members of the Police Department, nor to any law enforcement officer or any person authorized to carry concealed weapons by the State of Illinois.

No person shall within the Village carry or wear under his clothes or conceal about his person a slingshot or crossbow, or knuckles of lead, brass or other material, or any switchblade knife, bowie knife, dirk knife or dirk dagger, or any other dangerous or deadly weapons or a knife with any spring-assisted blade. **(Ord. No. 2015-08; 02-16-16)**

27-2-20 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. **(Ord. No. 2005-08; 11-21-05)**

27-2-21 GAMES IN STREET. No person shall, upon any Village street, fly any kite or play any game of ball or engage in any amusement or practice having a tendency to injure or annoy any person passing in the streets or on the sidewalks.

27-2-22 STORAGE OF EXPLOSIVES.
(A) **Nitroglycerine; Dynamite, Etc.** No person shall have, keep, possess, or store at or in any place within the Village, any nitroglycerine, dynamite or giant powder, or any form or combination of any of them.

(B) **Blasting Powder, Etc.** No person shall keep, possess or store any gun or blasting powder or any gun or explosive cotton at or in any one place in the Village in any quantity exceeding **five (5) pounds.** **(65 ILCS 5/11-8-4)**

27-2-23 THROWING ROCKS. No person in the Village shall throw or cast any rock or stone or any other missile upon or at any building, tree, or other public or private property, or at any person in any street, avenue, alley or public place.

27-2-24 DESTRUCTION OF PUBLIC PROPERTY. No person in the Village shall deface, destroy, or in any way, injure any public property, or any other apparatus of the Village.

27-2-25 FORTUNE TELLING. No person in the Village shall pursue the calling of a fortune teller or practice fortune telling, soothsaying, or the like and receive payment in any manner therefor.

27-2-26 ABANDONED REFRIGERATORS OR ICEBOXES. It shall be unlawful for any person to abandon or discard in any place accessible to children any refrigerator, icebox or ice chest, of a capacity of **one and one-half (1 1/2) cubic feet** or more, which has an attached lid or door which may be opened or fastened shut by means of an attached latch. The owner, lessee, or manager of such place, who knowingly permits such abandoned or discarded refrigerator, icebox or ice chest to remain there in such condition, shall be guilty of violating this Section. **(430 ILCS 150/0.01 and 150/1)**

27-2-27 HALLOWEEN CURFEW. It shall be illegal for any person to engage in Halloween practice, commonly called "**Trick or Treat**", by calling at the homes or dwelling places within the Village, either masked or unmasked, except on a day designated by the Mayor between the hours of **5:00 P.M.** and **9:00 P.M.** **(Ord. No. 2005-08; 11-21-05) (65 ILCS 5/11-1-5)**

27-2-28 THEFT OF RECYCLABLES UNLAWFUL. It shall be unlawful for any person to collect, obtain, possess or pickup any recyclable item(s) from any receptacle or collection point where service is provided by an authorized waste hauler licensed by the municipality or from any specified recycling center within the Village limits unless said person is acting as an agent for the Village or acting as an agent for a waste hauler licensed by the Village.

27-2-29 **THROWING OBJECTS FROM MOTOR VEHICLES.** Pursuant to the police powers in **65 ILCS 5/11-1-1** it shall be unlawful for any person occupying or driving a motor vehicle, whether moving or not, to shoot, throw, cast, launch or drop any object, liquid or substance at any person, animal or structure, wherein the possibility of harm, injury or damage may occur as a result of these actions.

The driver and/or all passengers shall be, upon conviction, fined in accordance with the provisions of the Village Code and shall be liable for all damage, injury or harm caused by the activity. **(See Section 27-3-2)**

27-2-30 **DEPOSITING OF SNOW AND ICE RESTRICTED.** No person shall deposit or cause to be deposited any snow and ice on or against a fire hydrant or on any sidewalk, roadway, or loading or unloading areas of a public transportation system, except that snow and ice may be windrowed on curbs incident to the cleaning of sidewalks in business districts. **(65 ILCS 5/11-80-13)**

27-2-31 **PROTECTIVE COVERING OR FENCING.** Any person, corporation or partnership which either owns, or maintains, or uses, or abandons any open well, cesspool, cistern, quarry, recharging basin, catch basin, sump, excavation for the erection of any building structure or excavation created by the razing or removal of any building structure without covering or surrounding such installation with protective fencing is guilty of a violation of **Section 1-1-20** of this Code. The provisions of this Act shall not apply during the course of repair, construction, removal or filling of any of the structures or conditions herein described while any worker is present at the location thereof either performing services thereon or as a watchman to guard such location. **(430 ILCS 165/1)**

27-2-32 **CURFEW HOURS FOR MINORS.**

(A) **Definitions.** Whenever used in this Section.

- (1) **"Curfew hours"** means:
 - (a) 11:00 P.M. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 A.M. of the following day; and
 - (b) 12:01 A.M. until 6:00 A.M. on Saturday; and
 - (c) 12:01 A.M. until 6:00 A.M. on Sunday.
- (2) **"Emergency"** means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
- (3) **"Establishment"** means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.
- (4) **"Guardian"** means:
 - (a) A person who, under court order, is the guardian of the person of a minor; or
 - (b) A public or private agency with whom a minor has been placed by a court.
- (5) **"Minor"** means any person under **eighteen (18) years** of age.
- (6) **"Operator"** means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
- (7) **"Parent"** means a person who is:
 - (a) A natural parent, adoptive parent, or stepparent of another person; or
 - (b) At least **twenty-one (21) years** of age and authorized by a parent or guardian to have the care and custody of a minor.

- (8) **"Public Place"** means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.
- (9) **"Remain"** means to:
 - (a) linger or stay; or
 - (b) fail to leave premises when requested to do so by a police officer or the owner, operator or other person in control of the premises.
- (10) **"Serious bodily injury"** means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

(B)

Offenses.

- (1) A minor commits an offense if he remains in any public place or on the premises of any establishment within the Village during curfew hours.
- (2) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the Village during curfew hours.
- (3) The owner, operator or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

(C)

Defenses.

- (1) It is a defense to prosecution under subsection (B) that the minor was:
 - (a) Accompanied by the minor's parent or guardian;
 - (b) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
 - (c) In a motor vehicle involved in interstate travel;
 - (d) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
 - (e) Involved in an emergency;
 - (f) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
 - (g) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the Village, a civil organization, or another similar entity that takes responsibility for the minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the Village, a civic organization or another similar entity that takes responsibility for the minor;
 - (h) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
 - (i) Married or had been married or is an emancipated minor under the Emancipation or Mature Minors Act, as amended.
- (2) It is a defense to prosecution under subsection (B)(3) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

(D)

Enforcement.

Before taking any enforcement action under this Section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer

shall not issue a citation or make an arrest under this Section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection (C) is present. **(65 ILCS 5/11-1-5)**

27-2-33 **SANCTITY OF FUNERAL AND MEMORIAL SERVICES.** It shall be unlawful for a person to violate any of the following provisions of this Section:

(A) Engaging in any loud protest of signing, chanting, whistling or yelling with, or without, noise amplification including but not limited to bullhorns, auto horns and microphones within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(B) Displaying any visual images that convey fighting words, actual or veiled threats against any other person within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(C) Blocking access to any facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates; or

(D) Ending in a directed protest march or picket at any public location within **three hundred (300) feet** of any entrance of a facility being used for a funeral or memorial service at any time during the period starting **thirty (30) minutes** before any funeral or memorial service is scheduled to begin and ending **thirty (30) minutes** after the funeral or memorial service terminates. **(720 ILCS 5/26-6)**

27-2-34 **USE OF UPHOLSTERED FURNITURE IN OUTDOOR LOCATIONS PROHIBITED.**

(A) Upholstered or other furniture designed or manufactured primarily for indoor use shall not be used or allowed to remain:

- (1) on unenclosed exterior porches or balconies;
- (2) in an open area on private property exposed to outdoor weather conditions.

(B) It shall not be a defense to said prohibition that such furniture is covered by plastic cover, or other tarpaulin, canvas or sheeting.

(C) This prohibition shall not apply to the following:

- (1) wood, metal, or plastic furniture;
- (2) outdoor patio furniture with weather-resistant cushions;
- (3) upholstered furniture designated for prepaid special pickup or delivery by public or private hauler, provided that such remain outdoors for a period not to exceed **seventy-two (72) hours**.

27-2-35 **NOISE.**

(A) **Prohibited; Enumeration.** The creating of any unreasonably loud, disturbing and unnecessary noise within the Village limits is prohibited. Noise of such character, intensity or duration as to be detrimental to the life or health of any individual or in disturbance of the public peace and welfare is prohibited. The following, among others, are declared to be loud, disturbing and unnecessary noises and noises in violation of this Section, but this enumeration shall not be deemed to be exclusive:

- (1) **Blowing Horns.** The sounding of any horn or signal device on any automobile, motorcycle or bus, while not in motion, except as a danger signal if another vehicle is approaching apparently out of control or if in motion only as a danger signal after or as brakes are being applied and

deceleration of the vehicle is intended; the creation by means of any

such device of any unreasonably loud or harsh sound; and the sounding of such device for an unnecessary and unreasonable period of time.

- (2) **Radios, Etc.** The playing of any radio, music player such as a boom box, tape cassette, disc player or television, audio system or musical instrument or live band in such a manner or with such volume, between the hours of **10:00 P.M.** and **7:00 A.M.** Sunday through Thursday and **11:00 P.M.** and **7:00 A.M.** Friday and Saturday in such a manner as to be plainly audible beyond the boundaries of the premises upon which such equipment is operated or used, shall be prima facie evidence of a violation of this Section.

27-2-36 **FALSE REPORT OF THEFT AND OTHER LOSSES.** It is unlawful for a person to knowingly make a false report of a theft, destruction, damage or conversion of any property to a law enforcement agency or other governmental agency with the intent to defraud an insurer. **(720 ILCS 5/26-1.1)**

27-2-37 **HARASSING AND OBSCENE COMMUNICATIONS.**

(A) **Definitions.** As used in this Section:

- (1) **Electronic communication** means any transfer of signs, signals, writings, images, sounds, data or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system. "Electronic communication" includes transmissions through an electronic device including, but not limited to, a telephone, cellular phone, computer, or pager, which communication includes, but is not limited to, e-mail, instant message, text message, or voice mail.
- (2) **Family or household member** includes spouses, former spouses, parents, children, stepchildren and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For purposes of this Article, neither a casual acquaintanceship nor ordinary fraternization between **two (2)** individuals in business or social contexts shall be deemed to constitute a dating relationship.
- (3) **Harass or harassing** means knowing conduct which is not necessary to accomplish a purpose that is reasonable under the circumstances, that would cause a reasonable person emotional distress and does cause emotional distress to another.

(B) **Transmission of Obscene Messages.**

- (1) A person commits transmission of obscene messages when he or she sends messages or uses language or terms which are obscene, lewd or immoral with the intent to offend by means of or while using a telephone or telegraph facilities, equipment or sires of any person, firm or corporation engaged in the transmission of news or messages between states or within the State of Illinois.
- (2) The trier of fact may infer intent to offend from the use of language or terms which are obscene, lewd or immoral.

(C) **Harassment by Telephone.**

- (1) A person commits harassment by telephone when he or she uses telephone communication for any of the following purposes:
 - (a) making any comment, request, suggestion or proposition which is obscene, lewd, lascivious, filthy or indecent with an intent to offend;

- (b) making a telephone call, whether or not conversation ensues, with intent to abuse, threaten or harass any person at the called number;
 - (c) making or causing the telephone of another repeatedly to ring, with intent to harass any person at the called number;
 - (d) making repeated telephone calls, during which conversation ensues, solely to harass any person at the called number;
 - (e) making a telephone call or knowingly inducing a person to make a telephone call for the purpose of harassing another person who is under **thirteen (13) years of age**, regardless of whether the person under **thirteen (13) years of age** consents to the harassment, if the defendant is at least **sixteen (16) years of age** at the time of the commission of the offense; or
 - (f) knowingly permitting any telephone under one's control to be used for any of the purposes mentioned herein.
- (2) Every telephone directory published for distribution to members of the general public shall contain a notice setting forth a summary of the provisions of this Section. The notice shall be printed in type which is no smaller than any other type on the same page and shall be preceded by the word "WARNING". All telephone companies in this State shall cooperate with law enforcement agencies in using their facilities and personnel to detect and prevent violations of this Article.

(720 ILCS 5/26.5)

27-2-38 SCHOOL TRESPASSING.

(A) No person shall willfully or maliciously make or assist in making any noise, disturbance or other improper diversion by which the peace, quietude or good order of any public, private or parochial school is disturbed.

(B) No person shall use profane, indecent or immoral language or indulge in indecent or immoral conduct in any building or on any property adjacent to any building in the Village occupied as a public, private or parochial school.

(C) Any person found to be creating a disturbance in any private, public or parochial school, or on the surrounding school grounds or on the fields or grounds lawfully used for school activities while such recreational areas or other activities are in progress shall leave immediately when so directed by the principal or by any other person designated by the principal.

(D) No person shall enter or remain in any public, private or parochial school building or school grounds between the hours of **eight o'clock (8:00) A.M.** and **four-thirty (4:30) P.M.** on days such school is in session, who is not a regularly enrolled student, teacher, or other employee at such school, unless he shall have first and immediately proceeded to the administrative offices and identify himself to the principal or principal's designee and receive permission to so enter or remain.

It shall be unlawful for any person to enter or remain in any public, private or parochial school or school grounds or on any public way within **five hundred (500) feet** of such public, private or parochial school or school grounds after being requested to leave by the principal or his designee.

(E) It shall be unlawful for any person to borrow or attempt to borrow any money or thing of value from any student in any public, private or parochial school property in the Village or during any time when such student is going to or returning from any regularly scheduled session of any such school without first obtaining the written approval of the principal of such school or other person designated by the principal to issue such written approval.

(F) It shall be unlawful for any person to be on any school grounds after official sunset unless he is actively engaged in school sponsored functions, supervised recreational activities or is participating in any athletic event or is a spectator at such event.

(G) No unauthorized person shall enter upon the premises of any elementary, intermediate or secondary school.

(H) It shall be unlawful to conduct any activity on public, private or parochial school grounds if the school has posted signs prohibiting the activity.

(65 ILCS 5/11-1-1)

ARTICLE III - OFFENSES AGAINST PROPERTY

27-3-1 **PETTY THEFT.** A person commits theft when he or she knowingly:

- (A) obtains or exerts unauthorized control over property of the owner; or
- (B) obtains by deception, control over property of the owner; or
- (C) obtains by threat, control over property of the owner; or
- (D) obtains control over stolen property knowing the property to have been stolen by

another or under such circumstances as would reasonably induce him to believe that the property was stolen; or

(E) obtains or exerts control over property in the custody of any law enforcement agency which any law enforcement officer or any individual acting in behalf of a law enforcement agency explicitly represents to the person as being stolen or represents to the person such circumstances as would reasonably induce the person to believe that the property was stolen; and

- (1) intends to deprive the owner permanently of the use or benefit of the property; or
- (2) knowingly uses, conceals or abandons the property in such a manner as to deprive the owner permanently of such use or benefit; or
- (3) uses, conceals or abandons the property, knowing such use, concealment or abandonment probably will deprive the owner permanently of such use or benefit.

(F) It shall be unlawful to commit a theft.

(720 ILCS 5/16-1)

27-3-2 **CRIMINAL DAMAGE TO PROPERTY.** A person commits criminal damage to

property when he or she:

- (A) knowingly damages any property of another;
- (B) recklessly by means of fire or explosive damages property of another;
- (C) knowingly start a fire on the land of another;
- (D) knowingly injure a domestic animal of another without his or her consent;
- (E) knowingly deposits on the land or in the building of another any stink bomb or any offensive smelling compound and thereby intends to interfere with the use by another of the land or building;

(F) knowingly damages any property, other than as described in paragraph (2) of subsection (a) of Section 20-1, with intent to defraud an insurer;

(G) knowingly shoots a firearm at any portion of a railroad train;

(H) knowingly, without proper authorization, cuts, injures, damages, defaces, destroys, or tampers with any fire hydrant or any public or private fire-fighting equipment or any apparatus appertaining to firefighting equipment; or

(I) intentionally, without proper authorization, opens any fire hydrant.

When the charge of criminal damage to property exceeding a specified value is brought, the extent of the damage is an element of the offense to be resolved by the trier of fact as either exceeding nor not exceeding the specified value.

27-3-3 **INJURY TO UTILITY WIRES AND POLES.** It shall be unlawful to willfully,

maliciously, or negligently break, deface, injure or destroy any telegraph or telephone pole, post or wire, or any electric lightpost, pole, or electric conductor, wire or lamp or any other thing connected with the same or belonging thereto, or any water main, gas main, pipe or hydrant or lamp or lamppost, or anything belonging to or connected therewith or with any of them.

27-3-4 **DAMAGE OR DESTRUCTION OF STREET SIGNS PROHIBITED.** It shall be

unlawful for any person in any manner or form, to deface, disfigure, damage or destroy any of the street signs or parts thereof located in the Village.

27-3-5 **TAMPERING WITH PUBLIC NOTICE.** It shall be unlawful for a person to

knowingly and without lawful authority alter, destroy, deface, remove or conceal any public notice, posted according to law, during the time for which the notice was to remain posted. **(720 ILCS 5/32-9)**

ARTICLE IV - PUBLIC HEALTH, SAFETY AND DECENCY

27-4-1 **DISORDERLY CONDUCT; ELEMENTS OF THE OFFENSE.** A person commits disorderly conduct when he or she knowingly:

(A) does any act in such an unreasonable manner as to alarm or disturb another and to provoke a breach of the peace;

(B) transmits or causes to be transmitted in any manner to the Fire Department of any city, town, village or fire protection district, a false alarm of fire, knowing at the time of the transmission that there is no reasonable ground for believing that such fire exists;

(C) transmits or causes to be transmitted in any manner to another a false alarm to the effect that a bomb or other explosive of any nature or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in a place where its explosion or release would endanger human life, knowing at the time of the transmission that there is no reasonable ground for believing that the bomb, explosive or a container holding poison gas, a deadly biological or chemical contaminant, or radioactive substance is concealed in the place;

(D) transmits or causes to be transmitted a threat of destruction of a school building or school property, or a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session;

(E) transmits or causes to be transmitted in any manner to any peace officer, public officer or public employee a report to the effect that an offense will be committed, is being committed, or has been committed, knowing at the time of the transmission that there is no reasonable ground for believing that the offense will be committed, is being committed, or has been committed;

(F) transmits or causes to be transmitted a false report to any public safety agency without the reasonable grounds necessary to believe that transmitting the report is necessary for the safety and welfare of the public; or

(G) calls the number "911" for the purpose of making or transmitting a false alarm or complaint and reporting information when, at the time the call or transmission is made, the person knows there is no reasonable ground for making the call or transmission and further knows that the call or transmission could result in the emergency response of any public safety agency;

(H) transmits or causes to be transmitted a false report to the Department of Children and Family Services under Section 4 of the Abused and Neglected Child Reporting Act;

(I) transmits or causes to be transmitted a false report to the Department of Public Health under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, and ID/DD Community Care Act, or the MC/DD Act;

(J) transmits or causes to be transmitted in any manner to the police department or fire department of any municipality or fire protection district, or any privately owned and operated ambulance service, a false request for an ambulance, emergency medical technician-ambulance or emergency medical technician-paramedic knowing at the time there is no reasonable ground for believing that the assistance is required;

(K) transmits or causes to be transmitted a false report under Article II of Public Act 83-1432;

(L) enters upon the property of another and for a lewd or unlawful purpose deliberately looks into a dwelling on the property through any window or other opening in it; or

(M) while acting as a collection agency as defined in the Collection Agency Act or as an employee of such collection agency, and while attempting to collect an alleged debt, makes a telephone call to the alleged debtor which is designed to harass, annoy or intimidate the alleged debtor.

(720 ILCS 5/26-1)

27-4-2 **RESISTING OR OBSTRUCTING A PEACE OFFICER.** A person commits an offense when that person knowingly resists or obstructs the performance of any authorized act of one known to the person to be a peace officer within that peace officer's official capacity. **(720 ILCS 5/31-1)**

27-4-3 **REFUSING TO AID AN OFFICER.** A person who refuses or knowingly fails, upon command, to reasonably aid a person known by him to be a peace officer in the following commits a misdemeanor:

- (A) apprehending a person whom the officer is authorized to apprehend; or
- (B) preventing the commission by another of any offense.

(720 ILCS 5/31-8)

27-4-4 **ASSEMBLING AT PUBLIC PLACES AND BUSINESSES.**

(A) **Drive-in Business.** A drive-in business within the meaning of this Code shall be deemed to be any business where meals, sandwiches, cold drinks, beverages, ice cream, food, drink, or consumer services are served directly to or are permitted to be consumed by patrons in or upon automobiles, motorcycles, or other vehicles parked on the premises.

(B) **Declared Public Places.** For the purpose of preserving public peace, health and safety, the entire premises occupied by a drive-in business, together with means of ingress or egress, are hereby declared to be a public place;

- (1) No person on the premises of a drive-in business shall race the motor of any motor vehicle, needlessly bring to a sudden start or stop, any motor vehicle, blow any horn of any motor vehicle, or cause to be made any loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or the neighborhood are disturbed.
- (2) The following acts or conduct of any persons entering a drive-in business or premises are hereby declared to be unlawful, and any person found guilty of any such acts shall be guilty of a violation of this Article:
 - (a) Entering the premises of any drive-in business with any motor vehicle of any description and parking such vehicle and leaving the premises (thereby leaving such vehicle parked and unoccupied), without express consent of the owner or operator of such business, in which event, such motor vehicle shall be subject to a parking citation or may be impounded subject to the usual impounding charges.
 - (b) Entering the premises in or upon a motor vehicle and using said premises for cruising, racing as a shortcut to another street or to annoy or endanger any person or persons or other vehicle or vehicles lawfully on said premises.
 - (c) For three (3) or more persons to congregate on the premises and linger or loiter at any location on the premises of any drive-in business, other than in the building or in a legally parked motor vehicle.
 - (d) For any person who, while on the premises of any drive-in business, in the presence or hearing of another, to curse or abuse such person or use any violently abusive language under circumstances reasonably calculated to provoke a breach of the peace.

(C) **Posting Sign.** It shall be the responsibility of the business operator to post on the premises in a conspicuous location, one (1) or more signs bearing the following legend in letters at least two inches (2") or more in height and readable:

"CRUISING IN OR CONGREGATING AND LOITERING OUTSIDE A MOTOR VEHICLE IS UNLAWFUL. NO UNOCCUPIED MOTOR VEHICLES MAY BE LEFT ON THE PREMISES WITHOUT THE CONSENT OF THE OWNER."

(65 ILCS 5/11-5-2)

ARTICLE V - ANTI-LITTER

27-5-1 **DEFINITIONS.** For the purpose of this Article, the following terms, phrases, words, and their derivations shall have the meanings given herein:

"AIRCRAFT" is any contrivance now known or hereafter invented, used, or designed for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air powered craft and balloons.

"AUTHORIZED PRIVATE RECEPTACLE" is a container of water-tight construction with a tight-fitting lid or cover capable of preventing the escape of contents within. Such receptacles shall have handles or other means for safe and convenient handling and be of such size or sufficient capacity to hold all litter generated between collection periods and shall be in compliance with the regulations promulgated.

"CONSTRUCTION SITES" means any private or public property upon which repairs to existing buildings, construction of new buildings or demolition of existing structures is taking place.

"HANDBILL" is any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed matter of literature which is not delivered by the United States Mail Service, including, but not limited to those which:

- (A) advertise for sale any merchandise, product, commodity or thing; or
- (B) direct attention to any business or mercantile or commercial establishment, or other activity for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (C) direct attention to or advertise any meeting, theatrical performance, exhibition, or event of any kind for which an admission fee is charged for the purpose of private gain or profit.

"LITTER" is garbage, refuse and rubbish and all other waste material which, if thrown or deposited as herein prohibited, tends to create a danger to public health, safety and welfare.

"LOADING AND UNLOADING DOCK" means any dock space or area used by any moving vehicle for the purpose of receiving, shipping and transporting goods, wares, commodities and persons located on or adjacent to any stream, river or land.

"PRIVATE PREMISES" means all property including, but not limited to, vacant land or any land, building or other structure designed or used for residential, commercial, business, industrial, institutional or religious purposes, together with any yard, grounds, walk, driveway, fence, porch, steps, vestibule, mailbox, and other structure(s) appurtenant thereto.

"PUBLIC PLACE" means any and all streets, sidewalks, boulevards, alleys or other public ways, lakes, rivers, watercourses, or fountains and any and all public parks, squares, spaces, grounds, and buildings.

"PUBLIC RECEPTACLES" means any receptacles provided by or authorized by the Village.

"VEHICLE" is every device in, upon or by which any person or property is or may be transported or drawn upon land or water, including devices used exclusively upon stationary rails or tracks.

27-5-2 **LITTERING PROHIBITED.** No person shall deposit any litter within the Village except in public receptacles, in authorized private receptacles for collection, or in any duly licensed disposal facility.

27-5-3 **PREVENTION OF SCATTERING.** Persons placing litter in public receptacles or in authorized private receptacles shall do so in such a manner as to prevent litter from being carried or deposited by the elements upon any public place or private premises.

27-5-4 RECEPTACLES - UPSETTING OR TAMPERING. No person shall upset or tamper with a public or private receptacle designed or used for the deposit of litter or cause or permit its contents to be deposited or strewn in or upon any public place or private premises.

27-5-5 SIDEWALKS AND ALLEYS FREE FROM LITTER. Persons owning, occupying or in control of any public place or private premises shall keep the sidewalks and alleys adjacent thereto free of litter.

27-5-6 OWNER TO MAINTAIN PRIVATE PREMISES.
(A) The owner or person in control of any private premises shall, at all times, maintain the premises free of litter.
(B) The owner or person in control of private premises shall, if public receptacles are unavailable, maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or private premises.

27-5-7 LITTERING FROM VEHICLES.
(A) No person, while the operator of or passenger in a vehicle, shall deposit litter upon any public place or private premises.
(B) No person shall drive or move any loaded or partly loaded truck or other vehicle within the Village unless such vehicle is so constructed or so loaded as to prevent any part of its load, contents or litter from being blown or deposited upon any public place or private premises. Nor shall any person drive or move any vehicle or truck within the Village, the wheels or tires of which carry onto or deposit in any public place or private premises, mud, dirt, sticky substances, litter or foreign matter of any kind.

27-5-8 LITTERING FROM AIRCRAFT. No person in an aircraft shall throw out, drop or deposit any litter within the Village.

27-5-9 LITTER IN PARKS. No person shall deposit litter in any park within the Village except in receptacles and in such a manner that the litter will be prevented from being carried or deposited by the elements upon any part of the park or upon any other public place or private premises. Where receptacles are not provided, all such litter shall be removed from the park by the person responsible for its presence and properly disposed of elsewhere in a lawful manner.

27-5-10 HANDBILLS.
(A) **Public Places.** No person shall deposit or sell any handbill in or upon any public place, provided, however, that it shall not be unlawful on any public place for any person to hand out or distribute without charge to the receiver, any handbill to any person willing to accept it.
(B) **Private Premises.** No person shall deposit or unlawfully distribute any handbill in or upon private premises or vehicles, except by handing or transmitting any such handbill directly to the occupant of such private premises. Provided, however, that in case of private premises or vehicles which are not posted against the receiving of handbills or similar material, such person, unless requested by anyone upon such premises not to do so, may securely place any such handbill in such a manner as to prevent such handbill from being deposited by the elements upon any public place or other private premises, except mailboxes, may not be so used when prohibited by federal postal law or regulations.
(C) **Exemptions for Newspapers and Political Literature.** The provisions of this Section shall not apply to the distribution upon private premises only of newspapers or political

literature; except that newspapers and political literature shall be placed in such a manner as to prevent their being carried or deposited by the elements upon any public place or other private premises.

(D) **Placing Handbills on Vehicles.** No person shall deposit any handbill in or upon any vehicle unless the occupant of the vehicle is willing to accept it.

(E) **Cleanup.** It shall be the responsibility of any person distributing handbills to maintain the area which they are utilizing free of any litter caused by or related to said handbill distribution.

27-5-11 POSTING NOTICES PROHIBITED. No person shall post or affix any notice, poster, or other paper or device, calculated to attract the attention of the public upon any public place, except as may be authorized or required by law. No person, except the owner or tenant shall post any such notice on private property without the permission of the owner or tenant.

27-5-12 CONSTRUCTION SITES.

(A) Each contractor shall be responsible for the job site so that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

(B) Litter or other debris, including dirt and mud, deposited as the result of normal construction process upon any public place or private premises, shall be removed by the contractor.

27-5-13 LOADING AND UNLOADING DOCKS. The person owning, operating, or in control of a loading or unloading dock shall maintain private receptacles for collection of litter, and shall, at all times, maintain the dock area free of litter in such a manner that litter will be prevented from being carried or deposited by the elements upon any public place or other private premises.

27-5-14 PARKING LOTS.

(A) **Litter Receptacles Required.** Any public place or private premises containing any provision for parking vehicles shall be equipped with litter receptacles in compliance with this Section. Such premises shall include, but not be limited to such places as shopping centers, outdoor theaters, drive-in restaurants, gasoline service stations, apartment developments, parking lots, and any other place where provision is made for vehicles to stop or park in a designated area for any purpose.

(B) **Number of Receptacles.** All premises having parking lots shall provide in an easily accessible location a minimum of **one (1) refuse container** for every **fifty (50) parking spaces.**

(C) **Specifications.** Litter receptacles shall have tight-fitting lids or tops and shall be weighted or attached to the ground or other fixed structures as necessary to prevent spillage. A minimum container size of **twenty (20) gallons or 75.7 liters** shall be used.

(D) **Cleanliness.** Premises used for the purpose designated herein shall be kept in a litter-free condition and all litter shall be removed periodically from the receptacles.

(E) **Obligation to Use Receptacles.** It shall be the duty and obligation of all persons using parking areas to use such litter receptacles as hereinabove provided for the purposes intended and it shall be unlawful for any person or persons to deposit any litter upon any such parking lot.

(65 ILCS 5/11-1-1 and 415 ILCS 105/1 et seq.)

ARTICLE VI - TRESPASS

27-6-1 TRESPASSES PROHIBITED. It shall be unlawful for any person, firm, or corporation to commit a trespass within this municipality upon either public or private property.

27-6-2 SPECIFICALLY ENUMERATED TRESPASSES - SUPPRESSION. Without constituting any limitation upon the provisions of **Section 27-6-1** hereof, any of the following acts by any person, firm, or corporation shall be deemed included among those that constitute trespasses in violation of the provisions of **Section 27-6-1**, and appropriate action may be taken hereunder at any time, or from time to time, to prevent or suppress any violation or violations of this Article; the aforesaid enumerated acts so included, being as follows, to-wit:

(A) An entry upon the premises of another, or any part thereof, including any public property, in violation of a notice posted or exhibited at the main entrance to the premises, or at any point of approach or entry or in violation of any notice, warning or protest given orally or in writing, by any owner or occupant thereof; or

(B) the pursuit of a course of conduct or action incidental to the making of an entry upon the land of another in violation of a notice posted or exhibited at the main entrance to the premises or at any point of approach or entry, or in violation of any notice, warning or protest given orally or in writing by any owner or occupant thereof; or

(C) a failure or refusal to depart from the premises of another in case of being requested, either orally or in writing to leave by any owner or occupant thereof; or

(D) an entry into or upon any vehicle, aircraft or watercraft made without the consent of the person having the right to leave any such vehicle, aircraft or watercraft after being requested to leave by the person having such right.

(65 ILCS 5/11-5-2)

ARTICLE VII - PARENTAL RESPONSIBILITY REGULATIONS

27-7-1 **DEFINITIONS.** For the purpose of this Article, the following definitions shall apply:

"ACTS OF VANDALISM AND SIMILAR OFFENSES" shall include any of the following acts:

(A) Maliciously, recklessly, negligently, or knowingly damaging or destroying or defacing any property within the Village, whether such property is owned by the State, County or governmental body or owned by any private person, firm, partnership, or association; or

(B) maliciously, recklessly, or knowingly, by means of fire or explosive device, damaging, debasing, or destroying any property of another person; or

(C) maliciously, recklessly, negligently or knowingly starting a fire on land of another person without his consent; or

(D) maliciously, recklessly or knowingly depositing on land or in the building of another person, without his consent, any stink bomb or any offensive smelling compound and thereby interfering with the use and occupancy by another of the land or building; or

(E) maliciously, recklessly, or knowingly, and without authority, entering into or obtaining control over any building, house trailer, motor vehicle, aircraft or watercraft or any part thereof of another person without his consent.

"LEGAL GUARDIAN" shall include a foster parent, a person appointed guardian of a person or given custody of a minor by a Circuit Court of this State, but does not include a person appointed guardian only to the estate of a minor, or appointed guardian, or given custody of a minor under the **Illinois Juvenile Court Act**.

"MINOR" shall include a person who is above the age of **seven (7) years**, but not yet **eighteen (18) years** of age.

"PARENT" shall include the lawful father and mother of a minor child whether by birth or adoption.

"PROPERTY" shall include any real estate including improvements thereon and tangible personal property.

27-7-2 **PARENTS AND GUARDIANS RESPONSIBLE FOR ACTS.** The parent or legal guardian of an unemancipated minor residing with such parent or legal guardian shall be presumed, in the absence of evidence to the contrary to have failed to exercise proper parental responsibility and said minor shall be deemed to have committed the acts described herein with the knowledge and permission of the parent or guardian in violation of this Article upon the occurrence of the events described in (A), (B) and (C) below:

(A) An unemancipated minor residing with said parent or legal guardian shall either be adjudicated to be in violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of a violation of any ordinance, law, or statute prohibiting willful and malicious acts causing injury to a person or property; and

(B) Said parent or legal guardian shall have received a written notice thereof, either by certified mail, return receipt requested, or by personal service, with a certificate of personal service returned from the Village, following said adjudication or non-judicial sanctions; and

(C) If, at any time within **one (1) year** following receipt of notice set forth in paragraph (B) above, said minor is either adjudicated to be in violation of any ordinance, law, or statute as described in (A) above, or shall have incurred non-judicial sanctions from another official agency resulting from an admission of guilt of violation of any ordinance, law, or statute as described in (A) above.

(740 ILCS 115/1 et seq. and 740 ILCS 115/4)

ARTICLE VIII – TRUANCY AND CURFEW CODE

27-8-1 DEFINITIONS. As used in this Article unless the context requires otherwise the following words and phrases shall mean:

"VILLAGE CURFEW HOURS" means the period of time specified in **Section 27-2-31** of the Chapter.

"COURT" means the 20th Judicial Circuit; St. Clair County, Illinois.

"CUSTODIAN" means:

- (A) a person who under court order is the custodian of the person of a minor or
- (B) a public or private agency with which the court has placed a minor or
- (C) a person acting in the role of a parent by reason of a private agreement, arrangement, custom or habit.

"EMERGENCY" means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, fire, natural disaster, automobile accident, medical emergency or any situation requiring immediate action to prevent serious bodily injury or loss of life.

"ESTABLISHMENT" means any privately owned place of business to which the public is invited, including but not limited to any place of amusement or entertainment.

"GUARDIAN" means:

- (A) parent or
- (B) a person who under court order is the guardian of the person of a minor; or
- (C) a public or private agency with which the court has placed a minor.

"MINOR" means a person under **eighteen (18) years** of age.

"PARENT" means a person who is a natural parent, adoptive parent, or step-parent of another person.

"PUBLIC PLACE" means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, public ways, sidewalks and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities and shops.

"RESPONSIBLE ADULT" means a person at least **eighteen (18) years** of age, authorized by a parent, guardian or custodian to have the care and custody of a minor.

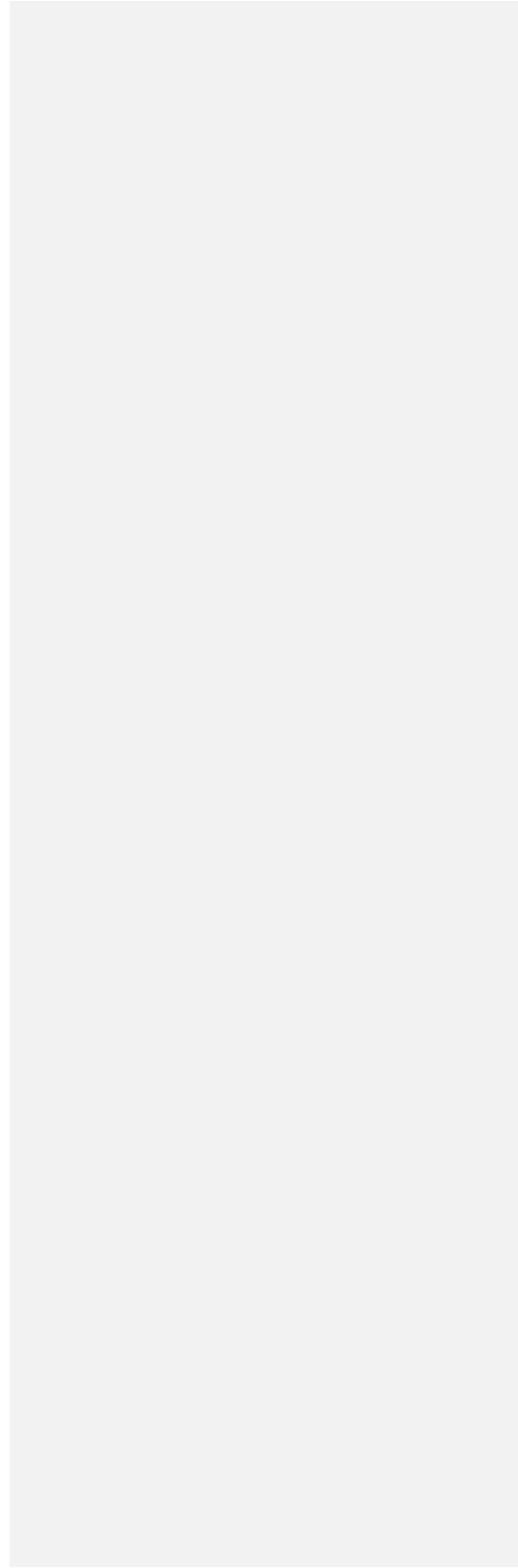
"SERIOUS BODILY INJURY" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

"TRUANCY CURFEW HOURS" means the period of the day when the school the minor would normally attend is in session, on days when the school the minor would normally attend is in session.

"TRUANT OFFICER" means any officer, appointee, employee or other agency of any school district or any federal, state or local government, entity or any agency thereof performing the duties of a truant officer under the Illinois Compulsory Attendance Statute. **(105 ILCS 5/26-1 et seq.)**

"TRUANCY REVIEW BOARD" means any agency or entity established by any school district or any federal, state or local governmental entity or any counseling or social agency or any combination thereof recognized by the Village and/or the court as an agency which provides service to improve education performance and/or attendance.

(Ord. No. 2005-09; 11-21-05)



27-8-2 CURFEW RESTRICTIONS.

(A) It is unlawful for any minor to be present in any public place or on the premises of any establishment within the Village during curfew hours.

(B) It is unlawful for any parent or guardian or custodian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the Village during curfew hours.

(C) It is a defense to prosecution under **Section 27-8-2(A) and (B)** or **Section 27-8-4** (hereinafter) that the minor was:

- (1) accompanied by the minor's parent, guardian, custodian or responsible adult;
- (2) on an errand at the direction of the minor's parent, guardian, custodian or responsible adult; without any detour or stop;
- (3) in a motor vehicle involved in interstate travel with the consent or authorization of a parent, guardian or custodian;
- (4) engaged in, going to or returning home from an employment activity without any detour or stop;
- (5) involved in an emergency;
- (6) on the sidewalk abutting the minor's residence;
- (7) engaged in, going to or returning home from official school, religious or other recreational activity supervised by adults, sponsored by a civic organization, or another similar entity that takes responsibility for the minor;
- (8) exercising First Amendment rights protected by the United States Constitution; or
- (9) emancipated pursuant to law.

27-8-3 TRUANCY RESTRICTIONS.

(A) It is unlawful for any minor who is subject to compulsory education or to compulsory continuation education by statute or court order to be present in any public place or on the premises of any establishment within the Village during truancy curfew hours.

(B) It is unlawful for any parent, custodian or guardian of a minor to knowingly permit, or by insufficient control to allow, the minor to be present in any public place or on the premises of any establishment within the Village during truancy curfew hours.

(C) It is a defense to prosecution under this Section or **Section 27-8-4** that the minor was:

- (1) accompanied by a parent, guardian, custodian or responsible adult if engaged in an activity which would constitute an excused absence from the school from which the minor would normally attend;
- (2) involved in an emergency;
- (3) going to or returning from a medical appointment without any detour or stop;
- (4) engaged in, going to or returning home from an employment activity pursuant to a cooperative school vocation program without any detour or stop;
- (5) in possession of valid proof that the minor is a student who has permission to leave the school campus;
- (6) a bona fide participant in an alternative education or home schooling program;
- (7) engaged in or subject to an authorized or excused absence from the school which the minor attends, including but not limited to lunch periods.

27-8-4 ESTABLISHMENT RESTRICTIONS. It is unlawful for any owner, operator or any employee of an establishment to allow a minor to be present or to remain upon the premises of the establishment in violation of **Sections 27-8-2 or 27-8-3** above during curfew or truancy hours.

It is a defense to prosecution, under this subparagraph if the owner, operator or employee of the establishment immediately upon discovery of a minor reasonably believed to be in violation of **Sections 27-8-2 or 27-8-3** notified a law enforcement agency that a minor was present on the premises of the establishment during curfew or truancy hours and refused to leave the establishment after being advised to do so by the owner, operator or employee.

27-8-5 ENFORCEMENT RESTRICTIONS. Every member of the Police Department while on duty is hereby authorized as follows:

(A) For the first offense of any minor violating the provisions of this Code, to issue to the minor a citation, in writing, in the same form as described in paragraph (C) below. For a second offense, the law enforcement officer is authorized to temporarily detain any minor violating the provisions of this Code (regardless of whether a citation is immediately issued) until the parent, custodian or guardian of the minor shall take him or her into custody, but such officer shall immediately upon taking custody of the minor reasonably attempt to communicate with the parent, custodian or guardian of the minor unless subparagraph (E) herein is applicable. A parent, custodian or guardian must take custody of the minor within **one (1) hour** of the time of notice or be subject to a charge of **Twenty-Five Dollars (\$25.00)** per hour as hereinafter provided.

(B) Whenever a Police Officer or Truant Officer witnesses or has knowledge based on reasonable grounds of a violation of this Code by any person, such person may be issued a citation. A citation or complaint may be made to a Police Officer or Truant Officer by any person.

(C) A citation issued hereunder this shall be in writing and shall:

- (1) state the name of the person being cited and the person's address if known;
- (2) set forth the specific section of this Code that was violated, the date of the violation and a brief description of the violation;
- (3) be signed by the issuing Police Officer, Truant Officer or complaining party.

In each instance where a citation is issued to a minor for violation of this Code a minor's parent, custodian or guardian shall be provided a copy of the citation notifying the parent, custodian or guardian of the charge made against the minor.

(D) A minor cited for a citation under this Code must attend a court hearing or Truancy Review Board hearing on the citation and must be accompanied at the hearing by his or her parent, custodian, guardian or other adult person having the legal care and custody of the minor. If any such person fails to attend any court hearing with the minor, and unless the interest of justice would otherwise be served, the court may continue the hearing and shall issue a Notice or a Rule to Show Cause to the person directing that said person to appear at the continued hearing with the minor. Failure of the person to thereafter appear shall subject said person to sanctions for contempt of court as determined by the court.

(E) Every member of the Police Department while on duty is hereby authorized to temporarily detain any minor violating the provisions of **Section 27-8-3** of this Code, regardless of whether a citation is issued, and to deliver and surrender the minor to the lawful authorities of the school that the minor would normally attend.

27-8-6 PENALTY.

(A) Any person who violates any provision of this Article shall, upon conviction thereof, be fined as provided in **Section 1-1-20** of this Code. **(See also Section 1-1-20)**

(B) In lieu of or in addition to a fine, a minor may be ordered to attend counseling or to perform **ten (10) hours** of court approved community service during times other than the minor's hours of school attendance and/or the minor's parent, custodian, guardian or other adult having legal

care or custody of the minor may be ordered to attend a parenting class or series of parenting classes or

other counseling approved by the court or recommended by the Truancy Review Board or to attend any program directly related to improving school attendance and/or performance.

(C) In addition to any penalty imposed pursuant to (A) or (B) above, the minor's parents, custodian, guardian or other adult having legal care or custody of the minor may be ordered to pay all amounts imposed as civil liability under **Section 27-8-7** hereinafter.

27-8-7 CIVIL LIABILITY. If a minor is detained for a period of time in excess of **one (1) hour** which requires the supervision of the minor by personnel of the Police Department, the parent, custodian, guardian or other adult having legal care or custody of the minor shall be jointly and severally liable for the costs therefore. The parent, custodian, guardian or other adult having legal care or custody of the minor who has committed any offense of this Code shall be assessed and billed for the costs; the costs shall be recoverable in any action enforcing any provision of this Code or in a separate civil action. In addition, the failure to pay the costs shall constitute a violation of this Code and subject the violator to the penalties described within **Section 27-8-6** above. In the event any action is filed, the liable party shall be responsible for all court costs and any reasonable attorney's fees incurred by the Village in collecting.

(65 ILCS 5/11-5-9)

ARTICLE IX - OPEN BURNING

27-9-1 **DEFINITIONS.** Unless the context otherwise requires the words and phrases herein defined are used in this Article in the sense given them in the following definitions:

"AGRICULTURAL WASTE" means any refuse, except garbage and dead animals, generated on a farm or ranch by crop and livestock production practices including such items as bags, cartons, dry bedding, structural materials, and crop residues but excluding landscape waste.

"GARBAGE OR HOUSEHOLD TRASH" means refuse resulting from the handling, processing, preparation, cooking and consumption of food or food products; including plastic containers.

"LANDSCAPE WASTE" means any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

"OPEN BURNING" means the combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued under Section 9(b) of the Environmental Protection Act of the State of Illinois.

27-9-2 **BURNING PROHIBITED.** It shall be unlawful to cause or allow open burning of agricultural waste, household trash or garbage.

27-9-3 **RESTRICTIONS ON BURNING OF LANDSCAPE WASTE.** The open burning of landscape waste shall be permitted only on the following conditions:

(A) Landscape waste shall be burned on the premises on which such waste is generated; and

(B) Landscape waste shall be burned only when atmospheric conditions shall readily dissipate contaminants; and,

(C) Landscape waste may be burned only if such burning does not create a visibility hazard on roadways, walkways, or railroad tracks; and,

(D) Open burning of landscape waste may only take place during daylight hours with a person over **eighteen (18) years** of age in attendance during the entire period of burning; and,

(E) No open burning of landscape waste shall be permitted on any streets or roadways; and,

(F) No open burning shall occur during periods of time when the Fire Chief or the Chief of Police have determined that atmospheric conditions or local circumstances make such fires hazardous and dangerous.

(G) All open burning shall occur between sunrise and sunset; provided however, all fires shall be extinguished by sunset.

(415 ILCS 5/1 et seq.)

ARTICLE X – SKATEBOARDS AND TOY VEHICLES

27-10-1 **DEFINITIONS.** As used in this Article, the following words and phrases shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

(A) **Business District.** The Village business district.

(B) **Skateboard.** A 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.

27-10-2 **SKATEBOARDING ON A STREET.** No person shall operate a skateboard or toy vehicle on a public street if there is a sidewalk adjacent to such street. If no sidewalk exists, skateboards may be ridden on the street providing street riding shall be done as far to the right side of the road as possible, and in the same direction as traffic.

27-10-3 **CLINGING TO A VEHICLE.** No person operating a skateboard, toy vehicle, or other non-motorized device shall attach himself or herself to any vehicle upon a roadway.

27-10-4 **YIELD RIGHT-OF-WAY.** Any person operating a skateboard or other toy vehicle must yield right of way to any pedestrian or motor vehicle.

27-10-5 **SKATEBOARDING ON PRIVATE PROPERTY.**

(A) No person shall operate a skateboard or toy vehicle on the premises of any business, residence, or other private property in violation of a sign complying with this Section.

(B) Areas in which skateboarding or operation of a toy vehicle is prohibited must be indicated by one or more signs which are positioned to provide notice and which contain the words "No Skateboarding" or any other word or combination of words indicating that skateboarding or operation of a toy vehicle is prohibited. Letters on the sign must be clearly legible.

27-10-6 **SKATEBOARDING ON PUBLIC PROPERTY.** No person shall operate a skateboard or toy vehicle in, upon, or on the grounds of any public property.

27-10-7 **SKATEBOARDING IN THE BUSINESS DISTRICT.** No person shall operate a skateboard or toy vehicle within the Village's business district.

27-10-8 **DAMAGING VILLAGE PROPERTY.** No person shall operate a skateboard or toy vehicle on or against any municipal-owned table, bench, structure, tennis court, parking stop, retaining wall, fountain, statue, or other improvement which may suffer damage by such use.

27-10-9 **SKATEBOARD RAMPS.** No person shall use or place a ramp, jump, or any other device used to force a skateboard or toy vehicle off the pavement on the grounds of the municipal-owned parking lot, park or sidewalk.

27-10-10 **AGREEMENT FOR IMPOUNDMENT.** In place of any other penalty provided by law, any person violating this Article may, for a first offense, agree to have the skateboard or play vehicle impounded by the Police Department for **one (1) week**.

ARTICLE XI – ADULT USES REGULATED

27-11-1 **PURPOSE AND ADDITIONAL FINDINGS.**

(A) **Purpose.** It is the purpose of this Article to regulate public nudity in order to promote the health, safety, morals, and general welfare of the citizens of the Village. The provisions of this Article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials.

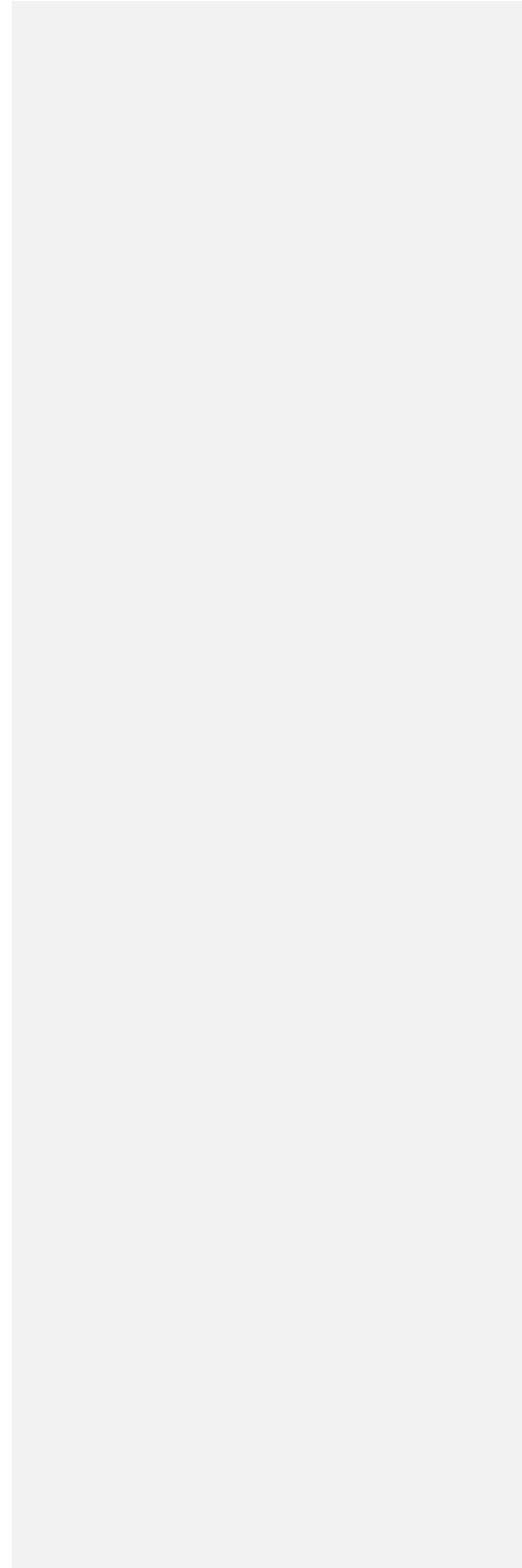
(B) **Findings.** The Village Board finds:

- (1) Public places allowing nudity lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled.
- (2) Sexual acts, including masturbation, and oral and anal sex, occur at adult oriented businesses, especially those which provide private or semi-private booths or cubicles for viewing films, videos, live sex shows or public nudity.
- (3) Allowing public nudity creates unhealthy conditions.
- (4) Persons frequent certain adult theaters, adult arcades, and other adult oriented businesses for the purpose of engaging in sex within the premises of such adult oriented businesses.
- (5) At least **fifty (50)** communicable diseases may be spread by activities occurring in adult oriented businesses involving public nudity, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.
- (6) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States.
- (7) The Surgeon General of the United States in his report of **October 22, 1986**, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.
- (8) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.
- (9) Sanitary conditions in some adult oriented businesses and those places allowing public nudity are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities, including nudity, and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.
- (10) Numerous studies and reports have determined that semen is found in the areas of adult oriented businesses allowing public nudity and where persons view "adult" oriented films.
- (11) The findings noted in paragraphs (1) through (10) raise substantial governmental concerns.
- (12) Public places allowing nudity have operational characteristics which should be reasonably regulated in order to protect those substantial governmental concerns.
- (13) The general welfare, health, morals and safety of the citizens of the Village will be promoted by the enactment of this Article.

27-11-2 **DEFINITIONS.** As used in this Article:

(A)
Code.

"Adult Oriented Business" means an establishment as defined in the Village



(B) **"Entity"** means any proprietorship, partnership, corporation, association, business trust, joint venture, joint-stock company, or other for profit or not for profit organization.

(C) **"Nude"** means the showing of:

- (1) Human male or female genitals or pubic area with less than a fully opaque covering; or
- (2) Any portion of the anal cleft or cleavage of the male or female buttocks. Attire that is insufficient to comply with this requirement includes, but is not limited to, G-strings, T-backs, thongs, and any other clothing to covering that does not completely and opaquely cover the anal cleft or cleavage of the male or female buttocks; or
- (3) The portion of the human female breast directly or laterally below a point immediately above the top of the areola with less than a fully opaque covering; this definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, shirt, leotard, bathing suit, or other clothing, provided the areola is not exposed.

(D) **"Person"** means any live human being aged **ten (10) years** of age or older.

(E) **"Place Provided or Set Apart for Nudity"** means enclosed single sex public restrooms, enclosed single sex functional shower, locker and/or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctor's offices, portions of hospitals, and similar places in which nudity or exposure is necessarily and customarily expected outside of the home and sphere of privacy constitutionally protected therein. This term shall not be deemed to include places where a person's conduct of being nude is used for his or her profit or where being nude is used for the promotion of business or is otherwise commercially exploited.

(F) **"Public Place"** means any location frequented by the public, or where the public is present or likely to be present, or where a person may reasonably be expected to be observed by members of the public. Public Places include, but are not limited to, streets, sidewalks, parks, beaches, business and commercial establishments (whether for profit or not for profit, whether open to the public at large, or whether entrance is limited by a cover charge or membership requirement), hotels, motels, restaurants, night clubs, country clubs, cabarets, and meeting facilities utilized by any religious, social, fraternal or similar organizations. Premises, or portions thereof, such as homes and hotel rooms, used solely as a private residence, whether permanent or temporary in nature, shall not be deemed to be a public place.

27-11-3 PROHIBITION. It shall be unlawful for any person to knowingly or intentionally appear nude in a public place or in any other place that is readily visible to the public, except a place provided or set apart for nudity. It shall also be unlawful for any person or entity maintaining, owning, or operating any public place to operate and to knowingly, or with reason to know, permit or allow any person to appear nude in such public place, except a place provided or set apart for nudity.

27-11-4 LIMITATION. This Article shall not be deemed to address photographs, movies, video presentations, or any other non-live performance.

27-11-5 ADULT ENTERTAINMENT FACILITY. It is prohibited within a municipality to locate an adult entertainment facility within **one thousand (1,000) feet** of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing, and place of religious worship.

For the purposes of this Section, "adult entertainment facility" means:

(A) a striptease club or pornographic movie theatre whose business is the commercial sale, dissemination, or distribution of sexually explicit material, shows, or other exhibitions or

(B) an adult bookstore or adult video store in which **twenty-five percent (25%)** or more of its stock-in-trade, books, magazines, and films for sale, exhibition, or viewing on-premises are sexually explicit material. **(65 ILCS 5/11-5-1.5)**

ARTICLE XII - OBSCENITY

27-12-1 **OBSCENITY.**

(A) **Elements of the Offense.** A person commits an obscenity offense when, with the knowledge of the nature or content thereof or recklessly failing to exercise reasonable inspection which would have disclosed the nature or content thereof, he:

- (1) sells, delivers or provides or offers or agrees to sell, deliver or provide any obscene writing, picture, record or other representation or embodiment of the obscene; or
- (2) presents or directs an obscene play, dance, or other performance or participates directly in that portion thereof which makes it obscene; or
- (3) publishes, exhibits or otherwise makes available anything obscene; or
- (4) performs an obscene act or otherwise presents an obscene exhibition of his body for gain; or
- (5) creates, buys, procures or possesses obscene matter or material with intent to disseminate it in violation of this Section, or of the penal laws or regulations of any other jurisdiction; or
- (6) advertises or otherwise promotes the sale of material represented or held out by him to be obscene, whether or not it is obscene.

(B) **Obscene Defined.** Any material or performance is obscene if:

- (1) the average person, applying contemporary adult community standards, would find that, taken as a whole, it appeals to the prurient interest; and
- (2) the average person, applying contemporary adult community standards, would find that it depicts or describes, in a patently offensive way, ultimate sexual acts or sadomasochistic sexual acts, whether normal or perverted, actual or simulated, or masturbation, excretory functions or lewd exhibition of the genitals; and
- (3) taken as a whole, it lacks serious literary, artistic, political or scientific value.

(C) **Interpretation of Evidence.** Obscenity shall be judged with reference to ordinary adults except that it shall be judged with reference to children or other specially susceptible audiences if it appears from the character of the material or the circumstances of its dissemination to be specially designed for or directed to such an audience.

Where circumstances of production, presentation, sale, dissemination, distribution, or publicity indicate that material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the matter and can justify the conclusion that the matter is lacking in serious literary, artistic, political or scientific value.

In any prosecution for an offense under this Section, evidence shall be admissible to show:

- (1) the character of the audience for which the material was designed or to which it was directed;
- (2) what the predominant appeal of the material would be for ordinary adults or a special audience, and what effect, if any, it would probably have on the behavior of such people;
- (3) the artistic, literary, scientific, educational or other merits of the material, or the absence thereof;
- (4) the degree, if any, of public acceptance of the material in this State;
- (5) appeal to prurient interest or absence thereof in advertising or other promotion of the material;
- (6) purpose of the author, creator, publisher or disseminator.

(D) **Prima Facie Evidence.** The creation, purchase, procurement or possession of a mold, engraved plat or other embodiment or obscenity, specially adapted for reproducing multiple copies,

or the possession of more than **three (3) copies** of obscene material shall be prima facie evidence of an intent to disseminate. **(65 ILCS 5/11-5-1)**

27-12-2 HARMFUL MATERIAL.

(A) **Elements of the Offense.** A person who, with knowledge that a person is a child; that is, a person under **eighteen (18) years** of age, or who fails to exercise reasonable care in ascertaining the true age of a child, knowingly distributes to, or sends or causes to be sent to, or exhibits to or offers to distribute or exhibit any harmful material to a child is guilty of a violation of this Code.

(B) **Definitions.**

- (1) Material is harmful if, to the average person applying contemporary standards, its predominant appeal, taken as a whole, is to prurient interest; that is, shameful or morbid interest in nudity, sex, or excretion which goes substantially beyond customary limits of candor in description or representation of such matters and is material, the redeeming social importance of which is substantially less than its prurient appeal.
- (2) **"Material"** as used in this Code means any writing picture, record or other representation or embodiment.
- (3) **"Distribute"** means to transfer possession of material whether with or without consideration.
- (4) **"Knowingly"** as used in this Section means having knowledge of the contents of the subject matter or recklessly failing to exercise reasonable inspection which would have disclosed the contents thereof.

(C) **Interpretation of Evidence.** The predominant appeal to prurient interest of the material shall be judged with reference to average children of the same general age of the child to whom such material was offered, distributed, sent or exhibited unless it appears from the nature of the matter or the circumstances of its dissemination, distribution or exhibition that it is designed for specially susceptible groups, in which case, the predominant appeal of the material shall be judged with reference to its intended or probable recipient group.

In prosecutions under this Section where circumstances of production, presentation, sale, dissemination, distribution, or publicity, indicate the material is being commercially exploited for the sake of its prurient appeal, such evidence is probative with respect to the nature of the material and can justify the conclusion that the redeeming social importance of the material is, in fact, substantially less than its prurient appeal.

(D) **Affirmative Defenses.**

- (1) Nothing in this Section shall prohibit any public library or any library operated by an accredited institution of higher education from circulating harmful material to any person under **eighteen (18) years** of age, provided such circulation is in aid of a legitimate scientific or educational purpose, and it shall be an affirmative defense in any prosecution for a violation of this Section that the act charged was committed in aid of legitimate scientific or educational purposes.
- (2) Nothing in this Section shall prohibit any parent from distributing to his child any harmful material.
- (3) Proof that the defendant demanded, was shown and acted in reliance upon any of the following documents as proof of the age of a child shall be a defense to any criminal prosecution under this Section:
 - (a) A document issued by the federal government or any state, county or municipal government, or subdivision or agency thereof, including, but not limited to a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act or an identification card issued to a member of the armed forces.
- (4) In the event an advertisement of harmful material as defined in this Section culminates in the sale or distribution of such harmful material to a child, under circumstances where there was no personal confrontation of the child by the defendant, his employees or agents as where the order or request for such harmful material was transmitted by mail, telephone, or similar means of communication and delivery of such

harmful material to the child was by mail, freight, or similar means of

transport, it shall be a defense in any prosecution for a violation of this Section that the advertisement contained the following statement or a statement substantially similar thereto, and that the defendant required the purchaser to certify that he was not under the age of **eighteen (18) years** and that the purchaser falsely stated that he was not under the age of **eighteen (18) years**:

"NOTICE: It is unlawful for any person under eighteen (18) years of age to purchase the matter herein advertised. Any person under eighteen (18) years of age who falsely states that he is not under eighteen (18) years of age for the purpose of obtaining the material advertised herein is guilty of a misdemeanor."

(E) **Child Falsifying Age.** Any person under **eighteen (18) years** of age who falsely states, either orally or in writing that he is not under the age of **eighteen (18) years**, or who presents or offers to any person any evidence of age and identity which is false or not actually his own for the purpose of ordering, obtaining, viewing or otherwise procuring or attempting to procure or view any harmful material is guilty of a misdemeanor. **(65 ILCS 5/11-5-1)**

27-12-3 TIE-IN SALES OF OBSCENE PUBLICATIONS TO DISTRIBUTORS. Any person, firm or corporation, or any agent, officer or employee thereof engaged in the business of distributing books, magazines, periodicals, comic books or other publications to retail dealers who shall refuse to furnish to any retail dealer such quantity of books, magazines, periodicals, comic books or other publications as such retail dealer normally sells because the retail dealer refuses to sell, or offer for sale, any books, magazines, periodicals, comic books or other publications which are obscene, lewd, lascivious, filthy or indecent is guilty of an offense. Each publication sold or delivered in violation of this Section shall constitute a separate offense. **(720 ILCS 5/11-22)**

ARTICLE XIII – SMOKE FREE AIR CODE

27-13-1 BACKGROUND. Smoking creates the hazard of injury to the personal health of those in the environment of such smoke as well as the potential of damage to property that may result from the incendiary nature of such activity. It has been determined that breathing ambient smoke is a health hazard to both smokers and nonsmokers. Cigarette smoking also produces several substances that are considered hazardous to health including carbon monoxide, hydrogen cyanide, nitrous oxide and formaldehyde. Secondhand smoke (68% of the total smoke produced by a cigarette) affects the health of the bystander, interfering with respiratory tract defenses, often causing nonsmokers to have allergic or irritative reactions, and is a known cause of lung cancer.

Because the hazards of smoking have a potentially harmful effect, material and direct, on the public health, safety, welfare, comfort, and property of residents of the Village, it is necessary and desirable to establish regulations that prohibit smoking in all enclosed public places, in all enclosed places of employment, near entrances to all such public places and places of employment, in and near open air public dining areas, and within certain unenclosed public places including school grounds, parks and recreation areas and outdoor venues.

27-13-2 PURPOSE. This Article may be cited as the "Smoke Free Air Code," the purpose of which is to protect the public health, comfort and environment by prohibiting smoking in all enclosed public places and places of employment, within **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.

27-13-3 DEFINITIONS. For the purposes of this Article, the following terms shall have the following meanings:

"Business" means any sole proprietorship, partnership, joint venture, corporation, association or other business entity, whether formed for profit or nonprofit purposes. "Business" includes a "club" as defined in this Section.

"Club" means a private not-for-profit association, corporation or other entity consisting of persons who are bona fide paying members and which owns, leases or uses a building or portion thereof, the use of which is restricted primarily to members and their guests.

"Employee" means any person who is employed or retained by a business, and shall include the owner or operator of a sole proprietorship or other similar business entity.

"Employer" means any business that employs one or more employees.

"Enclosed Area" means all space in any structure or building that is enclosed on all sides by any combination of walls, windows, or doorways, extending from floor to the ceiling.

"Open Air Dining Area" means a seating area open to the air that is accessory to a restaurant, hotel, cafeteria, private club or other public place engage din purveying commercial food or beverage service where members of the public, members or guests are invited to sit and receive food and beverage service for a consideration.

"Outdoor Event" means a scheduled outdoor musical, dance, theatrical, dramatic, entertainment or performance event, or a scheduled outdoor community fair, parade, event or market, that is organized, licensed or permitted by the owner of an outdoor venue and to which the public is invited.

"Outdoor Venue" means an outdoor theater, amphitheater, plaza, street or other improved area that is used as a public venue or forum to which members of the general public are invited to listen, view or otherwise participate in an outdoor event that is organized, licensed or permitted by the owner of the venue.

"Place of Employment" means an area under the control of a public or private employer within the Village that employees normally frequent during the course of employment, and includes, without

limitation, common work areas, private offices, auditoriums, classrooms, conference and meeting rooms,

cafeterias, elevators, employee lounges, staircases, hallways, restrooms, medical facilities, private clubs, and the interior of a vehicle of public conveyance. "Place of Employment" also includes the home office portion of a private dwelling, but only if the home office is used by more than one employee or is frequented by business invitees.

"Place of Employment" does not include that part of a private dwelling used as a home office by a single employee only who resides in that dwelling.

"Park" means a public park or recreation area that is open to and used by the general public.

"Public Entrance" means the doorway or other entrance to a public place that is open to and intended for use by the general public for ingress and egress to the public place.

"Public entrance" also means a doorway or other entrance for pedestrian ingress and egress to a place of employment; (i) that is open to and intended for use by the general public or business invitee's ingress and egress to the place of employment; (ii) where employees are required or permitted to enter or exit the place of employment.

"Public Place" means an area that is open to and used by the general public, or any area to which the public is invited or in which the public is permitted, including without limitation:

(A) vehicles of public conveyance;

(B) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of apartment buildings, condominiums, dormitory buildings, nursing home care facilities, and other multiple family residential structures;

(C) common or public areas (including without limitation lobbies, hallways, reception areas, public restrooms, elevators and staircases) of any building or structure that is accessible to the public including without limitation office, commercial, and industrial buildings, banks and financial institutions, educational institutions, health care facilities such as hospitals, clinics and doctor's offices, museums, libraries, restaurants, polling places, government and Village-owned buildings, food stores, cafeterias, theaters, auditoriums, train and bus stations, hotels, motels, and retail and service establishments.

(D) rooms, chambers, halls, or other locations within which meetings, hearings, or gatherings are held, to which the public is invited or in which the public is permitted, including specifically, but without limitation, any enclosed area under the control of the Village where there is in progress any public meeting.

"Public place" shall not include:

(A) a private dwelling unit, unless said dwelling is also used as a day care facility for children or adults; provided that rooms in nursing homes or long-term care facilities occupied by one or more persons who have requested in writing a room where smoking is permitted shall be considered private dwelling units; or

(B) hotel or motel rooms designated as smoking, provided that no more than **twenty percent (20%)** of the available rooms for rent in any single building shall be designated as smoking rooms.

"School Grounds" mean all public or private outdoor school grounds, but excluding any open areas specifically designated and permitted by the school administration for smoking by adults who are invited to use such area for smoking.

"Smoke" or "Smoking" means inhaling, exhaling, burning, or carrying any lighted cigar, cigarette, pipe, or other lighted tobacco product in any manner or in any form.

27-13-4 PROHIBITION IN ENCLOSED PUBLIC PLACES.

(A) It is unlawful to smoke in any enclosed area of any public place.

(B) It shall be unlawful for the owner, occupant or lessee, as the case may be, who is in control of a public place to knowingly permit smoking in any enclosed area in a public place.

27-13-5 PROHIBITION IN UNENCLOSED PUBLIC PLACES AND OUTDOOR VENUES.

(A) It is unlawful to smoke in the following unenclosed public places:

(1) The seating areas of all outdoor arenas, stadiums and amphitheatres.

(2) Public parks and recreation areas.

- (3) School grounds.
- (4) Public sidewalks within **fifteen (15) feet** of a public entrance, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.
- (5) Public sidewalks within **fifteen (15) feet** of an open air dining area, but excluding any person who is temporarily in such area for the purpose of walking or traversing through such area.

(B) It is unlawful to smoke in or within **fifteen (15) feet** of an outdoor venue during the time that an outdoor event is taking place.

27-13-6 PROHIBITION IN PLACES OF EMPLOYMENT.

(A) It is unlawful to smoke in any enclosed area of any place of employment.

(B) It shall be unlawful for any employer to knowingly permit smoking in any enclosed area of any place of employment.

27-13-7 PROHIBITION IN OPEN AIR DINING AREAS.

(A) It is unlawful to smoke in open air dining area.

(B) It shall be unlawful for the owner, occupant or lessee, as the case may be, in control of an open air dining area to knowingly permit smoking in the area available for open air dining.

(C) It is unlawful to smoke within **fifteen (15) feet** of an open air dining area.

27-13-8 PROHIBITION AT PUBLIC ENTRANCES.

(A) It is unlawful to smoke within **fifteen (15) feet** of a public entrance to a public place or to a place of employment.

(B) It is unlawful for any person or persons to gather or congregate for the purpose of smoking within **fifteen (15) feet** of a public entrance.

27-13-9 DESIGNATION OF OTHER NO-SMOKING AREAS.

Nothing in this Article shall be deemed to limit the owner, occupant or lessee of a public place or a place of employment to further prohibit smoking by designating outdoor areas not subject to the restrictions in this Article as a place where smoking is also prohibited, provided that the owner, occupant or lessee shall cause signs to be posted at appropriate locations advising persons that smoking is prohibited within the designated outdoor area.

27-13-10 NO RETALIATION.

No person, business or employer shall discharge, refuse to hire, or in any manner retaliate against an employee or customer because that employee or customer reports a violation of this Article or exercises by rights afforded by this Article.

27-13-11 SIGNS.

(A) Each owner, lessor, lessee, employer, or other person in control of a public place shall post conspicuous "No Smoking" signs in the enclosed area of any public place where smoking is prohibited. Such "No Smoking" signs shall have a white field with the words "No Smoking" printed in red letters, **four (4) inches** high with a **one-half (1/2) inch** face, or shall bear the international "No Smoking" symbol, which consists of a pictorial representation of a cigarette enclosed in a circle with a bar across it. It shall be unlawful for any person to remove, deface or obscure any sign posted pursuant to the provisions of this Article.

(B) Each owner, lessor, lessee, employer or other person in control of a public park or recreation area, or of a school 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.

27-13-12 EXEMPTIONS. The prohibition on smoking set forth in this Code shall not apply to a public place or place of employment of a tobacco dealer that permits customers to sample tobacco products on the premises of the tobacco dealer, provided that smoke generated by smoking on the premises of the tobacco dealer does not infiltrate any other enclosed public place or place of employment. For purposes of this exemption, a tobacco dealer is a retailer whose principal business is the sale at retail of tobacco and tobacco-related products.

27-13-13 PENALTIES.

(A) Any person who smokes in an area where smoking is prohibited under the provisions of this Article shall be guilty of an offense punishable by:

- (1) A fine of not less than **Twenty-Five Dollars (\$25.00)** for a first violation.
- (2) A fine of not less than **Fifty Dollars (\$50.00)** for a second violation.
- (3) A fine of not less than **One Hundred Dollars (\$100.00)** and not more than **Five Hundred Dollars (\$500.00)** for a third and subsequent violation(s).

(B) Any person who owns, manages, operates or otherwise controls a public place, a place of employment or an open air dining area that permits smoking in an area where smoking is prohibited under the provisions of this Article, shall be guilty of an offense punishable by a fine of (i) not less than **One Hundred Dollars (\$100.00)** for the first violation, (ii) not less than **Two Hundred Fifty Dollars (\$250.00)** for the second violations, and (iii) not less than **Five Hundred Dollars (\$500.00)** for each additional violation thereafter, unless said additional violation has occurred within **one (1) year** after the first violation, in which case the minimum fine shall be not less than **One Thousand Dollars (\$1,000.00)**. The maximum amount of fine to be levied herein shall not exceed **Two Thousand Five Hundred Dollars (\$2,500.00)** for each violation.

(C) Each day that any violation of this Article shall continue shall constitute a separate offense.

ARTICLE XIV - SYNTHETIC DRUGS

27-14-1 SALE, POSSESSION OR DELIVERY OF SYNTHETIC COCAINE PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cocaine, "Bath Salts" or Substances Containing Cocaine** includes but not limited to the names, MDPK, Magic, Super Coke, PV, Ivory Wave, Ocean, Cloud Nine, Charge Plus, White lightning, Scarface, Hurricane, Charlie Red Dove and White Dove. It is an herbal and chemical product which mimics the effects of Cocaine, including but not limited to 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.

27-14-2 SALE, POSSESSION OR DELIVERY OF SYNTHETIC CANNABIS PROHIBITED.

(A) **Definitions.** The following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

- (1) **Synthetic Cannabis** includes the brand names K2 and Spice. It is an herbal and chemical product which mimics the effects of Cannabis, including but not limited to synthetic cannabinoids, cannabicyclohexanol, JWH-018, JWH-073 and HU-210.
- (2) **Deliver or Delivery.** Actual, constructive or attempted transfer of possession of synthetic cannabis, with or without consideration, whether or not there is an agency relationship.
- (3) **Knowledge.** Knows, acts knowingly or with knowledge:
 - (a) the nature or attendant circumstances of his/her conduct, described by the section defining the offense, when he/she is consciously aware that his/her conduct is of such nature or that such circumstances exist, knowledge of a material fact includes awareness of the substantial probability that such fact exists.
 - (b) the result of his/her conduct, described by the section defining the offense, when he/she is consciously aware that such result is likely to be caused by his/her conduct.
 - (c) knowledge may be inferred from the surrounding circumstances.
- (4) **Manufacture.** The production, preparation, propagation, compounding, conversion or processing of synthetic cannabis, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, and includes any packaging or repackaging of synthetic cannabis or labeling of its container, except that this term does not include the preparation, compounding, packaging or labeling of synthetic cannabis as an incident to lawful research, teaching or chemical analysis and not for sale.
- (5) **Person.** Any individual, corporation, business trust, estate, trust, partnership or association, or any other entity.
- (6) **Possession.** Possession may be either actual or constructive.
 - (a) actual possession means exercising physical dominion.
 - (b) constructive possession may be inferred if the defendant has intent and capacity to maintain control and dominion over the cannabis or drug paraphernalia.
- (7) **Produce or Production.** Planting, cultivating, tending or harvesting.

(B) **Possession of Synthetic Cannabis Prohibited.**

- (1) **Violation.** No person shall possess any substance containing synthetic cannabis.
- (2) **Penalty.** Any person who pleads guilty or is found guilty by a court of law shall be punished by a minimum fine of not less than **Two Hundred**

Fifty Dollars (\$250.00) and no more than **Seven Hundred Fifty Dollars (\$750.00)**.

- (3) **Administrative Fee.** In addition, any person who violates any provision of this Section and is convicted, pleads guilty, receives court supervision or probation by a court of law shall be ordered to pay an administrative fee of **One Hundred Dollars (\$100.00)** to be paid to the law enforcement agency for testing of the substance(s) collected.
- (4) **Forfeiture.** Any items which may be seized or forfeited pursuant to **720 ILCS 550/12**, may be forfeited in the same manner as described therein for a violation of this Section.
- (5) **Exception.** Any person who manufactures, distributes, dispenses, or is in possession of any controlled substance or synthetic cannabis for research purposes pursuant to **720 ILCS 550/11**, as hereafter amended, shall be exempt from the provisions of this Section.

ARTICLE XV - REGULATION OF RESIDENCES OF REGISTERED SEX OFFENDERS

27-15-1 DEFINITIONS. The following definitions apply to this Section:

(A) A **"Child Sex Offender"** includes any person required to register his or her residence address with any State, or with the federal government, as a result of his or her conviction as a sex offender, where the victim of that sex offense was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** includes, but is not limited to, any person required to register under the Illinois Sex Offender Registration Act, **730 ILCS 150/1 et seq.**, as now or as hereafter amended, where the victim was under the age of **eighteen (18) years** at the time of the offense. A **"Child Sex Offender"** further includes, but is not limited to, any person who has been convicted of any of the following statutory offenses, or convicted of attempting to commit any of the following statutory offenses, as now or hereafter amended, involving a victim under the age of **eighteen (18) years**:

- (1) Sexual exploitation of a child (**720 ILCS 5/11-9.1**);
- (2) Predatory criminal sexual assault of a child (**720 ILCS 5/12-14.1**);
- (3) Indecent solicitation of a child (**720 ILCS 5/11-6**);
- (4) Public indecency committed on school property (**720 ILCS 5/11-9**);
- (5) Child luring (**720 ILCS 5/10-5(b)(10)**);
- (6) Aiding and abetting child abduction (**720 ILCS 5/10-7 or 720 ILCS 5/10-(b)(10)**);
- (7) Soliciting for a juvenile prostitute (**720 ILCS 5/11-15.1**);
- (8) Patronizing a juvenile prostitute (**720 ILCS 5/11-18.1**);
- (9) Exploitation of a child (**720 ILCS 5/11-19.2**);
- (10) Child pornography (**720 ILCS 5/11-20.1**);
- (11) Criminal sexual assault (**720 ILCS 5/12-13**);
- (12) Aggravated criminal sexual assault (**720 ILCS 5/12-14**);
- (13) Aggravated criminal sexual abuse (**720 ILCS 5/12-16**);
- (14) Kidnapping or aggravated kidnapping (**720 ILCS 5/10-1 or 5/10-2**);
- (15) Unlawful restraint or aggravated unlawful restraint (**720 ILCS 5/10-3 or 5/10-3.1**).

(B) **"School"** means any real property used primarily for educational or child care purposes, including, but not limited to, elementary schools, middle schools, high schools, dance studios, licensed child day care facilities, and pre-schools.

(C) **"Loiter"** shall mean standing or sitting idly, whether or not the person is in a vehicle or remaining in or around property that is from time to time frequented by persons under the age of **eighteen (18) years**.

(D) **"Park"** includes any playground, walking track, athletic field, gymnasium, basketball court, baseball diamond, or other real estate owned or controlled by a school or unit of a local government, that is designated primarily for recreation. The term "Park" shall also include any privately owned recreational area upon which the Village has been authorized by its owner to patrol and enforce the ordinances contained in this Code. The term "Park" shall also include ancillary restrooms and vehicle parking lots designated for use primarily by park patrons or school students and their families.

27-15-2 PROHIBITED ACTS.

(A) It is unlawful for a child sex offender to reside within **one thousand five hundred (1,500) feet** of any of the following:

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

(B) It is unlawful for any child sex offender to loiter on any public property, public right-of-way, or area designated for parking of motor vehicles, within **one thousand five hundred (1,500) feet** of any of the following, unless the person loitering is with a child under the age of

eighteen (18) years and the person loitering is a parent, step-parent, aunt, uncle, cousin, sibling, or step-sibling of that child under the age of **eighteen (18) years**;

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

(C) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to employ a sex offender within **one thousand five hundred (1,500) feet** of any festival or other event which is open to the public.

(D) It is unlawful for any person, corporation, business, partnership, trust, manager, or other entity, to enter into a lease agreement, or to renew any lease agreement, letting residential real estate to a child sex offender, where the lot line of the residential property is within **one thousand five hundred (1,500) feet** of any of the following:

- (1) The real property comprising any school attended by persons under the age of **eighteen (18) years**; or
- (2) The real property comprising any park.

27-15-3 PENALTY. Any person found guilty of violating paragraphs (A) or (B) of **Section 27-15-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **Seven Hundred Fifty Dollars (\$750.00)**, with each day a violation continues constituting a separate offense. Any person, corporation, business, partnership, trust, manager, or other entity guilty of violating paragraphs (C) or (D) of **Section 27-15-2** shall be subject to a fine between **One Hundred Dollars (\$100.00)** and **Seven Hundred Fifty Dollars (\$750.00)**, revocation of business license, or both. Each day a violation continues shall constitute a separate offense. Any person, corporation, business, partnership, trust, manager or other entity violating paragraphs (C) or (D) of **Section 27-15-2** shall be presumed to have had knowledge of the employee's or tenant's status as a child sex offender, where the employee's or tenant's name, photo, or other identifying information appears on the Illinois State Police statewide sex offender database, as published on the internet on the Illinois State Police World Wide Web home page, per the Sex Offender and Child Murderer Community Notification Law, **730 ILCS 152/101 et seq.**, as now or hereafter amended.

27-15-4 OTHER PROVISIONS.

(A) In the event a court of competent jurisdiction should declare the terms of any portion of this Article invalid or unenforceable, the remainder of this Article shall remain in full force and effect.

(B) All distances designated in this Article shall be measured from the lot line of the park property or school property and from the lot line of the subject residence.

(C) Nothing in this Article prohibits a child sex offender from residing within **one thousand five hundred (1,500) feet** of any property, if that residence is owned or leased by the child sex offender before the effective date of this Article. This Article is intended to apply to and prevent such new residential lease agreements, and renewals of expired residential leases, entered into after the effective date of this Article.

ARTICLE XVI – DRUG PARAPHERNALIA

27-16-1 DEFINITIONS.

(A) "Cannabis" means and includes marijuana, hashish and other substances which are identified as including any part 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, mixture, or preparation of such plant, its seeds or resin, including tetrahydrocannabinol (THC) 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) "Cannabis Paraphernalia" means and include all equipment, products and materials of any kind which are peculiar to, or marketed for use, or are used, 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 in violation of the Cannabis Control Act. It includes, but is not limited to:

- (1) Kits peculiar to and marketed for use, or used in manufacturing, compounding, converting, producing, processing or preparing cannabis;
- (2) Isomerization devices peculiar to, marketed for use, or used in increasing the potency of any species of plant that is cannabis;
- (3) Testing equipment peculiar to, marketed for private home use in, or used for, identifying or in analyzing the strength, effectiveness or purity of cannabis;
- (4) Diluents and adulterants peculiar to, or marketed for use in, or used for, cutting cannabis or a controlled substance by private persons;
- (5) Objects peculiar to, marketed for use in, or used for 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) carburetor pipes;
 - (e) electric pipes;
 - (f) air-driven pipes;
 - (g) chillums;
 - (h) bongs;
 - (i) ice pipes or chillers;
- (6) Any item whose purpose, as announced or described by the seller, is for use in violation of this Section.

27-16-2 POSSESSION UNLAWFUL. It is unlawful for any person knowingly to possess cannabis and/or paraphernalia as described herein for the use thereof.

(A) A person, who knowingly possesses cannabis in a quantity of less than **thirty (30) grams**, is guilty of the offense hereunder for which the court shall impose a minimum fine of **Seven Hundred Fifty Dollars (\$750.00)**.

27-16-3 POSSESSION OF PARAPHERNALIA RELATED TO THE USE OF CANNABIS.

(A) A person who knowingly possesses an item of drug paraphernalia with the intent to use it in ingesting, inhaling, or otherwise introducing cannabis into the human body, or in preparing

cannabis substance for that use, is guilty of the offense hereunder for which the court shall impose a minimum fine of **Seven Hundred Fifty Dollars (\$750.00)**.

(B) In determining intent under paragraph (A) of this Section, the proximity of the cannabis drug paraphernalia or the presence of cannabis on the drug paraphernalia may be considered.

27-16-4 EXEMPT ITEMS; DETERMINATION.

(A) **Exempt Items.**

- (1) Items marketed for the use in the preparation, compounding, packaging, labeling, or other use of cannabis as an incident to lawful research, teaching, or chemical analysis and not for sale; or
- (2) 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.
- (3) Items exempt under this Section include, but are not limited to, garden hoes, rakes, sickles, baggies, tobacco pipes and cigarette-rolling papers.
- (4) Items listed in **Section 27-16-4(A)(3)** of this Section 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 Section.

(B) **Consideration.** In determining whether or not a particular item is exempt under this Section, all other logically relevant factors should be considered, including 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 item upon its functioning;
- (3) Any written instructions accompanying the delivery of the item concerning the purposes or uses to which the item can or may be put;
- (4) Any oral instructions provided by the seller of the item at the time and place of sale or commercial delivery;
- (5) Any national or local advertising, concerning the design, purpose or use of the item involved, and the entire context in which such advertising occurs;
- (6) The manner, place and circumstances in which the item was displayed for sale, as well as any item or items displayed for sale or otherwise exhibited upon the premises where the sale was made;
- (7) Whether the owner or anyone in control of the object is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;
- (8) The existence and scope of legitimate uses for the object in the community.

27-16-5 EXEMPTION FOR LAWFULLY PRESCRIBED MEDICAL USE MARIJUANA.

The provisions and offenses contained under this Article do not apply to persons who have properly complied with the Illinois Compassionate Use of Medical Cannabis Pilot Program Act/Public Act 98-0122, provided said person carries a valid prescription written by a licensed physician and maintains and displays a medical cannabis registry identification card.

27-16-6 APPLICABILITY OF PROVISIONS. The provisions of this Section relating to the possession of cannabis shall be applicable to the possession of any quantity of cannabis less than **thirty (30) grams**.

(Ord. No. 2017-05; 10-02-17)
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.

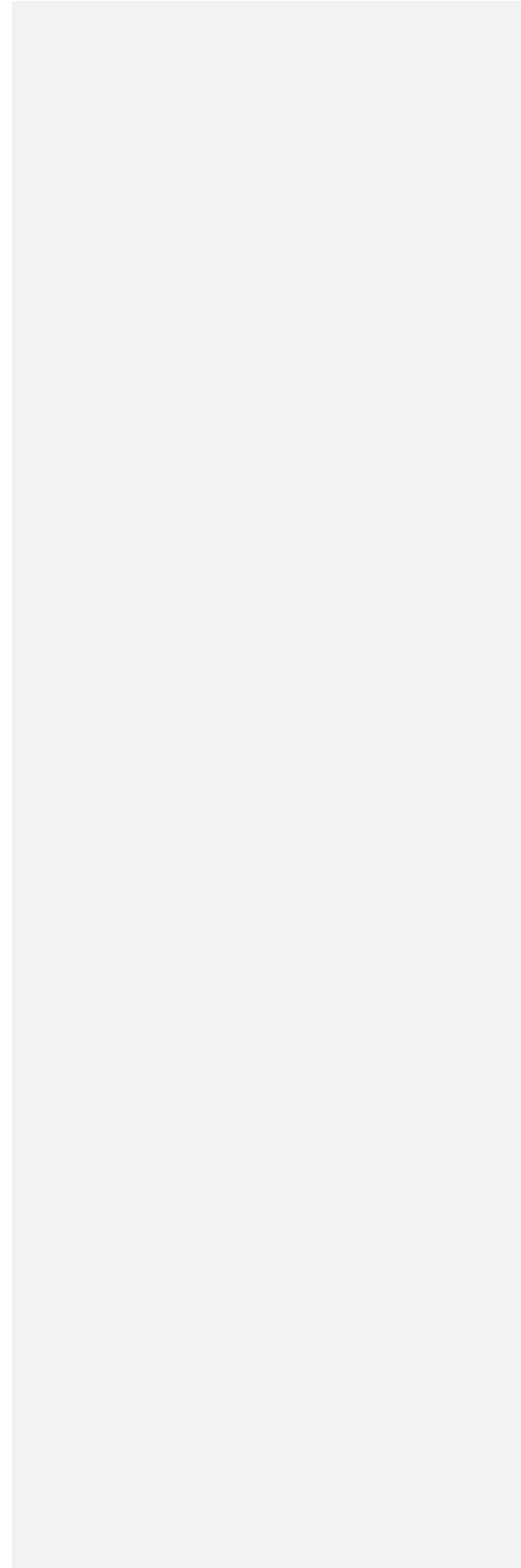
(B) Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer.

(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)
and property.

Issue such other orders as are imminently necessary for the protection of life



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.

(See 65 ILCS Sec. 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 **POLICE CODE.** The Police Department shall be governed by the Policy and Procedures Manual as approved by the Mayor. The Chief of Police shall review the Manual as required, but at least annually, to comply with any new laws of the State of Illinois. Any proposed changes in the Manual shall be subject to approval by the Mayor.

30-2-3 - 30-2-4 **RESERVED.**

DIVISION II - POLICE CHIEF

30-2-5 **ESTABLISHED.** There is hereby established the position of Chief of Police whose duties shall include those listed in the Municipal Code and as established by the laws of the State of Illinois.

30-2-6 **APPOINTMENT.** The appointment of the Chief of Police shall be made by the Mayor with the advice and consent of the Village Board of Trustees.

30-2-7 **TERM.** The term of appointment of the Chief of Police shall coincide with the fiscal year. He shall serve at the pleasure of the Mayor.

30-2-8 **DUTIES.** The Chief of Police shall have supervision over the employees of the Police Department of the Village and such other duties or obligations as the Mayor and Board of Trustees may delegate to him from time to time and be responsible for enforcement of the ordinances of the Village of New Athens and the laws of the State of Illinois.

