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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. **(See 65 ILCS Sec. 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. (See 65 ILCS Sec. 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 immediately forwarded to the codifiers 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. **(See 65 ILCS Sec. 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; Salary Ordinances; Ordinances Establishing, Naming, or Vacating Streets, Alleys, or Other Public Places; Improvement Ordinances; Bond Ordinances; Ordinances Relating to Elections; Ordinances Relating to the Transfer or Acceptance of Real Estate by or from the Village; and all Special Ordinances.

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with streets and other public ways or relating to the conduct, duties, service or rates of public utilities shall be repealed by virtue of the adoption of this Code or by virtue of the preceding section, excepting as this Code shall be considered as amending such ordinance or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

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 No new ordinance shall be construed or held to repeal a former ordinance, whether such former ordinance is expressly repealed or not, as to any offense committed against such former ordinance or as to any act done, any penalty, forfeiture or punishment so incurred, or any right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

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

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shall be construed as abating any action now pending under or by virtue of any general ordinance of the Village herein repealed and the provisions of all general ordinances contained in this Code shall be deemed to be continuing provisions and not a new enactment of the same provision;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

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

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

VILLAGE CLERK'S CERTIFICATE

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

I, Marsha Sweet, Village Clerk of the **Village of New Berlin, Illinois**, do hereby certify that the following **Revised Code of Ordinances of the Village of New Berlin, Illinois of 1996**, published by authority of the Village Board of Trustees were duly passed by the Village Board of Trustees of the **Village of New Berlin, 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 Berlin, Illinois**, this 17th day of April, 1996.

/s/MARSHA SWEET
VILLAGE CLERK
VILLAGE OF NEW BERLIN

(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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"OFFICIAL TIME". Central Standard Time shall be the official time for the transaction of Village business, except during applicable Daylight Savings Time set by National or State standards when the official time shall be advanced one (1) hour. All clocks and other

timepieces in or upon public buildings or other premises maintained by or at the expense of the Village shall be set and run at the official time prescribed by this paragraph.

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

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

"PERSON" shall mean any natural individual, firm, trust, partnership, association, or corporation in his or its own capacity as administrator, conservator, executor, trustee, receiver or other representative appointed by the Court. Whenever the word "person" is used in any section of this Code prescribing a penalty or fine as applied to partnerships or any such word as applied to corporations, it shall include the officers, agents, or employees thereof who are responsible for any violation of said section.

"PERSONAL PROPERTY" shall include 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.

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

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

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

"WHOLESALE" AND "WHOLESALE DEALER" as used in this Code unless otherwise specifically defined, shall be understood to relate to the sale of goods, merchandise, articles, or things in quantity to persons who purchase for the purpose of 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 of such person, or in case he is unable to write, by his proper mark.

(In Part 65 ILCS Sec. 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 **Fifty Dollars (\$50.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for any **one (1) offense**.

(B) Any minor or person designated a juvenile by this State convicted of a violation of any section of this Code shall be fined not less than **Fifty Dollars (\$50.00)** 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) 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. **(See 65 ILCS Sec. 5/1-2-7 and 5/1-2-8)**

(F) **Community Service.** A penalty imposed for the violation of any section of this Code 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 public parks or along public highways or the maintenance of public facilities.

1-1-21 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.

1-1-22 LIABILITY OF OFFICERS. The failure of any officer or employee to perform any official duty imposed by this Code shall not subject such officer or employee to the penalty imposed for violation of this Code, unless a penalty is specifically provided for.

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. **(See 65 ILCS Sec. 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 third Wednesday of each month at 7:00 P.M. When the meeting date falls upon a legal holiday, the meeting shall be held on the second Wednesday 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. **(See 65 ILCS Sec. 5/3.1-40-25 and 5 ILCS Sec. 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 Chief of Police or his 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. **(See 65 ILCS Sec. 5/3.1-40-25 and 5 ILCS Sec. 120/2.02 and 120/2.03)**

1-2-4 **VACANCY.** When a vacancy occurs, if more than **twenty-eight (28) months** remain in the term and the vacancy occurs not less than **one hundred thirty (130) days** before the general municipal election, next scheduled under the general election law, the office shall be filled for the remainder of the term at that general municipal election. During the period from the time that the vacancy occurs until the next election of Trustees, the Mayor shall appoint a qualified person to the office subject to the advice and consent of the Village Board. **(See 65 ILCS Sec. 5/3.1-10-50(B))**

1-2-5 COMMITTEES. The following standing committees of the Village Board are hereby established, to-wit:

- | | | |
|-----|-----------------------|-----------------------|
| (A) | (1) Finance | (4) Health & Safety |
| | (2) Utilities | (5) Personnel |
| | (3) Streets and Parks | (6) Zoning & Building |

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

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

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

(E) As provided by law, any report of a committee of the Board shall be deferred for final action thereon to the next regular meeting of the same after the report is made, upon the request of any **two (2) Trustees** present. **(See 65 ILCS Sec. 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. **(See 5 ILCS Sec. 120/1 and 120/2.06) (Ord. No. 2001-05; 08-15-01)**

1-2-6 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.