30-2-9 **RESIDENCY.** The Chief of Police shall be required to reside within **twelve (12) miles** from New Athens Village Hall. Any newly appointed Chief of Police who does not reside within the prescribed boundaries at the time of hire, shall have **fifteen (15) months** from the date of hire to establish residency within the prescribed boundaries. The Board of Trustees may extend this time constraint. **(Ord. No. 2013-01; 05-06-13)**

30-2-10 - 30-2-14 **RESERVED.**

DIVISION III - VILLAGE PATROLMEN

30-2-15 **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.

30-2-16 **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.

30-2-17 **RESERVED.**

DIVISION IV - MISCELLANEOUS PROVISIONS

30-2-18 **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.

30-2-19 **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.

30-2-20 **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.

30-2-21 **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.

30-2-22 **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.

30-2-23 **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.

30-2-24 **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.

30-2-25 **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.

30-2-26 **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** per IMRF standards. 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) Pass a medical examination.
- (4) Possess a high school diploma or GED certificate.
- (5) Possess a valid State of Illinois driver's license.
- (6) Possess no prior felony convictions.
- (7) Any individual who has served in the U.S. military must have been honorably discharged.

(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.

30-2-27 - 30-2-29 RESERVED.

(See 65 ILCS 5/11-1-2)

(Ord. No. 2012-01; 06-04-12)

DIVISION V – CREATION, MAINTENANCE, AND EXPUNGEMENT OF RECORDS IN THE CUSTODY OF POLICE

30-2-30 **OBJECTIVE.** To ensure the compliance and uniform methodology of the creation of records, the responsibility to keep and protect the records, and the expungement of records, when required, by the New Athens Police Department.

30-2-31 **POLICY.** Police officers with the responsibility of the creation of records will do so in a professional manner while creating uniform identifiers for individuals and inputting those identifiers in the database of record for the police department. Accurate records are crucial in order to produce truthful records which may be used to prosecute people and are part of the public, and often permanent, record.

30-2-32 **DEFINITIONS.**

(A) **Record.** Any information, report, log, and/or identifiers pertaining to an individual regardless of status; juvenile, adult, suspect, witness, victim, etc.

(B) **Pedigree.** The standard information that should be part of any record to include at the minimum: Name (including middle initial or name), date of birth, address, phone numbers to include home, cell, and business (when applicable).

30-2-33 **CREATION OF RECORDS.**

(A) Every officer will obtain the pedigree of any suspect, victim, witness, or any other person who is material to a case and/or call for service.

(B) The pedigree will be entered properly into the police department database for use with the current report and/or future reference.

(C) All records will be safeguarded so as to protect the privacy rights of all individuals who have police contact.

30-2-34 **MAINTENANCE OF RECORDS.**

(A) All approved paper records/reports will be kept in a locked room where only sworn police employees have access to.

(B) All electronic records will be maintained in the law enforcement database. All electronic records will only be accessed by sworn law enforcement with a user name and password specific to each individual user.

30-2-35 **EXPUNGEMENT OF RECORDS.**

(A) **Juvenile Records.** All law enforcement records relating to events occurring before an individual's **eighteenth (18th) birthday** shall be automatically expunged if:

(1) **One (1) year** or more has elapsed since the date of the arrest or law enforcement interaction documented in the records.

(2) No petition for delinquency or criminal charges were filed with the Clerk of the Circuit Court relating to the arrest or law enforcement interaction documented in the records; and

- (3) **Six (6) months** have elapsed without an additional subsequent arrest or filing of a petition for delinquency or criminal charges whether related or not to the arrest or law enforcement interaction documented in the records.

If this department is unable to verify conditions (2) and (3) and the charge is not a Class 2 felony or higher, then the record is to be expunged.

(B) **Civil Law Violation of the Cannabis Control Act.**

- (1) Any civil violation of subsection (a) of Section 4 of the Cannabis Control Act or subsection (c) of Section 3.5 of the Drug Paraphernalia Control Act will be automatically expunged on or before every **January 1** and **July 1**.
- (2) Each case involving these civil charges will have a mirrored separate file in order to maintain an accurate record of such cases, and the ability to find and expunge in a timely manner.

(C) **Court Ordered Expungement.** Any and all records so ordered expunged by a court of law will be located and expunged however the court so orders.

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 services and disaster agency;
- (2) To confer upon the Mayor the extraordinary power and authority set forth under Article I of this Chapter (**65 ILCS 5/11-1-6**).
- (3) To provide for the rendering of mutual aid to other cities and political subdivisions with respect to the carrying out of emergency services and disaster operations.

The Village by virtue of Ordinance No. 683 pertaining to the establishment of National Incident Management Systems (NIMS) protocol shall be included with the procedures of the Emergency Management Agency.

(B) Whenever the Mayor determines after an investigation that a dangerous situation or a potentially dangerous situation exists which could cause death to individuals or serious injury to property or the health and welfare of public, the Mayor may declare that a state of emergency exists. The extraordinary powers may not be exercised until an ordinance shall have been adopted which shall establish standards for the determination by the Mayor of when the state of emergency exists and shall provide that the Mayor may not exercise such extraordinary power and authority except after signing under oath a statement finding that such standards have been met, setting forth facts to substantiate such findings, describing the nature of the emergency and declaring that a state of emergency exists. This statement shall be filed with the Clerk of the municipality as soon as practical. A state of emergency shall expire not later than the adjournment of the first regular meeting of the corporate authorities after the state of emergency is declared. A subsequent state of emergency may be declared if necessary.

(C) It is further declared to be the purpose of this Code and the policy of the municipality that all emergency management programs of this municipality be coordinated to the maximum extent with the comparable functions of the federal and state governments, including their various departments and agencies, of other municipalities and localities and private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

30-3-2 LIMITATIONS. Nothing in this Code shall be construed to:

(A) Interfere with the course or conduct of a private labor dispute, except that actions otherwise authorized by this Code or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;

(B) Interfere with dissemination of news or comment of public affairs; but any communications facility or organization (including but not limited to radio and television stations, wire services, and newspapers) may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster;

(C) Affect the jurisdiction or responsibilities of police forces, fire fighting forces, units of the armed forces of the United States, or of any personnel thereof, when on active duty; but state and local emergency operations plans shall place reliance upon the forces available for performance of functions related to disaster emergencies;

(D) Limit, modify, or abridge the authority of the Mayor and the Village Board to exercise any other powers vested in them under the constitution, statutes, or common law of this State, independent of or in conjunction with any provisions of this Code.

30-3-3 DEFINITIONS. As used in this Code, unless the context clearly indicates otherwise, the following words and terms shall have the definitions hereinafter ascribed:

(A) **Coordinator** means the staff assistant to the Mayor with the duty of carrying out the requirements of this Code.

(B) **Disaster** means an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, explosion, critical shortages of essential fuels and energy, riot, or hostile military or paramilitary action.

(C) **Emergency Management** means the efforts of this municipality to develop, plan, analyze, conduct, implement and maintain programs for disaster mitigation.

(D) **Emergency Operations Plan** means the written plan of the municipality describing the organization, mission and functions of the government and supporting services for responding to and recovery from disasters.

(E) **Emergency Services** means the preparation for and the carrying out of such functions, other than functions for which military forces are primarily responsible, as may be necessary or proper to prevent, minimize, repair and alleviate injury and damage resulting from disasters caused by fire, flood, earthquake, or other man-made or natural causes. These functions including, without limitation, fire-fighting services, police services, emergency aviation services, medical and health services, rescue, engineering, warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to protecting life or property.

(F) **Political Subdivision** means any county, city, village, or incorporated town.

30-3-4 EMERGENCY MANAGEMENT AGENCY.

(A) There is hereby created an emergency management agency and a coordinator of the emergency management agency, herein called the "coordinator", who shall be the head thereof. The coordinator shall be appointed by the Mayor with the advice and consent of the Village Board. He shall serve at the pleasure of the Mayor.

(B) The Emergency Management Agency shall obtain, with Village Board approval, such technical, clerical, stenographic and other administrative personnel, and may make such expenditures within their appropriation therefor as may be necessary to carry out the purpose of this Code.

(C) The coordinator, subject to the appointment of the Mayor and the Village Board, shall be the executive head of the Emergency Management Agency, and shall be

responsible under the direction of the Village Board for carrying out the program for emergency services and disaster operations of this Municipality. He shall coordinate the activities of all organizations for emergency management operations within this Municipality and shall maintain liaison, and cooperate with, the civil defense and emergency management agencies and organization of the county, other counties and municipalities, and of the federal and state government. In the event of a declared emergency the Mayor shall serve as the direct liaison between the federal, state and county authorities for the purpose of financial, equipment, personal, and all assistance as needed.

In the event of the absence, resignation, death, or inability to serve by the coordinator, the Mayor may designate, an acting coordinator until a new appointment is made and approved as provided in this Code.

(D) The 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 Emergency Management Agency shall interrelate with business, labor, industry, agriculture, civic and volunteer organizations, and community leaders.

(F) The Emergency Management Agency shall:

(1) Determine the requirements of the Municipality for food, clothing and other necessities in the event of an emergency;

(2) Develop an Emergency Operations Plan that meets the standards promulgated by the Illinois Emergency Management Agency;

(3) Biannually review and revise the local Emergency Operations Plan;

(4) Establish a register of persons with types of training and skills in emergency prevention, preparedness, response and recovery;

(5) Establish a register of government and private response resources available for use in a disaster;

(6) Prepare, for issuance to the Mayor and the Village Board, ordinances, proclamations and regulations as necessary or appropriate in coping with disasters.

(7) Cooperate with the federal, state and county government and any public or private agency or entity in achieving any purpose of this Code and in implementing programs for disaster prevention, preparation, response and recovery;

(8) Initiate and coordinate planning for:

(a) The establishment of an emergency operating center;

(b) The implementation of a 911 system.

(9) Do all other things necessary, incidental or appropriate for the implementation of this Code.

30-3-5 EMERGENCY MANAGEMENT POWERS OF THE MAYOR.

(A) The Mayor shall have the general direction of the emergency management agency, and shall be responsible for the carrying out of the provisions of this Code with the assistance of the Emergency Management Agency Coordinator.

(B) In performing his duties under this Code, the Mayor is authorized to cooperate with state and federal governments and with other municipalities and political subdivisions in all matters pertaining to emergency management operations defined in this Code.

- (C) In performing his duties under this Code, the Mayor is further authorized:
- (1) To make, amend and rescind all lawful necessary orders, rules and regulations of the local disaster plan to carry out the provisions of this Code within the limits of the authority conferred upon him.
 - (2) To cause to be prepared a comprehensive plan and program for the emergency management of this Municipality which plan and program shall be integrated into and coordinated with disaster plans of the state and federal governments and other political subdivisions, and which plan and program may include:
 - (a) Prevention and minimization of injury and damage caused by disaster;
 - (b) Prompt and effective response to disaster;
 - (c) Emergency relief;
 - (d) Identification of areas particularly vulnerable to disasters;
 - (e) Recommendations for zoning, building and other land-use controls, safety measures for securing permanent structures and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;
 - (f) Assistance to local officials in designing local emergency action plans;
 - (g) Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage or loss from flood, conflagration or other disaster;
 - (h) Organization of municipal manpower and chains of command;
 - (i) Coordination of local emergency management activities with assistance from the Emergency Management Agency Coordinator;
 - (j) Other necessary matters.
 - (3) In accordance with such plan and program for the emergency management of this Municipality, and out of funds appropriated for such purposes, to procure and preposition supplies, medicines, materials and equipment to institute training programs and public information programs, and to take all other preparatory steps, including the partial or full mobilization of emergency management organizations in advance of actual disaster to insure the furnishing of adequately trained and equipped forces for disaster operations.
 - (4) Out of funds appropriated for such purposes, to make such studies and surveys of the industries, resources and facilities in this Municipality as may be necessary to ascertain the capabilities of the Municipality for the emergency management phases of preparedness, response, and recovery, and to plan for the most efficient emergency use thereof.

(D) The Mayor is authorized to designate space in a municipal building, or elsewhere for the emergency services and disaster agency as its office.

30-3-6 FINANCING.

(A) It is the intent of the Village Board and declared to be the policy of the Municipality that every effort shall be made to provide funds for disaster emergencies.

(B) It is the Village Board's intent that the first recourse shall be to funds regularly appropriated to the agency. If the Mayor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, and the Governor has proclaimed the Municipality a disaster, he may make application for funds from the state disaster relief fund. If monies available from the fund are insufficient, and if the Mayor finds that other sources of money to cope with the disaster are not available or are insufficient, he shall issue a call for an immediate session of the Village Board for the purpose of enacting ordinances as the Village Board may deem necessary to transfer and expend monies appropriated for other purposes, or borrow monies from the United States Government or other public or private sources. If less than a quorum of the members of the Village Board is capable of convening in session to enact such ordinances for the transfer, expenditure or loan of such monies, the Mayor is authorized to carry out those decisions until such time as a quorum of the Village Board can convene.

(C) Nothing contained in this Section shall be construed to limit the Mayor's authority to apply for, administer and expend grants, gifts, or payments in aid of disaster prevention, preparedness, response or recovery.

30-3-7 LOCAL DISASTER EMERGENCIES.

(A) A local disaster emergency may be declared only by the Mayor or Village Board. If declared by the Mayor, it shall not be continued for a period in excess of **twenty-one (21) days** except by or with the consent of the Village Board. Any order or proclamation declaring, continuing or terminating a local disaster emergency shall be given prompt and general publicity, and shall be filed promptly with the Municipal Clerk.

(B) The effect of a declaration of a local disaster emergency is to activate any and all applicable local emergency operations plans and to authorize the furnishing of aid and assistance thereunder.

(C) During a local disaster emergency, the Mayor may suspend the provisions of any municipal ordinance prescribing procedures for the conduct of municipal business, or the orders, rules and regulations of any municipal agency, if strict compliance with the provisions of any ordinance, rule or regulation would in any way prevent, hinder or delay necessary action in coping with the emergency, as authorized by "**The Illinois Emergency Management Agency Act**", provided that, if the Village Board meets at such time, he shall act subject to the directions and restrictions imposed by that body.

30-3-8 TESTING OF DISASTER WARNING DEVICES. The testing of disaster devices including outdoor warning sirens shall be held only on the first Tuesday of each month at **10 o'clock** in the morning.

30-3-9 MUTUAL AID ARRANGEMENTS BETWEEN POLITICAL SUBDIVISIONS.

The coordinator for emergency management operations may, in collaboration with other public agencies within his immediate vicinity, develop or cause to be developed mutual aid arrangements with other political subdivisions, municipal corporations or bodies politic within this state for reciprocal disaster response and recovery in case a disaster is too great to be dealt with unassisted. The mutual aid shall not, however, be effective unless

and until approved by each of such political subdivisions, municipal corporations or bodies politic as are parties thereto, in the manner provided by law, and unless and until filed with and approved in writing by the state director. Such arrangements shall be consistent with the state and local emergency management operations plan and program, and in the event of such disaster as described in **Section 30-3-3** of this Code, it shall be the duty of each local and department for emergency management operations to render assistance in accordance with the provisions of such mutual aid arrangements.

30-3-10 COMMUNICATIONS. The 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 Emergency Management Agency shall have available for inspection at its office all orders, rules and regulations made by the Governor, or under this authority. The State Emergency Management Agency shall furnish such orders, rules and regulations to the agency.

30-3-16 UTILIZATION OF EXISTING AGENCY, FACILITIES AND PERSONNEL. In carrying out the provisions of this Code, the Mayor and the coordinator of the emergency management agency are directed to utilize the services, equipment, supplies and facilities of existing departments, offices and agencies of the Municipality to the maximum extent practicable, and the officers and personnel of all such departments, offices and agencies are directed, upon request, to cooperate with and extend such services and facilities to the coordinator and the emergency management agency.

30-3-17 NO PRIVATE LIABILITY.

(A) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual or impending disaster, or a mock or practice disaster response activity together with his successors in interest, if any, shall not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission, or for negligently causing loss of, or damage to, the property of such person.

(B) Any private person, firm or corporation and employees and agents of such person, firm or corporation in the performance of a contract with, and under the direction of, the Municipality under the provisions of this Code, shall not be civilly liable for causing death

of, or injury to, any person or damage to any property except in the event of willful misconduct.

(C) Any private person, firm or corporation, and any employee or agency of such person, firm or corporation, who renders assistance or advice at the request of the Municipality, shall not be civilly liable for causing the death of, or injury to, any person or damage to any property except in the event of willful misconduct. The immunities provided in Subsection (C) shall not apply to any private person, firm or corporation, or to any employee or agent of such person, firm or corporation whose act or omission caused in whole or in part such actual or impending disaster and who would otherwise be liable therefore.

30-3-18 SUCCESSION. In the event of the death, absence from the Municipality or other disability of the Mayor preventing him from acting under this Code or for any other municipal purpose, and until the office is filled in the manner prescribed by law, the Mayor Pro-Tem appointed by the Village Board shall succeed to the duties and responsibilities of the Mayor.

30-3-19 COMPENSATION. The Emergency Service Coordinator shall be paid an annual salary as established by the appropriation ordinance.

30-3-20 PERSONNEL OATH. Each person, whether compensated or non-compensated, who is appointed to serve in any capacity in the municipal Emergency Management Agency, shall, before entering upon his duties, take an oath, in writing, before the coordinator of the municipal Emergency Management Agency before a person authorized to administer oaths in this Municipality, which oath shall be filed with the coordinator of the Emergency Management Agency, and which oath shall be substantially as follows:

"I, _____ do solemnly swear (or affirm) that I will support and defend and bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of Illinois, and the territory, institutions and facilities thereof, both public and private, against all enemies, foreign and domestic; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I, nor have I been a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence; and that during such time I am affiliated with the Village, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

30-3-21 EMERGENCY TERMINATION OR REDUCTION OF ELECTRICAL SERVICE.

(A) **Declaration of Emergency Condition.** When in the judgment of the Mayor or Village Board, as provided herein in **Section 30-3-7(A)**, a local disaster emergency requires the termination or reduction of electrical service, the Mayor or Village Board shall forthwith declare in writing the existence of the emergency condition and order the termination or reduction.

30-3-22 **PENALTY.** Any person convicted of violating this Code or any order thereunder shall be punished by a fine of not exceeding **Seven Hundred Fifty Dollars (\$750.00)**.

(20 ILCS 3305/1 et seq.)

ARTICLE IV - AMBULANCES

30-4-1 **OFFICE OF DIRECTOR ESTABLISHED.** The office of Director of Ambulance Services is hereby created. The Ambulance Director shall be appointed by the Mayor with the concurrence of the Village Board.

30-4-2 **DIRECT ACTIONS.** The Director of Ambulance Services or his designated representative is authorized to direct actions and take measures deemed necessary in response to a call for emergency medical transportation.

30-4-3 **POWERS OF DIRECTOR.** The Director is empowered to:

- (A) Maintain and operate a central dispatch system.
- (B) Recruit drivers and attendants.
- (C) Supervise their training.
- (D) Supervise the day to day operation of the ambulance service, which includes, but is not limited to keeping equipment operable, having drivers and attendants on call, and generally managing the aforementioned ambulance services.

30-4-4 **REPORTS TO BOARD.** The Director of the ambulance services shall be responsible and report to the Mayor and the Board of Trustees.

30-4-5 **RESPONSIBILITY FOR CHARGES.** Whenever a response is made upon request of a victim, victim's parent, guardian or agent, it shall be paid by the victim, victim's parent, legal representative, guardian or agent into the Village Treasury the sum as computed by the schedule set forth herein by **Section 30-4-6**.

30-4-6 **CHARGES.** Charges for transportation to and from any hospital, nursing home or shelter home for whatever purpose and the services of EMTI's as well as charges for stand-by services and for bandages, oxygen and other consumable items shall be published in a schedule available at the Village Hall; and may be adjusted from time to time as the Village Board sees fit upon the recommendation of the ambulance service. Schedule of charges shall be available for public transportation at the aforementioned Village Hall and/or the ambulance garage. **(Ord. No. 87-11; 04-04-88)**

30-4-7 **DIRECTOR APPOINTED.** The Director referred to in **Section 30-4-1** shall be appointed yearly by the Mayor, with the consent of the Board of Trustees.

30-4-8 **PAYMENT.** Each patient shall be responsible for payment of his or her bill. It shall be the patient's responsibility to collect from their own insurance programs, including Medicare and/or any other governmental program which are applicable now or any time in the future.

30-4-9 **DELINQUENT CHARGES.** An account shall be declared delinquent **thirty (30) days** after billing, and at that time, may be referred to any attorney for collection in any way deemed necessary. Collection costs thus incurred, shall be added to the original billing with interest charged at a rate of **one percent (1%)** per month, which will also be cumulative.

30-4-10 **REQUEST FOR SERVICE.** The response of the Village upon request constitutes acceptance of such offer and approval of the fee.

30-4-11 **DEPRECIATION FUND.** There shall be created by ordinance a fund to be titled "**Ambulance Depreciation Fund**" into which funds for replacement of ambulances and equipment shall be deposited from time to time.

30-4-12 **MUTUAL AID AGREEMENT.** In extreme emergency only, the fees provided in **Section 30-4-6** shall not apply, but shall be waived when response is under a mutual aid agreement for ambulance service. **(Ord. No. 78-8; 06-19-78)**

ARTICLE V – PUBLIC SAFETY EMPLOYEE BENEFITS ACT

30-5-1 PURPOSE. The purpose of this Article is to provide a fair and efficient method for determining the eligibility of a full-time employee for the benefits enumerated under PSEBA through an administrative process, including if necessary, an administrative hearing.

30-5-2 DEFINITIONS. For the purpose of this Article, the following terms will have the following meanings. These definitions are derived from the federal Public Health and Welfare Act, which enacted in 1944 and amended in 1984 to define, by inclusion or reference, the following terms.

For use in this Article, provisions containing the words “mayor,” “commissioner,” “alderman,” or “Village council” also apply to the president, trustee, council member and boards of trustees so far as the provisions are applicable to them.

(A) **Catastrophic Injury.** An injury, the direct and proximate consequences of which permanently prevent an individual from performing any gainful work.

(B) **Gainful Work.** Full- or part-time activity that actually is compensated or commonly is compensated.

(C) **Injury.** A traumatic physical wound (or a traumatized physical condition of the body) directly and proximately caused by external force (such as bullets, explosives, sharp instruments, blunt objects, or physical blows), chemicals, electricity, climatic conditions, infectious disease, radiation, virus, or bacteria, but does not include:

- (1) Any occupational disease; or
- (2) Any condition of the body caused or occasioned by stress or strain.

30-5-3 APPLICATION PROCEDURE. As noted by the Court in *Englum*, “while the [Act] contained *substantive* requirements for Section 10 eligibility, the [Act] contained no *procedural* requirements for determining whether a former employee met the substantive criteria.” ¶ 55. This Article and the application procedure of this Section establishes guidance on the proper procedural requirements for Public Safety Officers seeking PSEBA benefits in the Village.

(A) Public Safety Officers, or family member(s) of an injured or deceased Public Safety Officer, (“Applicant”) must file a full and complete PSEBA application in writing within **thirty (30) days** of filing a pension claim with the Village or within **thirty (30) days** of the date of the adoption of this Article in the event that an Applicant has filed for a PSEBA claim prior to the date of adoption of this Article, whichever is later, if the Applicant is seeking benefits under PSEBA. The Village shall notify Applicant if the PSEBA application is incomplete and Applicant shall have **five (5) days** to remedy their application. Failure to timely file the full and complete application shall result in a forfeiture of the benefits under PSEBA by failure to properly submit a complete application.

(B) A complete PSEBA application includes the following:

- (1) The name of the Applicant, date of hire, detailed information regarding the incident, including information relating to how the injury was sustained in the line of duty (date, time, place, nature of injury, and other factual circumstances surrounding the incident giving rise to said claim);

- (2) The Applicant's firsthand knowledge explaining, to the Village's satisfaction, how the injury/death directly resulted from:
 - (a) Response to fresh pursuit;
 - (b) Response to what is reasonably believed to be an emergency;
 - (c) An unlawful act perpetrated by another; or
 - (d) Participation during the investigation of a criminal act.
- (3) A signed PSEBA medical authorization release which authorizes the collection of information related to the incident including, but not limited to, disability pension proceedings, worker's compensation records, and medical records and specifies the name and address for pertinent health care provider(s);
- (4) A signed PSEBA general information release specifying the name and signature of the Applicant or his/her authorized representative along with legal proof of said representation and name and signature of witness authorizing the collection of information pertinent to the incident review process;
- (5) The name(s) of witnesses to the incident;
- (6) The name(s) of witnesses the Applicant intends to call at the PSEBA hearing;
- (7) Information and supporting pension documentation filed with the appropriate pension board;
- (8) Information supporting the PSEBA eligibility requirements; and
- (9) Other sources of health insurance benefits currently enrolled in or received by the Applicant and/or family members if the Applicant is deceased.

(C) The PSEBA application must be submitted to the Village Clerk in its entirety.

(D) The PSEBA application must be sworn and notarized to certify the truthfulness of the content of the information. A review of the application shall not occur until the application is complete.

(E) On the date that the PSEBA application is deemed complete by the Village, the completed application shall then be submitted to the Village as the Preliminary Record, and a copy of the same shall be date stamped and provided to the Applicant.

(F) Upon receipt of a complete application for PSEBA benefits, the Village shall set the matter for an administrative hearing before a hearing officer to make a determination on whether to grant the Applicant PSEBA benefits based on the result of the administrative hearing.

(G) The Applicant will be given written notice of the date for the scheduled administrative hearing to be served not less than **ten (10) days** prior to the commencement of the hearing. If the Applicant, upon receiving written notice of the administrative hearing, cannot attend said date, the Applicant must contact the hearing officer in writing within **seven (7) days** after being served. The hearing officer shall establish an alternative hearing date which is within **thirty (30) days** of the original hearing date. Failure to appear at the administrative hearing shall result in denial of PSEBA benefits.

30-5-4 ADMINISTRATIVE COMPOSITION. The administrative hearing shall be scheduled and conducted by a hearing officer whose authority and limitations are as follows:

(A) **Authority of the Hearing Officer.** The hearing officer shall have all of the authorities granted to her/him under common law relative to the conduct of an administrative hearing, included the authority to:

- (1) Preside over Village hearings involving PSEBA;
- (2) Administer oaths;
- (3) Hear testimony and accept evidence that is relevant to the issue of eligibility under PSEBA;
- (4) Issue subpoenas to secure attendance of witnesses and the production of relevant papers or documents upon the request of the parties or their representatives;
- (5) Rule upon objections in the admissibility of evidence;
- (6) Preserve and authenticate the record of the hearing and all exhibits in evidence introduced at the hearing; and
- (7) Issue a determination based on the evidence presented at the hearing, the determination of which shall be in writing and shall include a written finding of fact, decision and order.

(B) **Hearing Officer.** The Mayor, with the advice and consent of the Village Board, is hereby authorized to appoint a person to hold the position of hearing officer for each hearing on PSEBA benefits that shall come before this Village. In making said selection, the following information should be considered, at a minimum:

- (1) The individual's ability to comply with the job description as set forth herein; and
- (2) The individual must be an attorney licensed to practice law in the State of Illinois and have knowledge of an experience in employment and labor law, general civil procedure, the rules of evidence, and administrative practice.

30-5-5 ADMINISTRATIVE HEARING. The system of administrative hearings for the determination of eligibility for benefits under PSEBA shall be initiated either by the Village or by the Applicant after the submission of a full and complete PSEBA application. An administrative hearing shall be held to adjudicate and determine whether the Applicant is eligible for benefits under PSEBA. If the Applicant is found eligible, the benefits shall be consistent with the Act.

(A) **Record.** The Village shall ensure that all hearings are attended by a certified court reporter and a transcript of all proceedings shall be made by said certified court reporter and a copy be provided to the Applicant within **twenty-eight (28) days** of the date of the administrative hearing.

(B) **Procedures.** The Village and the Applicant shall be entitled to representation by counsel at said administrative hearing and present witnesses, testimony and documents, may cross-examine opposing witnesses, and may request the issuance of subpoenas to compel the appearance of relevant witnesses or the production of relevant documents.

(C) **Evidence.** The Illinois Rules of Evidence shall apply to the extent practicable unless, by such application, the Hearing Officer determines that application of the rule would be an injustice or preclude the introduction of evidence of the type commonly relied upon by a reasonably prudent person in the conduct of her or his affairs. Such determination shall be in the sole discretion of the Hearing Officer. The Hearing Officer must state on the record her or his reason for that determination.

(D) **Final Determination.** A written determination by the hearing officer of whether the petitioning Applicant is eligible for the benefits under PSEBA shall constitute a final administrative determination for the purpose of judicial review under the common law writ of certiorari.

(E) **Burden of Proof.** At any administrative hearing, the Applicant shall have the obligation and burden of proof to establish that the Applicant is eligible and qualified to receive PSEBA benefits. The standard of proof in all hearings conducted under this Article shall be by the preponderance of the evidence.

(F) **Administrative Records.** All records pertaining to the administrative process shall be held in a separate file under the Applicant's name with the Village.

30-5-6 **SEVERABILITY.** If any provision of this Article or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Article that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Article is severable.

APPENDIX "A"
POLICY AND PROCEDURES MANUAL
TABLE OF CONTENTS

Category 1: Low Frequency, High Risk

- 1.1 Use of Force
- 1.2 Internal Affairs & Investigations
- 1.3 Employee Harassment
- 1.4 Strip and Body Cavity Searches
- 1.5 Hostage/Barricaded Subject Situations
- 1.6 Domestic Violence
- 1.7 Ride Along
- 1.8 Respirator Protection Policy

Category 2: High Frequency, High Risk

- 2.1 Role and Authority
- 2.2 Code of Conduct
- 2.3 Use of Police Vehicles
- 2.4 Emergency Vehicle Operations
- 2.5 D.U.I. Traffic Enforcement
- 2.6 Blood borne Pathogens
- 2.7 Vehicle Stops

Category 3: High Frequency, Low Risk

- 3.1 Bonding Procedures
- 3.2 Use of Departmental Computers
- 3.3 Daily News Briefs and Media Relations
- 3.4 Motor Vehicle Searches
- 3.5 Uniform and Grooming Standards
- 3.6 Evidence Control Procedures

Category 4: Low Frequency, Low Risk

- 4.1 Show-ups, Line-ups, & Photographic Identifications
- 4.2 Registering Sex Offenders
- 4.3 Line of Duty Deaths
- 4.4 Freedom of Information Act
- 4.5 Racially Biased Policing/Traffic Stop Statistical Study
- 4.6 Leave Request
- 4.7 Abduction Alert

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 1.1

(Use of Force)

Effective Date: 01/01/09

Supersedes: Chapter 3, Sections 4-7 of 01-01-2001 - This policy will eliminate the former Sections 5-7 and incorporate them into Section 4. This policy will also replace General Order 04-01 (Electronic Stun Devices).

Replaces: Chapter 3, Section 22 (formally effective on 10-01-2004)

PURPOSE: To provide guidelines for law enforcement officers of this agency to follow in the use of force, either deadly or non-deadly, to bring an incident under control.

POLICY: This department recognizes and respects the value and special integrity of each human life. In vesting police officers with the lawful authority to use force to protect the public welfare, a careful balancing of all human interest is required. Therefore, it is the policy of this department that police officers shall use only that force that is reasonably necessary to effectively bring an incident under control, while protecting the lives of the officer or another.

DEFINITIONS:

Deadly Force: Any use of force that is likely to cause death or great bodily harm.

Less Lethal Force: Any use of force other than that which is considered deadly force.

Forcible Felony: Treason, first degree murder, second degree murder, aggravated criminal sexual assault, criminal sexual assault, robbery, arson, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against any individual.

PEACE OFFICER'S USE OF FORCE IN MAKING ARREST (720 ILCS 5/7-5):

- I. A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest. He is justified in the use of any force, which he reasonably believes to be necessary to affect the arrest, and of any force that he reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or bodily harm to himself or herself or such other person, or when he reasonably believes both that:
 - A. Such force is necessary to prevent the arrest from being defeated by resistance or escape, and
 - B. The person to be arrested has committed or attempted a forcible felony that involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.
- II. A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which he would be justified in using if the warrant were valid, unless he knows that the warrant is invalid.

PROCEDURES

- I. Escalating levels of force: The practical application of Use of Force is understood to be dynamic and fluid. Force is not restricted by a certain sequence or level. The levels of force referred to in this order is for purposes of documentation only:
- A. (Level 1): Verbal Persuasion/Officer Presence
 - B. (Level 2): Minor physical force (taking a suspect/prisoner by the arm as a physical type of persuasion)
 - C. (Level 3): OC Pepper Spray/Taser (use only if resistance is encountered or anticipated)
 - D. (Level 4): Defensive tactics (use of defensive tactics at this point will often result in the suspect/prisoner being subdued, and will include placing hands behind the back for handcuffing)
 - E. (Level 5): Use of baton and intermediate weapons.
 - F. (Level 6): Use of less lethal force weapons.
 - G. (Level 7): Any use of force that is likely to cause death or great bodily harm.

It is impossible to control at which level of force any particular use of force incident will begin or how quickly and in what steps it might escalate. An incident might begin at "Level 4" for instance instead of "Level 1". As another example, a use of force incident might begin at "Level 1", verbal persuasion, and escalate immediately to "Level 7", deadly force.

The most important thing to remember concerning the use of force is that an officer must use judgment each time a use of force incident occurs, and an officer must base this judgment on training along with the circumstances associated with the incident to make a decision on what type of force to use. An officer must always remember that whatever the circumstances are, only the minimum amount of force necessary will be used to preserve the peace, prevent the commission of offense, effect lawful arrests or defend persons or property.

II. Use of Levels of Force

- A. (Level 1): Verbal Persuasion - Language used by an officer to move by argument, plea, or reason to a belief, position, or course of action.
- B. (Level 2): Minor physical force - Minor physical force is generally restricted to open hand or other techniques designed to persuade a subject to comply with officer direction.
- C. (Level 3):
 - 1. OC Pepper Spray: Generally OC Pepper Spray will only be used when the danger of physical injury to the officer or other person(s) is reasonably apparent and the officer is unable to verbally control an offender.
Note: In use of OC Pepper Spray, officers must successfully complete a training course approved by the department on the use of OC Pepper Spray prior to carrying or deploying the agent. This course must include the officer being exposed to the effects of the OC agents, and guidelines for proper cleanup/treatment of persons exposed, including bystanders, officers and suspects.
 - a. It is the purpose of chemical agents to provide an officer with a means of affecting arrest, defending himself or others, or restraining violent persons when other means have failed or are infeasible.
 - b. The decision to apply tear gas or chemical irritants against large groups of people shall be the responsibility of the shift supervisor, or command level officer.
 - c. Authorized aerosol spray, for use by individual officers, shall be restricted to an approved brand of O.C. (oleoresin capsicum) in a non-flammable carrier. The use of C.N./C.G. gas or other tactically necessary chemical agents shall be under the direction of a shift commander or command level officer. Only officers certified by approved departmental training will be permitted to carry or use any aerosol spray or chemical agent. The Chief of Police will authorize all spray units before an officer carries the unit for duty use.

- d. Chemical agents/O.C. spray, shall not be used:
 - i. in a stream application directly into the eyes of a subject at a range of less than **two (2) feet**;
 - ii. for prolonged periods at a subject not responding to normal applications;
 - iii. on a person already incapacitated;
 - iv. in large quantities in a confined space;
 - v. in the immediate vicinity of infants, ill, or infirmed persons;
 - vi. in the immediate vicinity of a source of ignition.
 - e. Following the application of O.C. spray the subject receiving the application will be given the following treatment:
 - i. as soon as is practical the subject will have the affected areas flushed with clean, cool water in sufficient amounts to decontaminate and have affected areas exposed to fresh flowing air. Commercial decontaminates may also be applied. If effects of the O.C. application have not significantly diminished within **thirty (30) minutes** or if the subject complains of some unusual symptom or some other unforeseen circumstance or medical condition develops, the Emergency Medical Services department will be summoned for treatment. Additional care will be as directed by E.M.S. or an attending physician;
 - ii. following the application of any chemical agent other than O.C. spray, the effected subject will be treated as soon as practical by E.M.S. personnel and additional care as may be directed by an attending physician.
 - f. After the use of any type of chemical agent, the officer involved will submit a written report of the circumstances, as soon as reasonably possible.
2. Electronic Taser Device: Generally, the Taser unit will only be used when the danger of physical injury to the officer or other person(s) is reasonably apparent and the officer is unable to verbally control an offender. The Taser unit will be applied as a force option when danger of physical injury to the officer or other person(s) is reasonably apparent and efforts to verbally control the offender are not successful.
- Note: Use of the Taser is authorized only by those officers that have successfully completed the approved training course by the department. The course must include officer exposure to the effects of the Taser and guidelines for the treatment of persons exposed to the Taser.
- a. Authorized Taser units for use by individual officers shall be restricted to the advanced Taser M26 or X26 issued by the department. All certified Patrol Officers will carry an issued Taser unit while on uniformed patrol. Officers assigned to other than Patrol duties may be issued a Taser unit depending on availability.
 - b. Taser units will not be used:
 - i. on an incapacitated person.
 - ii. in close proximity to flammable liquids or fumes. The Taser unit shall be considered a source of ignition.
 - iii. on persons in danger of falling from a significant height.
 - iv. on persons in a body of water that would constitute a drowning hazard.
 - c. Following the use of a Taser unit:
 - i. the officer will properly secure the effected subject.
 - ii. the officer will remove probes according to training. Officers will observe proper biohazard protocol. Medical personnel should

- remove probes that imbed in the soft tissue of the neck, face, groin, or eyes.
 - iii. the effected subject will receive any necessary medical treatment as soon as is practical.
 - iv. all injuries will be photographed as soon as is practical.
 - v. the air cartridge, probes, wires, and anti-felony identification device micro-dots, will be secured as evidence. The evidence will be secured as biohazard sharps.
 - vi. an incident report, including the circumstances of the Taser use, will be completed as soon as is practical. That report will include the serial numbers of the Taser unit and air cartridge(s).
 - vii. the shift supervisor, at the time of occurrence, will notify a command officer, as soon as is practical, that shift supervisor will submit a written memorandum, to a command officer, as soon as is practical.
 - d. Use on vicious animals:
 - i. use on vicious animals is permitted. Officers must be aware that animals usually recover from the effects of the Taser more quickly than human beings.
 - ii. Officers are required to take necessary measures to protect the health and welfare of animals, as is practical.
 - iii. Reporting and evidentiary issues apply in the application of Taser units on animals.
 - e. Carry and Storage of Taser unit:
 - i. only properly functioning and charged units will be carried.
 - ii. Taser units will only be carried in department-approved holsters.
 - iii. at least one spare air cartridge unit will be carried with each Taser unit.
 - iv. care must be taken to avoid exposure of Taser units to prolonged periods of extreme heat, cold and moisture.
 - v. officers will not modify Taser unit or air cartridges.
 - f. Accidental/Unintentional activation: Any activation, other than that which occurs during training, will be considered a 'use' of the Taser. All reporting procedures will apply.
- D. (Level 4):
 - 1. Defensive Tactics: Physical force that is taken and enacted by an officer to persuade or restrain an individual for means of cooperation and subject control. Examples include but are not limited to:
 - a. joint locks and manipulations
 - b. front and rear wrist locks
 - c. escort position
 - d. arm-bar takedown
 - e. strikes and kicks
 - f. pressure points
 - 2. Handcuffs:
 - a. All persons taken into custody will be handcuffed with their hands behind their backs. The facts and circumstances surrounding cases will dictate the actual procedure. (Example: the officer may elect not to handcuff an individual arrested for a minor traffic or misdemeanor violation if there is a medical or safety concern.) As a minimum, handcuffs will restrain any individual until they have b bond ready to be posted or they are turned over to another agency.
 - b. Subjects receiving medical attention will be restrained as the attending physician so directs.

- c. The following rules apply to the use of handcuffs:
 - i. Only handcuffs issued by this department, or approved by the Chief of Police, may be used.
 - ii. Except under exceptional circumstances, a subject shall not be handcuffed to fixed object, (such as post; vehicle, building).
 - iii. Whenever practical, subjects will be handcuffed with hands behind the back.
 - iv. Officers shall not handcuff a subject to themselves.
 - d. Any subject transported to the County Jail via the Sally Port is to be handcuffed.
 - e. Handcuffing of subjects while at the St. Clair County Jail or court house will be as determined by that authority.
 - f. Prisoners confined to the Police Department booking area shall be seated and handcuffed to a wall when an officer is not present.
- E. (Level 5): Use of Intermediate Weapons:
- 1. Police Baton: Only Batons issued and/or authorized by this department shall be used. The use of saps, blackjacks, sap knuckle gloves, or other unauthorized weapons are prohibited. Batons are to be carried and utilized by all departmental personnel unless authorized by the Chief of Police. Only officers that have completed the required certified training course should be authorized to carry a departmental baton.
 - a. A police baton may be used when considerable force is necessary. The baton will permit an officer to defend themselves or others in situations where the use of firearms may not be necessary or justified. Officers must use discretion in determining whether or not to use this equipment. Generally, if verbal persuasion and other means of force have failed to effectively control an individual and there are not enough officers present to control the subject, the use of the baton is justified to gain control.
 - b. When the use of the baton becomes necessary, the officer shall utilize it striking the assailant in major muscle mass areas such as the thigh, calves, forearms, and the center mass of the torso. The use of baton on areas above the shoulder should be made only in case of extreme physical danger to the officer or others; otherwise strikes to this area should be avoided.
 - c. Officers will carry only batons provided by this department, or approved by the Chief of Police.
 - d. The baton should be carried on the equipment belt and should not be unnecessarily brandished. Unauthorized modification of the baton is prohibited.
 - e. When batons are used, a written report will be made.
 - f. Training in use of baton will be conducted in accordance with nationally recognized standards for the instrument currently in use.
 - g. Training ineffective verbal communication will be provided to each officer.
 - 2. Flashlights: In the event it becomes necessary to use a flashlight as a defensive weapon, officers will use it in the same manner as the baton. Flashlights shall be used as a last resort method to protect an officer or victim from great bodily harm when all other resources have been exhausted.
 - 3. Canine: The use of a police canine to search for or apprehend suspects will be considered a use of force under this policy when the canine inflicts injury.
Note: In use of the above intermediate weapons, suspects should not be struck in the head, neck, groin area, joints or kidneys. Not advised unless all other

means have been exhausted and is a matter of last resort or deadly force is justified.

- F. (Level 6): Use of less lethal force weapons (Extended range weapons):
1. The use of extended range impact weapons (bean bag type rounds) shall be under the direction of the Chief of Police or Senior Officer.
 2. Only officers certified in the use of extended range impact munitions are authorized in such use.
 3. Only departmental authorized less lethal munitions will be carried and used in department issued firearms.
 4. Less lethal munitions are to be considered when lesser force options are deemed inappropriate or have failed and deadly force options have not yet become necessary. These munitions are appropriate when a baton or other impact weapon would be appropriate.
 5. Firearms used in the delivery of less lethal munitions are to be examined prior to each incident to insure that only less lethal munitions are loaded in the firearm.
 6. Less lethal deployment considerations:
 - a. Distance of subject from officer.
 - b. Size of subject.
 - c. Clothing worn by subject.
 - d. Threat level presented by subject.
 - e. All involved officers notified as to the use of less lethal munitions.
 - f. Emergency Medical Service alerted/standing by.
 - g. The subject's head and neck/throat area should be avoided.
 - h. Not to be used when the subject is in danger of falling from a significant height.
 7. Following the deployment of less lethal munitions:
 - a. Any subjects struck by less lethal munitions will be examined by E.M.S. personnel and receive necessary medical treatment.
 - b. An incident report will be completed.
 - c. The Chief of Police will be notified.

Parameters for use of less lethal force:

- A. *Where deadly force is not authorized, officers should assess the incident, if possible, in order to determine which technique or weapon will best bring the incident under control in a safe manner.*
- B. *Law enforcement officers are authorized to use less lethal force techniques and issued equipment for resolution of incidents, as follows:*
1. *To protect themselves or another from physical harm; or*
 2. *To restrain or subdue a resistant individual; or*
 3. *To bring an unlawful situation safely and effectively under control.*
- C. *Law enforcement officers are not permitted to use any weapon or instrument unless qualified in its proficient use as determined by training procedures.*

- G. (Level 7): Deadly force: Any use of force that is likely to cause death or great bodily harm.
1. When necessary to defend the officer or another person from death or serious bodily injury, and all other means of defense have failed or would be inadequate under the circumstances.
 2. To effect the arrest of a person attempting to escape from a forcible felony, and then only if the officer reasonably believes the fleeing felon poses a significant threat to human life should escape occur.

Parameters for use of deadly force:

- A. *Law enforcement officers are authorized to use deadly force in order to:*
1. *Protect the law enforcement officer or others from what is reasonably believed to be an immediate threat of death or great bodily harm; or*
 2. *Prevent the escape of a fleeing felon whom the officer has probable cause to believe will pose a significant threat to human life should escape occur;*

3. *Where feasible, a police officer shall identify himself and state intent to use deadly force.*
- B. *A law enforcement officer may discharge a firearm under the following circumstances:*
 1. *When deadly force is justified.*
 2. *During range practice, competitive sporting events, or other sanctioned firearm activity.*
 3. *To summon assistance, only after the officer has exhausted all other means to summon assistance or has been rendered incapable of using normal means to summon assistance.*
 4. *To destroy an animal that represents a threat to public safety, or as a humanitarian measure where the animal is seriously injured.*
 5. *As a humanitarian measure where the animal is seriously injured but only after all of the following criteria have been met:*
 - a. *all attempts to contact the owner of the animal are unsuccessful;*
 - b. *the animal is located on, or has been moved to, a location which safely permits a shot to be fired;*
 - c. *authorization to destroy the animal has been given by the on-duty shift supervisor, or command level officer;*
 - d. *disposal of the animal's carcass will be at the direction of the shift supervisor.*
- C. *Law enforcement officers shall adhere to the following restrictions when their weapon is exhibited:*
 1. *Except for maintenance or during training, law enforcement officers shall not draw or exhibit their firearm unless circumstances create reasonable cause to believe that it may be necessary to use the weapon in conformance to this policy.*
 2. *Warning shots are prohibited.*
 3. *Officers may not discharge their firearm at or from a moving vehicle, except as an ultimate measure of self-defense and when the immediate threat to life becomes apparent.*
 - a. *As a last resort to prevent death or great bodily harm to the officer or another person;*
 - b. *As a last resort to apprehend a felon who has just committed a felony resulting in death or great bodily harm;*
 - c. *When an occupant of the vehicle is utilizing deadly force or force likely to cause great bodily harm against a police officer or another person.*
 4. *Firearms shall not be discharged when it appears likely that an innocent person may be injured.*
- D. *Patrol Rifle: Patrol rifles will be deployed in circumstances consistent with department training and standards. The rifle will be locked in the rack, without an inserted magazine, chamber empty, hammer cocked, bolt forward, and on safe. If the weapon is deployed and a round is chambered, the download procedure may be completed in the field, with the weapon on safe. The download will be completed in the presence of a second officer. The weapon will be returned to the aforementioned condition for transport. Patrol rifles are to remain locked in the patrol unit unless it is necessary to remove them for a specific reason. Patrol rifles are not to be moved from unit for reasons of personal preference.*

III. Training and qualifications:

- A. *Use of force weapons and methods: A law enforcement officer is not permitted to use any weapon or instrument unless qualified in its proficient use as determined by training procedures.*
- B. *Deadly weapons:*

1. While on and off-duty, law enforcement officers shall carry only weapons registered with this agency and approved by the Chief of Police prior to being carried or used. On-duty primary weapons are limited to .40 calibers only.

Shotguns can only be 12 gauge and rifles must be .223 caliber. All primary, secondary, shotguns and rifles have to be approved by the Chief of Police before an officer can carry them. Only department-approved ammunition will be carried in all weapons - the Chief of Police will select the ammunition to be carried by all officers.

2. Authorized weapons are those with which the law enforcement officer has qualified and received departmental training on proper and safe usage, and that are registered and comply with departmental specifications.
3. This agency shall schedule regular training and qualification sessions for duty, off-duty and specialized weapons, which will be graded on a pass/fail basis.
4. Failure to qualify for on-duty firearms use; any officer who fails to successfully complete any required firearms training or qualifications for on-duty firearms use will be granted a **ten (10) day** grace period. Within that **ten (10) day** period, the officer will report to a department certified firearms instructor for the necessary remedial training or instruction. At least **one hundred (100) rounds** of ammunition will be made available to the officer for remedial instruction by the department's certified firearms instructor (for duty qualifications only). Officers who fail to meet the required standard within the **ten (10) day** period will not be permitted to work until they qualify. If the officer remains unable to meet the required standard for a period of **thirty (30) days**, the Chief of Police and/or the Board of Trustees will take action as permitted by law. Officers may utilize accumulated compensatory or vacation time in order to remain in pay status, but they will not be permitted to act as police officers. Sick time may also be used if the officer's condition so dictates.
5. A sworn officer shall not be permitted to carry any weapon with which he has not been able to qualify during the most recent qualification period.
6. A sworn officer who has taken extended leave or suffered an illness or injury that could affect his use of firearms ability will be required to re-qualify before returning to enforcement duties.
7. Only department-authorized ammunition will be carried and used in approved police department rifles, shotguns, and handguns. All non-department issued ammunition has to have prior approval of the Chief of Police.
8. All secondary (back-up) sidearms and ammunitions must be approved by the Chief of Police prior to being carried or used. All agency rules, training and qualifications apply to all secondary (back-up) sidearms that are being carried or used.
9. When an officer anticipates that he will consume alcoholic beverages in off-duty situation, he is advised not to carry his firearm. Under these conditions, should the need arise for police services, and the officer is visiting an establishment in which intoxicating beverages are being used or consumed, the off-duty officer shall contact the communications center of the police department which has venue and wait for said police department to respond. Use or display of firearms while under the influence of alcohol/drugs will subject the officer to disciplinary action.
10. When carrying a weapon off-duty - the weapon MUST be concealed from public view. If an officer is on-duty and wearing "plain clothes" - the weapon will be worn on the waistline with the officer's badge also displayed as to not to cause public alarm.

IV. Reporting uses of force:

- A. A written "INCIDENT" report prepared according to departmental procedures will be required in the following situations:
 1. When a firearm is discharged outside the firing range.
 2. When a use of force results in death or injury.
 3. When a less lethal weapon is used against a person.

4. Anytime physical force is used against a person to affect an arrest.

NOTE: The use of handcuffs, although considered to be a use of force, will be excluded from the report requirement.

- B. A use of force report will outline the circumstances surrounding the use of force, the specific degree, amount and type of force employed and the results of the use of force, (who, what, when, where, why and how).
- C. A supervisor will be immediately summoned to the scene and will comply with investigative procedures as required by the department in the following situations:
 - 1. When a firearm is discharged outside of the firing range.
 - 2. When a use of force results in death or serious injury.
 - 3. When a subject complains that an injury has been inflicted.

V. Agency response:

- A. The following procedures shall be used to investigate all incidents of firearms discharged by a department member, except for firearms training and incidents involving the destruction of an animal:
 - 1. Involved Officer
 - a. Whenever an officer discharges his firearm either accidentally or officially, he shall immediately:
 - i. Request necessary emergency medical aid.
 - ii. Notify the telecommunications operator of the incident and location, and request that the shift commander respond to said location.
 - iii. Determine the physical condition of any injured person and render first aid when appropriate.
 - b. The officer will remain at the scene, unless personally injured, until the arrival of a command person. However, if the circumstances are such that the continued presence of the officer at the scene might cause a more hazardous situation to develop (violent crowd), the shift commander shall have the discretion to instruct the officer to respond to the police station.
 - c. The officer shall secure the scene and protect the weapon for examination and submit the weapon to the shift commander.
 - d. The officer shall prepare a detailed report of the incident.
 - e. The officer should not discuss the case with anyone except:
 - i. Supervisory and internal investigative personnel.
 - ii. The officer's privately retained attorney.
 - f. The officer shall be available at all times for internal affairs and other administrative interviews and statements regarding the case, and shall remain subject to recall to duty at any reasonable time.
 - g. In the case of a shooting which results in personal injury or death, the officer shall be placed on either:
 - i. Administrative duty, or;
 - ii. Administrative leave, without loss of pay or benefits, pending the results of the investigation.
 - h. The assignment to administrative leave/duty shall not be interpreted to imply or indicate that the officer has acted improperly.
 - 2. Shift Supervisor (or Patrol Sergeant) - The Shift Supervisor shall:
 - a. Proceed immediately to the scene.
 - b. Assume responsibility for security of the scene.
 - c. Immediately notify the Illinois State Police and arrange for the Public Integrity Unit to respond to the scene to assume responsibility for the investigation.
 - d. Conduct a preliminary field investigation.
 - e. Render command assistance to ISP.

f. Assist the involved officers.

- g. Submit a detailed written report of the results of the field investigation to the Chief of Police.
3. Use of Deadly Force Review Board
- a. A use of deadly force review investigation shall be conducted. The board shall review circumstances attendant to each discharge of a firearm by a department member. The investigation shall be conducted by:
 - i. Executive Officer/Police Chief (from outside agency)
 - ii. Operations Commander (from outside agency)
 - iii. New Athens Police Patrol Sergeant
 - iv. Two officers of the same rank as the officer who discharged his weapon (from New Athens). If not two of same rank, then ones from a surrounding agency will be added.
 - b. The use of deadly force review board will evaluate, in explicit and fact-finding fashion, each aspect of an officer involved shooting. Such evaluation shall include:
 - i. A thorough review of the report from the investigating agency.
 - ii. A thorough review of the internal investigation report.
 - iii. Hearing of direct testimony, if necessary, from officers and witnesses.
 - c. The use of deadly force review investigation shall develop findings and make recommendations to the Chief of Police in the following areas:
 - i. Whether the shooting was within policy limitations, out of policy, or accidental.
 - ii. Tactical considerations.
 - iii. Training considerations.
 - iv. Quality of supervision.
 - v. Discipline considerations.
 - vi. The shooting investigative process and quality.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 1.2

(Internal Affairs & Investigations)

Effective Date: 01/01/09

POLICY: This agency makes consistent and expeditious investigations of complaints made against agency employees. The department protects the rights of each employee during an investigation, and makes the investigation without prejudice. To demonstrate and protect this department's integrity, the New Athens Police Department will accept and investigate fairly and impartially all complaints of employee misconduct to determine the validity of allegations.

PURPOSE: To establish guidelines and inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of employee misconduct. This department must maintain an open channel of communications with the citizens of our community to process complaints of substandard service or alleged misconduct by police department employees. It is the purpose of this policy to provide a citizen complaint processing procedure, which is fair, objective, impartial, and aimed at determining the facts that substantiate or refute the allegation(s). The department must vigorously investigate all complaints so there is no doubt as to the integrity of the agency. This policy will also provide employees with information concerning their rights and obligations if confronted with allegations of misconduct or substandard service.

PROCEDURES

- I. Misconduct is defined as:
 - A. Commission of a criminal offense.
 - B. Neglect of duty.
 - C. Violation of departmental policies, rules and regulations or procedures.
 - D. Conduct which may tend to reflect unfavorably upon the employee; thus, on the department.
- II. The primary objectives of such investigations are:
 - A. Protection of the Public: The public has the right to expect efficient, fair and impartial law enforcement. Therefore, any misconduct by department personnel must be detected, thoroughly investigated and properly adjudicated to assure the maintenance of these qualities.
 - B. Protection of the Department: The department is often evaluated and judged by the conduct of individual members. It is imperative that the entire organization not be subject to public scrutiny because of misconduct by a few of its personnel. When an informed public knows that its police department honestly and fairly investigates and adjudicates all allegations of misconduct against its members, the public will be less likely to feel any need to raise a cry of indignation or anger over alleged incidents of misconduct.
 - C. Protection of Employee: Officers must be protected against false allegations of misconduct. This can only be accomplished through a consistently thorough investigative process.
 - D. Removal of Unfit Personnel: Personnel who engage in serious acts of misconduct, or who have demonstrated they are unfit for law enforcement work, must be removed for the protection of the public, the department and the department employees.
 - E. Correction of procedural problems: The department is constantly seeking to improve its efficiency and the efficiency of its personnel. Occasionally, personnel investigations disclose faulty procedures that would otherwise have gone undetected. These procedures can then be improved or corrected.

- III. Upon receipt of an allegation of employee misconduct, the Chief of Police shall cause an "Informal Inquiry" or "Formal Investigation" to be made into the incident or citizen complaint. The Chief of Police shall inquire into the incident, and all department personnel shall cooperate with those assigned to investigate the inquiry. A complaint concerning officer conduct, made by a citizen, will be in the form of a signed written statement. That document will include a statement which includes the words "To the best of my knowledge and belief, statements I have made (above, below, or on the reverse side of this document) are true and correct". If a complainant refuses to sign the statement, the receiving officer will write, "refused to sign" on the document, sign as a witness, and submit the document. Verbal complaints and complaints received by telephone will be documented and submitted for review.
- IV. "Informal Inquiry" shall consist of a meeting between a supervisor (or person selected by the Chief) and the officer of whom the allegation of employee misconduct has been made. The purpose of this meeting is to discuss the facts of the allegation with the officer. Although the officer may be asked routine questions regarding the allegation, the questioning shall be considered an interview rather than an interrogation of the officer.
- A. Upon the conclusion of an "Informal Inquiry" the supervisor or command person shall correspond with the Chief of Police to thoroughly explain the incident from which the allegation of employee misconduct stemmed.
- B. Upon receipt of all correspondence from an "Informal Inquiry", the Chief of Police shall review the correspondence and determine if the allegation is serious enough to warrant a "Formal Investigation".
- C. If the Chief of Police determines that the allegation, if sustained, is only a minor infraction of the department's rules and regulations, the investigation shall be terminated at the conclusion of the "Informal Inquiry" and any disciplinary action taken against the officer shall not exceed a suspension of more than **twenty-four (24) hours**.
- V. If the Chief of Police determines that an allegation is of a more serious nature, a "Formal Investigation" shall be initiated. The term "Formal Investigation" means any investigation during which the officer is interrogated for the purpose of gathering evidence of misconduct against the officer to be used as a basis for filling charges to seek the officer's removal, discharge or suspension in excess of **twenty-four (24) hours**. The attached "Insubordination Warning Form" must be filled out in this instance and signed by the Member and the Interviewer prior to questioning. Each Formal Investigation will be given an Internal Affairs case number that will begin with the year the case was opened (i.e. 2006-01).
- A. The interrogation of an officer under investigation shall be conducted at the Police Department with all interrogations being conducted at a reasonable time of day, preferably during a time when the officer is on duty. However, there are times when it is not practical to conduct interrogations during an officer's normal tour of duty. In those instances, the officer may be called in during off-duty time, or in appropriate circumstances the officer's duty hours may be adjusted or changed during the period of the investigation in accordance with their collective bargaining agreement.
- B. The interrogation session of an officer under investigation shall be of a reasonable duration, and the officer shall be permitted to have reasonable periods of rest and personal necessities.
- C. The officer being interrogated shall not be subjected to professional or personal abuse, which includes the use of offensive language.
- D. Prior to being interrogated, the officer under investigation shall be advised in writing of the nature of the investigation, the name, rank and unit of command of the officer in charge of the investigation, the interrogators and anyone else who may be present during any interrogation.
- E. Prior to being interrogated, the officer under investigation shall be advised in writing of the right to be represented by counsel. The selection of counsel shall be of the officer's choosing and may be requested at any time before or during the interrogation. If a request for counsel is made, no interrogation shall take place until the officer has had a reasonable amount of time and opportunity to obtain counsel. Although the officer has

the right to have counsel present during the interrogation, for advisement purposes, the

officer shall be required to answer the questions. The officer's counsel shall not be permitted to answer any of the questions for the officer and the officer's counsel does not have the right to direct, when, where or how the questioning is conducted.

- F. An officer under investigation may be requested to submit to a polygraph investigation. However, a polygraph examination shall not be administered to the officer without the officer's expressed, written consent; and, refusal to submit to such a test shall not be the basis for any disciplinary action, nor may it be made a part of the officer's record.
 - G. A complete electronically recorded record of the interrogation of the officer under investigation shall be made, and a complete transcript or copy shall be made available to the officer without charge or undue delay upon the officer's request for a copy of the interrogation.
- VI. When the investigation is completed, it shall be reviewed by the Chief of Police and a final adjudication shall be made by him. The final disposition of each allegation in a complaint will be classified in one of the following ways:
- A. Sustained: The allegation is substantiated.
 - B. Unfounded: The allegation is false, or not factual.
 - C. Exonerated: The incident occurred, but the officer acted lawfully and properly.
 - D. Not Sustained: The allegation is not substantiated. There is not sufficient evidence to prove or disprove the allegation.
 - E. Misconduct Not Based on Complaint - Sustained: Substantiated misconduct, not alleged in the complaint, but disclosed by the investigation.
- VII. Concluding Administrative Duties - General.
- A. If one or more of the allegations is Sustained, or there is Sustained-Misconduct Not Based on the Complaint, the reporting party will be so informed, and will also be informed that appropriate disciplinary action has been taken.
 - B. When each and every allegation in a complaint is found to be either Unfounded, Exonerated, or Non-Sustained, a letter, approved and signed by the Chief of Police, will be sent to the reporting party informing him of the results.
 - 1. No record of the allegation will appear in the employee's personnel package.
 - 2. All records of the allegation will be permanently filed in the office of the Chief of Police.
 - C. If one or more of the allegations is Sustained, or there is Sustained-Misconduct Not Based on the Complaint, the appropriate disciplinary measures to be taken will be forwarded by the Chief of Police to the involved employee.
 - 1. A record of the disciplinary action having been carried out will be included in the case file prior to its being closed.
 - 2. A record of the disciplinary action taken will be included in the employee's personnel package.
 - D. All disciplinary action will be forwarded to the Village's Personnel Committee.
- VIII. Department disciplinary action may be given as an Oral Reprimand, Written Reprimand, or Suspension of up to **twenty-four (24) hours**. In serious cases, the Chief of Police may file formal charges against the officer with the Board of Trustees.
- IX. A report shall be made to the Personnel Committee on such personnel investigations that result in disciplinary action being taken other than oral reprimands.
- X. The Chief of Police also has the right to turn an investigation over to the Illinois State Police - Public Integrity Unit. If a case is considered serious enough, or is best handled by an outside agency, the Chief of Police will contact the Illinois State Police to see if the case will be accepted by them for further investigation.

INSUBORDINATION WARNING FORM

_____, you are about to be questioned as part of an official administrative investigation by the _____. You will be asked specific questions that will relate directly, specifically and narrowly to the performance of your official duties or fitness as an employee of this agency.

1. The responses made in this interview cannot be used against you in a future criminal proceeding.
2. All information in this case is confidential, and except as mandated by law will be released only to proper authorities.
3. You are ordered and required to answer all questions fully, truthfully, and to the best of your knowledge.
4. If you refuse to answer questions specifically directed and narrowly related to performance of your official duties, you will be subject to departmental charges that will result in disciplinary action up to and including termination.
5. You will be allowed reasonable breaks at reasonable times for personal necessity.

The allegations to which you are being directed to respond are as follows:

I acknowledge that I have been informed of the above order and the nature of the allegations.

Member's Signature _____ Date _____

Interviewer's Signature _____ Date _____

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 1.3

(Employee Harassment)

Effective Date: 01/01/09

PURPOSE: To establish guidelines that will insure a healthy working environment and provide procedures for reporting, investigating and resolving complaints of employee harassment.

POLICY: All employees have the right to work in an environment that is free of all forms of harassment. The police department does not condone and will not tolerate any form of employee harassment within the work place. All reported incidents of employee harassment shall be dealt with directly and immediate action shall be taken to remedy and prevent any behavior that may be construed as being employee harassment.

DEFINITION:

Sexual Harassment - For the purpose of this order, the term "Sexual Harassment" shall mean any unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature.

PROCEDURES:

- I. Protected Relationships. This policy refers not only to manager/employee actions, but also applies to actions between co-workers. Harassment of our employees in connection with their work by non-employees may also be a violation of this policy. The harassment of non-employees by employees may also be a violation of this policy.
- II. Prohibited Activity
 - A. No employee shall either explicitly or implicitly ridicule, mock or belittle another person.
 - B. No employee shall make offensive or derogatory comments or gestures based on race, color, sex, religion, age or national origin either directly or indirectly to another person. Offensive behavior of this nature is considered to be harassment and is a prohibited form of discrimination under state and federal employment laws. This type of behavior can be verbal or physical in nature, and is considered to be misconduct by an employee of this department and subject to disciplinary action.

Examples of harassment include, but are not limited to, the following:

 1. Demeaning, leering or suggestive looks;
 2. Jokes or references intended for and directed at another person;
 3. Sexual comments of a provocative or suggestive nature.
 - C. No employee shall participate in any conduct that may be construed as being sexual harassment when:
 1. Submission to such conduct is made either explicitly or implicitly a term or condition of employment.
 2. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting the employee.
 3. Such conduct has the purpose or effect of unreasonably interfering with an employee's work or performance or creating an intimidating, hostile or offensive working environment.
- III. Employee Responsibilities
 - A. Each supervisor shall be responsible for preventing acts of harassment. This responsibility includes:
 1. Monitoring the working environment on a daily basis for signs of harassment that may be occurring.

2. Counseling all employees on the types of behavior that are prohibited and the department's procedures for reporting and resolving complaints of harassment.
 3. Immediately stopping any observed acts of harassment by taking the appropriate steps to intervene, whether or not the involved employees are within their line of supervision.
 4. Taking immediate action to limit the work contact between two employees where there has been a complaint of harassment pending an investigation.
- B. Each Supervisor has the responsibility to assist any employee of the department who comes to that supervisor with a complaint of harassment in documenting and filing a complaint with the Chief of Police.
- C. Each employee is responsible for assisting in the prevention of harassment by:
1. Refraining from participating in or encouraging acts of conduct that could be perceived as being harassment.
 2. Reporting acts of harassment to a supervisor.
 3. Assisting any employee who confides in them that he/she is being harassed by encouraging that person to report the act to a supervisor.
- D. The failure of any employee to take action to stop known harassment shall be grounds for disciplinary action.

IV. Reporting Procedures

- A. Any employee encountering harassment shall tell the person who is committing the harassment that their actions are unwelcome and offensive. The employee shall document the act of harassment in order to provide the fullest basis for an investigation.
- B. Report the harassment to a supervisor, preferably their immediate supervisor, as soon as possible so that steps can be taken to protect the employee from further harassment.
1. The supervisor receiving the complaint of harassment shall meet with the employee and document the employee's complaint, the person(s) doing or participating in the harassment, and the date and time of the harassment.
 2. The supervisor shall immediately forward the complaint of harassment to the office of the Chief of Police.
- C. All complaints of harassment involving department employees shall be investigated in accordance with General Order No. 1.2 re Internal Investigations.
- D. There shall be no retaliation against any employee for filing a harassment complaint or assisting, testifying or participating in the investigation of the complaint.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 1.4

(Strip and Body Cavity Searches)

Effective Date: 01/01/09

PURPOSE: To provide officers with guidelines for determining if and under what conditions the use of strip searches and body cavity searches are legally permissible and to establish guidelines for the appropriate conduct of such searches.

POLICY: This department recognizes that the use of strip searches and body cavity searches may, under certain conditions, be necessary to protect the safety of officers, civilians and other prisoners; to detect and secure evidence of criminal activity and to safeguard the security, safety and related interests of this agency's prisoner detention facilities. Recognizing the intrusiveness of these searches on individual privacy, however, it is the policy of the department that such searches shall be conducted only with proper authority and justification, with due recognition and deference for the human dignity of those being searched and in accordance with the procedural guidelines of conducting such searches as set forth in this policy.

DEFINITIONS:

Strip Search: Having an individual remove or rearrange some or all clothing to permit the visual inspection of genitals, buttocks, anus, female breasts or undergarments of such individual.

Body Cavity Search: Any search involving the internal physical examination of body cavities, other than the mouth, and organs such as the stomach cavity.

PROCEDURES:

- I. Strip Searches:
 - A. Individuals arrested for traffic regulatory or misdemeanor offenses shall not be subject to strip searches, except in cases involving weapons or a controlled substance, or the arresting officer has reasonable belief that the individual is concealing a weapon or controlled substance. Reasonable belief may be based upon, but is not limited to, one or more of the following criteria:
 1. The nature of the offense charged.
 2. The arrestee's appearance and demeanor.
 3. The circumstances surrounding the arrest.
 4. The arrestee's criminal record, particularly past crimes of violence and narcotics offenses.
 5. The discovery of evidence of a major offense in plain view or in the course of a search incident to an arrest.
 6. Detection of suspicious objects beneath the subject's clothing during a field search incident to an arrest.
 - B. Where reasonable belief exists to conduct a strip search, the officer conducting the search must first obtain the permission of his supervisor that clearly defines the basis for belief.
 - C. When authorized, strip searches may be conducted only:
 1. In a room specifically authorized for this purpose.
 2. By the least number of personnel necessary and only by those of the same sex.
 3. Under conditions that provide privacy from all but those authorized to conduct the search.

- D. Following a strip search, the officer performing the search shall prepare a written report that shall include:

1. Details of supervisor's permission.
 2. Date, time and place of the search.
 3. Identity of the officer conducting the search.
 4. Identity of the individual searched.
 5. A detailed description of the nature and extent of the search.
 6. Any weapons, evidence or contraband discovered during the search.
- E. Field strip searches of prisoners shall be conducted only in the rarest of circumstances, under exigent circumstances, where the life of officers or others may be placed at risk, and only with the explicit approval of a supervisor.
- II. Body Cavity Searches:
- A. Should visual examination of an individual during a strip search and/or other information lead an officer to believe that the individual is concealing a weapon, evidence or contraband within a body cavity, other than the mouth, the following procedures shall be followed:
1. The officer shall consult with immediate supervisor to determine whether probable cause exists to seek a search warrant.
 2. If probable cause exists, an affidavit for a search warrant shall be prepared clearly defining the nature of the alleged offense and the basis for the probable cause.
 3. On the basis of a search warrant, a body cavity search must be performed:
 - a. under sanitary conditions.
 - b. either by or under the supervision of a physician licensed to practice medicine in the State of Illinois.
 4. For safety and security reasons, the search shall be conducted at an authorized facility and in the room designated for this purpose.
 5. The authorized individual conducting the search shall file a report with this department.
- III. Any officer or employee who knowingly or intentionally fails to comply with any provisions of this Section will be subject to a charge of official misconduct and there is nothing to preclude prosecution of an officer or employee.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 1.5

(Hostage/Barricaded Subject Situations)

Effective Date: 01/01/09

PURPOSE: To identify procedures for handling a hostage/barricaded subject incident.

To establish guidelines and responsibilities for responding personnel to the scene of a hostage/barricaded subject incident.

To minimize injury to officers, suspects, and others.

To provide for the notification and assistance of additional personnel, other law enforcement departments, and support agencies.

POLICY: In hostage/barricaded subject situations it shall be the policy of this law enforcement agency to consider the lives of the suspects, civilians and officers involved to be of the utmost importance; whenever possible, to enhance the prospects of peacefully resolving the incident through communication with the suspect; whenever possible, to develop and maintain the ability to use alternative approaches to resolve the incident should communications fail; and in hostage situations, to make every reasonable effort to effect the safe release of the hostages.

DEFINITIONS:

Barricaded Subject: Any individual who is reasonably believed to be a threat to commit serious bodily injury or death to hostages, officers or others in the community and who is in a stronghold position.

Hostage: Any person held by another against his will by force or threat of force, expressed or implied.

PROCEDURES:

- I. Patrol Officers: Patrol officers confronting hostage/barricaded subject incidents shall not initiate tactical actions other than those necessary to protect the lives and safety of themselves or others consistent with this department's use of force policy. Officers shall then:
 - A. Notify dispatch of the situation and request a call be made to the Patrol Supervisor and the Chief of Police. Also request assistance from other jurisdictions.
 - B. The Patrol Supervisor and/or the Chief of Police should make the decision to call for additional support if the situation dictates.
 - C. Contain and isolate the incident scene, establishing an inner containment perimeter to provide a reasonable degree of safety while maintaining contact with the incident scene and as time and resources permit establish an outer containment perimeter to control pedestrian and vehicular traffic into the area.
 - D. Whenever possible, evacuate occupants of affected residences and businesses to a point beyond the perimeter.
 - E. Attempt to make contact with the subject to calm, distract and to gain information, consistent with departmental and officer training, while you:
 1. avoid soliciting demands.
 2. listen carefully for clues regarding the subject's emotional state.
 3. avoid bargaining or making concessions.
 4. reassure subject that police will not storm the building.
 5. do not offer subject's anything.
 6. minimize seriousness of subject's crimes.

7. do not refer to people being held as "hostages".

8. avoid tricks and try to be honest.
9. never say "No" to a demand (you do not have to say "Yes", either).
10. do not make suggestions.
11. do not use "outsiders" to talk to subjects.

- II. The initial officer on scene shall be in command until specifically relieved by a superior. The initial officer shall:
 - A. Inform the responding senior officer about the nature and circumstances surrounding the incident;
 - B. Ensure establishment of an inner and outer perimeter and other posts as necessary;
 - C. Ensure that responsibility for traffic and crowd control is established and that routes for emergency vehicles have been designated;
 - D. Make provisions for recording personnel assignments and developing a chronological record of events;
 - E. Ensure that necessary equipment from the fire department is made available;
 - F. Ensure that emergency medical services are available at the site.
- III. Every effort will be made to use specialized teams or trained personnel to resolve hostage situations in scenarios where outside agencies are called upon to help resolve these situations. They will assume command as appropriate. This will include use of the officers with the Illinois State Police tactical units and/or officers responding with the Illinois Law Enforcement Alarm System (ILEAS) teams.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 1.6

(Domestic Violence)

Effective Date: 01/01/09

PURPOSE: To establish a written directive governing the procedure to be used when investigating domestic violence calls to insure they are handled in compliance with the Illinois Domestic Violence Act of 1986.

POLICY: Domestic violence is considered to be criminal conduct and all reported complaints of domestic violence shall be investigated without delay. Whenever probable cause is established to support a complaint of domestic violence, the officer investigating the complaint shall provide immediate effective assistance and protection to the victims and take appropriate action against the offenders.

DEFINITIONS:

Domestic Violence: Attempting to cause or causing abuse of a family or household member as defined by law.

Abuse: Physical abuse, harassment, intimidation of a dependent, interference of personal liberty or willful deprivation, but does not include reasonable direction of a minor child by a parent or person in loco parentis.

Family or Household Members: Includes spouses, former spouses, parents, children, step-children and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling and persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, and persons with disabilities and their personal assistants. For the purpose of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between **two (2)** individuals in business or social contexts shall be deemed to constitute a dating relationship. In the case of a high-risk adult with disabilities, "family or household members" includes any person who has the responsibility for a high-risk adult as a result of a family relationship or who has assumed responsibility for all or a portion of the care of a high-risk adult with disabilities voluntarily, or by express or implied contract, or by court order.

Harassment: Knowing conduct which is not necessary to accomplish a purpose which is reasonable under the circumstances; would cause a reasonable person emotional distress; and does cause emotional distress to the petitioner. Unless the presumption is rebutted by a preponderance of the evidence, the following types of conduct shall be presumed to cause emotional distress:

- A. creating a disturbance at the petitioner's place of employment or school;
- B. repeatedly telephoning the petitioner's place of employment, home, or residence;
- C. repeatedly following the petitioner in a public place or places;
- D. repeatedly keeping the petitioner under surveillance by remaining present outside his or her home, school, place of employment, vehicle, or other place occupied by the petitioner or peering in the petitioner's windows;
- E. improperly concealing a minor child from petitioner, repeatedly threatening to improperly remove a minor child from the petitioner's care from the jurisdiction or from the physical care of the petitioner, repeatedly threatening to conceal a minor child from petitioner, or making a single such threat following an actual or attempted improper removal or concealment, unless respondent was fleeing from an incident or pattern of domestic violence;
- F. threatening physical force, confinement, or restraint on one or more occasions.

Interference with Personal Liberty: Committing or threatening physical abuse, harassment, intimidation or willful deprivation so as to compel another to engage in conduct from which she or he has a right to abstain or to refrain from conduct in which she or he has a right to engage.

Intimidation of a Dependent: Subjecting a person who is dependent because of age, health or disability to participation in or witnessing of: physical force against another or physical confinement or restraint of another which constitutes physical abuse as defined in the Article, regardless of whether the abused person is a family or household member.

Order of Protection: An emergency order, interim order or plenary order, granted pursuant to the Illinois Domestic Violence Act, which includes any or all of the remedies authorized by 750 ILCS 60/214 of this Code. This includes both civil and criminal orders of protection.

Petitioner: Not only any named petitioner for the order of protection and any named victim of abuse on whose behalf the petition is brought, but also any other person protected by this Article.

Physical Abuse: Includes sexual abuse and means any of the following:

- A. knowing or reckless use of physical force, confinement or restraint;
- B. knowing, repeated and unnecessary sleep deprivation; or
- C. knowing or reckless conduct which creates an immediate risk of physical harm.

Willful Deprivation: Willfully denying a person who because of age, health or disability requires medication, medical care, shelter, accessible shelter or services, food, therapeutic device, or other physical assistance, and thereby exposing that person to the risk of physical, mental or emotional harm, except with regard to medical care and treatment when such dependent person has expressed the intent to forgo such medical care or treatment. This paragraph does not create any new affirmative duty to provide support to dependent persons.

PROCEDURES:

- I. Officer Responsibilities to Victim:
 - A. Whenever an officer determines that an act of Domestic Violence has occurred, the officer shall immediately take all reasonable steps to prevent further acts of domestic violence from occurring and shall:
 1. Transport or arrange for transportation of the victim to a medical facility, if treatment is necessary.
 2. Transport or arrange for transportation of the victim to a shelter or safe home, if the victim needs a place to stay.
 3. Accompany the victim to the victim's residence to remove necessary personal items from the residence, if necessary.
 4. Provide the victim with information regarding his/her rights under the Illinois Domestic Violence Act and the officer's name and badge number.
 5. Provide the victim with one referral to a local service agency.
 6. All incidents of domestic violence shall automatically be forwarded to the Domestic Crisis Advocate Center for follow-up services by that agency.
 7. Explain the options available to the victim.
 - a. Prosecution process and their right to contact the states attorney to request prosecution if the officer determines that the arrest will be made.
 - b. Emergency Order of Protection - How to apply.
 - c. In the care of arrest, the follow-up procedures and ensuing criminal proceedings.
 8. Advise the victim of the importance of preserving evidence and photograph any injuries that may be the result of the incident in question.

9. Verify and enforce emergency and full orders of protection (civil and criminal).

II. Initial Response and Investigation

- A. When responding to a domestic violence call, the responding officers will:
 - 1. Establish control of the scene by:
 - a. Separating the parties;
 - b. Assessing the need for medical attention;
 - c. Protecting the crime scene.
 - 2. Obtain verbal statements from all persons separately (victim, suspect, and witness) and obtain brief written statements from those persons when an arrest is made. Children should be interviewed in a manner appropriate with their age.
 - 3. After an initial investigation, determine if probable cause exists to make an arrest.
 - 4. Collect and record evidence. If there are injuries and/or property damage, then photographs will be taken.
 - 5. Provide victim assistance.
 - 6. Prepare a written report regarding the domestic violence incident.
- B. The officers should ask the victim if there is an Order of Protection or bond condition in effect, and, if so, if the victim can produce a copy.
- C. The victim should not be asked whether they want the suspect arrested nor whether prosecution is desired. However, if the victim makes a spontaneous statement regarding their opinion or willingness to assist with prosecution, such statement should be noted in the report.

III. Arrest Procedure

- A. In cases involving domestic violence, an officer shall make an arrest without a warrant when probable cause exists.
- B. An arrest shall be made even though the victim does not want the offender arrested or if the victim has not signed a written statement regarding the events which occurred as long as probable cause exists.
- C. If an officer has probable cause to believe **two (2)** or more persons committed a crime, or if **two (2)** or more persons make complaints to the officer, the officer shall try to determine who the primary aggressor was.
 - 1. An arrest is the preferred response only with respect to the primary aggressor.
 - 2. The officer shall presume that arrest is not the appropriate response for the person who was not the primary aggressor.
 - 3. If the officer believes all parties equally responsible cross complaints may be appropriate.
 - a. Cross complaints are generally discouraged in domestic violence situations. The officer shall make every effort to ascertain through observations and interviews with all witnesses, which party to charge. There may be situations where two combatants from a domestic battery scenario could be charged, if there were testimony from an individual other than the combatant, which could be used in the prosecution of the case.
 - b. If probable cause exists to charge both combatants, yet there is no independent witness that could testify in the prosecution, officers may elect to arrest both parties for domestic battery.
- D. To determine who the aggressor is, the officer shall consider:
 - 1. The history of domestic abuse between the parties.
 - 2. The relative severity of the injuries inflicted on each person.
 - 3. Evidence from the people involved in the domestic abuse.
 - 4. Whether one of the people acted in self-defense.
 - 5. Evidence from witnesses of the domestic abuse.
 - 6. Who struck the first blow.
- E. An officer shall not:

1. Make any statement which would discourage a victim from reporting an act of domestic violence.

2. Threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage future requests for intervention by law enforcement personnel.
 3. Base the decision of whether to arrest on:
 - a. The consent or request of the victim.
 - b. The officer's perception of the willingness of the victim or of a witness to the domestic abuse to testify or participate in a judicial proceeding.
- F. All domestic battery and Order of Protection violation charges will be referred to the States Attorney's office for issuance of charges.
- G. If any of the following circumstances exist, officers are not mandated to make an arrest, unless an arrest would be in the best interest of the victim and probable cause exists:
1. Instances of alleged assaults and batteries where there are no visible signs of injury or abuse, and it cannot be substantiated that the suspect has committed any other acts of domestic violence in the past, or
 2. If the alleged victim is in such a mental state (intoxicated, mentally unstable, etc.) which is not a result of the alleged domestic violence incident and it cannot be substantiated that the suspect has committed any other acts of domestic violence in the past.
- H. If an arrest is not made, the victim should be advised of the following:
1. That a complaint need not be signed nor an arrest made at the time of the incident for further action by the State's Attorney.
 2. Of his or her rights to request that a criminal proceeding be initiated where appropriate, including specific times and places for meeting with the States Attorney's Office, a warrant officer or other official in accordance with local procedure.
 3. Of the importance of preserving evidence, the types of evidence which could be collected at a later time, and how they can be used and by whom.
- IV. Orders of Protection (Civil or Criminal)
- A. Enforcement:
1. Any officer receiving information that an order of protection has been issued, and the respondent may be in violation, will make an appropriate investigation and take such action as may be necessary in its enforcement.
 - a. Upon notice that an order of protection is in effect, the officer will verify its existence via the telecommunicator.
 - b. The officer will rely only on information supplied by the Police Department, Sheriff's Department, LEADS, NCIC, or issuing court.
- B. Service of Order of Protection
1. After the officer confirms the existence of the order of protection, the officer will ensure it has been served on the respondent or that the respondent has otherwise acquired actual knowledge of its existence before taking further action (i.e., notified by officers on a prior occasion).
 2. If the respondent does not have actual knowledge of the emergency order of protection, the officer will inform him or her of its existence, the substance of its contents, and the consequences of violating the emergency order.
 3. The officer will then notify the St. Clair County Sheriff's Department that he/she has notified the respondent of the order.
 4. Actual knowledge may be determined from:
 - a. A notation on the order itself showing another officer has made notification.
 - b. An admission by the respondent or the petitioner.
 - c. An admission by another party, which may be reasonably believed.
- C. If there is an order of protection or an emergency order of protection in existence, which has been served or the respondent has acquired actual knowledge, the investigating officer will make inquiry as to its contents.

1. If probable cause exists that the respondent has violated the terms of the order, the officer will arrest the respondent and submit the Incident Report to the State's Attorney for charges.
 2. Upon arrival at the police department, the officer will obtain a computer print out of the order of protection from the telecommunicator.
- D. Out of County/State Orders of Protection
1. Officers will make every attempt to contact the appropriate law enforcement agency in that county/state to verify the order of protection.
 2. If it can be verified, the officer will ask the law enforcement agency in that county/state to fax a copy to the police department.
 3. If it cannot be verified, the officer will take a report on the alleged violation and inform the complainant that our police department will continue to follow-up on the validity of the order.
- V. Seizure of Weapons
- A. If a law enforcement officer has probable cause to believe a criminal offense involving abuse against a family or household member has occurred, the officer shall seize all weapons that are alleged to have been used by the abuser or threatened to be used by the abuser in the commission of the offense.
- B. Illinois Compiled Statutes shall be followed relative to the disposition of confiscated weapons and shall govern all weapons seized pursuant to this law that were used or threatened to be used by the abuser to commit a crime. All other weapons seized shall be returned upon disposition of the case.
- VI. Bail/Bond Procedures - Supreme Court Rule 528, which sets bail for ordinance offenses, petty offenses and misdemeanor offense, no longer applies to "domestic battery" charges under 720 ILCS 5/12-3.2 or "order of protection" charges under 720 ILCS 5/12-30. The court must set bail for anyone charged with any of these violations.
- VII. Domestic Violence Reporting
- A. Officers shall document all complaints of domestic violence whether or not an arrest is made.
1. If no arrest is made when the suspect is present or not present, the report will clearly show sufficient reasons for not making an arrest.
 2. If an officer decides to arrest two or more parties, the officer shall include in the report the grounds for arresting two or more parties.
- B. Every officer investigating a domestic violence incident shall prepare a written report which includes the elements of all involved offenses. All reports shall include the following information:
1. Name of reporting person; time of call; time of dispatch; time of arrival.
 2. Relationship of victim and suspect.
 3. Observations by the officer of the victim and abuser, to include demeanor, visible injuries, and presence of weapons. Also, information on the use of intoxicants by the victim or suspect preceding the incident.
 4. A description of the condition of the scene to include any property damage reported by the victim or evidence at the scene.
 5. A narrative description of the incident and circumstances that led to it.
 6. A description of any previous domestic violence incident between the victim and suspect as provided by the victim and/or suspect.
 7. A listing of any previous domestic violence incidents known to the police department involving the victim or suspect.
 8. That the victim was advised of his or her rights under the Illinois Domestic Violence Act.
 9. Verbal interviews from all persons present at the time of the incident. Brief written statements should also be taken from these subjects if an arrest is made regarding the incident.

10. Information on current or expired orders of protection or bond conditions naming the involved parties.

11. A description of all injuries to the victim and an explanation of how the injuries were sustained.
12. If anyone sought medical attention and information concerning where and how the victim was transported.

VII. Procedure of Departmental Personnel Involved in Domestic Violence Situations

A. Within Jurisdiction - Any officer responding to a domestic violence call involving a member of the department as a suspect, shall proceed as follows:

1. The responding officer shall initiate a preliminary investigation consistent with departmental policy governing domestic violence.
2. Upon learning that the suspect is a current member or employee of the department, the responding officer shall notify the Chief of Police.
3. The Chief of Police or other supervisor will then respond to the scene and direct the investigation.
4. If probable cause exists to make an arrest in accordance with this policy and the victim has visible signs of injury, an arrest shall be made.
5. The Chief of Police (if not responding) shall be immediately notified upon the decision to make an arrest and kept apprised of the status of the investigation.
6. The State's Attorney's Office will be notified of the investigation and the criminal disposition of the case will be the decision of the State's Attorney's Office.
7. The Chief of Police or other supervisor shall ensure that all evidence, photographs, and reports are completed and secured.
8. The same person shall ensure that the victim receives appropriate medical attention, counseling, and shelter referral.
9. Upon completion of the criminal investigation, the Chief of Police shall initiate an internal review of the incident in accordance with departmental policy.

B. Outside Jurisdiction Incidents

1. Upon notification that a member or employee of the department is involved in a domestic violence situation in another jurisdiction, the senior officer on duty shall conduct an immediate inquiry to learn the circumstances of the incident.
2. The supervisor shall determine if there was an alleged offense committed or arrest.
3. The supervisor shall notify the Chief of Police who shall initiate an internal review of the incident in accordance with department policy.

C. Law Enforcement Officers from Other Jurisdictions

1. All reported incidents of domestic violence involving sworn officers of another police jurisdiction shall be handled in the same manner as department personnel as outlined above.
2. When the responding officer determines that an officer from another jurisdiction is involved in a domestic violence incident, he/she shall notify the Chief of Police.
3. The Chief of Police shall then contact a supervisor from the suspect officer's department and advise him/her of the circumstances of the incident.
4. The supervisor on duty shall assure that the Chief of Police is advised of the incident.
5. The Chief of Police shall notify the suspect officer's Chief of Police in writing detailing the investigation and disposition of the case.

D. Mandatory Reporting - If any sworn officer of the police department witnesses or has first hand knowledge of any domestic battery situation involving another employee of the department, the officer will immediately advise the Chief of Police of the incident.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 1.7

(Ride-Along Program)

Effective Date: 01/01/09

PURPOSE: To set out rules and regulations and provide for the orderly implementation of the Ride-Along Program within the New Athens, Illinois Police Department.

POLICY: The New Athens Police Department has a long-standing commitment to the development and improvement of positive police community relations. A positive relationship between the department and the citizens of our service community is necessary to promote a climate of understanding and support for the delivery of law enforcement services.

PROCEDURES:

- A. The Chief of Police, or his designee, shall coordinate the ride-along program. Requests for participation in the ride-along program shall be directed to the Chief of Police or his designee.
- B. A criminal history will be conducted on all persons requesting participation in the ride-along program. Participants must provide a picture I.D. or some form of identification, for example driver's license, etc. Persons who have been convicted of any felony shall be denied participation. Persons convicted of a non-traffic misdemeanor or city ordinance offense may be denied participation at the discretion of the above designee.
- C. All participants shall read and sign the executed release and waiver form of liability. Any participants refusing to sign shall not participate in the program.
- D. Ride-along participants shall be scheduled at least **twenty-four (24) hours** in advance, and approved by the Chief of Police; however he may waive this time requirement.

PARTICIPATION GUIDELINES:

- A. The minimum age for participants in the ride-along program shall be **sixteen (16) years** old.
- B. All participants shall be neat and clean in appearance. Business casual attire is required or uniform is required.
- C. Participants in the ride-along program shall be limited to one ride-along per month, with the exception of a university status intern(s), police cadet(s), officers described in Section D, and city civilian employees. Other exceptions may be made at the discretion of the Chief of Police.
- D. Participants whom are current commissioned law enforcement officers of a local, state or federal agency, and are in good standing with their department can legally carry their on-duty/off-duty weapon while participating in this program. Officers participating in the Ride-Along program will only take police action when authorized by a Police Officer or when necessary to prevent the immediate threat of death or great bodily harm to himself or another person. The authorization to carry a weapon may be revoked at the discretion of the Chief of Police or the on-duty supervisor without cause.
- E. Participants (riders) should remain in the patrol vehicle at all times, unless specifically authorized by the officer or another Police officer at a scene to exit. Participants will not be authorized access to any felony crime scene. (Participants are generally involved in the Ride-Along program for observational purposes only.)
- F. Participants shall maintain confidentiality and shall not disclose any information regarding policy and procedures observed, told, or overheard while participating in the Department "Ride-Along Program".

- G. Ride-Along program participants affiliated with a news/media organization may be allowed to carry cameras or recording devices with the permission of the Chief of Police or his designee.

SUPERVISORY ORDERS:

- A. The Chief of Police shall determine which officer the ride-along program participant(s) are assigned. No participants shall ride with an officer on probationary status.
- B. Participants may be terminated from the program at any given time who act in an unsafe, disorderly, irrational or dangerous manner, fails to obey instructions, distracts an officer from his/her duties, or at the discretion of the shift supervisor, without cause.
- C. An officer who is assigned a rider shall take all necessary steps to ensure the rider is not placed in harms way.
- D. At the discretion of the Police Officer, a rider may be dropped off at a safe and secure location if the officer believes he/she is responding to a dangerous situation. No Police officer shall be permitted to engage in a pursuit with a non-commissioned ride-along participant.
- E. In the event a situation may occur, which might result in future litigation involving a participant's (i.e. emotional distress, physical altercation, etc.), the officer assigned the rider shall prepare a written report documenting the incident in detail.

SUPERVISOR DISCRETION:

- A. The Chief of Police may make exceptions to this program at their discretion.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 1.8

(Respirator Protection Policy)

Effective Date: 01/01/09

PURPOSE: For implementation of a policy to outline the process of issuing, training and use of protective respirators.

POLICY: The New Athens Police Department recognizes that officers may be called upon to respond to incidents involving nuclear, biological or chemical agents. Within the bounds of available resources, it is the policy of the New Athens Police Department to establish the Respirator Protection Program in order to provide for the protection of officers in an incident involving nuclear, biological or chemical weapons. Pursuant to this policy, the Department shall make respirators available to every officer. This policy is to be evaluated and reviewed on an annual basis.

DEFINITIONS:

Air Purifying Respirator (APR): A respirator to be used in toxic environments where the breathable level of oxygen is known to be sufficient. Air purifying respirators are designed to protect the wearer for short periods of time ONLY.

Escape-Only Respirator: Means a respirator intended to be used for emergency exit only.

Fit Test: A test to ensure that an issued respirator is the proper size for the wearer and that an air tight seal is achieved between the face and the respirator in order to determine a correct respirator size and fit.

Licensed Health Care Professional (LHCP): Any medical doctor, registered nurse, paramedic or E.M.T.

NBC: Nuclear, Biological or Chemical.

Qualitative Fit Test (QLFT): A pass/fail test to assess the adequacy of respirator fit that relies on the individual's response to a test agent.

Quantitative Fit Test (QNFT): An assessment of respirator fit by numerically measuring the amount of leakage into the respirator.

Respirator Administrator: Manager responsible for overseeing the respirator program.

PROCEDURES:

- I. Responsibility
 - A. The Chief of Police or his designee is responsible to ensure that:
 1. The Respirator Protection Program is instituted and enforced.
 2. An operational respirator and canister are available to every officer.
 3. Each officer receives the appropriate training and testing pursuant to this policy.
 - B. The Respirator Administrator is responsible for:
 1. Being familiar with this policy and have appropriate training and understanding in the use of the respirator.
 2. Development of policy, training and testing which meets state and federal requirements.
 3. Maintaining all associated records.

- C. Officers are responsible for:
 - 1. Understanding all requisite skills associated with the respirator.
 - 2. Full understanding of the policy and requirements for APR use.
 - 3. Maintain respirator in good working order.
- II. Selection of Equipment: Respirators and supporting equipment should be NIOSH approved when possible. Presently the Department is issuing the AVON FM-12 air-purifying respirator and AVON DPF-12 canisters. Other support equipment such as carrying cases, lens inserts and additional accessories may be issued by the Police Department.
- III. Fit Testing:
 - A. At the time of issuance and annually thereafter the fit test will be conducted to determine the ability of each officer to obtain a satisfactory fit with the issued APR.
 - B. Only certified persons will conduct fit testing for officers.
 - C. Fit testing will be conducted by qualitative and/or quantitative methods.
 - D. The Chief of Police will maintain testing files on all officers.
 - E. Facial hair that interferes with the proper fit is prohibited.
- IV. Use of Respirator:
 - A. Each officer will be issued the following equipment:
 - 1. One AVON FM-12 respirator
 - 2. One AVON DPF-12 NBC canister
 - 3. One Carrying Case
 - B. Use of prescription eyeglasses is prohibited with the APR respirator. Officers in need of prescription lenses to correct their vision will be issued monacle inserts, provided by the department, to accommodate the individual officer's eyewear prescription. Officers in need of the monacle inserts will arrange with the program administrator to have the prescription inserts produced.
- V. Equipment Substitution: Officers may not substitute, affix or apply any equipment or accessories to the APR's.
- VI. Limitations on Respirator Use:
 - A. The AVON FM-12 respirator shall not be used for fire fighting or in other oxygen deficient environments.
 - B. The respirator is intended for use as a means of **emergency escape only**. It is intended for use during incidents involving nuclear, biological or chemical hazards. The nature of such incidents is unpredictable and officers are therefore required to have the respirators with them in their assigned patrol unit.
- VII. Use of Respirator:
 - A. Whenever circumstances exist to cause an officer to believe that an incident involving nuclear, biological or chemical hazard exists the officer will put on the respirator with the issued canister attached.
 - B. Canisters are to remain in the sealed packaging until needed. Shelf life of sealed canisters is approximately **ten (10) years**. Unsealed canister shelf life is approximately **one (1) year**.
 - C. The officer shall perform a negative pressure test immediately after the respirator is put on, to ensure proper fit.
 - D. Officers should remove themselves from the threat area before removing the respirator.
 - E. If an officer is unable to be removed from the threat area, it is imperative that the respirator remains intact throughout the duration of the incident.
- VIII. Maintenance and Inspection: Cleaning of respirators will be the responsibility of the assigned officer. Respirators are to be cleaned after such use. Canisters are to be replaced as necessary. Cleaning and maintenance issues are to be reported to the program administrator. Cleaning will be conducted in accordance with prescribed training.
- IX. Training:
 - A. Only certified personnel will be allowed to conduct training.
 - B. All personnel issued an APR shall be trained in its use.
 - C. Training will include:

1. Proper wearing of the respirator.

2. Proper application of the canister.
 3. Removing the respirator.
 4. Proper storage of respirator and canisters.
 5. Proper care and cleaning.
 6. Capabilities and limitations of APR and associated equipment.
- D. Training will be refreshed on an annual basis.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 2.1

(Role and Authority)

Effective Date: 01/01/09

PURPOSE: The regulations and procedures of the New Athens Police Department are to articulate expectations of the department and its members. The regulations and procedures are intended to standardize behavior and give direction to the daily operations of the department.

POLICY: Each member is responsible for reading and complying, with all regulations and procedures. Supervisors and the Chief of Police shall be responsible for compliance and enforcement of the regulations and procedures.

MISSION STATEMENT

We, the members of the New Athens Police Department, are committed to being responsive to the community in the delivery of quality services. Recognizing our responsibility to maintain order, while affording dignity and respect to every individual, our objective is to improve the quality of life through a community partnership which promotes safe, secure neighborhoods. Therefore, the goals of this department and its members are as follows:

- A. To preserve life and property of all citizens and persons;
- B. To serve the public and maintain human rights in all areas related to public safety and order;
- C. To promote individual responsibility and community commitment;
- D. To address all public safety problem areas identified in monthly reports, annual reports or special orders;
- E. To enforce all Federal, State, County and Municipal laws within the corporate limits of New Athens, Illinois;
- F. Address goals of this department as stated in the annual budget report;
- G. Members of the department shall periodically advise the Chief of Police of problems and new ideas pertaining to the realization and identification of goals and objectives; and,
- H. Each member of this department shall adhere to the "Code of Ethics" and "Code of Conduct" as provided in this manual.

It is important for each department member to achieve the department's goals through dedication to their accomplishments.

Each sworn officer shall take an oath of office to uphold the laws of the Constitution of the United States, State of Illinois, and Village of New Athens.

PROCEDURAL SYSTEM

The General Orders within this manual are designed to give guidance and direction to all employees. All persons shall adhere to all General Orders and violation of any portion of a General Order is subject to disciplinary action. It shall be this department's policy to implement and amend General Orders in accordance with need, laws and preferred course of actions as decided by the Chief of Police, his staff and/or input from all employees.

Policy and Procedure shall contain *PURPOSE, POLICY, DEFINITIONS, EFFECTIVE DATE, and NARRATIVE OF PROCEDURES*. In addition, each policy shall be categorized as follows with regard to the frequency that department members encounter the concepts outlined in the policy and the risk associated with these concepts in terms of danger to the employee, the public and the potential for liability to the

Department. While department personnel are expected to be familiar with all of the policies outlined in this manual, special consideration should be given to those policies that are categorized as "High Risk":

- Category 1: Low Frequency, High Risk
- Category 2: High Frequency, High Risk
- Category 3: High Frequency, Low Risk
- Category 4: Low Frequency, Low Risk

The use of the masculine pronoun in this manual is understood to be for clerical use only and it is further understood that the masculine pronoun includes the feminine pronoun as well.

All procedures may be questioned and discussed at staff meetings, which shall be held monthly. Present shall be the Chief of Police, supervisors as directed, and any other interested party upon approval. Any procedure may be discontinued or amended as a result of these discussions, or at the discretion of the Chief of Police.

All procedures shall be reviewed and signed by all employees. Procedures shall be explained at roll call training sessions conducted by the supervisors. For reference, a digital copy of the General Orders will be maintained on the department's computer network.

MANAGEMENT

Management of this department shall be the responsibility of the Chief of Police or his designate. Statistics shall be entered daily in all areas as follows:

**BUDGET
TRAINING
ASSIGNMENTS
COMMUNICATION TRAFFIC**

**INCIDENTS
TRAFFIC
EQUIPMENT
GRANTS**

This information can be retrieved, in order to do carious studies, such as work assignments, evaluations, time management and selective enforcement. This information will be used to produce daily, monthly and yearly reports.

CODE OF ETHICS

As a Law Enforcement Officer, my fundamental duty is to serve mankind, to safeguard lives and property: to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder, and to respect the Constitutional Rights of all men to liberty, equality, and justice.

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the laws of the land, those being implemented by law and statute and those official to the regulations and policies of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge of my office as symbol of public faith, and I accept it as a public trust to be held as long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...LAW ENFORCEMENT.

AGENCY ROLE

Departmental goals and objectives shall be set and evaluated annually, with monthly evaluations, occurring through staff meetings. Goals and objectives may be updated and/or evaluated throughout each fiscal year. All employees shall inform supervisors of recommendations, which affect these goals and objectives. Supervisors shall advise the Chief of Police, of all areas of concern, with respect to these issues. This may be done on a daily basis or during regularly scheduled staff meetings.

LIMITS OF AUTHORITY

- A. Police officers: It shall be the duty of each commissioned member of the police force to arrest all persons in the Village found in the act of violating any law or ordinance, or aiding or abetting in any such violation, or any person whom the law officer has reasonable grounds for believing has committed a public offense and who is likely to escape before a complaint can be filed and an arrest warrant can be issued.
- B. Each commissioned member of the police force shall have power and authority to serve and execute warrants and other processes for the apprehension and commitment of persons charged with any crime, hold for examination or trial, or apprehended, in the execution, or commission of any crime. No member of the police department shall engage in any business or service that will interfere with his duties as a police officer.
- C. Police officers shall have such other powers and perform such other duties as the Mayor, Village Board, or the provisions of the Code shall provide, and shall surrender to the Chief of Police all property in his possession belonging to the Village when his employment shall terminate.
- D. Employees of the Police Department are empowered to utilize discretion as authorized by law, procedure, and supervisory authority in various aspects of their jobs. Discretion should be utilized within the guidelines of this manual, as well as past accepted practice, notwithstanding existing general orders or existing law. Discretion practices should be discussed, as needed, at roll call sessions and staff meetings.

ORGANIZATION

Included in this portion of the policy is an outline and explanation of this department's organizational system that includes the following:

- A. ORGANIZATIONAL STRUCTURE: The structure of the Police Department is reflected in the following organizational chart. The lines illustrating authority direction and responsibility are designed specifically in explanation of chain of command. Each person described in this chart is responsible for the next person in line. Each person on this chart in turn reports to, and is responsible to, the person before them as displayed on the chart.
- B. UNIT OF COMMAND: Each employee within this department is accountable to his immediate supervisor. This policy shall be the case, unless a superior shall assume command due to circumstances such as a unique situation or the absence of the usual supervisor. Unless special circumstances exist, all information shall flow in both directions by use of this chain of command. Any police department issue concerning policy, procedure, or benefit will be addressed through the Police Department chain of command or grievance process as identified in the union contract. Any employee violating the chain of command shall be subject to discipline.
- C. SPAN OF CONTROL: The span of control of any supervisor, under normal circumstances, shall be those persons on duty which fall under the command as delineated in the organizational chart.
- D. AUTHORITY AND RESPONSIBILITY: It is hereby stated that it will be the policy of this department that any person held responsible for any job assignment or activity is, and should be

comfortable, that he also has been given the commensurate authority to accomplish the task or goal. In conjunction with this, all employees shall be accountable for their use of this delegated authority. This is to include a responsibility as to how authority is used as well as failure to use it.

1. The Department and its members shall have the authority and duty to:
 - a. Prevent crime;
 - b. Protect life and property;
 - c. Detect and arrest offenders;
 - d. Preserve the public peace;
 - e. Enforce all laws and ordinances.
2. A member shall, while on active tour of duty, devote his entire time and attention to the efficient performance of his duties and shall not engage in any other business or calling which might interfere with these duties.
3. When assigned to perform the duties of a higher rank, a member shall be governed by all orders, rules, regulations and policies and procedures affecting that rank and be responsible accordingly.
4. A member shall work his assignment in accordance with his duties and lawful orders at the place assigned and until his accountability ends; he shall make all reasonable efforts to apprehend offenders and to prevent the escape of persons in his custody, reporting all matters which it is his duty or assignment to report, disclosing any evidence within his knowledge which might advance the investigation of any matter, and making written entries or preparing documents in the manner required by procedure or command.
5. Members shall respond in a prompt manner appropriate to the circumstances when dispatched or ordered to respond to a situation. Postponing a response or failure to respond will be considered neglect of duty, and will be grounds for disciplinary action. Members shall submit all necessary reports on time and in accordance with Departmental procedures. Reports submitted late or not submitted will be considered neglect of duty. All reports shall be accurate and complete.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 2.2

(Code of Conduct)

Effective Date: 01/01/09

Supersedes: Chapter 2
NAPD Manual of Policies and Regulations (11/01/06)

PURPOSE: Police Officers are one of the most conspicuous representatives of government and their conduct is closely scrutinized. If actions, or appearance, are believed to be excessive, unwarranted, discriminatory, or unjustified, you are criticized far more severely than other persons for comparable conduct.

POLICY: Employees of the New Athens Police Department are required to comply with behavioral standards set forth in this code of conduct and appearance. Employees must at all times conduct themselves in a manner that does not bring discredit to the individual or the agency. Failure to comply with these procedures is just cause for disciplinary action.

PROCEDURES:

- I. Demeanor in Office: At no time shall members of this Police Department engage in the use of racial references or profanity in the course of public contact, or engage in public in an argumentative or violent fashion. Bias Enforcement/Discriminatory Practices will be viewed as an abuse of power. It is our responsibility, as public servants, to treat people respectfully and in a professional business-like manner. Any violation of this demeanor will be interpreted as conduct unbecoming and shall be dealt with, by use of disciplinary procedures. All noncompliance with this policy shall be reported immediately to the employee's supervisor for appropriate action.
- II. Employee Conduct:
 - A. Members shall not knowingly visit, enter or frequent a house of prostitution, gambling house, or establishment wherein the laws of the United States, the state or the local jurisdiction are regularly violated, except in the performance of duty or while acting under proper and specific orders from a superior officer.
 - B. Members shall not drink intoxicating beverages while on duty except in the performance of official duties. Members shall not appear for duty or be on duty, while under the influence of intoxicants to any degree whatsoever, or have an odor of intoxicants on their breath.
 - C. Members, while off duty, shall refrain from consuming intoxicating beverages to the extent that it results in obnoxious or offensive behavior, which would tend to discredit themselves or the department, or render the member unfit to report for their next regular tour of duty.
 - D. Superior officers shall not assign to duty any subordinate in an unfit condition due to improper use of intoxicants. They shall relieve such member from duty, recommend a forfeiture of pay for that day, and make an immediate report to the Chief of Police. The commanding officer shall also, if circumstances require, demand the member's weapon.
 - E. A member shall not have intoxicating liquor or illegal drugs on his person while on duty or in uniform, or in any department building or vehicle, except for evidential purposes.
 - F. Members shall not use any controlled substances, narcotics or hallucinogens, except when prescribed in the treatment of members by a physician or dentist. When controlled substances, narcotics, or hallucinogens are prescribed, officers shall notify their superior officer in writing.
 - G. Uniformed members shall not chew tobacco or smoke while in court, a parade, or military formation.

H. Members shall not smoke in any village building or village owned vehicle.

- I. A member shall not chew tobacco or smoke when in the process of conducting police business with any citizen, regardless of locality unless that citizen invites him to do so.
- J. Officers shall not commit any acts or omit any acts which constitute a violation of any of the rules, regulations, directives, orders or policies of the department, whether stated in this General Order or elsewhere. Ignorance of the rules, regulations, directives, orders or policies shall not be considered as a justification for any such violations. Officers shall be responsible for their own acts, and they shall not shift to others the burden of responsibility for executing or failing to execute a lawful order or police duty.
- K. Members shall conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the department. Conduct unbecoming an officer shall include that which tends to bring the department into disrepute or reflects discredit upon the officer as a member of the department, or that which tends to impair the operation and efficiency of the department or officer.
- L. A member shall not individually or in concert with others, commit, attempt or engage in any form of dishonesty, whether on or off duty. An employee shall not use, threaten to use, or attempt to use any authority of official capacity, title, or position, on or off duty, that is disallowed by law or this manual; to include any action taken by a member of this department which is motivated by a persons race, color, ethnicity, age, gender, sexual orientation, religion, national origin, politics or lifestyle.
- M. No member shall solicit or accept from any person, business or organization any valuable gift, gratuity, consideration, reward or any promise of same for the benefit of the members of the department, if it may reasonably be inferred that the person, business or organization:
 - 1. Seeks to influence action of an official nature or seeks to affect the performance or non-performance of an official duty, or
 - 2. Has an interest which may be substantially affected directly or indirectly by the performance or non-performance of an official duty.
- N. For the purposes of this rule, the work "gift" shall include money, tangible or intangible personal property, loan, promise, service or entertainment.
- O. No person shall resort to any form of dishonesty to pass a department entrance or promotional examination.
- P. Members shall obey all laws of the United States, of this state and of the local jurisdictions. An indictment or information filed against a member, or a conviction of the violation of any law may be cause for disciplinary action.
- Q. Members of the department are prohibited from engaging in any immoral or indecent conduct on or off duty, which tends to impair their ability to perform as members of this department, or causes the department to be brought into disrepute.
- R. A member shall not undertake any financial obligations which they know or should know they will be unable to meet, and shall pay all just debts when due. An isolated instance of financial irresponsibility may not be grounds for discipline, except in unusually severe cases. However, repeated instances of financial difficulty may be cause of disciplinary action. Filing for a voluntary bankruptcy petition shall not by itself be cause of discipline. Financial difficulties stemming from unforeseen medical expenses or personal disaster shall not be cause for discipline, provided that a good faith effort to settle all accounts is being undertaken. A member shall not act as co-maker, guarantor, or endorser for any money borrowed by another member of the department, nor shall he induce a member to become a co-maker, guarantor or endorser for money borrowed by himself without written authorization from the Chief of Police.
- S. Members shall treat the public, all superiors and associates with respect, courtesy and consideration. Members shall be tactful in the performance of their duties, shall not use coarse, violent, profane or insolent language or gestures, and shall not express any prejudice, make any stop, detention or search based on a persons race, religion, politics, national origin, sexual orientation, lifestyle or similar personal characteristics.

- T. Members shall not publicly criticize or ridicule the department, its policies or other officers by speech, writing, or other expression, where such speech, writing, or other expression

is defamatory, obscene, unlawful, tends to undermine the effectiveness of the department, interferes with the maintenance of discipline, or is made with reckless disregard for truth or falsity. Members shall not address public gatherings, appear on radio or television, prepare any articles for publication, act as correspondents to a newspaper or a periodical, release or divulge investigative information, or any other matters of the department while holding themselves out as having an official capacity in such matters without official sanction or proper authority. Members may lecture on "police" or other related subjects only with the proper approval of the Chief of Police or the supervisory officer.

- U. Whenever a member or any of his immediate family becomes personally involved in an altercation or any situation requiring police attention, he shall summon another officer to handle the situation.
- V. Members shall not recommend or suggest in any manner, except in the transaction of personal business, the employment or procurement of a particular product, professional service, or commercial service (such as an attorney, ambulance service, towing service, mortician, etc.) In the case of ambulance or towing service, when such service is necessary and the person needing the service is unable or unwilling to procure it, or requests assistance, officers shall proceed in accordance with established departmental procedures.
- W. Members shall treat the official business of the department as confidential. Information regarding official business shall be disseminated only to those for whom it is intended, in accordance with established departmental procedures. Members may remove or copy official records or reports from a police installation only in accordance with established departmental procedures. Members shall not divulge the identity of persons giving confidential information, except as authorized by proper authority in the performance of police duties.
- X. Members shall avoid regular or continuous associations or dealings with persons whom they know, or should know, are racketeers, sexual offenders, gamblers, suspected felons, convicted felons, persons under criminal investigation or indictment, or who have a reputation in the community for present involvement in felonious or criminal behavior, except as necessary to the performance of official duties, or where unavoidable because of other personal relationships of the members.
- Y. Members shall not associate with any person or group that advocates prejudice against any racial, religious or other group, except in the line of duty.
- Z. A member shall not join any organization designed to interfere with the orderly process of government by illegal means.
- AA. Members shall not engage in any strike. "Strike" includes the concerted failure to report for duty, willful absence from one's position, unauthorized holidays, sickness unsubstantiated by a physician's statement, the stoppage of work, or the abstinence in whole or in part from the full, faithful and proper performance of the duties of employment for the purposes of inducing, influencing or coercing a change in conditions, compensation, rights, privileges or obligations of employment.
- BB. No member shall accept any other position of public trust or affiliate with any organization, which might tend to interfere with impartial performance of his police duties.
- CC. A member shall not incur liability chargeable to the department without the proper authorization.
- DD. A member shall not act as surety on a bond or recognizance for any person other than himself or his immediately family.
- EE. A member shall not enlist, re-enlist, volunteer or in any other way render himself militarily liable without prior notification of the Chief of Police.
- FF. Members who are subject to residence requirements are required to maintain their legal residence United States Postal Service's marked zip code area of 62264.
 - 1. Members shall have a functional telephone.

2. Members shall immediately advise their supervisor upon change of address, telephone number or marital status.
- GG. Members shall render proper military courtesies to the National Colors and the National Anthem of the United States or the National Anthem of a foreign power, played in honor of a representative of that power. This shall consist of a hand salute rendered at the proper time for uniformed officers.
- HH. Members shall maintain sufficient competency to properly perform their duties and assume responsibilities of their positions. Members shall perform their duties in a manner that will tend to establish and maintain the highest standards of efficiency in carrying out the functions and objectives of the department. Incompetence may be demonstrated by a lack of knowledge of the application of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the member's rank, grade or position; the failure to take appropriate action on the occasion of a crime, disorder or other condition deserving police attention; absence without leave; or unnecessary absence from the assigned patrol during a tour of duty. In addition to other indications of incompetence, the following will be considered prima facie evidence of incompetence; repeated poor evaluations or a written record of repeated infractions of the rules, regulations, manuals or directives of this department.
- II. Members shall comply with the existing Personnel Code, as currently adopted by the Village Board.
- JJ. A member shall not make any anonymous communication to any other member of the Department, to any member of the Village Government, to members of the Press, or to any other persons, regarding any matter involving the Department, a Village Department, or their members.
- KK. A member shall not divulge, except as required by law or the Rules, Regulations, and Policies and Procedures of the Department, information received from one who seeks the aid of the Department and requests that the information furnished be kept confidential.
- LL. A member shall not communicate or cause to be communicated directly or indirectly, any information which may enable a person suspected of or charged with a crime to escape from arrest or punishment; nor shall a member give information that may enable him to dispose of or secrete any property unlawfully obtained.
- MM. A member shall not furnish or cause to be furnished to any person copies of any official instruction, order, or report, except as required by the Rules, Regulations, and Policies and Procedures of the Department, or by order of the Chief of Police.
- NN. Members shall protect the innocent from all undue notoriety that may be harmful to an individual or group.
- OO. Members are not allowed to have direct or indirect contact with a suspect/defendant of any case that this department is involved. Information concerning an ongoing investigation or an arrest will not be discussed directly with the suspect or by indirect means. If a suspect/defendant has questions or concerns involving an investigation, they can address that matter with the Chief of Police.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 2.3

(Patrol Vehicle Operation)

Effective Date: 01/01/09

Supersedes: Chapter 3, Section 12
NAPD Manual of Policies and Regulations (01/05/04)

PURPOSE: To establish written guidelines for emergency operations, regular patrol operations, seat belt usage and on/off duty vehicle crashes.

POLICY:

- I. Response to Emergency and Non-Emergency Calls:
 - A. Responses to calls by officers shall be classified into **two (2)** categories:
 - 1. Non-Emergency calls - CODE ONE
 - a. No use of emergency lights and/or sirens.
 - b. Observe all traffic laws.
 - 2. Emergency calls - CODE TWO
 - a. Use of emergency lights and/or sirens and other equipment.
 - b. Responding vehicles shall use reasonable speeds in proportion to weather, road and traffic conditions.
 - c. The Patrol Sergeant (or other Supervisor) may advise units to increase or decrease code.
- II. Vehicle Safety Belt Use:
 - A. All Police Department personnel who drive motor vehicles purchased, operated or leased by the Village shall use and ensure that all front seat passengers use available safety belt equipment installed in the vehicles. This policy includes marked and unmarked vehicles, emergency vehicles and non-emergency vehicles.
 - 1. When arriving at an emergency call, the operator may remove the device just prior to stopping for quick exit and to prevent becoming entangled in the device.
 - 2. When initiating a traffic stop, the operator may remove the device just prior to coming to a stop on a vehicle/traffic stop. Caution should be exerted to ensure the violator is in fact going to stop.
 - 3. Officers may use the restraint system in the back seat to secure prisoners. Officers should use caution when dealing with combative subjects. Officers also should remember that all prisoners are to be handcuffed behind their back (unless medical reasons or other uncommon factors exist), searched and placed in the back of a vehicle before transporting.
- III. Officer Involved Vehicle Crashes:
 - A. In the event that a motor vehicle operated, purchased or leased by the Village, for use by the Police Department, is involved in a traffic crash, the Chief of Police will be notified immediately.
 - 1. Either the Chief of Police or Patrol Sergeant will respond to the scene if possible. They shall ensure any additional information regarding the accident is recorded.
 - 2. The local jurisdiction will handle the accident unless it occurs in the limits of the Village. At that time the St. Clair County Sheriff's Office will complete the report.
 - B. The Police Department will not handle any vehicle crash involving an on or off-duty employee of this department. Instead, the report will be turned over to the St. Clair County Sheriff's Office. They will be advised that incident is in our jurisdiction but is involving one of our employees/officers. If a deputy is not available, then the Illinois State Police will be requested to complete the report. Only in an extreme situation will our department complete the report.
 - C. Officers will report any other damage to vehicles and/or equipment to the Chief of Police or Patrol Sergeant as soon as possible.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 2.4

(Emergency Vehicle Operations/Pursuits)

Effective Date: 01/01/09

Supersedes: Chapter 3, Section 22
NAPD Manual of Policies and Regulations (10/01/04)

PURPOSE: A police pursuit occurs when a police officer (police) attempts to stop the driver of a motor vehicle and the driver refuses to obey the officer, following which the officer pursues the vehicle (gives chase) for the purpose of stopping the fleeing or eluding motorist. The purpose of this policy is to establish pursuit guidelines required during the operation of departmental vehicles. The objective (essence) of a successful pursuit is to apprehend the violator, however, it is far better to either delay the arrest or abandon the pursuit than to endanger human life or inflict great bodily harm.

POLICY: The objective of the New Athens Police Department is to apprehend all persons who are attempting to evade arrest, however, no assignment or task is of such importance that the principles of safety become secondary. Pursuits shall be conducted in strict compliance with Illinois Statutes and departmental policy. An officer involved in a vehicle pursuit shall utilize emergency warning devices (oscillating, rotating or flashing lights, and siren located on or within the departmental vehicle) when in pursuit of an actual or suspected violator of the law. All personnel operating departmental vehicles shall exercise due regard for the safety of all persons. Officers must continually weigh the extent of the emergency or the seriousness of the violator's suspected crime against the potential for death or injury. The pursuing officer is not to consider that he must continue a pursuit at all costs, and the pursuing officer shall discontinue the pursuit when it is reasonable because of speeds involved, the volume of pedestrian and/or vehicular traffic, road and weather conditions or the distance between vehicles indicates further pursuit will create more danger to the public and/or department members than does apprehension of the pursued driver with respect to the suspected offense (the risk is greater than the safety of himself or others), or, is directed by a supervisor to terminate the pursuit.

DEFINITIONS:

Emergency Warning Devices: Oscillating lights, rotating lights, flashing lights, siren or any combination located on or within police vehicles.

Fleeing or Eluding: Any driver of a motor vehicle who, having been given a visual or audible signal by an officer directing such driver to bring their vehicle to a stop; willfully fails to obey such direction; increases speed; extinguishes lights; or otherwise flees or attempts to elude the officer.

Forcible Felony: Treason, first degree murder, second degree murder, aggravated criminal sexual assault, criminal sexual assault, robbery, arson, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against any individual.

Primary Unit: The police vehicle (unit) that initiates a pursuit or any police vehicle (unit) that assumes control of the pursuit.

Pursuit: An active attempt by one or more police officers to apprehend a suspect operating a motor vehicle, while the suspect is trying to avoid capture by using high speed driving or other evasive tactics such as driving off a highway, making sudden or unexpected movements, or maintaining legal speed but willfully failing to yield to the officer's signal to stop.

Pursuit Termination Devices (PTD): Devices which contain numerous hollow steel spikes and when driven over, deflate a vehicle's tires at a rapid but controlled rate.

Ramming: The deliberate act of impacting a violator's vehicle with another vehicle to functionally damage or otherwise force the violator's vehicle to stop.

Roadblocks: A deliberate obstruction or restriction by physical means intended for the purpose of preventing free passage of motor vehicles on a roadway in order to check persons using the roadway and/or effect the apprehension of a violator in a motor vehicle.

PROCEDURES: In order to diminish the likelihood of a pursuit developing, officers intending to stop a vehicle shall, when practicable, be within close proximity to the subject vehicle prior to activating the emergency signal devices. The responsibility for the decision to initiate pursuit rests with the individual officer.

- I. Initiating the Pursuit: Things to consider:
 - A. The decision to initiate pursuit must be based on the pursuing officer's conclusion that the immediate danger to the public created by the pursuit is less than the immediate or potential danger to the public should the suspect remain at large.
 - B. Any law enforcement officer in an authorized emergency vehicle may initiate a vehicular pursuit when ALL of the following criteria are met:
 1. The suspect exhibits the intention to avoid arrest by using a vehicle to flee apprehension for a forcible felony;
 2. The suspect operating the vehicle refuses to stop at the direction of the officer; and
 3. The suspect, if allowed to flee, would present a danger to human life or cause serious injury.
 4. Variables to consider when initiating a vehicular pursuit:
 - a. Seriousness or type of offense;
 - b. Speed of vehicle in pursuit;
 - c. Traffic conditions/congestion;
 - d. Maneuverability; road conditions/weather;
 - e. Safety to himself and others.
- II. Pursuit Officer Responsibilities to Communication Center Dispatch
 - A. Number/identification of pursuing unit;
 - B. Location, speed, and direction of travel of fleeing vehicle;
 - C. Vehicle description, including license plat number and number of occupants, if known;
 - D. Specific reason for the pursuit, including known laws violated; and
 - E. Failure to provide the above information may be cause for the shift supervisor to order termination of the pursuit.
- III. Pursuit Officer Responsibilities During a Pursuit
 - A. The primary unit shall be in command and bears the operational responsibility for the pursuit unless relieved by a supervisor.
 - B. This authority pertains to immediate operations of the pursuit; subordination to the supervisor is not altered by this authority.
 - C. Radio communications.
 1. Shall be over our local frequency if the pursuit is contained in our jurisdiction.
 2. Shall be over the I.S.P.E.R.N. frequency if the pursuit leaves our jurisdiction.
- IV. Backup Vehicles to assist the Primary and Backup Pursuit Vehicles
 - A. (Normally) No more than two units, the primary pursuit unit and support unit, will be directly involved unless authorized by a supervisor.
 - B. Supervisor may authorize more units determined by.
 1. Nature of offense.
 2. Number of suspects.

3. Number of officers.

- 4. Other facts which increase hazard.
 - C. There shall be no caravanning, except for the primary and support unit.
 - D. Support units should attempt to drive an alternate route to the active pursuit; or a safe distance behind the primary unit.
 - E. Support units shall not pass the primary unit unless permission is received from the primary unit or the supervisor.
 - F. If the primary unit becomes disabled, the support unit will become the primary unit; the supervisor and telecommunicator shall be notified immediately of this transfer.
 - G. Unmarked police units, equipped with emergency lights and siren, may engage in pursuit only when the fleeing vehicle presents an immediate and direct threat to life or property.
 - 1. Officers operating unmarked police units will immediately request assistance of a marked unit.
 - 2. When a marked unit becomes available to take over the pursuit, the unmarked unit will withdraw from active pursuit and serve in a support role or as otherwise directed by a supervisor.
 - H. The primary unit will reduce the level of pursuit to that of a support role should the fleeing vehicle come under the surveillance of an air unit, or another police vehicle comes into closer proximity to the fleeing vehicle.
- V. Emergency Vehicle Operations
- A. Deliberate contact between vehicles or forcing the pursued vehicle into parked cars, ditches, or any other obstacle, ramming, or driving alongside the pursued vehicle shall be prohibited, unless the use of deadly force is warranted.
 - B. Officers shall not pursue fleeing vehicles the wrong way on interstate highways, divided roadways, or one way streets unless specifically authorized by the shift supervisor.
 - C. Roadblocks are prohibited.
 - D. Barricading of roadways for the purpose of channeling the pursuit away from areas of high traffic or other dangers, also toward a PTD is authorized at the discretion of the shift commander.
 - E. Extreme caution must be used whenever traffic control signs or signals are disregarded; all available warning devices, including decreasing speed or stopping, shall be utilized to alert other motorists and pedestrians.
 - F. Overtaking the pursued vehicles will be considered a last resort and the decision will be made by the primary officer and/or shift supervisor.
 - G. Officers may not discharge their firearm at or from a moving vehicle, except as an ultimate measure of self-defense and when the immediate threat to life becomes apparent.
 - 1. As a last resort to prevent death or great bodily harm to the officer or another person;
 - 2. As a last resort to apprehend a felon who has just committed a felony resulting in death or great bodily harm;
 - 3. When an occupant of the vehicle is utilizing deadly force or force likely to cause great bodily harm against a police officer or another person.
- VI. Pursuit Termination Devices (PTD)
- A. Deployment of Pursuit Termination Devices
 - 1. Should be used in areas with unobstructed views of the roadway from both directions;
 - 2. Should be used at a location which provides substantial protection for the deploying officer;
 - 3. After being deployed, lock the cord reel and hold the cord reel by the handle while awaiting the target vehicle;
 - 4. Once the PTD is in place, everyone at the scene should seek a secure location away from the path of the fleeing vehicle;
 - 5. Deploying officer(s) should not use their vehicles for protection;

6. After the fleeing vehicle has passed the device's location, the PTD should be removed from the roadway so pursuing police units may pass.

B. Special Cautions

1. Unless a substantial risk to the public is imminent and apparent by not terminating a pursuit, PTD will not be used against:
 - a. School buses;
 - b. Buses transporting passengers;
 - c. Vans transporting passengers;
 - d. Trucks transporting explosives or other hazardous materials; or
 - e. Any other vehicle which could reasonably be expected to be above normal risk of causing serious damage or injury.
2. Every reasonable effort will be made to avoid using PTD on road surfaces which in the immediate vicinity there is:
 - a. Standing water;
 - b. Ice or snow;
 - c. Exceptionally rough pavement;
 - d. Unpaved roads; or
 - e. Other unique characteristics or circumstances which would indicate a foreseeable increase in the risk of a serious accident.

C. Prohibitions

1. Pursuit Termination Devices are designed to be used against vehicles having at least **four (4) tires**;
2. Pursuit Termination Devices may not be used against motorcycles or three-wheel vehicles, unless the use of deadly force is justified.

VII. Termination of pursuit will be immediate under the following conditions:

- A. A decision to terminate pursuit may be the most rational means of preserving the lives and property of both the public, and the officers and suspects engaged in pursuit. Pursuit may be terminated by the pursuing officer, the supervisor or any superior officer.
1. The offense is a traffic violation; misdemeanor; or nonviolent felony;
 2. The distance between the pursuing officer and violator is so great that further pursuit is futile or;
 3. The officer loses visual contact with the violator for an extended period of time, approximately **thirty (30) seconds**, or;
 4. When there is an equipment failure involving an emergency signal device, radio, brakes, steering, or other essential mechanical equipment or;
 5. When there is a clear and unreasonable danger to the officer, fleeing motorist, or other persons. A clear danger exists when vehicular or pedestrian traffic necessitates dangerous maneuvering that exceeds the performance capabilities of the vehicle or driver;
 - a. Weather or traffic conditions substantially increase the danger of pursuit beyond the worth of apprehending the suspect.
 - b. The danger posed by continued pursuit to the public, the officers or the suspect is greater than the value of apprehending the suspect(s).
 - c. The pursuing officer shall relay this information to communications personnel, along with any further information acquired which may assist in an arrest at a later date.
- B. While not necessarily dictating immediate action, strong and continuing consideration should be given to termination of the pursuit under the following conditions:
1. Environmental factors such as rain, fog, or darkness substantially increase the danger of the pursuit or;
 2. The officer is unfamiliar with the area and is unable to accurately notify the communications center of his location and the direction in which the pursuit is proceeding or;
 3. Road conditions are congested by traffic or pedestrians, especially during rush hours or in a school area, or;

4. The pursuing officer knows, or has reason to believe, that the fleeing vehicle is being operated by a juvenile who is driving in such an unsafe manner that it is obvious he does not have the maturity to deal with the danger involved.

VIII. Completion of pursuit

- A. A supervisor, if circumstances allow, shall respond immediately to the location of the apprehension and shall assume responsibility for directing police actions of this department's members;
- B. The supervisor shall ensure that all necessary written reports of the circumstances regarding the pursuit are submitted to the Director of Public Safety through the chain of command.

CONCLUSION: Officers shall exercise due regard for the safety of all persons. Officers shall avoid increasing the danger already caused by the fleeing motorist and are cautioned that they are accountable for the consequences if there is a reckless disregard for the safety of others.

IX. Traffic Regulations During Pursuit

- A. Each unit authorized to engage in vehicular pursuit shall be required to activate headlights and all emergency vehicle equipment, (emergency lights and siren), prior to beginning pursuit.
- B. Officers engaged in pursuit shall at all times drive in a manner exercising reasonable care for the safety of themselves and all other persons and property within the pursuit area.
- C. Officers are permitted to suspend conformance with normal traffic regulations during pursuit as long as reasonable care is used when driving in a manner not otherwise permitted, and the maneuver is reasonably necessary to gain control of the suspect. Note: This agency's primary concern in pursuit situations is the protection of lives and safety of all citizens and officers.

X. Routine Patrol Operations

- A. Non-Emergency Calls: When responding to non-emergency calls, such as: unconfirmed and unsubstantiated alarm calls, non-injury and unknown injury traffic accidents, after-the-fact crime report calls (where no immediate danger to life and property exists), and to all other routine incident report calls, officers shall respond to the calls as quickly as possible, but in accordance with the traffic laws of the State of Illinois and the traffic ordinances of the Village.
- B. Routine Vehicle Stops: The use of red light(s), siren and flashing headlights of a police vehicle are authorized when conducting routine vehicle stops. Under normal circumstances, the motorist who is being summoned to pull over will do so in a reasonable period of time. Occasionally, motorists will not comply with an officer's signal to pull over; and, even though they are not operating their vehicle in an evasive manner, they refuse to stop. Whenever this occurs, the officer(s) participating in the attempted vehicle stop shall notify the sergeant or officer in charge and he shall be responsible for gathering facts regarding the operation of police vehicles participating in any prolonged attempt to stop the motorist.
- C. Emergency Calls: Authorized emergency vehicles have been afforded special privileges and exemptions regarding traffic laws and regulations. These special privileges apply only when the vehicle is readily identifiable as an emergency vehicle. All department members will adhere to the provisions of Chapter 625 ILCS 5/11-205, Public officers and employees to obey Act.

Exceptions:

1. The provisions of this Chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this State or any country, city, town, district or any other political subdivision of the State, except as provided in this Section and subject to such

specific exceptions as set forth in this Chapter with reference to authorized emergency vehicles.

2. The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this Section, but subject to the conditions herein stated.
3. The driver of an authorized emergency vehicle may:
 - a. Park or stand, irrespective of the provisions of this Chapter;
 - b. Proceed past a red or stop signal or stop sign, but only after slowing down as may be required and necessary for safe operation;
 - c. Exceed the maximum speed limits so long as he does not endanger life or property;
 - d. Disregard regulations governing direction of movement or turning in specified directions.
4. The exceptions herein granted to an authorized emergency vehicle, other than a police vehicle, shall apply only when the vehicle is making use of either an audible signal when in motion or visual signal meeting the requirements of Section 12-215 of this Act.
5. The foregoing provisions does not relieve the driver of an authorized emergency vehicle from the duty of driving with due regard for the safety of all persons, nor do such provisions protect the driver from the consequences of his reckless disregard for the safety of others.
6. The use of the vehicles emergency warning devices is authorized when responding to or conducting the following assignments, except when distance or other factors make their use impractical. Not every circumstance is covered and officers shall be expected to use common sense in their response to calls not listed.
 - a. Officer needs assistance;
 - b. Robbery in progress or just occurred;
 - c. Crimes involving weapons or shots fired;
 - d. Any crime in progress involving potential injury or with suspects known or suspected to be on scene;
 - e. Traffic accident with injuries;
 - f. Hostage incident;
 - g. Fight/In-progress disturbance;
 - h. Any "unknown incident" call that is believed to be an emergency.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 2.5

(D.U.I. Traffic Enforcement)

Effective Date: 01/01/09

PURPOSE: To establish procedures for handling persons charged with driving while under the influence of alcohol or drugs.

POLICY: The New Athens, Illinois Police Department is dedicated to decreasing the incidence of traffic crashes and injuries caused by the intoxicated motorist. Officers are expected to be alert for signs of alcohol and/or drug impairment in contacts with motorists. Countermeasures including programs involving education, enforcement, adjudication, treatment and public support are essential to be successful in reducing the DUI problem.

PROCEDURES:

- I. Violator Contact
 - A. The officer's observations in the initial stages of contact with the offender if dispatched to an incident and in establishing reasonable suspicion for a traffic stop and probable cause for the arrest is critical.
 - B. When establishing probable cause for arrest, officers should:
 1. approach the driver with caution;
 2. identify the driver and request his drivers license and proof of insurance;
 3. interview the driver, establish that he/she was or is in control of the vehicle;
 4. note any observations that add to your suspicion of intoxication, (odor of alcoholic beverage, slurred speech, etc.). Ask the driver if he has been drinking;
 5. if intoxication is suspected, select a suitable, safe site to administer appropriate field sobriety tests to assess impairment;
 6. if the driver fails the tests and the officer believes the elements for DUI are present the officer may contact the shift sergeant or supervisor to effect a certified breath analysis (P.B.T.) of the suspected violator;
 7. once the driver has been given the P.B.T., if permitted, the officer shall advise the driver that he is under arrest for DUI and transport the driver to the station for processing.
- II. Physical Performance Test
 - A. After a suspected intoxicated motorist has been stopped, and the officer has decided field sobriety testing is warranted, he shall conduct the following mandatory sobriety tests and any listed optional tests he feels beneficial to the investigation. Whenever possible the first three tests shall be the Horizontal Gaze Nystagmus, Walk & Turn, and One Leg Stand. The officer may then administer any optional tests. All tests shall be performed in accordance with this policy and the officer's training. Prior to having the motorist perform the Standardized Field Sobriety Test Battery, the officer shall explain the tests utilizing the instructions as outlined below in this order and demonstrate each test. Any other tests utilized shall also be explained and demonstrated by the officer. It is advised that the Standardized Field Sobriety Test Battery be performed by only officers that have received certification from the National highway Traffic Safety Administration (NHTSA).
 - B. Field Sobriety Test Instructions: At no time should the demonstration of field sobriety tests compromise officer safety or discretion.
 1. Horizontal Gaze Nystagmus: I'm going to check your eyes. (Glasses/ Contacts)
Please stand with your feet together and your hands at your sides looking straight ahead. I'm going to move my identifiable object (i.e. thumb, finger,

pen, etc.) back and forth and I want you to follow the movement with your eyes, but do not move your head. Do you understand the instructions?

- (Defensive Stance)
2. Walk and Turn (safe distance): Put your left foot on the line and your right foot in front of it with your heel touching your toe. Keep your hands at your sides. (Demonstrate) Do not move until I tell you to begin. Do you understand? When I tell you to begin, take nine heel-to-toe steps forward. (Demonstrate) Turn around keeping your front foot on the line, taking several small steps with your other foot. (Demonstrate) After turning, take nine heel-to-toe steps back to where you started. While you are walking, keep your arms to your sides at all times, watch your feet, and count your steps out loud. Do not stop until you have completed the test. Do you understand the instructions? You may begin.
 3. One Leg Stand: Stand up straight with your feet together and your arms at your sides. (Demonstrate) Do not move until I tell you to begin. Do you understand? When I tell you to begin, raise either leg about **six (6) inches** off the ground, point your toe forward, keep both legs straight, and keep your eyes on your raised foot. Hold that position while counting out loud 1001, 1002, 1003, up to 1030 or until I stop you. (Demonstrate) Do you understand my instructions? You may begin. (Time the test)

C. Optional tests

1. Finger to Nose: Motorists shall be instructed to stand with their heels together at approximately 45° angle (as if they were standing at attention) with their hands at their sides and their head tilted back as far as possible with their eyes closed. When the motorists are in that position, they should be instructed to raise their arms and touch the tip of their nose with the index finger of each hand.
2. Alphabet Test: Motorists shall be instructed to recite the letters of the alphabet in its customary order without pausing or stopping.
3. Preliminary Breath Test: Motorists may be requested to take a field preliminary breath test utilizing one of the department's portable instruments. Officers utilizing the P.B.T. instrument shall adhere to guidelines and training.

III. Conducting the Tests

A. Breath Test

1. The breath test will be conducted by a licensed breath analysis operator in accordance with the Illinois State Police (ISP) rules.
2. The Department will use a breath test instrument which is certified and has been approved by the Illinois State Police.
3. If the Department's breath test instrument is inoperable, a supervisor may authorize the use of a breath test instrument of another police department. The arrestee will be transported to the other department and whenever possible, the breath analysis operator will conduct the test, if qualified on that breath test instrument.
4. The test operator will record all required information concerning the test in the Breath Test log book and on the intoxilyzer receipt.

B. Blood Test

1. Two blood samples will be collected by a physician licensed to practice medicine, a registered nurse or other qualified person in accordance with Illinois Compiled Statutes (ILCS).
2. Officers will utilize an approved facility when it is required to take a blood sample.
3. The arrestee should be transported to the Emergency Room where hospital staff are familiar with the requirements for the drawing of blood for DUI cases.
4. Special kits, provided by the State, are available at the hospital for the drawing of blood.
5. The arresting officer is responsible to see that the DUI blood form is completed as required, and all samples are properly labeled. Both the form and labels are

provided in the kit. The officer should make a copy of the DUI blood form for our records.

6. Blood samples should be properly packaged, inventoried and placed into evidence until transferred to the crime lab. The officer will complete a Police Department Property Evidence Receipt.

C. Urine Test

1. Urine samples will be collected under the same environmental conditions as blood samples in accordance with statute.
2. Police Department personnel may witness the collection of urine samples if requested to do so by hospital personnel. A person of the same sex as the offender must be present when the urine sample is collected. Another employee of the Police Department may be appointed by the arresting officer as his/her representative for this purpose. If a Department employee is not available, hospital personnel may be requested.
3. Officers will use a Department of Public Health approved facility for collecting samples of urine. The facility staff will use the same kit provided by the State for blood samples.
4. Both samples must be properly labeled as required for blood samples.
5. Urine samples will be properly packaged for transfer to the appropriate lab for analysis.

D. Refusal to Submit to Breath, Blood or Urine Tests

1. The arresting officer shall not offer any advice to the arrestee in regards to taking or not taking any test.
2. The Law Enforcement Sworn Report will be completed by the arresting officer if the subject refuses to submit to the test.
3. The Law Enforcement Sworn Report shall be completed and copies served to the subject.
4. Forms dictated by State statute should be completed.

IV. Arrest

- A. All motorists placed under arrest for "Driving Under the Influence of Alcohol or Drugs" shall be transported to the police department unless the need for medical attention is required.
- B. Upon arrival at the police department, and after issuance of a traffic ticket for DUI, the arresting officer shall request that the motorist submit to a chemical test. The officer must warn the motorist of the consequences of refusing to participate in the requested testing by completing, reading, and distributing the "Warning to Motorist" form.
- C. Officers shall complete and distribute the "Law Enforcement Sworn Report" as per the following instructions on all motorists who refuse chemical testing or submit to testing and the results are 0.08 or more.

- V. Official Report: Officers are reminded that any tests results are only used as supplemental evidence and the observation and recording of all the motorist's actions is imperative in these types of cases. These observations shall be thoroughly recorded in the official report.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 2.6

(Bloodborne Pathogens)

Effective Date: 01/01/09

PURPOSE: The purpose of this policy is to provide guidelines for the protection of New Athens Police Department personnel as to Bloodborne Pathogens and other infectious diseases. Police Department employees incur risk of infection and subsequent illness each time they are exposed to blood or other potentially infectious materials, therefore, the purpose of the Bloodborne Pathogens and infection control policy is to provide protection to police employees and citizens regarding transmission of infectious diseases, particularly Hepatitis B virus (HBV) and human immunovirus (HIV). Also of concern are less infectious, and in some ways, less serious ailments such as herpes, tuberculosis and others, as well as simple job-related injuries which turn the employee into a patient. While personnel protection and hygiene are the most immediately visible manifestations of an infection control policy, other policies will be discussed in an effort to provide a holistic environment for the safe and efficacious practice of pre-hospital medical care.

POLICY: It shall be the duty of the New Athens Police Department to comply with regulations of the Federal Occupational Safety and Health Act as adopted by the Illinois Department of Labor, relating to occupational exposure to blood or other potentially infectious materials, and to inform department employees of appropriate precautionary measures to be taken in circumstances where members may be exposed to infectious materials.

All members of the Police Department can be reasonably anticipated to be exposed to blood or other infectious materials.

The objectives of this policy are to:

- A. Prevent the spread of communicable disease through common sense practice of aseptic technique as it relates to emergency medical care;
- B. Practice universal precautions in a manner as to provide comfort and support during all emergency medical calls;
- C. Provide guidelines, education, and comprehensive policies for technically better trained personnel;
- D. Educate the employee to the necessity of special techniques to reduce their risk of exposure to an infectious blood borne disease, and;
- E. Maintain standardized operating policies to protect employees and citizens and to comply with federal and state requirements.

DEFINITIONS:

Personnel: All employees of the Police Department are identified as personnel whose jobs have the likelihood of exposure to blood or other potentially infectious materials.

Potentially Infectious Materials: Includes the following human body fluids: blood, semen, vaginal secretions, cerebrospinal fluid, synovial (secreting) fluid, pleural fluid, peritoneal fluid, amniotic fluid, saliva, any body fluid that is visibly contaminated with blood, all body fluids in situations where it is difficult or impossible to differentiate between the body fluids and any unfixed tissue or organ (other than intact skin) from human (living or dead).

Protective Measures: Personal protection devices such as gloves, gowns, eye protection and masks; equipment safeguards such as "sharps" containers, proper needle handling techniques and proper

handling of possibly infectious fomites/vectors (organism that transmits a pathogen) such as dirty linens, equipment and vehicles.

Universal Precautions: A method of infection control in which all human blood, blood products and other potentially infectious materials treated as if known to be infectious of HIV and HBV.

All other definitions are in Section 29 CFR 1910.1030(b) of the Occupational Safety and Health Act entitled "Bloodborne Pathogens" shall apply when referred to herein.

PROCEDURES:

- I. Exposure Control Plan
 - A. Responsibilities assigned to the Village and the Police Department employees:
 1. Employer Responsibilities:
 - a. assist in establishing and implementing policies;
 - b. ensure that the work practices are observed and that protective clothing and equipment are provided and properly used and;
 - c. provide procedures to follow in the event of body fluid spills or personnel exposure to blood or body fluids.
 2. Employee Responsibilities:
 - a. have a knowledge of the modes of transmission of Hepatitis B virus and HIV;
 - b. know where protective clothing and equipment is stored, how to use it, remove it and dispose of it properly;
 - c. take advantage of the HBV vaccination offered by the Village; and
 - d. properly document and report all incidents of possible contamination or transmission of blood borne or body fluid contamination. (Including any PPE, Personal Protective Equipment Used).
- II. Precautions
 - A. Universal precautions as defined under 1910.1030(b) shall be taken by all members of the department to prevent contact with blood or other potentially infectious materials.
 - B. Employees shall treat all blood and other potentially infectious materials as defined in the O.S.H.A. regulations as potentially infectious, and follow all precautionary measures outlined in this document at all times.
 - C. Whenever any employees skin comes in contact with blood or other potentially infectious materials, the employee shall immediately, or as soon as possible, wash their hands and any other skin with soap and warm water, or flush mucous membranes with water following the contact.
 - D. Whenever an employee, while at the police facility, is exposed to any blood or potentially infectious materials, the employee shall, as soon as possible, wash their hands in running warm water with a non-abrasive soap, and then dry their hands with a clean cloth, paper towel or hand blower device.
 1. Hand washing locations are found in the bathrooms of both the main station and police substation.
 2. An alternative location could be found at the EMS building.
 - E. Employees exposed to blood or other potentially infectious materials, who are in the field and not in the police facility, shall use antiseptic hand cleaners or towelettes, when hand washing facilities are not available.
 1. Antiseptic hand cleaners are located in the trunks of marked and unmarked police units, in appropriately labeled containers;
 2. When antiseptic hand cleaners or towelettes are used, hands shall be washed with soap and warm running water as soon as possible.

- F. Employees wearing protective gloves or other personal equipment shall immediately, or as soon as possible, after removal of same, wash their hands, using soap and warm water.
- G. Eating, drinking, smoking, applying cosmetics or lip balm or handling contact lenses are prohibited in work areas where there is a reasonable likelihood of occupational exposure.
- H. Needles.
 - 1. Two handed re-sheathing is prohibited.
 - 2. Dispose of all needles, syringes or any other sharp or potentially sharp item in a puncture resistant container (red "sharps" container) and labeled BIOHAZARD. When full this container shall be disposed of at Belleville Memorial Hospital.
 - 3. Report to infection control officer if any indisposed needles found at the scene or in a police vehicle.

III. Personal Protective Equipment

- A. The Police Department shall provide personal protective equipment to employees. This equipment shall not permit blood or other potentially infectious materials to pass through or reach the employees work clothes, street clothes, undergarments, skin, eyes, mouth, or mucous membranes under normal conditions when the personal protective equipment is properly worn.
- B. Personal protective equipment shall be available at the following locations:
 - 1. All marked and unmarked police units;
 - 2. Both the main station and police substations.
- C. Personal protective equipment shall consist of the following:
 - 1. Disposable single use gloves:
 - a. the use of gloves is required for all employees on any ambulance run, from the time the ambulance arrives at the scene, until such time as all clean-up of equipment, linen and vehicles is accomplished. If necessary new gloves will be donned before clean up.
 - b. the use of gloves is specifically indicated for procedures where body fluids are handled. The use of gloves is particularly important in the following circumstances:
 - i. if the employee has cuts, abraded skin, chapped hands, dermatitis or the like;
 - ii. when examining abraded or non-intact skin or persons with active bleeding;
 - c. after assisting at the scene, the officer or driver of the ambulance will remove their gloves before entering their vehicles. If necessary, the employee will re-glove when assisting in unloading the patient at the hospital;
 - d. when possible, in situations where there are multiple patients, employees shall use a clean pair of gloves for each patient. The purpose is to prevent the cross contamination of blood-borne pathogens and other infectious materials from one person to another. This should be done as quickly as possible and should not impede medical care.
 - 2. Face shields and masks:
 - a. the use of masks and protective eyewear or face shields is required when contamination of mucosal membranes, (eyes, mouth, or nose) with body fluids such as splashes or aerosolization of such material (i.e., during intubation or pharyngeal suctioning), is likely to occur. They are not required for routine care.
 - 3. Gowns:
 - a. the use of gowns is required when splashes to skin or clothing with body fluids are likely to occur. Gowns shall be made of, or lined with, fluid-proof or fluid-resistant material and shall protect all areas of exposed skin.

4. Surgical caps or hoods and/or shoe covers.
 5. Cardiopulmonary resuscitation (CPR) one-way valve pocket masks.
- D. Personal protective equipment shall be worn by employees as follows:
1. Disposable gloves shall be worn whenever an employee can be reasonably expected to have contact with blood or other potentially infectious materials, mucous membranes, and non-intact skin, and also, whenever handling or touching contaminated items or surfaces;
 2. Face shields, masks and gowns shall be worn by employees whenever splashes, spray, spatter or droplets of blood or other potentially infectious materials may be generated and eye, nose or mouth contamination can reasonably be expected;
 3. Surgical caps or hoods and/or shoe covers shall be worn in instances where gross contamination can reasonably be expected. (Example: autopsy);
 4. Cardiopulmonary resuscitation (CPR) one-way valve pocket masks shall be worn by members whenever they perform cardiopulmonary resuscitation to provide a physical barrier between the victim and the member performing mouth to mouth resuscitation;
 5. Supervisors shall ensure that subordinates use appropriate personal protective equipment as required in this document;
 6. If an employee declines to use personal protective equipment, because he believes the use of such protective equipment would have prevented the delivery of health care or public safety services, or would have posed an increased hazard to the safety of the member or another member, the circumstances shall be investigated and documented by the employee's immediate supervisor to determine whether changes can be instituted to prevent such occurrences in the future;
 7. Personal protective equipment provided by the department shall be of a disposable type, and not laundered or re-used;
 8. Personal protective equipment shall be removed by department employees prior to leaving the location of the incident where protective equipment use was required;
 9. All personal protective equipment once used, shall be disposed of by the employee who used the equipment as follows:
 - a. the personal protective items shall be placed in the biohazard labeled bag provided with each personal protective kit;
 - b. the employee shall place the biohazard labeled bag in the biohazard labeled disposal receptacle of the police department;
 - c. biohazard labels shall conform to the requirements of the Occupational Safety and Health Act (OSHA) and be either fluorescent orange or orange-red in color;
 - d. disposal of all biohazard labeled materials shall be in accordance with current legal requirements and regulations governing same;

IV. Housekeeping

- A. Gloves will be worn during all disposal and clean-up procedures.
- B. Employees shall ensure that assigned work-site areas are maintained in clean and sanitary conditions.
- C. All working surfaces shall be cleaned and decontaminated with appropriate disinfectant, as soon as possible, after coming into contact with blood or other potentially infectious materials. Disinfectants shall be of a tuberculocidal type.
- D. Surfaces; (i.e., the inside of police vehicles), where blood or other potentially infectious materials are overtly contaminated, or after any spill of blood or other potentially infectious materials has occurred shall, whenever possible, be cleaned and decontaminated immediately after the spill or overt contamination incident.

- E. Surfaces which may have been contaminated since the last cleaning shall be cleaned and disinfected immediately, or as soon possible.

- F. Receptacles used for disposing of blood or other potentially infectious materials shall be inspected for contamination on a daily basis, and cleaned and decontaminated immediately, or as soon as possible, once visibly contaminated. These containers, in addition to bearing the required biohazard labels shall:
 - 1. be closable;
 - 2. constructed to contain all contents and prevent leakage of fluids during handling, storage, transport or shipping;
 - 3. closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport, or shipping;
 - 4. if the containers are contaminated on the outside, they shall be placed in a second container. The second container shall be:
 - a. closable;
 - b. constructed to contain all contents and prevent leakage of fluids during handling, storage, transport or shipping;
 - c. closed prior to removal to prevent spillage or protrusion of contents during handling, storage, transport or shipping.
- G. Contaminated sharps and needles shall be disposed of without shearing or breaking. These items shall be disposed of in puncture resistant, biohazard labeled containers, having leak-proof sides and bottoms.
- H. Disposal of all regulated waste shall be in accordance with applicable regulations of the United States, State of Illinois and any other County or local regulations.
- I. Linen:
 - 1. if the complete history of person is now known, all linen should be handled as little as possible and with minimum agitation to prevent contamination of the employee handling the linen;
 - 2. all soiled linen shall be bagged at the location where it was used. It should be placed and transported in bags that prevent leakage. Red "Biohazard" bags should be used for this purpose. In the event that red bags are not immediately available, any non-porous bag may be used. As soon as possible, the linen should be placed in the appropriate red bag.
- J. After each ambulance run/assist involving infectious or potentially infectious patients, all items used in patient treatment should be properly disposed and all infectious linens should be appropriately bagged in the red "biohazard" bags carried on the ambulance. (Disposal of equipment, etc. at the hospital will be done in the appropriate "biohazard" bags at the hospital.)
- K. Grossly contaminated items, or in the event that the outside of the red bag may be contaminated, will require double bagging.
- L. Should the interior of a police vehicle be contaminated with an infectious or potentially infectious substance, it shall be cleaned according to level of contamination. The vehicle and any reusable equipment will be disinfected appropriately, i.e., cleaned and mopped with a bactericide/viricide, tuberculocide or a bleach and water solution (1:10) ratio. In moderate to severe cases of contamination the vehicle should be aired for a period of **two (2) hours** before being put back into service.
- V. Clothing
 - A. If an employee has been contaminated on a call the employee shall take himself/herself out of service and immediately, after the call, return to the police department.
 - B. The employee shall remove their contaminated uniform or clothing, handling these items as little as possible, place them in the appropriate biohazard bag.
 - C. The employee shall then shower and/or clean contaminated body parts.
 - D. The employee's uniform/clothing shall be washed with appropriate disinfecting solution.
 - E. An entire extra uniform shall be kept in the employee's locker at the police department.
 - F. Disposal of all regulated waste shall be performed by a vendor, approved by the Police Department, at a licensed disposal facility. The approved vendor of the Police Department is Memorial Hospital Belleville, 4500 Memorial Drive, Belleville, IL 62223.

VI. Laundry

- A. Contaminated laundry shall include, but not necessarily be limited to the following:
1. employee contaminated uniform and clothing worn on duty, including undergarments, socks, shoes, and outer-wear, whether supplied by the department or personally owned, which have been exposed to blood or other potentially infectious material while a member was performing his/her official duties, shall not leave the police department until properly bagged and/or decontaminated;
 2. all non-disposable blankets, bedding materials, prisoner clothing supplied by the department, and wiping cloths of a non-disposable type, used in the prisoner holding area, regardless of whether the aforementioned items were exposed to blood or other potentially infectious material or not.
- B. Contaminated laundry shall be contained in the location where used, and handled as little as possible, with a minimum of agitation, and bagged or containerized at the location where it was used, and not sorted or rinsed in the location of use.
- C. Containers and bags used for storing contaminated laundry shall be constructed of materials which prevent soaking through or leakage of fluids to the exterior.
- D. Any employee handling contaminated laundry shall wear disposable protective gloves. When circumstances indicate the possibility of splashing or spillage of blood or other potentially infectious materials on laundry, whether contained or not, the appropriate additional personal protective equipment shall be worn by any employee when handling same.
1. In no case shall an employee launder any clothing items which have been exposed to blood or other potentially infectious materials, including uniform items at their home, a commercial laundromat or cleaners.
 2. All contaminated laundry shall be cleaned and decontaminated at location approved by the Chief of Police.
 3. Grossly contaminated laundry shall be disposed of in accordance with disposal of regulated waste.

VII. Training

- A. All employees of the Police Department performing duties likely to involve occupational exposure to blood or other potentially infectious materials shall receive annual biohazard training provided by the department and shall consist of the following:
1. A copy of the OSHA standards on bloodborne pathogens shall be provided to each employee before or during the training.
 2. A general explanation of the epidemiology and symptoms of bloodborne diseases.
 3. An explanation of the modes of transmission of bloodborne pathogens.
 4. An explanation of the appropriate methods for recognizing tasks and other activities that may involve exposure to blood and other potentially infectious materials.
 5. An explanation of the use and limitations of methods that will prevent or reduce exposure including appropriate engineering controls, work practices and personal protective equipment.
 6. Information on the types, proper use, location, removal, handling, decontamination and disposal of personal protective equipment.
 7. An explanation of the basis for selection of personal protective equipment.
 8. Information on the Hepatitis B vaccine, including information on: its efficacy; safety; method of administration; the benefits of being vaccinated; and that the vaccine will be offered free of charge.
 9. An explanation of the procedure to follow if an exposure incident occurs, including the method of reporting the incident and the medical follow-up that will be made available.

10. Information on the post-exposure evaluation and follow-up that the department is required to provide for the employee following an exposure incident.
 11. An explanation of the biohazard signs and color-coding methods used to mark blood or other potentially infectious materials.
 12. An opportunity for interactive questions and answers with the person conducting the training sessions.
- B. An instructor specifically trained in the subject matter as it relates to the duties of those employees who could be occupationally exposed to blood or other potentially infectious materials shall conduct training.
 - C. Newly hired employees shall receive mandatory training on the OSHA bloodborne pathogen standards and this document during their initial orientation.
 - D. Additional training shall be provided to department employees when changes such as modification of tasks, or procedures, or the institution of new tasks, or procedures. The training may be limited solely to addressing the new exposure created.

VIII. Reporting and Record Keeping

- A. If an employee has a percutaneous (needle-stick or cut) or mucous membrane (splash to eye, nasal mucosa or mouth) exposure to body fluids or has a cutaneous exposure to blood when the employee's skin is chapped, abraded, or otherwise non-intact, the facility receiving the patient shall be informed of the incident. HIV patient testing will be provided per State Regulations.
- B. Documentation of the exposure to the employee will be made in the police reports. A copy of these reports shall be provided Village Clerk, who will then follow up with the appropriate medical authorities under the reporting and notification guidelines set forth by OSHA.
- C. Information to be collected and documented on each exposure incident:
 1. Date, time and location of exposure.
 2. Specific job duty that was being performed.
 3. Special details of how exposure occurred.
 4. Description of SOURCE and ROUTE of exposure.
 5. Type of exposure (disease), if known.
 6. Details on medical follow-up and counseling that was offered to the employee. (Include spouse and significant other).
- D. If the source patient tests positive, the employee shall be evaluated clinically and by HIV antibody testing as soon as possible and advised to report and seek medical evaluation of any acute-febrile illness that occurs within **twelve (12) weeks** after exposure. HIV seronegative (having or being a negative serum reaction especially in a test for the presence of an antibody) employees shall be retested **six (6) weeks** post-exposure and on a periodic basis thereafter (**twelve (12) weeks** and **six (6) months** after exposure). All follow-up testing will be provided by the Village, provided the employee has followed the universal precautions set forth in this policy and timely notification has been made.
- E. Follow up procedures shall be taken for employees exposed or potentially exposed to HBV. The types of procedures depends on the immunization status of the employee (i.e., whether HBV vaccination has been received and antibody response is adequate) and the HBV serologic status of the source patient, if known.
- F. The Village shall keep a record of:
 1. The name and social security number of the employee.
 2. A copy of all Hepatitis B vaccination records of employees, including the dates of vaccinations and any medical records relative to the employee's ability to receive Hepatitis B vaccinations.
 3. Health-care professional written opinions on whether an employee has received Hepatitis B vaccinations or any medical records relative to an employee's ability to receive vaccinations.
 4. Declination forms from employees who do not wish to be vaccinated.

- G. All medical records as specified in this document shall be kept confidential, and are not disclosed or reported without the employees expressed written consent to any person within or outside of the Department except as required by this document or as may be required by law.
- H. Training Records
 - 1. The below listed information shall be maintained by the Training Division on the required training outlined in this procedure:
 - a. the dates of the training sessions;
 - b. contents or a summary of the sessions;
 - c. the names and job titles of all persons attending the sessions;
 - d. the names and qualifications of the person(s) conducting the training.
 - 2. The aforementioned records shall be maintained at least **three (3) years** after the training was attended/provided.
- IX. Vaccinations
 - A. Hepatitis B vaccinations shall be made available to all department employees free of charge, after the member receives the initial training as specified in Section IV of this document.
 - B. Vaccinations will be administered by a vendor approved by the Village Board and the Chief of Police.
 - C. Employee may receive the vaccinations or decline them.
 - D. Any employee who declines to be vaccinated shall do so in writing in the manner prescribed by O.S.H.A..
 - E. If an employee initially declines the Hepatitis B vaccination but at a later date decides to accept the vaccination, the department shall make available Hepatitis B vaccination at that time.
 - F. If a booster dose of Hepatitis B vaccine is recommended at a later date, the department shall make the vaccination opportunity available to all employees requiring booster doses.
- X. Guidelines for preventing the transmission of Tuberculosis: In addition to universal precautions, the following shall be enforced when entering rooms housing, or transporting patients, with confirmed or suspected active tuberculosis.
 - A. Officers will try to remain clear of areas and persons unless emergency situations call for contact. If contact is made or someone is transported (and active tuberculosis is discovered), the report will reflect the information and this will be reported to the Chief of Police.
 - B. The vehicle heating or air conditioning system will be set on a non-recirculating cycle and the vehicle windows will be open enough to allow for fresh air circulation; (this should also be documented).
 - C. An annual tuberculosis skin test will be conducted by a vendor approved by the Village Board and the Chief of Police.
- XI. Post-exposure evaluation and follow-up
 - A. If an employee has an exposure incident, the department shall make immediately available to the employee a confidential medical evaluation and follow-up to include at least the following elements:
 - 1. Documentation of the route(s) of exposure, and the circumstances under which the exposure incident occurred;
 - 2. Identification and documentation of the source individual, unless the department can establish that identification is infeasible or prohibited by state or local law.
 - B. The source individuals blood shall be tested, as soon as feasible, and after consent is obtained, in order to determine HBV and HIV infectivity. If consent is not obtained, the department shall establish that legally required consent cannot be obtained. When the source individuals consent is not required by law, the source individuals blood, if available, shall be tested and the result documented.

- C. When the source individual is already known to be infected with HBV or HIV, testing for the source individuals known HBV or HIV status need not be repeated.

- D. Result of the source individuals testing shall be made available to the exposed department member, and the member shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.
- E. Collection of blood from employees who may have been exposed to HBV or HIV shall be in accordance with all state and federal regulations pertaining to same.
- F. Post-exposure prophylaxis, counseling and an evaluation of reported illness may also be recommended by the treating health-care professional for any employee.
- G. The department shall ensure that the employee is given a copy of the OSHA standard on bloodborne pathogens, in all cases where the health-care professional is evaluating an employee after an exposure incident. In addition, the health-care professional shall receive the following:
 - 1. A description of the exposed employees duties as they relate to the exposure incident.
 - 2. Documentation of the route(s) of exposure and circumstances under which exposure occurred.
 - 3. Result of the source individual's blood testing, if available.
 - 4. All medical records relevant to the appropriate treatment of the employee, including vaccination status, which the department is responsible for maintaining.
- H. The department shall obtain and provide the employee with a copy of the evaluating health-care professional's written opinion within **fifteen (15) days** of the completion of the evaluation.
- I. The health-care professional's written opinion for Hepatitis B vaccination shall be limited to whether Hepatitis B vaccination is indicated for an employee, and if the employee has received such vaccination. This Section only applies in those cases where an employee, by himself/herself was vaccinated for Hepatitis B prior to the implementation of this procedure, or in the event any employee at any time elects to be vaccinated other than as provided by the Department.
- J. In the case of a post-exposure incident, the following information shall be provided by the health-care professional to the department.
 - 1. That the employee has been informed of the results of the evaluation; and
 - 2. That the employee has been made aware of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment.
- K. All other finding or diagnoses shall remain confidential and shall not be included in the written report.
- L. Employees who have an exposure incident shall immediately notify their supervisor. The employee shall immediately seek treatment at a department approved health-care facility.
- M. Any employee involved in an exposure incident shall fully document, in memorandum form, an incident evaluation that explains the routes of exposure, circumstances surrounding the exposure and the description of the personal protective equipment used.
- N. The memorandum shall be forwarded to the Chief of Police, who shall review it and forward the memorandum to the Village Personnel Committee for final evaluation and review.

NON-COMPLIANCE WILL BE FOLLOWED BY DOCUMENTED RE-EDUCATION AND RE-TRAINING. REPEATED NONCOMPLIANCE WILL INITIATE A PROGRESSIVE DISCIPLINARY ACTION.

Information and guidelines for this ICP were gathered from Belleville Memorial Hospital Infection Control Department, Centers for Disease Control, Occupational Safety and Health Administrative, the Department of Labor, and the Region IV-B policy manual.

Any questions about this policy or other aspects of infection control should be directed to the Chief of Police, Village Clerk or set OSHA guidelines.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 2.7

(Vehicle Stops)

Effective Date: 01/01/09

PURPOSE: To establish guideline for stopping and approaching motorists in a manner that promotes the safety of the officer and the motorist.

POLICY: Motor vehicle stops shall be performed professionally and courteously, and with a view towards educating the public of proper driving procedures while consistently recognizing and taking the necessary steps to minimize the dangers involved in this activity for the officer, the motorist and other users of the highway.

PROCEDURES:

- I. Stopping and Approaching Traffic Violators: The following procedures are to be followed whenever possible. It is recognized that varying conditions such as roadway construction, volume of traffic, and the urgency of making vehicle stops may require officers to adjust these procedures to particular conditions.
 - A. Officers shall perform vehicle stops only when there is an articulated reason to do so. Officers will not stop, make contact with, or detain anyone based solely on the person's race, color, ethnicity, age, gender, sexual orientation, or religion.
 - B. Once an initial decision has been made to stop a motorist, the officer shall, whenever possible, select an area that provides reasonable safety; avoiding curves, hills, heavy traffic, poorly lit areas, and roads without shoulders.
 - C. When feasible, notify dispatch vehicle registration information prior to stopping vehicle. When a location has been selected, notify the communications center, providing officer number, location, license number, vehicle description, and number of occupants. At the discretion of officer or telecommunicator, additional information may be exchanged.
 - D. At the desired vehicle stop location; activate the police vehicles emergency lights and siren (when necessary) in an attempt to signal the operator to stop at the far right side of the roadway, shoulder or other safe area such as a parking lot;
 1. On multi-lane highways, movement to the right shoulder is accomplished by gradually changing lanes behind the motorist until the far right side of the highway is reached.
 2. Should the motorist stop abruptly in the wrong lane or location, instruct him to move by using the appropriate hand signals or by activating the public address system.
 - E. Once properly stopped, position the police vehicle about one to one and one-half car lengths behind the vehicle and at a slight angle, with the front a minimum of **two (2) feet** to the traffic side of the violator's vehicle.

NOTE: At night, the spotlight should be used to illuminate the vehicle's interior once stopped. The patrol vehicle should use low beams if high beams would blind oncoming motorists.
 - F. Before exiting the patrol vehicle, a brief glance to the rear should be done to ensure the exiting can be done safely.
 - G. Be particularly alert to suspicious movements or actions of the vehicle operator or passengers.
 - H. When approaching the vehicle, the officer should be observant of the passenger compartment and stop at a point to the rear of the trailing edge of the left front door in order to communicate with the driver:

1. Where circumstances dictate, officers may choose to approach the violator's vehicle from the right-hand side and stop at the trailing edge of the right front door.
 2. In two-officer units, the passenger officer shall be responsible for radio communications, note taking, and as an observer and cover officer.
- I. Non-uniformed officers operating unmarked patrol vehicles equipped with concealed emergency lights and siren shall not normally make vehicle stops. In situations where failure to act would create unreasonable risk of injury, death, escape, or significant property damage, such personnel shall contact the communications center and request a marked patrol unit make the stop and/or, depending upon the situation, activate emergency lights and siren to make a traffic stop. In the event an unmarked unit is utilized to make a vehicle stop, the non-uniformed officer shall request a marked unit respond to the scene for safety purposes and visibility.
- J. Non-uniformed officers operating vehicles not equipped with emergency lights or siren shall not make motor vehicle stops unless there is imminent danger of loss of life should they fail to act. In other less urgent cases that demand attention, officers shall contact the communications center, request that a marked patrol vehicle perform the stop, and assist in directing the marked unit to the subject vehicle's location.
- K. Once the officer has stopped the violator the officer should be alert and present him/her self in a professional manner at all times. Upon approaching the violator/occupant(s), officer/violator relations begins. The officer should:
1. Be courteous and professional.
 2. Introduce him or herself to the citizen (providing name and agency affiliation) and state the reason for the stop as soon as practical, unless providing this information will compromise officer or public safety. During routine stops based solely upon traffic violations, the officer shall provide this information before asking for their driver's license or insurance information.
 3. Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense, and that the officer makes every reasonable effort to explain the reason for any delay.
 4. Answer any questions the citizen may have, including explaining options for traffic citation disposition, if relevant.
 5. Provide his or her name and badge number when requested, in writing or on a business card.
 6. Provide an explanation if he or she determines that the reasonable suspicion was unfounded if the stop was investigatory in nature.
- II. Issuing Citations
- A. When issuing citations, conducting roadside sobriety tests or conversing with the violator, the officer, and other persons shall be positioned to the side of the road, clear of motor vehicles or, depending upon the situation, the violator may remain in his vehicle.
 - B. During the stop, the violator should remain in his motor vehicle while the officer writes the citation or conducts other business. For officer safety reasons violators should not normally be permitted to sit in patrol vehicles while citations are being prepared or other police business is being conducted. Officer discretion may be used to determine the applicability of violators sitting in the patrol vehicle.
 - C. When preparing citations, the officer should position paperwork and related materials in a manner that allows him to maintain vantage over actions of the violator and other occupants.
 - D. Following the completion of the vehicle stop, officers will complete a Traffic Stop Data Sticker as described in General Order "Racially Biased Policing/Traffic Stop Statistical Study Policy".
- III. Making High Risk Felony Stops: When there is reason to believe that the occupants may be armed and dangerous.

- A. Notify the communications center; describe the nature or reason for the stop; provide information on the vehicle (license number; occupants); and request appropriate assistance, following the vehicle until the necessary back-up is present.
 - B. Do not individually initiate high-risk vehicle stops unless back-up units will not be available in an appropriate amount of time or the urgency of the situation demands immediate action.
 - C. After selecting an appropriate location and with adequate support units in position, signal the suspect to stop.
 - D. Officers should position their vehicles approximately **thirty (30) feet** behind the suspect vehicle, in positions that will maximize opportunity for cover and in a manner that will illuminate the interior of the suspect vehicle.
 - E. Once the suspect vehicle has stopped, officers should exit their units quickly and assume position of cover.
 - F. The officer initiating the stop, or the officer with the best observation point, should issue verbal commands to the suspects through the patrol unit's public address system, if available. Generally, only one officer shall issue commands.
 - G. The officer in charge shall first identify himself and then notify the suspects that they are considered to be armed and dangerous, that all occupants of the vehicle are being detained and that all instructions are to be followed without hesitation or suspicious movements.
 - H. The driver of the suspect vehicle should be ordered in separate commands to do the following, such as; lower his window, remove the ignition keys with his left hand, drop the keys on the ground, open the door from the outside, step away from the vehicle, walk backward until commanded to stop and lie face down on the ground with hands stretched far to the sides. Subsequent occupants should be similarly commanded until all are in position to be handcuffed and searched.
NOTE: Removal of the driver and its occupants from a suspect vehicle shall be conducted in accordance with departmental training and procedures.
 - I. With appropriate cover, officers should then approach the suspect vehicle to inspect the passenger compartment and trunk.
- IV. Stopping Oversize and Overweight Vehicles
- A. Select a location for the stop that provides enough room for the vehicle and sufficient stability to support the vehicle's weight, and allow the operator sufficient time and distance to make the stop. The patrol vehicle should be canted and parked at least **twenty-five (25) feet** behind the stopped vehicle, for officer safety.
 - B. Approach the cab from the rear, using the driver's outside mirror to observe the driver and activity in the cab.
 - C. Officers should avoid climbing onto the vehicle to make contact with the driver. Maintain a position to the rear of the driver's/passenger door and direct the driver to exit the vehicle, if and when necessary.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 3.1

(Bonding Procedures)

Effective Date: 01/01/09

PURPOSE: To enforce the rules, regulations and rights of members and incarcerated individuals who are eligible to post a bond.

POLICY: No member shall become involved directly or indirectly in recommending or arranging for the posting of bond for any person except members of his immediate family.

A person may be released from police custody by posting a bond for Traffic and Conservation offenses, ordinance violations, petty offenses and certain misdemeanors. Bond shall be accepted by a police officer in accordance with 724 ILCS 5-110 and Illinois Supreme Court Rules, Article V, Parts A, B, C & D. Officers that have not been approved by this department cannot accept bonds.

PROCEDURES:

- I. Bail Bond Processing Procedures
 - A. When taking cash bond, as authorized above, officer(s) will complete the St. Clair County Circuit Court Bail Bond Receipt Form.
 - B. The receipt form will be completed in accordance with St. Clair County Circuit Court standard procedures, to include the Police Department Case Number in the upper right hand corner. Upon completion, the following department procedures will be followed:
 1. Copy 1, titled Circuit Clerk, and Copy 2, titled Accounting, will be forwarded to the Patrol Supervisor for review.
 2. Copy 3, titled Defendant's Copy, will be given to the person being released from custody.
 3. A photocopy of Copy 1 and the attached cash bond will be placed in the vault/safe drawer located in the Village Hall. Officers will secure bonds until access to the safe is available. The "Drop Box" can be used if needed.
 4. The Traffic or Non-Traffic complaints for which the bond was received, and all original copies of citations for that case will be attached to the bond sheet along with any driver's license.
 5. A **Twenty Dollar (\$20.00)** fee will be charged for each bond posted. A separate receipt will be given the individual bonding out. This fee will then be put into a separate envelope, along with a copy of the receipt and placed in the vault.
 - C. St. Clair County Circuit Court Bond Receipts are not to be completed until such time as officers have verified that the defendant does in fact have bond.
 - D. Violated St. Clair County Circuit Court Bond Receipts will be marked as VOID with the voiding officer's name, badge number and date voided. The voided receipt, along with an inter-office memorandum detailing the need to void the receipt, will be given to the Patrol Supervisor to be forwarded to St. Clair County.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 3.2

(Use of Departmental Computers)

Effective Date: 01/01/09

POLICY: To establish a written directive governing the use of computers that are Police Department and Village of New Athens, Illinois property, which include the use of computer workstations and mobile data computers (MDC), the various programs installed on the computers, e-mail, and the Internet. For the purposes of consistency, any laptop, MDC or other computer hardware or software issued by the department are subject to this order.

PROCEDURES:

- I. Computer Use
 - A. All computers and software that are furnished by the department are to be used for business and/or authorized purposes only.
 - B. The downloading or copying of unauthorized software is prohibited without the approval of the Chief of Police.
 - C. Computer users shall not make any attempt to circumvent the security features built into the system that would allow them access to restricted files.
 - D. All records maintained on the computer network or MDC is to be considered confidential.
 - E. Employees are prohibited from deactivating any anti-virus software or engaging in any activity that may degrade the performance of the workstation, MDC or network.
 - F. Employees leaving a workstation or MDC unsecured while they are "logged on" the computer network are responsible for any and all data which could and may be retrieved, reviewed or seen by other persons within or outside of the department. All employees are responsible for network security within the department.
 - G. Employees are prohibited from accessing the network with any unauthorized computer or connection.
- II. Internet
 - A. Access to the Internet will be limited to those users and workstations authorized by the Chief of Police.
 - B. The Internet can only be accessed through authorized service providers when using the department's workstations, MDC, or network.
 - C. The Internet will only be used in the following manner:
 - 1. Conducting research.
 - 2. Communicating with other users.
 - 3. Participating in news groups.
 - 4. Transferring or receiving documents or other files.
 - 5. Sending external e-mail.
 - 6. Establishing and using distribution lists for business related communications.
 - D. The Internet will be used only for authorized and departmental purposes only. It shall not be used for any of the following reasons:
 - 1. the transfer of any sensitive or confidential information.
 - 2. the sending or receipt of any message or information that could be considered offensive.
 - 3. any illegal activity.
 - 4. personal business (unless prior approval is given by the Chief of Police).
- III. Mobile Data Computer (MDC)
 - A. Use of the MDC is restricted to official Police Department business. Computer files, including e-mail messaging and LEADS inquiries, are subject to review.

- B. All officers will be required to complete the "LEADS Less Than Full Access" training prior to using the IWIN system on the MDC's.

- C. Officers will:
 - 1. restrict dissemination of information received through the Illinois Wireless Information Network (IWIN) to authorized law enforcement personnel only.
 - 2. perform transactions for law enforcement and public safety purposes only.
- D. Officers will NOT:
 - 1. access criminal history files except as provided for by the law.
 - 2. access database records for any reason other than legitimate law enforcement purposes.
 - 3. permit use of the MDC by any individual who is not certified for LEADS access.
- E. Officers will remove the MDC from the vehicle for storage in a controlled environment if the officer has reason to believe that the MDC will be exposed to extreme temperatures (above 100 degrees/below 20 degrees Fahrenheit) for a period of more than **twenty-four (24) hours** without being utilized.
- F. Officers will log off of IWIN if the computer is being left unattended.
- G. To ensure officer and public safety, the driver should stop their vehicle and park in a safe manner before attempting to access any information via keyboard. If it is necessary for the driver to access IWIN while the vehicle is in motion, the driver will exercise extreme caution to maintain driving awareness by keeping their eyes on the road and their surroundings and only glancing at the MDC monitor or keyboard for very brief intervals.
- H. The Chief of Police shall be responsible for maintaining all MDC maintenance and virus scan requirements set forth by the department.
- I. All messages received and transmitted through the MDC terminals are available for review. Communication via this service is not considered private and all rules of "Officer Conduct" will apply.
- J. MDT/IWIN passwords shall be changed every **thirty (30) days** to help maintain security.
- K. Officers will remove the MDT from the vehicle once they are off-duty. The MDT will then be secured either at the Police Department or within the officer's home.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 3.3

(Daily Activity Log and Media Relations)

Effective Date: 01/01/09

PURPOSE: To provide guidelines pertaining to a consistent and legal means for release of agency information to the electronic or print news media by identifying: 1. Who will make a news release; 2. Information to be released; 3. Information that will not be released; and, 4. How information may be released.

This policy will govern all information pertaining to: 1) Crime reports; 2) Arrested individuals; 3) Witness and suspects; 4) Juveniles; 5) Adult and juvenile criminal histories; 6) Internal investigations; and, 7) Department operations, projects, and programs.

POLICY: Recognizing the responsibility of the news media to gather information for release to the general public, this agency will make every possible effort to cooperate with news media to keep the public informed by providing clear and accurate information pertaining to public information, permitted by the Freedom of Information and Privacy Act, and shall govern all information, internal in nature which is not covered by Federal, State, Local Statutes, or collective bargaining agreement. Cooperation with the news media will be limited by the necessity to protect evidence, ongoing investigations, operations and constitutional limitations that provide rights to suspects of crimes. The Chief of Police shall have the primary responsibility for information storage and release. The Patrol Supervisor/Sergeant with the prior consent of the Chief of Police can carry out media releases/press information briefings.

DEFINITIONS:

Public Information: Information of interest to the general public regarding, events involving the department or other newsworthy information not legally protected, which does not interfere with the mission of the department, infringe upon the rights of a defendant or compromise the safety and privacy of officers, victims, witnesses or others.

News Media Representatives: Individuals directly employed by agencies of the electronic or print media, such as, radio, television and newspapers. Free-lance workers are to be regarded as members of the general public unless otherwise designated.

Public Information Officer (PIO): The Director shall designate, by Directive, the Public Information Officer who shall be responsible for the release of information during any incidents involving the Village's Emergency Operations Plan or other unusual events. The PIO shall report directly to the Director or his designee. Under the circumstances described, the PIO will serve as a central source of information for release and respond to requests for information by the news media and the community.

Published News Release: A listing of all crime reports, incident reports, arrested person's information, and any other information authorized in this order, which is distributed and available for distribution to News Media Representatives.

Arrest: For the purpose of this policy, arrests means a person has been charged with a violation of a Federal, State or Local law. The charge having been issued as a traffic complaint, non-traffic complaint or court issued warrant.

Staff Officer: Any officer holding the rank of sergeant, lieutenant, captain or Chief of Police.