1-2-7 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. **(See 65 ILCS Sec. 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.

1-2-8 MEMBERS: NON-ATTENDANCE AT MEETING. Board members will not be paid if they do not attend a regular or special meeting in a particular month, unless the Village Board determines that such absence is the result of a good and sufficient reason. **(See Section 1-3-1 for salaries.) (See 65 ILCS Sec. 5/3.1-40-20) (Ord. No. 03-04; 02-19-03)**

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 and approval of the same, unless dispensed with by the Board of Trustees and correction of the journal of the proceedings of previous meetings.
- (4) Consideration of the Consent Agenda, if any.
- (5) Reports and communications from the Mayor and other Village Officers.
- (6) Visitors.
- (7) Reports of Standing Committees.
- (8) Reports of Special Committees.
- (9) Presentation of communications, petitions, resolutions, orders, and ordinances by the Board of Trustees.
- (10) Unfinished business.
- (11) Executive Session, if any.
- (12) Miscellaneous business.

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

(Ord. No. 08-08; 06-11-08)

(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.**

- (1) Persons desiring to be recognized and speak at open meetings of the Village Board or other public body of the Village are encouraged, but are not required, to notify the Village Board or other public body at least **one (1) working day** prior to the meeting of the subject matter upon which they wish to speak so that the Village and its staff can better respond to the person's concerns.
- (2) Persons addressing the Village Board or other public body of the Village shall be recognized at the time set forth on the agenda for the meeting.
- (3) Prior to addressing the Village Board or other public body of the Village, a person shall state his or her name and give a home or business address with telephone number or email address at which the person can be reached.
- (4) Persons shall be recognized in the order determined by the Village President or other officer presiding at the meeting. A person shall have the floor for a maximum of **five (5) minutes** unless that time

- is extended in the discretion of the Village President or other presiding officer.
- (5) If a group of persons share a particular concern, the group will be encouraged, but not required, to appoint one or more spokespersons to speak on behalf of the group.
 - (6) The Village President or other presiding officer may in his or her discretion limit a person's remark below the **five (5) minutes** provided in Rule No. 4 if the person's remarks are cumulative or duplicative of remarks already made by some other person.
 - (7) Persons addressing the Village Board or other public body of the Village shall do so with proper decorum and respect. The Village President or other presiding officer may terminate the presentation of any person violating this rule. Any person found by the Village President or other presiding officer to have violated this rule on **three (3)** separate occasions within a calendar year shall thereafter, for a period of at least **one (1) year**, be required to submit remarks or presentations to the Village only in writing.
 - (8) Persons addressing the Village Board or other public body at a special meeting shall limit their remarks to items on the agenda for the special meeting.
 - (9) Presentations to the Village Board shall be limited to a person's business with the Village or concerns regarding Village business, property, personnel or operations. The Village President or other presiding officer may terminate any presentation to the Village Board which includes personal attacks or the advancement of political, social or other agendas unrelated to the business, property, personnel or operations of the Village.
 - (10) Presentations to any public body other than the Village Board shall be limited to matters under the jurisdiction of such public body. The presiding officer may terminate any presentation which includes personal attacks or matters not under the jurisdiction of the public body.
 - (11) These rules are not a limit on the Village President's or other presiding officer's authority to expel persons who have breached the peace at a meeting.

(Ord. No. 11-03; 04-20-11)

(E) **Presentation of New Business.** When a Trustee wishes to present a communication, petition, order, resolution, ordinance or other original matter, he shall send it to the desk of the Clerk who 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.

[No Trustee shall speak longer than ten (10) minutes at any one (1) time, except by consent of the Village Board; and in closing debate on any question as above provided, the speaker shall be limited to five (5) minutes, except by special consent of the Board.]

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 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.