PROCEDURES:

- I. Release of Information, Daily News Release
 - A. News releases should be published on a regular periodic basis. News releases will be published at a minimum of once a week. In the event of a Holiday news releases will be published one the next regular workday. Other releases will be made with the consent of the Chief of Police.
 - B. Traffic citations will be included in the weekly report. (See: Definition of "Arrest").
 - C. Each officer will enter on the Daily Activity Log all incident reports and arrest information generated by this department during their tour of duty. This shall include all serious traffic incidents, i.e. DUI, Fleeing and Eluding, and Traffic Crash Reports involving serious injuries and/or fatalities. In addition to the information required in Section D-1 below, the name, age, and address of the victim or reporting person, to include cover sheeted reports, will be included on the Daily Activity Log.
 - D. Daily Activity Log will have all the below information listed, unless it will jeopardize an ongoing investigation.
 1. All incidents (traffic and non-traffic) reports, crime reports, or arrests where a written report was initiated, to include:
 - a. the date and time of the occurrence.
 - b. the incident location (only hundred block of street)
 - c. the specific type of incident or crime reported.
 2. Information on the Daily Activity Log pertaining to a person who is arrested shall include:
 - a. the name and city of residence of the person.
 - i. address of violators charged with traffic or non-traffic violations will only indicate city of residence.
 - ii. complete address for all violators will be provided to media if and when requested. News releases will include complete address for all violators charged with long form misdemeanors or felony warrants.
 - b. the specific charges.
 - c. the location of the arrest or crime.
 - d. the date and time of the arrest.
 - e. the bond amount or location the person is incarcerated.

Note: Juvenile names and addresses will not be included in the Media/News Release for offenses other than traffic. Only the city of residence will be published.
 3. News media representatives requesting additional information concerning information contained in media releases shall be referred to the Chief of Police.
- II. Upon request, additional information that may be released by the PIO, Patrol Supervisor or Chief of Police, unless the release would jeopardize an investigation, could include:
 - A. The type or nature of an event or crime including: date, time, general location, names (if adults), ages and injuries, of those involved along with a general description of the incident.
 - B. The name of a juvenile who is a missing person, runaway or considered endangered, if the release will assist in locating the juvenile.
 - C. The type and quantity of property stolen, destroyed or missing.
 - D. Requests for public assistance in locating evidence, a complainant, witness or suspect.
 - E. The number of personnel involved in an event or investigation and the length of the investigation.
 - F. The name of the officer in charge of an investigation, his supervisor and division.
 - G. Arrest information and photograph, if available, shall be released if specifically requested by the media. Questionable cases shall be referred to a Chief of Police.

- H. Authorization for release of agency confidential investigations, operations, and internal situations, shall be made only by the Chief of Police and when it does not conflict with law or contract.
 - I. Incident and traffic information shall be made available daily. In the event of a serious or unusual incident occurs, the Chief of Police may authorize the release of additional information.
 - J. Officers must have clearance from the Chief of Police prior to being interviewed by press personnel for news items. An officer may sometimes be required to speak to press personnel, but they should do so only when they are sure of the information and aware of the situation.
- Note: When the incident or crime is classified as a "Sex Crime", the name of the victim *will not* be released and only the city of residence of the victim will be released. The name of the juvenile will not be released unless the juvenile is a missing person, runaway or considered endangered, and the release will assist in locating the juvenile. The Chief of Police must specifically authorize juvenile information release.

III. Restricted Release of Information

- A. News media statements shall be made by the Chief of Police or his designee concerning:
 - 1. Information that is operationally sensitive or information related to internal affairs, officer involved shootings, pending civil rights litigation;
 - 2. Official positions of the department;
 - 3. Official responses to criticism of the department.
- B. The identity and approximate address of a sex crime victim or in other cases where reprisals or intimidation may be possible.
- C. The name of any undercover officer will not be released.
- D. Narrative reports of investigative information and suspect information shall not be released, unless a court order is issued.
- E. Arrest information will not be released, if such release would jeopardize the investigation, or violate state juvenile laws.
- F. The name of a juvenile who is a suspect, victim, or witness.
- G. Victim and witness information will not be released if the release creates a danger to an individual's safety.
- H. Disclosing the results of any investigative procedure, such as, polygraph or laboratory procedures, or the refusal or failure of the accused to submit to an examination or test.
- I. Request by the reporting person, victim or witness of any incident that their information not be released.
 - 1. A cover sheet will be attached to the incident report that requests information not to be released.
 - 2. Those persons will be informed that the decision rests with the individual news media representative.

IV. Additional information to be released, upon request, following an arrest shall include:

- A. Factual statement of the Defendant's name, age, residence, occupation and family status.
- B. If the accused has not been apprehended, the release of any further information necessary to assist in the apprehension or to warn the public of any dangers that may exist.
- C. The nature, substance, or text of the charge(s), including a brief description of the offense(s) charged.
- D. Announce the facts and circumstances of the arrest; such as time; place; resistance; pursuit; use of weapons.
- E. Announce the scheduling or result of any stage in the judicial process.
- F. Additional information, may only be released by the Patrol Supervisor, with approval of the Chief of Police.

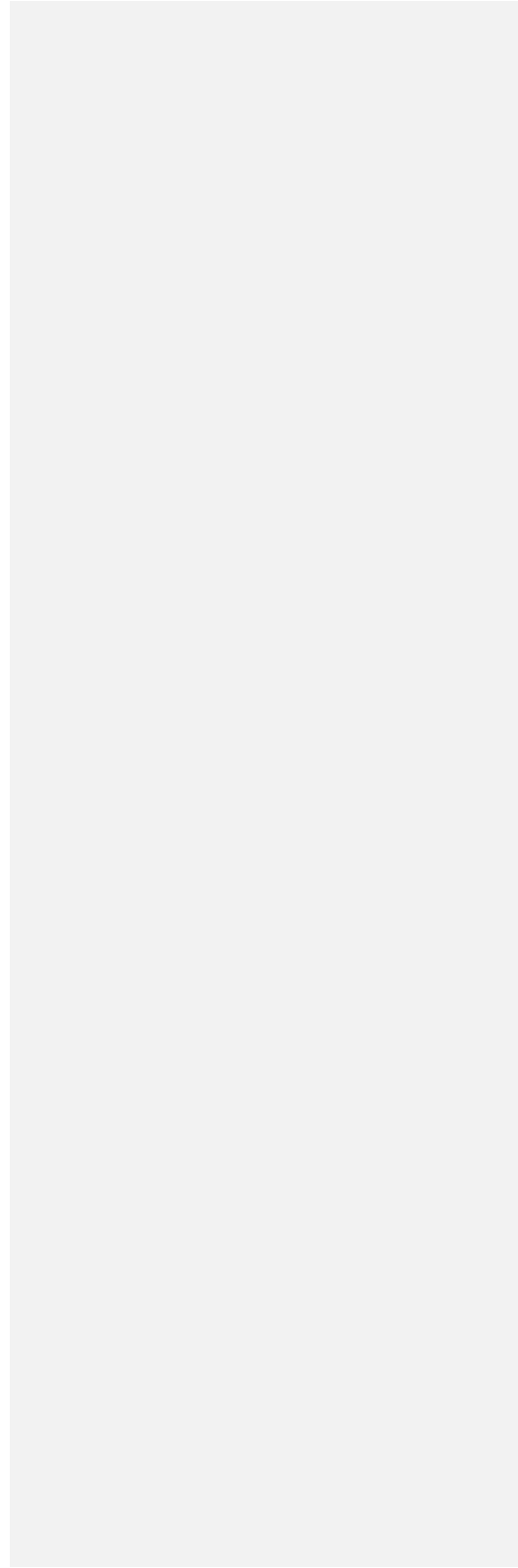
V. Duties and Responsibilities of Public Information Officer

- A. Maintain a current list of local media organizations to include:

1. Name of the organization;
2. Address of the organization;

3. Type of organization (print, television, and radio);
 4. Telephone and FAX numbers;
 5. Name and title of contact person for each organization authorized to receive information.
- B. Assist news personnel in covering news stories and arrange media contact locations at the scene of incidents.
 - C. Notify media as soon as possible in any major situation as outlined in the Village's Emergency Operations Plan.
 - D. Assist in crisis situations and keep the Chief of Police apprised of all media related activities.
 - E. At the direction of the Chief of Police, arrange, conduct and/or assist at news conferences.
 - F. Updating media as additional information becomes available.
 - G. Inspecting credentials of media personnel prior to reviewing reports or access to media areas.
 - H. Coordinate the release of information concerning confidential agency investigations and operations as assigned by the Chief of Police.
- VI. Department personnel are prohibited from:
- A. Deliberate posing of a person, in custody, for photographing or video taping by representatives of the news media.
 - B. Disclosing the identity of a suspect prior to arrest unless such information would aid in the apprehension of the suspect or to warn the public of a potential danger.
 - C. Disclosing the existence or contents of any confession, admission or statement given by the accused.
 - D. Disclosing information to the news media a department member knows, or has reason to know, would be inadmissible as evidence in a trial.
 - E. Disclosing the accused's criminal history record (including arrests, indictments or other charge of crime), the character or reputation of the accused, or any opinion as to the accused's guilt or innocence or the merits of the case, without the direct authorization of the Chief of Police.
- VII. General Authorization
- A. The Chief of Police or his designee shall be ultimately responsible for the release of information.
 - B. Any officer may release information as authorized by policy.
 - C. In the event that the Patrol Supervisor or Chief of Police are not available, then the media contact will be advised that one of them will contact the media outlet as soon as possible.
 - D. Public information maintained by this department shall be released to the news media as quickly as circumstances allow. Information will be released in an objective manner without partiality to any news media organization.
 - E. News release information may be provided to news media representatives by telephone, if their identity can be verified.
 - F. Written press statements shall be released only following the approval of the Chief of Police or his designee.
 - G. On a daily basis, on-duty officer shall inform his superiors of any events that may have media interest.
 - H. In the event information cannot be provided to the news media, the basis for the denial will be fully and courteously explained.
- VIII. Tactical, Crime, Disaster Scenes
- A. The ranking/senior officer on scene shall be responsible or delegate personnel for providing relevant, timely, and accurate information to the news media.
 - B. Access to crime scenes.
 1. Scenes located on public access may be opened after:
 - a. search of the scene, and;

b. preservation of evidence, and;



- c. processing of evidence, and;
 - d. the scene is secured.
 - 2. Scenes located on private property may not be open unless:
 - a. permission from the on-scene commander and;
 - b. permission from the property owner.
- C. Access to tactical operation scenes:
 - 1. Will be considered crime scene and same criteria for opening applies.
 - 2. News media will be provided information concerning the ongoing operation in a timely fashion.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 3.4

(Motor Vehicle Searches)

Effective Date: 01/01/09

PURPOSE: The purpose of this general order is to provide departmental personnel with guidelines for the search of motor vehicles.

POLICY: It is the policy of this department to conduct motor vehicle searches that are both legal and thorough. Such searches are to be conducted in strict observance of the constitutional rights of the owner and occupants of the motor vehicle being searched, and with due regard for the safety of all officers, other persons and property involved.

DEFINITIONS:

Motor Vehicle: Any vehicle operating or capable of being operated on public streets or highways to include automobiles, trucks, trailers, recreational vehicles, mobile homes, motor homes and any other type of vehicle, whether self-propelled or towed. This policy does not apply to vehicles of any type that have been immobilized in one location for use as a temporary or permanent residence or storage facility, or which are otherwise classified by the law as residences or buildings.

Search: An examination of all or a portion of the vehicle with an investigatory motive (i.e., for the purpose of discovering fruits or instrumentalities or evidence of a crime or contraband). Inventories of personal property conducted pursuant to impoundment of the vehicle are not covered by this policy.

NOTE: Examination of the exterior of a vehicle, visual inspection of interior, including inspection of the vehicle identification number, is not a search.

PROCEDURES:

- I. When Vehicle Searches May Be Conducted: Whenever feasible, a warrant will be obtained for the search of a motor vehicle. Warrantless searches are to be conducted only when lack of time or other exigencies make it impractical for officers to obtain a warrant. When a vehicle has broken down, or there is otherwise no significant chance the vehicle will be driven away or that evidence contained within it will be removed or destroyed, the vehicle should be searched only after a warrant has been obtained. In other cases, vehicles may be searched:
 - A. when probable cause to search the vehicle exists;
 - B. with consent of the operator/owner;
 - C. incident to an arrest of the occupants of the vehicle;
 - D. to frisk for weapons;
 - E. when necessary to examine the vehicle identification number or to determine the ownership of the vehicle, or;
 - F. under emergency circumstances not otherwise enumerated above.
- II. Scope of Vehicle Searches
 - A. Searches with a warrant: When searching under a warrant, officers may search all areas of the vehicle unless the warrant states otherwise.
 - B. Probable cause searches: Probable cause searches may extend to all areas of the motor vehicle, unless the probable cause is limited to a specific area of the vehicle.
 - C. Consent searches: The extent of a consent search depends upon the terms of the consent itself. If the consent is limited to specific areas of the vehicle, officers may search only portions of the vehicle covered by the consent. Written consent should be obtained whenever possible before conducting these searches.

- D. Searches incident to arrest: Searches of vehicles incident to the arrest of an occupant shall be limited to areas within reach of the arrestee (normally the passenger area of the vehicle). The trunk, the engine compartment and locked compartments within the passenger areas normally may not be searched.
 - E. Frisks for weapons: Frisks for weapons normally must be confined to the passenger area of the vehicle. Areas not immediately accessible to the vehicles occupants, such as a locked glove compartment, may not be frisked.
 - F. Entries to examine a vehicle identification number or to determine ownership of the vehicle: Entries made to examine a vehicle identification number or to determine the ownership of the vehicle must be limited to actions reasonably necessary to accomplish these goals.
 - G. Emergencies: Search of a motor vehicle under emergency circumstances not otherwise enumerated above must be consistent with the nature of the emergency. The proper extent of the search must therefore be determined by search personnel in each specific situation, but in no event will the extent of the search exceed that necessary to respond properly to the emergency.
NOTE: Where the initial search discloses probable cause to believe that other portions of the vehicle may contain fruits, instrumentalities or evidence of a crime or contraband, any additional portions of the vehicle may be searched that could reasonably contain the items being sought.
- III. Search of Containers Found in Vehicle: In no instance shall a container in a motor vehicle be searched unless it could contain the item(s) being sought. In addition:
- A. Unlocked containers found in motor vehicles are governed by the nature of the search, as follows:
 1. In a probable cause search, containers such as paper bags, cardboard boxes, wrapped packages, etc., whenever found in the vehicle, may be opened.
 2. When the passenger compartment of a vehicle is being searched incident to an arrest, such containers found within the passenger compartment may be opened.
 3. Containers discovered during a consent may be opened provided that the terms of the consent expressly permit or reasonable imply that the particular container may be opened.
 4. Containers found in a vehicle under circumstances that do not justify their search under probable cause rules or in connection with a search incident to arrest should be secured but not searched until a warrant is obtained to search them.
 - B. Locked containers such as briefcases, suitcases and footlockers found during a vehicle search should be opened only if:
 1. the search is being conducted under a warrant.
 2. a valid consent to open the locked container is first obtained. Where these conditions are not met, locked containers should be secured by search personnel and opened only after a warrant has been obtained.
 3. with owner consent.
 4. under exigent circumstances.
- IV. Location and Time of Search: Whenever possible, search of a motor vehicle, and of containers found therein should be conducted at the location where the vehicle was discovered or detained. Under exigent circumstances, search of the vehicle or container may be delayed and/or conducted after the vehicle or container has been moved to another location. However, in all instances searches shall be conducted as soon as is reasonably possible; that is, as soon as adequate personnel are available to conduct a thorough search with due regard for the safety of all officers, citizens and property concerned.
- V. Conduct of Search: Motor vehicle searches shall be conducted in a manner that minimizes the intrusiveness of the search and the inconvenience caused to vehicle owners, occupants and other persons involved. Where possible, damage to the vehicle or to other property in the course of

the search should be avoided. When unavoidable, such damage should be confined to that reasonable necessary to carry out a safe and thorough search.

- VI. Abandoned Vehicles: Examination of a vehicle that has been abandoned on a public thoroughfare is technically not a search. If an officer can determine in advance that the vehicle has been abandoned, examination of the interior of the vehicle shall be conducted only in accordance with the provisions of this policy and the law.
- VII. Seizure of Evidence: Any evidentiary items discovered in the course of a motor vehicle search shall be collected, handled, packaged, marked, transported and stored in accordance with applicable policies and procedures of this department. Where appropriate and feasible, itemized receipts for seized property shall be given to the owner and/or occupants of the vehicle.
- VIII. Compliance with Health and Safety Requirements: Searches of motor vehicles are to be conducted in strict compliance with all applicable laws, governmental regulations, and departmental policies and procedures pertaining to the protection of departmental personnel from communicable diseases and hazardous substances. Any exposure of search personnel or others to such substances shall be reported in accordance with regulations, policies and procedures of this department.
- IX. Security of Vehicles and Property Contained Therein: If search of a vehicle leaves the Vehicle or any property contained therein vulnerable to unauthorized entry, theft or damage, search personnel shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.
- X. Responsibility of Supervising Officer: An officer supervising a vehicle search shall be responsible for ensuring that it is conducted in accordance with this policy. In the event that the vehicle search is conducted under a warrant, the officer shall ensure that the execution of the warrant is properly reported to the issuing court or other authority. The officer shall also be responsible for making any other reports regarding the search that may be required by law, policy or procedure.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 3.5

(Uniform and Grooming Standards)

Effective Date: 06/01/09

PURPOSE: To ensure uniformity of appearance, thereby making uniformed personnel of the Police Department readily recognizable by the public and members of other police departments, promote safety for the personnel and contribute to the esprit de corps of the police department.

POLICY: Sworn uniformed personnel of the Police Department, except those on special assignment as designated by the Chief of Police, or his designee, will comply with rational personal hygiene, grooming and uniform clothing standards set forth in this policy and reasonably accepted by the community which they serve.

PROCEDURES:

- I. Personal Grooming
 - A. Personnel shall pay particular attention to their personal cleanliness while on duty.
 - B. Fingernails will be clean and neatly trimmed.
 - C. Conservative, natural-looking cosmetics may be worn while on duty.
- II. Hair
 - A. The hair shall be clean and neatly groomed and may be tapered or blocked in the back but will not extend over the shirt collar or be worn below the front of all standard head gear, nor protrude from the side or rear of the head gear.
 - B. The length and/or bulk of the hair will not be excessive or present a ragged, unkempt or extreme appearance.
 - C. Hair on the sides shall not extend over the ears
 - D. Sideburns shall be neatly trimmed, with the base clean-shaven in a horizontal line, in an even width, not flared, not to exceed **one (1) inch**. The length shall not extend beyond the base of the earlobe.
 - E. Hairpieces or wigs are permissible to cover natural baldness or physical disfigurement and will conform to the standards set forth in this policy.
 - F. Mustaches shall be neatly trimmed and shall not extend below the upper lip or beyond the corners of the mouth. Other facial hair may be worn at the discretion of the Chief of Police, but should at all times be kept neatly trimmed.
 - G. Artificial hair coloring must appear to be natural.
 - H. Female hair may be bouffant, braided, brushed, combed or worn up to a length that complies with the standards established in this policy. Inconspicuous pins and barrettes are the only items that may be worn in the hair while on duty.
- III. Uniforms
 - A. Uniforms will be neat in appearance, be clean, fit properly and be free from rips, tears, holes, frayed edges, missing buttons and faded or scuffed materials.
 - B. Department patches will be worn on both sleeves unless the officer elects to have an American flag patch placed on the officer's right sleeve. The patches will not be pressed as to have a crease in them.
 - C. Only uniform issued accessories and accessories purchased with the permission of the Chief of Police shall be worn as a regular and/or visible part of the uniform.
 - D. All leather and brass shall have a highly polished luster; leather articles will not be painted.
 - E. Holsters will be worn over the hip on the officer's strong hand side, except K-9 officer who may wear tactical holster.

- F. Uniform shoes/boots will be black, plain toe, leather or vinyl with a minimum of **five (5)** or **six (6)** eyelets; soles and heels may be leather, rubber or black composition; laces

will be black and cross-laced. Socks will be navy blue or black if wearing shoes that allow the socks to be seen at any time. No other colored socks are permitted unless covered by the boots.

G. The complete uniform of the day shall be worn at all times while on duty unless otherwise directed by a supervisor.

H. Jewelry:

1. No jewelry may be visible around the neck while in uniform.
2. No more than **one (1) ring** on each hand.
3. **One (1)** wrist watch.
4. Although the wearing of earrings are not recommended, female officers may wear inconspicuous post style earrings.
5. No bracelet unless for medical information purposes.

I. Class "A":

1. Winter Uniform: Black garrison hat, color of braid depending on rank of officer, black dress style uniform with metal brass, black trousers (straight leg, with no side pocket on leg), neck tie or turtle neck, belt, and belt items. Turtle necks (or mock ones) will be allowed to have either POLICE or NAPD stitched on them in white lettering. No commercial corporate logos or other designs are allowed.
2. Summer Uniform: Short sleeve black uniform shirt, metal brass, and having same equipment as "winter uniform". Under shirts are to be black, blue or navy in color and should not be worn-out or stretched.
3. The Class "A" uniform will be considered the uniform for funeral details or other special events as authorized by command staff.

J. Class "B": This uniform will consist of the same as Class "A". Also all badges and name and etc. will be embroidered on the uniform. These will not be BDU style military pants, but a cargo-pocket pant.

K. Class "C": This uniform shall consist of the French blue uniform until such time that the uniforms are no longer serviceable, and are retired.

NOTE: All auxiliary officers will wear the class "C" uniform, but will have all items embroidered on shirts.

Class "D" Uniform - only for homecoming and boat races, emergency call outs or other times authorized by Chief of Police - black polo shirt with black pants - police in white letters across back and a badge on front.

L. Any approved uniform jacket may be worn as needed with any class of uniform.

M. The seasonal uniform change will be at the discretion of the Patrol Supervisor.

N. Plain clothes officers and detectives are required to present themselves in a professional manner with attire consisting of business casual acceptance. Officers wearing a shoulder or waist level weapon holster shall have their NAPD badge or proper identification at the level and proximity at which their weapon is displayed.

O. Officers attending SILEC and other departmental training or educational programs shall dress in appropriate attire consisting of business casual clothing. No worn jeans or shorts allowed, unless the training calls for that clothing (i.e. firearms training or physical activity classes.)

P. Body Armor: The new external body armor that is made to look like a uniform shirt is now authorized. (This is not a tactical style vest! - K-9 Officer being the only one authorized to wear tactical equipment.) The carrier will be done in the style of the class "B" uniform.

IV. Specifications:

A. Badge:

1. The department issued badge will be worn for display. Patrol Officers will wear silver seven-pointed stars with black stamping. Each officer will have his badge number on his star. Officers will have at least one star issued to them by the Police Department. Sergeants and higher-ranking officers will have gold stars with black stamping.

2. Other badges can be kept in the officer's wallet for identification. Officers cannot purchase badges with the Police Department listed without prior consent of the Chief of Police.
- B. Hats:
1. Campaign hats, garrison hats, and baseball caps are approved head wear. Campaign hats are only to be worn with the class "C" uniform.
- C. Shirt buttons will be fastened and shirts with missing buttons will not be worn until repaired.
- D. Name plate and award metal:
1. The nameplate or name patch will be worn centered above the right shirt pocket and the upper right pocket of the coat in such a manner so it is parallel to and resting on the top edge of the pocket. A "Serving Since" bar will be worn underneath the name tag. (Gold and Silver will match the officer's rank)
 2. Award ribbons will be worn centered above the shirt nameplate and can be stacked in rows of three. Only ribbons and certification awards that have been approved by the Chief of Police can be worn.
- E. Hash marks:
1. Gold hash marks with black trim will be sown to the left sleeve of the Class A/B winter shirt, beginning **four and one-quarter (4 1/4) inches** above the cuff.
 2. One hash mark for each **three (3) years** of completed service in the field of law enforcement, the official number of marks will be determined by the Chief of Police.
- F. Lieutenant:
1. **One (1)** gold bar shall be worn in a vertical position on each side of the shirt collar with the front edge of the bars **one-half (1/2) inch** from, and parallel with, the front edge of the collar.
 2. The bar shall be centered between the top and bottom edge of the collar.
 3. **One (1)** gold bar shall be worn on each shoulder of the lightweight jacket and is to be centered so a line bisecting the bar lengthwise would be perpendicular to the front edge of the shoulder epaulet.
- G. Sergeant:
1. **One (1)** gold three-bar chevron shall be worn on each side of the shirt collar.
 2. The chevron shall be positioned so a line bisecting the center of the chevron shall be **one-half (1/2) inch** in from the front edge of the collar, parallel to the front edge of the collar and centered between the top and bottom edge of the collar.
 3. Gold color cloth chevrons shall be worn on the sleeves of the shirt and jackets approximately **one-fourth (1/4) inch** below and centered beneath the department patch.
- H. Patrol Officers:
1. Officers can wear the optional "P.D." collar brass. Patrol Officers are not required to wear the brass if they choose.
 2. Officers may be allowed to wear other collar brass according to job assignment (i.e. School Resource Officer). The Chief of Police will make decisions on selected officer's collar brass.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 4.1

(Show-ups, Line-ups & Photographic Identifications)

Effective Date: 01/01/09

PURPOSE: It is the purpose of this policy to establish guidelines for the use of eyewitness identifications involving show-ups, photographic identifications and line-ups.

POLICY: Eyewitness identification is a frequently used investigative tool. As such, officers shall strictly adhere to the procedures set forth here in order to maximize the reliability of identifications, minimize unjust accusations of innocent persons and to establish evidence that is reliable and conforms to established legal procedure.

DEFINITIONS:

Show-Up: The presentation of one suspect to an eyewitness in a short time frame following the commission of a crime.

Photo Array: The showing of several photographs to an eyewitness for the purpose of obtaining an identification.

Line-up: The presentation of a number of individuals, including the suspect, simultaneously before an eyewitness.

The following applies to all lineups and photo spreads and is not limited to death penalty cases: **(725 ILCS 5/107A-5)**

- A. All line-ups shall be photographed or otherwise recorded. These photographs shall be disclosed to the accused and his or her defense counsel during discovery proceedings as provided in Illinois Supreme Court Rules. All photographs of suspects shown to an eyewitness during the photo spread shall be disclosed to the accused and his or her defense counsel during discovery proceedings as provided in Illinois Supreme Court Rules.
- B. Each eyewitness who views a line-up or photo spread shall sign a form containing the following information:
 1. The suspect might not be in the line-up or photo spread and the eyewitness is not obligated to make an identification.
 2. The eyewitness should not assume that the person administering the line-up or photo spread knows which person is the suspect in the case.
- C. Suspects in a line-up or photo spread should not appear to be substantially different from "fillers" or "distracters" in the line-up or photo spread, based on the eyewitness' previous description of the perpetrator, or based on other factors that would draw attention to the suspect.

PROCEDURES:

- I. Show-ups: Many courts have suppressed identification evidence based on the use of show-ups because of the inherent suggestiveness of the practice. Therefore, the use of show-ups should be avoided whenever possible in preference for the use of a line-up. However, when exigent circumstances require the use of show-ups, the following guidelines should be followed.
 - A. Show-ups should not be conducted when the suspect is in a cell, manacled or dressed in jail clothing.
 - B. Show-ups should not be conducted with more than one witness present at a time. If the show-up is conducted separately for more than one witness, the witnesses should not be

permitted to communicate before or after the show-up regarding the identification of the suspect.

- C. The same suspect should not be presented to the same witness more than once.
- D. Show-up suspect should not be required to put on clothing worn by the perpetrator, to speak words uttered by the perpetrator or to perform other actions of the perpetrator.
- E. Words or conduct of any type by officers that may suggest to the witness that the individual is or may be the perpetrator should be scrupulously avoided.
- F. Every effort should be made to conduct show-ups, line-ups and photographic identifications within **thirty (30) minutes** of the occurrence of the crime/incident being investigated. Supervisory approval shall be sought for any exception.
- G. For purposes of show-ups, line-ups and photographic identifications, witnesses shall be taken to the scene of the detention rather than transporting anyone being detained to the scene of the crime. Any unusual occurrences shall be reviewed with a supervisor.

II. Photographic Identifications: In conducting photographic identifications officers shall adhere to the following procedures.

- A. Photographic identifications must use multiple photographs shown individually to a witness or simultaneously in a book or array.
- B. Principles for conducting line-ups generally apply to photo identification. In particular, officers shall:
 - 1. use at least **six (6)** photographs of individuals who are reasonably similar in age, height, weight and general appearance and of the same sex and race;
 - 2. whenever possible, avoid mixing color and black and white photos, use photos of the same size and basic composition, and never mix mug shots with other snapshots or include more than one photo of the same suspect;
 - 3. cover any portions of mug shots or other photographs that provide identifying information on the subject, and similarly cover those used in the array;
 - 4. show the photo array to only one witness at a time;
 - 5. never make suggestive statements that may influence the judgment or perception of the witness;
 - 6. preserve the photo array, together with full information about the identification process, for future reference, (a copy of the photo array and the signed witness advisory form will be submitted as a part of the case file) and;
 - 7. if suspect is in custody, a physical line-up must be conducted. However, in the absence of available subjects with similar identifying characteristics, a photo line-up may be used in place of the physical line-up.

III. Line-ups

- A. The primary investigating officer shall be responsible for:
 - 1. scheduling the line-up on a date and at a time that is convenient for all concerned parties, to include the prosecuting attorney, defense counsel and all witnesses;
 - 2. fulfill the necessary legal requirements for transfer of the subject to the line-up location should he be incarcerated at a detention center, make timely notice to the detention center concerning the pickup and make arrangements for picking up the prisoner; and
 - 3. make arrangements to have four to six other persons act as "fill ins" at the line-up who are of the same race, sex and approximate height, weight, age and physical appearance and who are similarly clothed.
- B. The officer in charge of conducting the line-up shall:
 - 1. ensure that the prisoner has been informed of his right to counsel per the Wade/Gilbert Decision;
 - 2. allow counsel representing the accused sufficient time to confer with his client prior to the line-up and observe the manner in which the line-up is conducted;
 - 3. advise the accused that he may take any position in the line-up which he prefers and may change positions prior to summoning a new witness;

4. ensure that all persons in the line-up are numbered consecutively and are referred to only by number;
5. ensure that a complete written record and photograph or videotape recording of the line-up proceedings is made and retained;
6. ensure that witnesses are not permitted to see nor are they shown any photographs of the accused immediately prior to the line-up;
7. ensure that if more than one witness views the line-up and that they are not permitted to speak with one another immediately prior to and during the line-up proceedings; and
8. scrupulously avoid using statements, clues, casual comments or providing unnecessary or irrelevant information that in any manner may influence the witness' decision-making process or perception.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 4.2

(Registering Sex Offenders)

Effective Date: 01/01/09

POLICY: Any person convicted of a felony sex crime, or an attempt to commit a felony sex crime is required to register as a sex offender regardless of the victim's age. Sex offenders are required to register at their agency of jurisdiction. Provisions or retroactive to include any person released from prison or sentenced to probation within the last **ten (10) years**.

PURPOSE: To establish a written directive governing the procedures to be used in registering sex offenders and providing child sex offender notification under the Sex Offender Registration Act (**730 ILCS 150/2**) and Child Sex Offender Notification Law (**730 ILCS 152/101**).

PROCEDURES:

- I. Qualifying Felony Sex Offenses Requiring Registration
 - A. Illinois Compiled Statutes
 - 1. 720 ILCS 5/11-6 Indecent Solicitation of a Child
 - 2. 720 ILCS 5/11-9.1 Sexual Exploitation of a Child
 - 3. 720 ILCS 5/11-15.1 Soliciting for a Juvenile Prostitute
 - 4. 720 ILCS 5/11-17.1 Keeping a Place of Juvenile Prostitution
 - 5. 720 ILCS 5/11-18.1 Patronizing a Juvenile Prostitute
 - 6. 720 ILCS 5/11-19.1 Juvenile Pimping
 - 7. 720 ILCS 5/11-19.2 Exploitation of a Child
 - 8. 720 ILCS 5/11-20.1 Child Pornography
 - 9. 720 ILCS 5/12-13 Criminal Sexual Assault
 - 10. 720 ILCS 5/12-14 Aggravated Criminal Sexual Assault
 - 11. 720 ILCS 5/12-15 Criminal Sexual Abuse (when a felony)
 - 12. 720 ILCS 5/12-16 Aggravated Criminal Sexual Abuse
 - 13. 720 ILCS 5/12-33 Ritualized Abuse of a Child
 - B. Other Qualifying Offenses
 - 1. A violation of any former law of Illinois, substantially equivalent to any offense listed above.
 - 2. A conviction for a violation of federal law or the law of another state that is substantially equivalent to any offense listed above.
 - 3. Adjudication of a sexually dangerous person under **725 ILCS 205/1.01 et seq.** "Sexually Dangerous Persons Act".
 - 4. The finding or adjudication of a sexually dangerous person under any federal law or law of another state that is substantially equivalent to the Sexually Dangerous Persons Act.
 - 5. Juveniles convicted of any of the above listed offenses in criminal courts (not adjudicated in Juvenile Court).
 - 6. A felony conviction for attempting any of the above listed offenses.
- II. Penalty for Failure to Register
 - A. 730 ILCS 150/3 - Violation of Duty to Register
 - B. 730 ILCS 150/6 - Violation of Change of Address
 - 1. First Offense: Any person required to register who violates any of the provisions of the Sex Offender Registration Act is guilty of a Class A Misdemeanor for the first offense.

2. Second and Subsequent Offense: Any person required to register who violates any of the provisions of the Sex Offender Registration Act, a second or subsequent time is guilty of a Class 4 felony.

- III. Procedures for Sex Offender Registration (Officer)
- A. The following procedure shall be accomplished when a qualified sexual offender arrives at the police department in compliance of this act.
1. Initial Registration: Complete the "Sex Offender Registration" form. (Instructions for the completion of the form are on the reverse side of the form). See Attachment.
 2. Insure that the offender reads and signs the "Sex Offender Registration" form.
 3. Obtain two photos of the offender using the digital camera.
 4. Run a criminal history inquiry on the registrant. If the registrant does not have a valid state identification number (SID), the registrant shall be fingerprinted on the Bureau of Identification Arrest Fingerprint Card. Indicate the correct statute on the card, which is **730 ILCS 150/1**. Indicate "SEX OFFENDER REGISTRANT" on the completed print card.
 5. The officer shall furnish the offender a copy of the "Sex Offender Registration" form.
 6. The registration form, fingerprint card, if necessary, and two attached photos shall be forwarded to the Chief of Police. He will then make sure copies and information are provided to the Illinois State Police and LEADS.
 7. The registration form shall be completed each time an offender reports a change of address or appears for annual registration.
- IV. Further Enforcement Efforts: For tracking purposes, departmental personnel shall request via CENCOM those add-ons to the "LEADS Caution File" be entered for any contact with registered sex offenders.
- A. Information to be included in the add-ons are the following:
1. Date and time of contact.
 2. Specific location of contact.
 3. Reason for contact (traffic, suspicious activity, etc.)
 4. Officer's last name and number/Agency.
 5. Vehicle's description.
 6. Description of vehicle occupants.
 7. A complaint number shall be issued to document contacts to be include in add-ons.
 8. Any other miscellaneous information (if the suspect was arrested and why.)
- V. Child Sex Offender Notification: Effective **June 1, 1996**, Police Department is required to provide the name, address, date of birth, and offense of child sex offenders registered within the Village to schools, child care facilities, and Illinois Department of Children and Family Services offices. Only information obtained using LEADS, Community Notification Summary Inquiry procedures shall be provided to those requesting information. The Police Department shall have the discretion to provide this information to anyone else, who may encounter the child sexual offender. The public is also authorized access to child sex offender information. It is the policy of the Police Department to comply with the Child Sex Offender Community Notification Law, as stated in **730 ILCS 152/101**. A notice shall be clearly printed in a highly visible location on every list containing information regarding child sexual offenders. The notice shall clearly indicate that the registry changes daily and the information is accurate only for the date and time of release.
- A. The Chief of Police shall be the Police Department sex offender registration and child sex offender point of contact and shall serve as a liaison with schools, licensed child care facilities, Illinois Department of Children and Family Services, the Illinois State Board of Education and the Illinois State Police. The Chief of Police shall provide his name and telephone number to all schools and licensed child care facilities within the Village, and to the Illinois State Police Intelligence Bureau.
- B. Discretionary Notification: The Police Department may disclose the name, address, and the offense or adjudication of any or all child sex offenders registered within the jurisdiction of the Police Department to all persons who are likely to encounter that

registered child sex offender. If an entity not supplied by the State wishes notification, the entity must send a letter stating the organization, address, and the person responsible for receiving this information. Upon approval of the Chief of Police, this entity shall be added to the list for notifications. Examples of this type of group would be non-registered public schools, youth and scouting groups, and unregistered child care centers. This letter shall be kept on file. A renewal of this letter shall be required every **two (2) years**.

- C. Public Access of Child Sex Offender Information: The names, addresses, and offenses or adjudications of child sex offenders registered within the jurisdiction of the Police Department shall be open to inspection by the public during normal departmental business hours. The entire list of registered child sex offenders for St. Clair County, Illinois, may be released at the discretion of the Chief of Police. The request to inspect the information may be made by mail, phone, or in person. Upon receiving the request, the person shall be directed to the Police station, where the information shall be made available. A control log shall be maintained to record the inspection and release of all information regarding the child sex offender's registry. The person who requests the information regarding child sex offenders shall be required to present proper photo identification. The name, address, date of birth, date of request, and the date the information was provided shall be maintained in the control log. The Chief of Police shall maintain the control log.

Fees: Individuals requesting public access to the registry shall be charged a fee of **Five Dollars (\$5.00)** to receive the registry list. The fee may be waived or reduced by the Chief of Police if the requester is unable to pay. There shall be no fee for simply viewing the list.

Back Side of Form

Sex Offender Notification Form Instructions For Form Completion

Administration

The Sex Offender Notification Form is used to notify sex offenders of their duty to register. The Law Enforcement Agencies Data System will serve as a repository for the BOR forms throughout Illinois as mandated by **730 ILCS 150/8**. The Illinois State Police is requesting disclosure of information that is necessary to accomplish the statutory requirements as outlined under **Chapter 730 ILCS 150/2**. Disclosure of this information is required. Failure to provide information or giving false information when registering is a Class 3 Felony. The notifying agency is required to enter registrants information into LEADS within **three (3) working days** of registrant providing this information.

Notification Form Submission

A Sex Offender Notification Form is required of persons sentenced to probation or released, discharged, or paroled from confinement for an offense or attempt to commit an offense under Chapter 720 ILCS 5/10-1, 10-2, 10-3, 10-3.1 (eff. 01/01/96), 5/9.1, 11-6, 11-9.1, 11-11, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-15, 12-16 and 12-33, 12-14.1 (eff. 06/01/96), 10-4, 11-6.5, 11-15, 11-16, 11-18, 11-19 (eff. 07/01/99), Chapter 725 ILCS 205/1.01 et seq., Chapter 725 ILCS 207/5 (eff. 01/01/98), 11-9, 11-9.2 (eff. 8/22/02).

Notification Form Completion Instructions

Address Where Offender Will Reside: Record registrant's correct address where he or she is residing (apt. house number, street/route, city, state, zip code)

Adjudicated Juvenile Delinquent sex offender: Adjudicated a juvenile delinquent sex offender effective June 30, 1999 as the result of committing or attempting to commit an act which, if committed by an adult is to be registered (eff. 8/22/02).

Aliases: Provide alias(es) used by the registrant.

Chicago Arrest Number: Provide alias(es) used by the registrant's Chicago Police Department identification number.

Complexion: Provide the registrant's natural complexion color as light, medium, dark, olive, etc.

Conditions of Parole/Probation Attached: Mark a check mark in the appropriate area if conditions for parole or probation are attached.

County: Record the registrant's correct county of residence.

County of Conviction: Provide registrant's county of conviction.

DNA: Identify whether DNA has been taken by marking the appropriate box.

DOB: Provide the registrant's month, day and year of birth.

Date of Conviction or Date of Release: Provide the registrant's date of conviction if given probation, or date of release, parole or discharge if confined. Date of release refers to date of release from confinement in Department of Corrections only.

Driver's License: Provide the registrant's drivers license number, state of issuance and expiration date.

Employment: Report the name and address of the business(es) where the sex offender is employed or expects to be employed, on a full-time or part-time basis, whether or not the sex offender receives payment for services performed, for a period of **ten (10)** or more days or for an aggregate period of **thirty (30)** or more days. Provide date of employment. Tell the sex offender to report any changes of employment, in writing, or in person as described on the front of this form, to the agency(ies) of jurisdiction.

or more days. Provide date of employment. Tell the sex offender to report any changes of employment, in writing, or in person as described on the front of this form, to the agency(ies) of jurisdiction.

Eye Color: Provide the registrant's natural eye color.

FBI: Provide the Federal Bureau of Investigation identification number assigned the registrant.

Hair Color: Provide the registrant's natural hair color.

Height: Provide the registrant's height in feet and inches (example 5'7").

Illinois Department of Corrections: Provide the Illinois Department of Corrections number assigned to the registrant.

Institution of Higher Education: Report the name and address of the institution(s) of higher education (i.e., post secondary school(s)) where the sex offender attends or expects to attend school (full or part-time basis). Provide beginning date of enrollment. Tell the sex offender to report any changes in institution of higher education status in person to the agency(ies) of jurisdiction.

Last Name, First Name and Middle Name: Provide the registrant's list, first and middle names.

Local Area of Jurisdiction: Record the name of the local police agency or sheriff department of registrant's city/county of residence.

Offense-Statute-Citation-AOIC: Provide the registrant's Offense, Statute, Citation and/or AOIC code(s).

Out-of-state student: Sex offender or sexual predator enrolled in Illinois, on a full-time or part-time basis, in any public or private educational institution, including but not limited to any secondary school, trade or professional institution, or institution of higher education.

Photograph Required: Attach the requested photograph. Write registrant's name, date of birth, race, sex, and state identification number on back of photo.

Place of Birth: Provide the registrant's place of birth.

Probation/Parole Office: Provide the registrant's probation or parole office/officer and county.

Probation, Parole or Other: Make the status by placing a check mark in the appropriate space provided.

Race: Mark the registrant's ethnic origin or if appropriate indicate a specific ethnic origin in the other category.

Read Following to Offender-Offender Must Initial Each: Read each of the lined entries and have the registrant initial each one. Have the registrant read and sign name and date the form.

Notifying Agency Information: Record the notifying official's name (print), and signify notifying agency, address, phone number, city, state, zip code and county and notifying official's signature and date.

Scars, marks, tattoos, etc.: Scars, marks, tattoos, deformities, amputations, etc. that are a part of registrant's physical description.

School: Report the name and address of the school(s), where the sex offender attends school on a full-time or part-time basis, in any public or private educational institution including but not limited to any secondary school, trade or professional institution, or institution of higher education. Provide beginning date of enrollment. Report any changes in school status in person or writing to the agency(ies) of jurisdiction.

Sentence: Provide registrant's term of sentence.

Sex: Provide the registrant's gender - male or female, other, unknown.

Sex Offender: Sex offender registrant that does not fit above definitions, but fits the criteria to register.

Sexual Predator: Sex offender convicted after June 30, 1999, of the following statutes 9-1, 11-17.1, 11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-16, 12-33. Convicted of a second or subsequent registration offense to include attempts of occurring after July 1, 1999 (eff. 7/1/99).

Sexually Dangerous: Adjudicated Sexually Dangerous.

Sexually Violent: Adjudicated Sexually Violent after January 1, 1998.

Social Security: Provide the Social Security number(s) used by the registrant.

State of Conviction: Provide the registrant's state of conviction.

State Identification Number: Provide the State Identification number assigned to the registrant.

Telephone Number: Record the registrant's correct telephone number.

Thumb Print: Imprint registrant's right thumb print.

Vehicle: Provide make, model, year, color, license number; state, and vehicle identification number (VIN). Indicate by circling either owner/operator. (The sex offender does not have to be the owner of the vehicle to register the vehicle.)

Victim Under 18 Years of Age: Provide age of victim(s).

Weight: Provide the registrant's weight in pounds.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 4.3

(Line of Duty Deaths)

Effective Date: 01/01/09

PURPOSE: To prepare this agency for the event of an active duty officer's death, in the line of duty, and to direct the agency in providing proper support of the deceased officer's family.

POLICY: It is the policy of this department to provide liaison assistance to the immediate survivors of an active duty officer who dies, in the line of duty, and to provide tangible and emotional support during this traumatic period of readjustment for the surviving family.

DEFINITIONS:

Line-of-Duty Death: The death of an active duty officer by felonious or accidental means during the course of performing police functions while on- or off-duty.

Survivors: Immediate family members of the deceased officer to include spouse, children, parents, siblings, fiancée and/or significant others.

PROCEDURES:

- I. Death Notification: The following procedures should be adhered to in cases of line-of-duty deaths and in cases of critically injured officers with poor prognosis of survival. These procedures should be followed whenever possible with the understanding that the wishes of the family take precedence over the desires of the department. Officers providing services and assistance to family members and survivors shall take all possible measures to accommodate their need, wishes and desires, but should not make promises that they are unsure can be met.
 - A. The name of the deceased officer shall not be released to the media or other parties before immediate survivors living in the area are notified.
 - B. The Chief of Police will inform the immediate family of the officer's condition or death. If not immediately available, the Patrol Supervisor will make the appointment.
 - C. Notification of the immediate family should be made as soon as possible and, if possible, coincidental with command notifications.
 - D. Notification of survivors, in the immediate area shall be made in person, and whenever appropriate, with another person, such as a member of clergy. Whenever the health of immediate survivors is a concern, emergency medical service personnel shall be requested to stand by.
 - E. If the opportunity to get the family to the hospital exists prior to the officer's death, notification officers shall inform the hospital liaison officer that the family is en route. In such cases, immediate transportation should be provided for survivors rather than waiting for any other members of the department to arrive. If the officer has died, notification should be made to the survivors in as forthright and empathetic a manner as possible.
 - F. Communication of information concerning the officer and the incident shall, whenever possible, be restricted to the telephone to avoid interception by the media or others. Should the media obtain the officer's name prematurely, the ranking officer should request the information be withheld until proper notification of survivors can be made.
 - G. The notification officer, as approved by the family, shall assist in identification of additional survivors outside the area and shall make any notifications as desired by the immediate family. Such notifications shall be made by contacting the law enforcement agency in that jurisdiction and requesting that a personal notification be made.

- H. The notification officer shall submit a written report to the Chief of Police specifying the identity, time and place of survivors notified.
- II. Assisting survivors at the hospital: Whenever possible, the Chief of Police shall join the family at the hospital in order to emphasize the department's support. The next highest ranking officer to arrive at the hospital shall serve as, or designate a hospital liaison officer, who shall be responsible for coordinating the arrival of immediate survivors, department personnel, the media, and others and assume the following responsibilities.
 - A. Arrange waiting facilities for immediate survivors and a press staging area. The desires of the surviving family members should be followed with regard to their accessibility to other officers and friends.
 - B. Ensure that medical personnel provide pertinent medical information of the officer's condition to the family before any other parties.
 - C. Assist family members, in accordance with their desires, in gaining access to the injured or deceased officer.
 - D. Provide hospital personnel with all necessary information on billing for medical services. The liaison officer should ensure that all medical bills are directed to the appropriate departmental authority and that they are not forwarded to the officer's family or other survivors.
 - E. Arrange transportation for the family and other survivors upon their departure from the hospital.
 - F. Ensure that immediate family members are provided with appropriate assistance at the hospital.
- III. Appointment of department coordination personnel: The designated departmental officer(s) shall begin serving in the following capacities: department liaison, funeral, liaison, benefits coordinator and family support advocate. These assignments will be made in writing to departmental personnel and the surviving family members will be informed of those designated. In addition, the Chief of Police or his designee will:
 - A. Make additional personnel assignments to assist with incoming telephone calls and inquiries and to direct the public to appropriate personnel.
 - B. Ensure that the employee assistant program is implemented to assist surviving family members and emphasize the family's right to psychological services.
 - C. Ensure that other officers are provided the opportunity to participate in critical incident stress debriefings.
- IV. Department Liaison: The department liaison officer will serve as a facilitator between the family and the department. This officer will work closely with the funeral liaison officer to ensure that the needs and requests of the family are fulfilled. This includes, but is not limited to:
 - A. Providing oversight of travel and lodging arrangements for out-of-town family members.
 - B. Identifying alternative churches and reception halls that will accommodate the law enforcement funeral. These alternatives will be presented to the family, who will make the final determination.
 - C. Coordinating the official law enforcement notifications and arrangements to include the honor guard, pallbearers, traffic control and liaison with visiting law enforcement agencies.
 - D. Assisting family members with general media inquiries and informing them of limitations on what they can say to the media specifically.
 - E. Providing liaison with the media to include coordination of any statements and press conferences. Also, ensure that members of the department are aware of restrictions regarding release of any information that might hinder future legal proceedings.
 - F. Ensuring that security checks of the survivor's residence are initiated immediately following the incident and for as long as necessary thereafter.
- V. Funeral Liaison: The funeral liaison officer acts as facilitator between the decedent officer's family and the department during the wake and funeral. The officer is responsible for:
 - A. Meeting with family members and explaining his responsibilities.
 - B. Being available to the family prior to and throughout the wake and funeral.

C. Ensuring that the needs and wishes of the family come before those of the department.

- D. Assisting the family and the funeral director with funeral arrangements.
 - E. Relaying any information to the family concerning the circumstances of the decedent officer's death and appropriate information regarding any investigation.
 - F. Determining the need for travel arrangements for out-of-town family members and any other special needs of the family during the funeral and reporting this information to the department liaison.
 - G. Briefing the family members on the procedures involved in the law enforcement funeral.
- VI. Benefits Coordinator is responsible for:
- A. Filing worker's compensation claims and related paperwork.
 - B. Presenting information on all benefits available to the family.
 - C. Documenting inquiries and interest in public donations to the family and establishing a mechanism for receipt of such contributions, as appropriate.
 - D. Preparing all documentation of benefits and payments due survivors to include the nature and amount of benefits to be received by each beneficiary, the schedule of payments and the name of a contact person at each benefit office.
 - E. Filing all benefits paperwork and maintaining contact with the family in order to ensure that benefits are being received. A copy of benefits documentation should be provided to all survivors affected and explained to each of them.
 - F. Advising the surviving family of the role of police associations and organizations and the nature of support programs that they sponsor for law enforcement survivors.
- VII. Family Support Advocate: Serves in a long-term liaison and support capacity for the surviving family. The duties include:
- A. Providing contact with surviving family members in order to keep them informed of criminal proceedings relating to the death of the family member.
 - B. Accompanying surviving family members to criminal proceedings, explaining the nature of the proceedings and introducing them to prosecutors and other persons as required.
 - C. Identifying all support services available to family members and working on their behalf to secure any services necessary.
 - D. Maintaining routine contact with family members to provide companionship and emotional support and maintain an ongoing relationship between the department and the immediate family.
 - E. Relaying the concerns and needs of the family to those individuals or organizations that may provide assistance, and encouraging others to visit and help as necessary.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 4.4

(Freedom of Information Act)

Effective Date: 01/01/09

PURPOSE: To establish a written directive governing the procedures used whenever the general public makes a request to inspect or copy public records that are accessible under the Illinois Freedom of Information Act.

POLICY: Pursuant to **5 ILCS 140/1**, information released to the public shall be based upon information in statute. The primary responsibility for information storage and release shall be with the Chief of Police and daily responsibility shall be assigned to the Patrol Supervisor.

DEFINITIONS:

Person: Any individual, corporation, partnership, firm, organization or association, acting individually or as a group.

Public Record: All records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, recorded information and all other documentary materials, regardless of physical form of characteristics, having been prepared, or having been or being used, received, possessed or under the control of the department.

Criminal History Record Information: Data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, information, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges, including Federal, State, and local ordinance violations.

PROCEDURES:

- I. Information Request
 - A. Person requesting to inspect or receive a copy of records shall complete a Freedom of Information Act form that is attached hereto.
 - B. The Freedom of Information Act form is available at the Police Department and can be submitted to the police department via normal business hours or by mail.
 - C. The request will be reviewed by the Chief of Police, or his designee.
- II. Response to Information Request
 - A. All Public Information Request Forms must be completed and returned to the requesting person within **seven (7) working days** of the department receiving the written request.
 - B. A request can be deferred for an additional **seven (7) working days** when extraordinary circumstances exist and it is not possible to have the request completed within the normal time allowed for responding to a request.
 - C. When additional time is required, the person requesting the information will be notified by letter indicating the reason(s) why the records can not be provided within the time limits. This letter will be mailed within **seven (7) working days** of the department receiving the written request.
- III. Exemptions: The following shall be exempt from inspection and copying:
 - A. Information specifically prohibited from disclosure by federal or state law.
 - B. Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to, in writing, by the individual

subjects of the information. Information exempted under this subsection shall include but is not limited to:

1. Personnel files and personal information maintained with respect to employees.
2. Information revealing the identity of persons who file complaints or provide information to the Police Department.
3. Records compiled by the Police Department but only to the extent that disclosure would:
 - a. interfere with pending or actually and reasonably contemplated law enforcement proceedings.
 - b. interfere with pending administrative enforcement proceedings.
 - c. deprive a person of a fair trial or an impartial hearing.
 - d. disclose the identity of a confidential source or confidential information furnished only by the confidential source.
 - e. disclose unique or specialized investigative techniques other than those generally used and known.
 - f. endanger the life or physical safety of law enforcement personnel or any other person.
 - g. obstruct an ongoing criminal investigation.
4. Criminal history information except the following:
 - a. chronologically maintained arrest information, such as traditional arrest logs or blotters.
 - b. the name of a person in custody and the charges for which that person is being held.
 - c. court records that are public.
 - d. records that are otherwise available under State or local law.
 - e. records in which the requesting party is the individual identified as a suspect.

IV. Appeal Process

- A. When an appeal is received, the Chief of Police shall promptly review the appeal and either overrule or uphold the original denial.
- B. If the original denial is overruled, the request for information shall be furnished to the requesting person as soon as possible.
- C. If the original denial is upheld, the Chief of Police shall notify the requesting person within **seven (7) working days** after receiving the appeal of the decision to withhold the information requested and explain to the person their right to a judicial review on the decision through the circuit court of the county.

V. Required Files

- A. The Chief of Police, in conjunction with the Village Clerk, shall be responsible for maintaining all records and files including but not limited to:
 1. All requests for information.
 2. All denials made by the Chief of Police or designee.
 3. All appeals to the Chief of Police.
 4. All appeal denials by the Chief of Police.
 5. All other correspondence concerning the above mentioned files.
 6. All information available for inspection by the public.

VI. Exceptions

- A. It should be noted this procedure is to be followed only if the requesting person specifically requests information under the guidelines of the Freedom of Information Act.
- B. All other requests for reports shall be handled through the records division. These requests may include accident reports for insurance companies or reports for private firms and businesses.

VII. Fees

- A. Incident Reports (up to five (5) pages): \$10.00
- B. Traffic Crash Reports: \$5.00
- C. All reports in excess of five pages: \$5.00 per cover sheet, plus \$1.00 per page

- D. Fingerprint processing: \$5.00
- E. Criminal History Records Check (if allowed by law): \$5.00
- F. Sex Offender List: \$5.00

FREEDOM OF INFORMATION ACT FORM

**Village of New Athens
905 Spotsylvania
New Athens, IL 62264**

**REQUEST FOR COPIES OR INSPECTION OF PUBLIC RECORDS
UNDER THE ILLINOIS FREEDOM OF INFORMATION ACT**

PLEASE PRINT:

Name: _____ Phone (home): _____ Phone (work): _____

Address (with City/State/Zip): _____

I hereby request to inspect the following records. I am describing them in detail, and I will use the reverse side if necessary, or attach a separate sheet (be specific, include dates, times and as much information as possible).

CHECK WHICH OF THE FOLLOWING APPLY:

- I will inspect these records at Village Hall.
- I request copies of the following records and agree to pay the appropriate fee (as indicated in the approved fee schedule). If requesting copies of all records listed above, state "all".
- Please certify the documents. I agree to pay \$1.00 for each documents certified, which is in addition to the costs per page.

Signature

Date

Unless otherwise notified, your request for public records will be compiled within seven (7) days after its receipt, excepting Saturdays, Sundays & Legal Public Holidays.

FOR OFFICE USE ONLY
Dept./Office Receiving Request Received By Date Request Received:

Is the information requested included on Fee Schedule? If yes, release information, if no or unsure, forward form immediately to the Village Clerk's Office.

Date Form Rec'd by Village Clerk _____ Date Information Due _____

The records so requested have been reviewed and are appropriate for release under the guidelines of the Illinois Freedom of Information Act, except for the following records (include reason access was denied, specify exact section of Illinois FOIA which applies):

Village Clerk

Date

I acknowledge that the Village of New Athens has provided me with the above information:

Signature

Date

\$ _____
Fee to be Collected

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 4.5

(Racially Biased Policing/Traffic Stop Statistical Study)

Effective Date: 01/01/09

PURPOSE: This policy is intended to reaffirm this department's commitment to unbiased policing, to clarify the circumstances in which officers can consider race/ethnicity when making law enforcement decisions, and to reinforce procedures that serve to assure the public that we are providing service and enforcing laws in an equitable way. In addition, this policy will outline procedures to follow in reporting Traffic Stop Statistical Study information to the State of Illinois.

POLICY:

- I. Policing Impartially
 - A. Investigative detentions, traffic stops, arrests, searches, and property seizures by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution. Officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause for investigative detentions, traffic stops, arrests, nonconsensual searches, and property seizures.

Except as provided within this policy, officers shall not consider race/ethnicity in establishing either reasonable suspicion or probable cause. Similarly, officers shall not consider race/ethnicity in deciding to initiate even those nonconsensual encounters that do not amount to legal detentions or to request consent to search.

Officers may take into account the reported race or ethnicity of a specific suspect or suspects based upon trustworthy, locally relevant information that links a person or persons of a specific race/ethnicity to a particular unlawful incident or incidents. Race/ethnicity can never be used as the sole basis for probable cause or reasonable suspicion.
 - B. Except as provided above, race/ethnicity shall not be motivating factors in making law enforcement decisions.
- II. Preventing Perceptions of Biased Policing
 - A. In an effort to prevent inappropriate perceptions of biased law enforcement, each officer shall do the following when conducting pedestrian and vehicle stops:
 - 1. Be courteous and professional.
 - a. Introduce him or herself to the citizen (providing name and agency affiliation) and state the reason for the stop as soon as practical, unless providing this information will compromise officer or public safety. During routine stops based solely upon traffic violations, the officer shall provide this information before asking for their driver's license or insurance information.
 - b. Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense, and that the officer makes every reasonable effort to explain the reason for any delay.
 - c. Answer any questions the citizen may have, including explaining options for traffic citation disposition, if relevant.
 - d. Provide his or her name and badge number when requested, in writing or on a business card.
 - e. Provide an explanation if he or she determines that the reasonable suspicion was unfounded if the stop was investigatory in nature.

III. State of Illinois Traffic Stop Statistical Study

- A. 625 ILCS 5/11-212: From January 1, 2004 until July 1, 2010, whenever a State or local law enforcement officer issues a uniform traffic citation or warning citation for an alleged violation of the Illinois Vehicle Code, he or she shall record at least the following:
1. The name, address, gender, and the officer's subjective determination of the race of the person stopped; the person's race shall be selected from the following list: Caucasian, African American, Hispanic, Native American/Alaska Native, or Asian/Pacific Islander;
 2. The alleged traffic violation that led to the stop of the motorist;
 3. The make and year of the vehicle stopped;
 4. The date and time of the stop;
 5. Whether or not a search contemporaneous to the stop was conducted of the vehicle, driver, passenger or passengers; and, if so, whether it was with consent or by other means; and,
 6. The name and badge number of the issuing officer.
- B. From January 1, 2004 until December 31, 2007, whenever a State or local law enforcement officer stops a motorist for an alleged violation of the Illinois Vehicle Code and does not issue a uniform traffic citation or warning citation for an alleged violation of the Illinois Vehicle Code, he or she shall complete a uniform stop card, which includes field contact cards, or any other existing form currently used by law enforcement containing information requested pursuant to this statute, that records at least the following:
1. The name, address, gender, and the officer's subjective determination of the race of the person stopped; the person's race shall be selected from the following list: Caucasian, African American, Hispanic, Native American/Alaska Native, or Asian/Pacific Islander;
 2. The reason that led to the stop of the motorist;
 3. The make and year of the vehicle stopped;
 4. The location of the traffic stop;
 5. The date and time of the stop;
 6. Whether or not a search contemporaneous to the stop was conducted of the vehicle, driver, passenger or passengers; and, if so, whether it was with consent or by other means; and,
 7. The name and badge number of the issuing officer.

IV. Data Collection

- A. Effective January 1, 2004 the Police Department will begin recording the statistical data required by the legislation outlined in this order.
- B. Officers will utilize the "*Traffic Stop Data*" stickers (attachment #1) supplied by the department for purposes of recording the required data.
- C. Officers are required to complete a "*Traffic Stop Data*" attachment regarding the driver of every vehicle that is subject of a traffic stop that occurs as a result of an alleged violation of the Illinois Vehicle Code or Village Ordinance related to the operation of a motor vehicle. Vehicle stops conducted solely for the purpose of a specific criminal investigation or other law enforcement purposes not related to an alleged traffic violation are exempt from the Data Collection process. In addition, it is not necessary to gather "*Traffic Stop Data*" in relation to uniform traffic citations or written warnings issued as a result of a traffic accident investigation or any authorized Roadside Safety Check. In the case of multiple citations being issued to the same driver, only one "*Traffic Stop Data*" attachment is necessary. That attachment should correspond with the citation for which bond was posted and the companion tickets marked appropriately. The number of the citation to which the "*Traffic Stop Data*" was attached shall be noted in the "comments" section of any companion written warnings.
1. The "*Traffic Stop Data*" attachment will be completed in the following manner:

- a. Race: Officers will place an X in the box that identifies the race of the driver of the vehicle based solely upon their *subjective determination* of the driver's race.
NOTE: Officers are not to inquire, either directly or indirectly, about an individual's race. For purposes of data collection, the driver's race must be scored based upon the observation and belief of the officer taking the enforcement action.
 - b. Reason for Stop: Officers will place an X in the box that best represents the reason for the stop (moving violation, equipment or License Plate/Registration).
 - c. If Moving, Type of Violation: If the officer indicates that the stop was made for an observed "moving violation" they will place an X in the box that best describes the type of violation (speed, lane violation, seat belt, traffic sign/ signal, follow too close or other).
 - d. Results of Stop: The officer will place an X in the box that corresponds with the action taken (citation, written warning or verbal warning).
NOTE: As indicated in the statute outlining this process, officers are required to report all "stops", including those resulting in a "verbal warning". Therefore, verbal warnings should be avoided. Any stop that result in a "verbal warning" will be documented on the Police Department Warning Notice form with a notation in the comments section that the driver was given a "verbal warning" and the "*Traffic Stop Data*" attachment will be completed in accordance with this policy.
 - e. Type of Roadway: The officer will place an X in the box that corresponds with the type of roadway upon which the violation was observed (Interstate, U.S. Highway, State Highway, County/Township Rd. or City Road/including alley ways).
 - f. Beat Location of Stop: The officer will place an X in the box that corresponds with the beat in which the observed violation took place (1 = All Areas).
 - g. Search Conducted: The officer will place an X in the appropriate box (yes or no).
 - h. Search Types: If a search was conducted, the officer will place an X in the box that corresponds with type of search (consent, reasonable suspicion, probable cause, custodial arrest, drug dog alert or other) as it applies to the vehicle, driver or passengers as indicated. Officers will record searches of persons that are conducted as a result of a custodial arrest as "*Custodial Arrest*"(5). Searches of vehicles that are conducted as a result of a custodial arrest of the driver or passengers will be recorded as "*Incident to Arrest*"(4). The search of any passengers does not necessitate any additional "*Traffic Stop Data*" attachments as they apply only to drivers. Those searches are to be documented on the attachment that was completed for the driver in the boxes provided for passenger #1, passenger #2 etc.
 - i. Contraband Found: The officers will place an X in the appropriate box (yes or no).
 - j. If Yes, What was Found: The officer will place an X in the appropriate box (drugs/alcohol/paraphernalia, weapons, stolen property or other).
2. The completed "*Traffic Stop Data*" attachment will be secured to the back of the departmental copy of the corresponding uniform traffic citation or written warning (green copy of the citation and manila copy of the written warning) and sent on to Records for processing.

V. Records Division Responsibilities

- A. All uniform traffic citations and written warnings will be processed in accordance with department policy and procedure. The data included on the "*Traffic Stop Data*"

attachment, along with other required information, will be entered into a separate database supplied by the Illinois Department of Transportation. That data will be sent to IDOT in accordance with any reporting requirements they establish. The department shall maintain a duplicate copy of that data base and all data sent to IDOT. That data is generally protected from the Freedom of Information provision outlined in State Statute and, as such, should not be released to any party other than the IDOT without the expressed consent of the Chief of Police.

- B. The Police Department shall maintain the original document and "*Traffic Stop Data*" attachment until such time as a reliable permanent digital image of the document is available.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 4.6

(Leave Request)

Effective Date: 01/01/09

PURPOSE: To set out rules and regulations to provide for instructions to officers of the Police Department is regards to request of vacation, compensation and sick leave.

POLICY: The Police Department has set guideline and rules covering the use of vacation, sick or compensation leave. Employees will follow the proper procedures in requesting time off for either vacation or compensation time and documenting the use of sick leave. The Employee Policy covers the amount of vacation an officer is able to earn. The same policy will cover time being covered as "use-or-lose" and what amount of time may be carried from year-to-year.

PROCEDURES:

- I. Vacation Leave
 - A. When an officer is requesting to use any leave time, the officer will use the proper department request form.
 - B. The form will be forwarded to the Patrol Supervisor/Sergeant for his approval. He may deny the request based on scheduling issues or other manpower concerns.
 - C. The Chief of Police will then make an approval or denial based on the supervisor's recommendation and other factors.
 - D. Request for leave should be made at least **two (2) weeks** in advance. The Chief of Police, at his discretion, may still approve the request.
 - E. Leave (vacation, compensation or sick) can be used in any combination of hours. Officers are not required to take the full day when requesting leave.
 - F. In most cases request for vacation or compensation time will be handled on first come, first served basis.
- II. Sick Leave
 - A. Officers that are making scheduled trips to a doctor or other medical caregiver, they are allowed to take "Sick Leave".
 - B. The form will be forwarded to the Patrol Supervisor/Sergeant for his approval. He may deny the request based on scheduling issues or other manpower concerns.
 - C. The Chief of Police will then make an approval or denial based on the supervisor's recommendation and other factors.
 - D. Request for leave should be made at least **two (2) weeks** in advance if possible. The Chief of Police, at his discretion, may still approve the request.
 - E. Sick leave hours can be taken as needed and an officer does not have to take the entire shift off for an appointment.
 - F. When an officer calls in sick or cannot report for duty, they are to call in at least **two (2) hours** before they are to be on duty. The officer that is on duty is to call the Patrol Supervisor and advise him of the situation.
 - G. When an officer returns to duty from being off due to illness, they are to complete a sick leave request on that day.
 - H. When officers have called off from their tour of duty, they are to remain at home during the hours they were to be on duty. If the officer must leave their residence to seek medical attention, or other reasons, they are to call the senior officer on duty and advise that officer.
 - I. Officers will be required, at certain times, to have a doctor's excuse for time missed. These requirements are covered in the Employee Policy.

NEW ATHENS, ILLINOIS POLICE DEPARTMENT
General Order No. 4.7

(Abduction Alert Plan)

Effective Date: 01/01/09

PURPOSE: The St. Louis Area Regional Abduction Alert (S.A.R.A.A.) is a cooperative effort of local radio stations and area law enforcement. This plan provides law enforcement agencies access to the local media in cases of children missing under suspicious circumstances. The S.A.R.A.A. Plan is supplemented by the Amber Plan, which is coordinated by the Illinois State Police.

POLICY: A supervisor will be immediately dispatched to the scene if the reported missing child is **sixteen (16) years of age** or younger or criminal activity is the possible reason for the child being reported as missing. The S.A.R.A.A. plan will be initiated whenever circumstances indicate the need for an immediate large-scale, organized search for the missing child. The supervisor will consider the following:

- a. Danger presented to child.
- b. Age of child.
- c. Time of occurrence.
- d. Witness information.
- e. Other facts that indicate child was abducted or is in danger of serious injury or death.

Prior to activating the S.A.R.A.A. Plan, the following criteria must first be met:

- a. The missing child is **sixteen (16) years of age** or younger and is believed to be kidnapped, as defined by Illinois Statute 720 ILCS 5/10-1(a)(1-3), 720 ILCS 510-2(a)(1-5), and 720 ILCS 5/10-5(b)(10).
- b. The missing child is believed to be in danger of serious bodily harm or death.
- c. An investigation has verified the kidnapping or eliminated alternative explanations.
- d. Sufficient information is available to disseminate to the public that could assist in locating child, suspect, or suspect's vehicle.
- e. Missing child is not a result of parental kidnapping or child custody dispute, unless it is believed the child is in danger.

PROCEDURES:

- I. The senior officer on duty will immediately notify the Chief of Police.
- II. In order to initiate the S.A.R.A.A. Plan through the Emergency Broadcast System (see attachment), the supervisor will complete the S.A.R.A.A. Notification form and fax the information to KMOX Radio.
- III. Upon confirmation, the radio station will immediately proceed with the distribution of the information to the other participating radio stations.
- IV. Attach the Illinois State Police Amber Alert cover page to S.A.R.A.A. paperwork and fax it to the Illinois State Police. The fax number is listed on the Amber Alert cover page.
- V. Subsequent updates will be provided to KMOX and the Illinois State Police.
- VI. The investigating officer will immediately notify the Chief of Police when the missing child is located.
- VII. The incident supervisor will notify KMOX radio and the Illinois State Police immediately upon the child being located.
- VIII. A copy of the S.A.R.A.A. notification form and all other correspondence will be submitted with police report.

**ST. LOUIS AREA REGIONAL ABDUCTION ALERT
(S.A.R.A.A.)
NOTIFICATION FAX FORM**

S.A.R.A.A. Notification Criteria

Please circle your response. If all four answers are **YES**, complete the remaining form. Call the **KMOX** news editor at **(314) 444-3234** if no answer **(314) 444-3256** then fax completed for to **(314) 588-1234**.

1. The child is 16 years old or younger and I believe the child has been kidnapped.
YES/NO
2. I believe the child is in danger of serious bodily harm or death.
YES/NO
3. An agency investigation has verified the kidnapping or eliminated alternative explanations.
YES/NO
4. Sufficient information is available that could help locate the child, suspect, or vehicle.
YES/NO

Date: _____ **Time:** _____ **Agency Case Number:** _____

Child's Name: _____ **Age:** _____

Name of County/State where kidnapping occurred: _____

Law enforcement agency name: _____

Supervisor's rank, first & last name: _____

Supervisor's phone number: ()

Supervisor's fax number: ()

This Agency requests activation of the Emergency Alert System (EAS) for:

S.A.R.A.A. Notification **Update** **Cancellation** **Test Only; do not air**

S.A.R.A.A. Message:

Describe the kidnapping or recovery, description of child, alleged suspect and alleged suspect's vehicle. Include area code/phone number that the public should call to report any information. Please include all information on second page.

State of Illinois

AMBER ALERT

Notification Plan

(Public Act 92-0259)

FACSIMILE TRANSMISSION PACKET

Date: _____ Time: _____

To: Illinois Springfield Communications Center
Telephone #: 217-786-6677
Facsimile #: 217-786-7191

From: (Department) _____

(Contact) _____

Telephone #: _____ Facsimile #: _____

ALERT

CHILD ENDANGERMENT/ABDUCTION EMERGENCY NOTIFICATION MESSAGE

OCA (LEADS/NCIC) Number: _____

PHOTOGRAPH OF THE CHILD SENT TO missing@isp.state.il.us Yes _____ Forthcoming
The Illinois State Clearinghouse for Missing & Exploited Children manager will contact your agency to provide guidance in forwarding photographs and/or additional information pertaining to this abduction.

If you have any questions regarding this transmission, please call the sender at the telephone number listed above.

This facsimile contains CONFIDENTIAL INFORMATION which may also be legally privileged and is intended only for the use of the individual or entity to which it is addressed. Unauthorized disclosure or dissemination may be prohibited by state and federal statutes.

**NEW ATHENS, ILLINOIS POLICE DEPARTMENT
905 SPOTSYLVANIA
New Athens, Illinois 62264
(618) 475-2133**

LINE-UP/PHOTO SPREAD ADVISORY FORM

I, _____, agree to view a line-up/photo spread at _____
_____ (Location) on _____ (Date).

I understand that the suspect may or may not be in the line-up/photo spread.

I understand that I am not required to make an identification.

I do not assume that the person administering the line-up/photo spread knows which person is the suspect.

Signature of person viewing line-up/photo spread

Date

Time

Detective/Officer

DSN#

CITIZEN COMPLIMENT AND COMPLAINT PROCEDURES

Final Report of Investigation

Upon completion of any "formal" investigation a final report will be presented to the Chief of Police. Based upon a review of the investigation and the recommendation of the investigating officer, the Chief of Police will enter one of the following findings:

SUSTAINED: The allegation is substantiated.

UNFOUNDED: The allegation is false, or not factual.

EXONERATED: The incident occurred, but the officer acted lawfully and properly.

NOT SUSTAINED: The allegation is not substantiated. There is not sufficient evidence to prove or disprove the allegation.

MISCONDUCT NOT BASED ON COMPLAINT SUSTAINED: Substantiated misconduct, not alleged in the complaint, but disclosed by the investigation.

When an investigation substantiates a complaint of misconduct or wrong doing, the department will take action ranging from counseling through removal.

Time Frame & Notification

The scope of investigation and the seriousness of the allegation are determining factors in how long an investigation will take. The police department will make every effort to keep the complaining party informed as to the progress of the investigation. Anyone who files a complaint with the department will be notified of the findings of the investigation. They will not be informed of any disciplinary action taken.

False Complaints

The Police Department recognizes the need for the filing of legitimate complaints against officers as a means by which we can be held accountable to the public; however, the department will also seek to hold members of the community responsible for the filing of false allegations against the police. In keeping with State law (50 ILCS 725/3.8) *"anyone filing a complaint against a sworn peace officer must have the complaint supported by a sworn affidavit"*.

Our Commitment

The Police Department is committed to serving all people with respect, fairness and compassion. The department makes every effort to protect the rights of all citizens and our employees by working hard to insure that we carry out the police mission in a balanced manner. To demonstrate and protect this department's integrity, the Police Department will accept and investigate fairly and impartially all complaints of employee misconduct to determine the validity of allegations.

What if I want to Compliment an Employee

When you have the occasion to see an employee doing an outstanding job, we would like to hear from you. This can be accomplished by contacting the supervisor on duty, either in person or by phone, by writing a letter to the Chief of Police or by e-mail at the "contact us"/Comments to the Police Department portion of our website.

How to File a Complaint

Anyone wishing to file a complaint or make an inquiry with the Police Department can do so by contacting the Department via telephone or by speaking directly to the supervisor on duty. We

recommend that you ask for the officer in charge when making contact. Our policy directs officers and other employees to refer your complaint to a supervisor.

On some occasions, such as a misunderstanding of a policy or procedure, a complaint can be resolved by the supervisor during the initial contact. We encourage our supervisors to work with everyone to resolve their concerns. Nonetheless, each complaint is documented even if it is resolved at this initial level.

If a resolution at the supervisor level is not possible or the complaint is of a serious nature, a complaint may be filed using the Citizen Complaint Form available from the on-duty supervisor or the Village's website 24 hours a day. Verbal complaint is not investigated.

Complaint Processing

After an initial complaint is made, a member of the command staff will be assigned to investigate. Internal investigations typically fit into two categories: informal investigations and formal investigations. Informal investigations are typically investigated by a supervisor and involve issues such as:

- Discourtesy
- Ineffective/Incomplete service
- Insubordination
- Unfair or Improper Discharge of Duty

More serious allegations will be handled by a senior member of the command staff as assigned by the Chief of Police. These formal investigations involve issues such as:

- Criminal Conduct
- Excessive use of Force
- Violation of Civil Rights
- Corruption

If the circumstances dictate, the Police Department may refer an internal investigation to an outside agency.

CHAPTER 32

STORMWATER CONTROL CODE

ARTICLE I - GENERAL PROVISIONS

32-1-1 **TITLE.** This Chapter shall be known and may be cited as the "Storm Water Management Code".

32-1-2 **PURPOSE.** The purpose of this Code is to diminish threats to public health, safety and welfare caused by runoff of excessive storm water from new development and redevelopment. This excessive storm water could result in the inundation of damageable properties, the erosion and destabilization of downstream channels, and the pollution of valuable stream and lake resources. The cause of increases in storm water runoff quality and rate and impairment of quality is the development and improvement of land and as such this Code regulates these activities to prevent adverse impacts. The development of land in any Zoning District in the Village shall require Storm Water Management as herein provided, to wit.

32-1-3 **DEFINITIONS.**

(A) **Adverse Impacts:** Any deleterious impact on water resources or wetlands affecting their beneficial uses including recreation, aesthetics, aquatic habitat, quality, and quantity.

(B) **Applicant:** Any person, firm, or governmental agency who executes the necessary forms to procure official approval of a development or permit to carry out construction of a development from the Village.

(C) **Base Flood Elevation:** The elevation at all locations delineating the level of flooding resulting from the 100-year frequency flood event.

(D) **Detention Basin:** A facility constructed or modified to provide for the temporary storage of storm water runoff and the controlled release by gravity of this runoff at a prescribed rate during and after a flood or storm.

(E) **Detention Time:** The mean residence time of storm water in a detention basin.

(F) **Development:** Any man-made change to real estate including:

- (1) Preparation of a plot of subdivision;
- (2) Construction, reconstruction or placement of a building or any addition to a building;
- (3) Installation of a manufactured home, or installing a travel trailer on a site for more than **one hundred eighty (180) days**;
- (4) Construction of roads, bridges, or similar projects;
- (5) Redevelopment of a site;
- (6) Filling, dredging, grading, clearing, excavating, paving or other non-agricultural alterations of a ground surface;
- (7) Storage of materials or deposit of solid or liquid waste;
- (8) Any other activity that might alter the magnitude, frequency, deviation, direction, or velocity of storm water flows from a property.

(G) **Drainage Plan:** A plan, including engineering drawings and supporting calculations, which describes the existing storm water drainage system and environmental features which are proposed after development of a property.

(H) **Dry Basin:** A detention basin designed to drain completely after temporary storage of storm water flows and to normally be dry over much of its bottom area.

(I) **Erosion:** The general process whereby earth is removed by flowing water or wave action.

(J) **Floodplain:** That land adjacent to a body of water with ground surface elevations at or below the base flood or the 100-year frequency flood elevation. The floodplain is also known as the Special Flood Hazard Area (SFHA).

(K) **Flood Fringe:** That portion of the floodplain outside of the regulatory floodway.

(L) **Floodway:** The channel and that portion of the floodplain adjacent to a stream or watercourse which is needed to store and convey the anticipated existing and future 100-year frequency flood discharge with no more than a **0.1 foot** increase in stage due to any loss of flood conveyance or storage and no more than a **ten percent (10%)** increase in velocities.

(M) **Mitigation:** Mitigation includes those measures necessary to minimize the negative effects which storm water drainage and development activities might have on the public health, safety and welfare. Examples of mitigation include compensatory storage, soil erosion and sedimentation control, and channel restoration.

(N) **Property:** A parcel of real estate.

(O) **Retention Basin:** A facility designed to completely retain a specified amount of storm water runoff without release except by means of evaporation, infiltration, emergency bypass or pumping.

(P) **Sedimentation:** The process that deposits soils, debris, and other materials either on other ground surfaces or in bodies of water or stormwater drainage systems.

(Q) **Storm Water Drainage System:** All means, natural and manmade, used for conducting storm water to, through or from a drainage area to the point of final outlet from a property. The storm water drainage system includes but is not limited to any of the following: conduits and appurtenance features, canals, channels, ditches, streams, culverts, streets, storm sewers, detention basins, swales and pumping stations.

(R) **Storm Water Runoff:** The waters derived from melting snow or rain falling within a tributary drainage basin which are in excess of the infiltration capacity of the soils of that basin, which flow over the surface of the ground or are collected in channels or conduits.

(S) **Storm Sewer:** A closed conduit for conveying collected storm water.

(T) **Wet Basin:** A detention basin designed to maintain a permanent pool of water after the temporary storage of storm water runoff.

ARTICLE II - APPLICABILITY

32-2-1 **APPLICABILITY.** The provisions of this Code shall be applicable in the following areas:

(A) Any development in a residential or agricultural zoning district having a gross bulk aggregate area of **five (5) acres** or more; and,

(B) Any development in a residential or agricultural zoning district in the Village of less than **five (5) acres** with a **fifty percent (50%)** impervious surface including roads, buildings, utility rights-of-way and other improvements; and,

(C) Any development in any other zoning district in the Village (not residential or agricultural) having a gross bulk aggregate of **one (1) acre** or more; and,

(D) Any development in any other zoning district in the Village (not residential or agricultural) having a gross bulk aggregate area less than **one (1) acre** with **fifty percent (50%)** impervious surface including roads, buildings, utility right-of-ways and other improvements.

(E) Any person, firm, corporation or other entity proposing any development within any zoning district meeting the above requirements of the Village shall prepare, for approval by the Village Engineer, a Storm Water Management Plan that describes the manner in which erosion, sediment and run-off resulting from the development will be controlled and managed. No building or construction permits shall be issued by the Village and no final plat and no improvement plans for a real estate development in the Village shall be approved by the Village until the Storm Water Management Plan has been approved by the Village Engineer as meeting the requirements of this Code, or the requirement for such Storm Water Management Plan has been waived by the Village Board of Trustees. Downstream property owners, watercourses, channels, or conduits shall not receive storm water runoff from proposed upstream developments at a higher peak flow rate than would have resulted from the same storm event occurring over the site of the proposed development with the land in its natural, undeveloped conditions, nor shall storm water runoff exceed the capacity of the natural drainage system.

ARTICLE III - DESIGN STANDARDS

32-3-1 DESIGN STANDARDS.

(A) Storm water runoff resulting from a proposed development shall be detained on-site:

- (1) by wet basin;
- (2) by dry basin;
- (3) by underground reservoirs;
- (4) on flat roofs, parking lots, or streets; or
- (5) by other detention methods approved by the Village Engineer.

(B) For purposes of designing adequate on-site detention facilities, the Illinois State Water Survey rainfall data for this region shall be used.

32-3-2 SPECIFIC DESIGN STANDARDS.

(A) Dry Basin. Basins may be constructed to temporarily detain the storm water runoff so that the rate at which it is released is the same rate as before development. The following features shall be incorporated into the design of any dry basin.

- (1) Storage Volume. The volume of storage provided shall be sufficient to store flows both during and immediately after the maximum storm event which can be expected to occur once every **twenty-five (25) years**. After the storage volume has been determined as required above, a **one (1) foot** freeboard shall be added to the dam height.
- (2) Outlet Control Works.
 - (a) Outlet works shall be designed to limit peak outflow rates from Detention storage areas to or below peak flow rates that would have occurred prior to the proposed development.
 - (b) Outlet works shall not include any mechanical components or devices and shall function without requiring attendance or control during operation.
- (3) Spillway. Principal spillways shall be provided to permit the safe passage of runoff generated from a 25-year storm and an emergency spillway to permit the safe passage of the 100-year storm.
- (4) Maximum Depth. The maximum planned depth of storm waters stored shall not normally exceed **four (4) feet**, unless approved by the Superintendent of Public Works.
- (5) Side Slopes. The maximum side slopes for grassed basins shall not exceed **one (1) foot** vertical for **two (2) feet** horizontal (2:1 slope) for basins less than or equal to **four (4) feet** deep; for basins greater than **four (4) feet** deep the maximum side slope shall not exceed 3:1.
- (6) Limits of Ponding. In no case shall the limits of maximum ponding be closer than **thirty (30) feet** horizontally from any building and less than **two (2) feet** vertically below the lowest sill elevation.

- (7) **Interior Drainage.** The basin bottom should be designed to drain expeditiously. If the bottom is to be grass, it should have a minimum slope of **one percent (1%)**.
- (8) **Low Flow Channel.** Small flows through the detention basin should be handled by paved ditches from inflow structure to outflow structure to minimize erosion.
- (9) **Multipurpose Basins.** If the detention basin is to have other uses, the design of the basin bottom should include under drains to expedite drying of the bottom between runoff events.
- (10) **Aesthetics.** Designs should result in aesthetically pleasing configurations which will enhance public acceptability.

(B) **Wet Basins.** Detention ponds may also be used temporarily detain the differential runoff from the development. In addition to the general design features enumerated above for detention basins, the following features should also be incorporated into the design of any detention pond:

- (1) **Normal Pool Depth.** In order to minimize weed growth, the normal pool depth should be a minimum of **four (4) feet**.
- (2) **Depth for Fish.** If fish are to be kept in the pond, at least **one-quarter (1/4)** of the area of the permanent pool should have a minimum depth of **ten (10) feet**.
- (3) **Facilities for Emptying.** In order to ease cleaning of the pond or shoreline maintenance, the pond design should include provisions for emptying the pond.
- (4) **Low Flow By-Pass.** The design of any pond may include a low flow by-pass channel or pipeline to divert runoff with no increase in volume beyond that which would have been discharged prior to development and which can be accommodated by downstream drainageways.
- (5) **Bank Stabilization.** In order to minimize the effects of waves or ice, some type of bank stabilization such as rip-rap or concrete should be placed along the normal pool shoreline.
- (6) **Side Slopes Below Normal Pool.** The side slopes below the normal pool elevation may exceed the maximum side slope permitted above normal pool. The design shall, however, include provisions for a safety ledge having a depth of water not greater than **three (3) feet** immediately adjacent to the shoreline.

(C) **Rooftop Storage.** Detention storage may be met in total or in part by detention on roofs. Details of such design, which shall be included in the building permit application, shall include the depth, the volume of storage, details of outlet devices and down drains, elevations of overflow scuppers, design loadings for the roof structure and emergency overflow provisions. Direct connection of roof drains to sanitary sewers is prohibited.

(D) **Parking Lot Storage.** Paved parking lots may be designed to provide temporary detention storage of storm water on all or a portion of their surfaces. Outlets will be designed so as to slowly empty the stored waters and depths of storage must be limited so as to prevent damage to parked vehicles.

(E) **Other Detention Methods.** All or a portion of the detention storage may also be provided in underground or surface detention facilities, to include basins, tanks, or swales, etc.

32-3-3 SAFETY FEATURES. Designs of detention facilities shall incorporate safety features, particularly at outlets, on steep slopes, and at any attractive nuisances to include, as necessary, fencing, hand rails, lighting, steps, grills, signs and other protective or warning devices so as to restrict access during critical periods and to afford some measure of safety to both authorized and unauthorized persons.

32-3-4 CONSTRUCTION FACILITIES.

(A) The storm water detention facilities shall be built in conjunction with the storm sewer installation and to be fully operational after the clearing of vegetation.

(B) Silt and debris connection with early construction shall be removed periodically from the detention area to maintain full storage capacity.

(C) The maintenance responsibility of the detention area shall remain with the developer and/or contractor until final inspection and applicable construction performance guarantees are released.

(D) Before the final plat approval and before approval of subdivision improvement plans by the Village, the developer shall submit his commitment for future maintenance responsibility of the detention area per **Section 32-3-5**. The Village may withhold final plat approval and approval of improvement plans unless adequate arrangements are made to provide for the future maintenance of the detention area by the developer or the property owners in the subdivision benefited thereby.

32-3-5 MAINTENANCE RESPONSIBILITY.

Maintenance of storm drainage facilities located on private property shall be the responsibility of the owner of that property. Before a Building Permit is obtained from the Village the applicant shall execute a maintenance agreement with the Village guaranteeing that the applicant and all future owners of the property will maintain its storm water drainage system. The maintenance agreement shall also specifically authorize representatives of the Village to enter onto the property for the purpose of inspections of the drainage system. Such agreement shall be recorded with the Recorder of Deeds of St. Clair County. The maintenance agreement shall include a schedule for regular maintenance of each aspect of the property's storm water drainage system and shall provide for access to the system for inspection by authorized personnel of the Village. The maintenance agreement shall also stipulate that if the Superintendent of Public Works of the Village notifies the property owner in writing of maintenance problems which require correction, the property owner shall make such corrections within **thirty (30) calendar days** of such notification. If the corrections are not made within this time period the Village may have the necessary work completed and assess the cost to the property owner. The Village has the option of requiring a bond to be filed by the property owner for maintenance of the storm water drainage system.

32-3-6 ADMINISTRATION.

(A) **Enforcement.** The administration and enforcement of this Code shall be the responsibility of the Superintendent of Public Works of the Village or his representative.

(B) **Appeals.** All appeals to the Superintendent of Public Works Department's decisions regarding the interpretation of this Code shall be heard by the Village Board of Trustees.

(C) **Waivers.** The Village Board of Trustees shall have the power to waive the requirement for a Storm Water Management Plan in its entirety, but not a portion thereof.

(D)

Inspections.

- (1) **Inspections During Construction.** General site grading shall not begin until the Superintendent of Public Works has certified in writing to the applicant that any necessary detention facilities are in place and operational. The Superintendent of Public Works or his representative will also conduct periodic inspections of the work in progress to be certain that the drainage system is being built as designed. If any violations of the provisions or requirements of this Code are noted during such inspections, the Superintendent of Public Works shall notify the property owner in writing of the items needing correction. The property owner shall have **ten (10) calendar days** to make such corrections unless given a specific extension of time in writing by the Superintendent of Public Works. Failure to complete such corrections within the specified time period shall constitute a violation of this Code.
- (2) **Final Inspection.** Upon notification by the applicant that the drainage system is completed, the Superintendent of Public Works or his representative shall conduct a final inspection. If the drainage system is found to contain deficiencies which require correction, the Superintendent of Public Works or his representative shall notify the property owner of the necessary corrections. The property owner shall correct such deficiencies within **ten (10) calendar days** unless given a specific extension of time in writing by the Superintendent of Public Works. Failure to make necessary corrections within the specified time period shall constitute a violation of this Code. Upon finding that the drainage system meets the provisions and requirements of this Code the Superintendent of Public Works shall issue in writing a notice of drainage system completion to the property owner.
- (3) **Routine Inspections.** All privately owned drainage systems may be inspected by representatives of the Village not less often than once per year. A written report shall be filed of the results of any inspection and a copy sent to the property owner detailing any problems which need correction.