(CC) **Consent Agenda.** The corporate authorities of the Village at any meeting may by unanimous consent take a single vote by yeas and nays on the several questions of the passage of 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 that event the Clerk may enter the words "omnibus vote" or "consent agenda" in the journal in each case instead of entering the names of the members of Village Board voting "yea" and those voting "nay" on the passage of each of the designated ordinances, orders, resolutions, and motions included in the omnibus group or consent agenda. The taking of a single or omnibus vote and the entries of the words "omnibus vote" or "consent agenda" in the journal shall be a sufficient compliance to all intents and purposes and with like effect as if the vote in each case had been taken separately by yeas and nays on the question of the passage of each ordinance, order, resolution, and motion included in the omnibus group and separately recorded in the journal. **(Ord. No. 08-08; 06-11-08)**
(See 65 ILCS Sec. 5/3.1-40-15)

1-2-12AGENDA. An itemized agenda shall be posted by the Clerk or Deputy Clerk in advance of any meeting in accordance with the Open Meetings Act, which, in the case of a regular or special meeting, means at least **forty-eight (48) hours** prior to the scheduled date and time thereof. The agenda, together with supporting documentation including any items contained within the consent agenda, shall be furnished to Village President and all Trustees no later than **forty-eight (48) hours** prior to the posted date and time of any regular or special meeting, either by placing the agenda and supporting documentation in each member's mailbox at the Village Hall, or by email, or both. **(Ord. No. 08-08; 06-11-08) (See 5 ILCS Sec. 120/2.02)**

1-2-13RESERVED.

DIVISION III - ORDINANCES

1-2-14 ORDINANCES.

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

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

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

(D) **Ordinances - Approval-Veto.** All resolutions and motions (1) which create any liability against a 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 approved of them, he shall sign them. Those ordinances, resolutions and motions which the Mayor disapproves shall be returned to the Village Board, with his 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. **(See 65 ILCS Sec. 5/3.1-40-45)**

1-2-15 RECONSIDERATION--PASSING OVER VETO. Every resolution and motion, specified in **Section 1-2-14** and every ordinance, that is returned to the Village Board by the Mayor shall be reconsidered by the Village Board at the next regular meeting. If, after reconsideration, **two-thirds (2/3)** of all the Trustees then holding office on the Village Board shall 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. **(See 65 ILCS Sec. 5/3.1-40-50)**

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

1-2-17 RESERVED.

DIVISION IV - GENERAL PROVISIONS

1-2-18 CORPORATE SEAL.

(A) The Corporate Seal of the Village shall be the same as that heretofore provided and used by the Village. It shall be circular in form with the words, **"Village of New Berlin, Sangamon County, Illinois"** in the exterior circle, and the words **"Incorporated, Sept. 5, 1895, Village Seal"** in the interior circle. **(See 65 ILCS Sec. 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. **(See 65 ILCS Sec. 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. **(See 65 ILCS Sec. 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 general municipal election in April. **(See 65 ILCS Sec. 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. **(See 65 ILCS Sec. 5/3.1-15-15)**

NOTE: One (1) member may serve on the Library Board. (See 75 ILCS Sec. 5/4-1 and 50 ILCS Sec. 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).
(See 65 ILCS Sec. 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. **(See 65 ILCS Sec. 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. **(See 65 ILCS Sec. 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. **(See 65 ILCS Sec. 5/3.1-10-40)**

(H) **Conservators of Peace.**

(1) The Mayor 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. **(See 65 ILCS Sec. 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.

(See 65 ILCS Sec. 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. **(See 65 ILCS Sec. 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.

(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) A person is not eligible for the office of trustee unless that person has resided in the municipality, as the case may be, at least **one (1) year** next preceding the election or appointment. **(See 65 ILCS Sec. 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	\$ 3,000.00
(2)	Village Treasurer	50,000.00
(3)	Village Clerk	50,000.00
(4)	Police Chief	2,000.00

(B) **Premium Payment by Village.** The surety bonds required by law shall be paid by the Village. **(See 5 ILCS Sec. 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 TRUSTEES OF VILLAGES. No member of the board of trustees of any village, during the term of office for which he or she is elected, may accept, be appointed to, or hold any office by the appointment of the Mayor of the Board of Trustees, unless the board member is granted a leave of absence from such office, or unless he or she first resigns from the Board of Trustees, or unless the holding of another office is authorized by law. The board member may, however, serve as a volunteer fireman and receive compensation for that service. Any appointment in violation of this Section is void. **(See 50 ILCS Sec. 105/2)**

1-2-26 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 provision 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. **(See 745 ILCS Sec. 10/2-201 et seq.)**

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 **Ten Thousand Dollars (\$10,000.00)**, 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.

(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 **Ten Thousand Dollars (\$10,000.00)** 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. **(See 65 ILCS Sec. 5/2-2-12, 8-9-1 and 8-9-2)**

1-2-28 PECUNIARY INTEREST IN CONTRACTS -- PROHIBITION.

(A) No municipal officer shall be interested, directly or indirectly, in his own name or 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 and consideration of the contract, work, business or sale is paid either from the treasury or by any assessment levied by any statute or ordinance. No municipal officer shall be interested, directly or indirectly, in the purchase of any property which:

- (1) belongs to the municipality, or
- (2) is sold for taxes or assessments, or
- (3) is sold by virtue of legal process at the suit of the municipality.

(B) However, any elected or appointed member of the governing body and any person serving on a municipal advisory panel or commission may provide materials, merchandise, property, services or labor, if:

- (1) the contract is with a person, firm, partnership, association, corporation or cooperative association in which such interested member of the governing body of the municipality or advisory panel or commission member has less than a **seven and one-half percent (7 1/2%)** share in the ownership; and
- (2) in the case of an elected or appointed member of the governing body, such interested member publicly discloses the nature and extent of his interest prior to or during deliberations concerning the proposed award of the contract; and
- (3) in the case of an elected or appointed member of the governing body, 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; and

- (4) such contract is approved by a majority vote of those members presently holding office; and
- (5) 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
- (6) the award of the contract would not cause the aggregate amount of all such 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)**.

(C) In addition to the above exemption, any elected or appointed member of the governing body and any person serving on a municipal advisory panel or commission may provide materials, merchandise, property, services or labor if:

- (1) the award of the contract is approved by a majority vote of the governing body of the municipality provided that, in the case of an elected or appointed member of the governing body, any such interested member shall abstain from voting; and
- (2) the amount of the contract does not exceed **Two Thousand Dollars (\$2,000.00)**; and
- (3) the award of the contract would not cause the aggregate amount of all such 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)**; and
- (4) in the case of an elected or appointed member of the governing body, such interested member publicly discloses the nature and extent of his interest prior to or during deliberations concerning present for the purposes of establishing a quorum.

(D) 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 (1) or more members of the governing body being an officer or employee of the public utility company or holding interest if no more than **seven and one-half percent (7 1/2%)** in the public utility company, or holding an ownership interest of any 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 having such an interest shall be deemed not to have a prohibited interest under this Section.

(E) Any officer who violates this Section is guilty of a violation of this Code and in addition thereto any office held by such person so convicted shall become vacant and shall be so declared as part of the judgment of the court.

(F) Nothing contained in this Section, including the restrictions set forth in subsections (B), (C) and (D), shall preclude a contract or deposit of monies, loans or other financial services by a municipality with a local bank or local savings and loan association, regardless of whether a member or members of the governing body of the municipality are interested in such 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 or members holding such an interest in such a contract shall not be deemed to be holding a prohibited interest for purposes of this Act. Such interested member or members of the governing body must publicly state the nature and extent of their interest during deliberations concerning the proposed award of such a contract, but shall not participate in any further deliberations concerning the proposed award. Such interested member or members shall not vote on such a proposed award. Any member or members abstaining from participation in deliberations and voting under this Section may be considered present for purposes of establishing a quorum. Award of such a contract shall require approval by a majority vote of those members presently holding office. Consideration and award of any such contract in which a member or members are interested may only be made at a regularly scheduled public meeting of the governing body of the municipality. **(See 65 ILCS Sec. 5/3.1-55-10)**

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. **(See 65 ILCS Sec. 5/3.1-50-5 and 5/3.1-50-6)**

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 **six (6) months** prior to the general municipal election in which voting is held for those offices.

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 EXPENSES - REIMBURSEMENT. Each member of the corporate authorities may receive reimbursement from the municipality for expenses incurred by the member in attending committee meetings of the corporate authorities or for other expenses incurred by the member in the course of performing official duties. **(See 65 ILCS Sec. 5/3.1-50-15(B))**

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.

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 - 1-2-39 RESERVED.

DIVISION V - MAYOR

1-2-40 **ELECTION.** The Mayor shall be elected for a **four (4) year** term and shall serve until his successor is elected and has qualified. **(See 65 ILCS Sec. 5/3.1-15-5 and 5/3.1-25-15)**

1-2-41 **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. **(See 65 ILCS Sec. 5/3.1-35-35)**

1-2-42 **VACANCY.** If a vacancy occurs in the office of the Mayor 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, the vacancy shall be filled at that general municipal election. The Village Board shall elect one of its members as **"Acting Mayor"** who shall perform the duties and shall possess all the rights and powers of the Mayor until a successor to fill the vacancy has been elected and has qualified. **(See 65 ILCS Sec. 5/3.1-10-50)**

1-2-43 **CHIEF EXECUTIVE OFFICER.** The Mayor shall be the chief executive officer of the Village and he shall see to the enforcement of all laws and ordinances. He shall preside over the meetings of the Board of Trustees and perform such duties as may be required of him by statute or law. He shall have supervision over all of the executive officers and Village employees; provided, however, his control is subject to the power of the Village Board to prescribe the duties of various officers and employees. He 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. **(See 65 ILCS Sec. 5/3.1-15-10 and 3.1-35-20)**

1-2-44 **RESERVED.**

1-2-45 **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 official signature.