32-3-7 **PENALTIES.** Any person convicted of violating any of the provisions or requirements of this Code shall be subject to a fine as provided in **Section 1-1-20**. Each day the violation continues shall be considered a separate offense.

(Ord. No. 2002-12)

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 Street 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.

33-2-5 CLOSING STREETS.

(A) The Mayor may order any street, alley or public place temporarily closed to traffic, vehicular or pedestrian, by the placing of signs or barricades indicating the street, alley or public place is closed.

(B) Whenever public safety or the improvement or repair of any street, alley or public place requires it, the Street Department may order any street, alley or public place closed to traffic, vehicular or pedestrian, by placing signs or barricades indicating the street, alley or public place is closed.

(C) Whenever any street, alley or public place is inundated with flood waters, the street, alley or public place shall be closed to traffic, vehicular or pedestrian, by placing it closed. The street, alley or public place shall remain closed until such time the Street Department has removed any debris, silt, or mud which has been deposited by the flood waters and the street, alley or public place has been declared safe for traffic, vehicular or pedestrian. Boat traffic in any flooded street, alley or public place shall be operated at below "no wake" speeds and then only upon authorization of the Mayor or the Village ESDA Coordinator.

(D) Whenever such signs or barricades 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 move any such sign or barricade.

(E) It shall be the duty of the Police Department to make vigilant supervision of closed streets, alleys or public places.

(F) Fines for violations of this Section shall be as provided in **Section 1-1-20.**
(Ord. No. 94-1; 05-16-94)

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. **(See 65 ILCS Sec. 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. 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.

33-2-10 RAINWATER DRAINS. It shall be unlawful to construct or permit the construction of any storm water drain or any drainage pipe in either a natural or man-made ditch without having first obtained a permit therefor. Applications for such permits shall be made to the Village Clerk and shall be accompanied by a statement as to the purpose of such drainage pipe, the premises to be served and the specification of such pipe to be installed. Such application shall be referred to the Street Superintendent and no such permit shall be issued unless he shall have found that the Village Code would be complied with by the installation of such storm water drain or drainage pipe and, that the installation of such storm water drain or drainage pipe would not interfere with, overload, obstruct or otherwise adversely affect the existing storm water drainage system within the Village.

It shall be unlawful to construct or permit the construction of any storm water drain which discharges water onto any sidewalk in the Village and it shall be unlawful to construct or permit the maintenance of any such drain which discharges into any public street or alley at a height greater than **eighteen (18) inches** above the ground or pavement.

33-2-11 BUILDING MATERIALS IN STREET. The Street Superintendent may move any obstruction on any street or sidewalk of the Village, but before doing so, he shall notify the person responsible therefore to remove such obstruction within a reasonable time after being notified. Any person engaged in erecting a building or fence or improving any lot on such street may deposit materials thereon and contiguous to such length of time as may be necessary for the work. The obstruction shall not extend to more than **one-half (1/2)** of the width of the sidewalk, street, or alley adjacent to such improvement and the gutter shall always be left free and unobstructed. At night, such person shall keep an illuminated warning light on such material.

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.

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, post, paint, print, or attach any handbill, sign, poster, advertisement, or notice of any kind on any curb, sidewalk, tree, lamppost, utility pole, hydrant, or upon any private property without the prior consent in writing of the owner; provided, however, that this Section shall not prevent

posting by Village, County, or State Officials or their designees 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. **(Ord. No. 2005-08; 11-21-05)**

33-2-15 SIGNS ON POLES. No person shall nail, tack, paste, paint or fasten, or cause to be nailed, tacked, painted or fastened, any sign or any other foreign substance or material onto any telephone, telegraph, electric light, police and/or fire alarm pole or post, or any street or traffic sign located on any sidewalk, street, alley or public grounds or injure or deface any such pole or post.

33-2-16 INJURY TO NEW PAVEMENTS. It shall be unlawful to walk upon or drive any vehicle or animal upon or destroy any newly-laid sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft, newly-laid pavement.

33-2-17 BARBED-WIRE FENCES. It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar material designed to cause injury to persons, or any wire charged with electrical current, anywhere within **fifty (50) 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. No electrically charged fence shall be erected or maintained, except in an agricultural or conservation zone district.

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 MOWING STREET RIGHT-OF-WAY. All property owners or occupants of homes, businesses and apartments shall mow the weeds and/or grass between the property line and the street surface and any unimproved dedicated street right-of-way between properties.

33-2-20 LOCATION OF UTILITY POLES. All utility poles shall be located on the interior edge of the ditch or storm sewer and/or sidewalk right-of-way.

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 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.

33-3-9 **TREE REMOVAL.** Any property owner requesting a tree be removed that is adjoining his property, and is located on Village right-of-way, shall submit a written request to the Village Clerk. After the Village Board approves the request, the applicant shall pay, in advance, **one-half (1/2)** of the estimated cost to remove said tree or trees.

ARTICLE IV

CONSTRUCTION OF UTILITY FACILITIES IN THE RIGHTS-OF-WAY

33-4-1 **PURPOSE AND SCOPE.**

(A) **Purpose.** The purpose of this Article is to establish policies and procedures for constructing facilities on rights-of-way within the Village's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the Village rights-of-way and the Village as a whole.

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

- (1) prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
- (2) prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
- (3) prevent interference with the facilities and operations of the Village's utilities and of other utilities lawfully located in rights-of-way or public property;
- (4) protect against environmental damage, including damage to trees, from the installation of utility facilities;
- (5) protect against increased stormwater run-off due to structures and materials that increase impermeable surfaces;
- (6) preserve the character of the neighborhoods in which facilities are installed;
- (7) preserve open space, particularly the tree-lined parkways that characterize the Village's residential neighborhoods;
- (8) prevent visual blight from the proliferation of facilities in the rights-of-way; and
- (9) assure the continued safe use and enjoyment of private properties adjacent to utility facilities locations.

(C) **Facilities Subject to this Article.** This Article applies to all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the jurisdiction of the Village. A facility lawfully established prior to the effective date of this Article may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.

(D) **Franchises, Licenses, or Similar Agreements.** The Village, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the Village rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the Village enter into such an agreement. In such an agreement, the Village may provide for terms and conditions inconsistent with this Article.

(E) **Effect of Franchises, Licenses, or Similar Agreements.**

- (1) **Utilities Other Than Telecommunications Providers.** In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the Village, such franchise, license or similar agreement shall govern and control

during the term of such agreement and any lawful renewal or extension thereof.

- (2) **Telecommunications Providers.** In the event of any conflict with, or inconsistency between, the provisions of this Article and the provisions of any franchise, license or similar agreement between the Village and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

(F) **Conflicts With Other Articles or Chapters.** This Article supersedes all Articles or Chapters or parts of Articles or Chapters adopted prior hereto that are in conflict herewith, to the extent of such conflict.

(G) **Conflicts With State and Federal Laws.** In the event that applicable federal or State laws or regulations conflict with the requirements of this Article, the utility shall comply with the requirements of this Article to the maximum extent possible without violating federal or State laws or regulations.

(H) **Sound Engineering Judgment.** The Village shall use sound engineering judgment when administering this Article and may vary the standards, conditions, and requirements expressed in this Article when the Village so determines. Nothing herein shall be construed to limit the ability of the Village to regulate its rights-of-way for the protection of the public health, safety and welfare.

33-4-2 DEFINITIONS. As used in this Article and unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code. § 520.30, unless the context clearly requires otherwise.

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

"ANSI": American National Standards Institute.

"Applicant": A person applying for a permit under this Article.

"ASTM": American Society for Testing Materials.

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

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

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

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

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

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

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

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

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

"Conductor": Wire carrying 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, devises, 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 of 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, devises, objects, and materials (including, but not limited to, track and rails, wires, ducts, fiber optic cable, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Article. For purposes of this Article, the term "facility" shall not include any facility owned or operated by the Village.

"Freestanding Facility": A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

"Frontage Road": Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access on highway.

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

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

"Highway": A specific type of right-of-way used for vehicular traffic including rural or urban roads, alleys or streets. "Highway" includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, sign, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

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

"IDOT": Illinois Department of Transportation.

"ICC": Illinois Commerce Commission.

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

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

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

"J.U.L.I.E.": The Joint Utility Locating Information for Excavators utility notification program.

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

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

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

"Security Fund": That amount of security required pursuant to **Section 33-4-10**.

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

"Sound Engineering Judgment": A decision(s) consistent with generally accepted engineering principles, practices and experience.

"Superintendent of Public Works": The Superintendent of Public Works or his or her designee.

"Telecommunications": This term includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. "Private line" means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations. "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the end-to-end communications. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

"Telecommunications Provider": Means any person that installs, owns, operates or controls facilities in the right-of-way used or designed to be used to transmit telecommunications in any form.

"Telecommunications Retailer": Means and includes every person engaged in making sales of telecommunication at retail as defined herein.

"Trench": A relatively narrow open excavation for the installation of an underground facility.

"Utility": The individual or entity owning or operating any facility as defined in this Article.

"Vent": A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

"Video Service": That term as defined in Section 21-201(v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

"Water Lines": Pipelines carrying raw or potable water.

"Wet Boring": Boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

33-4-3 ANNUAL REGISTRATION REQUIRED. Every utility that occupies right-of-way within the Village shall register on **January 1** of each year with the Superintendent of Public Works, providing the utility's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right-of-way and a **twenty-four (24) hour** telephone number for each such person, and evidence of insurance as required in **Section 33-4-8** of this Article, in the form of a certificate of insurance.

33-4-4 PERMIT REQUIRED; APPLICATIONS AND FEES.

(A) **Permit Required.** No person shall construct (as defined in this Article) any facility on, over, above, along, upon, under, across, or within any Village right-of-way which:

- (1) changes the location of the facility;
- (2) adds a new facility;
- (3) disrupts the right-of-way (as defined in this Article), or
- (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across or within the right-of-way, without first filing an application with the Superintendent of Public Works and obtaining a permit from the Village therefor, except as otherwise provided in this Article.

No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way.

(B) **Permit Application.** All applications for permits pursuant to this Article shall be filed on a form provided by the Village and shall be filed in such number of duplicate copies as the Village may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of such materials accordingly.

(C) **Minimum General Application Requirements.** The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:

- (1) The utility's name and address and telephone and telecopy numbers;
- (2) The applicant's name and address, if different than the utility, its telephone, telecopy number, e-mail address, and its interest in the work;
- (3) The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application.
- (4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
- (5) Evidence that the utility has placed on file with the Village:
 - (a) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
 - (b) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the Village and shall promote protection of the safety and convenience of the public. Compliance with ICC

- regulations for emergency contingency plans constitutes compliance with this Section unless the Village finds that additional information or assurances are needed;
- (6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
 - (7) Evidence of insurance as required in **Section 33-4-8** of this Article;
 - (8) Evidence of posting of the security fund as required in **Section 33-4-10** of this Article;
 - (9) Any request for a variance from one or more provisions of this Article (**See Section 33-4-21**); and
 - (10) Such additional information as may be reasonably required by the Village.

(D) **Supplemental Application Requirements for Specific Types of Utilities.** In addition to the requirements of paragraph (C) of this Section, the permit application shall include the following items, as applicable to the specific utility that is the subject of the permit application:

- (1) In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service or natural gas distribution system, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority;
- (2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
- (3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;
- (4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control have been satisfied; or
- (5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

(E) **Applicant's Duty to Update Information.** Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the Village within **thirty (30) days** after the change necessitating the amendment.

(F) **Application Fees.** Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Article shall be accompanied by a base fee in the amount of \$100.00. Additional application review costs will vary with the complexity of the project and will be determined on a case by case basis and shall be paid prior to issuance of final permit. No application fee is required to be paid by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

33-4-5 ACTION ON PERMIT APPLICATIONS.

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

(B) **Additional Village Review of Applications of Telecommunications Retailers.**

- (1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the Village that it intends to commence work governed by this Article for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and shall be provided by the telecommunications retailer to the Village not less than **ten (10) days** prior to the commencement of work requiring no excavation and not less than **thirty (30) days** prior to the commencement of work requiring excavation. The Superintendent of Public Works shall specify the portion of the right-of-way upon which the facility may be placed, used or constructed.
- (2) In the event that the Superintendent of Public Works fails to provide such specification of location to the telecommunications retailer within either (a) **ten (10) days** after service of notice to the Village by the telecommunications retailer in the case of work not involving excavation for new construction or (b) **twenty-five (25) days** after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this Article.
- (3) Upon the provision of such specification by the Village, where a permit is required for work pursuant to **Section 33-4-4** of this Article the telecommunications retailer shall submit to the Village an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of paragraph (A) of this Section.

(C) **Additional Village Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007.** Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted **forty-five (45) days** after submission to the Village, unless otherwise acted upon by the Village, provided the holder has complied with applicable Village codes, ordinances, and regulations.

33-4-6 **EFFECT OF PERMIT.**

(A) **Authority Granted; No Property Right or Other Interest Created.**

A permit from the Village authorizes a permittee to undertake only certain activities in accordance with this Article on Village rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the public rights-of-way.

(B) **Duration.** No permit issued under this Article shall be valid for a period longer than **six (6) months** unless construction is actually begun within that period and is thereafter diligently pursued to completion.

(C) **Pre-Construction Meeting Required.** No construction shall begin pursuant to a permit issued under this Article prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting shall be held at a date, time and place designated by the Village with such Village representatives in attendance as the Village deems necessary. The meeting shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.

(D) **Compliance With All Laws Required.** The issuance of a permit by the Village does not excuse the permittee from complying with other requirements of the Village and applicable statutes, laws, ordinances, rules, and regulations.

33-4-7 **REVISED PERMIT DRAWINGS.** In the event that the actual locations

of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the Village within **ninety (90) days** after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Article, it shall be treated as a request for variance in accordance with **Section 33-4-21** of this Article. If the Village denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

33-4-8 **INSURANCE.**

(A) **Required Coverages and Limits.** Unless otherwise provided by franchise,

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

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

- (a) **Five Million Dollars (\$5,000,000.00)** for bodily injury or death to each person;

- (b) **Five Million Dollars (\$5,000,000.00)** for property damage resulting from any one accident; and
- (c) **Five Million Dollars (\$5,000,000.00)** for all other types of liability;
- (2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of **One Million Dollars (\$1,000,000.00)** for personal injury and property damage for each accident;
- (3) Worker's compensation with statutory limits; and
- (4) Employer's liability insurance with limits of not less than **One Million Dollars (\$1,000,000.00)** per employee and per accident.

If the utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

(B) **Excess or Umbrella Policies.** The coverages required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.

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

(D) **Maintenance and Renewal of Required Coverages.** The insurance policies required by this Section shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until **thirty (30) days** after receipt by the Village, by registered mail or certified mail, return receipt requested, of a written notice addressed to the Village Administrator of such intent to cancel or not to renew."

Within **ten (10) days** after receipt by the Village of said notice, and in no event later than **ten (10) days** prior to said cancellation, the utility shall obtain and furnish to the Village evidence of replacement insurance policies meeting the requirements of this Section.

(E) **Self-Insurance.** A utility may self-insure all or a portion of the insurance coverage and limit requirements required by paragraph (A) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under paragraph (A), or the requirements of paragraphs (B), (C) and (D) of this Section. A utility that elects to self-insure shall provide to the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under paragraph (A) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act.

(F) **Effect of Insurance and Self-Insurance on Utility's Liability.** The legal liability of the utility to the Village and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.

(G) **Insurance Companies.** All insurance provided pursuant to this Section shall be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois. All insurance carriers and surplus line carriers shall be rates "A-" or better and of a class size "X" or higher by A.M. Best Company.

33-4-9 **INDEMNIFICATION.** By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the Village and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Article or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Article by the Village, its officials, officers, employees, agents or representatives.

33-4-10 **SECURITY.**

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

- (1) The faithful performance by the permittee of all the requirements of this Article;
- (2) Any expenditure, damage, or loss incurred by the Village occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the Village issued pursuant to this Article; and
- (3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the Village may pay or incur by reason of any action or non-performance by permittee in violation of this Article including, without limitation, any damage to public property or restoration work the permittee is required by this Article to perform that the Village must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the Village from the permittee pursuant to this Article or any other applicable law.

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

- (1) Provide that it will not be canceled without prior notice to the Village and the permittee;
- (2) Not require the consent of the permittee prior to the collection by the Village of any amounts covered by it; and
- (3) Shall provide a location convenient to the Village and within the State of Illinois at which it can be drawn.

(C) **Amount.** The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Superintendent of Public Works, and may also include reasonable, directly related costs that the

Village estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the Village, with each phase consisting of construction of facilities in one location or related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Superintendent of Public Works may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this paragraph (C) for any single phase.

(D) **Withdrawals.** The Village, upon **fourteen (14) days'** advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this paragraph, may withdraw an amount from the Security Fund, provided that the permittee has not reimbursed the Village for such amount within the **fourteen (14) day** notice period. Withdrawals may be made if the permittee:

- (1) Fails to make any payment required to be made by the permittee hereunder;
- (2) Fails to pay any liens relating to the facilities that are due and unpaid;
- (3) Fails to reimburse the Village for any damages, claims, costs or expenses which the Village has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
- (4) Fails to comply with any provision of this Article that the Village determines can be remedied by an expenditure of an amount in the Security Fund.

(E) **Replenishment.** Within **fourteen (14) days** after receipt of written notice from the Village that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in paragraph (C) of this Section.

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

(G) **Closing and Return of Security Fund.** Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the Village for failure by the permittee to comply with any provisions of this Article or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the Village to the extent necessary to cover any reasonable costs, loss or damage incurred by the Village as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

(H) **Rights Not Limited.** The rights reserved to the Village with respect to the Security Fund are in addition to all other rights of the Village, whether reserved by this Article or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the Village may have. Notwithstanding the foregoing, the Village shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

33-4-11 PERMIT SUSPENSION AND REVOCATION.

(A) **Village Right to Revoke Permit.** The Village may revoke or suspend a permit issued pursuant to this Article for one or more of the following reasons:

- (1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
- (2) Noncompliance with this Article;
- (3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
- (4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

(B) **Notice of Revocation or Suspension.** The Village shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Article stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this **Section 33-4-11**.

(C) **Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension.** Upon receipt of a written notice of revocation or suspension from the Village, the permittee shall have the following options:

- (1) Immediately provide the Village with evidence that no cause exists for the revocation or suspension;
- (2) Immediately correct, to the satisfaction of the Village, the deficiencies stated in the written notice, providing written proof of such correction to the Village within **five (5) working days** after receipt of the written notice of revocation; or
- (3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the rights-of-way and restore the rights-of-way to the satisfaction of the Village providing written proof of such removal to the Village within **ten (10) days** after receipt of the written notice of revocation.

The Village may, in its discretion, for good cause shown, extend the time periods provided in this paragraph.

(D) **Stop Work Order.** In addition to the issuance of a notice of revocation or suspension, the Village may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within paragraph (A) of this Section.

(E) **Failure or Refusal of the Permittee to Comply.** If the permittee fails to comply with the provisions of paragraph (C) of this Section, the Village or its designee may, at the option of the Village:

- (1) correct the deficiencies;
- (2) upon not less than **twenty (20) days** notice to the permittee, remove the subject facilities or equipment; or
- (3) after not less than **thirty (30) days** notice to the permittee of failure to cure the noncompliance, deem them abandoned and property of the Village. The permittee shall be liable in all events to the Village for all costs of removal.

33-4-12 CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS.

(A) **Notification of Change.** A utility shall notify the Village no less than **thirty (30) days** prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Article, with respect to the work and facilities in the right-of-way.

(B) **Amended Permit.** A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the Village's right-of-way.

(C) **Insurance and Bonding.** All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

33-4-13 GENERAL CONSTRUCTION STANDARDS.

(A) **Standards and Principles.** All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws, rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:

- (1) Standard Specifications for Road and Bridge Construction;
- (2) Supplemental Specifications and Recurring Special Provisions;
- (3) Highway Design Manual;
- (4) Highway Standards Manual;
- (5) Standard Specifications for Traffic Control Items;
- (6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);
- (7) Flagger's Handbook; and
- (8) Work Site Protection Manual for Daylight Maintenance Operations.

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

33-4-14 TRAFFIC CONTROL.

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

(B) **Warning Signs, Protective Devices, and Flaggers.** The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.

(C) **Interference with Traffic.** All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.

(D) **Notice When Access is Blocked.** At least **forty-eight (48) hours** prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to **Section 33-4-20** of this Article, the utility shall provide such notice as is practicable under the circumstances.

(E) **Compliance.** The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the Village.

33-4-15 LOCATION OF FACILITIES.

(A) **General Requirements.** In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of this paragraph.

- (1) **No Interference with Village Facilities.** No utility facilities shall be placed in any location if the Superintendent of Public Works determines that the proposed location will require the relocation or displacement of any of the Village's utility facilities or will otherwise interfere with the operation or maintenance of any of the Village's utility facilities.
- (2) **Minimum Interference and Impact.** The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right-of-way.
- (3) **No Interference with Travel.** No utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.
- (4) **No Limitations on Visibility.** No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.
- (5) **Size of Utility Facilities.** The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.

(B) **Parallel Facilities Located Within Highways.**

- (1) **Overhead Parallel Facilities.** An overhead parallel facility may be located within the right-of-way lines of a highway only if:
 - (a) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;
 - (b) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of **two (2) feet (0.6m)** behind the face of the curb, where available;
 - (c) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of **four (4) feet (1.2m)** outside the outer shoulder line of the roadway and are not within the clear zone;

- (d) No pole is located in the ditch line of a highway; and
- (e) Any ground-mounted appurtenance is located within **one (1) foot (0.3m)** of the right-of-way line or as near as possible to the right-of-way line.

(2) **Underground Parallel Facilities.** An underground parallel facility may be located within the right-of-way lines of a highway only if:

- (a) The facility is located as near the right-of-way line as practicable and not more than **eight (8) feet (2.4m)** from and parallel to the right-of-way line;
- (b) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
- (c) In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than **five (5) feet (1.5m)** from the right-of-way line and any above-grounded appurtenance shall be located within **one (1) foot (0.3m)** of the right-of-way line or as near as practicable.

(C) **Facilities Crossing Highways.**

(1) **No Future Disruption.** The construction and design of crossing facilities installed between the ditch lines or curb lines of Village highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.

(2) **Cattle Passes, Culverts, or Drainage Facilities.** Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.

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

(4) **Overhead Power or Communication Facility.** An overhead power or communication facility may cross a highway only if:

- (a) It has a minimum vertical line clearance as required by ICC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);
- (b) Poles are located within **one (1) foot (0.3m)** of the right-of-way line of the highway and outside of the clear zone; and
- (c) Overhead crossings at major intersections are avoided.

(5) **Underground Power or Communication Facility.** An underground power or communication facility may cross a highway only if:

- (a) The design materials and construction methods will provide maximum maintenance-free service life; and

(b) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.

- (6) **Markers.** The Village may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F.R. §192.707 (1989)).

(D) **Facilities to be Located Within Particular Rights-of-Way.** The Village may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.

(E) **Freestanding Facilities.**

- (1) The Village may restrict the location and size of any freestanding facility located within a right-of-way.
- (2) The Village may require any freestanding facility located within a right-of-way to be screened from view.

(F) **Facilities Installed Above Ground.** Above ground facilities may be installed only if:

- (1) No other existing facilities in the area are located underground;
- (2) New underground installation is not technically feasible; and
- (3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.

(G) **Facility Attachments to Bridges or Roadway Structures.**

- (1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.
- (2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
- (a) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to

persons and property in the event of damage to or failure of the facility;

- (b) The type, length, value, and relative importance of the highway structure in the transportation system;
- (c) The alternative routings available to the utility and their comparative practicability;
- (d) The proposed method of attachment;
- (e) The ability of the structure to bear the increased load of the proposed facility;
- (f) The degree of interference with bridge maintenance and painting;
- (g) The effect on the visual quality of the structure; and
- (h) The public benefit expected from the utility service as compared to the risk involved.

(H)

Appearance Standards.

- (1) The Village may prohibit the installation of facilities in particular locations in order to preserve visual quality.
- (2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

33-4-16

(A)

Methods.

CONSTRUCTION METHODS AND MATERIALS.
Standards and Requirements for Particular Types of Construction

- (1) **Boring or Jacking.**
 - (a) **Pits and Shoring.** Boring and jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Superintendent of Public Works from the edge of the pavement. Pits for boring or jacking shall be excavated no more than **forty-eight (48) hours** in advance of boring or jacking operations and backfilled within **forty-eight (48) hours** after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
 - (b) **Wet Boring or Jetting.** Wet boring or jetting shall not be permitted under the roadway.
 - (c) **Borings With Diameters Greater than Six (6) Inches.** Borings over **six (6) inches (0.15m)** in diameter shall be accomplished with an auger and following pipe, and the diameter of the auger shall not exceed the outside diameter of the following pipe by more than **one (1) inch (25mm)**.

- (d) **Borings with Diameters Six (6) Inches or Less.** Borings of **six (6) inches** or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
- (e) **Tree Preservation.** Any facility located within the drip line of any tree designed by the Village to be preserved shall be bored under or around the root system.
- (2) **Trenching.** Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 IDOT's "Standard Specifications for Road and Bridge Construction".
 - (a) **Length.** The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Superintendent of Public Works.
 - (b) **Open Trench and Excavated Material.** Open trench and wind rowed excavated material shall be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for wind rowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.
 - (c) **Drip Line of Trees.** The utility shall not trench within the drip line of any tree designated by the Village to be preserved.
- (3) **Backfilling.**
 - (a) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction". When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
 - (b) For a period of **three (3) years** from the date construction of a facility is completed, the utility shall be responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Superintendent of Public Works, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the Superintendent of Public Works.
- (4) **Pavement Cuts.** Pavement cuts for facility installation or repair shall be discouraged but may be permitted only upon location

specific approval by the Superintendent of Public Works and only if that portion of the roadway is closed to traffic.

- (a) Any excavation under pavements shall be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Superintendent of Public Works.
- (b) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the Village.
- (c) All saw cuts shall be full depth.
- (d) For all rights-of-way which have been reconstructed with a concrete surface/base in the last **seven (7) years**, or resurfaced in the last **three (3) years**, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a J.U.L.I.E. locate.

(5) **Encasement.**

- (a) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the Village.
- (b) The venting, if any, of any encasement shall extend within **one (1) foot (0.3m)** of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.
- (c) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or Village approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the Village. Bell and spigot type pipe shall be encased regardless of installation method.
- (d) In the case of gas pipelines of **60 psig** or less, encasement may be eliminated.
- (e) In the case of gas pipelines or petroleum products pipelines with installations of more than **60 psig**, encasement may be eliminated only if:
 - (i) extra heavy pipe is used that precludes future maintenance or repair and
 - (ii) cathodic protection of the pipe is provided;
- (f) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.

- (6) **Minimum Cover of Underground Facilities.** Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

Type of Facility	Minimum Cover
Electric Lines	30 inches (0.8m)
Communication, Cable or Video Service Lines	18 to 24 inches (0.6m, as Determined by Village)
Gas or Petroleum Products	30 inches (0.8m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, Or Drainage Line	Sufficient Cover to Provide Freeze Protection

(B)

Standards and Requirements for Particular Types of Facilities.

(1) **Electric Power or Communication Lines.**

- (a) **Code Compliance.** Electric power or communications facilities within Village rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power and Communications Lines", and the National Electrical Safety Code.
- (b) **Overhead Facilities.** Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.
- (c) **Underground Facilities.**
 - (i) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads.
 - (ii) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if:
 - a. the crossing is installed by the use of "moles", "whip augers", or other approved method which compress the earth to make the opening for cable installation or
 - b. the installation is by the open trench method which is only permitted prior to roadway construction.

- (iii) Cable shall be grounded in accordance with the National Electrical Safety Code.
 - (iv) **Burial of Drops.** All temporary service drops placed between **November 1** of the prior year and **March 15** of the current year, also known as snowdrops, shall be buried by **May 31** of the current year, weather permitting, unless otherwise permitted by the Village. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within **ten (10) business days** after placement.
- (2) **Underground Facilities Other Than Electric Power or Communication Lines.** Underground facilities other than electric power or communication lines may be installed by:
- (a) The use of "moles", "whip augers", or other approved methods which compress the earth to move the opening for the pipe;
 - (b) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
 - (c) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
 - (d) tunneling with vented encasement, but only if installation is not possible by other means.
- (3) **Gas Transmission, Distribution and Service.** Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a Village approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR §192), IDOT's "Standard Specifications for Road and Bridge Construction", and all other applicable laws, rules, and regulations.
- (4) **Petroleum Products Pipelines.** Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
- (5) **Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines.** Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois".
- (6) **Ground Mounted Appurtenances.** Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending **one (1) foot (305mm)** in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Superintendent of Public Works, shrubbery surrounding the

appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.

(C)

Materials.

- (1) **General Standards.** The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's "Standard Specifications for Road and Bridge Construction", the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.
- (2) **Material Storage on Right-of-Way.** No material shall be stored on the right-of-way without the prior written approval of the Superintendent of Public Works. When such storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the Village.
- (3) **Hazardous Materials.** The plans submitted by the utility to the Village shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

(D)

Operational Restrictions.

- (1) Construction operations on rights-of-way may, at the discretion of the Village, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.
- (2) These restrictions may be waived by the Superintendent of Public Works when emergency work is required to restore vital utility services.
- (3) Unless otherwise permitted by the Village, the hours of construction are from **6:00 A.M. to 6:00 P.M.**

(E)

Location of Existing Facilities.

Any utility proposing to construct facilities in the Village shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The Village will make its permit record available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the Village or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within **forty-eight (48) hours**, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

33-4-17

VEGETATION CONTROL.

(A)

Electric Utilities - Compliance with State Laws and Regulations.

An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-

way in accordance with applicable Illinois laws and regulations, and additionally, with such local franchise or other agreement with the Village as permitted by law.

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

(1) **Application for Tree Trimming Permit.** Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.

(2) **Damage to Trees.** Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The Village will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The Village may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.

(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.**

(1) Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the Village for any purpose, including the control of growth, insects or disease.

(2) Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Superintendent of Public Works that such spraying is the only practicable method of vegetation control.

33-4-18 REMOVAL, RELOCATION, OR MODIFICATION OF UTILITY FACILITIES.

(A) **Notice.** Within **ninety (90) days** following written notice from the Village, a utility shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any Village improvement in or upon, or the operations of the Village in or upon, the rights-of-way.

(B) **Removal of Unauthorized Facilities.** Within **thirty (30) days** following written notice from the Village, any utility that owns, controls, or maintains any

unauthorized facility or related appurtenances within the rights-of-way shall, at its own expense, remove all or any part of such facilities or appurtenances from the rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:

- (1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
- (2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;
- (3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Article; or
- (4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

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

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

33-4-19 CLEANUP AND RESTORATION. The utility shall remove all excess material and restore all turf and terrain and other property within **ten (10) days** after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the Village. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Superintendent of Public Works. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project. The time period provided in this Section may be extended by the Superintendent of Public Works for good cause shown.

33-4-20 MAINTENANCE AND EMERGENCY MAINTENANCE.

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

(B) **Emergency Maintenance Procedures.** Emergencies may justify noncompliance with normal procedures for securing a permit:

- (1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flags. If a hazard does not exist on the traveled way, but the

nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.

- (2) In an emergency, the utility shall, as soon as possible, notify the Superintendent of Public Works or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the Village police shall be notified immediately.
- (3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.

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

33-4-21 VARIANCES.

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

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

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

- (1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
- (2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.

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

(E) **Right to Appeal.** Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Superintendent of Public Works under the provisions of this Article shall have the right to appeal to the Village Board, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the Village Clerk within **thirty (30) days** after the date of such order, requirement, decision or determination. The Village Board shall commence its consideration of the appeal at the Board's next regularly scheduled meeting occurring at least **seven (7) days** after the filing of the appeal. The Village Board shall timely decide the appeal.

33-4-22 **PENALTIES.** Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to fine in accordance with the penalty provisions of this Code. There may be times when the Village will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Article. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the Village's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the Village. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it.

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.

33-4-24 **SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

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.

(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 obtaining permission from the Street Superintendent to do so.

(C) **Cost to Owner.** If the funds are available and the Village Board approves the request, the property owner shall pay the cost of the concrete and thereafter the sidewalk shall be constructed by the Village. The cost of construction shall not include any engineering fees; these shall be paid by the Village.

(D) **Subdivisions.** This is not applicable to new subdivisions. **(See 65 ILCS Sec. 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.

(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 and thereafter, the curb and gutter will be constructed by the Village. The cost of construction shall not include any engineering fees; these shall be paid 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 is not applicable to new subdivisions. **(See 65 ILCS Sec. 5/11-80-13)**

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 Public Works Superintendent 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, if any; and no sanitary sewer, if any, shall be connected to the storm water sewer system.

ARTICLE VI - CULVERTS

33-6-1 **OBSTRUCTION OF DRAIN OR STORM SEWER.** It shall be unlawful to obstruct any open ditch, drain or storm sewer in any public street or property.

33-6-2 **PERMIT REQUIRED.** It shall be unlawful to install or replace any culvert without first making written application to the Village Clerk and obtaining a permit signed by the Superintendent.

33-6-3 **CULVERT POLICY.** After issuance of the required permit, the Village will install a driveway culvert of approximate size to handle surface drainage water, as determined by the Superintendent. The minimum culvert size shall be **eight (8) inches** in diameter. All culverts shall be new and purchased by the lot owner making the application.

33-6-4 **TYPE OF CULVERT.** Culverts shall be installed where driveways or walkways cross open ditches, and a culvert is deemed necessary by the Superintendent. The materials used for construction of culverts shall be new and consist of one of the following: reinforced concrete pipe, corrugated steel or aluminum alloy culvert pipe, with a minimum wall thickness of 16 G.A. If any sort of drainage inlet boxes are required by the Superintendent, the person requesting the culvert shall be responsible for payment for the drainage boxes for any costs incurred by the Village.

33-6-5 **MINIMUM CULVERT LENGTH.** All single car driveways shall have the minimum culvert length of **thirteen (13) feet** and all double car driveways shall have the minimum culvert length of **twenty-four (24) feet** when driveways entered from the street. When driveways are entered from an alley, the minimum culvert length of a single car driveway, shall be **sixteen (16) feet** and the minimum culvert length of a double car driveway shall be **twenty-eight (28) feet**. Larger driveway widths shall be determined by the Superintendent.

33-6-6 **BACKFILL COSTS.** Any person installing a new culvert or replacing a culvert of unapproved material, shall, at their own expense, provide granular backfill from the flow line of the culvert to at least cover the culvert after settling.

33-6-7 **REPLACEMENT COSTS.** The expense of replacing any culvert laid on Village property, according to specifications, shall be born by the Village. Any driveway culvert replacement cost in excess of the minimum length requirement shall be born by the property owner, if the property owner wishes to have a longer than minimum requirement of pipe to be installed.

(Ord. No. 86-6; 09-15-86)

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 **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.

33-7-3 **SPECIFICATIONS.** Driveways across sidewalks shall be constructed in compliance with the specifications required by the Street Superintendent.

33-7-4 **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.

33-7-5 **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.

ARTICLE VIII – STREET NUMBERING

33-8-1 **NUMBERS REQUIRED.** Each lot, building or structure located within the Village shall hereafter be identified by the street number assigned to each such lot, building or structure by the corporate authorities of said Village. All street numbers as so assigned are set forth in a chart of the Village, which chart is hereby approved by the corporate authorities and incorporated herein by reference.

33-8-2 **CHART BY CLERK.** The Village Clerk shall maintain the aforementioned chart showing the proper street number of every lot in the Village. Said chart shall be open to inspection by the general public.

33-8-3 **OWNER'S RESPONSIBILITY.** It shall be the duty of the owner of every building in the Village to place thereon the street number assigned to said building by the corporate authorities as hereinabove provided. The number shall be in figures at least **three (3) inches** in height and shall be placed upon said building in a location which is clearly visible from the street.

33-8-4 **PENALTY.** Any owner failing to number any building owned by him or it, after receiving **thirty (30) days'** notice to do so from the Village Clerk, shall be in violation of the provisions of **Section 1-1-20** of this Code.

VILLAGE OF NEW ATHENS

EXCAVATION PERMIT

NAME _____

FIRM NAME _____

ADDRESS _____

CITY/VILLAGE _____ STATE _____ PHONE _____

LOCATION OF PROPOSED EXCAVATION _____

NATURE OF EXCAVATION _____

BONDING COMPANY:

NAME _____

ADDRESS _____

CITY/VILLAGE _____ STATE _____ PHONE _____

AMOUNT OF BOND \$ _____

PREVIOUS EXPERIENCE (LIST CITIES AND/OR VILLAGES)

	<u>CITY/VILLAGE</u>	<u>CITY/VILLAGE OFFICIAL</u>
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____

I have read the municipal law with regard to excavations and my firm or company intends to fully comply with the Street Regulations Code provisions.

(Applicant's Signature)

VILLAGE OF NEW ATHENS

APPLICATION FOR CULVERT/DRIVEWAY PERMIT

I, _____, do hereby request permission and authority to construct a culvert/driveway on the right-of-way of the Village in accordance with the information provided on this application and the accompanying sketch. (Applicant must prepare a sketch showing location, length and pertinent details.)

ADDRESS: _____

Pipe material will be: _____

Wall thickness or gauge will be: _____

Type of joint will be: _____

DATED: _____, 20__ SIGNED: _____
(APPLICANT)

CULVERT/DRIVEWAY PERMIT

APPLICATION **Approved ()** **Disapproved ()**

If disapproved, state reasons:

DATED: _____, 20__ SIGNED: _____

CERTIFICATION

The undersigned has inspected the construction and installation set forth above and finds that the same (is) (is not) in accordance with the permit.

DATED: _____, 20__ SIGNED: _____

CHAPTER 34

SUBDIVISION CODE

ARTICLE I - SCOPE AND PURPOSE

34-1-1 **TITLE.** This Code shall be known, referred to, and cited as "**The Subdivision Code**".

34-1-2 **SCOPE.** For the purpose of present and future development of the Village and for the promotion of the public health, safety, comfort, morals and welfare of persons living within the territory governed, the provisions and regulations hereafter contained shall govern the subdividing and platting of lands lying within the corporate limits of the Village and within all unincorporated territory located within **one and one-half (1 1/2) miles** of the Village, as now or hereafter existing, except as otherwise provided in this Code. Within the area of jurisdiction of the Village, the provisions of the Statutes of the State of Illinois are hereby adopted as part of the "**Official Plan of the Village**".

This Code prescribes procedures for the subdivision or resubdivision of land within the area of jurisdiction of the Village and comprises the procedures, requirements, standards, and specifications with respect thereto.

34-1-3 **PURPOSE.** In accordance with State law (**Ill. Comp. Stats., Chap. 65, Secs. 5/11-12-5, 5/11-12-8 -- 5/11-12-12; Chap. 765, Sec. 205/1 et seq.**) this Code regulates the subdivision and development of land in order to implement the Comprehensive Plan and Official Map duly adopted by the Village. Thus this Code assists in achieving the following specific objectives:

- (A) to preserve, protect, and promote the public health, safety, and welfare;
- (B) to provide a pleasant living environment by furthering the orderly and efficient layout and use of land and by facilitating aesthetic urban design;
- (C) to establish accurate legal records, to avoid development in wetland areas, and to avoid legal and other problems by requiring that subdivided land be properly monumented and recorded;
- (D) to conserve and increase the value of land, improvements, and buildings throughout the Village;
- (E) to preserve the natural beauty and topography of the Village to the maximum feasible extent, including preservation of such features as stands of trees, streams, significant archaeological sites, and historical landmarks;
- (F) to provide adequate light, air, and privacy for all residents of new developments by preventing undue concentration of population;
- (G) to protect against injury or damage caused by fire, pollution, flooding, storm water runoff, or erosion and sedimentation;
- (H) to provide safe and convenient access to new developments and to avoid traffic congestion and unnecessary public expenditures by requiring the proper location, design, and construction of streets and sidewalks;
- (I) to provide an environment whereby the cost of installing and maintaining adequate water mains, sanitary sewers, storm water sewers, and other utilities and services can be kept at a minimum; and
- (J) to ensure that adequate parks, schools, and similar facilities can be made available to serve the residents.

34-1-4 **JURISDICTION.** The provisions of this Code shall apply to all Planned Developments whether Residential, Commercial, or otherwise in nature, and to any other developments whether a Plat is required or not under the law, statutes, ordinances or regulations of the governmental body or agency having jurisdiction or control, and regardless of whether the same is labeled a subdivision or not, it being the intent of this Code to apply to all types of development, both within the Village and to areas lying within **one and one-half (1.5) miles** of the corporate limits of the Village.

34-1-5 **INTERPRETATION.** Every provision of this Code shall be construed liberally in favor of the Village, and every regulation set forth herein shall be considered the minimum requirement for the promotion of the public health, safety, and welfare.

(A) **More Restrictive Requirements Apply.** Whenever the requirements of this Code differ from those of any statute, lawfully adopted ordinance or regulation, easement, covenant, or deed restriction, the more stringent requirement shall prevail. Thus, in accordance with State law whenever this Code imposes higher standards than the County Subdivision Code, said higher standards shall supersede the County regulations in the unincorporated territory located within the Village's subdivision jurisdiction. **(See 65 ILCS Sec. 5/11-12-11)**

34-1-6 **APPLICATION OF CODE.** No lot, tract or parcel of land in a subdivision as defined herein may be conveyed unless a Final Plat of the property has been approved according to the requirements and provisions of this Code and recorded in the office of the County Recorder of Deeds, except in those instances in **Section 34-1-10** when subdivision plats will not be required.

34-1-7 **SUITABILITY OF LAND FOR SUBDIVISION DEVELOPMENT.** Land unsuitable for subdivision development due to drainage, flood hazard area, hillside area, rock formation or any other condition or conditions constituting a danger to health, life or property shall not be approved for subdivision development unless the subdivider presents evidence or data satisfactory to the Plan Commission, establishing that the methods proposed to meet any such condition(s) are adequate to avoid any danger to health, life, or property.

34-1-8 **INTERPRETATION OF TERMS.** In construing the intended meaning of terminology used in this Code, the following rules shall be observed:

(A) Unless the context clearly indicates otherwise, words and phrases shall have the meanings respectively ascribed to them in **Section 34-1-9**; terms not defined in **Section 34-1-9** shall have the meanings respectively ascribed to them in the Village's Zoning Code; if any term is not defined either in **Section 34-1-9** or in the Zoning Code, said term shall have its standard English dictionary meaning.

(B) Words denoting the masculine gender shall be deemed to include the feminine and neuter genders.

(C) Words used in the present tense shall include the future tense.

(D) Words used in the singular number shall include the plural number, and vice versa.

(E) The word "shall" is mandatory; the word "may" is discretionary.

(F) Captions (i.e., titles of sections, subsections, etc.) are intended merely to facilitate general reference and in no way limit the substantive application of the provisions set forth thereunder.

(G) References to sections shall be deemed to include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(H) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

(I) All distances shall be measured to the nearest integral foot; **six (6) inches** or more shall be deemed **one (1) foot**.

34-1-9 SELECTED DEFINITIONS. The language set forth in the text of this Chapter shall be interpreted in accordance with the following rules of construction:

Administrator: The official appointed by the Mayor and the Village Board to administer the Subdivision Code.

Alley: A public right-of-way which affords a secondary means of vehicular access to the side or rear of premises that front on a nearby street, and which may be used for utility purposes.

Amendment: A change in the provisions of this code, properly effected in accordance with State law and the procedures set forth herein.

Area, Building: The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of unenclosed patios, terraces, and steps.

Area, Gross: The entire area within the lot lines of the property proposed for subdivision/development, including any areas to be dedicated/reserved for street and alley rights-of-way and for public uses.

Area, Net: The entire area within the boundary lines of the territory proposed for subdivision, less the area to be dedicated for street and alley rights-of-way and public use.

Arterial Street: A street designed or utilized primarily for high vehicular speeds or for heavy volumes of traffic on a continuous route with intersections at grade, and on which traffic control devices are used to expedite the safe movement of through traffic.

Barrier (Natural or Artificial): Any street, highway, river, pond, canal, railroad, levee, embankment, or screening by a fence or hedge.

Block: An area of land entirely bounded by streets, highways, barriers, or rights-of-ways (except alleys, pedestrian ways, or exterior boundaries of a subdivision unless exterior boundary is a street, highway, or R.O.W.) or bounded by a combination of streets, public parks, cemeteries, railroad rights-of-way, waterways, or corporate boundary lines.

Building: Any structure, whether temporary, semi-permanent, or permanent, designed or intended for the support, enclosure, shelter or protection of persons or property.

Building Line: See Setback Line.

Catch Basin: A receptacle, located where a street gutter opens into a storm sewer, designed to retain matter that would not easily pass through the storm sewer.

Centerline:

- (A) the centerline of any right-of-way having a uniform width;
- (B) the original centerline, where a right-of-way has been widened irregularly;
- (C) the new centerline, whenever a road has been relocated.

Centerline Offset: The distance between the centerline of two roughly parallel streets, measured along the third street with which both said "parallel" streets intersect.

Cluster Development: A subdivision planned and constructed so as to group housing units into relatively dense patterns while providing a unified network of open space and wooded areas, and meeting the requirements of the Subdivision Code and the Zoning Code of the Village.

Collector Street: A street which carries or is proposed to carry intermediate volumes of traffic from local streets to arterial streets and which may or may not be continuous. Collector streets are those streets which carry or are expected to carry traffic intensities as generated by serving more than **one hundred fifty (150) dwelling units**.

Common Land: That land set aside for open space or recreational use for the owners of the lots of a subdivision, which land is conveyed by the developer in fee simple absolute title by warranty to trustees whose trust indenture shall provide that said common land be used for the sole benefit, use and enjoyment of the lot owners present and future. No lot owner shall have the right to convey his interest in the common land except as an incident of the ownership of a regularly platted lot.

Comprehensive Plan: The plan, if any, or any portion thereof adopted by the Village Board to guide and coordinate the physical and economic development of the Village. The Village's Comprehensive Plan may include, but is not limited to, plans and programs regarding the location, character, and extent of highways, bridges, public buildings or uses, utilities, schools, residential, commercial, or industrial land uses, parks, drainage facilities, etc.

Cross-slope: The degree of inclination measured across a right-of-way rather than in the direction traffic moves on said right-of-way.

Cul-de-Sac: A short minor local street having only one outlet for vehicular traffic and having the other end permanently terminated by a turn-around for vehicles; the term may also be used to refer solely to said turn-around.

Curb and Gutter, Integral: The rim forming the edge of a street plus the channel for leading off surface water, constructed of concrete as a single facility.

Dedicate: To transfer the ownership of a right-of-way, parcel of land, or improvement to the Village or other appropriate government entity without compensation.

Density, Gross: The total number of dwelling units divided by the total project area, expressed as gross dwelling units per acre.

Density, Net: The total number of dwelling units divided by the net acreage. See definition of Area, Net.

Design: The arrangement of uses on the land and the arrangement of easements, lots and rights-of-way, including specifications of materials, alignment, grade and width of these elements.

Develop: To erect any structure or to install any improvements on a tract of land, or to undertake any activity (such as grading) in preparation therefor.

Dimensions: Refers to both lot depth and lot width.

District, Zoning: A portion of the territory of the Village wherein certain uniform requirements or various combinations thereof apply to structures, lots, and uses under the terms of the Village's Zoning Code. **(See Chapter 40)**

Drainageway: A watercourse, gully, dry stream, creek, or ditch which carries storm water runoff or which is fed by street or building gutters or by storm water sewers, or which serves the purpose of draining water from the lands adjacent to such watercourse, gully, dry stream, creek, or ditch.

Easement: A grant by the property owner to the public, a corporation, or a person of the use of land for limited and specifically named purpose.

Escrow Deposit: A deposit in cash or other approved securities to assure the completion of improvements within a subdivision.

Filing Date: The date that the applicant has filed the last item of required data or information with the Village Clerk and has paid the necessary fees for review by the Plan Commission.

Flood Hazard Area: All land subject to periodic inundation from overflow of natural waterways.

Frontage: The lineal extent of the front (street-side) of a lot.

Frontage Road: A minor street fronting on an arterial street or highway (usually a limited access highway), used for access to abutting lots.

Grade: The degree of inclination of the site or right-of-way, expressed as a percentage. Synonym for "slope."

Hillside Area: An area with an average slope of **twenty percent (20%)** or more.

Improvement: Refers to site grading, street work and utilities (including water, sewer, electric, gas, storm water, telephone and cable television) to be installed or agreed to be installed by the subdivider on land to be used for public or private streets, and easements or other purposes as are necessary for the general use of lot owners in the subdivision. Including the furnishing of all materials, equipment, work and services such as engineering, staking and supervision, necessary to construct all the improvements required in **Article V** of the Code or any other improvements that may be provided by the subdivider. All of such materials, equipment and services shall be provided at the subdivider's cost and expense, although he may enter into a contract with

individuals and firms to complete such improvements, and the improvements shall be subject to the final approval of the Plan Commission and the Village Board.

Improvement Plans: The engineering plans showing types of materials and construction details for earth moving and for the structures and facilities to be installed both in, or in conjunction with, a subdivision. Plans shall include drainage, streets, alleys and utility locations to be installed in or in conjunction with a subdivision - also, include overall drainage plan and its effect on contiguous land and source of effluent or discharge.

Inlet: A receptacle, located where surface and/or groundwater can run to by gravity to be received by the storm sewer.

Intersection: The point at which two or more public rights-of-way (generally streets) meet.

Land Use Plan: The comprehensive long-range plan for the desirable use of land, the purpose of such plan being, among other things, to serve as a guide to the zoning and progressive subdividing and use of undeveloped land.

Local Street: A street serving limited amounts of residential traffic and:

- (A) is used primarily for access to abutting properties and marginal streets;
- (B) has more than one outlet;
- (C) is not typically a through route; and
- (D) serves less than **one hundred fifty (150) dwelling units**.

Lot: A tract of land intended as a unit for the purpose (whether immediate or future) of development or transfer of ownership. A "lot" may or may not coincide with a "lot of record."

Lot Area: The area of a horizontal plane bounded by the front, side, and rear lines of a lot, exclusive of any land designated for street right-of-way.

Lot, Butt: A lot at the end of a block and located between **two (2) corner lots**.

Lot, Corner: A lot having at least **two (2) adjacent sides** that abut for their full length upon streets. Both such side lines shall be deemed front lot lines.

Lot Depth: The mean horizontal distance between the front end and the rear lot lines measured in the general direction of the side lot lines.

Lot, Interior: A lot whose side lines do not abut any street.

Lot Line, Front: The line separating the lot from the street. On a corner lot, the front lot line shall be the frontage having the least dimension.

Lot Line, Rear: The rear lot line is the lot line most nearly parallel to and most remote from the front lot line.

Lot Line, Side: Any lot line other than front or rear lot line. A corner side lot line separating a lot from a street is called a street side lot line. A side lot line separating a lot from another lot or lots is called an interior side lot line.

Lot of Record: An area of land designated as a lot on a plat of subdivision recorded with the County Recorder of Deeds in accordance with State law.

Lot, Through: A lot having a part of approximately parallel lot lines that abut **two (2)** approximately parallel streets. Both such lot lines shall be deemed front lot lines.

Lot Width: The mean horizontal width of the lot measured at right angle to the general direction of the side lot lines.

Maintenance Bond: A surety bond, posted by the developer and approved by the Village, guaranteeing the satisfactory condition of installed improvements for the two-year period following their dedication.

Marginal Street: A street serving minimal amounts of residential traffic at low speeds and:

- (A) is used for access to abutting properties;
- (B) is a permanently dead end street;
- (C) terminates in a cul-de-sac of the required dimensions; and
- (D) serves no more than **twenty-five (25) dwelling units**.

Master Development Plan: A combination of maps, drawings, site plans, charts and supportive narrative material that portrays total development to be achieved in the overall project area; which provides sufficient detailed information to both illustrate and describe the intended character and configuration of development to be accomplished.

Metes and Bounds: A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and description of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by describing lines or portions thereof.

Official Map: A graphic statement of the existing and proposed capital improvements planned by the Village which require the acquisition of land--such as streets, drainage systems, parks, etc.

Owner: A person having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

Parking Lane: An auxiliary lane of a street and primarily used for vehicular parking.

Pedestrian Way: A right-of-way dedicated to public use which cuts across a block to facilitate safe pedestrian access to adjacent streets and properties.

Performance Bond: A surety bond posted by the developer and approved by the Village, guaranteeing the installation of required improvements within, or in conjunction with, a subdivision.

Plan Commission: The Plan Commission of the Village.

Planned Unit Development (PUD): A planned unit development is a comprehensively planned development containing residential, commercial, industrial, or other land uses on an area of land under continuing unified control. A planned unit development may contain a single type of land

use or combination of land uses provided that such development is reviewed, evaluated and approved by the Village and satisfies the requirements contained herein.

Plans: All of the drawings including plats, cross-sections, profiles, working details and specifications, which the subdivider prepares or has prepared to show the character, extent and details of improvements required in this Code and which plans shall conform to any requirements of the Plan Commission as to scale and details for submittal to the approval officials of the Village for consideration, approval or disapproval.

Plat, Final: The final engineering and architectural maps, drawings, and supporting material indicating the subdivider's plan of the subdivision which, if approved, may be filed with the County Recorder of Deeds.

Plat, Preliminary: Preliminary engineering and architectural maps, drawings, and supportive material indicating the proposed layout of a subdivision.

Project Area: That territory intended to be subdivided or developed, and portrayed and defined in the preliminary and final plats.

Reserve: To set aside a parcel of land in anticipation of its acquisition by the Village or other appropriate government entity for public purposes.

Reserve Strip: A narrow strip of land between a public street and adjacent lots which is designated on a recorded subdivision plat or property deed as land over which vehicular travel is not permitted.

Re-subdivision: See Subdivision.

Reverse Curve: A curve in a street heading in approximately the opposite direction from the curve immediately preceding it so as to form an S-shape.

Right-of-Way, Public: A strip of land which the owner/subdivider has dedicated to the Village or other appropriate government entity for streets, alleys, and other public improvements; sometimes abbreviated as r.o.w.

Roadbed: The graded portion of a street upon which the base course, surface course, shoulders and median are constructed.

Roadway: The entire improved portion of the street, including shoulders, parking lanes, travel way, curbs and gutter.

Setback Line: A line that is usually parallel to the front, side or rear lot line establishing the minimum space to be provided as the front, side or rear yard.

Sewerage System, Private: A sewer system including collection and treatment facilities established by the developer to serve a new subdivision in an outlying area.

Sidewalk: A pedestrian way constructed in compliance with the standards of this Code, generally abutting or near the curb line of the street.

Slope: The degree of inclination of site or right-of-way expressed as a percentage. Synonym for "grade."

Soil and Water Conservation District: The County Soil and Water Conservation District also known as the U.S. Natural Resource and Conservation Service.

Stop Order: An order used by the Administrator to halt work-in-progress that is in violation of this Code.

Street: A public or private way for motor vehicle travel. The term "street" includes a highway, thoroughfare, parkway, through way, road, pike, avenue, boulevard, lane, place, drive, court and similar designations, but excludes an alley or a way for pedestrian or bicycle use only.

Street, Area Service Highway: Area service highways interconnect collectors and land access streets with the principal system and vice versa, brings all developed areas within a reasonable distance of principal streets, connects and provides direct access to major traffic generators, provides secondary service to smaller communities, may provide access to abutting property, and have a medium volume design capacity and travel speeds.

Street, Cul-de-Sac: A short, land-access street, having only **one (1) end** open for vehicular traffic, and the other permanently terminated by a turn-around for vehicles.

Street, Dead-End: Land access streets similar to cul-de-sacs, except that they provide no turn-around circle at their closed end, and are permitted in any proposed subdivision with the permission of the Village. **(See Section 35-5-12(B))**

Street, Land Access: Land access streets provide access to abutting properties, have a relatively short travel distance, and have a low volume design capacity and travel speeds.

Street, Looped: Land access streets having **two (2) open ends**, each end generally connecting with the same street, no other streets intersecting between its ends, and property fronts on both sides of the street.

Street, Marginal Access or Service Road: A land access street parallel and adjacent to area service highways providing access to abutting properties.

Structure: Anything constructed or erected which requires permanent or temporary location on or in the ground, or is attached to something having a fixed location on or in the ground. All buildings are structures but not all structures are buildings (e.g., a fence).

Stub or Butt Street: A street that is temporarily terminated, but that is planned for future continuation.

Subdivider: Any person, firm, partnership, association, corporation, estate or other group or combination acting as a unit, dividing or proposing to divide land in a manner that constitutes a subdivision as defined in this Article.

Subdivision: (1) The division of land into two or more lots or parcels for the purpose of either immediate or future sale, rental or building development or use(s) other than agricultural use or

production. (2) Establishment or dedication of a public street or alley through a tract of land regardless of size. The term "subdivision" shall also include all re-subdivisions of land or lots.

Subdivision, Minor: A division of land into **two (2)**, but not more than **four (4) lots**, all of which front upon an existing street, **not involving new streets** or other rights-of-way, easements, improvements, or other provisions for public areas and facilities.

Topography: The relief features or surface configuration of an area of land.

Travelway: That portion of a street used for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

Vacate: To terminate the legal existence of right-of-way or subdivision, and to so note on the final plat recorded with the County Recorder of Deeds.

Variance, Subdivision: A relaxation in the strict application of the design and improvement standards set forth in this Code.

Yard, Front: A yard extending across the full width of the lot, the depth of which is set forth in the Village Zoning Code.

Yard, Rear: A yard extending across the full width of the lot between the nearest rear main building and the rear lot lines. The depth of the required rear yard shall be measured horizontally from the nearest part of the main building toward the nearest point of the rear lot lines.

Yard, Side: A yard between a main building and the side lot line, extending from the front yard or front lot lines, where no front yard is required, to the rear yard. The width of the required side yard shall be measured horizontally from the nearest point of the side lot line toward the nearest part of the main building.

Zoning Code: The Zoning Code of the Village of New Athens.

34-1-10 **INSTANCES WHEN PLATS WILL NOT BE REQUIRED.** The provisions of these regulations do not apply and no subdivision plat is required in any of the following instances, provided, however, all of the resulting divisions shall conform to the **Zoning Code**:

- (A) 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 or special utility easements;
- (B) 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 or special utility easements;
- (C) the sale or exchange of parcels of land between owners of adjoining and contiguous land;
- (D) the conveyance of parcels of land or interests therein for use as a right-of-way for railroads or other public utility facilities and other pipelines which does not involve any new streets or easements of access or special utility easements;
- (E) the conveyance of land for highway or other public purposes or grants or conveyance relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;

- (F) conveyance made to correct description in prior conveyances;
 - (G) 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 recorded on or before **July 17, 1959** and not involving any new streets or easements of access or add special utility easements;
 - (H) the conveyance of land owned by a railroad or other public utility which does not involve any new streets or easements of access or special utility easements;
 - (I) the sale of a single lot of less than **five (5) acres** from a larger tract 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 existing as of **October 1, 1973**.
 - (J) The division of land for cemetery usage.
- The Village retains the right to review and approve the infrastructure improvements including, but not limited to stormwater and erosion control regulations. **(Seed Chapter 32 for Stormwater Code)**

34-1-11 DISCLAIMER OF LIABILITY.

- (A) Except as may be provided otherwise by statute or ordinance, no official, board member, agent or employee of the Village shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this Code. **(See "Local Governmental and Governmental Employees Tort Immunity Act," Ill. Comp. Stats., Chap. 745, Sec. 10/1-101.)**
- (B) Any suit brought against any official, board member, agent, or employee of this Village as a result of any act required or permitted in the discharge of his duties under this Chapter shall be defended by the Village Attorney until the final determination of the legal proceedings.

34-1-12 - 34-1-13 RESERVED.

ARTICLE II - PRELIMINARY PLAT

DIVISION I - PROCEDURE

34-2-1 GENERAL PROCEDURE. Before preparing a proposed plat for an area, the owner, developer, or their representatives should have a pre-application meeting with the Zoning Administrator, Plan Commission and/or the Village Engineer to determine applicable ordinance regulations and standards which must be complied with. After the pre-application meeting(s), the subdivider should then prepare the preliminary plat. As defined in the Subdivision Code, the preliminary plat must contain a substantial amount of data, and will thus be incomplete and cannot be considered as filed until all required data are submitted. The preliminary plat is received with filing fees by the Village Clerk's office, who, in turn, will forward the same to the Plan Commission for their review. Following its review (as well as comments from other appropriate agencies when required), the Plan Commission forwards its recommendation(s) to the Village Board, who then either approve, disapprove, or approve with modifications the preliminary plat.

34-2-2 APPLICABILITY OF ARTICLE. No land within the subdivision jurisdiction of the Village [other than land that is specifically exempted from the requirements of this Code as provided in Section 34-1-10] shall be subdivided or developed, except in compliance with the regulations of this Code and the applicable provisions of State law. **No lot in any subdivision shall be conveyed until:**

(A) The portion of the subdivision in which the lot is located has been improved in accordance with the requirements of this Article or until a performance bond or other security has been posted to assure the completion of such improvements; and

(B) The final plat of the subdivision has been approved by the Village Board and recorded in the office of the County Recorder of Deeds.

No building permit shall be issued to allow construction on any lot conveyed in violation of this Section.

34-2-3 MINOR SUBDIVISIONS. Minor subdivisions as defined in Section 34-1-9 may be exempted from the procedures and requirements for Preliminary Plats and the subdivider may proceed to filing of the Final Plat for review. Final Plat procedures and requirements shall be as specified in Article IV, Sections 34-4-1 and 34-4-3.

34-2-4 PRELIMINARY PLAN AND PLAT.

(A) **Subdivider.** The subdivider shall file with the Village at the office of the Zoning Administrator **ten (10) copies** of the preliminary plan and plat at least **ten (10) days** prior to the next regular rescheduled meeting of the Board of Trustees. Such application shall include the following:

- (1) **Requested Information.** A written request to the Plan Commission for preliminary review of such subdivision and a general description of the location and size of the tract to be platted; the intent as to character type and use of the property and structures to be developed; the deed restrictions proposed, if any; a statement of mineral rights; the extent and character of the

improvements to be made by the subdivider, the zone district of the improvements to be made by the subdivider, the zone district classification(s) of the territory and compliance of the proposed subdivision thereto. If appropriate, a description of any unique hardship or difficulty limiting the physical development of the property under consideration and a description of any past history of the property under consideration which is pertinent thereto.

- (2) **Documentation.** The necessary documentation in accordance with the requirements of this Code. **(See Section 34-2-6 et seq.)**
- (3) **Filing Fee.** A filing fee sufficient to cover the engineering inspection fees to be incurred by the Village. **(Ord. No. 95-12)**

(B)

Procedure.

- (1) **Distribute Copies.** The Zoning Administrator shall immediately distribute a copy to the Public Works Director, the Water and Sewer Committee(s); a copy to the School Superintendent(s); a copy to the Village Engineer; a copy to the Mayor; a copy to the Fire District's Chief.
- (2) **Time Constraints.** The Village Director of Public Works shall review the Preliminary Plat within **sixty (60) days** from the date of application, or the filing by the subdivider of the last item of required supporting data, whichever date is later, unless such times is extended by written mutual consent, and shall determine whether the Preliminary Plat shall be approved as submitted; shall be approved subject to certain conditions or modifications; or shall be disapproved.
- (3) **Review.** The actions of the Village Engineer and Director of Public Works shall be noted in writing and if such preliminary plat is disapproved or is conditionally approved, they shall furnish written notice of such action to the applicant setting forth their reasons for disapproval or conditional approval and specifying with particularity the aspects in which the Preliminary Plat fails to conform to the Village Code.
- (4) **Village Board Review.** The Village Board shall accept or reject the Preliminary Plat within **thirty (30) days** after its next regularly scheduled meeting following the action granting approval of the Preliminary Plat by the Village Engineer and the Director of Public Works, unless such time is extended by written mutual agreement of the Village Board and the applicant, or such Preliminary Plat will be deemed as approved. The Village Board shall indicate by letter, whether the Preliminary Plat is approved or disapproved as submitted. If the Preliminary Plat is disapproved, the letter shall state the reasons for disapproval.
- (5) **Official Approval.** A certified copy of the letter of approval or disapproval by the Village Board shall be attached to the Preliminary Plat and shall be filed with the Village Clerk. **One (1) such copy** shall be filed with the Zoning Administrator, and **one (1) copy** shall be returned to the subdivider. Approval of the Preliminary Plat **shall not** qualify the Preliminary Plat for recording with the County Recorder of Deeds.

- (6) **Rights and Privileges of Subdivider.** Preliminary Plat approval shall confer upon the subdivider the following rights and privileges:
- (a) That the Preliminary Plat approval will remain in effect for a **one (1) year** period. The applicant may, during this period, submit all of or part or parts of said Preliminary Plat for final approval. In the event that the subdivision is being developed in states, the applicant may, by written mutual agreement with the Village Engineer and Director of Public Works, have final approval of the last part of the Plat delayed for a period not to exceed **three (3) years** from the date of the Preliminary Plat approval. Any part of a subdivision which is being developed in states shall contain a tract of land at least **one (1) block** in length.
 - (b) That the general terms and conditions under which the Preliminary Plat approval was granted will not be changed. **(Ord. No. 95-12)**
 - (c) The applicant may also proceed with any detailed improvement plans required for all facilities or utilities intended to be provided. Actual construction of such facilities and improvements may commence prior to final plat approval if the detailed improvement plans have been recommended by the Village Engineer and approved by the Village Board, provided that such facilities and improvements will be inspected throughout their construction, and final plat approval will be contingent in part upon acceptable compliance to Village improvement and facilities standards. If the applicant does not submit the improvement plans prior to the submission of the final plat, then he shall submit the improvement plans to the Village Clerk's office at the time that the final plat is submitted. **(Ord. No. 95-12; 02-05-96)**

34-2-5 INFORMATION REQUIRED. Every preliminary plat shall be prepared by an Illinois Registered Land Surveyor at any scale from **one inch equals twenty feet (1" = 20')** through **one inch equals one hundred feet (1" = 100')** provided the resultant drawing does not exceed **thirty-six (36) inches square**. Applicant shall provide **eleven inches by seventeen inches (11" x 17")** reduced size copies for Village Board review. Each preliminary plat shall indicate on the face the following information:

- (A) small key map showing the relation of the proposed subdivision to section or U.S. Survey lines and to platted subdivisions and dedicated roads within **three hundred (300) feet** of the proposed subdivision;
- (B) names and addresses of the owner, subdivider (if not the owner), and registered professional engineer;
- (C) proposed name of the subdivision;
- (D) zoning district classification of the tract to be subdivided, and of the adjacent land;
- (E) north arrow, graphic scale, and date of map;

(F) the gross and net acreage area of the proposed subdivision, the acreage of streets, and of any areas reserved for the common use of the property owners within the subdivision and/or for public use;

(G) all lot lines adjacent to and abutting the subdivision;

(H) tract boundary lines showing dimensions, bearings, angles, and references to known land lines;

(I) topography of the tract to be subdivided as indicated by **two- (2) foot** contour data for land having slopes of **zero-four percent (0-4%)**, **five- (5) foot** contour data for land having slopes between **four-twelve percent (4-12%)**, and **ten- (10) foot** contour data for land having slopes of **twelve percent (12%)** or more;

(J) any proposed alteration, adjustment or change in the elevation or topography of any area;

(K) locations of such features as bodies of water, ponding areas, natural drainageways, railroads, cemeteries, bridges, parks, schools, etc.;

(L) streets and rights-of-way on and adjoining the site of the proposed subdivision; showing the names and including street right-of-way and paving widths; approximate gradients; types and widths of pavement, curbs, sidewalks, crosswalks, planting strips and other pertinent data, including classification of all existing or proposed streets as to function as collector, major, minor or county road;

(M) a copy of the results of any tests made to ascertain subsurface rock and soil conditions and the water table;

(N) locations, widths, and purposes of all existing and proposed easements;

(O) a copy of the description of all proposed deed restrictions and covenants;

(P) location and size of existing and proposed sanitary and storm sewers;

(Q) locations, types, and approximate sizes of all other existing and proposed utilities;

(R) building setback or front yard lines and dimensions;

(S) locations, dimensions, and areas of all parcels to be reserved or dedicated for schools, parks/playgrounds, and other public purposes; and

(T) locations, dimensions, and areas of all proposed or existing lots within the subdivision;

(U) information as defined herein;

(V) delineated boundaries of any wetland;

(W) delineated boundaries of any Federal Emergency Management Agency identified floodplain, floodway or flood prone areas.

[See Schedule "A" at conclusion of Chapter.]

34-2-6 - 34-2-7 RESERVED.

DIVISION II - MINIMUM STANDARDS OF DESIGN

34-2-8 GENERAL STATEMENT. The subdivider shall conform to the following principles and standards of land subdivision in the design of each subdivision or portion thereof. No Preliminary Plat shall be approved unless it conforms to the following minimum standards of design.

34-2-9 STREETS AND ALLEYS.

(A) The street and alley arrangement shall be such as to no impose undue hardship upon the owners of adjoining property when they plat their own land and seek to provide for convenient access thereto. Reserve strips controlling access to streets are prohibited, except where their control is placed with the Village Board.

(B) The arrangement of rights-of-way in a subdivision shall provide for the continuation of the existing streets or rights-of-way in adjoining areas, unless the Plan Commission deems such continuation undesirable for reasons of topography or design. Where subdivision streets or rights-of-way are continuations or extensions of existing streets or rights-of-way, the width thereof shall be of the same or greater width as the existing street or right-of-way, except that in no case shall the street or right-of-way in the subdivision be of less width than hereinafter provided.

(C) Where, in the opinion of the Plan Commission, it is desirable to provide future street access to adjoining areas, the streets and rights-of-way in the subdivision shall be extended to the property line. If deemed necessary by the Plan Commission, any temporary dead-end street shall be provided with a temporary turn-around. In no case shall access be denied to any parcel or part of a parcel of ground by the subdividing of land.

(D) Streets shall intersect as nearly as possible at right angles.

(E) Local street curb intersections shall be rounded by radii of at least **fifteen (15) feet**; intersections involving collector or arterial streets shall have radii of not less than **twenty-five (25) feet**.

(F) Street jogs with center line offsets of less than **one hundred twenty-five (125) feet** are prohibited.

(G) Unless topography indicates a need for a greater length, dead-end streets designed to be so permanently shall be no longer than **five hundred (500) feet** and shall terminate in a circular open space having a radius at the outside of the pavement of at least **forty (40) feet** and a diameter at the outside of the right-of-way for at least **one hundred (100) feet**.

(H) Local streets shall be designed so as to discourage through traffic.

(I) No local street grade shall be in excess of **ten percent (10%)** and no collection street or arterial street grade shall be in excess of **seven percent (7%)**, except as otherwise approved by the Plan Commission due to adverse topographic conditions. For adequate drainage, the minimum grade of any new street shall not be less than **one-half of one percent (1/2%)**.

(J) The Plan Commission **shall not** approve streets which will be subject to frequent inundation or flooding.

(K) Alleys shall be avoided in a single-family and two-family district, except as required by this Section, however, may be required in multiple-family districts and commercial or industrial districts, unless other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent and adequate for the use proposed.

(L) Dead-end alleys shall not be permitted, except where provided with adequate turn-around facilities at the dead-end, or where such dead-end alleys provide the only access to off-street parking.

(M) Alleys, where provided shall have a right-of-way of not less than **twenty (20) feet**.

(N) The minimum right-of-way of local streets, including marginal access streets and cul-de-sacs, shall be **fifty (50) feet**.

(O) The minimum right-of-way of secondary or collector streets shall be **sixty (60) feet**.

(P) The minimum right-of-way of arterial or primary streets shall be **eighty (80) feet**.

(Q) Intersections of more than **two (2) streets** at one point shall be avoided.

(R) Where the subdivision abuts in or contains an existing or proposed arterial street, the Plan Commission may require that marginal access streets be provided in order that no lots front on such existing or proposed arterial street.

(S) Dedication of half-streets shall be discouraged, but may be permitted whenever there is no other logical method of platting. However, wherever there exists a dedicated or platted half-street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted, unless otherwise permitted by the Plan Commission.

34-2-10 DRAINAGE. No plat shall be approved for any subdivision which is subject to flooding unless the plat conforms to the applicable requirements of this Code.

(A) No plat shall be approved for any subdivision or part thereof which is subject to periodic flooding or which contains inadequate drainage facilities or which makes adequate drainage of streets impossible. However, if the subdivider agrees in writing to make improvements at his expense which will, in the opinion of the Plan Commission, make the area safe for human occupancy and use and further provide adequate drainage for streets, then the preliminary and final plat may be approved.

(B) Storm water drainage shall be discharged to marshlands, swamps, retention basins, or other treatment facilities. Diversion of storm water to marshlands or swamps shall be considered by the Plan Commission for existing or planned surface drainage. Marshlands and swamps used for storm water shall provide for natural or artificial water level control.

(C) No existing ditch, stream, drain or drainage canal shall be deepened, widened, filled, rerouted or filled without written permission from the Village.

(D) Where artificial channels must be constructed to augment the natural drainage system, such channels as well as the natural drainage ways may be planned as part of a recreation trail system. Channels shall be designed to be aesthetically compatible for recreational trail use.

(E) The drainage system shall be constructed and operational during construction or as approved by the Village.

(F) The natural drainage system shall be used as far as is feasible for the storage and flow of runoff.

(G) No plat shall be recorded for any subdivision situated within **five hundred (500) feet** of any surface drain or watercourse serving a tributary area of **six hundred forty (640) acres** or more, until such plat or map has been reviewed by the Department of Transportation, either independently or in cooperation with Federal, State or Local agencies, for the purpose of determining, for the protection of persons and property, the flood hazards involved, and a report thereon filed by that Department with the County Recorder. **See Chapter 32 - Stormwater Code**

34-2-11 EROSION AND SEDIMENT CONTROL. The following standards shall be applied in the subdivision and construction of land areas:

(A) The development shall conform to the natural limitations presented by topography and soil so as to create the least potential for soil erosion.

(B) Natural plant covering shall be retained and protected so far as is consistent with development of the site.

(C) When soil is exposed, the exposure shall be for the shortest feasible period of time.

(D) Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.

(E) Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.

(F) Provision shall be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development.

(G) Sediment basins, debris basins, desilting basins, or silt traps shall be installed and maintained to remove sediment from runoff waters undergoing development.

(H) Temporary vegetation or where appropriate mulching or other non-viable cover shall be used to protect areas exposed during development.

(I) Where the topsoil is removed, sufficient arable soil shall be set aside for respreading over the developed area. The soil shall be restored to a depth of **four (4) inches** and shall be of a quality at least equal to the soil quality prior to development.

(J) Permanent, final plat covering or structures shall be installed as soon as possible.

(See Chapter 32 - Stormwater Code)

34-2-12 EASEMENTS.

(A) Easements of not less than **seven and one-half (7 1/2) feet** in width shall be provided on each side of all rear lot lines and alongside lot lines where necessary for storm and sanitary sewers, gas, water, and other mains, and for electric and telephone lines or for other public utilities. Easements of greater width may be required along or across lots when necessary for the extension of main sewers or other utilities or where both water and sewer lines are located in the same easement. A **two (2) foot** easement shall be required on one side of and adjacent to an alley to accommodate pole lines.

(B) Adequate easements for storm water drainage shall be established along any natural drainage, channel and in such other locations as may be necessary to provide satisfactory disposal of storm water from streets, alleys and all other portions of the subdivision. The location and minimum widths of such easements shall be determined by the Zoning Administrator.

(C) No tree, shrub or building shall be placed or erected in any easement for utility or drainage purposes or within the right-of-way of any street, except at the owner's risk as to all costs for demolition, removal or reconstruction, and the proper authorities may have free access to and use of the easements at any time.

34-2-13 BLOCKS - CROSSWALKS.

(A) No block shall be longer than **one thousand eight hundred (1,800) feet** or less than **five hundred (500) feet** in length, except where the continuity of the existing neighborhood would be disrupted.

(B) All blocks, whenever it is deemed essential to provide access to schools, playgrounds, shopping centers and other community facilities, shall have a crosswalk with a right-of-way of at least **ten (10) feet** in width near the center of the block. **(See Section 34-3-12(B))**

(C) The length, width and shapes of blocks shall be determined with due regard to building sites, land use, zoning requirements, access, safety and convenience.

(D) Where a subdivision adjoins an arterial or collector, the greater dimension of the block shall generally front or back upon such arterial or collector to avoid unnecessary ingress or egress.

34-2-14 PARKS AND OTHER PUBLIC AREAS.

(A) Where any area is specifically designated on the Comprehensive Plan of the Village, for a public park, playground, school or other public use, and is owned by the subdivider, such area shall be reserved for such use on all subdivision plans and plats; and the acquisition of such area may then be secured by the Village Board or arrangements be made for its acquisition within a period not to exceed **one (1) year** from the date of approval of the final plan. The value of such lands shall be established by **three (3)** qualified appraisers; one of whom shall be appointed by the Plan Commission, one appointed by the subdivider, and one of whom shall be mutually agreed upon by the other two.

(B) Should the Village Board decide to take such premises, then and in that case, it shall make arrangements to pay the subdivider the appraised value therefor as determined by the above described appraisers, or a sum that is mutually agreed upon. The Village Board may accept any donation of land as above described should the subdivider desire to contribute the same to the Village.

34-2-15 UTILITIES.

(A) Source of domestic water supply and type of sewage disposal.

(B) Storm water drainage.

(1) Complete storm sewer system, including pipe sizes, inlets and inverts.

(2) A proposed surface water drainage pattern for each individual lot, block and street.

(C) All easements as required shall be indicated.

(D) **Protective Covenants.** An outline of all proposed protective covenants shall accompany the preliminary plan and shall include a protection against the obstruction of any surface water drainage easement.

34-2-16 LOTS.

(A) **Minimum Size.** All lots in a subdivision shall conform to the minimum lot area and dimensions requirements of the zoning district in which the subdivision is located; land that is under water or reserved for street improvements shall not be counted in determining compliance with requirements. **(See Zoning Code)**

(B) The lot arrangement and design shall be such that all lots will provide satisfactory and desirable building sites, property related to topography and the character of surrounding development.

(C) All side lines of lots shall be at right angles to straight street right-of-way lines and radial to curved street right-of-way lines, except where a variation of this rule will provide a better street and lot design.

(D) All remnants of lots below minimum lot area size left over after subdividing of a larger tract shall be added to adjacent lots, rather than allowing to remain as unusable land,

except when designated for utility purposes or accepted for public space for park or other public uses.

(E) Lots which **cannot** be served by either a public or private sanitary sewer, and/or a public water system, shall comply with the applicable provisions of the applicable Zoning Code or shall be not less than **one (1) acre** in size per lot or household unit, whichever is greater. Such lots shall have a width of not less than **one hundred twenty-five (125) feet** or a depth in excess of **three (3) times** its width, unless otherwise permitted and approved by the Plan Commission.

(F) Lots with double frontage should be avoided where possible. Corner lots and lots with double frontage shall have extra dimension sufficient to permit the establishment of front building setback lines on the adjoining streets.

(G) The subdividing of the land shall be such as to provide each lot with satisfactory access to public streets. The Plan Commission may require additional reservation of land to insure adequate access to prevent land locking of the adjoining territory. **(See Chapter 40 - Zoning Code for applicable lot signs.)**

34-2-17 - 34-2-19 RESERVED.

DIVISION III - APPROVAL OF PRELIMINARY PLAN

34-2-20 CHECKLIST COMPLETED. In order to qualify for approval, the Preliminary Plan shall be accompanied by a properly executed checklist as shown in **Section 34-6-1, Schedule "A"**.

34-2-21 CHANGES OR REVISIONS. The Plan Commission and/or Zoning Administrator may recommend or the Village Board may require such changes or revisions as are deemed necessary in the interests and needs of the community.

34-2-22 APPROVAL - TENTATIVE. The approval of a preliminary plan by the Plan Commission and the Village Board is tentative only, involving merely the general acceptability of the layout as submitted.

34-2-23 CERTIFICATE. Approval shall consist of a certificate to that effect on the preliminary plan signed by the Chairman of the Plan Commission and by the Mayor with the advice and consent of the Village Board.

ARTICLE III - ENGINEERING PLANS

DIVISION I - PROCEDURE

34-3-1 **ENGINEERING PLAN PROCEDURE.** Within **twelve (12) months** after receiving approval of the Preliminary Plan by the Village Board, there shall be submitted to the Zoning Administrator by the subdivider, **four (4) copies** of the engineering plans and specifications as required in **Division II** of this Article. The Zoning Administrator shall immediately refer **two (2) copies** to the Mayor and shall notify the Village Board of this action at the next regular Village Board meeting. In the event of a special problem, the Plan Commission shall notify the owner or subdivider of the time and place at which he shall be afforded an opportunity of being heard. The Plan Commission shall make its recommendation to the Village Board, within **forty-five (45) days** after receipt of engineering drawings and specifications. In the event of disapproval of the engineering plans and specifications by the Plan Commission, the same shall be immediately returned so marked to the Zoning Administrator for return to the subdivider, and may be refilled with the Zoning Administrator after necessary revisions are made.

34-3-2 - 34-3-3 **RESERVED.**

DIVISION II - MINIMUM STANDARDS OF IMPROVEMENT

34-3-4 **GENERAL STATEMENT.** Utility and street improvements shall be provided by the subdivider in each new subdivision in accordance with the standards and requirements described in the following section. The requirements set forth below shall be considered as minimum requirements and nothing contained herein shall be construed to mean that the subdivider cannot construct or provide improvements of a higher type.

34-3-5 **REFERENCE MONUMENTS.** Permanent monuments shall be of concrete **four inches by four inches by thirty inches (4" x 4" x 30")**, with a **one-half (1/2) inch** iron pin cast in the center, set in such a manner that they will not be moved by frost and shall be placed in the field as required by the Illinois Compiled Statutes.

All lot corners shall be marked by **one-half (1/2) inch** iron pins not less than **thirty (30) inches** in length and driven into the ground and shall not protrude above the ground surface more than **one and one-half (1 1/2) inches**.

These monuments must be placed at all corners, at the end of all curves, at the point where a curve changes its radius, at all angle points along a meander line, the points to be not less than **twenty (20) feet** back from the normal water elevation of a lake or from the bank of a stream, except that when such corners or points fall within a street or proposed future street, the monuments must be placed in the right-of-way line of the street. All internal boundaries, corners and points must be monumented in the field by like monuments as defined above.

34-3-6 **STREET IMPROVEMENTS.** All streets shall be constructed as hereinafter provided:

(A) **General.** All new streets, which are created and dedicated for use within a subdivision shall be graded, drained, and surfaced in accordance with the minimum requirements herein below set forth and in a manner which will provide complete and adequate drainage of all the streets, alleys and public grounds which may be necessary in order to provide adequate and satisfactory drainage along the side of any existing public street which lies adjacent to the subdivision.

In general, all such new streets within the subdivision and all work to be undertaken thereon shall be designed and constructed according to the Standard Specifications for Road & Bridge Construction, latest edition, adopted by the State of Illinois, Department of Transportation, as the same are in effect at the time the Preliminary Plat and plans for such improvement work are submitted for approval the Village Board of Trustees. The layout of the proposed streets shall be properly integrated with the existing street system as indicated on the Village's Official Map and previously accepted subdivision layouts, so as to provide for uniform traffic flow and the safety of the residents of the Village.

(B) **Street Design Standards.** All streets within the proposed subdivision and under the jurisdictional authority of the Village shall be improved with pavements as outlined herein and bound by integral curbs and gutter, in accordance with the detail shown in Figure 3. All proposed street layouts shall meet the specifications set forth in tabular form below:

<u>Street Type</u>	<u>Permitted On-Street Parking</u>	<u>Min. Required R.O.W. Width</u>	<u>Min. Required Pavement Width</u>	<u>Min. Grade</u>	<u>Max. Grade</u>
Local	Both Sides	50 ft.	32 ft.	0.5%	10%
Collector	Both Sides	60 ft.	40 ft.	0.5%	8%
Industrial	Both Sides	60 ft.	48 ft.	0.5%	8%
Industrial	No Parking	60 ft.	32 ft.	0.5%	8%

A collector street shall be defined as a street serving or having the potential to serve 100 lots or more. All pavement widths shall be measured from back to back of the curbs. All pavements shall be centered in the right-of-way.

(C) **Subgrade Design Standards.** All streets within the jurisdictional authority of the Village shall be improved by installation of **ONE** of the following subgrade construction requirements as detailed in the Standard Specification for Road and Bridge Construction. Any unsuitable material encountered during construction of the subgrade shall be removed and replaced as determined by the Village Engineer. Written acceptance of the subgrade shall be obtained prior to placement of the pavement.

- (1) **Lime Modified Soils (Code L).** Approved lime material shall be incorporated in a lime to soil proportion of **two to six percent (2-6%)**, and a minimum depth of **fourteen (14) inches**. The required proportion of lime must be approved by the Village Engineer prior to construction, using samples of the proposed soil and lime. All sampling and testing shall be provided by the contractor.

- (2) **Geotextile Fabric.** Approved Geotextile Fabric shall be utilized in preparation of the subgrade. The required Geotextile Fabric must be approved by the Village Engineer after sampling and testing of the subgrade. All sampling and testing shall be provided by the contractor. The approved Geotextile Fabric shall extend curb face to curb face (see Exhibit A). If the Geotextile Fabric cannot be furnished in a width sufficient to extend the full width of the proposed street, then all seams shall overlap a minimum of **two (2) feet.** (Ord. No. 2000-11; 02-05-01)

(D) **Pavement Design Standards.** All streets within jurisdictional authority of the Village shall be improved by installation of one of the following pavement construction requirements as detailed in the Standard Specification for Road and Bridge Construction and outlined in tabular form below:

<u>Street Classification</u>	<u>Pavement Thickness</u>	<u>Construction Material</u>	<u>Surface Treatment</u>
Local	8" compacted	CA-6 Crushed limestone	A-2
Collector	10" compacted	CA-6 Crushed limestone	A-3
Industrial	10"	Reinforced Concrete Pavement	Broom finish

The crushed stone base course shall be permitted to remain throughout one winter season before the surface treatment is placed thereon. The Village Engineer may waive the required waiting period upon satisfactory testing of the base course for optimum density. Testing shall be performed by the contractor to the satisfaction of the Village Engineer. All finished pavements shall have a finished crown of **one percent (1%)** measured from the centerline to the gutter.

(E) **Curb and Gutter.** The thickness of the concrete gutter shall coincide with the thickness of the pavement as outlined above.

(F) **Alleys.** Alleys should be avoided if possible. Any subdivision which incorporates alleys must first be approved by the Planning Commission. If approved, alleys must be constructed in accordance with those standards of Local Streets.

(G) **Utility Lines.** Underground utility lines shall be located to minimize placement under the street pavement. Easements should be provided adjacent to the street R.O.W. for such purposes. All underground utilities should be installed prior to construction of the pavement. (Ord. No. 99-14; 03-06-00)

34-3-7 STORM SEWERS AND OTHER DRAINAGE APPURTENANCES. In addition to the installation of curbs or gutters along the streets, as required by **Section 34-3-6(C)** of this Article, storm sewer systems shall be constructed throughout the entire subdivision to carry off water from all inlets and catch basins, and shall be connected to an adequate outfall. Such sewers shall provide for an extension to land lying within the upland drainage area, whether such land is within the subdivision or not. Storm sewers shall be designed by the rational method; and copies of the design computations shall be submitted with the plans. Inlets shall be provided to that surface water is not carried across or around any intersection, nor for a distance of more than **six hundred (600) feet** in the gutter. The storm water drainage system shall be separate and independent of the sanitary sewer system. Surface water drainage patterns shall be shown for each and every individual lot and block.

34-3-8 PUBLIC UTILITY ENGINEERING REQUIREMENTS. All proposed water and sanitary sewer facilities shall comply with the minimum requirements and recommendations of the **Illinois Environmental Protection Agency of the State of Illinois** and the Zoning Administrator. When a proposed subdivision is reasonably accessible to a public sewer system and/or distribution system, the subdivider shall provide the subdivision with a complete sanitary sewer system and/or water distribution system to be connected to the proper public system(s).

34-3-9 SANITARY SEWERS.

(A) All sewer plans and installations shall conform to the standards and specifications set forth in "**The Standard Specifications for Water and Sewer Main Construction in Illinois**," latest edition. Material for the sanitary sewer pipe shall be P.V.C. D-3034 DR-35, type PSM. All joints shall conform with ASTM D-3212 with the elastometric gasket glued in place.

(B) Sanitary sewer lines shall be installed to serve all properties in the subdivision, except subdivisions where individual sewage disposal systems are permitted by the Village Board.

(C) Where sanitary sewer mains of larger capacity than necessary to serve the subdivision as delineated in the Preliminary Plan are required to serve the future growth in the vicinity of the subdivision, as determined by the Village Board, the Village shall then reimburse the subdivider for the difference in cost of the smaller size pipe and the larger size pipe; said larger size to be determined by the Village Board.

(D) Each lot in the subdivision shall be provided a service lateral connection to the public sanitary sewer system. The service lateral shall extend from the public sanitary sewer system to a point **two (2) feet** inside the back line of the front easement of the lot. A 90° elbow, and a capped vertical riser extending to a point **two (2) feet** above finished grade should be installed on each service lateral at each lot. The horizontal portion of the service lateral shall be installed a minimum of **nine (9) feet** deep below top of curb. If the design of the public sanitary sewer system does not allow for a minimum of **nine (9) feet** deep service laterals, then they should be as deep as possible. Granular backfill shall be installed under all proposed pavement. The construction of the sewer system shall conform to the approved plans and specifications and all work should be available for inspection by the Village.

(Ord. No. 96-8; 11-18-96)

34-3-10 WATER SYSTEM.

(A) All water main plans and installations, shall conform to the standards and specifications set forth in "**The Standard Specifications for Water and Sewer Main Construction in Illinois**," latest edition.

(B) Water distribution facilities including all main piping, fittings, hydrants, valves, vaults, service connections, service piping, meter yokes, pits, lids, etc., shall be installed to serve all lots within the subdivision.