The Mayor may designate another to affix his 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 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. **(See 65 ILCS Sec. 5/3.1-35-30)**

1-2-46 **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. **(See 65 ILCS Secs. 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. **(See 50 ILCS Sec. 105/2)**

1-2-47 **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. **(See 65 ILCS Sec. 5/3.1-35-10)**

1-2-48 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.

1-2-49 FORMAL OCCASIONS. The Mayor shall act for and on behalf of the Village on formal occasions and receptions, but in his absence or inability to attend any such function, the Mayor may select any other Village officer to so act.

1-2-50 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 believes expedient. **(See 65 ILCS Sec. 5/3.1-35-5)**

1-2-51 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.

1-2-52 LOCAL LIQUOR COMMISSIONER. The Mayor is hereby designated as Local Liquor Commissioner with all the powers to license and/or revoke any Village liquor license according to State and Village laws. (See 235 ILCS Sec. 5/4-2)

1-2-53 HEALTH COMMISSIONER. The Mayor is hereby declared to be Health Commissioner with all powers to abate and remove all nuisances or health hazards within the jurisdictional boundaries of the Village authority as prescribed by law.

1-2-54 **DECIDING VOTE - MAYOR.** The Mayor shall preside at all meetings of the Village Board. He 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 capacity as Trustee, but he shall not be entitled to another vote in his capacity as Acting Mayor or Mayor Pro-tem. **(See 65 ILCS Sec. 5/3.1-45-5)**

1-2-55 **RESERVED.**

DIVISION VI - VILLAGE CLERK

1-2-56 **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 his successor is appointed and has qualified. **(See 65 ILCS Sec. 5/3.1-25-90 and 5/3.1-30-5)**

1-2-57 **VACANCY.** Whenever a vacancy in the office of Village Clerk appointed under the statutes occurs during the term, the vacancy shall be filled for the remainder of the term by the appointment of a clerk by the Mayor and with the advice and consent of the Board of Trustees. **(See 65 ILCS Sec. 5/3.1-25-90)**

1-2-58 **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. **(See 65 ILCS Sec. 5/1-2-5)**

(B) **Minutes; Records.** 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, he shall make a memorandum of the date of the passage, when published, and a memorandum of the publication of such ordinance. **(See 65 ILCS Sec. 5/3.1-35-90)**

(C) **Bonds.** He 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. **(See 65 ILCS Sec. 5/3.1-35-110)**

(D) **Issue Notices.** He 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. **(See 65 ILCS Sec. 5/1-2-4, 5/1-2-5 and 5/3.1-35-90)**

1-2-59 **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. He shall also, without delay, deliver to the Mayor, all ordinances or resolutions, orders and claims in his charge which may require to be approved or otherwise acted upon by the Mayor. **(See 65 ILCS Sec. 5/3.1-35-90)**

1-2-60 PREPARATION OF DOCUMENTS, COMMISSIONS AND LICENSES. The Clerk shall prepare all commissions, licenses, permits and other official documents required to be issued by him under this Code and shall attest the same with the corporate seal, and he shall, in like manner, attest all deeds for the sale of real estate owned and conveyed by this Village.

1-2-61 REPORT OF LICENSES. The Clerk shall report to the Village Board at its regular meeting each month and oftener if the Board so requires the data contained in his license register with respect to licenses issued during the previous month.

1-2-62 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.

1-2-63 ADMINISTRATION OF OATHS. The Clerk shall have the power to administer oaths or affirmations for all lawful purposes. **(See 65 ILCS Sec. 5/3.1-15-20)**

1-2-64 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 his 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]. **(See 65 ILCS Sec. 5/3.1-35-110)**

1-2-65 REPORTS. The Clerk shall, on or before the regular meeting in each month, make out and submit to the Village Board a statement or report in writing of all the moneys received and warrants drawn by him during the preceding month, showing therein from or what sources and on what account moneys were received, and for what purposes and on what account the warrants were drawn or paid.

1-2-66 **SUCCESSOR.** The Village Clerk shall carefully preserve in his office, all books, records, papers, maps and effects of every detail and description belonging to the Village or pertaining to his office, and not in actual use and possession of other Village officers; and upon the expiration of his official term, he shall deliver all such books, records, papers and effects to his successor in office. **(See 65 ILCS Sec. 3.1-10-35)**

1-2-67 **PAYMENTS.** The Clerk shall prepare daily an itemized list of all moneys received and shall deliver a copy of the same to the Village Treasurer and shall also pay over to the Treasurer all moneys received by him and take a receipt therefor.

1-2-68 **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.

1-2-69 **OTHER DUTIES.** In addition to the foregoing duties, the Clerk shall perform all such other duties pertaining to his office as are or may be imposed upon him by law or resolution or ordinance of the Village Board. **(See 65 ILCS Sec. 5/3.1-10-40)**

1-2-70 **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. **(See 65 ILCS Sec. 5/3.1-30-10 and 5/3.1-10-45 and 5/3.1-35-95)**

1-2-71 **RESERVED.**

DIVISION VII - VILLAGE TREASURER

1-2-72 **DEPARTMENT ESTABLISHED.** There is hereby established a department of the municipal government of the Village which shall be known as the "**Finance Department**". It shall embrace the Finance Committee and the Treasurer.

1-2-73 **FINANCE COMMITTEE.** The standing committee on Finance shall exercise a general supervision over the affairs of the Finance Department. It shall ascertain the condition and needs thereof; shall, from time to time, report the same to the Mayor and Village Board so that a full understanding thereof shall be had and generally, shall do all the acts necessary to promote the efficiency of the Department.

1-2-74 **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 he shall serve until his successor is appointed and has qualified. All vacancies shall be filled in the manner prescribed for the Village Clerk in Section 1-2-57 of this Chapter. **(See 65 ILCS Sec. 5/3.1-30-5)**

1-2-75 **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 therefor, specifying the date of payment, and upon what account paid, and he shall file copies of such receipts with the Clerk with his monthly reports. **(See 65 ILCS Sec. 5/3.1-35-40)**

1-2-76 **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. **(See 65 ILCS Sec. 5/3.1-35-40 and 5/3.1-35-45)**

1-2-77 **PERSONAL USE OF FUNDS.** The Municipal Treasurer shall keep all money belonging to the Municipality and in the Treasurer's custody separate and distinct from the Treasurer's own money and shall not use, either directly or indirectly, the Municipality's moneys 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. **(See 65 ILCS Sec. 5/3.1-35-55)**

1-2-78 **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. **(See 65 ILCS Sec. 5/3.1-10-45)**

1-2-79 **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. **(See 65 ILCS Sec. 5/3.1-35-85)**

1-2-80 **BOOKKEEPING.** The Treasurer shall keep his books and accounts in such a manner as to show with accuracy, all moneys received and disbursed by him 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 his office shall be, at all times, open to examination by the Mayor or the Finance Committee of the Board. **(See 65 ILCS Sec. 5/3.1-35-40)**

1-2-81 **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. **(See 65 ILCS Sec. 5/3.1-35-45)**

1-2-82 **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 moneys received by the Treasurer at the time required by law or by ordinances of the Village.

1-2-83 **YEAR-END REPORT.** Within **six (6) months** after the end of each fiscal year, the Treasurer shall prepare and file annually with the Village Clerk an account of monies received and expenditures incurred during the preceding fiscal year as specified in this Section. The Treasurer shall show the following in such account:

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

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

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

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

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

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

1-2-84 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 his estimates as nearly as may be of moneys necessary to defray the expenses of the corporation during the current fiscal year. He 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, he 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.

He 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, he shall give such other information to the Village Board as he 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. **(See 65 ILCS Sec. 5/3.1-35-115)**

1-2-85 DEPOSIT OF FUNDS.

(A) **Designation by Board.** The Treasurer is hereby required to keep all funds and moneys in his custody belonging to the Village in such places of deposit as have been designated by **Section 1-2-85(D)**. When requested by the Treasurer, the corporate authorities shall designate a bank or banks in which may be kept the funds and moneys 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 Municipal 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 Municipal 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 moneys of the municipality deposited with the bank or savings and loan association that exceeds the insurance limitation provided by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

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

(D) Each Municipal Treasurer may:

- (1) combine moneys 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 moneys of more than one fund of a single municipality or moneys of more than one municipality are combined for investment purposes, the moneys 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. **(See 65 ILCS Sec. 5/3.1-35-50 and 30 ILCS Sec. 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 moneys in his custody belonging to this municipality:

- (a) Illinois State Treasurer's Investment Pool
- (b) Warren-Boynton State Bank, New Berlin, IL
- (c)

1-2-86 - 1-2-87 RESERVED.

DIVISION VIII - JUDICIARY

1-2-88 APPOINTMENT OF ATTORNEY. The Attorney shall be appointed by the Mayor, by and with the advise and consent of the Village Board for the term of **one (1) year**, unless sooner removed for cause, and until his 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 an annual salary as determined by the appropriation ordinance, compensation for office services and advice, and shall receive reasonable fees for other services rendered when, in his judgment, or in the judgment of the Mayor or Village Board, the same are necessary or are for the best interests of the Village. **(See 65 ILCS Sec. 5/3.1-30-5)**

1-2-89 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 with certified copies of any ordinance, bond or paper in his keeping necessary to be filed or used in any suit or proceedings.