(C) The minimum pipe size for water mains is **six (6) inches**. Where water mains of larger capacity are required to serve future growth in the vicinity of the subdivision, as determined by the Village Board, the Developer shall be required to install the larger size pipe. The Village shall then reimburse the difference in cost of the smaller size pipe and the larger size pipe with the larger size to be determined by the Village.

(D) The construction of the water system shall conform to the approved plans and specifications and all work shall be available for inspection by the Village. Material specifications shall be per attached drawing No. 34-3-10(D).

(E) Fire hydrants shall be installed by the subdivider to conform with the approved plans and specifications as part of the water system. Location of the fire hydrants shall be accomplished in such a manner that each lot is within **four hundred (400) feet** of the fire hydrant when measured along the centerline of the right-of-way. Fire hydrants shall be as manufactured by Mueller or Kennedy with **two (2) two and one-half (2 ½) inch** hose nozzles and **one (1) four and one-half (4 ½) inch** pumper nozzle. All fire hydrants shall be installed with a separate auxiliary gate valve.

(Ord. No. 96-8; 11-18-96)

DRAWING NO. 34-3-10(D)

TYPICAL WATER METER MATERIAL LIST

- A. Service saddle, Mueller or Ford, doublestrap, all brass.
- B. Tracer wire for all PVC pipe, THWN soft drawn solid No. 12 copper wire, accessible through all valve boxes.
- C. Watermain pipe, PVC, AWWA C-900 DR-18 pipe.
- D. Corporation stop, Mueller or Ford, all brass, CTS compression outlet.
- E. Copper water service pipe, 3/4", type K, soft temper.
- F. Meter yoke for 5/8 x 3/4 meter, Mueller or Ford, 15" rise, ball valve, wing lock, inlet nut to be CTS compression, outlet to be combination nut.
- G. Pipe nipple, brass, 3/4" x 12" long.
- H. Adaptor, brass, 3/4" FIP x 3/4" CTS compression.
- I. Meter well, plastic, heavy duty, 18 x 30.
- J. Meter well lid, cast iron, drop in lid.

34-3-11 STREET NAMES AND SIGNS.

(A) **Street Names.** The names of new streets shall be sufficiently different in sound and spelling from the names of existing streets in the Village to avoid confusion. A street which is planned as a continuation of an existing street shall bear the same name as the existing street.

(B) **Street Name Signs.** Street name signs shall be erected by the developer at all intersections within or abutting the subdivision with the approval of the Street Superintendent. Signs shall be embossed steel U.S. Standard Street Signs (or the equivalent thereof) measuring **six inches by twenty-four inches (6" x 24")**, with the lettering at least **four (4) inches** high. All street name signs shall be mounted on **two (2) inch** diameter galvanized pipe set in concrete to a depth of at least **three (3) feet** and extending above the surface to a height of at least **seven (7) feet**.

34-3-12 PUBLIC UTILITIES - UNDERGROUND.

All utility lines located in rear line or lot easements, including telephone and electric service shall be located underground.

34-3-13 SIDEWALKS.

(A) Concrete sidewalks not less than **four (4) inches** in thickness and **four (4) feet** in width may be constructed within the street right-of-way and adjacent to the property line.

(B) In the event a crosswalk is required in accordance with **Section 34-2-14**, a concrete sidewalk not less than **four (4) inches** in thickness and **four (4) feet** in width shall be constructed and at a grade no steeper than **fifteen percent (15%)** unless steps of adequate design are provided.

34-3-14 - 34-3-15 RESERVED.

DIVISION III - APPROVAL OF DESIGN PLANS

34-3-16 **CHECKLIST.** In order to qualify for approval, the engineering plans shall be accompanied by a properly executed checklist as shown in **Section 34-6-2, Schedule "B"**.

34-3-17 **CHANGES OR REVISIONS.** The Plan Commission may recommend or the Village Board may require such changes or revisions as are deemed necessary in the interest and needs of the community.

34-3-18 **APPROVAL, TENTATIVE.** The Plan Commission may grant approval of the total require engineering plans by approval of plans covering only a portion of the land improvements (e.g., sanitary sewers and water) so as to facilitate immediate installations. This partial approval shall consist of a certificate on the plans covering each of the required improvements signed by the Plan Commission.

34-3-19 **LETTER OF APPROVAL.** Final approval of the complete set of engineering plans shall consist of a letter of approval from the Plan Commission, listing thereon:

- (A) Type of improvement(s) covered by the plan.
- (B) Name of designing engineer.
- (C) Date of preparation and revision, if any.

ARTICLE IV - FINAL PLATS

DIVISION I - PROCEDURE

34-4-1 **SUBDIVIDER.**

(A) Within **six (6) months** after receiving approval of the engineering plans and specifications by the Plan Commission, or a period of time beyond **six (6) months** that may be granted by the Village Board, there shall be submitted to the Zoning Administrator by the subdivider, the original drawing, **one (1)** transparency print and **four (4) copies** of the final plat, which shall also contain all required signed certifications, other than signed certificates of approval by the Plan Commission, the Village Board, and the Zoning Administrator. It shall contain the necessary documents as may be necessary concerning the form of guarantees or performance bond to be used. The final plat shall retain the overall characteristics of the Preliminary Plan and may include all or part of the area shown on the Preliminary Plan. The Zoning Administrator shall refer the original drawing and **two (2) copies** of the final plat to the Plan Commission, and **one (1) copy** of the final plat to the Superintendent of Utilities, at least **ten (10) days** prior to their next regularly scheduled meeting for recommendation as to final approval. In the event of a special problem, the Plan Commission shall notify the owner or subdivider as to the time and place of the Plan Commission meeting at which time he will be afforded an opportunity of being heard.

(B) **Plan Commission Action.** The Plan Commission shall review the Final Plat and plans and transmit their report of findings and recommendations to the Village Board within **thirty (30) days** of the filing date of the Final Plat. The action of the Plan Commission, whether approval or disapproval of the Final Plat, as well as the date of said action, shall be noted in writing and attached to the Final Plat. If the Final Plat is disapproved, the reasons why shall be so stated.

(C) **Village Board Action.** The Village Board shall take action on the Final Plat within **sixty (60) days** from the date of the subdivider's filing of the last required document or other paper or within **sixty (60) days** from the date of the subdivider's filing application for approval of the Final Plat, whichever date is later, unless such time is extended by written mutual consent.

(D) **Disapproval.** If the Final Plat is disapproved by the Village Board, the reasons for such action shall be noted in writing by resolution, stating the reasons for disapproval, specifying with particularity the aspects in which the Final Plat fails to conform with the Village's ordinances.

(E) **Posting Performance Bond.** If the Final Plat is approved by the Village Board, the Final Plat shall be held by the Village Clerk until such time the subdivider posts a performance guarantee bond as required by **Sections 34-4-7** and **34-4-8**.

Upon receipt of said performance guarantee or bond, the Mayor shall affix his signature to the Final Plat and attach thereto a notation that the Final Plat has received final approval of the Village Board; the Clerk shall attest the signature of the Mayor and affix the seal and attach a certified copy of the Village Board's resolution of approval to the approved Final Plat. If such performance guarantee or bond is not posted by the subdivider within **sixty (60) days** from the date of approval of the Final Plat by the Village Board, approval of such Final Plat shall expire and become null and void.

34-4-2 **RESERVED.**

DIVISION II - FINAL PLAT REQUIREMENTS

34-4-3 **REQUIREMENTS OF SUBDIVIDER.** The Final Plat to be provided by the subdivider shall meet the following specifications:

(A) The Final Plat may include **all or only a part** of the Preliminary Plat which has received approval.

(B) The Final Plat shall be drawn on new linen tracing cloth, mylar or a polyester-base film with waterproof black ink to a scale of not greater than **one hundred (100) feet to one (1) inch**, provided, however, that if the resulting drawing would be over **forty-two (42) inches square**, a scale of up to **two hundred (200) feet to one (1) inch** may be used.

(C) **Four (4)** black or blue line prints shall be submitted with the original tracing of the Final Plat, or in order to conform to modern drafting and reproductive methods, **four (4)** black or blue line prints and reproducible cloth or film positives of the Final Plat shall be submitted.

Prints filed with the Village shall include **one (1)** black or blue line print made after recording of the Final Plat and bearing the official stamp attesting the fact of the recording; and **one (1)** reproducible print or film positive of the Final Plat, as approved.

(D) All dimensions shall be shown in feet and decimals of a foot and/or meters.

(E) All surveys for a Final Plat shall be made under the active and personal direction of an Illinois Registered Land Surveyor, and the following basic information shall be shown:

- (1) Accurate boundary lines with dimensions and bearings or angles which provide a survey of the tract, closing with an error of closure of not more than **one (1) foot in five thousand (5,000) feet**.
- (2) Accurate distances and directions to the nearest established official monument. Reference corners shall be accurately described on the Final Plat.
- (3) All elevations shall be referenced to the established datum and the said reference shall be clearly stated on any plans or drawings showing such datum, provided that bench marks are located within a reasonable distance.
- (4) Accurate metes and bounds description of the boundary and the included area of the subdivision to the nearest **one-hundredth of an acre**.
- (5) Accurate locations of all existing and recorded streets intersecting the boundaries of the tract, shown by heavy solid lines.
- (6) Right-of-way lines of streets, easements and other rights-of-way and property lines and areas of lots and other tracts, with accurate dimensions, bearings and curve data, including radii, arcs and chords, points of tangency, and central angles.
- (7) Name and right-of-way width for each street or other right-of-way.
- (8) Location, dimensions and purposes of any easement, shown by light, dashed lines.
- (9) Number to identify each lot or site.
- (10) Purpose for which sites, other than residential lots are dedicated or reserved.
- (11) Lot dimensions and areas of each lot and building setback lines and dimensions.
- (12) Location, type, material and size of all monuments and lot markers.

- (13) Names of owners and mortgages accepting said Plat with owner or owners personally signing all plans.
- (14) Names of owners of record of adjoining unplatted lands.
- (15) Reference to recorded subdivision plats within **three hundred (300) feet** of adjoining platted land by record name, date and number.
- (16) Restrictions of all types which will run with the land and become covenants in the deeds for lots. Restriction lines should be shown by medium, dashed lines.
- (17) Title or name of subdivision; Section, Township and Range numbers in which the subdivision is located; and north arrow, scale and date.
- (18) Certification as required by **Section 34-4-4.**

34-4-4 APPROPRIATE CERTIFICATES. The following shall be completed as required by this Code:

(A)

OWNER'S CERTIFICATE

We, _____, the Owners of _____ (description) _____, have caused the said tract to be surveyed and subdivided in the manner shown, and said subdivision is to be hereinafter known as _____. All rights-of-way and easements shown hereon are hereby dedicated to the use of the public forever, including the release and waiver of the right of homestead under the Homestead Exemption laws of the State of Illinois.

Dated this ___ day of _____, 20__.

_____ (Seal)

_____ (Seal)

(B)

NOTARY PUBLIC'S CERTIFICATE

State of Illinois)
) SS
County of St. Clair)

I, _____, a Notary Public in and for said County in the State aforesaid, do hereby certify that _____ (owners) _____, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such owners, appeared before me this day in person and acknowledged that they signed and delivered this plat as their own free and voluntary act for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this _____ day of _____, 20__, at _____

Notary Public

(C)

SURVEYOR'S CERTIFICATE

State of Illinois)
) SS
County of St. Clair)

I, _____, a registered Illinois Land Surveyor, do hereby certify that this plat is a correct representation of a survey and subdivision made under my direct supervision at the request of _____, for the purpose of subdividing the tract into lots as shown.

Illinois Land Surveyor

Registration Number

Date

(D)

COUNTY CLERK'S CERTIFICATE

State of Illinois)
) SS
County of St. Clair)

I, _____, County Clerk of _____ County, Illinois, do hereby certify that there are no delinquent general taxes, no unpaid forfeited taxes and no redeemable tax sales against any of the land included in the attached plat.

I further certify that I have received all statutory fees in connection with the attached plat.

Given under my hand and seal at _____, this _____ day of _____, 20__.

County Clerk

Date

(E)

COUNTY ENGINEER'S CERTIFICATE

This plat has been approved by the County Highway Department with respect to roadway access pursuant to the requirements of St. Clair County governing access rights.

County Engineer

Date

(F)

CERTIFICATE OF VILLAGE BOARD

State of Illinois)
) SS
County of St. Clair)

I, _____, Mayor of the Village of New Athens, do hereby certify that the Plat shown herein was duly presented to the Village Board and approved at a meeting of same held on _____ (date).

Mayor

Village Clerk

(G)

SPECIAL FLOOD HAZARD AREA CERTIFICATE

We, the undersigned, do hereby certify that part of the land being subdivided by this plat is located within a Special Flood Hazard Area as identified by the Federal Emergency Management Agency as shown on the "Flood Insurance Rate Map" and the "Flood Boundary and Floodway Map" for the County of St. Clair, Illinois on the Community Panel dated **November 5, 2003**.

Developer Date

(H)

FLOOD HAZARD CERTIFICATE

State of Illinois)
) SS
County of St. Clair)

We, the undersigned, do hereby certify that no part of this plat to be recorded is situated within **five hundred (500) feet** of any surface drain or watercourse serving a tributary area of **six hundred forty (640) acres** or more, or, if this plat is within **five hundred (500) feet** of any surface drain or watercourse, we do hereby certify that this plat has been reviewed by the Illinois Department of Transportation Division of Water Resources and their reports are on file with the Recorder of Deeds of St. Clair County.

By: _____
Owner(s)
By: _____
Illinois Land Surveyor

Registration Number

Date

(I)

PLAN COMMISSION CERTIFICATE

State of Illinois)
) SS
County of St. Clair)

Approved this _____ day of _____, 20__.

_____ (CHAIRMAN)

_____ (SECRETARY)

PLAN COMMISSION

(J)

SUPERINTENDENTS OF WATER, SEWER AND STREETS

State of Illinois)
) SS
County of St. Clair)

We, the Superintendents do hereby certify that the required improvements have been installed or the required guarantee bond has been posted for the completion of all land improvements.

_____ Water Superintendent

_____ Sewer Superintendent

_____ Street Superintendent

Dated this _____ day of _____, 20__.

(K)

9-1-1 CERTIFICATE

State of Illinois)
) SS
County of St. Clair)

This plat has been reviewed for 9-1-1 implementation.

_____ St. Clair County 9-1-1 Coordinator

_____ Date

DIVISION III - APPROVAL OF FINAL PLAT

34-4-6 **REQUIREMENTS OF FINAL PLAT.** In order to qualify for approval, the Final Plat shall be accompanied by the following:

- (A) A properly executed checklist as shown in **Schedule "C"** in **Section 34-6-3**.
- (B) Detailed specifications for all required land improvements other than those specifications submitted and approved with the engineering plans.
- (C) A copy of the Illinois Environmental Agency's permit for the sanitary sewer installation.
- (D) A copy of the Illinois Environmental Agency's approval for the water main installation.
- (E) An affidavit executed by the owner and/or subdivider accepting the responsibility for the installation of the improvements as shown on the approved engineering plans and covered by the specifications and permits required above. This affidavit shall include a stipulation by the subdivider of the installation of all land improvements in the person of a registered engineer.
- (F) A certified estimate of cost of all required land improvements prepared by a registered engineer.
- (G) A description of the bond or guarantee collateral intended to be submitted as required in the following division.

34-4-7 - 34-4-8 **RESERVED.**

DIVISION IV - GUARANTEES

34-4-9 **GUARANTEES TO VILLAGE.** After the Village Board has approved the Final Plat with respect to the above qualifications, the subdivider shall be so notified by the Zoning Administrator. Final approval and signature by the Mayor and the Zoning Administrator shall be contingent upon the receipt by the Village of guarantee by the owner and/or subdivider to the Village for the completion of all land improvements yet remaining to be installed within **sixty (60) days** of the approval of the Final Plat.

- (A) Deposit with the Village a subdivider's bond in the amount of the estimated cost of the land improvements; said bond need never exceed **one and one-half (1 ½) times** the estimated cost of the improvements remaining to be completed.
- (B) Deposit with the Village, cash in the amount of the estimated cost of the land improvements; said amount of cash need never exceed **one and one-half (1 ½) times** the estimated cost of the improvements remaining to be completed. Subdivider shall execute "an undertaking in lieu of a bond" provided for in **Section 34-6-5** and an "irrevocable commitment" from a financial institution as provided for in **Section 34-6-5**.
- (C) Deposit with the Village a lien to be recorded in the County Recorder's Office on all property being subdivided, with the provision that partial release may be obtained when the loaning company executes with the Village an agreement to withhold **one and one-half (1 ½) times** the estimated cost of the land improvements yet remaining to be installed, in

escrow, until such time as all land improvements have been completed and accepted by the Village. All expenses incurred in determining the amounts apportioned against the land and the cost of releasing each lot or tract shall be paid by the subdivider.

(D) Deposit with the Village other collateral equivalent to **one and one-half (1 ½) times** the estimated cost of land improvements yet remaining to be installed, such collateral to be approved by the Village Board.

34-4-10 CONSTRUCTION TIME CONSTRAINTS. All required land improvements shall be installed and completed within a period of **two (2) years** after the recording of the Final Plat. Failure of the subdivider to complete all of the improvements within this **two (2) year** period shall result in forfeiture of the guarantee collateral unless an extension of time is requested by the subdivider and granted by the Village Board. In the event of failure to complete the improvements in the required period, as stated above, the Village Board may direct that no further building permits be issued for property in such subdivision pending satisfaction of the Village Board in regard to the status of the required land improvements.

34-4-11 INSPECTION. All required land improvements to be installed under the provisions of this Chapter shall be checked during the course of construction, by or at the direction of the Zoning Administrator or his designated representative.

The cost of any reinspection of any required land improvement found to be faulty or not in accordance with the approved plans and specifications shall be paid by the subdivider to the Village. The testing of any concrete, asphalt, soil, or other materials and workmanship shall be done at the direction of the Village and at the expense of the subdivider.

34-4-12 RELEASE OF BOND. The subdivider's bond or guarantee collateral shall be released only upon fulfillment of the following conditions:

- (A) The completion of all required land improvements.
- (B) The submission of **four (4) copies** of acceptable "as-built" drawings of all land improvements.
- (C) An affidavit to the effect that:
 - (1) All materials, labor and other costs have been paid, or arrangements have been made for payment so as to hold the Village free from any obligations for payment of any costs of the land improvements, and
 - (2) that the subdivider accepts responsibility for the maintenance and repair of all land improvements for **one (1) year** after the date of the acceptance resolution by the Village Board.
- (D) Final Acceptance, by resolution by the Village Board of all land improvements.

ARTICLE V - ADMINISTRATION

34-5-1 **ENFORCEMENT OFFICER - DUTIES.** The Zoning Administrator referred to herein as "the Administrator" is hereby authorized and directed to administer and enforce the provisions of this Code. This broad responsibility encompasses, but is not limited to the following specific duties:

- (A) to review and forward preliminary and final plats to the Plan Commission.
- (B) to transmit improvements plans to the Village Engineer for his review.
- (C) to issue stop orders as necessary when the Village Engineer determines that approved improvements are being constructed in violation of this Code.
- (D) to pursue actions authorized in this Code when a developer fails to complete required improvements.
- (E) to evaluate and make decisions concerning proposed minor changes in approved final plats.
- (F) to review and forward applications for subdivision variances to the Plan Commission.
- (G) to periodically review the provisions of this Code to determine whether revisions are needed, and to make recommendations to the Plan Commission as necessary.
- (H) to maintain up-to-date records of matters pertaining to this Code, including, but not limited to, preliminary plats, as-built records of completed improvements, final plats, variances, and amendments; and
- (I) to provide information to subdividers/developers and to the general public on matters related to this Code.

34-5-2 **SUBDIVISION VARIANCES.** Any subdivider/developer desiring a variance from the requirements of this Code shall file a written application therefore with the Village Board at the same time he files his preliminary plat. The application shall fully explain the grounds for the variance request, and specify the sections of this Code, which, if strictly applied, would cause great practical difficulties or hardship. At the same meeting at which they take action on the application for preliminary plat approval, the Village Board shall decide by resolution, whether to grant or deny the requested subdivision variance. A copy of their decision clearly stating their reasons therefore, and the exact terms of any variance granted shall be attached to both the preliminary and final plats. The Village Board shall not grant any subdivision variance unless, based upon the information presented to them, they determine that:

- (A) The proposed variance is consistent with the general purposes of this Code; and
- (B) Strict application of the subdivision design and improvement requirements would result in great practical difficulties or hardship to the applicant, not a mere inconvenience; and
- (C) The proposed variance is the minimum deviation from the subdivision requirements that will alleviate the difficulty/hardship; and
- (D) The plight of the applicant is due to peculiar circumstances, not of his own making; and
- (E) The peculiar circumstances engendering the variance request are not applicable to other tracts, and therefore, that a variance would be a more appropriate remedy than an amendment; and
- (F) The variance, if granted, will not substantially impair implementation of the Village community plan, including the official map.

(Ord. No. 90-13; 02-04-91)

34-5-3 **AMENDMENTS.** Amendments to this Code may be proposed by the Zoning Administrator, any member of the Village Board, any Plan Commission member, or any party in interest. Every amendment proposal shall be filed on a prescribed form in the Administrator's office. The Administrator shall promptly transmit each proposal, together with any comments or recommendations he may wish to make to the Plan Commission for a public hearing.

34-5-4 **ADVISORY REPORT, ACTION BY VILLAGE BOARD.** Within a reasonable time after the public hearing, the Plan Commission shall submit an advisory report to the Village Board. The Village Board shall act on the proposed amendment at their next regularly scheduled meeting following submission of this report. Without another public hearing, the Village Board may either pass or reject the proposed amendment or may refer it back to the Plan Commission for further consideration.

34-5-5 **SCHEDULE OF FEES.** All fees indicated in tabular form below shall be paid to the Village Clerk. The fees are intended to defray the administrative costs connected with the processing/conducting of the listed item. They do not constitute a tax or other revenue-raising device.

<u>PROCEDURE</u>	<u>FEE</u>
Filing Preliminary Plat	\$25.00
Filing Improvement Plans	\$25.00
Improvement Inspection	Actual Engineering
Filing Final Plat	\$5.00 per lot

See Chapter 40 for zoning, variance and amendment requirements.

34-5-6 **RECORDING.** The Village Clerk shall not accept a Final Plat for filing with the County Recorder of Deeds unless the following conditions are met:

(A) The Final Plat conforms to all requirements specified by the Village Board as conditions of approval.

(B) The Final Plat meets the Design Standards and engineering specifications set forth herein.

(C) The Final Plat meets all requirements of the laws of the State of Illinois.

(D) The subdivider or applicant establishes sufficient proof of his intent and ability to post a guarantee or performance bond or bonds with the Village equal to the estimated construction cost of all improvements intended to be dedicated to the Village for maintenance and operation.

No subdivision plat or re-plat of land within the jurisdiction of the Village shall be filed for record or recorded in the Office of the County Recorder of Deeds unless and until the approval of the Village Board is endorsed therein by the Village Clerk.

No lot shall be sold for such subdivision plat or re-plat until it has been approved by the Village Board and filed for record in the Office of the County Recorder of Deeds as herein provided.

The Village Clerk shall file the approved Final Plat and ordinance with the County Recorder of Deeds, not more than **thirty (30) days** from the date of posting of and not prior to the posting of the performance guarantee or bond as required by **Section 34-4-9** and **34-4-10**; **two (2) copies** of such Final Plat and ordinance shall be kept in file by the Village Clerk; **one (1)** such copy filed with the Zoning Administrator; and **one (1) copy** shall be returned to the subdivider.

It shall be unlawful for the County Recorder to accept for recording any plat of a subdivision within the incorporated area of the Village or unincorporated lands lying within area of jurisdiction of the Village until the plat has been approved as required herein and such approval has been endorsed in writing on the plat.

The Village Board shall not permit any public improvements under its jurisdiction to be constructed or maintained within an area that has been subdivided after the adoption of this Code unless such subdivision has been approved in accordance with the requirements contained herein.

No Building and Zoning Occupancy Permit shall be issued by the Zoning Administrator, Village or County for the construction of any building, structure or improvement to the land or any lot within the subdivision as defined herein, until all requirements herein have been fully complied with.

34-5-7 **VACATION OF PLATS.** In accordance with State law, any plat or part thereof may be vacated by the owner of the tract, at any time before the sale of any lot therein, by a written vacation instrument to which a copy of the plat is attached. If there are public service facilities in any street, other public way, or easement shown on the plat, the instrument shall reserve to the Village or other public entity or public utility owning such facilities the property, rights-of-way and easements necessary for continuing public service by means of those facilities and for maintaining or reconstructing the same. The vacation instrument shall be approved by the Village Board in the same manner as plats of subdivision and shall also be approved by the County Superintendent of Highways, the Highway Commissioner of the appropriate township, and the public utilities involved. In the case of the platted tracts wherein any lots have been sold, the written vacation instrument must also be signed by all the owners of lots in said tracts. **(765 ILCS 205/6, 205/7 and 205/8)**

34-5-8 **MAINTENANCE OF IMPROVEMENTS.**

(A) The subdivider/developer shall maintain all the improvements in the subdivision until they have been accepted by and dedicated to the Village or other appropriate entity.

(B) Prior to dedication, the subdivider/developer shall post a maintenance bond with the Village Clerk in the form approved by the Village Attorney.

The bond shall be in the amount determined by the Village Engineer to be sufficient to guarantee the satisfactory condition of the required improvements for a period of **two (2) years** from the date of their acceptance and dedication. If, at any time during the **two (2) year** period, the improvements are found to be defective, they shall be repaired/replaced at the subdivider's/developer's expense. If the subdivider/developer fails or refuses to pay such costs within **ninety (90) days** after demand is made upon by the Zoning Administrator, the Village shall use the maintenance bond to make the necessary repairs/replacements.

If the cost of the repairs/replacements exceeds the bond amount, the subdivider/ developer shall be liable for the excess. At the end of the **two (2) year** period, the maintenance bond shall be released.

ARTICLE VI - SCHEDULES AND BONDS

34-6-1 SCHEDULE "A" - CHECKLIST FOR PRELIMINARY PLAN.

_____(Name of Subdivision)
_____(Date of Submission)
_____(Due date of Recommendation – 90 days)

NOTE: To properly execute this checklist, the subdivider or his engineer shall:

- (A) Insert the required information.
- (B) Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
- (C) Denote those items which the subdivider considers **"Not Applicable"** to this particular subdivision by the abbreviation **"N.A."**

- ____ 1. Six (6) copies of preliminary plan submitted.
- ____ 2. Plans conform to Sec. 34-2-6.
- ____ 3. Plan scale is not less than 1" to 100'.
- ____ 4. Minimum profile scale is 1" to 100' horizontal and 1" to 10' vertical.
- ____ 5. A title sheet is included with each set of preliminary plans.
- ____ 6. Name of proposed subdivision shown.
- ____ 7. Location given by town, range, section or other legal description.
- ____ 8. Name and address of owner, trust, corporation, or subdivider having control of project is shown.
- ____ 9. Name and seal of registered engineer or surveyor who prepared topographic survey is shown.
- ____ 10. Name and address of the designer of the plan is shown.
- ____ 11. North direction is shown.
- ____ 12. Date of preparation and date of revision, if any, is shown.
- ____ 13. A location map is included indicating:
 - ____ a. A scale of not less than 1" to 1,000'.
 - ____ b. Boundary lines of adjoining land within an area bounded by the nearest arterial streets or other natural boundaries.
 - ____ c. Use of surrounding land.
 - ____ d. Ownership of the surrounding land.
 - ____ e. Alignment of existing streets.
 - ____ f. Section and corporate lines.
- ____ 14. Boundary lines of proposed subdivision are clearly shown.
- ____ 15. Total approximate acreage is shown.
- ____ 16. Existing zoning classification is indicated.
- ____ 17. The following existing items, if within the boundaries of the subdivision, or located 100' or less outside the boundaries are shown:
 - ____ a. Previously platted streets and other right-of-way, with improvements, if any, indicating:
 - ____ 1. Location
 - ____ 2. Widths
 - ____ 3. Names

- _____ b. Railroad rights-of-way, indicating:
 - _____ 1. Location
 - _____ 2. Dimensions
- _____ c. Utility rights-of-way, indicating:
 - _____ 1. Location
 - _____ 2. Widths
 - _____ 3. Type
 - _____ a. Sewer
 - _____ b. Water
 - _____ c. Electric
 - _____ d. Other
- _____ d. Parks and other open spaces, indicating:
 - _____ 1. Location
 - _____ 2. Area
- _____ e. Easements, including:
 - _____ 1. Location
 - _____ 2. Width
 - _____ 3. Purpose
- _____ f. Permanent buildings and structures, indicating:
 - _____ 1. Location
 - _____ 2. Setback lines
 - _____ 3. Names of owners
- _____ g. Section and corporate lines
- _____ h. Sanitary sewers, indicating:
 - _____ 1. Location
 - _____ 2. Size
 - _____ 3. Manholes
 - _____ 4. Invert elevations at manholes
- _____ i. Water mains, indicating:
 - _____ 1. Location
 - _____ 2. Size
 - _____ 3. Valves, indicating:
 - _____ a. Valve manhole, or
 - _____ b. Valve box
 - _____ 4. Fire hydrants and auxiliary valves
- _____ j. Culverts, indicating:
 - _____ 1. Type
 - _____ 2. Location
 - _____ 3. Size
 - _____ 4. Invert elevation
- _____ k. Storm sewers, indicating:
 - _____ 1. Location
 - _____ 2. Size
 - _____ 3. Catch basins
 - _____ 4. Invert elevations
- _____ l. Watercourses, indicating:
 - _____ 1. Type
 - _____ 2. High water width and elevation
 - _____ 3. Width of easement
 - _____ 4. Location of easement

- _____ m. Marshes, indicating:
 - _____ 1. Location
 - _____ 2. Dimensions
 - _____ 3. Soil bearing capacity
- _____ n. Rock outcrops, indicating:
 - _____ 1. Location
 - _____ 2. Dimensions
- _____ o. Monuments and survey markers, indicating:
 - _____ 1. Location
 - _____ 2. Type
- _____ 18. Topographic data is given in feet above mean sea level within the tract and to a distance of 100' beyond, indicating:
 - _____ a. Existing contours at vertical intervals of not more than 2'.
 - _____ b. Proposed contours at vertical intervals of not more than 2'.
 - _____ c. Bench mark, indicating:
 - _____ 1. Location
 - _____ 2. Description
 - _____ 3. Elevation
- _____ 19. Soil bearing data is given, if required by the Superintendent of Streets, indicating:
 - _____ a. Location of tests
 - _____ b. Depth of tests
 - _____ c. Soil bearing capacity
 - _____ d. Moisture content
- _____ 20. The following proposed items, if within the boundaries of the subdivision or located 100' or less outside of the boundaries, are shown:
 - _____ a. Layout of streets, indicating:
 - _____ 1. Arterial (primary) streets, indicating:
 - _____ a. 80' Right-of-way width
 - _____ b. 50' Roadway width
 - _____ 2. Collector (secondary) streets, indicating:
 - _____ a. 60' Right-of-way width
 - _____ b. 40' Roadway width, back to back
 - _____ 3. Local (minor) streets, indicating:
 - _____ a. 50' Right-of-way width
 - _____ b. 36' Roadway width, back to back of curbs
 - _____ 4. Cul-de-sac streets, indicating:
 - _____ a. 50' Right-of-way width
 - _____ b. 27' Roadway width, back to back of curbs
 - _____ c. The length does not exceed 800' unless there are 16 lots abutting the cul-de-sac street.
 - _____ d. Terminus is circular, or nearly so, and right-of-way is at least 120' in diameter.
 - _____ e. Terminus roadway width is 80' in diameter.

- _____ 5. Through street shown extended to boundaries of subdivision
- _____ 6. Storm water runoff pattern on paving
- _____ b. Names of streets
 - _____ 1. Not duplicating the name of any street heretofore used in the Village or its environs, unless the street is an extension of an already existing street, in which case, the name shall be used.
- _____ c. Street improvement plan showing location of all new street improvements, including those to the center line of previously dedicated rights-of-way, abutting the subdivision, in accordance with present standards of the Village.
- _____ d. Utility easements:
 - _____ 1. Located at the rear of each lot and other necessary locations
 - _____ 2. Not less than 10' in width on each lot
 - _____ 3. Purpose is indicated
 - _____ 4. Storm water runoff is indicated
- _____ e. Centerline profiles of all streets showing gradients not less than 0.4 percent and not more than:
 - _____ 1. 5.0% on collector streets
 - _____ 2. 7.0% on minor streets
- _____ f. Pedestrian ways, when required, indicating: **(See Section 34-2-14)**
 - _____ 1. Location at approximately the center of blocks in excess of 900' in length
 - _____ 2. Width not less than 10'
 - _____ 3. Shrub or tree hedge at side boundary lines
- _____ g. Block layout, indicating: **(See Section 34-2-14)**
 - _____ 1. Blocks do not exceed 1800' in length
 - _____ 2. Additional access ways to parks, schools, etc., are shown in accordance with the Plan Commission's requirements
 - _____ 3. Blocks fit readily into the overall plan of the subdivision, with due consideration given to:
 - _____ a. Topographical conditions
 - _____ b. Lot planning
 - _____ c. Traffic flow pattern
 - _____ d. Public open space areas
 - _____ 4. Block numbers
 - _____ 5. Blocks intended for commercial, industrial or institutional use are so designated
- _____ h. Lot layout, indicating:
 - _____ 1. Lot dimensions
 - _____ 2. Lot areas, not less than those stipulated in the appropriated district regulations of the Zoning Code (Areas may be listed by Schedule)
 - _____ 3. Building setback lines shown and properly dimensioned
 - _____ 4. Proposed land use

- _____ 5. Lot numbers
- _____ 6. Corner lots are sufficiently larger than interior lots to allow maintenance of building setback lines on both street frontages and still allow a buildable width equal to that of the smallest interior lot in the block
- _____ 7. All lots abut a publicly dedicated street for a distance of not less than the minimum width of the lot
- _____ 8. Lots are as nearly rectangular in shape as is practicable
- _____ 9. Lots are not less than the provision of the Zoning Code
- _____ 10. Lot lines are substantially at right angles to the street lines and radial to curved street lines
- _____ 11. Double frontage lots only where:
 - _____ a. Lots back upon an arterial street and front on an access street
 - _____ b. Topographic or other conditions make subdividing otherwise unreasonable
 - _____ c. Lots can be made an additional 20' deeper than average
 - _____ d. A protective screen planting is indicated on one frontage
- _____ 12. Lots abutting or traversed by a watercourse, drainage way, channel way, channel or stream, indicating:
 - _____ a. Additional width and depth to provide an acceptable building site
 - _____ b. Width of easement is at least 15' wider on each side of water at high water level
- _____ 13. Due regard for natural features, such as:
 - _____ a. Trees
 - _____ b. Watercourses
 - _____ c. Historic items
 - _____ d. Other similar conditions
- _____ i. Areas intended to be dedicated for public use, indicating:
 - _____ 1. Plan conforms to general development plan of the municipality
 - _____ 2. Purpose
 - _____ 3. Acreage
- _____ j. Source of domestic water supply, indicating:
 - _____ 1. Connection to existing water mains
 - _____ 2. Location of site for community water plant
- _____ k. Provision for sewage disposal, indicating:
 - _____ 1. Connection to existing sanitary sewer mains
 - _____ 2. Location of site for community sewage disposal plant

- _____ l. School sites, indicating:
 - _____ 1. Location
 - _____ 2. Dimensions
 - _____ 3. Acreage
- _____ m. Topographic information, indicating:
 - _____ 1. Proposed changes in elevation of land showing that any flooding would be relieved
 - _____ 2. Adequate installation of storm sewers would remove the possibility of flooding
- _____ n. Sanitary sewer layout, indicating:
 - _____ 1. Location
 - _____ 2. Size
 - _____ 3. Invert elevation at manholes
 - _____ 4. Manhole locations
- _____ o. Watermain layout, indicating:
 - _____ 1. Location
 - _____ 2. Size
 - _____ 3. Looped pattern where practicable
 - _____ 4. Fire hydrants, spaced apart not more than 400'
- _____ p. Storm sewer layout, indicating:
 - _____ 1. Location
 - _____ 2. Catch basins at not more than 600' intervals
 - _____ 3. Storm water is not carried across or around any intersection
 - _____ 4. Surface water drainage pattern for individual lot and block
- _____ q. Street light layout, indicating:
 - _____ 1. Locations and typical street light detail, or
 - _____ 2. Statement by subdivider that street lights will be installed in accordance with standards of the municipality
- _____ 21. An outline of proposed covenants accompanies the plans, indicating the intention of the subdivider to have the covenants recorded with the final plat.
 - _____ a. Protective against obstruction against drainage easements
- _____ 22. Typical street cross-section showing base construction, surfacing, concrete curb and sidewalk in accordance with the land improvements code.
- _____ 23. Indication that sidewalks will be installed along all lot lines coincidental with street rights-of-way.
- _____ 24. Indication on drawing or by certificate that subdivider is aware of his responsibility for installation of street signs and for seeding and tree planting in all parkways.

Completed by: _____ (Name)
 _____ (Address)
 _____ (Date)

Reviewed by: _____ (Zoning Administrator)
 _____ (Date)

Considered by Plan Commission on _____ (Date)
 _____ (Chairman)

34-6-2 SCHEDULE "B" - CHECKLIST FOR ENGINEERING PLANS.

_____(Name of Subdivision)
_____(Date of Submission)
_____(Due date of Recommendation – 45 days)

NOTE: To properly execute this checklist, the subdivider or his engineer shall:

- (A) Insert the required information.
- (B) Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
- (C) Denote those items which the subdivider considers **"Not Applicable"** to this particular subdivision by the abbreviation **"N.A."**

- ____ 1. Plans have been submitted within twelve (12) months of the date of approval by the Village Board of the Preliminary Plan.
- ____ 2. Four (4) copies of engineering plans have been submitted.
- ____ 3. Plans conform to **Section 34-4-3.**
- ____ 4. A title sheet is included with each set of plans, and includes:
 - ____ a. Name of subdivision and unit number.
 - ____ b. Type of work covered.
 - ____ c. Location map showing relation of area to be improved to existing streets.
 - ____ d. An index of sheets.
 - ____ e. A summary of quantities.
 - ____ f. Name, address, and seal of registered engineer preparing the plans.
 - ____ g. Date of preparation and revisions, if any, is shown.
- ____ 5. Plans and profiles are on Federal Aid Sheets, Plate I or II, or equal.
 - ____ a. Horizontal scale is not less than 1" to 50'.
 - ____ b. Vertical scale is not less than 1" to 5'.
- ____ 6. Cross sections are plotted on Federal Aid Sheets, Plate III.
- ____ 7. North direction is shown for each separate plan view.
- ____ 8. An adequate number of bench marks are shown with elevations referenced to mean sea level, to facilitate checking of elevations.
- ____ 9. Delineation is shown of all easements necessary to serve all lots with underground and overhead utilities, and to allow for perpetual maintenance to these facilities.
- ____ 10. An application for State Environmental Protection Agency permit for the sanitary sewer extension accompanies the plans.
- ____ 11. Sanitary sewer plans and specifications are complete and conform to the standards and requirements of the codes applicable thereto and denote all of the following:
 - ____ a. All properties in the subdivision are served and house service connections are provided.
 - ____ b. The minimum size main is 8" I.D.
 - ____ c. The plan conforms to the overall municipal plan for any trunk sewers traversing the subdivision.
 - ____ d. The distance between manholes does not exceed 400'.
 - ____ e. The invert elevation of each manhole is shown.
 - ____ f. The grade of each section of sewer is shown by percentage in accordance with accepted engineering practice.

- _____ g. Extra strength pipe and extra strength manhole wall construction is specified and shown on the plans and in the estimates of quantities where the depth of installation exceeds 8'.
- _____ h. Profile of existing and proposed ground surfaces.
- _____ i. Risers are shown for individual house service laterals where depths of main exceeds 12'.
- _____ j. Pipe joints are of permitted type.
- _____ k. Minimum manhole cover weights are correct.
 - _____ 1. 540 pounds in collector streets.
 - _____ 2. 400 pounds in minor and cul-de-sac streets.
 - _____ 3. 335 pounds in rear-lot easements.
- _____ 12. An application for State Environmental Protection Agency approval of the water main installation accompanies the plans.
- _____ 13. Water distribution plans and specifications are complete and conform to the codes applicable thereto and include all of the following:
 - _____ a. All properties in the subdivision are served.
 - _____ b. The minimum size main is 8" I.D.
 - _____ c. The plan conforms to the municipality's overall plan for any trunk lines which might traverse the subdivision.
 - _____ d. Valve and hydrant spacing and location conform to the approved preliminary plan.
 - _____ e. Materials and joint specifications comply with the municipality's standards.
 - _____ f. Specifications include provisions for testing and sterilization of all new water distribution facilities.
 - _____ 1. Valve cover
 - _____ 2. Standard cover
 - _____ 3. Standard hydrant installation
- _____ 14. Street plans, including storm sewers, are complete and conform to the codes applicable thereto and include all of the following:
 - _____ a. The location of streets and width of pavements conform to those indicated on the approved preliminary plan.
 - _____ b. Plan shows curb, gutter and sidewalk locations, and include the following information:
 - _____ 1. Corner curb radius is not less than 16'.
 - _____ 2. Curve data for all horizontal curves.
 - _____ 3. Direction of flow along all curbs.
 - _____ 4. No surface water is carried across or around any street intersection, nor for a distance greater than 600'.
 - _____ c. Cross-sections are submitted as necessary to indicate feasibility of proposed street elevations in relation to adjacent lot elevations and include sidewalk location.
 - _____ d. Profiles are submitted for all paving centerlines and storm sewers and indicate:
 - _____ 1. Catch basin invert elevations.
 - _____ 2. Minimum pipe size is 12" I.D., except that a lead from a single inlet may be 10" I.D.

- _____ 3. The grade of each section of sewer is shown by percentage in accordance with accepted engineering practice.
- _____ 4. Storm sewer elevations do not conflict with any other underground utilities.
- _____ 5. Storm sewer is connected with an adequate outfall.
- _____ 6. Curve data is given for vertical road curves.
- _____ e. The storm sewer system is designed to provide sufficient capacity for the drainage of upland areas contributing to the storm water runoff on the street.
 - _____ 1. Storm sewer design computations are submitted with plans.
- _____ f. A surface water drainage pattern is shown for each block.
- _____ g. Material specifications comply with standards of the municipality and include:
 - _____ 1. Paving base materials
 - _____ 2. Paving surface materials
 - _____ 3. Concrete
 - _____ 4. Pipe materials
- _____ h. Typical cross-sections and details include the following:
 - _____ 1. Collector street
 - _____ 2. Minor or cul-de-sac street
 - _____ 3. Concrete curb and gutter
 - _____ 4. Concrete sidewalk
 - _____ 5. Standard manhole
 - _____ 6. Standard cover
 - _____ 7. Catch basin
- _____ 15. Street light plans are complete and include the following:
 - _____ a. Pole locations
 - _____ b. Spacing
 - _____ c. Average maintained footcandle illumination (calculated).
 - _____ 1. Type of base and pole
 - _____ 2. Bracket or arm
 - _____ 3. Luminaire, indicating type of lamp and wattage
 - _____ 4. Mounting height
- _____ 16. Parkway improvement specifications are complete and include provisions for:
 - _____ a. Removal of stumps, trees that cannot be saved, boulders and all other similar items.
 - _____ b. Grading, installation of topsoil and seeding or sodding.
- _____ 17. Street signs are shown to be installed at all street intersections not previously marked.

Completed by: _____ (Name)
 _____ (Address)
 _____ (Date)

Reviewed by: _____ (Engineer)
 _____ (Date)

Considered by Plan Commission on _____ (Date)
 _____ (Chairman)

34-6-3 SCHEDULE "C" - CHECKLIST FOR FINAL PLAT.

_____(Name of Subdivision)
_____(Date of Submission)
_____(Due date of Recommendation – 30 days)

NOTE: To properly execute this checklist, the subdivider or his engineer shall:

- (A) Insert the required information.
- (B) Denote compliance with applicable ordinances by placing his initials in all spaces where applicable.
- (C) Denote those items which the subdivider considers **"Not Applicable"** to this particular subdivision by the abbreviation **"N.A."**

- ____ 1. Plat has been submitted within six (6) months after the approval of the engineering plans.
- ____ 2. Plat has been submitted within three (3) years after the approval of the preliminary plan (unless an extension of time has been requested and granted by the Village Board.)
- ____ 3. One (1) original drawing of the final plat has been submitted.
- ____ 4. One (1) transparency print of the final plat has been submitted.
- ____ 5. Four (4) copies of the final plat have been submitted.
- ____ 6. Plat is drawn with black or blue ink on heavy linen tracing cloth or polyester film.
- ____ 7. North direction is shown.
- ____ 8. Scale is shown (minimum 1" equals 100').
- ____ 9. Section corners and section lines are accurately tied into subdivision by distances and angles.
- ____ 10. Official survey monuments are shown as required.
- ____ 11. All necessary easements are shown and dimensioned.
- ____ 12. Building setback lines are shown and dimensioned in accordance with the Zoning Code.
- ____ 13. Lot areas are in accordance with the applicable zoning regulations.
- ____ 14. Street names are shown.
- ____ 15. Areas to be dedicated or reserved for public use are shown and described and the purpose is designated.
- ____ 16. Protective covenants are lettered on the plat or are appropriately referenced.
- ____ 17. Required certificates are shown and signed:
 - ____ a. Surveyor's certificate (including legal description).
 - ____ b. Owner's certificate.
 - ____ c. Notary certificate.
 - ____ d. County Clerk's certificate.
 - ____ e. Flood Hazard certificate.
 - ____ f. Plan Commission certificate.
 - ____ g. Village Board Certificate.
 - ____ h. Superintendents' of Water, Sewer and Streets certificate.
- ____ 18. The following items have been submitted with the final plat:
 - ____ a. Detailed specifications for all required land improvements not previously submitted and approved with the engineering plans.
 - ____ b. A copy of the State Sanitary Water Board permit for the sanitary sewer installation.

- _____ c. A copy of the State Department of Public Health approval of the water main installation.
- _____ d. An affidavit by the subdivider acknowledging responsibility for the proper installation of all required land improvements.
- _____ e. A certified estimate of cost of all required land improvements prepared by a registered engineer.
- _____ f. A description of the bond or guarantee collateral intended to be submitted after contingent approval is granted by the Village.

Completed by: _____ (Name)
 _____ (Address)
 _____ (Date)
 Reviewed by: _____ (Zoning Administrator)
 _____ (Date)
 Considered by Plan Commission on _____ (Date)
 _____ (Chairman)

34-6-4 SCHEDULE "D" - VILLAGE CHECKLIST.

_____ (Name of Subdivision)
 _____ (Date of Submission)
 _____ (Due date of Recommendation – 30 days)

- _____ 1. Pre-Application conference with Zoning Administrator.
- _____ 2. Preliminary Plan and Plat:
 - _____ a. 10 days prior to meeting.
 - _____ b. Written request.
 - _____ c. Documentation.
 - _____ d. Filing Fee Paid.
 - _____ e. Copies distributed to authorities.
 - _____ f. 60 days to review.
 - _____ g. Action by Plan Commission.
 - _____ h. Set to Village Board.
 - _____ i. 30 days to review.
 - _____ j. Year Period _____.
- _____ 3. Engineering Plans and Specifications:
 - _____ a. 12 Months to submit documents.
- _____ 4. Final Plat:
 - _____ a. Submitted within 6 months of approval of Engineering Plans.
 - _____ b. 30 days review by Plan Commission.
 - _____ c. 60 days by Village Board.
 - _____ d. Posting of Bonds.
- _____ 5. Construction of Improvements.
- _____ 6. Selling of Lots.

Completed by: _____ (Name)
 _____ (Address)
 _____ (Date)

(Place In File)

34-6-5 SURETY BOND FOR IMPROVEMENTS.

"Know all men by these presents that we, _____,
(name of individual, corporation, etc.), as principal, and the _____
_____, (name of bonding company), a corporation, authorized to do business in
the State of _____, as surety, are held and firmly bound unto the Village of New Athens, in
the penal sum of _____
Dollars, lawful money of the United States for the payment of which we and each of us bind
ourselves, our heirs, executors, administrators, successors and assigns jointly by these presents:

"The condition of this obligation is such that whereas, the said _____
_____, (name of individual, corporation or principal) has agreed to construct and/or
install at its expense the following improvements:

- Street base and paving
- Concrete curb and gutters
- Water mains, appurtenances, and house services
- Storm sewers, appurtenances, and house services
- Sanitary sewers, appurtenances, and house services
- Concrete sidewalks) Optional
- Street lights) Optional
- Site improvements) Optional

All in accordance with the specifications and codes of the Village and contained in plans and
specifications prepared by _____ (named
engineer), and approved by the Village Board, at the following location:

(Description of Property)

'And has agreed to maintain such improvements constructed under this bond for a
period of one (1) year from the date of acceptance of the same by the Village Board.

'Now, therefore, if the said principal shall well and truly perform in all respects in strict
accordance with the requirements, and shall save the Village harmless from all loss, cost or
damage, by reason of their failure to complete said work, or maintain said improvements,
relating to the above described work, then this obligation to be void, otherwise to remain in full
force and effect."

34-6-6 CASH BOND. The Plan Commission may permit a developer to file in
lieu of the surety bond called for in **Section 34-4-9**, a cash bond guaranteeing that the
improvements will be completed as follows:

- (A) Undertaking in Lieu of Completion Bond.

WHEREAS, the statutes of the State of Illinois grant to a municipal corporation the right
to require that a developer constructing certain improvements within that community guarantee
the construction of such improvements by a completion bond or other security acceptable to

the community; and WHEREAS, _____ desires to construct a residential development within the _____ of _____, and that said municipality is willing to accept an undertaking from a financial institution in the nature of an irrevocable commitment in lieu of such completion bond.

NOW, THEREFORE, are the following representations made by the owner and/or developer to the _____ of _____, as follows:

1. THAT _____ is the owner and/or developer of the property legally described in clause 2 of this undertaking, and shall hereinafter be referred to as "OWNER"; and, THAT the _____ of _____ shall hereinafter be referred to as "MUNICIPALITY".

2. THAT the OWNER is the legal title holder of the following described property:

[Legal Description]

3. THAT the OWNER shall be required to install and guarantee the installation of streets, sidewalks, street lights, sanitary sewers, storm sewers, water lines, recreational facilities (including structures), and common landscaping. In order to guarantee that such facilities shall be installed, the OWNER shall submit to the municipal engineer such specifications and estimated engineering costs as shall be required to meet with his approval. In aiding the municipal engineer in determining the amount of reasonably anticipated costs for the construction of such improvements, the OWNER may submit to the engineer signed contracts for the construction of such improvements. The municipal engineer, upon being satisfied that the design of the required improvements are in accordance with the ordinances of the MUNICIPALITY and in accordance with good engineering practices, shall estimate and certify an amount which shall represent one hundred ten percent (110%) of the reasonably estimated cost of completing the required improvements for which the MUNICIPALITY is requiring a completion guarantee.

4. [THAT except for the issuance of building permits for a reasonable number of models], the OWNER shall not be entitled to the issuance of [further] building permits until and unless said OWNER shall submit to the MUNICIPALITY an irrevocable financial commitment from a bank, savings and loan, or mortgage company approved by the MUNICIPALITY in the amount certified by the municipal engineer.

5. THAT the written irrevocable financial commitment shall be furnished by the MUNICIPALITY from a banking or lending institution in the form marked Appendix "A" and appended to this agreement.

6. THAT the OWNER guarantees the workmanship of the public improvements to be installed upon the site for a period of one (1) year after their donation to the MUNICIPALITY. Upon final completion of the streets, sidewalks, street lights, sanitary sewers, storm sewers, and water mains, the OWNER shall execute a Bill of Sale for those items which are personal property. For a period of one (1) year after the granting of the Bill of Sale in the case of personal property and the acceptance for maintenance in the case of streets and sidewalks, all necessary repairs to such facilities shall be the responsibility of the OWNER.

IN WITNESS WHEREOF _____
has hereunto set his hand and seal this _____ day of _____, 20__.

(OWNER)

APPROVED by the _____ of _____ this _____ day of _____
_____, 20__.

BY: _____
(MUNICIPALITY)

(B) [Letterhead of Bank, Savings and Loan or Mortgage House]

_____, 20__

GENTLEMEN:

We hereby establish our irrevocable credit in favor of _____
[developer] _____, or the municipality of _____
_____, in the amount of _____ Dollars (\$_____). We
understand that this irrevocable credit is to be used to construct the following improvements in
the residential development known as _____ to be
constructed with the _____, Illinois:

Streets; sidewalks; street lights; the portion of sanitary sewers, storm sewers,
and water mains to become municipality-owned; recreational facilities (including
a recreational building and a swimming pool and appurtenances thereof); and
landscaping in common areas.

The development is legally described as follows:

[Legal Description]

We shall make payouts from this irrevocable commitment as follows:

If we have not been notified by the municipality of a default by the owner and/or
developer, we shall disburse the funds for labor and materials furnished by contractors in
accordance with the sworn statement on order of the owner, the submission of proper lien
waivers from the contractors engaged in such work, and the certificate by the Municipal
Engineer, _____ [his name] _____, that
such work has been properly completed, however, that we shall withhold from each payment
made under such sworn statement(s) or order(s) an amount equal to 10% thereof until all
improvements have been completed except final surfacing of the streets and sidewalks, at
which time the 10% sum withheld shall be disbursed less a sum equal to 125% of the cost of
the final surfacing of the streets, which sum shall be finally disbursed when the work has been
completed and the requirements of certification and lien waivers as has been hereinabove set
out.

The required improvements shall be completed in accordance with the following schedule:

[Insert Schedule]

If we receive a resolution of the corporate authorities of the municipality indicating that the owner and/or developer has failed to satisfactorily complete or carry on the work of the installation and construction of the required improvements, and such resolution indicates that the owner and/or developer has been notified that the municipality finds that a breach of the owner's and/or developer's obligations has occurred and have not been cured within a period of 30 days, that in such case, we shall make payments for materials and labor to such contractor(s) or subcontractor(s) retained by the municipality who have completed the improvements in substantial accordance with the plans and specifications of the owner and/or developer; such payments shall be made upon the certification of the municipal engineer that the work has been completed and the submission of proper waiver of liens from the contractor(s) or subcontractor(s). The amount of the payouts shall be in accordance with the retention provisions as previously set out.

The irrevocable credit established by us shall be in force for a period of _____ years, and shall remain in effect without regard to any default in payments of sums owned by us, by the owner and/or developer and without regard to other claims which we may have against the owner and/or developer. Sixty (60) days prior to the expiration of this irrevocable credit we shall notify the corporate authorities of the municipality, by registered letter return receipt requested, of the impending expiration date. This commitment shall not terminate without such notice. If the work covered by this commitment has not been completed within the time set forth in this agreement, the municipality may, at its option, continue drawing funds as otherwise provided for an additional period of one (1) year. It is recognized that the municipality is according to the owner and/or developer the permission to proceed with the development project expressly upon the guarantee of the irrevocable nature of this commitment. It is further acknowledged that the consideration for this irrevocable commitment is provided by agreements between this financial institution and the developer. The sum of this credit shall, however, be reduced in the amount of disbursements made from time to time in accordance with the terms under which this credit is extended as set out above.

CHAPTER 36

TAXATION

ARTICLE 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%**. (See **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 **.25%**. (See **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. (See **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. (See **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 **STREET LIGHTING TAX.** The maximum tax rate for street lighting purposes of the Village shall be established at **.5%**. (See **65 ILCS 5/11-80-5**)

36-1-7 **GARBAGE TAX.** The maximum tax for garbage collection purposes, be and the same is hereby established at a rate of **.20%**. (See **65 ILCS 5/11-19-4**)

36-1-8 **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. (See **745 ILCS 10/9-107**)

36-1-9 **STREET AND BRIDGE.** The maximum tax for Street and Bridge purposes, be and the same is hereby established at a rate of **.06%**. (See **65 ILCS 5/11-81-1 and 5/11-81-2**)

36-1-10 **I.M.R.F.** The Village Board may levy a tax not to exceed the amount appropriated for the municipality's contributions for the Illinois Municipal Retirement Fund. (See **40 ILCS 5/7-171**)

36-1-11 **UNEMPLOYMENT INSURANCE.** The Village Board may levy a tax not to exceed the amount necessary to meet the costs of unemployment insurance. **(See 745 ILCS 10/9-107)**

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 Board of Trustees.

(C) **Locally Imposed and Administered Tax or "Tax".** "Locally Imposed and Administered Tax" or "Tax" means each tax imposed by the Village that is collected or administered by the Village not an agency or department of the State. It does not include any taxes imposed upon real property under the Property Tax Code or fees collected by the Village other than infrastructure maintenance fees.

(D) **Local Tax Administrator.** "Local Tax Administrator", the Village'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 New Athens, 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.

(See 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 City.

(Ord. No. 14-04; 09-02-14)

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. Commencing on **July 1, 2014**, 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. **(Ord. No. 14-04; 09-02-14)**

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 **2.76%** 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. Any account(s) of the Village of New Athens shall be exempt from the taxes imposed by this Article.

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)

(Ord. No. 2015-06; 01-18-16)

ARTICLE V - ELECTRIC UTILITY 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) The tax rates set forth in the preceding table will be used at least through **December 31, 2008**, are proportional to the rates enumerated in **65 ILCS 5/8-11-2** (as modified by Public Act 90-561), and do not exceed the revenue that could have been collected during 1997 using the rates enumerated in **65 ILCS 5/8-11-2** (as modified by Public Act 90-561).

36-5-2 **TYPE OF CUSTOMER – RATE EFFECTIVE.** Pursuant to **65 ILCS 5/8-11-2**, the rates set forth in **Section 36-5-1** above shall be effective:

- (1) On **August 1, 1998** for residential customers; and
- (2) On the earlier of:
 - (a) the last bill issued prior to **December 31, 2000**, or
 - (b) the date of the first bill issued pursuant to **220 ILCS 5/16-104**, for non-residential customers.

36-5-3 **EFFECTIVE DATE FOR ARTICLE.** The provisions of this Section shall not be effective until **August 1, 2002**.

36-5-4 **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 privileges 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"** authorized by Section 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 business of the same class in the Municipality, whether privately owned or operated, or exercising the same privilege within the Municipality. Any account(s) of the Village of New Athens shall be exempt from the taxes imposed by this Article.

36-5-5 **ADDITIONAL TAXES.** Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

36-5-6 **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 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.

36-5-7 **REPORTS TO VILLAGE.** On or before the last day of each month, each taxpayer shall make a return to the Village for the preceding month stating:

- (A) His name.
- (B) His principal place of business.
- (C) His gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.
- (D) Amount of tax.
- (E) Such other reasonable and related information as the corporate authorities may require.

The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village, the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

36-5-8 **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.

36-5-9 **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 as provided in **Section 1-1-20** of this Code and in addition, shall be liable in a civil action for the amount of tax due.

(65 ILCS 5/8-11-2)

(Ord. No. 2015-06; 01-18-16)

ARTICLE VI
SERVICE OCCUPATION TAX

36-6-1 **BUSINESS DISTRICT TAX IMPOSED.** A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail within the boundaries of the Business district at the rate of **one percent (1%)** of the gross receipts from such sales made in the course of such business while this Article is in effect; and a tax is hereby imposed upon all persons engaged within the boundaries of the Business District in the business of making sales of service, at the rate of **one percent (1%)** of the selling price of all tangible personal property transferred by such serviceman as an incident to the sale of service. This "Business District Retailers' Occupation Tax" and this "Business District Service Occupation Tax" shall not be applicable to the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription, and non-prescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes and needles used by diabetics.

The imposition of these Business District Taxes is in accordance with the provision of subsections (b) and (c), respectively, of Section 11-74.3-6 of the Illinois Municipal Code. **(65 ILCS 5/11-74.3-6)**

36-6-2 **ENFORCEMENT.** The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue shall have full power to administer and enforce the provisions of this Article.

(Ord. No. 2010-05; 09-20-10)

CHAPTER 37

TAX INCREMENT FINANCING

ARTICLE I – INTERESTED PARTIES REGISTRY REGISTRATION RULES

37-1-1 **DEFINITIONS.** As used in these Registration Rules, the following terms shall have the definitions set forth below.

(A) **"Act"** shall mean the Tax Increment Allocation Redevelopment Act **65 ILCS § 5/11-74.4-1 et seq.** as amended from time to time.

(B) **"Interested Party or Parties"** shall mean (1) any organization(s) active within the Village; (2) any resident(s) of the Village and/or; (3) any other entity or person otherwise entitled under the Act to register in a specific Registry who has registered in such Registry and whose registration has not been terminated in accordance with these Registration Rules.

(C) **"Redevelopment Project Area"** shall mean a redevelopment project area that (1) is intended to qualify (or has subsequently qualified) as a "redevelopment project area" under the Act and (2) is subject to the "interested parties" registry requirements of the Act.

(D) **"Registration Form"** shall mean the form appended to these Registration Rules or such revised form as may be approved by the Village consistent with the requirements of the Act.

(E) **"Registry" or "Registries"** shall mean each interested parties registry, and all such registries, collectively, established by the Village pursuant to Section 11-74.4-4.2 of the Act for the Redevelopment Project Area.

(F) **"Village"** shall mean Village of New Athens, a unit of government under Section 6(a) Article VII of the 1970 Constitution of the State of Illinois.

37-1-2 **ESTABLISHMENT OF REGISTRY.** The Village shall establish a separate interested parties registry for each Redevelopment Project Area, whether existing as of the date of the adoption of these Rules or hereafter established. The Village shall establish a new registry whenever it has identified an area for study and possible designation as a Redevelopment Project Area. In any event the process of establishing the new registry must be completed prior to the deadline for sending any of the notices required by Section (J) of these rules or any other notices required by the Act with respect to the proposed Redevelopment Project Area.

37-1-3 **MAINTENANCE OF REGISTRY.** The Registries shall be maintained by the Village Clerk or his or her designee. In the event the Village determines that someone other than the Clerk should maintain the Registries, the Village may transfer the responsibility for maintaining the Registries to such other Department provided that the Village (1) gives prior written notice to all Interested Parties not less than **thirty (30) days** prior to such transfer and (2) publishes notice of such transfer in a newspaper of general circulation in the Village.

37-1-4 **REGISTRATION BY RESIDENTS.** An individual seeking to register as an Interested Person with respect to a Redevelopment Project Area must complete and submit a Registration Form to the Village Clerk. Such individual must also submit a copy of a current driver's license, lease, utility bill, financial statement or such other evidence as may be acceptable to the Clerk to establish the individual's current Village residency.

37-1-5 **REGISTRATION OF ORGANIZATIONS.** An organization seeking to register as an Interested Person with respect to a Redevelopment Project Area must complete and submit a Registration Form to the Village Clerk. Such organization must also submit a copy of a one-page statement describing the organization's current operations in the Village.

37-1-6 **DETERMINATION OF ELIGIBILITY.** All individuals and organizations whose Registration Form and supporting documentation complies with these Registration Rules shall be registered in the applicable Registry within **ten (10) business days** of the Village Clerk's receipt of all such documents. The Clerk shall provide written notice to the registrant conforming such registration. Upon registration, Interested Parties shall be entitled to receive all notices and documents required to be delivered under these Rules or as otherwise required under the Act with respect to the applicable Redevelopment Project Area. If the Village Clerk determines that a registrant's Registration Form and/or supporting documentation is incomplete or does not comply with these Registration Rules, the Clerk shall give written notice to the registrant specifying the defect(s). The registrant shall be entitled to correct any defects and resubmit a new Registration Form and supporting documentation.

37-1-7 **RENEWAL AND TERMINATION.** An Interested Person's registration shall remain effective for a period of **three (3) years**. At any time after such **three (3) year** period, the Village Clerk may provide written notice by regular mail to the Interested Person stating that such registration shall terminate unless the Interested Person renews such registration within **thirty (30) days** of the Clerk's mailing of written notice. To renew such registration, the Interested Person shall, within such **thirty (30) day** period, complete and submit the same Registration Form and supporting documentation then required of initial registrants in order to permit the Clerk to confirm such person's residency or such organization's operations in the Village. The registration of all individuals and organizations whose Registration Form and supporting documentation is submitted in a timely manner and complies with these Regulation Rules shall be renewed for an additional, consecutive **three (3) year** period. If the Village Clerk determines that a registrant's renewal Registration Form and/or supporting documentation is incomplete or does not comply with these Registration Rules, the Clerk shall give written notice to the registrant at the address specified in the renewal Registration Form submitted by such registrant, specifying the defect(s). The registrant shall be entitled to correct any defects and resubmit a new Registration Form and supporting documentation within **thirty (30) days** of receipt of the Clerk's notice. If all defects are not corrected within **thirty (30) days** of the Interested Person's receipt of the Village Clerk's notice, the Interested Person's registration shall be terminated. Any Interested Person whose registration is terminated shall be entitled to register again as if a first-time registrant.

37-1-8 **AMENDMENT TO REGISTRATION.** An Interested Party may amend its registration by giving written notice to the Village Clerk by certified mail of any of the following: (1) a change in address for notice purposes; (2) in the case of organizations, a change in the name of the contact person; or (3) a termination of registration. Upon receipt of such notice, the Clerk shall revise the applicable Registry accordingly.

37-1-9 **REGISTRIES AVAILABLE FOR PUBLIC INSPECTION.** Each Registry shall be available for public inspection during normal Village business hours. The Registry shall include the name, address and telephone number of each Interested Person and for organizations, the name and phone number of a designated contact person.

37-1-10 **NOTICES TO BE SENT TO INTERESTED PARTIES.** Interested Parties shall be sent the following notices and any other notices required under the Act with respect to the applicable Redevelopment Project Area:

(A) pursuant to subsection 74-4-5(a) of the Act, notice of the availability of a proposed redevelopment plan and eligibility report, including how to obtain this information, such notice shall be sent by mail within a reasonable period of time after the adoption of the ordinance fixing the public hearing for the proposed redevelopment plan;

(B) pursuant to subsection 74-4.5(a) of the Act, notice of changes to proposed redevelopment plans that do not (1) add additional parcels of property to the proposed redevelopment project area, (2) substantially affect the general land uses proposed in the redevelopment plan, (3) substantially change the nature of or extend the life of the redevelopment project, or (4) increase the number of low or very low income households to be displaced from the redevelopment project area, provided that measured from the time of creation of the redevelopment project area the total displacement of households will exceed 10; such notice shall be sent by mail not later than **ten (10) days** following the Village's adoption by ordinance of such changes.

(C) pursuant to subsection 74-4-5(c) of the Act, notice of amendments to previously approved redevelopment plans that do not (1) add additional parcels of property to the redevelopment project area, (2) substantially affect the general land uses in the redevelopment plan, (3) substantially change the nature of the redevelopment project, (4) increase the total estimated redevelopment project costs set out in the redevelopment plan by more than **five percent (5%)** after adjustment for inflation from the date the plan was adopted, (5) add additional redevelopment project costs to the itemized list of redevelopment project costs set out in the redevelopment plan or (6) increase the number of low or very low income households to be displaced from the redevelopment project area, provided that measured from the time of creation of the redevelopment project area the total displacement of households will exceed 10; such notice shall be sent by mail not later than **ten (10) days** following the Village's adoption by ordinance of such amendment.

(D) pursuant to subsection 74-4-5(d)(9) of the Act for redevelopment plans or projects that would result in the displacement of residents from **ten (10)** or more inhabited residential units or that contain **seventy-five (75)** or more inhabited residential units, notice of the availability of the annual report described by subsection 74-4-5(d), including how to obtain the annual report; such notice shall be sent by mail within a reasonable period of time after completion of the certified audit report.

(E) pursuant to subsection 74-4-6(e) of the Act, notice of the preliminary public meeting required under the Act for a proposed Redevelopment Project Area that will result in the displacement of **ten (10)** or more inhabited residential units or which contain **seventy-five (75)** or more inhabited residential units, such notice shall be sent by certified mail not less than **fifteen (15) days** before the date of such preliminary public meeting.

37-1-11 **NON-INTERFERENCE.** These Registration Rules shall not be used to prohibit or otherwise interfere with the ability of eligible organizations and individuals to register for receipt of information to which they are entitled under the Act.

37-1-12 **AMENDMENT OF REGISTRATION RULES.** These Registration Rules may be amended by the Village subject to and consistent with the requirements of the Act.

(Ord. No. 2010-14; 04-04-10)

(See 65 ILCS Sec. 5/11-74.4-1 et seq.)

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**. The Department shall include the Superintendent of Public Works and the Water and Sewer Committee appointed by the Mayor, and its employees.

38-1-2 WATER AND SEWER COMMITTEE. The Committee shall exercise a general supervision over the affairs of the waterworks system and sewerage system. The Committee 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 acts necessary to promote the efficiency of the Department.

38-1-3 SUPERINTENDENT. The Public Works Superintendent shall be subject to the supervision of the Committee on Water and Sewer and shall be known as the **"Superintendent"**. He shall be appointed by the Mayor with the advice and consent of the Village Board and shall hold his office until his successor shall be appointed and qualified. He shall receive such salary as may be provided for by the Village Board.

38-1-4 DUTIES OF THE SUPERINTENDENT. The Superintendent shall exercise general management and control over his respective department.

(A) He shall supervise over and be responsible for the conduct and performance of all employees of the department as a Department Head in accordance with the Employee Code and Chapter 1 of the Village Code.

(B) He shall be responsible for the operation and maintenance of the Village's water system and sewer system as provided in this Code.

(C) He shall be the custodian of all vehicles, equipment, structures, and property provided by the Village for the use of his department.

(D) He shall enforce the provisions of this Chapter and make such inspections, measurements, and tests as necessary for that purpose.

(E) He shall perform such other duties as may be assigned to him by the provisions of this Code or by the Village Board.

ARTICLE II – UTILITY REGULATIONS

38-2-1 CONTRACT FOR UTILITY SERVICES.

(A) **Customer Accepts Service.** The rates, rules and regulations contained in this Chapter shall constitute and be considered a part of the contract with every person, company or corporation who is supplied with water and sewer services from the waterworks and sewer system and every person, company or corporation, hereinafter called a “**customer**” who accepts and uses Village water and sewer services shall be held to have consented to be bound thereby.

(B) **Not Liable for Interrupted Service.** The Department shall endeavor at all times to provide a regular and uninterrupted supply of service, however, in case the supply of service shall be interrupted or irregular or defective or fail from causes beyond its control or through ordinary negligence of employees, servants or agents, the Departments shall not be liable therefor.

(C) **Using Services Without Paying.** Any person using utility services from the Village without paying therefor, or who shall be found guilty of breaking the seal of any meter or appurtenances, or bypassing any meter, shall be guilty of violating this Code, and upon conviction, shall be fined a sum as provided in Section 1-1-20 of the Revised Code. **(See 720 ILCS 285/117)**

(D) **Destroying Property.** Any person found guilty of defacing, tampering, injuring or destroying, or in any manner, limiting the use or availability of any meter or any property of the waterworks system and sewer system, or erecting signs on the property of the Department without permission shall, upon conviction of such act, be fined as provided in Section 1-1-20 of the Revised Code.

(E) **Service Obtained By Fraud.** All contracts for water and sewer services shall be made in the name of the head of the household, firm or corporation using the established spelling of that person's or firm's name. Attempts to obtain service by the use of other names, different spellings or by substituting other persons or firms shall be considered a subterfuge and service shall be denied. If service has been discontinued because of nonpayment of bills, or any unpaid obligation and service has again been obtained through subterfuge, misrepresentation or fraud, that service shall be promptly disconnected and the whole or such part of the deposit as may be necessary to satisfy the unpaid obligation shall be retained by the Village and credited to the appropriate account.

(F) **Failure to Receive Bill.** Failure to receive a bill shall not excuse a customer from his obligation to pay within the time specified. Should the Department be unable to bill a customer for services used during any month, the following billing shall include the charges for services used during the unbilled month.

(G) **Request to Discontinue Service.** Services shall have been deemed to have been supplied to any property connected to the Water and Sewer Systems during a month unless the customer notifies the Village prior to the first day of the new billing month in which the services are to be discontinued. If service has been supplied to a property for **twenty-five (25) days** during the billing period then a facilities charge shall be assessed for that month. **(See Article V of this Chapter.)**

(H) **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, a penalty of **ten percent (10%)** of the amount due on said bill shall be added to the bill. This penalty shall be in

- addition to the charges heretofore established for the utility services.
- (2) Any customer who fails to pay the utility bills within **fifteen (15) days** of presentation shall have the utility services disconnected after a written notice by the Clerk has been mailed by first-class mail to the customer. Said Notice shall be mailed separately from any bill, shall be in substantial compliance with the Illinois Administrative Code under 83 IL Admin. Code Part 280, and shall contain the following:
 - (a) Name and address of the customer and the amount due for services including late penalties.
 - (b) The phone number and website for the Illinois Commerce Commission, and the phone number for a representative at New Athens for the purpose of filing a complaint or dispute of discontinuation.
 - (c) A warning that the failure to pay the bill, file a dispute, or establish a deferred payment plan will result in disconnection of service without further notice.
 - (d) The date of termination (usually the **fifth (5th)** of the month).
(Ord. No. 2015-03; 09-08-15)
 - (3) Service shall not be discontinued until at least **five (5) days** after delivery or **eight (8) days** after the mailing of notice of discontinuation.
(Ord. No. 2015-03; 09-08-15)
 - (4) Service shall not be discontinued and shall be restored if discontinued for the reason which is the subject of a dispute or complaint during the pendency of informal or formal complaint procedures of the Illinois Commerce Commission under 83 Ill. Adm. Code 280.160 or 280.170, where the customer has complied with those rules. **(Ord. No. 2015-03; 09-08-15)**
 - (5) Service shall not be discontinued and shall be restored if discontinued where a customer has established a deferred payment agreement pursuant to 83 Ill. Adm. Code 280.110 and has not defaulted on such agreement. Residential customers who are indebted to the Village for past due utility service shall have the opportunity to make arrangements with the Village to retire the debt by periodic payments, referred to as deferred payment agreement, unless this customer has failed to make payment under such a plan during the past **twelve (12) months**. The terms and conditions of a reasonable deferred payment agreement shall be determined by the Village after consideration of the following factors, based upon information available from current utility records or provided by the customer or applicant:
 - (a) size of the past due account;
 - (b) customer or applicant's ability to pay;
 - (c) customer or applicant's payment history;
 - (d) reason for the outstanding indebtedness.**(Ord. No. 2015-03; 09-08-15)**
 - (6) If the customer who has been notified for nonpayment of utility bills is not the owner of record, then the Village shall notify the owner of the property by first-class mail.
 - (7) 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 the fee of **Forty Dollars (\$40.00)** for each connection of such utility services, plus expenses incurred in the reconnecting of the utility services.
 - (8) Upon change in ownership of property, any change in the name(s) listed on any utility bill, change(s) in occupancy either through commencement of a lease or expiration of a lease, and/or anytime individuals move into, out of, and/or occupy any

property, for any reason, including those not otherwise provided for herein, whether owner(s) or tenant(s), whether or not water service has been disconnected or turned off, the property owner and/or tenant/occupant is responsible for paying a **Forty Dollar (\$40.00)** connection and administration fee, plus expenses incurred in reconnecting of the utility service, if applicable, for costs and expenses associated with connection of the utility service and/or transfer of customer billing information. The fees, costs and expenses are intended to defray the administrative costs connected with the processing and installation of utility services; the fees do not constitute a tax or other revenue-raising device. All such fees shall be paid in advance by the occupant and/or tenant and/or property owner to the Village Clerk.

(I) **Lien Notice.** Whenever a bill for utility services remains unpaid for **sixty (60) days** after it has been rendered, the Collector 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 Collector has notice of this, then notice shall be mailed to the owner of the premises if his address is known to the Collector whenever such bill remains unpaid for a period of **thirty (30) days** after it has been rendered.

The failure of the Collector 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. **(See 65 ILCS 5/11-139-8)**

(J) **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. **(See 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 **FILED IN RECORDER OF DEEDS.** A copy of this Chapter properly certified by the Village Clerk, shall be filed in the office of the Recorder of Deeds of the County, and shall be deemed notice to all owners of real estate of liability for service supplied to any user of the service of the waterworks system of said Village on their properties.

38-2-4 **LIABILITY FOR CHARGES.** The owner of any lot, parcel of land or premises and the user of the services shall be jointly and severally liable for the payment of the services to such lot, parcel of land or premises, and all services are rendered to the premises by the Village only on the condition that such owner, occupant and user shall be jointly and severally liable therefor to the Village.

38-2-5 **ESTIMATED CHARGE.** Whenever any meter, by reason of its being out of repair or from any cause fails to properly register the utilities passing through the same, the consumer shall be charged the average charge of the **previous three (3) months usage.** If no record of the previous **three (3) months** exists, then it shall be the duty of the Water Department to estimate the amount of water consumed during the time the meter fails to operate and the consumer shall be charged with such estimated amount. Bills may be estimated whenever it is impossible to read the meters during inclement weather.

38-2-6 **NO FREE UTILITY SERVICE.** No free utility service shall be furnished to any person, public or private, and all rates and charges shall be non-discriminatory, provided that the Mayor and Village Board reserve the right to impose special rates and charges in cases where particular circumstances render the regular rates inadequate or unjust.

38-2-7 **UTILITY DEPOSITS. (See Section 38-5-18)**

38-2-8 **TESTING OF METERS.** All utility customers shall have the right to request a testing of his water meter. Prior to the testing, the customer shall deposit with the Village Clerk or Collector, the sum of **One Hundred Dollars (\$100.00)**. If the water meter proves to be within **two percent (2%)** of being correct, then the customer shall forfeit the deposit of **One Hundred Dollars (\$100.00)** for the cost of the test. In the event the meter proves to be over **ten percent (10%)** of being incorrect, then the deposit shall be refunded and a new meter shall be installed.

38-2-9 **DISPUTES BETWEEN VILLAGE AND CUSTOMER.** The Village reserves the right to have the Village Board decide all questions or disputes which may arise between the Village and any customer and to have the Village Board interpret the meaning of all of the provisions of this Chapter. The decision of the Village Board shall be final and binding upon the Village and customer, and the provisions of the section shall become a part of every contract for utilities between the Village and all customers.

38-2-10 **REQUEST TO DISCONNECT SERVICES.** Upon disconnection from the Village water and/or sewer system, the property owner and/or applicant must pay a **One Hundred Dollar (\$100.00)** disconnection fee. This fee is intended to defray the administrative costs connected with processing the request, as well as time, labor and material costs associated with disconnecting the meter from the water system. The fee does not constitute a tax or other revenue-raising device. All such fees shall be paid in advance by the owner and/or applicant for disconnection of utility service(s) to the Village Clerk.

38-2-11 **REQUEST TO RECONNECT SERVICES.** Upon disconnecting from the Village water and/or sewer system, any subsequent reconnection to the system will result in the property owner and/or applicant for service(s), paying the required tap in fee, as well as paying for all material and labor costs associated with reconnecting water and/or sewer service to the property, including, but not limited to, installation of a water meter, regardless of the presence of a previous connection. This fee is intended to defray the administrative costs connected with processing the request, as well as time, labor and material costs associated with reconnecting the meter to the water system. The fees do not constitute a tax or other revenue-raising device. All such fees shall be paid in advance by the owner and/or applicant for utility service(s) to the Village Clerk.

38-2-12 **TAMPERING WITH SYSTEM.**

(A) **Unlawful Actions.**

- (1) It shall be unlawful for any person not authorized by the Village to tamper with, alter or damage any part of the Village waterworks or supply system including any meter inside or outside Village limits.
- (2) Any person damaging any part of the Village waterworks, supply system or meter(s) whether through negligence or intentional acts shall be responsible to the Village for the Village's costs of repair of said damages.
- (3) It shall be unlawful for any person not authorized by the Village to turn on a water meter when the Village has turned it off.

(B) **Penalties.**

- (1) Any person tampering with a water meter, as prohibited in this Section, including turning the meter on when the Village has turned it off, shall be penalized **One Hundred Dollars (\$100.00)** for the first offense and **Two Hundred Dollars (\$200.00)** for each subsequent offense.
- (2) If anyone breaks a lock on a water meter when the Village has locked the water meter, that person shall be penalized **One Hundred Twenty-Five Dollars (\$125.00)** for the first offense and not less than **Two Hundred Twenty-Five Dollars (\$225.00)** for each subsequent offense.
- (3) Any person damaging any part of the Village waterworks, supply system or meter(s) whether through negligence or intentional acts shall pay the Village for the actual cost of repairing and/or replacing the damaged waterworks supply system or meter(s). The payment of damages shall be in addition to the penalty set forth in this Section.
- (4) All penalties and assessments shall be paid prior to the resumption of water service.

(Ord. No. 2016-02; 05-16-16)

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 New Athens or where such authority is specifically delegated, the Superintendent of the Water and Sewer Department.

(D) **"Person"** shall mean any and all persons, natural or artificial, including any individual, firm or company, municipal, or private corporation, association, society, institution, enterprise, governmental agency or other entity.

(E) **Clarification of Word Usage.** **"Shall"** in mandatory; **"may"** is permissible.

(F) **Water and Its Characteristics.**

- (1) **"ppm"** shall mean parts per million by weight.
- (2) **"milligrams per liter"** shall mean a unit of the concentration of water constituent. It is 0.001 g of the constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent, in reporting the results of water analysis.
- (3) **"PH"** shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in the IEPA Division of Laboratories Manual of Laboratory Methods.

(G)

- (1) **"Curb Cock"** shall mean a shutoff valve attached to a water service pipe from a water main to a building installed near the curb, which may be operated by a valve key to start or stop flow in the water-supply lines of a building. Also called a curb stop.
- (2) **"Easement"** shall mean an acquired legal right for the specific use of land owned by others.
- (3) **"Service Box"** shall mean a valve box used with corporation or curb cock.

(H)

Types of Charges.

- (1) **"Water Service Charge"** shall be the charge per quarter or month levied on all users of the Water Facilities. The service charge shall be computed as outlined in this Article, and shall consist of the total of the Basic User Charge and the Local Capital Cost if applicable.
- (2) **"User Charge"** shall mean a charge levied on users of water works for the cost of operation, maintenance and replacement.
- (3) **"Basic User Charge"** shall mean the basic assessment levied on all users of the public water system.
- (4) **"Debt Service Charge"** shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding.
- (5) **"Capital Improvement Charge"** shall mean a charge levied on users to improve, extend or reconstruct the water works.
- (6) **"Local Capital Cost Charge"** shall mean charges for costs other than the operation, maintenance and replacement costs, i.e. debt service and capital improvement costs.
- (7) **"Replacement"** shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances, which are necessary during the useful life of the works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
- (8) **"Useful Life"** shall mean the estimated period during which the water works will be operated.
- (9) **"Water and Sewer Fund"** is the principal accounting designation for all revenues received in the operation of the water system.

38-3-2 APPLICATION FOR TAPS AND SERVICE CONNECTIONS TO THE WATERWORKS SYSTEM. An applicant desiring a water tap or service connection with the Waterworks System of the Village shall file a written application at the Village Hall, signed by the owner of the property for which the tap or service connection is desired, or by the duly authorized agent of such owner. The application shall be accompanied by payment of the fee hereinafter prescribed to cover the cost of such service connection. In the event the application is made by an agent for the owner, then the application shall also be accompanied by the written authority of the owner to the agent for the making of the application. **(See Appendix #1) (See Section 38-5-1 also)**

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 Village. 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.

Should concrete or any other permanent materials be constructed or placed around the meter tile, it shall be the responsibility of the owner and/or user to remove said obstruction if it is not possible to repair or replace the water meter. If a user backfills his yard, it will be his responsibility to raise the water service so as to be accessible to repair.

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.

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, shall be owned, maintained and used only by the Village and shall be solely responsible for same.

(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) The New Athens Fire Protection District is hereby authorized the use of public fire hydrants for the purpose of extinguishing fires. **(In Part 1990 Code Section 38.3.1)**

(D) 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.

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 by direct telephone notification system. The Mayor is further authorized to declare in similar manner the end of an emergency period.

(B) From and after the issuance 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 the water service pipe from the water main to the meter, unless the meter is located inside the user's premises, then the Village shall maintain the service pipe from the water main to the property line or curb cock if so provided. The user shall maintain the service pipe extending from the property line, or the curb cock if so provided, to user's premises.

The meter and curb cock, if so provided, shall be maintained by the Village. The user shall maintain a separate shut-off valve on the service line to the user's 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 for anyone within the confines of the Village limits to dig, drill, push, or maintain a water well for the purposes of obtaining water for potable purposes. All water for potable purposes, shall be obtained from the municipal water system. No person within the confines of the Village limits shall dig, drill, push, or maintain a water well for purposes other than potable consumption without first obtaining a permit therefore from the Office of the Village Clerk, in conformance with all applicable laws of the State of Illinois. By making application for and accepting water or sewer service, the customer agrees to all terms and conditions as defined herein and by all ordinances of the Village pertaining to such service. (Note: This portion of this Ordinance is

required by Illinois Environmental Protection Agency as a condition of certain "No Further Remediation Letters" used to obtain closure for remediation sites with measured or modeled groundwater contamination, and should not be repealed without consulting the IEPA.) **(Ord. No. 2010-01; 05-17-10)**

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 Superintendent 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 it make which impractical to determine whether or not cross-connections exist.
- (4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross-connection survey.
- (5) Premises having a repeated history or cross-connections being established or reestablished.

(C) An approved backflow device shall be installed on all connections to the public water supply as described in the Plumbing Code, 77 Ill. Adm. Code 890 and the Agency's regulations 35 Ill. Adm. Code 653. In addition, an approved backflow prevention device shall be installed on each service line to a consumer's water system serving, but not necessarily limited to, the following types of facilities unless the Superintendent determines that no actual or potential hazard to the public water supply system exists:

- (1) Hospitals, mortuaries, clinics, nursing homes.
- (2) Laboratories.
- (3) Piers, docks, waterfront facilities.
- (4) Sewage treatment plants, sewage pumping stations or storm water pumping stations.
- (5) Food or beverages processing plants.
- (6) Chemical plants.
- (7) Metal plating industries.

- (8) Petroleum processing or storage plants.
- (9) Radioactive material processing plants or nuclear reactors.
- (10) Car washes.
- (11) Pesticide, or herbicide or extermination plants and trucks.
- (12) Farm service and fertilizer plants and trucks.

38-3-49 **TYPE OF PROTECTION REQUIRED.**

(A) The type of protection required under **Section 38-3-48** 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 ordinance, 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 - WATERMAIN EXTENSIONS

38-3-61 **APPLICATIONS.** Any person within the service areas of the Utility Systems and desiring the extension of the water mains to the premises shall make application therefore to the Water and Sewer Department, and in making the application, shall present a plat showing the area to be served by the main extension.

38-3-62 **PLAT OF PROPOSED EXTENSION.** The plat shall be submitted by the Village Clerk to the Engineer and the Superintendent of Water and Sewer of the Village for determination of the size and lengths of the utilities installations, location of fire hydrants, water service valves and other appurtenances to be installed based upon the following provisions:

(A) Mains shall be sized so that fire protection service may be rendered to all lots or premises to be served by the main and any possible extension thereof.

(B) Fire hydrants shall be so located that no premises will be more than **six hundred (600) feet** from a fire hydrant. No flush hydrants are permitted. Fire hydrants shall be "Mueller" brand and must be approved by the Village.

(C) In determining the length of pipe lines to be installed to serve a main extension, the main shall be extended to fully cover the front of the property, and if the last lot to be served is a corner lot or a lot immediately adjacent to a corner lot, the terminal point of the extension made hereunder shall be located so that the main laid hereunder ties with the existing main located in the intersecting street; and further provided that if there is no main located on the intersecting street, or no intersecting street, the terminal point of the extension made hereunder shall be located at the nearest street line of the intersecting street, or extend to the furthest end of the development.

(D) The Village may require the proposed main to be connected to its distribution system at a point which, in its judgment, is necessary to adequately furnish water to premises to be served and nothing herein shall require the Village to allow connection to the closest point of existing service if such service is inadequate for the extension proposed. Main trunk lines may be installed by the Village at no cost to the developer, however, lots or properties fronting directly thereon which may be served by the service connection to the main will be charged the average amount per connection as found in subdivisions currently being constructed.

(E) The Village reserves the right to further extend its water mains from and beyond the terminus of each water main extension made under this Chapter. The applicant or applicant's agent paying for an extension shall not be entitled to any refund for the attaching of customers to any further extension or branch mains so involved.

(F) Extension made under this rule shall be and remain the property of the Village.

(G) Before the Village mains will be laid hereunder in any new subdivision, it is understood and agreed that the road surface will be brought to the extended sub-grade and the applicant, developer of such new subdivision shall furnish the Village with a right-of-way agreement in suitable form to the Village, unless the streets of the new subdivision have been dedicated to public use.

(H) **Installing Pipe Lines.** When a pipeline is to be installed in a paved or unpaved street, a service line of **one (1) inch** Type "K" Copper is to be provided to a point **three (3) feet to five (5) feet** inside the front property line in a meter box. All meter boxes shall be **two (2) feet** from the side property line. Duplex lots shall have **two (2)** separate

water services installed during the initial development. Each service shall be located on the side of the lot corresponding to the residential unit it serves. When a business or an apartment house is to be serviced, the Utilities Department shall determine the proper size for the service. The Village Board may grant an exception to the meter box placement location requirements when it can be reasonably shown that such requirements would cause both an unnecessary and undo hardship on the developer or resident.

(I) Water mains shall have inline water valves installed every **seven hundred (700) to eight hundred (800) feet**. Branch lines shall have a valve at the point of hookup to the water main.

(J) All extensions shall comply with the "Standard Specifications for Water & Sewer Construction in the State of Illinois". **(See Appendix #2)**

38-3-63 **ENGINEER TO PREPARE PLANS.** After approval of the design, plans and specifications shall be prepared in accordance with the foregoing and with specifications for utility main extensions from time to time adopted by the Village Board.

38-3-64 **COST OF EXTENSIONS.** Cost of extensions made under provisions of this Section shall be borne by the developer. All future maintenance shall be the responsibility of the Village after a warranty period of **one (1) year** from acceptance date of the improvements by the Village. Maintenance during the year warranty shall be at the expense of the developer and at the direction of the Village.

[See "Subdivision Code" for provisions applicable to new subdivisions.]

38-3-65 - 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 IV Division I** 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.