(B) **Preparation of Ordinances.** He 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 he shall draw such ordinances, bonds, forms and contracts, or examine and pass upon the same, as may be required of him by the Mayor, the Village Board, or any committee thereof.

(C) **Judgments.** He shall direct executions to be issued upon all judgments recovered in favor of the Village, and he shall direct their prompt service. He 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.** He 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.** He shall not be required to prosecute any suit or action arising under the ordinances of the Village when, upon investigation of the same, he shall become satisfied that the complaint was instituted maliciously, vexatiously, or without just cause; and he shall dismiss or discontinue any such suit or proceeding upon such terms as he may deem just or equitable.

(F) **Collection of Taxes.** He 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. He shall perform all legal services as may be required for those boards and commissions.

1-2-90 - 1-2-93 RESERVED.

DIVISION IX - VILLAGE ENGINEER

1-2-94 **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.

1-2-95 **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. He shall also examine all public works under his charge and see that the plans, estimates and specifications for the same are properly executed. He shall also receive a salary as established in the annual budget. **(See 65 ILCS Sec. 5/3-7-6)**

1-2-97 - 1-2-97 RESERVED.

DIVISION X - SUPERINTENDENT OF WATER AND SEWER

1-2-98 **EMPLOYMENT POSITION CREATED.** There is hereby created the employment of Superintendent of Streets. The Superintendent shall be hired and fired in accordance with the Village Personnel Code. **(See 65 ILCS Sec. 5/3.1-30-5) (Ord. No. 05-12; 06-22-05)**

1-2-99 **UTILITY SYSTEMS.** The Superintendent shall have charge of the operation and maintenance of the municipal water and sewer distribution systems as provided in Chapter 38 of this Code.

1-2-100 **DEPARTMENT EMPLOYEES.** All officers or employees assigned to the Department shall perform their duties subject to the orders and under the supervision of the Superintendent.

1-2-101 **PROPERTY CUSTODIAN.** The Superintendent shall be the custodian of all property of the Village which is not assigned to the care or custody of any other officer.

1-2-102 **EMPLOYMENT POSITION CREATED.** There is hereby created the employment of Superintendent of Water and Sewer. The Superintendent shall be hired and fired in accordance with the Village Personnel Code. **(Ord. No. 05-12; 06-22-05)**

1-2-103 **RESERVED.**

DIVISION XI - SUPERINTENDENT OF STREETS AND PARKS

1-2-104 **OFFICE CREATED.** There is hereby created the office of Superintendent of Streets and Parks, an executive office of the Village. The Superintendent shall be appointed by the Mayor with the advice and consent of the Village Board for a term of **one (1) year**.

1-2-105 **STREETS.** The Superintendent shall have charge of the construction and care of all public streets, alleys, and driveways in the Village, and with keeping the same clean. He shall see to it that all gutters and drains therein function properly and that the same are kept free from defects. He shall perform all the duties and responsibilities outlined in Chapter 28 and Chapter 33 of this Code.

1-2-106 **LIGHTING.** The Superintendent shall supervise the lighting of the public streets and alleys.

1-2-107 **DEPARTMENT EMPLOYEES.** All officers or employees assigned to the Department shall perform their duties subject to the orders and under the supervision of the Superintendent.

1-2-108 **PROPERTY CUSTODIAN.** The Superintendent shall be the custodian of all property of the Village which is not assigned to the care or custody of any other officer.

1-2-109 - 1-2-110 **RESERVED.**

DIVISION XI

CODE ENFORCEMENT OFFICER--ZONING ADMINISTRATOR

1-2-111 **CREATION OF POSITION.** There is hereby created the position of Zoning Administrator. The Zoning Administrator shall be hired under the provisions of Section 1-2-46 of the Revised Code. The Zoning Administrator shall also serve as the building inspector, flood plain inspector, and as the code enforcement officer. Additional duties shall be outlined in the zoning administrator's job description and may be amended from time to time by the Village Administrator.