(See Article V for Rates)

DIVISION VI – KASKASKIA WATER CONTRACT

38-3-78 **WATER PURCHASE CONTRACT.** The Kaskaskia Water Purchase Contract between the Kaskaskia Water District and the Village of New Athens is hereby included in **Exhibit "A"** as adopted **May 21st, 2018. (Ord. No. 18-01; 05-21-18)**

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.

DIVISION II

USE OF PUBLIC WASTEWATERS REQUIRED

38-4-4 **DEPOSIT OF WASTES.** It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Village or in any area under the jurisdiction of the Village, any human or animal excrement, garbage or other objectionable waste.

38-4-5 **SEWAGE IN NATURAL OUTLET.** It shall be unlawful to discharge to any natural outlet within the Village, or in area under the jurisdiction of the Village, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

38-4-6 **PRIVATE SYSTEM, UNLAWFUL.** Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

38-4-7 **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 **one hundred (100) 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. (**See Appendix #3**)

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. When more than **one (1) building** is located on a lot the sanitary sewer pipes may be connected if sufficient cleanouts are provided on the exterior of each building to determine the location of a clog, if one were to occur.

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. Suitable materials for sewer service pipe shall be PVC pipe (ASTM specification D-3034) or PVC pipe (schedule 4 or schedule 80) with solvent weld or push joint gasket fittings. In the event sufficient cover is not available to support the anticipated traffic over the service pipe, extra heavy cast iron pipe shall be used.

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 - SEWER MAIN EXTENSIONS

38-4-42 APPLICATIONS. Any person within the service areas of the Utility Systems and desiring the extension of the sewer mains to the premises shall make application therefore to the Water and Sewer Department, and in making the application, shall present a plat showing the area to be served by the main extension.

38-4-43 PLAT OF PROPOSED EXTENSION. The plat shall be submitted by the Village Clerk to the Engineer and the Superintendent of Water and Sewer of the Village for determination of the size and lengths of the utilities installations, location of manholes, clean outs and other appurtenances to be installed based upon the following provisions:

(A) Mains shall be located so that service may be rendered to all lots or premises to be served by the main and any possible extension thereof.

(B) Maximum distance between manholes shall be **four hundred (400) feet**. All construction shall be in accordance with all state and federal standards.

(C) In determining the length of pipe lines to be installed to serve a main extension, the main shall be extended to fully cover the front of the property, and if the last lot to be served is a corner lot or a lot immediately adjacent to a corner lot, the terminal point of the extension made hereunder shall be located so that the manhole laid hereunder is located in the intersecting street, the manhole made hereunder shall be located at the nearest street line of the intersecting street, or extend to the furthest end of the development.

(D) The Village may require the proposed main to be connected to its collection system at a point which, in its judgment, is necessary to adequately handle flows to premises to be served and nothing herein shall require the Village to allow connection to the closest point of existing service if such service is inadequate for the extension proposed. Main trunk lines may be installed by the Village at no cost to the developer, however, lots or properties fronting directly thereon which may be served by the service connection to the main will be charged the average amount per connection as found in subdivisions currently being constructed.

(E) The Village reserves the right to further extend its sewer mains from and beyond the terminus of each sewer main extension made under this Chapter. The applicant or applicant's agent paying for an extension shall not be entitled to any refund for the attaching of customers to any further extension or branch mains so involved.

(F) Extension made under this rule shall be and remain the property of the Village.

(G) Before the Village mains will be laid hereunder in any new subdivision, it is understood and agreed that the road surface will be brought to the extended sub-grade and the applicant, developer of such new subdivision shall furnish the Village with a right-of-way agreement in suitable form to the Village, unless the streets of the new subdivision have been dedicated to public use.

(H) **Installing Pipe Lines.** When a sewer main is to be installed in a paved or unpaved street in a new subdivision, or an addition to a subdivision, a **four (4) inch** service line is to be provided to the centerline of each lot for a one-family dwelling. The service line is to terminate at a point **three (3) feet to five (5) feet** inside the property line with a capped standpipe extending at least **four (4) feet** above ground. When a business or a multi-family dwelling is to be serviced, the Utilities Department will determine the proper size for the service.

38-4-44 **ENGINEER TO PREPARE PLANS.** After approval of the design, plans and specifications shall be prepared in accordance with the foregoing and with specifications for utility main extensions from time to time adopted by the Village Board.

38-4-45 **COST OF EXTENSIONS.** Cost of extensions made under provisions of this Section shall be borne by the developer. After acceptance by the Village, all future maintenance shall be the responsibility of the Village.

[See "Subdivision Code" for provisions applicable to new subdivisions.]

(Ord. No. 2006-05; 03-19-07)

38-4-46 - 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. **(See Section 38-4-9 in Old Code)**

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.

(1990 Code; Section 38-4-10)

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.

(In Part 1990 Code; Section 38-4-11)

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. **(1990 Code; Section 38-4-13)**

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. **(1990 Code; Section 38-4-14)**

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. **(1990 Code; Section 38-4-15)**

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.) **(1990 Code; Section 38-4-16)**

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) (1990 Code; Section 38-4-17)**

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.

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 204 mg/l**.

(2) A suspended solids (SS) content of **240 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 204 mg/l and SS 240 mg/l**. The surcharge will be based on water usage as recorded by water meters or sewage meters for all wastes which exceed the **204 mg/l and 240 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** of _____ (\$_____) per month is levied on users to provide for capital improvements, extensions or reconstruction of the sewage treatment works.

(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 sewer rates established for the Sewer system are found in **Article V**.

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:	\$0.000 in excess of 200 mg/l
per lb. of SS:	\$0.000 in excess of 240 mg/l

38-4-82 - 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 ordinance.

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 - PERMITS AND CHARGES

DIVISION I - TAP-IN REGULATIONS, PERMITS, FEES

38-5-1 PERMIT REQUIRED FOR MAKING TAP-IN CONNECTIONS TO UTILITY SYSTEMS.

(A) No person shall make any tap-in connection to the water system or the sewer system without first filing written application with the Department at least **ten (10) working days** in advance of the date desired to perform the subject work. No work shall be commenced until applicant has written approval of the Department.

(B) The application shall specify the size and the desired location of the proposed utility tap-in connections in relation to the property lines and buildings located thereon.

(C) An Excavation Permit is also required in compliance with **Chapter 33** of the Municipal Code.

(D) All work associated with any tap-in connection and the extension of service to the property to which the application is made, shall conform with all provisions of this Code and the Illinois State Plumbing Code.

(E) After issuance of the permit for the utility connection, the applicant has **ninety (90) days** in which to complete his portion of the work for the tap-in connection or the permit fee shall be forfeited and the applicant must re-apply and pay those fees associated with the new application.

(F) The Department shall inspect all utility tap-in connections prior to backfilling of the excavation by the applicant. Failure to obtain the proper inspection shall be a violation of this Chapter and subject the applicant to a fine as prescribed herein.

(G) Every building, for which an application for connection to the sanitary sewer system is made, must be completely under roof prior to issuance of the permit for tap-in connection to the sanitary sewer system. Draining of the excavation into the sanitary sewer system is strictly prohibited.

38-5-2 PERIODIC CHARGE IMPOSED.

(A) Periodic charges for water service will commence when the meter is installed and the water is turned on to the property.

(B) Periodic charges for sewer service will commence upon the inspection by Department personnel of the tap-in construction performed by the applicant.

38-5-3 WATER TAP-IN REQUIREMENTS AND FEES.

(A) **Requirements for a One (1) Inch Water Tap-In Connection.** After payment of the required fees and issuance of the required permits for a **one (1) inch** water tap-in connection, the Village will provide or cause to be provided as prescribed in the Subdivision Code all labor and materials, at a fee described herein, to make a **one (1) inch** tap-in connection at the water main, extend a **one (1) inch** service pipe to the property line of the applicant, and set the metering equipment. Water lines in new subdivisions or additions to subdivisions shall be **one (1) inch** type "K" copper. All service meter yokes installed in new subdivisions or additions to subdivisions will include an approved backflow prevention device. Future maintenance up to and including the metering equipment shall be the responsibility of the Department. The applicant shall be responsible for extending the service pipe from the

metering equipment to its termination point on the applicant's property using a capped **twelve (12) inch** brass nipple with a compression fitting, or a **twenty (20) inch** copper extension flattened on the terminated end. Future maintenance for the piping and appurtenances after the meter, shall be the responsibility of the property owner.

- (1) **Fee for Each One (1) Inch Water Tap-In Connection.**
 - (a) **Inside the Village Limits. One Thousand Dollars (\$1,000.00)** plus, **Five Dollars (\$5.00)** per lineal foot of service pipe from the water main to the applicant's property line.
 - (b) **Outside the Village Limits. Three Thousand Dollars (\$3,000.00)** plus, **Five Dollars (\$5.00)** per lineal foot of service pipe from the water main to the applicant's property line.

(B) **Requirements for a Water Tap-In Connection Larger than One (1) Inch.** After payment of required fees and issuance of the required permits, the applicant shall install or cause to be installed, a complete water tap-in connection, service pipe extension, and setting of the metering equipment. The applicant shall pay all costs of labor and materials for such installation, including the cost of the meter. Meters must be approved and purchased through the Village. The location of the meter, and housing where applicable, must be approved by the Building Administrator prior to its installation. An outside meter pit or housing must be approved by the Building Administrator prior to installation. All work shall be performed by a licensed plumber and in compliance with all requirements of the Department. Future maintenance of all piping and appurtenances beyond the service tap and valve, with the exception of the metering device, shall be at the expense of the customer. Inspections must be made prior to backfilling or covering the meter housing or water lines.

- (1) **Inspection Fee for Each Water Tap-In Connection Larger than One (1) Inch.**
 - (a) **Inside the Village Limits. One Thousand Dollars (\$1,000.00)** plus the cost of the meter.
 - (b) **Outside the Village Limits. Three Thousand Dollars (\$3,000.00)** plus the cost of the meter.

38-5-4SEWER TAP-IN REQUIREMENTS AND FEES.

(A) **Requirements for a Sewer Tap-In Connection.** After payment of the required fees and issuance of the required permits for sewer tap-in connection, the sewer service pipe from the main sewer to the house or building to which it is to connect. Applicant shall pay all costs of labor and materials associated with the installation. All construction within the right-of-way of the Village shall conform to **Chapter 33** of the Municipal Code. Future maintenance of all service piping and the tapping saddle from the main sewer line to the house or building shall be at the expense of the customer. All sewer taps must be inspected by the Village prior to backfilling or closing.

(B) **Special Requirements for "Sewer Only" Applications.** If the property, to which an application for utility connections is made, is connected to a water supply other than that of the Village, the applicant is required to install an approved metering device on the water supply, at his expense, which will measure all water entering the sewer system.

- (1) **Inspection Fee for Each Sewer Tap-In Connection.**
 - (a) **Inside the Village Limits. Five Hundred Dollars (\$500.00).**
 - (b) **Outside the Village Limits. One Thousand Dollars (\$1,000.00).**

38-5-5 - 38-5-10

RESERVED.

DIVISION II - USER CHARGES

38-5-11 **DEFINITION OF CHARGES.** The following definitions shall be applicable to this Chapter:

(A) **Facility Charge.** The amount charged if water service is turned on and available for use by the customer at any property during any calendar month for a period exceeding **fifteen (15) days** during said calendar month. The Facility Charge shall be in addition to any usage charges.

(B) **Usage Charge.** The amount charged for actual usage as recorded by the water meter. All usage recorded by the water meter shall be recorded in "thousands of gallons" within the limits of the metering device.

(C) **Security Deposit.** The amount held by the Department of any customer who is not the owner of record of the property on which application for utility service is made. The deposits made under the provisions of this Chapter may be applied to any delinquent bill of the customer. In the event the security deposit of any customer was used to satisfy a delinquent bill, said customer shall be required to deposit additional funds for the security deposit as determined by the Department. All final bills of any customer discontinuing service shall be deducted from the security deposit before a refund is made to the customer. No interest shall accrue for, or be paid on any security deposits held by the Department.

(D) **Turn-On Fee.** The amount charged to commence service for a new applicant or amount charged to restore service shut off temporarily at the request of the customer.

(E) **Reconnection Fee.** The amount charged to restore service that was shut off temporarily for non-payment of a delinquent account.

38-5-12 **WATER RATE WITHIN THE VILLAGE LIMITS.** The water rates for users within the Village shall be as follows:

(A) **Facility Charge.** **Five Dollars Twenty-Five Cents (\$5.25)** per month.

(B) **Usage Charge.** **Six Dollars (\$6.00)** per **one thousand (1,000) gallons** used per month.

(C) **Usage Over Forty Thousand (40,000) Gallons in any One (1) Month.** **Four Dollars Fifty Cents (\$4.50)** per **one thousand (1,000) gallons** in excess of **forty thousand (40,000) gallons** used per month.

38-5-13 **SEWER RATE WITHIN THE VILLAGE LIMITS.** The sewer rates for users within the Village shall be as follows:

(A) **Facility Charge.** **Five Dollars Twenty-Five Cents (\$5.25)** per month.

(B) **Usage Charge.** **Six Dollars (\$6.00)** per **one thousand (1,000) gallons** water used per month. **(Ord. No. 2017-06; 10-02-17)**

38-5-14 **WATER RATE OUTSIDE THE VILLAGE LIMITS.** The water rates for users outside the Village shall be as follows:

(A) **Facility Charge.** **Ten Dollars (\$10.00)** per month.

(B) **Usage Charge.** **Nine Dollars (\$9.00)** per **one thousand (1,000) gallons** used per month.

38-5-15 **SEWER RATE OUTSIDE THE VILLAGE LIMITS.** The sewer rates for users outside the Village shall be as follows:
(A) **Facility Charge.** Ten Dollars (\$10.00) per month.
(B) **Usage Charge.** Six Dollars (\$6.00) per one thousand (1,000) gallons water used per month. (Ord. No. 2017-06; 10-02-17)

38-5-16 **FIRE PROTECTION DISTRICT (FIRE PROTECTION WATER).**
(A) **Facility Charge.** None.
(B) **Usage Charge.** Five Dollars Fifty Cents (\$5.50) per one thousand (1,000) gallons used per month.

38-5-17 **BULK WATER RATE.** The rate for bulk water shall be:
(A) **Facility Charge.** None.
(B) **Usage Charge.** Eight Dollars (\$8.00) per one thousand (1,000) gallons dispensed.

38-5-18 **SECURITY DEPOSIT.** The security deposit shall be as follows:
(A) **Within the Village Limits.** One Hundred Twenty-Five Dollars (\$125.00).
(B) **Outside the Village Limits.** One Hundred Fifty Dollars (\$150.00).
(C) Forfeiture of customers deposit does not relieve the customer of payment for service rendered to the date of disconnect.

38-5-19 **TURN-ON FEE.** The turn-on fee shall be as follows:
(A) **Within the Village Limits.** Fifteen Dollars (\$15.00).
(B) **Outside the Village Limits.** Twenty Dollars (\$20.00).

38-5-20 **RECONNECTION FEE.** The reconnection fee shall be as follows:
(A) **First (1st) Reconnection within any Twelve (12) Month Period.** Thirty Dollars (\$30.00).
(B) **Second (2nd) Reconnection within any Twelve (12) Month Period.** Sixty Dollars (\$60.00).
(C) **Third (3rd) Reconnection within any Twelve (12) Month Period.** Ninety Dollars (\$90.00).
(D) **Fourth (4th) and Subsequent Reconnections within any Twelve (12) Month Period.** One Hundred Twenty Dollars (\$120.00).

38-5-21 **FEES/PENALTIES.**
(A) **Payment.** All charges, fees, and penalties will be paid prior to the reconnection of any service disconnected for non-payment.
(B) **After Hours Turn-On/Reconnection.** Any customer requiring reconnection or turn-on of water service during those hours not regularly scheduled for Water Department employees shall pay an additional fee of **Seventy Dollars (\$70.00).**

(Ord. No. 2011-10; 04-02-12)

EXHIBIT "A"
ORDINANCE 2018-01
WATER PURCHASE CONTRACT

This contract for the sale and purchase of water is entered into as of the 21st day of May, 2018, between **KASKASKIA WATER DISTRICT** of St. Clair, Washington and Randolph Counties, Illinois, 700 South Market Street, P.O. Box 347, New Athens, Illinois, hereinafter referred to as the "SELLER", and the **VILLAGE OF NEW ATHENS, ILLINOIS**, 905 Spotsylvania Street, New Athens, St. Clair County, Illinois 62264, hereinafter referred to as the "PURCHASER" (SELLER and PURCHASER collectively referred to herein as "Parties"),

WITNESSETH

WHEREAS, the SELLER is a public water district organized under the laws of the State of Illinois (**70 ILCS 3705/0.01 et seq.**), and owns and operates a water supply distribution system; and,

WHEREAS, the PURCHASER, a municipal corporation, is authorized under the provisions of **65 ILCS 5/11-139-1 et seq.**, to construct and operate a water supply distribution system serving water users within its water system pursuant to its plans; and,

WHEREAS, the SELLER pursuant to **70 ILCS 3705/20** may contract to supply water to any city, village or incorporated town owning and operating a waterworks system whether said city, village or incorporated town is located within the corporate limits of the district or not; and,

WHEREAS, the PURCHASER pursuant to **65 ILCS 5/11-124-1** may contract with any person, corporation, municipal corporation, political subdivision, public water district or any other agency for a supply of water; and,

WHEREAS, the SELLER'S water supply distribution system has a sufficient capacity to continue to serve PURCHASER; and,

WHEREAS, the PURCHASER and SELLER over the past thirty plus years have entered into various contracts for the purchase of water, and amendments thereto; and

WHEREAS, SELLER is currently undertaking water system improvements and expansions at its facility in New Athens, Illinois, which shall upgrade original treatment plant components, increase overall treatment capacity, and enhance the SELLER'S ability to continue meeting future Illinois Environmental Protection water quality standards and supply quality water to PURCHASER, and such improvements are to be financed through the United States Department of Agriculture, Rural Development Agency; and,

WHEREAS, in addition to the above, and in order for SELLER to comply with its water system loan commitment which it has heretofore secured through said United States Department of Agriculture, Rural Development Agency, the term of its current contract with PURCHASER must be extended; and,

WHEREAS, by Ordinance No. _____ enacted by the SELLER on the 15th day of March, 2018, the sale of water in accordance with the provisions of said Ordinance was approved and the execution of this contract carrying out the said Ordinance by the Chairman and attested by the Secretary, was duly authorized; and,

WHEREAS, by Ordinance No. 2018-01 of the Board of Trustees of the PURCHASER enacted on the 21st day of May, 2018, the purchase of water from the SELLER in accordance with the terms set forth in said Ordinance was approved and the execution of this contract by the President of the Board of Trustees of the Village of New Athens, and attested by the Village Clerk, was duly authorized.

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements and promises contained herein, the Parties hereto do hereby agree as follows:

- A. **The SELLER Agrees:** The SELLER agrees to the following:
1. **Quality and Quantity.** To furnish the PURCHASER at a point of delivery herein specified, during the term of this contract or any renewal or extension thereof, potable treated water meeting all applicable purity standards of the Illinois Environmental Protection Agency in effect at that time, and such other Illinois requirements and regulations as apply to SELLER in such quantity as may be required by the PURCHASER not to exceed 11,000,000 gallons per month.
 2. **Point of Delivery and Pressure.** The "Point of Delivery and Pressure" is anticipated to change during the term of this Agreement. As part of the planned upgrades to the SELLER'S water system. The current existing Point of Delivery and Pressure are defined as follows: the water will be furnished by SELLER at a pressure ranging from 30 psi to 50 psi from an existing six-inch supply main located at the existing New Athens plant clearwell, which shall be considered the "Existing Point of Delivery", which is the same point used currently to deliver water to the PURCHASER'S water system. However, the Parties acknowledge that the Point of Delivery may change in the future due to SELLER'S current proposed improvements, and that such new location, once established, will be deemed the "Proposed Point of Delivery" as referred to in this document. The "Proposed Point of Delivery is defined as follows: A new water tap, pressure reducing valve, and Master Meter Vault is planned for construction near the Intersection of New Baldwin Road and Phillips Street. This will allow the SELLER'S SYSTEM PRESSURE to directly pressurize the PURCHASER'S water distribution system and fill its water tower. By installing this "Proposed Point of Delivery" and all of its components, the existing connection and use of the SELLER'S clearwell and pump building can be eliminated. The PURCHASER and SELLER agree to work in a common effort to establish the desired set-points of the proposed pressure reducing valve to assure that the desired PURCHASER water system pressure is adequately maintained.
If a pressure greater than normally available at the "Existing Point of Delivery" or "Proposed Point of Delivery" is required by the PURCHASER, the cost of providing such greater pressure shall be borne by the PURCHASER.
Emergency failures of pressure or supply due to main supply line breaks, power failures, facility or supply line improvements or maintenance, elevated water storage reservoir maintenance or repainting, any other improvement or maintenance to SELLER'S water supply distribution system, flood, fire and use of

water to fight fire, earthquake, natural disaster or other catastrophe, and civil unrest or acts of terrorism, shall excuse the SELLER from this provision for such reasonable period of time as may be necessary to restore service.

3. **Metering Equipment.** To calibrate and replace as necessary, at SELLER'S sole expense, the Master Meter presently located at the Point of Delivery. SELLER shall calibrate said Master Meter whenever requested by the PURCHASER, but not more frequently than once every twelve months. Master Meter registrations not more than two percent (2%) above or below the test result shall be deemed to be accurate. The previous readings of said Master Meter disclosed by a test to be inaccurate shall be corrected for the three (3) months previous to such tests. If said Master Meter fails to register for any period, the amount of water furnished during such period shall be deemed to be the amount of water delivered in the corresponding period immediately prior to the failure, unless SELLER and PURCHASER shall agree upon a different amount. The metering equipment shall be read on the first day of each month. An appropriate official of the PURCHASER, at all reasonable times, shall have access to the Master Meter for the purpose of verifying its readings.
4. **Billing Procedure.** To furnish the PURCHASER at the above address not later than the 10th day of each month, with an itemized statement of the amount of water furnished the PURCHASER during the preceding month.

B. **The PURCHASER Agrees:** The PURCHASER agrees to the following:

1. **Rates and Payment Date.** To pay the SELLER, not later than the 25th day of each month, for water delivered in accordance with the foregoing provisions, at the rate of Three Dollars Fifty Cents (\$3.50) per thousand gallons of water during the period of time beginning the first day of the next succeeding month following execution of this contract, and thereafter until such time that the SELLER shall modify the rate as indicated in Section C.5 herein. PURCHASER agrees to set its rates on a basis reasonably calculated to produce sufficient revenue, or utilize other sources of revenue, to meet its obligations and other necessary expenses of the PURCHASER as stated herein.
2. **Labor and Materials for System Improvements.** PURCHASER shall bear all expense in conjunction with its water system improvements, including, specifically, all tap hardware, metering equipment, piping, valves, pumps and pumping station structures, together with all labor to perform said improvements. After installation of said water improvements, PURCHASER shall be solely responsible for all future maintenance thereof on the PURCHASER'S side of the Master Meter, and thereafter throughout the distribution system owned and operated by PURCHASER. PURCHASER shall hold SELLER free and harmless from any responsibility and liability for such maintenance and from any damage by virtue of future leakage at the point of tap, "Existing Point of Delivery" or "Proposed Point of Delivery", or along the water service lines installed and maintained by the PURCHASER in accordance with this provision.

C. **It is further mutually agreed between the Parties as follows:** The Parties hereto mutually agree as follows:

1. **Term of Contract.** That this contract shall be for a term of forty (40) years from and after the date SELLER'S water system loan closing through the United States Department of Agriculture, Rural Development Agency and thereafter, and may be renewed or extended for such term, or terms, as may be mutually

agreed upon by the SELLER and PURCHASER. Provided, however, if said loan closing shall not occur within one (1) year after the date of this contract, then this contract shall extend for a period of forty (40) years from and after the date hereof.

2. **Maximum Quantity Per Minute.** The maximum instantaneous flow at the "Existing Point of Delivery" or "Proposed Point of Delivery" shall not exceed 225 gpm.
3. **Failure to Deliver.** That the SELLER will, at all times, operate and maintain its system in an efficient manner and will take such action as may be necessary to furnish the PURCHASER with quantities of water as required herein. Temporary or partial failures to deliver water shall be remedied with all possible dispatch. In the event of an extended shortage of water, or if the supply of water available to the SELLER is otherwise diminished over an extended period of time, the supply of water to PURCHASER'S consumers shall be reduced or diminished in the same ratio or proportion as the supply to all of SELLER'S consumers is reduced or diminished.
4. **Exclusive Contract.** As long as SELLER can supply PURCHASER'S water needs, the parties hereto agree that PURCHASER shall acquire water exclusively from the SELLER during the term of this contract.
5. **Modification of Contract.**
 - a. That the provisions of this contract pertaining to the scheduled rates to be paid by the PURCHASER for water delivered are subject to modification at the end of every fiscal year of SELLER, being the 30th day of June. Any increase or decrease in rates shall be based upon a demonstrable increase or decrease in the cost of performance hereunder that affects water quality or distribution from SELLER to PURCHASER. The determination of cost of performance may include capital improvements made to SELLER'S existing system which are paid by SELLER, so long as said capital improvements have a beneficial effect upon water quality or distribution to PURCHASER. If the SELLER shall make capital improvements having an effect upon the PURCHASER as stated above, the SELLER shall: (1) advise the PURCHASER of said proposed capital expenditures; and (2) advise the PURCHASER of the scope of benefits to PURCHASER by reason of said capital expenditures. PURCHASER rates shall not, however, be increased due to SELLER'S capital expenditures unless rates of all water purchasers from SELLER are similarly increased. The PURCHASER'S schedule of rates shall be the same as the schedule of rates extended to the Village of Marissa, IL; the Village of Lenzburg, IL; the Village of Tilden, IL; and Washington County Water Company.
 - b. Other provisions and terms of this contract may be modified or altered by the mutual agreement of the parties hereto.
 - c. All modifications of this contract shall be in the form of an amendment to this contract, placed in writing and signed by both parties.
6. **Regulatory Agencies.** This contract is subject to such rules, regulation or laws as may be applicable to similar agreements in the State of Illinois and the SELLER and the PURCHASER will collaborate in obtaining such permits, certificates, or the like, as may be required to comply therewith.

7. **Miscellaneous.** That the aforementioned water supply distribution system improvements by the SELLER are being financed in part by a loan made by the United States of America acting through the Department of Agriculture. The provisions hereof pertaining to the undertakings of the SELLER are conditioned upon the approval, in writing, of the United States Department of Agriculture Rural Development Agency.
8. **Successor to the Parties.** That in the event of any occurrence rendering the SELLER or PURCHASER incapable of performing under this contract, any successor of the SELLER or PURCHASER, whether as the result of legal process, assignment, or otherwise, shall succeed to the rights and obligations of the SELLER and PURCHASER hereunder.
9. **Prior Contracts/Agreements.** This contract cancels and supersedes any and all previously dated water purchase contracts.
10. **Pledge as Security.** This contract is pledged to the United States of America, acting through Rural Development of the United States Department of Agriculture as part of the security of the loan(s) to SELLER.
11. **Notices.** Any notices required to be given under this contract will be deemed to have been properly given when mailed by U.S. Postal Service via First Class Mail to the respective parties at the addresses indicated in the first paragraph on page one (1) of this document. The above addresses may be changed at any time with written notice to the other party as to the new address.
12. **Savings Clause.** To the maximum extent possible, each provision of this contract shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this contract shall be prohibited by, or held to be invalid under applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision, or any other provision of this contract.

IN WITNESS WHEREOF, the parties hereto acting under authority of their respective governmental bodies, have caused this contract to be executed in three (3) counterparts, each of which shall constitute an original.

(Ord. No. 2018-01; 05-21-18)

APPENDIX #1
VILLAGE OF NEW ATHENS

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 NEW ATHENS

UTILITY MAIN EXTENSION CONTRACT

AGREEMENT made and entered into this _____ day of _____, by and between the Utility System of the **Village of New Athens, 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 NEW ATHENS**

**BY: _____
SUPERINTENDENT**

ATTEST:

VILLAGE CLERK

DEPOSITOR

WITNESSES:

APPENDIX #3

VILLAGE OF NEW ATHENS

**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 forty-eight (48) hours** to commencement of the work proposed, and again **at least forty-eight (48) 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 NEW ATHENS
RESIDENTIAL OR COMMERCIAL BUILDING SEWER APPLICATION

The undersigned, being the _____ of the
 (owner, owner's agent)
 property located at _____ does hereby request a permit to install and
 (Number) (Street)
 connect a building sewer to serve the _____ at said location.
 (residence, commercial building, etc.)

1. The following indicated fixtures will be connected to the proposed building sewer:

<u>NUMBER</u>	<u>FIXTURE</u>	<u>NUMBER</u>	<u>FIXTURE</u>
_____	Kitchen Sinks	_____	Water Closets
_____	Lavatories	_____	Bathtubs
_____	Laundry Tubs	_____	Showers
_____	Urinals	_____	Garbage Grinders

Specify Other Fixtures: _____

2. The maximum number of persons who will use the above fixtures is _____.
3. The name and address of the person or firm who will perform the proposed work is _____
4. Plans and specifications for the proposed building sewer are attached hereunto as **Exhibit "A"**.

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To accept and abide by all provisions of the **Revised Code**, and of all other pertinent ordinances and codes that may be adopted in the future.
2. To maintain the building sewer at no expense to the Village.
3. To notify the Village when the building sewer is ready for inspection and connection to the public sewer, but before any portion of the work is covered.

DATE: _____, 20____ SIGNED: _____
 (APPLICANT)

 (ADDRESS OF APPLICANT)

(CERTIFICATION BY CLERK)

\$ _____ (Inspection Fee Paid) DATE: _____, 20____
 \$ _____ (Connection Fee Paid) SIGNED: _____
 (CLERK)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 20____ SIGNED: _____
 (PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

APPENDIX #4
VILLAGE OF NEW ATHENS
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 NEW ATHENS

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 NEW ATHENS
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 NEW ATHENS
COUNTY OF ST. CLAIR**

DATE: _____

ADDRESS: _____

OWNER(S): _____

APPENDIX #5

VILLAGE OF NEW ATHENS

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 NEW ATHENS
COUNTY OF ST. CLAIR**

SIGNED: _____

APPENDIX #6

VILLAGE OF NEW ATHENS

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 NEW ATHENS
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 40

ZONING CODE

ARTICLE I - GENERAL PROVISIONS

40-1-1 **TITLE.** This Code shall be known, cited and referred to as the **New Athens Zoning Code.**

40-1-2 **PURPOSE AND INTENT.** This Code is adopted so that:

- (A) Adequate light, pure air, and safety from fire and other dangers may be secured;
- (B) The taxable value of land and buildings throughout the Village may be conserved;
- (C) Congestion in public streets may be lessened;
- (D) Hazards to personal damages to property resulting from the accumulation or runoff of storm or floodwater may be lessened;
- (E) This preservation of sites, areas and structures of historical, architectural and aesthetics importance may be facilitated; and
- (F) The public health, safety, comfort, morals, and welfare may otherwise be promoted.

(See 65 ILCS Sec. 5/11-13-1)

40-1-3 **REGULATORY POWERS.** In order that the aforementioned purpose and intent may be achieved, the provisions of this Code support the following regulatory powers:

- (A) To divide the entire Village into districts of such number, shape, area and of such different causes as may be deemed best suited to carry out the provisions of this Code;
- (B) To fix standards, to which buildings or structures thereon shall conform;
- (C) To prohibit uses, buildings, or structures incompatible with the character of such districts;
- (D) To establish, regulate and limit the height and bulk of buildings to be erected;
- (E) To establish, regulate and limit the building or setback lines on or along any street, traffic way, drive, parkway, or storm or floodwater runoff, channel or basin;
- (F) To regulate and determine the area of open spaces, within and surrounding buildings or structures;
- (G) To classify, to regulate, and to restrict the use of property on the basis of family relationship;
- (H) To prevent additions to, and alternation or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed under this Code;
- (I) To provide for the gradual elimination of uses, buildings and structures which are incompatible with the character of the districts in which they are made or located;
- (J) To encourage the direction of building development to the best advantage of the entire Village.

40-1-4 **GENERAL PROHIBITION.** It shall be unlawful within the Village, to create, occupy, erect, or otherwise develop, any lot or structure, or any part of any lot or structure, except in conformity with the provisions of this Code.

40-1-5 **JURISDICTION.** This Code shall be applicable only within the corporate limits of the Village, except where otherwise provided by law.

40-1-6 **INTERPRETATION.** Every provision of this Code shall be construed in favor of the Village, and every regulation set forth herein shall be considered the minimum requirement for the promotion of the public health, safety, and welfare.

40-1-7 **CONFLICTING LAWS.** Where the conditions imposed by any provision of this Code are either more restrictive or less restrictive than comparable conditions imposed by another law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose height standards or requirements shall govern.

40-1-8 **EXISTING AGREEMENTS.** This Code is not intended to repeal any easement, covenant or other private agreement, provided that where the regulations of this Code are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements, the requirements of this Code shall govern.

40-1-9 **EXISTING VIOATIONS.**
(A) No building, structure or use, not lawfully existing on **March 17, 1997**, shall become or be made lawful solely by reason of the adoption of this Code and to the extent that, in any manner, the unlawful buildings, structure or use is in conflict with the requirements of this Code, the building, structure or use remains unlawful hereunder.
(B) Any building, structure or use established or altered in violation of the provisions of the ordinance which was in effect at the time of establishment or alteration of such building, structure or use shall not be validated by the adoption of this Code.

40-1-10 **EXISTING BUILDING PERMITS.** Any building permit for a building or structure that does not conform with the provisions of this Code that was issued prior to **March 17, 1997** (Date of Enactment), shall only be valid for a period of **six (6) months** from the date of issuance, and no extension or re-issuance of a building permit for such buildings or structures shall be granted unless the construction has begun and is partially completed or the proposed building or structure or use is in full compliance with the provisions of this Code.

40-1-11 **EXISTING ZONING PERMITS.** Any zoning permit, including those for special uses and variations, which was issued prior to **March 17, 1997** (Date of Enactment), but was not implemented by that date, shall be invalid **one (1) year** from the date of issuance or **six (6) months** from the effective date of this Code, unless substantially implemented by the applicant prior to such time.

40-1-12 **CONTIGUOUS PARCELS.** When **two (2)** or more parcels of land, each of which lacks adequate area and dimensions to qualify for a permitted use under the requirements of the zoning district in which they are located, are contiguous and are held in one (1) ownership, at the time of construction, such lots shall be considered a single lot.

40-1-13 **MINIMUM REQUIREMENTS.** In their interpretation and application, the provisions of this Code shall be held to be the minimum requirements for the promotion and protection of the public, health, safety, morals and welfare.

40-1-14 **COMPLIANCE.**

(A) No building or structure or part thereof shall be erected, constructed, reconstructed, enlarged, moved or structurally altered; and no building, structure or land shall hereafter be used, occupied or arranged or designed for use or occupancy; nor shall any excavating or grading be commenced in connection with any of the above matters, except as permitted by the regulations herein which are applicable to the zoning district in which such building, structure or land is located.

(B) Except as may otherwise be provided, all structural alteration or relocations of existing buildings occurring hereafter, and all enlargements of or additions to existing uses occurring hereafter, shall be subject to all regulations herein which are applicable to the zoning district in which such buildings, uses or land shall be located.

(C) Where a structure and use thereof of land lawfully exists on **March 17**, and is classified by this Code as a special use in the district where it is located, such use shall be considered a lawful special use. A special use permit issued in accordance with procedures herein set forth shall be required only for any expansion or major alteration of any such existing special use. If an existing special use ceases for a period of more than **six (6) months**, the special use can only be re-established under the provision of **Section 40-7-19** of this Code.

(D) Any legally established building, structure, or use may continue subject to the provisions of **Article XII** of this Code.

(E) Any lot of record existing on **March 17, 1997** (Date of Enactment) which is unable to meet the requirements of this Code as to lot area, lot width and yard requirements shall only be used in accordance with the provisions of **Article XII**.

40-1-15 **EXEMPTIONS.**

(A) As required by statute, the type or location of any poles, towers, wires, cables, conduits, vaults, laterals or any other similar distributing equipment or a public utility is exempt from the requirements of this Code.

(B) The provisions of this Code shall not be enforced so as to impose regulations or required permits with respect to land within a conservation district used strictly for agricultural purposes or with respect to the erection, maintenance, repair or extension of buildings or structures used or to be used entirely for agricultural purposes, except that all such buildings shall conform to the yard requirements, lot size requirements and building bulk limitations of this Code. All non-agricultural uses of the conservation district shall be in full compliance with the provisions of this Code.

(C) Pipelines and other underground installations, to the extent the same are completely buried beneath the surface of the soil, are exempt from the requirements of this Code,

provided that their incidental or associate structures, installations or equipment, except markers used in connection with such pipe lines, are subject to the provisions of this Code.

(D) Chimneys, parapet walls, skylights, steeples, flag poles, smokestacks, cooling towers, elevator bulkheads, fire towers, monuments, water towers, stacks, stage towers, or scenery lofts, tanks, ornamental towers and spires, wireless towers, radio transmission towers, radar installations, telescopes, military installations of the U.S. Government, necessary mechanical appurtenances and television or other antennas may exceed the height limitations of this Code.

(E) No building or structure including those listed in subsection (D) above, which are subject to notice under Federal Aviation Regulations par. 77, shall be constructed until approved by the Federal Aviation Administration.

40-1-16 DISCLAIMER OF LIABILITY.

(A) Except as may be provided otherwise by statute or ordinance, no official, board member, agent or employee of the Village shall render himself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties under this Code.

(B) Any suit brought against any official, board member, agent, or employee of the Village as a result of any act required or permitted in the discharge of his duties under this Code shall be defended by the Village Attorney until the final determination of the legal proceedings. **(See "Local Governmental and Governmental Employees Tort Immunity Act", Ill. Comp. Stat., Ch. 745 Secs. 10/1-101)**

40-1-17 SEPARABILITY. If any court of competent jurisdiction shall judge invalid any provision of this Code, such judgment shall not affect any other provision hereof not specifically included in said judgment.

Further, if such court shall adjudge invalid the application of any provision hereof to a particular property, such judgment shall not affect the application of said provision to any other property not specifically included in said judgment.

ARTICLE II - DEFINITIONS

40-2-1 **RULES AND CONSTRUCTION.** The following rules shall be observed and applied in the interpretation of this Code except when the text clearly indicates otherwise:

(A) Words and phrases shall have the meanings respectively ascribed to them in **Section 40-2-2** unless the context clearly indicates otherwise; terms not defined in **Section 40-2-2** shall have their standard English dictionary meaning.

(B) Words denoting the masculine gender shall include the feminine and neuter genders.

(C) Words used in the present tense shall include the future tense.

(D) Words used in the singular number shall include the plural number, and the plural the singular.

(E) The term "shall" is mandatory; the term "may" is discretionary.

(F) All distances shall be measured to the nearest integral foot; **six (6) inches** or more shall be deemed **one (1) foot**.

(G) Captions (i.e., titles or sections, subsections, etc.) are intended to merely facilitate general reference and in no way limit the substantive application of the provisions set forth thereunder.

(H) References to sections shall include all subsections within that section; but a reference to a particular subsection designates only that subsection.

(I) A general term that follows or is followed by enumerations of specific terms shall not be limited to the enumerated class unless expressly limited.

(J) The words "lot" shall include plot and parcel.

(K) The words "building and/or structures" shall include all non-living improvements upon the land.

(L) The phrase "used for" shall include the phrases "designed for," "intended for," "occupied for or by" and "maintained for".

40-2-2 **SELECTED DEFINITIONS.**

Abutting: To have a common property line or district.

Access Way: A curb cut, ramp, driveway, or other means for providing vehicular access to an off-street parking or loading area.

Accessory Building or Use: A building or use which:

(A) is subordinate to and serves as a principal building or principal use;

(B) is subordinate in area, extent or purpose to the principal building or principal use served;

(C) contributes to the comfort, convenience or necessity of occupants of the principal building or principal use served;

(D) is located on the same zoning lot as the principal building or potential use served with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot with the building or use served.

Adjacent: Lying near or in the immediate vicinity.

Adjoining: Touching or continuous, as distinguished from lying near.

Administrator: See "Building Commissioner".

Advertising: See "Sign".

Aerials or Antennas: Structures or devices that detect or radiate electromagnetic waves; specifically that part of a radar or of a radio-sending or radio-receiving set that consists of that apparatus that radiates waves or receives them.

Agriculture: The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, and animal and poultry husbandry, and the necessary accessory uses for packing, treatment or storing the produce; provided however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. Included are truck-farming, poultry farming, bee-keeping, raising of fruit and berries, and the selling of agricultural products, but shall not include mechanized industrial animal farms. "Agriculture" shall not include the commercial feeding of garbage to swine or other animals.

Agricultural Building or Structure: Any building or structure existing or erected on land used principally for agricultural purposes, with the exception of dwelling units.

Aisle: A vehicular traffic way within an off-street parking area, used as a means of access/egress from parking spaces.

Alley: A public or private way, at the rear or side of property, permanently reserved as a means of a secondary vehicular access to abutting property.

Alteration: Any change in size, shape, character, occupancy or use of a building or structure.

Amendment: A change in the provisions of this Code, including the district map, properly effected in accordance with State law and the procedures set forth herein.

Anchor: Any approved device to which a mobile or manufactured home is tied down to keep it firmly attached to the stand on which it is placed.

Animal Hospital: Any building or portion thereof designed or used for the care, observation, or treatment of domestic animals.

Apartment: See "Dwelling Unit".

Apartment Building: See "Dwelling, Multi-Family".

Asphalt: A mixture of petroleum by-products and gravel used for paving to form an impermeable, all-weather, and dustless surface.

Attached: As applied to buildings, "attached" means having a common wall and/or a common roof.

Auditorium: A room, hall or buildings, where an audience sits for speeches, concerts, etc.

Automobile Laundry: A building or portion thereof containing facilities for washing more than **two (2)** automobiles, providing space, water, equipment or soap for washing automobiles by the operator or customer. Production line methods using mechanical devices are permitted.

Automobile Repair, Major: The general repair, engine rebuilding or reconditioning of motor vehicles, collision service; such as body, frame and/or fender straightening and repair and/or painting of motor vehicles.

Automobile Repair, Minor: Incidental repairs, replacement of parts and motor service of automobiles but excluding any operation specified under "automobile repair, major".

Automobile Service Station: Any building or premises used for the dispensing, sale or offering for sale at retail to the public, automobile fuels stored only in underground tanks located wholly within the lot lines; lubricated oil or grease for the operation of automobiles; and the sale and installation of tires, batteries, other minor accessories, and minor automobile repair, but not including a bulk plant, conduct or major automobile repairs, automobile wrecking, automobile sales, or automobile laundries; provided, however, that the washing of individual's automobile where no chain conveyer is employed may be included.

Awning: A roof-like cover, temporary in nature, which projects from the wall of a building and may overhang the public way.

Banquet Hall: A building, or portion thereof, primarily intended to accommodate large groups of diners on special occasions.

Basement: That portion of a building having more than **one-half (1/2)** of its height below lot grade.

Basement, Subgrade: That portion of a building which is partly underground but has at least **one-half (1/2)** of its average height above a lot grade.

Billboard: See "Sign, Billboard".

Block: A track of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, municipal boundary lines, township lines, or county lines.

Board of Appeals: The Zoning Board of Appeals of the Village.

Buffer Strip: An area of land undeveloped, except for landscaping, fences, or other similar uses intended to protect a use situated on the subject lot from the injurious effects of the use on the adjacent lot.

Buildable Area: The part of a lot remaining after the minimum open space and/or yard requirements of this Code have been complied with.

Building: Any structure built, used, designed, or intended for the support, shelter, protection, or enclosure of persons, animals, chattels, or property of any kind, and which is permanently affixed to the land. When a building is divided into separate parts by unpierced fire or party walls

extended continuously from the ground through all stories to and above the roof, each part shall be deemed a separate building. See also "Uniplex".

Building, Accessory: See "Accessory Building or Use".

Building Commissioner: The person designated by the Mayor and Board of Trustees as the officer responsible for enforcing and administering all requirements of this Code.

Building, Detached: A building surrounded by an open space on the same lot.

Building Height: The vertical distance from the sidewalk level, or its equivalent established grade opposite the center of the front of a building to the highest point of the underside of the ceiling beams, in the case of a flat roof; to the deck line of a mansard roof; and to the mean level of the underside of the rafters between the eaves and the rise of a gable, hip or gambrel roof. Where no sidewalk level has been established the height of a building may be measured from the mean elevation of the finished lot grade at the front of the building.

Building Permit: A permit issued by the Building Commissioner for the construction, erection or alteration of a structure or building.

Building, Principal: A non-accessory building in which a principal use of the lot on which it is located is conducted.

Building, Residential: Any building that is used exclusively for permitted residential uses.

Building, Service: A building in which laundry facilities or other such service facilities are provided.

Building Setback Line: The minimum distance between a street right-of-way and the nearest supporting member of any structure on the lot.

Bulk: A term used to indicate the size and setbacks of buildings, or structures and their location with respect to one another, including:

- (A) Height and area of buildings;
- (B) Location of exterior walls in relation to lot lines, streets, or other buildings;
- (C) All open space allocated to buildings;
- (D) Amount of lot area required for each dwelling unit.

Business: An occupation, employment or enterprise which occupies time, attention, labor and materials; or wherein merchandise is exhibited or sold or where services are offered.

Canopy: A roof-like structure projecting from a wall and supported in whole or in part by vertical supports to the ground and erected primarily to provide shelter from the weather.

Canopy, Service Station: A roof-like structure, usually self-supporting, detached and erected primarily to provide shelter from the weather at self-service gas pumps.

Carport: An open-sided, roofed automobile shelter, usually formed by extension of the roof from the side of a building.

Centerline:

- (A) The centerline of any right-of-way having a uniform width;
- (B) The original centerline, where the right-of-way has been widened irregularly;
- (C) The new centerline, whenever a road has been relocated.

Certificate of Zoning Compliance, Initial: A permit issued by the Building Commissioner indicating that a proposed lot, structure or use is in conformity with the requirements of this Code.

Certificate of Zoning Compliance, Final: A permit issued by the Building Commissioner indicating that a lot or newly completed structure or use complies with all pertinent requirements of this Code and may, therefore, be occupied or used.

Child Care Center: See "Day Care Center".

Clinic, Medical or Dental: An organization of specializing physicians or dentists, or both, who have their offices in a common building. A clinic shall not include inpatient care.

Club/Lodge: A not-for-profit association of persons who are bona fide members organized for some purpose(s) and paying regular dues and whose facilities are restricted to members and their guests; not including a group organized solely or primarily to render a service customarily carried on as a commercial enterprise.

Commercial Use/Establishment: Any use or establishment wherein goods are purchased or sold, whether to the consuming public (retail) or to other businesses (wholesale).

Common Open Space: Land unoccupied by structures, buildings, streets, right-of-ways and automobile parking lots designed and intended for the use or enjoyment of residents of a planned unit development. Common open space may contain structures for recreational use.

Condominium: A form of cooperative ownership which permits individual ownership of a specific part of a building, with common ownership of all spaces beyond the specific apartments. Each apartment can be owned in fee simple, with no restrictions on the sale, rental or transfer of same, other than restrictions on all real estate. Condominiums must meet requirements of the Illinois law.

Condominiums, Business: A form of cooperative ownership which permits individual ownership of a specific part of a building, with common ownership of all spaces beyond the specific apartments. Each apartment can be owned in fee simple, with no restrictions on the sale, rental or transfer of same, other than restrictions on all real estate. Business Condominiums must meet requirements of Illinois law and **Section 40-5-76** of the Zoning Code.

Conforming Building or Structure: Any building or structure which complies with all the regulations of this Code or of any amendment hereto governing bulk for the zoning district in which such building or structure is located.

Conforming Use: Any use which occupies a building, structure or lot and which complies with the regulations of this Code or of any amendment hereto governing permitted and special uses for the zoning district in which such use is located.

Convalescent Home: See "Nursing Home", "Home for the Aged", "Homes for Ill or Physically Infirm Person" and related definitions; "Hospital or Sanitarium", "Intermediate Care Facility", "Sheltered Care Facility", and "Sheltered Care Home".

Corner Lot: See "Lot, Corner".

Corrective Action Order: A legally binding order issued by the Building Commissioner in accordance with the procedures set forth herein, to effect compliance with this Code.

Court: An open unoccupied space other than a yard on the same lot with a building, which is totally or partially enclosed by building or buildings and is completely open to the sky.

Curb Level: The level of the established curb in front of the building measured at the center of such front. Where a building faces more than **one (1)** street, the "curb level" shall be the average of the levels of the curbs at the center front of each street. Where no curb elevation has been established, the level of the centerline of the street shall be considered the "curb level".

Day Care Center: Any state licensed child day care facility receiving more than **eight (8) children** for daytime care during all or part of the day. The term "day care centers" includes facilities called "child care centers", "day nurseries", "nursery schools", "kindergartens", "play groups", and "centers or workshops for mentally or physically handicapped" without stated educational purposes. The term does not include:

(A) Kindergartens or nursery schools or other daytime programs operated by public or private elementary school systems or secondary level school units or institutions of higher learning;

(B) Facilities operated in connection with a shopping center or service, or other similar facility, where transient children are cared for temporarily while parents or custodians of the children are occupied on the premises, or in the immediate vicinity and readily available;

(C) Any type of day care center that is conducted on federal government premises; or

(D) Special activities programs, including athletics, crafts instruction, and similar activities conducted on an organized and periodic basis by civic, charitable or governmental organizations.

Day Care Home: Any state licensed child day care facility receiving **eight (8)** or fewer children for daytime care during all or part of the day, and within the residential premises of the person so licensed. Such homes must meet the requirements of a home occupation in order to be a permitted or special use in some districts.

Day Nurseries: State licensed day care centers which receive preschool age children for short-term or extended hours of care, and which provide essential personal care, protection, supervision, training and programs to meet the needs of the individual children served.

Detached: As applied to buildings, "detached" means surrounded by yards on the same lot as the buildings.

Develop: To erect any structure or to install any improvements on a tract of land, or to undertake any activity, such as grading, in preparation therefor.

District: A portion of the territory of the Village wherein certain uniform requirements or various combinations thereof apply to structures, lots and uses under the terms of this Code.

Drive-In Establishments: An establishment which is designed to provide, either wholly or in part, service to customers while in their automobiles parked upon the premises.

Driveway: A minor way commonly providing vehicular access to a garage or off-street parking area.

Duplex: A dwelling which has accommodations for **two (2)** families.

Dwelling: A building or portion thereof, designed or used exclusively for residential occupancy, including single-family dwelling units, two-family dwelling units and multiple-family dwelling units, but not including hotels, boarding or lodging houses. This does not include a house trailer, mobile home or manufactured home.

Dwelling Unit: One (1) or more rooms in a dwelling designed for occupancy by one (1) family for living purposes and having its own permanently installed cooking and sanitary facilities.

Dwelling, Attached: A dwelling containing **two (2)** or more dwelling units and adjoined to other dwellings by party wall or walls, originally constructed for said purposes.

Dwelling, Converted: Any building which was originally designed and constructed as a one, two or three-family dwelling, but which had been changed or altered by the construction of additional dwelling units to provide for more families than original building.

Dwelling, Detached: A dwelling unit which is surrounded on all sides by open space on the same lot.

Dwelling, Multiple-Family: A dwelling containing **three (3)** or more dwelling units, originally constructed for said purpose, and not including converted dwellings.

Dwelling, Semi-Attached: A dwelling which is jointed to another dwelling by a garage, carport, recreational structure or other non-residential facility.

Dwelling, Single-Family: A dwelling containing accommodations for occupancy only by **one (1) family**.

Dwelling, Two-Family: A building designed exclusively for occupancy by **two (2) families**, each living independently of the other.

Easement: A right to use another person's real property for certain limited purposes.

Educational Institution: A public, parochial, charitable or nonprofit junior college, or university, other than trade or business schools, including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers and employees.

Efficiency Unit: A dwelling unit consisting of **one (1)** principal room, exclusive of bathroom, kitchen, hallway, closet or dining alcove directly off the principal room.

Enclosed: As applied to a building, "enclosed" means covered by a permanent roof and separated on all sides from adjacent open space or other buildings by fixed exterior walls or by common walls, with openings only for windows and doors.

Enlarge: To increase the size (floor area, height, etc.) of an existing principal structure or accessory use, or to devote more land to an existing use.

Erect: To build, construct.

Essential Services: Services provided by public and private utilities necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface or overhead gas, electrical, water, sanitary sewage, storm water drainage and communication systems and accessories thereto, such as poles, towers, wires, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, hydrants, etc., but not including buildings that do not need to be in the immediate area of the uses they service.

Establishment: Either of the following:

(A) An institution, business, commercial or industrial activity that is the sole occupant of **one (1)** or more buildings; or

(B) An institution, business, commercial or industrial activity that occupies a portion of a building such that:

- (1) the activity is a logical and separate entity from the other activities within the building and to a department of the whole; and
- (2) the activity has either a separate entrance from the exterior of the building, or a separate entrance from a common and clearly defined entryway that has direct access to the exterior of the building.

Excavation: Any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.

Existing: Actually constructed or in the operation on the effective date of this Code.

Existing Grade: The vertical location of the existing ground surface prior to excavation or filling.

Family: An individual, or **two (2)** or more persons related by blood, marriage or adoption or a group of not more than **four (4)** persons, not related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit, but not including sororities, fraternities or other similar organizations.

Farm: Land being used for agricultural purposes.

Farm Homestead: The building located on a farm that is the residence of the farm owner or tenant operator.

Fast-Food Restaurant: See "Restaurant, Fast-Food".

Fence: Any construction of wood, metal, wire mesh, masonry or other material erected for the purpose of assuring privacy, protection or restraining animals.

Fence, Decorative: A fence intended primarily for aesthetic purposes.

Fill: Earth, gravel, small rock or rubble (not to exceed **three (3) inches** in diameter) used to build up a piece of land.

Flood Base Elevation: That elevation of the highest flood of record, determined by the Village Engineer's record of the elevations of the highest flood at locations as indicated on the floodplain map of the Village on file in the office of the Village Clerk. Flood base elevations at intermediate locations shall be interpolated along the watercourse between the **two (2)** nearest flood base elevations, one for each upstream and downstream. The controlling flood base elevation for any building site shall be the same as the flood base elevation at the nearest point of the watercourse.

Floodplain: The area of land adjoining a watercourse or other body of water which has been or may be hereafter covered by floodwater.

Floodplain Map: Any accepted engineering standards or mapping used to delineate the minimum flood base elevations for the Village and may include the following:

- (A) The National Flood Insurance Program Flood Insurance Rate Map for the Village, as amended from time to time;
- (B) Geologic maps prepared by the Illinois State Geologic Survey;
- (C) Mapping and/or source information from the United States Department of Agriculture, Soil Conservation Service;
- (D) Mapping and/or source information from the St. Clair County Soil and Water Conservation District; and
- (E) Maps of groundwater conditions prepared by the State water survey.

Floodproofing: A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, intended primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, structures and contents of buildings in a flood hazard area.

Floodway: The channel of the stream or body of water and those portions of the adjoining floodplain designated by the Village as necessary to carry and discharge the floodwater flow of any such river, stream or other body of water.

Floor Area: (For determining off-street parking and loading requirements): The sum of the gross horizontal areas of the several floors of a building, including accessory storage areas located within selling areas; working space such as counters, racks, or closets; and any floor area devoted to retailing goods; or to business or professional offices.

However, "Floor Area" for the purpose of measurement for off-street parking spaces shall not include: floor area devoted primarily to storage purposes (except as otherwise noted herein); floor area devoted to off-street parking or loading facilities, including aisles, ramps and maneuvering space; or mechanical or storage floor area other than area devoted to retailing activities to the production of goods or to business or professional offices.

Freeway: A traffic way providing at least **two (2) lanes** going each direction with a median strip preventing crossover between the two lanes. Freeways are characterized by high speed travel, limited access to adjoining property owners and generally serve as vehicle transportation routes within an urbanized area or between urban areas or states.

Frontage: That portion of a lot or parcel directly abutting a dedicated street.

Garage, Private: An accessory building or an accessory portion of the principal building which is intended and used to store not more than **four (4)** private motor vehicles owned by members of the family or families residing upon the premises, may be rented for the storage of private motor vehicles of persons not residing on the premises. Such a garage may be used for the storage of not more than **one (1)** commercial truck having a load capacity of **three-fourths (3/4)** of a ton or less.

Garage, Public: Any building other than a private or storage garage where motor vehicles are equipped, repaired, serviced, hired, sold or stored.

Garage, Storage: Any building used for the storage only of motor vehicles pursuant to previous arrangements and not to transients and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired or sold. No commercial motor vehicle exceeding **two (2) tons** capacity shall be stored in any storage garage.

Grade: The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

Grade, Street: This term shall have the same meaning as the term "Curb Level".

Grading: Excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

Guarantee of Improvements: A guarantee to the Village that the requirements of this Code will be met in full by a specified date. Such guarantee can be in the form of a certificate of deposit, irrevocable letter of credit, performance bond or other form that will enable the Village to obtain and use funds provided by the permittee to complete the required improvements in the event the permittee fails to do so.

Hardship: A condition that would result from the strict application of the terms of this Code, provided the following criteria are met:

- (A) The condition is unique to the property and is not applicable generally to other property within the district;
- (B) The situation was not created by anyone having an interest in the property;
- (C) The request for a hardship variation is not based exclusively on a desire to make more money out of the property;
- (D) The hardship exists due to the particular physical characteristics of the property in question.

Home for the Aged: Any home operated not-for-profit under the auspices of a religious, fraternal, charitable or other not-for-profit organization, or operated by a county pursuant to (55 ILCS 5/5-22001 as amended), or operated not-for-profit under an endowment, which through its ownership or management and its principal objective, provides maintenance, personal care, nursing or sheltered care or services to **three (3)** or more persons over **sixty (60) years** of age.

Home for Ill or Physically Infirm Persons: A home providing meals, shelter, assistance with personal functions, general supervision and professional nursing assistance, for persons because of

age, physical or mental disability who are incapable of maintaining their own residence or caring for their own needs.

Home Occupation: An occupation or profession, practiced by a member of the family residing on the premises in connection with which there is no indication from the exterior that the building is being utilized in part for any purpose other than that of a dwelling, provided that a professional person may use his residence for consultation, emergency treatment or performance of religious rites.

Hospital or Sanitarium: An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than **twenty-four (24) hours** in any week of **three (3)** or more non-related individuals suffering from illness, disease, injury, deformity or other abnormal physical conditions.

Hotel: An establishment which is open to transient guests in contradistinction to a boarding, rooming or lodging house, and is commonly known as a hotel in the community in which it is located; and which provides customary hotel services such as maid service, the furnishing and laundering of linen, telephone and secretarial or desk service, the use and upkeep of furniture or bellboy service.

Immobilize: As applied to a mobile home, "immobilize" means to remove the wheels, tongue and hitch and to place on a permanent foundation.

Intermediate Care Facility: Basic nursing care and other restorative services under periodic medical direction. Many of these services may require skills in administration. Such facilities are for patients who have long-term illness or disabilities which may have reached a relatively stable plateau.

Intersection: The point at which **two (2)** or more public rights-of-way (generally streets) meet.

Junk Yard: A tract of land, including any accessory structures thereon, that is used for buying, selling, exchanging, storing, bailing, packing, disassembling or handling waste or scrap materials. Such scrap materials include vehicles, machinery, and equipment not in operable condition (or part thereof) and metals, glass, paper, plastics, rags and rubber tires. A lot on which **three (3)** or more inoperable vehicles are stored shall be deemed a junk yard. A "junk yard" includes an automobile wrecking yard.

Kenel: 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.

Kindergarten: State licensed day care centers which receive children between the ages of **four (4)** and **six (6) years**, and which are established and professionally operated primarily to conduct educational programs for early childhood development.

Laboratory, Research: A building or group of buildings in which are located facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

Livable Floor Area: All internal floor area of a dwelling unit excluding basements, garages and utility rooms.

Loading and Unloading Space or Berth, Off-Street: An open, hard-surfaced area of land other than a street or public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers, to avoid undue interference with public streets and alleys.

Lot: A tract of land intended for the purpose, whether immediate or future, of transfer of ownership or development. A "lot" may be a "zoning lot" and may or may not coincide with a "lot of record".

Lot Area, Gross: The area of a horizontal plane bounded by the front, side and rear lot lines, but not included any area occupied by the waters of a duly recorded lake or river.

Lot, Corner: A lot situated at the intersection of **two (2)** streets, the interior angle of such intersection not exceeding **one hundred thirty-five (135) degrees**.

Lot Depth: The average horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.

Lot Interior: A lot other than a corner or reversed corner lot.

Lot Line: An imaginary line at the edge or boundary of a zoning lot, or a line at the boundary of a lot of record.

Lot Line, Corner Side: The boundary of a corner lot that abuts a dedicated street other than the front lot line.

Lot Line, Front: The lot line abutting a dedicated street. In the case of a corner lot, the lot line abutting the street having the least length shall be the front lot line. In the case of a through lot the Building Commissioner shall establish the front lot line.

Lot Line, Rear: That boundary of a lot which is most distant from, and is, or is most nearly, parallel to, the front lot line.

Lot Line, Side: Any boundary of a lot which is not a front lot line or a rear lot line.

Lot of Record: A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of Deeds, or a parcel of land, the deed to which was recorded in the office of the County Recorder of Deeds, in accordance with state law.

Lot, Reversed Corner: A corner lot where the street side lot line is substantially a continuation of the front lot line of the first lot to its rear.

Lot, Through (Double Frontage): A lot having a pair of opposite lot lines along **two (2)**, more or less, parallel dedicated streets and which is not a corner lot.

Lot Width: The horizontal distance between the side lot lines of a lot, measured at the narrowest width within the first **twenty-five (25) feet** of lot depth immediately in back of the front yard setback line.

Lot Zoning: A single tract of land located within a single block, which (at the time of filing for a building permit) is designated by its owner or developer as a tract to be used, developed or built upon as a unit, under single ownership or control. Therefore, a "zoning lot or lots" may or may not coincide with a lot of record.

Maintenance: The routine upkeep of a structure, premises, or equipment, including the replacement or modification of structural components to the extent necessary to keep said structure in sound condition.

Major Thoroughfare: A traffic way with at least **two (2) lanes** in each direction. A major thoroughfare may or may not be a freeway, arterial street, secondary arterial street or collector street.

Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis in accordance with the National Manufactured Home Construction and Safety Standards, and designated to be used as a dwelling by **one (1) family**, including the plumbing, heating, air conditioning and electrical systems contained therein.

Manufactured Home, Dependent: A manufactured home which does not have a toilet and bath or shower facilities.

Manufactured Home, Independent: A manufactured home with self-contained toilet and bath and shower facilities.

Manufactured home Park: An area of land under unified ownership and control on which **two (2)** or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosed use or intended use as part of the equipment of such manufactured home park.

Manufactured Home Space: Any portion of a manufactured home park designed for the use or occupancy by one (1) manufactured home.

Manufactured Office: A detached structure, transportable in **one (1)** or more sections, which is built on a permanent chassis and is designed and intended to be used as an office.

Marquee: A roof-like structure of a permanent nature which projects from the wall of a building and overhangs the public way.

Mezzanine: An intermediate story between the floor and ceiling of a main floor and extending over only part of the main floor.

Mobile Classroom, Temporary: A detached structure, built on a permanent chassis so that it is transportable in one or more sections, but specifically designed for use as a temporary accessory classroom for an established educational facility.

Mobile Home: A structure, transportable in one or more sections, which was built on a permanent chassis prior to the enactment of the National Manufactured Home Construction and Safety Standards and is designed to be used as a dwelling by one (1) family, including the plumbing, heating, air conditioning and electrical systems contained therein. (See "Manufactured Home.")

Mobile Home Park: A parcel not less than **five (5) acres** in area in single ownership/control, developed with facilities for accommodating occupied mobile homes in accordance with the requirements of this Code.

Mobile Home Space: A portion of a mobile home park designed and improved for the placement of **one (1)** mobile home and the private use of the occupants thereof.

Mobile Home Stand: The part of a mobile home space beneath the mobile home that includes the concrete slab or runners on which the home is placed and to which it is anchored.

Mobile/Manufactured Office: A detached structure, transportable in one or more sections, which is built on a permanent chassis and is designed and intended to be used as an office.

Modular Home: Any detached single-family dwelling that is transported to the site where it will be permanently located in assembled or non-assembled form.

Motel: An establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot and designed for use by transient automobile tourist. A motel furnishes customary hotel services such as maid, laundry, telephone, secretarial or desk service and the use and upkeep of furniture. A motel is where less than **fifty percent (50%)** of the living and sleeping accommodations are designed for occupancy by persons other than transient persons.

Motor Vehicle: Any passenger vehicle, truck, tractor, tractor-trailers, truck-trailer, trailer or semi-trailer or combination thereof, either propelled or drawn by mechanical power.

Motor Vehicle Repair, Major and Minor: See "Auto Repair", major and minor.

Nonconforming Building or Structure: A building or structure or portion thereof lawfully existing on the effective date of this Code or at the time of adoption of any amendment thereto, which:

(A) was designed, erected or structurally altered for a use that does not conform to the use regulations of the district in which it is located;

(B) does not comply with the bulk and other requirements of this Code in the zoning district in which the building or structure is located.

Nonconforming Use: A use which lawfully occupies a building or land on the effective date of this Code or at the time of adoption of any amendment thereto, and which does not conform with the use regulations of the district in which it is located.

Nonconforming Vacant Lots of Record: Vacant lots of record which lawfully existed on the effective date of this Code or at the time of adoption of any amendment thereto, and which do not meet the lot size requirements of the district in which they are located.

Nuisance: Any thing, condition or conduct that endangers health or unreasonably offends the senses or obstructs the free use and comfortable enjoyment of property or essentially interferes with the comfortable enjoyment of life.

Nursery: A tract of land on which trees, shrubs and other plants are raised for transplanting or sale and including any structure in which said activities are conducted.

Nursery Schools: State licensed day care centers which receive children between the ages of **two (2)** and **six (6) years** and which are established and professionally operated primarily for educational purposes to meet the children served.

Nursing Home: A private home, institution, building, residence or other place whether operated for profit or not, or a county home for the infirm and chronically ill (operated pursuant to 55 ILCS 5/5-21001 as amended), or any similar institution operated by a political subdivision of the state which provides, through its ownership or management, maintenance, personal care or nursing for **three (3)** or more persons, not related to the applicant or owner by blood or marriage.

Occupied Land Area: (For computing off-street parking and loading space requirements): That are of lot occupied by all buildings, structures and accessory uses which in combination encompass the operation of the principal use. Occupied land area is normally used in computing required parking for uses which typically are not completely enclosed. Examples are vehicle sales lots and outdoor recreational facilities.

Office: Any building or portion thereof in which the business (usually clerical and administrative affairs) of a commercial/service enterprise or professional person is transacted.

Off-Street Loading: See "Loading and Unloading Space".

Open Sales Lot: A lot or parcel of land used or occupied for the purpose of buying, selling or trading of goods or commodities and including the storage of same prior to sale or exchange.

Open Space: Any land developed as yards, parks, recreational area including community centers and landscaped green area and exclusive of areas developed for off-street parking.

Owner: Any individual, corporation, partnership or other legal entity having possessory interest entitled to exclusive possession in land, buildings or possessions.

Overlay District: A zoning district superimposed over one (1) or more standard (primary) zoning districts or portions thereof for the purpose of controlling developmental problems caused by such factors as steep slopes, wet soils, flooding, etc.

Parcel: Contiguous land in one (1) ownership.

Park: Land used for active or passive recreation owned or controlled by a local park district, school district, county forest preserve district, homeowner's association, not-for-profit organization, the Village or another governmental entity.

Parking Area, Private: An open, hard surfaced area, other than a public way or street, designed, arranged and made available for the storage of private passenger automobiles only of occupants of the building of buildings for which the parking area is developed and is necessary.

Parking Lot: Public or private land intended for the use as a facility for parking motor vehicles. Parking may be with or without fee.

Parking Space, Automobile: Space within a public or private parking area exclusive of access drives, for the storage of one passenger automobile or commercial vehicle under **one and one-half (1 1/2) tons** capacity.

Party Wall: A fire wall on an interior lot line used for or adapted for a joint service between two buildings, or a fire wall between two units within the same building.

Performance Bond: See "Guarantee of Improvements".

Performance Standards: A criterion established to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards, or glare or heat generated by, or inherent in, uses of land or buildings. The more frequently used performance criteria include the following:

(A) Active intense burning, which is the rate of combustion described by material that burns with a high degree of activity and is consumed rapidly. Examples include sawdust, powdered magnesium and pyroxylin.

(B) Closed cup flash point, which is the lowest temperature at which a combustible liquid, under prescribed conditions, will give off a flammable vapor which will burn momentarily.

(C) Decibel, which is a unit which describes the sound pressure level or intensity of sound. A sound level meter is calibrated in decibels.

(D) Detonable material, which is a material which decomposes by detonation. Such material includes explosives, unstable compounds and fissionable matter.

(E) Earth borne vibration, which is the periodic displacement, measured in inches of earth.

(F) Fireproof container, which is an enclosure of steel or concrete but not lead or other low-melting metals or alloys, unless the lead or low-melting metals are completely encased in steel.

(G) Flash point, which is the lowest temperature at which flammable liquid will momentarily burn under the prescribed conditions. The tag flash point testers shall be authoritative.

(H) Foot candle, which is a unit of illumination; technically, the illumination at all points **one (1) foot** distance from a uniform point source of **one (1) candle**.

(I) Free burning, which implies a rate of combustion described by a material which burns actively, and easily supports combustion.

(J) Frequency, which signifies the number of oscillations per second in a sound wave and is an index of the pitch of the resulting sound.

(K) Impact noise, which is a short duration sound such as those from a foregoing hammer or punch press.

(L) Impulsive noise, which is a sound which is no longer than **two (2) seconds** in duration, followed by no less than a **two (2) second** rest.

(M) Intense burning, which implies a rate of combustion described by a material that burns with a high degree of activity and is consumed rapidly.

(N) Microcurie, which is a one-millionth of a curie, which is a standard unit of radioactivity.

(O) Moderate burning, which implies a rate of combustion described by material which supports combustion and is consumed slowly as it burns.

(P) Noxious matter, which is a material which is capable of causing injury to living organisms by chemical reaction and is capable of causing detrimental effects upon the physical or economic well being of individuals.

(Q) Octave band, which is a prescribed interval of sound frequencies which classifies sound according to its pitch.

(R) Odor threshold, which is the lowest concentration of odorous matter in air that will produce an olfactory response in a human being.

(S) Odorous matter, which is any matter or material that yields an odor which is offensive in any way.

(T) Particulate matter, which is material other than water, which is suspended in or discharged into the atmosphere in a finely divided form as a liquid or solid.

(U) Preferred frequency octave bands, which are a standardized series of octave band prescribed by the U.S.A.S.I. in SI, 6-1967, Preferred Frequencies for Acoustical Measurements.

(V) Ringelmann chart, which is a chart on which is described in the U.S. Bureau of Mines Information Circular 6888 or its successor, and on which are illustrated graduated shades of grey for use in estimating the light-obscuring capacity of smoke.

(W) Ringelmann number, which is the shade of smoke as it appears on the standard Ringelmann Chart published by the U.S. Bureau of Mines Information Circular No. 8333 (1967).

(X) SCF (Standard Cubic Feet), which is the measure of the volume of a gas, at any other conditions, reduced to **one thousand four hundred seventy-three (1,473) pounds** per square inch absolute and **sixty (60) degrees Fahrenheit**.

(Y) Slow burning or incombustible, which implies materials which do not in themselves constitute an active fuel for the spread of combustion. A material which will not ignite, not actively support combustion during an exposure for **five (5) minutes** to a temperature of **one thousand two hundred (1,200) degrees Fahrenheit**, shall be designed "incombustible".

(Z) Smoke, which is small gas-borne particles, other than water, that form a visible plume in the air.

(AA) Sound level of an operation or use, which is the intensity of sound measured in decibels, produced by such operation or use.

(BB) Sound level meter, which is an electronic instrument which includes a microphone, an amplifier and an output meter which measures noise and sound pressure levels in a specified manner. It may be used with the octave band analyzer that permits measuring the sound pressure level in discrete octave bands.

(CC) Sound pressure level, which is the intensity of a sound measured in decibels mathematically described as **twenty (20) times** the logarithm to the base ten (10) of the ratio of the pressure of the sound to a reference pressure of 0.0002 microbar.

(DD) Toxic matter, which is material which is capable of causing injury to living organisms by chemical means when present in relatively small amounts.

(EE) Threshold limit value, which is the maximum allowable airborne concentration of toxic material, as established by the American Conference of Governmental Industrial Hygienists.

(FF) United States of American Standards Institute (U.S.A.S.I.) which is a national organization promulgating authoritative standards in any technical field, Formerly American Standards Association.

(GG) Vibration, which is the period displacement of oscillation of the earth.

Permanent Open Space: A contiguous land area that is designed for educational, religious, recreational or institutional purposes, or such land which is recommended for such designation by the Village at or before the time of approval of a subdivision or planned development.

Permitted Use: A use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations and standards of such district.

Permittee: The person to whom any permit or zoning certificate is issued.

Person: Any individual, firm, association, organization, or corporate body.

Planned Unit Development: A parcel of land or contiguous parcels of land of a size sufficient to create its own environment, controlled by a single landowner or by a group of landowners in common agreement as to control, to be developed as a single entity, the environment of which is compatible with adjacent parcels, and the intent of the zoning district or districts in which it is located. The developer may be granted relief from specific land-use regulations and design standards and may be awarded certain premiums in return for assurances of an overall quality of development, including any specific features which will be of exceptional benefit to the community as a whole and which would not otherwise be required by this Code.

Porch: A roofed over structure projecting out from the walls of a main structure and commonly open to the weather in part.

Premises: A lot and all the structures and uses thereon.

Principal Use: The main use of land or building as distinguished from a subordinate or accessory use. A principal use may be "permitted" or "special".

Property Line: An imaginary line at the edge or boundary of a zoning lot or line at the boundary of a lot of record.

Public Open Space: A publicly-owned area; including, but not limited to the following: parks, playgrounds, forest preserves, waterways, parkways and streets.

Public Utility: Any person, firm or corporation duly authorized to furnish under regulation to the public, television, electricity, gas, steam, telephone, telegraph, transportation, water or sewerage systems.

Public Way: Any sidewalk, street, alley, highway or other public thoroughfare.

Railroad Right-of-Way: A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots, or stations, loading platforms, train sheds, warehouses, car or locomotive shops or car yards.

Reconstruct: As applied to nonconforming structures, "reconstruct" means to rebuild after damage or destruction.

Recreational Vehicle: A term encompassing any type of vehicle used primarily for pleasure, such as travel-trailers, motor homes, boats, snowmobiles, etc.

Refuse: Garbage (food wastes) and trash, but not sewage or industrial wastes.

Relocate: To move to another portion of a lot or to a different lot.

Repair: To restore to sound condition, but not to reconstruct.

Reservoir Parking: Off-street parking spaces or lot areas allocated to temporary standing motor vehicles awaiting entrance to a particular establishment.

Restaurant: A business where the dispensing of edible foodstuff and/or beverage on the premises is the principal business operation; including a cafeteria, coffee shop, lunch room, tearoom and dining room, but not including a drive-in or fast-food restaurant.

Restaurant, Drive-In: A restaurant that dispenses foodstuff and/or beverages to persons in parked or stopped motor vehicles.

Restaurant, Fast-Food: A restaurant whose principal business is the dispensing of edible foodstuffs and/or beverages in disposable containers to be eaten on the premises or taken out. This type of restaurant is usually self-service and may include a drive-thru service window.

Restrictive: Tending to keep within prescribed limits.

Retail, Retail Store: Sale to the ultimate consumer for direct consumption or use and not for resale.

Right-of-Way: Land dedicated for street purpose.

School: A public or private institution which offers instruction in any of the branches of learning and study comparable to that taught in the public schools under the Illinois school laws, including pre-kindergarten, elementary school and junior and senior high schools, excluding trade, business or commercial schools.

Screening: Trees, shrubs, walls, solid fences, etc. used as a means of view and noise control.

Semi-Finished Materials: Materials which have been sufficiently processed at heavy industrial facilities so that they are no longer in their raw state, but are readily usable by light industry of assembly or manufacture into consumer goods.

Service Building: See "Building, Service".

Service Station: A building and premises or portion thereof designed and used for the retail sale of gasoline or other automotive fuel, oil and automotive parts, supplies, and accessories. A service station may include facilities for washing vehicles and for making minor automotive repairs.

Service Use/Establishment: Any use or establishment where services are provided for remuneration either to individuals or to other firms.

Setback: The distance between the exterior lot lines and any structure on the lot.

Sheltered Care Facility: A facility which provides care and assistance, supervision overnight and a suitable activities program. Provisions are made for medical care as necessary. Such facilities are for individuals who do not need nursing care, but do need personal care assistance, supervision, and/or oversight in meeting their daily personal needs.

Sheltered Care Home: Any county sheltered care home or a sheltered care home operated as part of a county nursing home pursuant to (55 ILCS 5/5-21001 as amended), or a private boarding home, institution, building, residence or other place, whether operated for profit or not which, through its ownership or management, provides sheltered care to **three (3)** or more persons who are not related to the applicant or owner by blood or marriage, or any similar.

Sign: A placard, etc. bearing information or advertisement.

Sign Area: The area within an imaginary rectangle which, when drawn, would completely enclose all the letters, parts or symbols of a sign. Sign supports and poles, unless intrinsic to the advertising contained on the sign, are not included as part of the sign area.

Sign, Mobile or Portable: A term used to describe any placard or sign designated to be moved from place to place, including, but not limited to, signs attached to wood or metal frames designed to be self-supporting and movable; or paper, cardboard or canvas signs wrapped around supporting poles.

Skirting: The covering affixed to the bottom of the exterior walls of a mobile home to conceal the underside thereof.

Special Use: A use, either public or private, which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district or districts. After due consideration, in each case, of the impact of such use upon neighboring land and of the public need for the particular use at the particular location, such use may or may not be granted, subject to the terms of this Code.

Special Use Permit: A permit issued in accordance with the provisions of this Code to regulate development of a special use.

Specialized Living Accommodation: A living accommodation for individuals needing special assistance, care, supervision, support, or treatment including community living facilities and community residential alternatives as defined by statute and including Homes for the Aged.

Stop Work Order: A type of corrective action order used by the Building Commissioner to halt work in progress that is in violation of this Code.

Storage, Outdoor: The outdoor accumulation of vehicles, equipment, products, or materials for permanent or temporary holding.

Story: That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding **fourteen (14) feet** in height shall be considered as an additional story for each **fourteen (14) feet** or fraction thereof.

Story, Half: That portion of a building under a gable, hip or mansard roof, the wall plates of which, on at least **two (2)** opposite exterior walls, are not more than **four and one-half (4 ½) feet** above the finished floor of such story. In the case of a one-family dwelling, two-family dwellings, and multiple-family dwellings, less than **three (3) stories** in height, a half-story in a sloping roof shall not be counted.

Street, Residential: A dedicated street within a residential zoning district, excluding freeways, arterial streets and secondary arterial streets.

Street Line: The division line between private property and a dedicated street.

Stringent: Binding, exacting.

Structural Alteration: Any change, other than incidental repairs which would prolong the life of the supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders, or foundations.

Structure: Anything constructed or erected which requires location on the ground or is attached to something having location on the ground including a fence or freestanding wall, sign, billboard or other advertising medium.

Structure, Temporary: A movable structure not designed for human occupancy nor for the protection of goods and not forming an enclosure. A sign, billboard or other advertising device detached shall be construed to be a temporary structure.

Swimming Pool, Private: A swimming pool and the apparatus and equipment pertaining to the swimming pool, maintained by an individual for the sole use of his household and guests without charge for admission, and not for the purpose of profit or in connection with any business operated for profit, located on a lot as an accessory use to a residence.

Swimming Pool, Public: A swimming pool and the apparatus and equipment pertaining to the swimming pool, maintained and operated by a private party for gain; or by a municipality or other unit of government for the general public whether or not an admission fee is charged.

Tavern, Lounge, or Bar: A building or portion thereof where liquors are sold to be consumed on the premises but not including restaurants where the majority of business income is derived by the sale of food and not liquor.

Topography: The relief features or surface configuration of a geographic area.

Townhouse: A type of multi-family dwelling, **two (2)** or more stories in height, in which typically the living room, dining room and kitchen are on the ground floor with sleeping rooms on the other floors. Dwelling units typically have a common side wall and are owner occupied.

Trailer: See "Mobile Home".

Travel Trailer: A manufactured home **eight (8) feet** or less in width and less than **twenty-five (25) feet** in length which is designed for temporary occupancy, generally for recreational or vocational purposes. Travel trailers shall include camping trailers within the limits of said

dimensions, mounted on a motor vehicle, commonly known as motor homes or motor coach homes. Travel trailers shall not be considered a manufactured home pursuant to the provisions of this Code.

Unified Control: The combination of **two (2)** or more tracts of land wherein each owner has agreed that his tract of land shall be developed as part of a planned unit development and shall be subject to the control applicable to the planned unit development.

Uniplex: A dwelling which has accommodations for **two (2) families**, divided by a common or party wall, in which each family area is separately owned.

Use: The purposes for which land or a building thereon is designed, arranged or intended or for which it is occupied, maintained, let or leased.

Use, Lawful: The use of any structure of land that conforms with all of the regulations of this Code or any amendment hereto and which conforms with all of the codes, ordinances and other legal requirements, as existing at the time of the enactment of this Code or any amendment thereto, for the structure or land that is being examined.

Use, Nonconforming: See "Nonconforming Use".

Utility Substation: A secondary utility facility such as an electrical substation, gas regulator station, telephone exchange facility, sewage treatment plant, etc.

Vacant: As applied to a lot, "vacant" means that no structure is situated thereon.

Value: Valuation of a building shall be the assessed valuation, or where no assessed valuation exists, its appraised valuation as converted to assessed valuation.

Variation: A relaxation of the strict application of setbacks, specific parking requirements, specific signage regulations, or specific flood plain regulations, for a particular lot or structure where such variations will not be contrary to the public interest and where, due to conditions peculiar to the property and the result of the actions of the applicant, a literal enforcement of those provisions of this Code would result in unnecessary hardship or practical difficulties. A variation, as herein defined, shall not be granted by the Zoning Board of Appeals unless said request is in compliance with one or more of the subparagraphs of **Section 40-7-18**.

Wholesale Establishment: A business establishment engaged in selling to retailers or jobbers rather than consumers.

Yard: An open space on the same zoning lot with a building and structure occupied and unobstructed from its lowest level to the sky, except as otherwise permitted in this Code, yard extends along a lot line, and to a depth or width specified in the yard requirements for the zoning district in which such zoning lot is located.

Yard, Corner Side: A side yard which adjoins a public street.

Yard, Front: A yard extending along the full length of the front lot line between the side lot lines.

Yard, Interior Side: A side yard which is located immediately adjacent to another zoning lot or to an alley separating such side yard from another zoning lot.

Yard, Rear: A yard extending along the full length of the rear lot line between the side lot lines.

Zoning District: See "District".

Zoning Lot: See "Lot", zoning.

Zoning Map: The map incorporated into this Code as part hereof, designating zoning district.

ARTICLE III - ZONING DISTRICTS AND MAP

40-3-1 **ESTABLISHMENT OF DISTRICTS.** In order to implement the regulatory scheme of this Code and to achieve the objectives enumerated in **Section 40-1-2**, the entire Village is hereby divided into the following zoning districts:

	<u>DISTRICT</u>	<u>MINIMUM AREA*</u>
C	Conservation	None
SR-1	Single-Family Residential	5 acres
SR-2	Single-Family Residential	5 acres
SR-3	Single-Family Residential	5 acres
SR-4	Single-Family Residential	5 acres
MR-1	Multi-Family Residential	5 acres
R	Recreational	None
B	Business	2 acres
MI	Manufacturing/Industrial	3 acres
A1	Agricultural	5 acres
A2	Agricultural	None

40-3-2 **MINIMUM AREA REQUIREMENT FOR DISTRICTS.** In meeting the minimum area requirement, which is intended to prevent spot zoning, zoning districts shall be comprised only of contiguous parcels and not of numerous non-contiguous parcels.

40-3-3 **ZONING MAP.**

(A) The boundaries of the zoning districts designated above are established as shown on the map entitled "Official Zoning Map for the Village of New Athens, Illinois", dated **March 17, 1997** which is attached hereto and made a part hereof as Illustration 40-A, and shall have the same force and effect as if the zoning map, together with all notations, references, and other information shown thereon were fully set forth and described herein.

(B) The official zoning map, along with any notations, references, and information indicating changes and modifications, shall be kept on file in the office of the Building Commissioner.

(C) If any changes are made in the zoning districts or regulations during any calendar year, the Village Clerk shall cause a revised "Official Zoning Map for the Village of New Athens, Illinois" to be published not later than **March 31st** of the following year.

40-3-4 **DISTRICT BOUNDARIES.**

When uncertainty exists with respect to the boundaries of the various districts shown on the zoning map, the following rules shall apply.

(A) District boundary lines are either the centerline of railroads, highways, streets, alleys, or easements, or the boundary lines of section, divisions of sections, tracts or lots, or such lines extended, unless otherwise indicated.

(B) In areas not subdivided into lots or blocks, wherever a district is indicated as a strip adjacent to and paralleling a street or highway, the depth of such strips shall be in accordance with the divisions shown on the map, measured at right angles from the centerline of the street or highway, and the length of frontage shall be in accordance with dimensions shown on the map from section, quarter section or division lines, or railroad right-of-way, unless otherwise indicated.

(C) All streets, alleys, public ways, waterways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zoning district as the property immediately abutting on such alleys, streets, public ways, waterways, and railroad rights-of-way.

(D) Where the centerline of a street, alley, public way, waterway, or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise indicated, shall be deemed to be the same as that of the abutting property up to such center line.

40-3-5 ZONING OF ANNEXED LAND. The zoning classification of any land annexed to the Village, shall be determined by the Board of Trustees at the time of annexation and specified in the annexation ordinance.

40-3-6 ZONING SUBJECT TO PRE-ANNEXATION.

(A) Where a pre-annexation agreement is in effect that precludes the changing of zoning district classifications on the subject property, the provisions of the zoning ordinance in effect on the date of annexation and the zoning district classifications specified in the pre-annexation agreement shall apply.

(B) The provisions of this Code, or any subsequent amendments hereto, shall not apply until such time as the term of the pre-annexation agreement has expired or the owner has agreed to the application of such provisions.

(C) Within **six (6) months** prior to the expiration of any such annexation agreement, the Zoning Board of Appeals shall initiate an amendment to apply the appropriate zoning classification to the subject property once the agreement expires. Such amendments shall be in accordance with **Section 40-7-21(B)**.

ARTICLE IV - GENERAL ZONING REGULATIONS - ALL DISTRICTS

40-4-1 **UNLISTED USES PROHIBITED.** Whenever any use is not specifically listed as permitted or special within a particular zoning district, such use shall be deemed prohibited in that district, unless the Board of Trustees determines that the unlisted use is similar to and compatible with the listed uses, and allows such use by amending this Code in accordance with **Section 40-7-20.**

40-4-2 **REGISTRATION REQUIRED FOR NON-RESIDENTIAL USE.** In order to assure that the purpose and intent of this Code is achieved, every non-residential use of property in any zoning district in the Village shall be registered with the Village Clerk each year during the month of April.

(A) Forms for such registration shall be provided by the Village Clerk and shall request, but not be limited to, the following information:

- (1) the name of the owner or operated of the non-residential use;
- (2) the location of the use;
- (3) the nature of any services or products to be offered to the public whether sold at retail, wholesale, or without charge;
- (4) the average number of any employees to be employed at the location;
- (5) the nature of any toxic or flammable compounds, chemicals, or other such substances stored or used at said location;
- (6) the number of any and all certificates of registration required under the Retailers Occupation Tax Act, Service Occupation Tax Act, Use Tax Act, and any similar acts of the State of Illinois.

(B) Fees for such registration shall be assessed as stated in the Village Business Code.

40-4-3 **MEETING MINIMUM AREA/BULK REQUIREMENTS.** Every lot must meet the minimum area/bulk requirements of the zoning district in which it is located, as those requirements relate to lot area, dimensions, and setbacks, so that requirements are met independent of, and without utilizing any portion of, any abutting lot.

40-4-4 **EXCEPTIONS TO HEIGHT LIMITS.**

(A) **Necessary Appurtenances.** Chimneys, church spires, parapet walls, cooling towers, elevator bulkheads, fire towers, antennas, or other necessary appurtenances commonly constructed above the roof line shall be permitted to exceed the maximum height limitations of the district in which they are located if they comply with all other pertinent ordinances of the Village.

(B) **Intersections.** On corner lots, in the triangular portion of land bounded by intersecting street lines and a line joining these street lines at points **thirty (30) feet** from the point of intersection, no obstruction, whether natural or man-made, shall intrude into the air space that is between **two (2) feet** and **ten (10) feet** above the level of the adjacent street.

40-4-5 EXCEPTIONS TO SETBACK REQUIREMENT.

(A) **Corner Lots and Through Lots.** Every building or structure constructed on a "corner lot" or a "through lot", as defined, shall meet the minimum front setback requirement of the district in which it is located, for every yard area that fronts a dedicated street, unless otherwise indicated.

(B) **Built-Up Areas.** In all residential zoning districts, where lots having **fifty percent (50%)** or more of the frontage on **one (1) side** of a street between intersections are developed with buildings, and the front setbacks of those lots do not differ by more than **ten (10) feet**, the minimum required front setback between those intersections, shall be the average of the existing front setbacks; provided, however, that in any such area, no front setback greater than **fifty (50) feet** shall be required.

(C) **Accessory Uses.** Any accessory use in any district, unless specifically indicated otherwise, may be located as close as **five (5) feet** to any side or rear lot line; provided, however, that any accessory use attached to a principal structure shall be considered to be part of that structure and must meet the setback requirements of the district in which it is located, as those requirements apply to the principal structure.

(D) **Fences.** Any fence in any district may be located as close as **one (1) foot** to any side or rear lot line.

40-4-6 ALLOWABLE INTRUSIONS INTO YARDS. To the extent indicated below, the following features of principal buildings may intrude into required yards without thereby violating the minimum setback requirements:

FEATURES

MAXIMUM INTRUSIONS

(A) Cornices, chimneys, planters or similar architectural features	Two (2) feet.
(B) Fire escapes	Four (4) feet.
(C) Patios	No Limit
(D) Porches, if not enclosed and at ground level	Six (6) feet.
(E) Balconies	Four (4) feet.
(F) Attached canopies, roof overhangs	Four (4) feet.
(G) Service station canopies which are at least ten (10) feet high	To within ten (10) feet of any lot line.

40-4-7 AREA/BULK RESTRICTIONS - ACCESSORY USES. Any "accessory use", as defined, shall be deemed permitted in a particular zoning district if such use is accessory to a principal structure or use which is allowed in that particular zoning district as either a permitted or special use, it not used as a dwelling, and complies with the following restrictions:

(A) **Front Yard Restriction.** No accessory use in any zoning district shall be located in any part of any front yard that is required as a result of the setback regulations of such district.

(B) **Lot Coverage Restriction.** All accessory uses on any **one (1) lot** in any zoning district, shall not occupy more than **thirty percent (30%)** of the average rear yard area when complying with the setback regulations of such district.

40-4-8 **ACCESS TO LOTS REQUIRED.** No building shall be erected on any lot unless such lot abuts, or has permanent easement of access to, a public street or private street that conforms to the standards set forth in ordinances of the Subdivision Code.

(A) Frontage on an alley shall not be deemed as satisfying the requirement above.

40-4-9 **SEWERS AND PRIVATE SEWAGE SYSTEMS.** In all zoning districts, the property owner of any building or place where people live, work or assemble, shall provide for the sanitary disposal of all sewage in accordance with the following requirements:

(A) **Requirement for Public Sewer Connection.** Whenever the distance from the property in question to the nearest public sewer with available capacity does not exceed **one hundred (100) feet**, and such sewer is reasonably accessible, all sewage shall be discharged into such system, whether or not a private sewage system already exists or is more convenient.

(B) **Allowance for Private Sewage System.** Whenever the public sewage system is not reasonably accessible, a private sewage system shall be installed and used. All private sewage systems shall be designed, constructed, operated, and maintained in conformity with the following requirements:

- (1) Illinois Private Sewage Disposal Licensing Act, (**Ill. Comp. Stat., Ch. 225; Sec. 225/1 through 225/23**) as amended from time to time;
- (2) Illinois Private Sewage Disposal Code No. 4.002, promulgated by the Director of the **Illinois Department of Public Health**, as amended from time to time;
- (3) Pertinent, current regulations issued by the **Illinois Environmental Protection Agency**; and
- (4) Applicable codes and ordinances of the Village, particularly those regulating subdivisions.

(C) **Issuance of Certificate of Compliance.** The Building Commissioner shall not issue any Initial Certificate of Zoning Compliance unless, following consultation with the Village Engineer, he is satisfied that these requirements of this Section will be met.

40-4-10 **ADDITIONAL RESTRICTIONS - SPECIFIC USES.** Because of the nature of certain specific uses which require additional regulations in order to assure that the purpose and intent of this Code is achieved, the following additional restrictions are applicable to the uses listed below.

40-4-11 **KENNELS.**
(A) Any lot upon which a kennel is situated shall have a minimum area of **three (3) acres**.

(B) Every kennel shall be located at least **two hundred (200) feet** from the nearest dwelling, and at least **one hundred (100) feet** from any lot line.

40-4-12 **AERIALS AND ANTENNAS.**
(A) In any residential or business district, no aerial or antenna shall be located in any front or side yard.

(B) In any zoning district, no aerial or antenna shall exceed the height limit regulation of the Federal Communication Commission.

40-4-13 RECREATIONAL VEHICLES.

(A) No more than **two (2)** recreational vehicles shall be parked on any lot in any zoning district; provided that no restriction shall be placed upon the allowable number of recreational vehicles that may be parked on the lot of a permitted business which sells such vehicles. The regulations contained in **Section 40-4-13(A)** shall not apply to the Kaskaskia River Marina area. Regulations for the placement of recreational vehicles shall be controlled by the Village Lease Agreement and marina regulations in force.

(B) No recreational vehicle shall be used as a dwelling in any zoning district.

(C) No recreational vehicle shall be used as an office or for any other commercial purpose in any zoning district.

40-4-14 SERVICE STATIONS.

(A) All gasoline pumps and other service facilities shall be located at least **twenty-five (25) feet** from any street, right-of-way line, side lot line, or rear lot line.

(B) Every access way to a service station shall be located at least **two hundred (200) feet** from the principal building of any fire station, school, public library, church, park, or playground, and at least **thirty (30) feet** from the intersection of any public streets.

40-4-15 SWIMMING POOLS.

(A) No swimming pool, in any district, whether public or private, shall be located in any front yard or intrude into any part of any side or rear yard that is required because of the setback regulations in that district; provided, however, that in any residential district a swimming pool may be located as close as **ten (10) feet** to any side or rear lot line, inclusive of corner lots.

(1) When, in the case of a corner lot, a pool is installed in a side yard area normally restricted by setback regulations, the required wall or fence shall be a separate wall or fence, regardless of whether the pool is installed in-ground or above ground.

(2) When, in the case of a corner lot, a pool is installed in a side yard area normally restricted by setback regulations, the provisions of **Section 40-4-3** must be followed.

(B) Every in-ground swimming pool which is more than **two (2) feet** deep shall be enclosed by a wall or fence at least **four (4) feet** in height.

(1) Any passage through such wall or fence, shall be equipped with a gate, the latch of which can be secured and locked.

(C) Every above ground swimming pool which is more than **two (2) feet** deep shall be enclosed by a separate wall or fenced at least **four (4) feet** in height; provided, however, that a separate wall or fence shall not be required (unless otherwise indicated by **Section 40-4-15(A)(1)**) if every point of the pool wall is at least **four (4) feet** above the ground.

(1) Any passage through a separate wall or fence shall be equipped with a gate the latch of which can be secured and locked.

(2) Access to a pool, the wall of which is at least **four (4) feet** above the ground and which is not protected by a separate wall or fence, shall be restricted by a ladder which can be raised or removed when the pool is not in use.

40-4-16 UTILITY SUBSTATIONS. Every electrical substation, gas regulator station, telephone exchange facility, private sewage treatment plant, private water storage facility, or similar facility shall be deemed a special use and shall conform to the following regulations in addition to any regulations required by said special use:

(A) Every lot on which any such facility is situated shall meet the minimum area and dimension requirements of the district in which it is located and every building, structure, or use of any such facility shall be located at least **twenty-five (25) feet** from all lot lines, or shall meet the district setback requirements, whichever is greater.

(B) In any residential district, every such facility shall be designed, constructed and operated so that it is compatible with the residential character of the area.

(C) Screening at least **ten (10) feet** in height and of sufficient density to block the view from adjacent property shall be installed around every such facility.

(D) If the installed screening is not a fence and the Building Commissioner determines that such a facility poses a safety hazard, he shall require that a secure fence at least **ten (10) feet** in height be installed behind the required screening.

40-4-17 HOME OCCUPATIONS, AS A PERMITTED USE. Every home occupation allowed as a permitted use in the Village, shall meet the following criteria:

(A) No alterations shall be made to the dwelling to accommodate the home occupation which are in any way observable from outside the dwelling.

(B) The total area devoted to the home occupation shall not exceed **twenty-five percent (25%)** of the gross floor area of the dwelling, or **five hundred (500) square feet**, whichever is less.

(C) No area outside the dwelling shall be used for the storage of equipment or materials used in connection with the home occupation.

(D) Vehicular traffic to and from the site of the home occupation and occurring as a result of said activity, shall not exceed **four (4) vehicles** at any one interval, on a regular, continuing basis.

(E) No offensive noise, vibration, smoke, dust, odor, heat, glare, or electrical interference, which is noticeable at or beyond the lot lines, shall be generated.

(F) At least **two (2)** off-street parking spaces, in addition to those required for the residential use of the property, shall be provided for those home occupations generating vehicular traffic to and from the site of the home occupation as a result of said activity.

(G) No more than **one (1)** individual who is unrelated to the family residing in the dwelling, shall be employed in connection with the home occupation.

(H) No home occupation shall be established unless the owner has first registered the non-residential use of the property with the Village Clerk and in accordance with **Section 40-4-2**.

40-4-18 HOME OCCUPATIONS, AS A SPECIAL USE. Every home occupation allowed as a special use in the Village, shall meet the following criteria:

(A) In any residential or conservation district, no alterations shall be made to the dwelling to accommodate the home occupation which materially change the residential character of the building.

(B) The total area devoted to the home occupation shall not exceed **twenty-five percent (25%)** of the gross floor area of the dwelling, or **five hundred (500) square feet**, whichever is less.

(C) In any residential or conservation district, no unenclosed area shall be used for the storage of equipment or materials used in connection with the home occupation. For the purpose of this Section, enclosed shall mean within the dwelling, a storage building, or a detached garage.

(D) No offensive noise, vibration, smoke, dust, odor, heat, glare, or electrical interference, which is noticeable at or beyond the lot lines, shall be generated.

(E) At least **two (2)** off-street parking spaces, in addition to those required for the residential use of the property, shall be provided for those home occupations generating vehicular traffic to and from the site of the home occupation as a result of said activity.

(F) No more than **two (2)** individuals who are unrelated to the family residing in the dwelling, shall be employed in connection with the home occupation.

(G) No home occupation shall be established unless the owner has first registered the non-residential use of the property with the Village Clerk and in accordance with **Section 40-4-2**.

40-4-19 AGRICULTURAL ACTIVITIES.

(A) No barn, stable, shed, or other structure intended to shelter farm animals, shall be erected closer than **two hundred (200) feet** from any existing dwelling, or closer than **two hundred (200) feet** from any lot line of residential property, whichever distance is greater.

(1) Fences shall be erected, or other means taken, to prevent farm animals from approaching closer than **two hundred (200) feet** from any existing dwelling or **two hundred (200) feet** from any residential lot line, whichever distance is greater.

(B) No agricultural equipment or commodities, including, but not limited to baled crops, fertilizer, pesticides, or herbicides, shall be stored outdoors and closer than **three hundred (300) feet** from any existing dwelling or **two hundred (200) feet** from any residential lot line, whichever distance is greater.

(1) Such equipment or commodities which are stored completely within an enclosed structure, shall not be located closer than **one hundred (100) feet** from any residential lot line.

40-4-20 FENCES, WALLS.

(A) No barbed wire fence or electrically charged fence shall be erected in any zoning district in the Village; provided, however, that such fences may be allowed by the Board of Trustees in a conservation district, or agricultural district, in accordance with the special use provisions of **Section 40-7-19**.

(B) No fence, wall, or other such obstruction shall be erected within any public right-of-way, in any zoning district in the Village; provided, however, that such fences may be allowed by the Board of Trustees, in accordance with the special use provisions of **Section 40-7-19**.

(C) No fence, wall, or other such obstruction shall be erected in any zoning district in violation of the Illinois Drainage Code.

40-4-21 JUNK YARD.

(A) No part of any junk yard, including any lot on which **three (3)** or more inoperable vehicles are stored, shall be located closer than **five hundred (500) feet** from any residential lot line.

(B) All vehicles, parts, and equipment shall be stored completely within an enclosed structure, or within an area screened by a wall, solid fence, or closely-planted shrubbery at least **ten (10) feet** high and of sufficient density to block the view from adjacent property.

40-4-22 MODULAR HOMES. Every modular home erected as a permitted or special use in any district shall:

- (A) be placed on a permanent foundation;
- (B) be located on a single lot of record;
- (C) meet all adopted building codes and comply with all building inspection requirements;
- (D) be eligible for long-term mortgage financing;
- (E) be taxed as real property; and
- (F) be visually compatible with other single-family residential dwellings.

40-4-23 MOBILE AND MANUFACTURED HOMES. Every mobile and manufactured home erected as a permitted or special use in any district shall:

- (A) be placed on a permanent foundation;
- (B) be located on a single lot of record; and
- (C) meet all applicable Department of Housing and Urban Development Codes.

ARTICLE V - ZONE DISTRICTS

DIVISION I - CONSERVATION DISTRICT REGULATIONS

40-5-1 **"C" - CONSERVATION DISTRICT.** The "C" - Conservation District encompasses areas that are presently undeveloped or sparsely developed and that, for various reasons, should remain so for the foreseeable future. Tracts of land in this district which provide the Village with a valuable natural resource, open space, and aid in maintaining the stability of the natural environment, should be preserved and protected. Tracts of land in this district which are fertile and relatively level, may best be suited for agricultural pursuits. Other tracts in this district may have such poor soils, steep slopes, inadequate natural drainage, or other problems, so that the provision and maintenance of roads, utilities, and storm water drainage systems would present an impractical or burdensome expense to the tax-paying public.

40-5-2 **PERMITTED USES.** The following shall be considered permitted uses in the "C" district:
Conservation or wildlife refuge.
Government uses of the Village.
Temporary buildings or trailers for construction purposes and for a period not to exceed the period of construction.
Accessory uses, buildings, and structures in accordance with **Section 40-4-7.**

40-5-3 **SPECIAL USES.** The following shall be considered special uses in the "C" district and allowed only in accordance with **Section 40-7-19:**
Government uses other than those of the Village.
Utility substations in accordance with **Section 40-4-16.**

40-5-4 **AREA/BULK RESTRICTIONS.** The following area/bulk restrictions shall apply to all buildings or structures in the "C" district:

(A) **Minimum Lot Size.**

(1)	Lot area	62,500 sq. ft.
(2)	Lot width	250 feet
(3)	Lot depth	250 feet

(B) **Minimum Setbacks.**

(1)	From front lot line	50 feet
(2)	From either side lot line	20 feet
(3)	From rear lot line	50 feet

(C) **Maximum Building Height.**

(1) 35 feet; provided, however, that there shall be no height restriction on agriculture-related accessory structures.

40-5-5 **SUPPLEMENTAL REGULATIONS.**
(A) **One Dwelling Per Lot.** Only **one (1)** dwelling shall be situated on any lot in the "C" district.

(Ord. No. _____; 05-19-97)

40-5-6 - 40-5-10 **RESERVED.**

DIVISION II - SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

40-5-11 **"SR-1" - SINGLE-FAMILY RESIDENTIAL DISTRICT.** The "SR-1" - Single-Family Residential District is designed to provide for larger single-family residential development and is intended to create an environment of homes on larger lots than might be typical for urbanized residential areas. The regulations for this district are intended to stabilize and preserve existing single-family neighborhoods, and to promote similar residential development in the future.

40-5-12 **PERMITTED USES.** The following shall be considered permitted uses in the "SR-1" district:

Single-family dwellings.

Government uses of the Village.

Temporary buildings or trailers for construction purposes and for a period not to exceed the period of construction.

Accessory uses, buildings, and structures in accordance with **Section 40-4-7.**

Playgrounds, parks, and recreational or community centers or grounds.

40-5-13 **SPECIAL USES.** The following shall be considered special uses in the "SR-1" district and allowed only in accordance with **Section 40-7-19:**

Government uses other than those of the Village.

Utility substations in accordance with **Section 40-4-16.**

Home occupations in accordance with **Section 40-4-18.**

40-5-14 **AREA/BULK RESTRICTIONS.** The following area/bulk restrictions shall apply to all buildings or structures in the "SR-1" district:

(A) **Minimum Lot Size.**

- | | | |
|-----|-----------|------------------|
| (1) | Lot area | 4 acres |
| (2) | Lot width | 100 feet minimum |
| (3) | Lot depth | 100 feet minimum |

(B) **Minimum Setbacks.**

- | | | |
|-----|---------------------------|---------|
| (1) | From front lot line | 25 feet |
| (2) | From either side lot line | 10 feet |
| (3) | From rear lot line | 25 feet |

(C) **Maximum Building Height.**

- | | |
|-----|--------------------------------------|
| (1) | The lesser of 35 feet or 2 ½ stories |
|-----|--------------------------------------|

40-5-15 **SUPPLEMENTAL REGULATIONS.**

(A) **One Structure Per Lot.** Only **one (1)** principal structure shall be situated on any lot in the "SR-1" district.

(B) **Mobile and Manufactured Homes Restricted.** Mobile and manufactured homes shall be restricted in the "SR-1" district in accordance with the following:

- | | |
|-----|--|
| (1) | No mobile or manufactured homes shall be brought into or placed anywhere in the "SR-1" district. |
|-----|--|

- (2) It shall be unlawful to replace any existing mobile or manufactured home located in the "SR-1" district.
- (3) All existing mobile or manufactured homes in the "SR-1" district shall be immobilized.

DIVISION III - SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

40-5-16 "SR-2" - SINGLE-FAMILY RESIDENTIAL DISTRICT. The "SR-2" - Single-Family Residential District is designed to provide for prime single-family residential development and is intended to stabilize and preserve existing single-family neighborhoods, and to promote similar residential development in the future.

40-5-17 PERMITTED USES. The following shall be considered permitted uses in the "SR-2" district:

- Single-family dwellings.
- Playgrounds, parks, and recreational or community centers or grounds.
- Government uses of the Village.
- Temporary buildings or trailers for construction purposes and for a period not to exceed the period of construction.
- Accessory uses, buildings, and structures in accordance with **Section 40-4-7.**

40-5-18 SPECIAL USES. The following shall be considered special uses in the "SR-2" district and allowed only in accordance with **Section 40-7-19:**

- Churches and related religious facilities.
- Duplex of two-family residences. **(Ord. No. 98-1)**
- Government uses other than those of the Village.
- Schools.
- Home occupations in accordance with **Section 40-4-18.**
- Utility substations in accordance with **Section 40-4-16.**
- Mobile classrooms, temporary.
- Modular homes in accordance with **Section 40-4-22.**

40-5-19 AREA/BULK RESTRICTIONS. The following area/bulk restrictions shall apply to all buildings or structures in the "SR-2" district:

- (A) **Minimum Lot Size.**
 - (1) Lot area 10,000 sq. ft.
 - (2) Lot width 100 feet
 - (3) Lot depth 100 feet
- (B) **Minimum Setbacks.**
 - (1) From front lot line 25 feet
 - (2) From either side lot line 10 feet
 - (3) From rear lot line 25 feet

- (C) **Maximum Building Height.**
(1) The lesser of 35 feet or 2 ½ stories

40-5-20 SUPPLEMENTAL REGULATIONS.

(A) **One Structure Per Lot.** Only **one (1)** principal structure shall be situated on any lot in the "SR-2" district.

(B) **Mobile and Manufactured Homes Restricted.** Mobile and manufactured homes shall be restricted in the "SR-2" district in accordance with the following:

- (1) No mobile or manufactured homes shall be brought into or placed anywhere in the "SR-2" district.
- (2) It shall be unlawful to replace any existing mobile or manufactured home located in the "SR-2" district.
- (3) All existing mobile or manufactured homes in the "SR-2" district shall be immobilized.

40-5-21 - 40-5-26 RESERVED.

DIVISION IV - SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

40-5-27 "SR-3" - SINGLE-FAMILY RESIDENTIAL DISTRICT. The "SR-3" - Single-Family Residential District is designed to provide for single-family residential development and is intended to stabilize and preserve existing single-family neighborhoods, and to promote similar residential development in the future.

40-5-28 PERMITTED USES. The following shall be considered permitted uses in the "SR-3" district:

Single-family dwellings.

Playgrounds, parks, and recreational or community centers or grounds.

Government uses of the Village.

Temporary buildings or trailers for construction purposes and for a period not to exceed the period of construction.

Accessory uses, buildings, and structures in accordance with **Section 40-4-7.**

Home occupations in accordance with **Section 40-4-17.**

Cemeteries.

Modular homes in accordance with **Section 40-4-22.**

40-5-29 SPECIAL USES. The following shall be considered special uses in the "SR-3" district and allowed only in accordance with **Section 40-7-19:**

Churches and related religious facilities.

Duplex or two-family residences. **(Ord. No. 98-1)**

Government uses other than those of the Village.

Planned unit developments pursuant to specific regulations of **Sections 40-5-46 through 40-5-49. (Ord. No. 98-1)**

Schools.

Utility substations in accordance with **Section 40-4-16.**

Mobile and manufactured homes in accordance with **Section 40-4-23.**

40-5-30 **AREA/BULK RESTRICTIONS.** The following area/bulk restrictions shall apply to all buildings or structures in the "SR-3" district:

(A) **Minimum Lot Size.**

- | | | |
|-----|-----------|---------------|
| (1) | Lot area | 8,700 sq. ft. |
| (2) | Lot width | 66 feet |
| (3) | Lot depth | 132 feet |

(B) **Minimum Setbacks.**

- | | | |
|-----|---------------------------|---------|
| (1) | From front lot line | 25 feet |
| (2) | From either side lot line | 10 feet |
| (3) | From rear lot line | 25 feet |

(C) **Maximum Building Height.**

- | | |
|-----|--|
| (1) | The lesser of 35 feet or 2 1/2 stories |
|-----|--|

40-5-31 **SUPPLEMENTAL REGULATIONS.**

(A) **One Structure Per Lot.** Only **one (1)** principal structure shall be situated on any lot in the "SR-3" district.

(B) **Mobile and Manufactured Homes Restricted.** Mobile and manufactured homes shall be restricted in the "SR-3" district in accordance with the following:

- (1) No mobile or manufactured home shall be brought into or placed anywhere in the "SR-3" district unless replacing an existing mobile or manufactured home.
- (2) Replacement of any existing mobile or manufactured home located in the "SR-3" district shall only be allowed by special use permit and only when the replacement home is new.
- (3) All mobile or manufactured homes in the "SR-3" district shall be immobilized.

40-5-32 - 40-5-35 **RESERVED.**

DIVISION V - SINGLE-FAMILY RESIDENTIAL DISTRICT REGULATIONS

40-5-36 **"SR-4" - SINGLE-FAMILY RESIDENTIAL DISTRICT.** The "SR-4" - Single-Family Residential District is designed to provide for single-family residential development in neighborhoods of older homes on smaller lots, typical of residential areas urbanized prior to zoning regulations. The regulations for this district are intended to stabilize and preserve existing neighborhoods while promoting the development and rehabilitation of affordable single-family dwellings.

40-5-37 PERMITTED USES. The following shall be considered permitted uses in the "SR-4" district:

- Single-family dwellings.
- Public libraries, playgrounds, parks, and recreational or community centers or grounds.
- Government uses of the Village.
- Temporary buildings or trailers for construction purposes and for a period not to exceed the period of construction.
- Accessory uses, buildings, and structures in accordance with **Section 40-4-7.**
- Home occupations in accordance with **Section 40-4-17.**
- Mobile and manufactured homes in accordance with **Section 40-4-23.**
- Modular homes in accordance with **Section 40-4-22.**

40-5-38 SPECIAL USES. The following shall be considered special uses in the "SR-4" district and allowed only in accordance with **Section 40-7-19:**

- Churches and related religious facilities.
- Duplex or two-family residences. **(Ord. No. 98-1)**
- Government uses other than those of the Village.
- Planned unit developments pursuant to the specific regulations of **Sections 40-5-46 through 40-5-49. (Ord. No. 98-1)**
- Schools.
- Utility substations in accordance with **Section 40-4-16.**

40-5-39 AREA/BULK RESTRICTIONS. The following area/bulk restrictions shall apply to all buildings or structures in the "SR-4" district:

- (A) **Minimum Lot Size.**
 - (1) Lot area 8,000 sq. ft.
 - (2) Lot width 66 feet
 - (3) Lot depth 120.5 feet
- (B) **Minimum Setbacks.**
 - (1) From front lot line 25 feet
 - (2) From either side lot line 10 feet
 - (3) From rear lot line 25 feet
- (C) **Maximum Building Height.**
 - (1) The lesser of 35 feet or 2 1/2 stories

40-5-40 SUPPLEMENTAL REGULATIONS.

(A) **One Structure Per Lot.** Only **one (1)** principal structure shall be situated on any lot in the "SR-4" district.

(B) **Mobile and Manufactured Homes Restricted.** Mobile and manufactured homes shall be restricted in the "SR-4" district in accordance with the following:

- (1) Replacement of any existing mobile or manufactured home located in the "SR-4" district shall only be allowed and only when the replacement home is new.
- (2) All mobile or manufactured homes in the "SR-4" district shall be immobilized.

40-5-41 - 40-5-45 RESERVED.

DIVISION VI - PLANNED BUSINESS DEVELOPMENT

40-5-46 "PB" - SUPPLEMENTAL REGULATIONS FOR PLANNED BUSINESS DEVELOPMENTS. The "PB" - Planned Business Developments, is intended an overlay district to the existing SR-3 and SR-4 Single-Family Residential District to be applicable to those sites where single-family residences are inappropriate or constitute less than the highest and best use for the particular property. This situation may exist because of prior uncontrolled commercial or industrial development located within residential districts. The existence of a nonconforming commercial site within the residential district may result in a variety of development problems. These problems may relate to existing or future traffic patterns, land acquisition or topography, utilities and related areas. The "PB" district provides maximum flexibility for the developer to create an attractive, profitable, commercial enterprise while allowing the Village to maximize vehicular and pedestrian safety, as well as maintaining the single-family residential character of older neighborhoods located within the Village.

Although the primary intent of the "PB" district overlay is to provide for commercial development on existing commercial or industrial sites located within the SR-3 or SR-4 districts, the district also provides for the combination of different types of uses into a planned unit development. As an example, a parcel of property could be utilized as a planned unit development and contain an art gallery, a retail shop or offices, or two-family housing, all co-existing as an integrated complex.

40-5-47 PERMITTED USES. The following uses shall be permitted in the "PB" district provided they are approved by the Board of Trustees and conform to such conditions and restrictions as the Board of Trustees may deem reasonably necessary or appropriate for the health, safety and welfare of the public.

- Accounting, bookkeeping and auditing services.
- Ambulance and paramedic services.
- Antique stores.
- Apparel stores.
- Architectural and planning services.
- Art galleries, commercial.
- Art and school supply stores.
- Banks, savings and loans, and other financial institutions.
- Barber and hairstyling shops.
- Beauty parlors.
- Book and stationery stores.
- Camera stores.
- Child care centers.
- China and glassware stores.
- Churches, chapels, temples, and synagogues.
- Clothing and costume rental.
- Detective agencies.
- Dwelling, two-family, conventionally constructed.
- Engineering and surveying services.
- Floral shops.
- Gift shops.
- Governmental uses of the Village.
- Hobby shops.

Insurance agencies.
Jewelry stores.
Libraries.
Messenger and telegraph services.
Notions stores.
Offices, including medical, dental, legal, philanthropic, charitable, fraternal, not-for-profit, and for other such services.
Parks and playgrounds.
Photography, commercial studio.
Post offices.
Public libraries, art galleries, and museums.
Real estate agencies.
Record stores.
Rectories, parsonages, and parish houses.
Telephone exchange and equipment buildings.
Tobacco shops.
Townhouses.
Toy stores.
Travel agencies.
Temporary buildings or trailers for construction purposes and for a period not to exceed the period of construction.

40-5-48 **SPECIAL PROCEDURES FOR THE "PB" DEVELOPMENTS.** The provisions of this Section shall apply to new construction and to those additions, alterations, and accessory uses exceeding **fifteen percent (15%)** of the area of any existing structure.

(A) **Required Site Plan Submissions.** The developer shall submit a site plan containing the following pertinent information to the Building Commissioner.

- (1) The existing natural topographic features of the project area and its immediate surroundings.
- (2) The number of any proposed dwelling units by type and gross density per acre.
- (3) The location, size, character, and number of all proposed buildings, structures, and uses.
- (4) The location and size of proposed off-street parking, loading and pedestrian and vehicular traffic circulation; and its relationship to the adjacent circulation system.
- (5) Landscaping, erosion and sedimentation control features.
- (6) Location of public and/or private utilities and facilities proposed to serve the subject area, including water supply, sewage and drainage facilities.
- (7) Proposed finished grade of the site.
- (8) Perspective or such other drawing as are necessary to indicate the relative character and compatibility of the different land uses of the proposed development with the immediate area as well as within the project area.

(B) **Required Narrative Submissions.** The developer shall submit a written narrative containing at least the following pertinent information to the Building Commissioner.

- (1) A development schedule providing guidelines and sequence for the completion of the proposed development.

- (2) A description of the economic viability of the development may be required to include a market analysis, cash flow projections and expected types of funding.
- (3) The nature and extent of clearing and grading.
- (4) A statement of the present ownership of all land within the subject area. Unified control after construction shall include homeowner associations, trust indentures, deed restrictions and other building agreement for assuring operation and maintenance of common land and improvements.

(C) **Required Impact Statement.** Unless specifically exempted, the developer shall submit an impact statement containing at least the following pertinent information to the Building Commissioner.

- (1) Anticipated kinds of commercial and industrial development and the projected employment.
- (2) Volume and nature of projected traffic.
- (3) Sewage generation and treatment.
- (4) Drainage facility and system requirements.

40-5-49 ISSUANCE OF PERMITS.

(A) The Building Commissioner shall not issue any permit for any proposed development restricted by the special procedures listed under **Section 40-5-48.**

- (1) The developer has submitted all pertinent information listed in **Section 40-5-48.**
- (2) The Planning Commission has reviewed the proposed development and has found that said proposed development complies with the provisions of **Section 40-5-48;** and
- (3) The Village Board of Trustees has acted on the Planning Commission's recommendation, and has imposed any necessary conditions on a development proposal in order to assure compliance with the provisions of **Section 40-5-48;** and
- (4) The developer has revised his proposal as necessary to conform to the conditions imposed by the Board of Trustees.

(B) **Issuance of Certificate of Occupancy.** The Building Commissioner shall not issue a certificate of occupancy for a development in the "PB" district until such development has been substantially completed in accordance with the approved development plan.

(C) **Minor Changes to the Approved Plans.** Minor changes in approved development plans may be provided that said plans are reviewed by the Planning Commission to assure compliance with the terms of **Section 40-5-48.**

40-5-50 RESERVED.

DIVISION VII - MULTI-FAMILY RESIDENTIAL DISTRICT REGULATIONS

40-5-51 **"MR" - MULTI-FAMILY RESIDENTIAL DISTRICT.** The "MR" - Multi-Family Residential District is designed to provide areas suitable for the creation and maintenance of stable and enduring multiple-family housing by establishing limitations on the use, character, and density of such land development so as to avoid conflicts with natural topography, existing development, or the arrangement and location of existing or planned community facilities and the social needs of the community.

40-5-52 **PERMITTED USES.** The following shall be considered permitted uses in the "MR" district:

- Multiple-family dwellings, as defined.
- Condominiums.
- Townhouses.
- Duplex or two-family dwellings.
- Single-family dwellings.
- Playgrounds, parks, and recreational or community centers or grounds.
- Government uses of the Village.
- Specialized living accommodations, as defined.
- Temporary buildings or trailers for construction purposes and for a period not to exceed the period of construction.
- Accessory uses, buildings, and structures in accordance with **Section 40-4-7.**
- Home occupations in accordance with **Section 40-4-17.**

40-5-53 **SPECIAL USES.** The following shall be considered special uses in the "MR" district and allowed only in accordance with **Section 40-7-19.**

- Churches and related religious facilities.
- Government uses other than those of the Village.
- Schools.
- Home occupations in accordance with **Section 40-4-18.**
- Utility substations in accordance with **Section 40-4-16.**
- Nursing homes.
- Home for the aged.

40-5-54 **AREA/BULK RESTRICTIONS.** The following area/bulk restrictions shall apply to all buildings or structures in the "MR" district:

- (A) **Minimum Lot Area.**
 - (1) The greater of **twelve thousand (12,000) square feet**, or **two thousand (2,000) square feet** per dwelling unit.
- (B) **Minimum Lot Width.**
 - (1) The greater of **one hundred (100) feet**, or **ten (10) feet** per dwelling unit, whichever is greater.
- (C) **Minimum Lot Depth.** 120 feet
- (D) **Minimum Setbacks.**
 - (1) From front lot line 25 feet
 - (2) From either side lot line 10 feet

- (3) From rear lot line 25 feet
(C) **Maximum Building Height.**
(1) The lesser of 35 feet or 2 ½ stories

40-5-55 SUPPLEMENTAL REGULATIONS.

(A) **Refuse Containers.** All refuse containers jointly serving residents of multi-family dwellings within this district shall be tightly-covered and placed in visually-screened areas in accordance with the following provisions:

- (1) The owner of every building, structure, or premise, shall provide and maintain in good condition and repair, a sufficient number of refuse containers for the temporary storage of all refuse accumulating between collections.
- (2) It shall be the duty of the owner of every building, structure, or premises, to cause to be removed, at his own cost and expense, at least once each week, all refuse deposited in such containers.

(B) **Mobile and Manufactured Homes Restricted.** Mobile and manufactured homes shall be restricted in the "MR" district in accordance with the following:

- (1) No mobile or manufactured homes shall be brought into or placed anywhere in the "MR" district.
- (2) All existing mobile or manufactured homes in the "MR" district shall be immobilized.
- (3) It shall be unlawful to replace any existing mobile or manufactured home located in the "MR" district.

40-5-56 - 40-5-60 RESERVED.

DIVISION VIII - RECREATIONAL DISTRICTS

40-5-61 "R" - RECREATIONAL. The "R" - Recreational District encompasses areas that are presently located in prime recreational areas along the Kaskaskia River or similar locations. These areas, for a variety of reasons, should remain undeveloped or sparsely developed and dedicated primarily to recreational uses for the foreseeable future. Tracts of land in this district provide the Village with valuable leisure and recreational activity opportunities. The Recreational District is intended to provide for a development in areas of recreation and leisure, but which may experience a variety of developmental problems. These problems may relate to existing or future traffic patterns, land acquisition, topography, utilities and flood control and other related areas. It is the intent of the Recreational District to provide maximum flexibility for the developer to create an attractive and profitable commercial development allowing the Village to maximize public access to this valuable resource.

40-5-62 PERMITTED USES. The following shall be considered permitted uses in the "R" districts, provided they are approved by the Board of Trustees and conform to such conditions and restrictions as the Board of Trustees may deem reasonably necessary or appropriate for the health, safety, and welfare of the public.

Agricultural activities, including all uses commonly classified as such, and in accordance with requirements of **Section 40-4-19**.

Government uses of the Village.

Public libraries, playgrounds, parks, and recreational or community centers or grounds.

Temporary buildings or trailers for construction purposes and for a period not to exceed the period of construction.

Accessory uses, buildings, and structures in accordance with **Section 40-4-7**.

Utility substations in accordance with **Section 40-4-16**.

40-5-63 **SPECIAL USES.** The following shall be considered special uses in the "R" district and allowed only in accordance with **Section 40-7-19**.

Limiting farming activities defined as the tilling of the soil and the keeping of any farm livestock, not to exceed one head per every **two (2) acres**, all in accordance with **Section 40-4-19**.

Boat facilities including ramps, docks and service facilities related directly to aquatic recreational activities.

Restaurants.

Marine fueling facilities.

Amusement facilities such as go-kart tracks and miniature golf courses.

Clubs or lodges, private; but not those that have as their chief activity a service customarily carried on as a business.

Convenience stores.

40-5-64 **SUPPLEMENTAL REGULATIONS.** The provisions of this Section shall apply to new construction and to those additions, alterations and accessory uses exceeding **fifteen percent (15%)** of the area of any existing structure:

(A) **Required Site Plan Submissions.** The developer shall submit a site plan containing the following pertinent information to the Building Commissioner:

- (1) The existing natural topographic features of the project area and its immediate surroundings.
- (2) The number of any proposed building units by type and gross density per acre.
- (3) The size, location, character and number of all proposed building structures and uses.
- (4) The location and size of proposed off-street parking, loading and vehicular traffic circulation and its relationship to the adjacent circulation system.
- (5) Landscaping, erosion and sedimentation control features.
- (6) Location of public and/or private utilities and facilities proposed to serve the subject area, including water supply, sewage and drainage facilities.
- (7) Proposed finished grade of the site.
- (8) Necessary drawings to indicate the relative character and compatibility of the different land uses of the proposed development with the surrounding area as well as within the project area.

(B) **Required Narrative Submissions.** The developer shall submit a written narrative containing at least the following pertinent information to the Building Commissioner:

- (1) A development schedule providing guidelines and sequence for the completion of the proposed development.
- (2) A description of the economic viability of the development may be required to include a market analysis, cash flow projections and expected types of funding.
- (3) The nature and extent of clearing and grading.
- (4) A statement of the present ownership of all land within the subject area. Unified control after construction shall include homeowner associations, trust indentures, deed restrictions or other building agreements for assuring operation and maintenance of common land and improvements.

(C) **Required Impact Statement.** Unless specifically exempted, the developer shall submit an impact statement containing at least the following pertinent information to the Building Commissioner:

- (1) Anticipated kinds of commercial and industrial development, if any, and the projected employment.
- (2) Volume and nature of projected traffic.
- (3) Sewage generation and treatment.
- (4) Drainage facility and system requirements.
- (5) Flood control, if appropriate.

40-5-65 ISSUANCE OF PERMITS.

(A) The Building Administrator shall not issue any permit for any proposed development restricted by the special regulations listed under **Section 40-5-64** until:

- (1) The developer has submitted all pertinent information listed in **Section 40-5-64**; and
- (2) The Planning Commission has reviewed the proposed development and has found that said proposed development complies with the provisions of **Section 40-5-64**; and
- (3) The Village Board of Trustees has acted on the Planning Commission's recommendation, and has imposed any necessary conditions on a development proposal in order to assure compliance with the provisions of **Section 40-5-64**; and
- (4) The developer has revised his proposal as necessary to conform to the conditions imposed by the Board of Trustees.

(B) **Issuance of Certificate of Occupancy.** The Building Administrator shall not issue a Certificate of Occupancy for a development to the "R" district until such development has been substantially completed in accordance with the approved development plan.

(C) **Minor Changes to Approved Plans.** Any changes in approved development plans may not be made until said changes are reviewed by the Planning Commission to assure compliance with the terms of **Section 40-5-64** hereof.

40-5-66 - 40-5-70

RESERVED.

DIVISION IX - BUSINESS DISTRICTS

40-5-71 "B" - BUSINESS DISTRICT. The "B" - Business District is intended to accommodate and regulate commercial developments and compatible uses, both retail and wholesale, within the Village. Such use is typically required direct access to major streets and large off-street parking and loading facilities.

40-5-72 PERMITTED USES. Provided all the use restrictions of this district are observed, the following shall be considered permitted uses in the "B" district:

- Accounting, bookkeeping and auditing services.
- Agricultural implements; sales and service.
- Ambulance and paramedic services.
- Animal hospitals and clinics.
- Antique stores.
- Apparel stores.
- Appliance stores.
- Architectural and planning services.
- Art galleries, commercial.
- Art and school supply stores.
- Auction rooms or barns.
- Auto accessory stores.
- Auto dealers, new or used.
- Auto driving instruction.
- Auto laundries and car washing facilities.
- Auto renting facilities.
- Auto service stations.
- Auto undercoating and rust proofing services.
- Bakeries.
- Banks, savings and loans, and other financial institutions.
- Bars, taverns, and lounges.
- Barber and hairstyling shops.
- Beauty parlors.
- Bicycle stores; sales, rental and repair.
- Boat sales.
- Book and stationery stores.
- Bowling alleys.
- Building materials and products; sales and storage.
- Building trades showrooms and shops.
- Business and office machines; sales and service.
- Bus passenger stations.
- Camera stores.
- Camper sales.
- Candy and confectionery stores.
- Catering establishments.
- China and glassware stores.
- Churches, chapels, temples and synagogues.
- Clothing and costume rental.
- Clubs and lodges.

Convenience stores.
Dairy products stores.
Department stores.
Detective agencies.
Drapery stores.
Dressmaking.
Dry cleaners and Laundromats.
Dry goods stores.
Drug stores.
Dwelling, single-family.
Electrical repair services.
Employment agencies.
Engineering and surveying services.
Equipment rental and leasing services.
Extermination services.
Fast-food or drive-in restaurants.
Floor covering stores.
Floral shops.
Funeral parlors.
Furniture stores.
Gift shops.
Governmental uses of the Village.
Grocery stores.
Gymnasiums, health clubs, and spas.
Hardware stores.
Hobby shops.
Home appliance stores.
Ice cream stores.
Indoor movie theaters.
Indoor tennis or racquetball clubs.
Insurance agencies.
Jewelry stores.
Laboratories; medical, dental, or optical.
Landscaping services.
Leather goods and luggage stores.
Lithographers.
Locksmiths.
Machinery sales and services.
Mail order houses.
Meat markets.
Medical and dental clinics.
Messenger and telegraph services.
Mobile and manufactured home sales.
Model homes and garage displays.
Monument sales.
Motor vehicle repair and servicing facilities.
Motorcycle sales.
Music stores.
Newspaper and periodical publishers.
Notions stores.

Nurseries and greenhouses.
 Office supply and stationery stores.
 Offices including medical, dental, legal, philanthropic, charitable, fraternal, not-for-profit,
 and for other such services.
 Package liquor stores.
 Paint and wallpaper stores.
 Painting and decorating businesses.
 Parking lots and garages.
 Parks and playgrounds.
 Pet shops.
 Photography, commercial studio.
 Police or fire stations.
 Post offices.
 Public libraries, art galleries, and museums.
 Radio and television stations.
 Radio, television, and stereo sales.
 Real estate agencies.
 Record stores.
 Recording or sound studios.
 Recreational and community centers.
 Recreational vehicle sales.
 Rectories, parsonages, and parish houses.
 Repair shops; shoes and clothing.
 Restaurants.
 Sharpening and grinding businesses.
 Shoe stores.
 Sporting goods stores.
 Swimming pools; public or private.
 Tailors.
 Taxicab garages.
 Telephone exchange and equipment buildings.
 Tennis clubs and courts, outdoors.
 Tire, battery, and other motor vehicle accessory services.
 Tobacco shops.
 Toy stores.
 Travel agencies.
 Variety stores.
 Temporary buildings or trailers for construction purposes and for a period not to exceed the
 period of construction.
 Accessory uses, buildings, and structures in accordance with **Section 40-4-7**.
 Business Condominiums, provided all the requirements of **Section 40-5-76** are met.

40-5-73 **SPECIAL USES.** Provided all the use restrictions of this district are observed,
 the following shall be considered special uses in the "B" district and allowed only in accordance with
Section 40-7-19.

Amusement establishments.
 Athletic fields.
 Arboretums or botanical gardens.
 Arcades or amusement halls.

- Archery ranges.
- Billiard and pool halls.
- Business, art, dance or commercial schools.
- Colleges, junior colleges, and universities.
- Convalescent homes, nursing homes, homes for the aged, homes for the ill or physically infirm persons, intermediate care facilities, sheltered care facilities, and specialized living accommodations.
- Dance halls.
- Day care centers, nursery schools, and pre-schools.
- Dormitories.
- Dwelling, multiple-family.
- Elementary and junior high schools.
- Fairgrounds and exhibition grounds.
- Federal, state, county or municipal garages.
- Forest preserves.
- Golf courses; public and private.
- Golf driving ranges.
- Governmental uses other than those of the Village.
- High schools.
- Historic sites.
- Hospitals.
- Hotels.
- Indoor skating rinks.
- Kiddie parks.
- Meeting halls.
- Miniature golf courses.
- Mobile classrooms; temporary.
- Motels.
- Racetracks.
- Seminaries, monasteries, convents, and retreat houses.
- Shooting ranges.
- Stadiums and auditoriums.
- Towing services.
- Transit or transportation facilities.
- Utility substations in accordance with **Section 40-4-16**.
- Vocational schools.
- Warehousing and storage.

40-5-74 **AREA/BULK RESTRICTIONS.** The following area/bulk restrictions shall apply to all buildings or structures in the "B" district:

- | | | |
|-----|--|---------------|
| (A) | <u>Minimum Lot Size.</u> | |
| | (1) Lot area | 8,000 sq. ft. |
| | (2) Lot width | 65 feet |
| | (3) Lot depth | 125 feet |
| (B) | <u>Minimum Setbacks.</u> | |
| | (1) From front lot line | 25 feet |
| | (2) From either side lot line | 5 feet |
| | (3) From rear lot line | 10 feet |
| (C) | <u>Maximum Building Height.</u> | 35 feet |

40-5-75 **SUPPLEMENTAL REGULATIONS.**

(A) **Repairs Indoors.** All repair and maintenance services shall be conducted completely within enclosed structures.

(B) **Outside Storage.** Outside storage areas may be open to the sky, but shall be enclosed by a wall or solid fence at least **eight (8) feet** high.

(C) **Refuse Containers.** All refuse generated by facilities located within this district shall be stored in tightly-covered containers placed in visually-screened areas and in accordance with the following provisions:

- (1) The standard refuse container required by this Code shall be a receptacle of impervious material and sturdy construction, with a tight-fitting cover, and equipped with handles properly placed to facilitate handling.
- (2) The occupant of every building, structure, or premises used or maintained in connection with any business or occupation, shall provide and maintain in good condition and repair, a sufficient number of refuse containers for the temporary storage of all refuse accumulating between collections.
- (3) It shall be the duty of the occupant of every building, structure, or premises used or maintained in connection with any business or occupation, to cause to be removed, at his own cost and expense, at least once each week, all refuse produced therein.

(D) **Screening.** Along the side and rear lot lines of any business use, which abut a residential use, screening shall be installed in the form of a wall or solid fence which is at least **six (6) feet** high and which completely blocks the view from the adjacent residential property.

40-5-76 **SPECIAL REGULATIONS, BUSINESS CONDOMINIUMS.**

(A) Business condominiums shall be required to conform to all of the area bulk restrictions contained in **Section 40-5-74**. The minimum lot size shall be determined by measurements of the lot upon which the structure shall be situated. Minimum setbacks shall be determined from the location of the building structure upon the building lot. Private ownership of individual portions of a building shall in no way effect minimum setback requirements for that lot.

(B) All uses which occupy a building condominium unit must be in conformity with **Section 40-5-72**, reflecting permitted uses in a business district or may be special uses permitted under **Section 40-5-73** provided, however, that all procedures and requirements of this Code with regard to special uses have been complied with.

40-5-77 - 40-5-80 **RESERVED.**

DIVISION X - INDUSTRIAL DISTRICTS

40-5-81 **"MI" - MANUFACTURING/INDUSTRIAL DISTRICT.** The "MI" - Manufacturing/Industrial District is intended to provide for areas where industry, research facilities, warehouses and wholesale businesses may locate without detriment to the remainder of the community. In these areas the satisfactory correlation of factors required by such uses exist or can be readily achieved.

40-5-82 **PERMITTED USES.** Provided all the use restrictions of this district are observed, the following shall be considered permitted uses in the "MI" district:

- Assembly of semi-finished materials.
- Auto laundries and car washing facilities.
- Auto repair, major.
- Auto repair, minor.
- Auto service stations.
- Auto undercoating and rust proofing services.
- Building materials and products; sales and storage.
- Building trades showrooms and shops.
- Bus passenger stations.
- Concrete mixing plants.
- Contractor or construction yards.
- Equipment rental and leasing services.
- Federal, state, county or municipal garages.
- Governmental uses.
- Laboratories; research and testing.
- Landscaping services.
- Microwave and radar tower installations.
- Monument manufacturing and sales.
- Motor vehicle repair and servicing facilities.
- Printing, publishing, and lithography establishments.
- Public utility companies.
- Sharpening and grinding businesses.
- Towing services.
- Transit or transportation facilities.
- Warehousing and wholesaling establishments.
- Utility substations in accordance with **Section 40-4-16.**
- Machine and tool shops.

40-5-83 **SPECIAL USES.** Provided all the use restrictions of this district are observed, the following shall be considered special uses in the "MI" district and allowed only in accordance with **Section 40-7-19.**

- Junk yards.

40-5-84 **AREA/BULK RESTRICTIONS.** The following area/bulk restrictions shall apply to all buildings or structures in the "MI" district:

- (A) **Minimum Lot Size.**
- | | | |
|-----|-----------|---------------|
| (1) | Lot area | 8,000 sq. ft. |
| (2) | Lot width | 80 feet |
| (3) | Lot depth | 100 feet |
- (B) **Minimum Setbacks.**
- | | | |
|-----|---------------------------|---------|
| (1) | From front lot line | 25 feet |
| (2) | From either side lot line | 20 feet |
| (3) | From rear lot line | 25 feet |

40-5-85 **SUPPLEMENTAL REGULATIONS.**

(A) **No Nuisances.** No production, processing, cleaning, servicing, testing, repair, sale or storage of goods, materials, or equipment shall unreasonably interfere with the use, occupancy, or enjoyment of neighboring properties or the community as a whole. Unreasonable interferences shall include, but are not limited to, excessive traffic congestion, loud or shrill noises, excessive emission of smoke, emission of toxic gases, excessive glare, and noxious odors.

(B) **Activities Enclosed.** All production, processing, cleaning, servicing, testing, or repair activities shall be conducted completely within enclosed buildings.

(C) **Outside Storage.** Outside storage areas may be open to the sky, but shall be enclosed by a solid wall or fence, at least **eight (8) feet** high.

40-5-86 **RESERVED.**

DIVISION XI - "A-1" AGRICULTURAL DISTRICTS

40-5-87 **"A-1" - AGRICULTURAL DISTRICT.** The "A-1" - Agricultural District is designed to provide permitted agricultural and livestock activities in typically less urbanized areas of the Village.

40-5-88 **PERMITTED USES.** The following shall be considered permitted uses in the "A-1" District:

Single-family dwellings.

Government uses of the Village.

Temporary buildings or trailers for construction purposes and for a period not to exceed the period of construction.

Accessory uses, buildings, and structures in accordance with **Section 40-4-7.**

Playgrounds, parks, and recreational or community centers or grounds.

Churches and related religious facilities.

Limited farming activities defined as the tilling of the soil and the keeping of any farm livestock, not to exceed one head per every **two (2) acres**, all in accordance with **Section 40-4-19**.

40-5-89 **SPECIAL USES.** The following shall be considered special uses in the "A-1" district and allowed only in accordance with **Section 40-7-19**.
Government uses other than those of the Village.
Utility substations in accordance with **Section 40-4-16**.
Home occupations in accordance with **Section 40-4-18**.
Modular homes in accordance with **Section 40-4-22**.

40-5-90 **AREA/BULK RESTRICTIONS.** The following area/bulk restrictions shall apply to all buildings or structures in the "A-1" district:

- (A) **Minimum Lot Size.**
 - (1) Lot area 2 acres
 - (2) Lot width 100 feet minimum
 - (3) Lot depth 100 feet minimum
- (B) **Minimum Setbacks.**
 - (1) From front lot line 25 feet
 - (2) From either side lot line 10 feet
 - (3) From rear lot line 25 feet
- (C) **Maximum Building Height.**
 - (1) The lesser of 35 feet or 2 ½ stories; provided, however, there shall be no height restriction on agriculture-related accessory structures.

40-5-91 **SUPPLEMENTAL REGULATIONS.**
(A) **One Structure Per Lot.** Only **one (1)** principal structure shall be situated on any lot in the "A-1" district.

(B) **Mobile and Manufactured Homes Restricted.** Mobile and manufactured homes shall be restricted in the "A-1" district in accordance with the following:
(1) No mobile or manufactured homes shall be brought into or placed anywhere in the "A-1" district.
(2) It shall be unlawful to replace any existing mobile or manufactured home located in the "A-1" district.
(3) All existing mobile or manufactured homes in the "A-1" district shall be immobilized.

40-5-92 **RESERVED.**

DIVISION XII - "A-2" AGRICULTURAL DISTRICTS

40-5-93 **"A-2" - AGRICULTURAL DISTRICT.** The "A-2" - Agricultural District is designed to provide for proper land utilization of family farm operations, including crops and commodities for commercial purposes as well as the holding of livestock related to farming operations.

40-5-94 **PERMITTED USES.** The following shall be considered permitted uses in the "A-2" District:

Agriculture, including all uses commonly classified as such, in accordance with the requirements of **Section 40-4-19.**

Nurseries, greenhouses, temporary produce stands.

Cemeteries.

Government uses of the Village.

Single-family dwellings.

Public libraries, playgrounds, parks, and recreational or community centers or grounds.

Temporary buildings or trailers for construction purposes and for a period not to exceed the period of construction.

Accessory uses, buildings, and structures in accordance with **Section 40-4-7.**

Modular homes in accordance with **Section 40-4-22.**

Home occupations in accordance with **Section 40-4-17.**

40-5-95 **SPECIAL USES.** The following shall be considered special uses in the "A-2" district and allowed only in accordance with **Section 40-7-19.**

Agricultural implement sales.

Amusement facilities such as go-cart tracks and miniature golf courses.

Animal hospitals.

Churches and related religious facilities.

Clubs or lodges, private; but not those which have as their chief activity a service customarily carried on as a business.

Golf courses of regulation size.

Government uses other than those of the Village.

Home for the aged.

Institutions such as convents, retreat houses and seminaries.

Kennels in accordance with **Section 40-4-11.**

Nursing homes.

Utility substations in accordance with **Section 40-4-16.**

40-5-96 **AREA/BULK RESTRICTIONS.** The following area/bulk restrictions shall apply to all buildings or structures in the "A-2" district:

(A)

Minimum Lot Size.

(1)	Lot area	5 acres
(2)	Lot width	250 feet minimum
(3)	Lot depth	300 feet minimum

- (B) **Minimum Setbacks.**
 - (1) From front lot line 25 feet
 - (2) From either side lot line 10 feet
 - (3) From rear lot line 25 feet
- (C) **Maximum Building Height.**
 - (1) The lesser of 35 feet or 2 ½ stories; provided, however, there shall be no height restriction on agriculture-related accessory structures.

40-5-97 SUPPLEMENTAL REGULATIONS.

(A) **One Structure Per Lot.** Only **one (1)** principal structure shall be situated on any lot in the "A-2" district.

(B) **Mobile and Manufactured Homes Restricted.** Mobile and manufactured homes shall be restricted in the "A-2" district in accordance with the following:

- (1) No mobile or manufactured homes shall be brought into or placed anywhere in the "A-2" district unless replacing an existing mobile or manufactured home.
- (2) Replacement of any existing mobile or manufactured home located in the "A-2" district shall only be allowed by special use permit and only when the replacement home is new.
- (3) All mobile or manufactured homes in the "A-2" district shall be immobilized.

ARTICLE VI - NONCONFORMITIES

40-6-1 **PURPOSE AND INTENT.** The requirements imposed by this Code are designed to secure adequate light, pure air, and safety from fire and other damages, to guarantee that the taxable value of land and building throughout the Village may be conserved, to prevent or lessen hazards to persons and damage to property resulting from the accumulation of run-off storm or flood water, to preserve the sights, areas and structures of historical, architectural and aesthetic importance and that the public health, safety, comfort, morals and welfare may otherwise be promoted. Lots, structures and uses of land or structures that do not conform to the requirements of the district in which they are located tend to impede appropriate development. The regulations of this Article are intended to alleviate such existing or potential problems by encouraging the gradual elimination of nonconformities.

40-6-2 **NONCONFORMING BUILDINGS AND STRUCTURES.** Any otherwise lawful nonconforming building or structure which exists on the effective date of this Code may lawfully remain, subject to the following provisions:

(A) **Maintenance.** A nonconforming structure may be maintained by ordinary repairs.

(B) **Enlargement, Alterations.** A nonconforming building or structure shall not be altered or enlarged in any way which would increase its nonconformity by:

- (1) Adding an addition to an existing building or adding a separate building; or
- (2) Increasing the area of lot used; or
- (3) Changing business methods or the provision of new accessory facilities.

(C) **Relocation.** A nonconforming building or structure shall not be moved unless, after relocation, it will conform to all of the regulations of the district in which it will be situated.

(D) **Reconstruction.** A nonconforming building or structure which is destroyed or damaged by any means shall not be reconstructed if the Building Commissioner determines that the cost of such reconstruction exceeds **one hundred percent (100%)** of the structure's appraised market value at the time of loss, unless, after reconstruction, the structure will conform to all applicable regulations of the district in which it is located.

- (1) In the event the Building Commissioner determined the estimated cost of reconstruction is equal to or less than **one hundred percent (100%)** of the structure's appraised market value at the time of loss, repairs or reconstruction shall be permitted, provided such work begins within **six (6) months** from the date the damage occurred and is completed within **one (1) year** after construction begins.
- (2) The Building Commissioner may require that the reconstruction cost estimate be made by a bona fide construction contractor, and that the structure's appraised market value at the time of loss be determined by a licensed real estate appraiser.
- (3) The owner of the damaged structure shall be responsible for obtaining these estimates on behalf of the Building Commissioner.

40-6-3 **NONCONFORMING USES.** Any nonconforming use, otherwise lawfully existing on the effective date of this Code, may lawfully continue, subject to the following provisions:

(A) No nonconforming business use shall be extended or intensified so that the character of the commercial activity changes and creates a greater adverse impact on the zoning district in which it is located.

(B) A nonconforming use shall not be changed except to a use that is permitted or special under the applicable zoning regulations.

(C) When a nonconforming use is discontinued for a period of **twelve (12) consecutive months**, or a use is in noncompliance with **Section 40-4-2**, it shall not thereafter be resumed, and any subsequent use of the land shall conform to the applicable district regulations.

40-6-4 **NONCONFORMING VACANT LOT OF RECORD.** Any nonconforming vacant lot of record may, nonetheless, be developed for any use permitted in that district if such vacant lot:

(A) was recorded in the County Recorder of Deeds office prior to the effective date of this Code, or any pertinent amendment thereto;

(B) is at least **thirty (30) feet** wide.

40-6-5 **TWO (2) OR MORE LOTS IN COMMON OWNERSHIP.**

(A) If **two (2)** or more lots, or combination of lots or portions of lots, with continuous frontage, were of record and in common ownership on the effective date of this Code, and if **one (1)** or more of those lots does not meet the minimum width, depth, or area requirements of the district in which it is located, the land involved shall be considered an undivided parcel.

(B) No portion of any such parcel shall be developed except in compliance with this Code, nor shall any such parcel be divided so as to create a lot that does not meet the requirements of this Code.

40-6-6 **NONCONFORMITIES UNDER PERMIT AUTHORITY.** The regulations of this Article shall not effect the terms of any permit issued prior to the effective date of this Code, or any pertinent amendment thereto, provided that the work authorized by such permit is completed within a reasonable time.

40-6-7 **CERTIFICATES OF NONCONFORMANCE.** At the request of the applicant, and following a thorough review of the specific building, structure, lots or use, the Building Commissioner, upon determining that said building, structure, lot, or use is legally nonconforming, shall issue a Certificate of Nonconformance in accordance with the provisions of **Section 40-7-16** of this Code.

ARTICLE VII - ADMINISTRATION AND ENFORCEMENT

DIVISION I - GENERALLY

40-7-1 PENALTIES.

(A) Any person who violates, disobeys, omits, neglects, refuses to comply with, or who resists enforcement of any provisions of this Code, shall be subject to a fine as provided in **Section 1-1-20.**

(B) Each day that a violation continues after notification is given thereof, shall be considered a separate offense.

(C) Notification shall be per **Section 40-7-11.**

(D) Nothing contained in this Article shall prevent the Village from taking any other lawful action that may be necessary to secure compliance with this Code.

(Ord. No. 2009-09; 02-16-10)

40-7-2 APPLICATION FEES.

(A) The following schedule establishes application fees for the various certificates, permits and procedures listed in this Code, which are intended to defray the administrative costs connected with the processing of such applications, and as such do not constitute a tax or other revenue-raising device:

Application For

Certificate of Zoning Compliance - Initial	\$50.00
Certificate of Zoning Compliance - Final	\$50.00
Certificate of Nonconformance	\$50.00
Appeal	\$300.00
Variation	\$300.00
Special Use Permit	\$500.00
Amendment to the Text	\$500.00
Amendment to the Map (Rezoning)	\$500.00

(B) Until such fees have been paid, no application for any of the above shall be deemed to have been filed and no action shall be taken on such application.

(Ord. No. 2009-09; 02-16-10)

40-7-3 AUTHORITY.

(A) The primary authority for administration and enforcement of the provisions of this Code shall be vested in the following:

- (1) Village Clerk
- (2) Building Administrator
- (3) Zoning Board of Appeals
- (4) Planning Commission
- (5) Board of Trustees

(B) In addition to the above, other officials, appointees, or employees of the Village may be required and authorized to perform functions authorized in the Code.

(Ord. No. 2009-09; 02-16-10)

40-7-4 **BUILDING COMMISSIONER.** There is hereby created the position of Building Commissioner who is hereby authorized and directed to administer and enforce the provisions of this Code.

40-7-5 **APPOINTMENT AND TERM OF OFFICE.**

(A) The Building Commissioner shall be appointed annually by the Mayor, with the advice and consent of the Board of Trustees.

(B) The Building Commissioner's term shall commence each May with the first regular meeting of the Board of Trustees, and continue for **one (1) year** or until his successor is appointed and has qualified.

40-7-6 **COMPENSATION.** The Building Commissioner shall receive a salary or compensation such as is provided by the Mayor and the Board of Trustees.

40-7-7 **DUTIES AND RESPONSIBILITIES.** The duties and responsibilities of those with primary authority for administration of this Code include but not limited to:

(A) **Village Clerk.**

- (1) To provide technical support to the Planning Commission;
- (2) To provide information to the general public on matters related to this Code, assist them in understanding its provisions, and assist them in any application process;
- (3) To collect all fees in association with accepting all applications;
- (4) To accept all applications for Initial Certificates of Zoning Compliance, Final Certificates of Zoning Compliance, and Certificates of Nonconformance and forward them to the Building Commissioner for review.
- (5) To accept all applications for an appeal and variations and forward a copy to the Zoning Board of Appeals for review.
- (6) To accept all applications for special use permits, amendments to the text and amendments to the official zoning map and forward a copy to the Planning Commission for review.
- (7) To issue certificates or permits for all variations, special uses, planned businesses, and planned unit developments, as approved by the Board of Trustees;
- (8) To maintain up-to-date records of matters related to this Code including, but not limited to, district maps, Certificates of Zoning Compliance, special use permits, variances, interpretative decisions of the Zoning Board of Appeals, amendments, and all applications/documents related to any of these items; and
- (9) To prepare and cause to be published, on or before **March 31st** of each year, a map showing the existing zoning district classifications and divisions in effect on the preceding **December 31st**, if those classifications have been amended during the preceding calendar year.

(B) **Building Administrator.**

- (1) To provide technical support to the Planning Commission;

- (2) To inspect lots, structures and uses to determine compliance with this Code, and where there are violations, to initiate appropriate corrective action.
 - (3) To review all applications for Initial Certificates of Zoning Compliance, Final Certificates of Zoning Compliance, and Certificates of Nonconformance and issue such certificates when appropriate;
 - (4) To issue corrective action orders when appropriate.
- (C) **Zoning Board of Appeals.** To review all applications for an appeal and variations and make recommendations to the Board of Trustees on such applications.
- (D) **Planning Commission.** To review all applications for special use permits, amendments to the text and amendments to the official zoning map and make recommendations to the Board of Trustees on such applications.
- (E) **Board of Trustees.**
- (1) To review the recommendations of the Zoning Board of Appeals on the applications for appeals and variations and render the final decisions on such applications.
 - (2) To review the recommendations of the Planning Commission on the applications for special use permits, amendments to the text and amendments to the official zoning map and render the final decisions on such applications.

40-7-8 COMPLAINTS. Whenever any person alleges that a violation of the provisions of this Code has occurred, that person shall file a written complaint on forms provided by the Village Clerk. The Village Clerk shall record such complaints. The Building Commissioner shall promptly investigate, and, if necessary, issue corrective action orders.

40-7-9 CORRECTIVE ACTION ORDER. When a lot, structure, or use, or work thereon, is in violation of this Code and is found by complaint, inspection or otherwise, the Building Commissioner shall notify the responsible party, and shall order appropriate corrective action.

40-7-10 CONTENTS OF ORDER. Every order to take corrective action shall be issued in writing and shall at least include:

- (A) A description of the premises sufficient for identification;
- (B) A statement indicating the nature of the violation;
- (C) A statement of the corrective action necessary to effect compliance;
- (D) The date by which the violation must be corrected;
- (E) A statement that the alleged violator is entitled to a conference with the Building Commissioner if he so desires;
- (F) The date by which an appeal of the corrective action order must be filed, and a statement of the procedure for so filing; and
- (G) A statement that failure to obey a corrective action order shall result in revocation of an issued Certificate of Zoning Compliance and may result in the imposition of fines.

40-7-11 **SERVICE OF ORDER.** A corrective action order shall be deemed properly served upon the owner, occupant or operator of the offending lot, structure, or use if it is:

- (A) Served upon him personally;
- (B) Sent by certified mail to his last known address; or
- (C) Posted in a conspicuous place on or about the affected premises.

40-7-12 **STOP WORK ORDERS.** Whenever any work being done in violation of an **Initial Certificate of Zoning Compliance**, the Building Commissioner may issue a corrective action order which states that the violation must cease immediately, in which case, the corrective action order is equivalent to a stop work order.

40-7-13 **EMERGENCY MEASURES.** Notwithstanding any other provisions of this Code, whenever the Village Clerk and Building Commissioner determines that any violation of this Code poses an imminent peril to life or property, he may institute, without notice or hearing, any necessary proceedings to alleviate the perilous condition.

40-7-14 **INITIAL CERTIFICATES OF ZONING COMPLIANCE.** Upon the effective date of this Code, no lot shall be created, no land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated or reconstructed, until an Initial Certificate of Zoning Compliance has been applied for and issued.

(A) **Application.** Any person seeking an Initial Certificate of Zoning Compliance, shall file an application for such certificate on forms provided by the Village Clerk. In addition to the required application form, the applicant shall submit the following:

- (1) A site plan, drawn to scale, showing the proposed ground area, height and bulk of the building or structure, the lot lines and dimensions, the location of building lines to lot lines, the location of any signs, easements, underground utilities, septic tanks, tile fields, and water wells; the names and locations of adjoining streets; and the location of driveways and off-street parking areas in relation to those streets;
- (2) A copy of the legal description of the property in question; and
- (3) Detailed drawings and plans for any and all proposed buildings and structures.

(B) **Issuance.** The Building Commissioner shall review such application and determine if the proposed plans conform to provisions of this Code. The Building Commissioner shall consult with technically qualified persons as necessary, to determine that the proposed activity conforms to the applicable provisions of this Code.

If the Building Commissioner finds that the plans, as submitted, comply with all provisions of this Code, he shall issue an Initial Certificate of Zoning Compliance, thereby authorizing the applicant to proceed with securing all required building permits.

If the Building Commissioner should find that the plans, as submitted, do not conform to the provisions of this Code, he shall promptly notify the applicant of the deficiencies, and identify corrections that are necessary in order to bring the plans into compliance.

(C) **Duration of Certificate.** Initial Certificates of Zoning Compliance shall be valid for **one (1) year** from the date of issue, or until revoked for failure to abide by a corrective action order. The Village Clerk may renew Initial Certificates of Zoning Compliance for successive

one (1) year periods upon written request, provided the applicant is making a good faith effort to complete the authorized work.

(D) **Relationship to Building Permits.** Upon the effective date of this Code, no building permit for the erection, enlargement, extension, alteration, or reconstruction of any structure shall be issued until the applicant for such permit has properly obtained an Initial Certificate of Zoning Compliance pertaining to such work.

40-7-15 FINAL CERTIFICATES OF ZONING COMPLIANCE. Upon the effective date of this Code, no lot shall be created, no land shall be developed, no new use or structure shall be established or erected, and no existing use or structure shall be enlarged, extended, altered, relocated, or reconstructed, until a Final Certificate of Zoning Compliance has been applied for and issued.

(A) **Application.** Any person seeking a Final Certificate of Zoning Compliance, shall file an application for such certificate on forms provided by the Village Clerk.

(B) **Issuance.** The Building Commissioner shall not issue a Final Certificate of Zoning Compliance until it has been determined, by inspection, that the work authorized by the Initial Certificate of Zoning Compliance has been completed in accordance with approved plans. Failure to obtain a Final Certificate of Zoning Compliance shall constitute a separate violation of this Code.

40-7-16 CERTIFICATES OF NONCONFORMANCE. A Certificate of Nonconformance is issued by the Building Commissioner and indicates that he has reviewed a specific building, structure, lot, or use, at the request of the applicant, and has determined that the building, structure, lot, or use lawfully existed prior to the effective date of this Code, and though not in conformance with all provisions of this Code, shall be allowed to remain within the provisions of **Article VI**.

(A) **Application.** Any person seeking a Certificate of Nonconformance shall file an application for such certificate on forms provided by the Village Clerk. In addition to the required application form, the applicant shall submit the following:

- (1) A site plan, drawn to scale, showing the actual ground area, height and bulk of all buildings and structures, the lot lines and dimensions, the location of building lines to lot lines, the location of any signs, easements, underground utilities, septic tanks, tile fields, and water wells; the names and locations of adjoining streets; and the location of driveways and off-street parking areas in relation to those streets;
- (2) A copy of the legal description of the property in question; and
- (3) Detailed documentation which supports the claim of lawful existence prior to changes in the zoning regulations which created the nonconformity.

(B) **Issuance.** The Building Commissioner shall review such application and determine if the building, structure, lot, or use lawfully existed prior to changes in the zoning regulations which created the nonconformity.

- (1) If the Building Commissioner finds that the building, structure, lot, or use lawfully existed prior to changes in the zoning regulations which created the nonconformity, he shall issue a Certificate of Nonconformance, thereby authorizing the building, structure, lot, or use to continue within the provisions of **Article VI** of this Code.

- (2) If the Building Commissioner should find that the building, structure, lot, or use did not lawfully exist prior to changes in the zoning regulations which created the nonconformity, he shall promptly notify the applicant of his findings, and identify corrections that are necessary in order to bring the building, structure, lot, or use into compliance with this Code.

(C) **Duration of Certificate.** Certificates of Nonconformance shall be valid from the date of issue, provided that no amendment to the provisions of this Code occurs which would invalidate such certificate, and provided that no alteration to the building, structure, lot, or use occurs which would invalidate the information originally submitted on the application for Certificate of Nonconformance.

DIVISION II - APPEALS

40-7-17 APPEALS. The Zoning Board of Appeals shall hear and decide appeals from any order, requirement or determination made by the Building Commissioner or Village Clerk. An appeal, in which it is alleged that there is an error in any decision made by the Building Commissioner under this Code, may be taken to the Zoning Board of Appeals by any person or governmental agency aggrieved by such decision. The appeals process shall be as follows:

(A) Every application for an appeal shall be filed by the applicant in the office of the Village Clerk and mailed directly to the Chairman of the Zoning Board of Appeals, on a form provided by the Village Clerk, who shall thereafter forward to all members of the Zoning Board of Appeals, without delay, a copy of the appeal, and make available all of the information constituting the record upon which the application to appeal was made.

(B) The Zoning Board of Appeals shall promptly schedule a public hearing following notice of the appeal, and shall thereafter give notice of said hearing to the parties involved, including the applicant, the Building Commissioner and the Village Clerk.

(C) Notice indicating the time, date, and place of the hearing, and the nature of the proposed appeal, shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before said hearing:

- (1) by first class mail to the applicant; and
- (2) by publication in a newspaper of general circulation, within the Village.

(D) The Zoning Board of Appeals shall render a written recommendation on the appeal to the Board of Trustees, the applicant, the Building Commissioner, and the Village Clerk within **thirty (30) days** after the public hearing.

(E) The Zoning Board of Appeals' recommendation may affirm, or may, upon the concurring vote of **four (4) members**, reverse, wholly or in part, or modify the decision of the Building Commissioner as in its opinion ought to be done, and to that end shall have the powers of the Building Commissioner.

(F) After review of the recommendation of the Zoning Board of Appeals, the Board of Trustees may grant or deny any appeal filed by any party and all decisions rendered by the Board of Trustees on any administrative order, requirement, decision, or determination, shall, in all instances, be final. Administrative determinations shall be subject to judicial review only in the Circuit Court pursuant to applicable law.

DIVISION III - VARIANCES

40-7-18 VARIATIONS. In specific cases, where practical difficulties or a particular hardship would be incurred by the strict applications of the provisions of this Code, the Zoning Board of Appeals may recommend to the Board of Trustees that a variation of the regulations of this Code be granted in accordance with the standards outlined in **Section 40-7-18**, and only to permit any minimum setback or bulk area requirement less than that required by the applicable regulations.

(A) **Standards for Issuance.** The Zoning Board of Appeals shall not make a recommendation to the Board of Trustees to vary any regulation to this Code unless, in each specific case, the Zoning Board of Appeals has found that all the following apply:

- (1) The proposed variation is in harmony with the general purposes and intent of this Code;
- (2) Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a practical difficulty or particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;
- (3) The conditions upon which the application for a variation are based are unique to the property for which the variation is sought, and are not generally applicable to other property within the same zoning classification;
- (4) The property in question cannot yield a reasonable return if permitted to be used under the conditions allowed by the regulations of the zoning classification; provided, however that the variation is not based exclusively upon a desire to increase financial gain;
- (5) The alleged difficulty or hardship is caused by this Code and has not been created by any persons presently having an interest in the property;
- (6) The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and
- (7) The proposed variation will not:
 - (a) impair an adequate supply of light and air to the adjacent property; or
 - (b) substantially increase the congestion of public streets; or
 - (c) increase the danger of fire; or
 - (d) endanger the public safety; or
 - (e) impair property values within the neighborhood.

(B) Every application for a variance shall be filed by the applicant in the office of the Village Clerk and mailed directly to the Chairman of the Zoning Board of Appeals, on a form provided by the Village Clerk, who shall thereafter forward to all members of the Zoning Board of Appeals, without delay, a copy of the variance, and make available all of the information constituting the record upon which the application for variance was made.

(C) In addition to the required application form, the Village Clerk shall require the applicant to submit the following:

- (1) A site plan, drawn to scale, showing the actual ground area, height and bulk of all existing and proposed buildings and structures, the

lot lines and dimensions, the location of building lines to lot lines, the location of any signs, easements, underground utilities, septic tanks, tile fields, and water wells; the names and locations of adjoining streets; and the location of driveways and off-street parking areas in relation to those streets; and

- (2) Any and all documentation which supports the claim of practical difficulty or specific hardship.

(D) The Village Clerk shall also file every application for variation with the St. Clair County Soil and Water Conservation District, as per state law.

(E) The Zoning Board of Appeals shall schedule and hold a public hearing within **sixty (60) days** after the application for variation is filed.

(F) Notice indicating the time, date, and place of the hearing, and the nature of the proposed variation, shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before said hearing:

- (1) by first class mail to the applicant; and
- (2) by publication in a newspaper of general circulation, within the Village.

(G) Any interested party, at any such hearing, may appear and testify either in person or by duly authorized agent or attorney. **(65 ILCS 5/11-13-6)**

- (1) Every applicant shall have the right to present witnesses on their behalf and to request that the Chairman subpoena persons to appear.

(H) The Zoning Board of Appeals may recommend approval or denial of the application for variation, upon the concurring vote of **four (4) members**.

(I) The Zoning Board of Appeals shall submit such recommendation in writing to the Board of Trustees within **thirty (30) days** after the public hearing on the application for variation.

(J) The recommendation so submitted, shall be accompanied by findings of fact specifying the reason or reasons for the recommendation, and referring to any exhibits containing plans and specifications for the proposed variation, copies of which shall remain a part of the permanent record of the Zoning Board of Appeals.

(K) The terms of relief, if any, shall be contained within the recommendation, but clearly set forth in a conclusion or a statement separate from the Zoning Board of Appeal's findings. **(65 ILCS 5/11-13-11)**

(L) The Board of Trustees shall not act upon a proposed variation to this Code until it has received and reviewed a written recommendation and findings of fact from the Zoning Board of Appeals.

(M) The Board of Trustees may grant or deny any variation for which an application has been submitted, and on which a public hearing has been held, regardless of the recommendation from the Zoning Board of Appeals; provided, however, that any variation which fails to receive the approval of the Zoning Board of Appeals, shall not be passed, except by the favorable vote of at least **two-thirds (2/3)** of the members of the Board of Trustees.

(N) The Board of Trustees, having voted to grant any variation, shall adopt said variation in ordinance form, at their next regularly scheduled meeting.

(O) If an application for a proposed variation is not acted upon finally by the Board of Trustees within **ninety (90) days** from the date the Board of Trustees received the Zoning Board of Appeals recommendation, and such time is not extended by mutual consent of the Board of Trustees and the applicant, the variation shall be deemed to have been denied.

(P) No application for a variation which has been denied by the Board of Trustees shall be resubmitted for a period of **one (1) year** from the date of the order of denial,

except on the grounds of new evidence or proof that conditions then exist which did not exist prior to the submission of the application and which are found to be valid by the Board of Trustees.

(Q) Any ordinance varying the provisions of this Code shall be invalid **one (1) year** from the date of its passage and approval by the Board of Trustees, unless the variation, as permitted, has been substantially implemented by the applicant.

DIVISION IV - SPECIAL USES

40-7-19 SPECIAL USE PERMITS. This Code is based upon the division of the Village into districts, within which the uses of land, and the uses and bulk of buildings and structures are substantially uniform. It is recognized, however, that there are special uses which, because of their unique characteristics, can only be classified in any particular district upon consideration in each case of the impact of those uses upon neighboring land and uses, and for the public need for the particular uses at the particular location. Such uses fall into **three (3) categories**. (1) Uses publicly operated or traditionally affected with public interest; (2) Uses entirely private in character, but of such an unusual nature that their operation may give to unique problems with respect to their impact upon neighboring property, public facilities, or the Village as a whole; and (3) Uses, either public or private, that because of past or present conditions, need special consideration.

(A) A special use permit shall authorize only such uses as are listed on the permit and only under the conditions of this Code and any other conditions that may be made part of said permit.

(B) The Planning Commission shall not make a recommendation to the Board of Trustees, nor shall the Board of Trustees have the authority to grant any special use permit unless, in each specific case, they have found that:

- (1) The establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
- (2) The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
- (3) The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
- (4) Adequate utilities, access roads, drainage and/or other necessary facilities have been or are being provided;
- (5) Adequate measures have been or will be taken to provide ingress and egress so designated as to minimize traffic congestion in the public streets;
- (6) Adequate measures have been taken or will be taken to protect any facilities near the proposed special use, such as a school or nursing home, that may require special protection;
- (7) The special use shall in all other respects, conform to the applicable regulations of the district in which it is located, except as such

regulations may in each instance be modified by the Board of Trustees pursuant to the recommendation of the Planning Commission.

(C) Every application for a Special Use Permit shall be filed by the applicant in the office of the Village Clerk and mailed directly to the Chairman of the Planning Commission on a form provided by the Village Clerk, who shall thereafter forward to all members of the Planning Commission, without delay, a copy of the Special Use Permit, and make available all of the information constituting the record upon which the application for special use was made.

(D) In addition to the required application form, the Village Clerk shall require the applicant to submit the following:

- (1) A site plan, drawn to scale, showing the actual ground area, height and bulk of all existing and proposed buildings and structures, the lot lines and dimensions, the location of building lines to lot lines, the location of any signs, easements, underground utilities, septic tanks, tile fields, and water wells; the names and locations of adjoining streets; and the location of driveways and off-street parking areas in relation to those streets.

(E) The Planning Commission shall schedule and hold a public hearing within **sixty (60) days** after the application for special use permit is filed.

(F) Notice indicating the time, date, and place of the hearing, and the nature of the proposed special use, shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before said hearing:

- (1) by first class mail to the applicant; and
- (2) by publication in a newspaper of general circulation, within the Village.

(G) Any interested party, at any such hearing, may appear and testify either in person or by duly authorized agent or attorney. **(65 ILCS 5/11-13-6)**

- (1) Every applicant shall have the right to present witnesses on their behalf and to request that the Chairman subpoena persons to appear.

(H) The Planning Commission may recommend approval or denial of the application for special use permit, upon the concurring vote of **four (4) members**.

(I) The Planning Commission shall submit such recommendation, including the reason or reasons for the recommendation, in writing to the Board of Trustees within a reasonable time, but in no event shall that recommendation be submitted more than **thirty (30) days** after the public hearing on the application for special use permit.

(J) The recommendation so submitted, shall be accompanied by findings of fact referring to any exhibits containing plans and specifications for the proposed special use, copies of which shall remain a part of the permanent record of the Planning Commission, and specifying the following:

- (1) The extent to which the proposed special use departs from the zoning and subdivision regulations of the Village;
- (2) The conformance or nonconformance of the proposed special use with the Standards for Issuance listed under **Section 40-7-19**;
- (3) The relationship and the compatibility of the proposed special use to adjacent properties and neighborhoods;
- (4) The effect of the proposed special use on the development pattern, tax base, and economic well being of the Village.

(K) Special conditions, if any, shall be contained within the recommendation, but clearly set forth in a conclusion or a statement separate from the Planning Commission's findings.

- (1) In recommending that a special use permit be granted, the Planning Commission shall stipulate if the permit is transferable to successive owners of the property in question, or if the permit is not transferable to any other person or any other property.

(L) The Board of Trustees shall not act upon a proposed special use permit application until it has received and reviewed a written recommendation and findings of fact from the Planning Commission.

(M) The Board of Trustees may grant or deny any special use permit for which an application has been submitted, and on which a public hearing has been held, regardless of the recommendation from the Planning Commission.

(N) The Board of Trustees, having voted to grant any special use permit, shall adopt said permit in ordinances form, at their next regularly scheduled meeting.

(O) If an application for a proposed special use is not acted upon finally by the Board of Trustees within **ninety (90) days** of the date the Board of Trustees received the Planning Commission recommendation, and such time is not extended by mutual consent of the Board of Trustees and the applicant, the special use shall be deemed to have been denied.

(P) No application for a special use permit which has been denied by the Board of Trustees shall be resubmitted for a period of **one (1) year** from the date of the order of denial, except on the grounds of new evidence or proof that conditions then exist which did not exist prior to the submission of the application and which are found to be valid by the Board of Trustees.

(Q) Any ordinance granting a special use permit shall be invalid **one (1) year** from the date of its passage and approval by the Board of Trustees, unless the special use, as permitted, has been substantially implemented by the applicant.

(R) The Board of Trustees shall require any special use permit which is used, to stipulate the conditions of its duration if the property is sold to another person.

DIVISION V - AMENDMENTS

40-7-20 **AMENDMENTS TO THE TEXT.** The regulations established by this Code may be amended from time to time by the Board of Trustees through the enactment of an amended ordinance; provided, however, that the Planning Commission shall first conduct a public hearing to consider such amendment, and thereafter submit its recommendation and findings of fact to the Board of Trustees.

(A) Amendments to the text may be proposed by the Board of Trustees, the Building Commissioner, the Zoning Board of Appeals, the Planning Commission, or any other party in interest.

(B) **Standards for Amendment to the Text.** The Planning Commission shall not make a recommendation to the Board of Trustees to grant any amendment to the text unless, in each specific case, the Planning Commission has found that:

- (1) The proposed amendment is in harmony with the general purposes and intent of this Code.
- (2) The granting of the amendment will not be detrimental to the public welfare or injurious to other property or improvements in the Village.

(C) Every application for an Amendment to the Text shall be filed by the applicant in the office of the Village Clerk and mailed directly to the Chairman of the Planning Commission, on a form provided by the Village Clerk, who shall thereafter forward to all members of the Planning Commission, without delay, a copy of the Amendment to the Text and make available all of the information constituting the record upon which the application for an Amendment to the Text was made.

(D) The Planning Commission shall schedule and hold a public hearing within **sixty (60) days** after the application for Amendment to the Text is filed.

(E) Notice indicating the time, date, and place of the hearing, and the nature of the proposed amendment, shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before said hearing.

(1) By first class mail to the applicant; and

(2) By publication in a newspaper of general circulation, within the Village.

(F) Any interested party, at any such hearing, may appear and testify either in person or by duly authorized agent or attorney. **(65 ILCS 5/11-13-6)**

(1) Every applicant shall have the right to present witnesses on their behalf and to request that the Chairman subpoena persons to appear.

(G) The Planning Commission may recommend approval or denial of the proposed amendment to the text, upon the concurring vote of **four (4) members**.

(H) The Planning Commission shall submit such recommendation, including the reason or reasons for the recommendation, in writing to the Board of Trustees within a reasonable time, but in no event shall that recommendation be submitted more than **thirty (30) days** after the public hearing on the application for amendment to the text.

(I) The recommendation so submitted, shall be accompanied by findings of fact, copies of which shall remain a part of the permanent record of the Planning Commission.

(J) The Board of Trustees shall not act upon a proposed amendment to the text until it has received and reviewed a written recommendation and findings of fact from the Planning Commission.

(K) The Board of Trustees may grant or deny any amendment to the text for which an application has been submitted, and on which a public hearing has been held, regardless of the recommendation from the Planning Commission.

(L) The Board of Trustees, having voted to grant any amendment to the text, shall adopt said amendment in ordinance form, at their next regularly scheduled meeting.

(M) If an application for an amendment to the text is not acted upon finally by the Board of Trustees within **ninety (90) days** from the date the Board of Trustees received the Planning Commission recommendation, and such time is not extended by mutual consent of the Board of Trustees and the applicant, the amendment to the text shall be deemed to have been denied.

40-7-21 AMENDMENTS TO THE OFFICIAL ZONING MAP. The zoning districts established in this Code, and depicted on the Official Zoning Map of the Village, may be amended, or rezoned, from time to time by the Board of Trustees through the enactment of an amending ordinance; provided, however, that the Planning Commission shall first conduct a public hearing to consider such amendment, and thereafter submit its recommendation and findings of fact to the Board of Trustees.

(A) **Initiation.** Amendments to the map may be proposed by the Board of Trustees, the Building Commissioner, the Zoning Board of Appeals, and by any other person having a freehold interest, a possessory interest entitled to exclusive possession, a contractual interest which may become a freehold interest, an option to purchase, or any exclusive possessory interest which is specifically enforceable on the land which is described in the application for amendment to the map.

(B) **Standards for Amendment to the Map.** The Planning Commission shall not make a recommendation to the Board of Trustees to grant any amendment to the map unless, in each specific case, the Planning Commission has found that:

- (1) The proposed amendment is in harmony with the general purposes and intent of this Code;
- (2) The proposed amendment is in the public interest and is not solely for the interest of the applicant;
- (3) The conditions upon which the application for an amendment is based are generally applicable to other property within the same zoning classification, and are not unique to a specific property; and
- (4) The granting of the amendment will not be detrimental to the public welfare or injurious to other property or improvements of the Village.

(C) Every application for an amendment to the map shall be filed by the applicant in the office of the Village Clerk and mailed directly to the Chairman of the Zoning Board of Appeals, on a form provided by the Village Clerk, who shall thereafter forward to all members of the Zoning Board of Appeals, without delay, a copy of the amendment to the map, and make available all of the information constituting the record upon which the application to amend was made. The Village Clerk shall also file every application for amendment to the map with the St. Clair County Soil and Water Conservation District, as per state law. **(70 ILCS 405/22.02(a))**

(D) In addition to the required application form, the Village Clerk shall require the applicant to submit the following:

- (1) A site plan, drawn to scale, showing the actual ground area, height and bulk of all existing and proposed buildings and structures, the lot lines and dimensions, the location of building lines to the lot lines, the location of any signs, easements, underground utilities, septic tanks, tile fields, and water wells; the name and locations of adjoining streets; and the location of driveways and off-street parking areas in relation to those streets.

(E) The Planning Commission shall schedule and hold a public hearing within **sixty (60) days** after the application for amendment to the map is filed.

(F) Notice indicating the time, date, and place of the hearing, and the nature of the proposed amendment, shall be given not more than **thirty (30)** nor less than **fifteen (15) days** before said hearing.

- (1) By publication in a newspaper of general circulation, within the Village;
- (2) By first class mail to the applicant, and all parties affected, including those property owners whose property would be directly effected by the proposed amendment and rezoning.

(G) Any interested party, at any such hearing, may appear and testify either in person or by duly authorized agent or attorney. **(65 ILCS 5/11-13-6)**

- (1) Every applicant shall have the right to present witnesses on their behalf and to request that the Chairman subpoena persons to appear.

(H) The Planning Commission may recommend approval or denial of the proposed amendment to the text, upon the concurring vote of **four (4) members**.

(I) The Planning Commission shall submit such recommendation, including the reason or reasons for the recommendation, in writing to the Board of Trustees within a reasonable amount of time, but in no event shall that recommendation be submitted more than **thirty (30) days** after the public hearing on the application for amendment.

(J) The recommendation so submitted, shall be accompanied by findings of fact referring to any exhibits containing plans and specification for the proposed amendment, copies of which shall remain a part of the permanent record of the Planning Commission, and specifying the following:

- (1) The existing use of property within the general area of the property in question;
- (2) The zoning classification of the property within the general area of the property in question;
- (3) The suitability of the property in question for the uses permitted under the existing zoning classification;
- (4) The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place since the day the property in question was placed in its present zoning classification;
- (5) The conformance or nonconformance of the proposed amendment changing the zoning classification of the property in question to a classification other than that requested by the applicant.

(K) The Board of Trustees shall not act upon a proposed amendment to the map until it has received and reviewed a written recommendation and findings of fact from the Planning Commission.

(L) The Board of Trustees may grant or deny any proposed amendment to the map for which an application has been submitted, and on which a public hearing has been held, regardless of the recommendation from the Planning Commission; provided, however, that when a written protest against any proposed amendment to the map is filed with the Village Clerk, and 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, the amendment shall not be enacted except by a favorable vote of **two-thirds (2/3)** of the Board of Trustees.

- (1) In such cases, a copy of the written protest shall be served by the protestor or protestors, on the applicant for the proposed amendment, and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.

(M) The Board of Trustees, having voted to grant any amendment, shall adopt said amendment in ordinance form, at their next regularly scheduled meeting.

(N) If an application for an amendment to the map is not acted upon finally by the Board of Trustees within **ninety (90) days** from the date the Board of Trustees received the Planning Commissions recommendation, and such time is not extended by mutual consent of the Board of Trustees and the applicant, the amendment shall be deemed to have been denied.

(O) No application for an amendment to the map which has been denied by the Board of Trustees shall be resubmitted for a period of **one (1) year** from the date of the order of denial, except on the grounds of new evidence or proof that conditions then exist which did not exist prior to the submission of the application and which are found to be valid by the Board of Trustees.

(P) **Duration of Rezoning.** In any case where the boundary lines of the Official Zoning Map of the Village have been amended, and no development has occurred on the property in the **two (2) years** following enactment of the amending ordinance, the Planning Commission may hold a public hearing, after proper notice has been given, and recommend to the Board of Trustees that such zoning be affirmed, or repealed and rezoned to its most appropriate district classification.