1-2-112 **DUTIES.** The Zoning Administrator or his authorized representative shall administer and enforce the Zoning Code, as amended from time to time and is in effect, in accordance with the powers and duties therein set forth, and in furtherance of such authority shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE III - SALARIES

1-3-1 SALARIES OF VILLAGE OFFICIALS. The following salaries are hereby established for elected Village Officials:

(A) **Mayor.** The Mayor shall receive **Two Thousand Five Hundred Dollars (\$2,500.00)** per year plus **Ten Dollars (\$10.00)** for each special meeting. **(Ord. No. 04-20; 09-15-04)**

(B) **Trustees.** The Village Trustees shall receive **One Thousand Two Hundred Dollars (\$1,200.00)** per year plus **Ten Dollars (\$10.00)** per each special meeting. **(Ord. No. 02-11; 10-16-02)**

(C) **Village Clerk.** The Village Clerk shall be paid a salary of **One Thousand Two Hundred Dollars (\$1,200.00)** per year. The sum of **Ten Dollars (\$10.00)** shall be paid for each special meeting. **(Ord. No. 2002-02; 05-15-02)**

(D) **Village Treasurer.** The Village Treasurer shall be paid the sum of **One Thousand Three Hundred Fifty Dollars (\$1,350.00)** per year. The sum of **Ten Dollars (\$10.00)** shall be paid for each special meeting.

(E) **Payment.** The Village Clerk may pay the above officials' salaries on at least a semi-annual basis.

(Ord. No. 96-604; 11-20-96) (Ord. No. 98-17; 11-18-98)

1-3-2 SALARY OF PLAN COMMISSION/ZONING BOARD OF APPEALS. The Chairman of the Plan Commission and Zoning Board of Appeals shall receive a salary of **Fifty Dollars (\$50.00)** per meeting of either body. The members of the Plan Commission and Zoning Board of Appeals shall receive a salary of **Twenty-Five Dollars (\$25.00)** per meeting of either body. Provided, if both boards convene in on a single day, both meetings shall count as a single meeting for purposes of this Section. **(Ord. No. 12-04; 06-20-12)**

(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 IV - MANAGEMENT ASSOCIATION

1-4-1 PARTICIPATION. The Village Board of Trustees does hereby authorize and approve membership in the Illinois Municipal League Risk Management Association and directs the President 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.

1-4-2 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.

(Ord. No. 03-16; 09-17-03)

ARTICLE V – STATE GIFT BAN ACT

1-5-1 ADOPTION OF ACT.

(A) The State Gift Ban Act (**5 ILCS Sec. 425 et seq.**) is hereby adopted as required by Section 83 of the Act (**5 ILCS Sec. 425/83**).

(B) The solicitation or the acceptance of gifts prohibited to be solicited or accepted under the Act is prohibited by any elected or appointed official or any employee of the Village.

1-5-2 ETHICS OFFICER. To the extent authorized by law and to the extent required by Section 35 of the Act (**5 ILCS Sec. 425/35**), Marsha Sweet is appointed to serve as the “ethics officer” of the Village. The ethics officer’s duties shall be as provided in Section 35.

1-5-3 STATE LEGISLATIVE ETHICS COMMISSION; COMPLAINTS. All complaints for violation of the Act and this Article shall be filed with the State legislative ethics commission (created by Section 45(a)(6) of the Act).

1-5-4 FUTURE AMENDMENTS TO STATE GIFT BAN ACT. Any amendment to the State Gift Ban Act (**5 ILCS Sec. 425/1 et seq.**) that becomes effective after the passage of this Article shall be incorporated into this Article by reference and shall be applicable to the solicitation and acceptance of gifts. 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.

1-5-5 FUTURE DECLARATION OF UNCONSTITUTIONALITY OF STATE GIFT BAN ACT.

(A) If the Illinois Supreme Court declares the State Gift Ban Act (**5 ILCS Sec. 425/1 et seq.**) unconstitutional in its entirety, then this Article shall be repealed as of the date that the Supreme Court’s decision becomes final and not subject to any further appeals or rehearings. The Article 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.

(B) If the Illinois Supreme Court declares part of the State Gift Ban Act (**5 ILCS Sec. 425/1 et seq.**) 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 Article shall remain in full force and effect; however, that part of this Article relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the corporate authorities of the Village.

(Ord. No. 99-01; 05-19-99)

ARTICLE VI – VILLAGE OFFICIALS AND EMPLOYEE ETHICS

1-6-1 **DEFINITIONS.** As used in this Article, the following terms shall have the following meanings:

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

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

"Collective Bargaining" has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act (**5 ILCS 315/3**).

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

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

"Contribution" has the same meaning as that term is defined in Section 9-1.4 of the Election Code (**10 ILCS 5/9-1.4**).

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

"Employer" means the Village.

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

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

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

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

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

"Prohibited Political Activity" means:

(A) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.

(B) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.

(C) Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.

(D) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(E) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(F) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.

(G) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.

(H) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

(I) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

(J) Preparing or reviewing responses to candidate questionnaires.

(K) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

(L) Campaigning for any elective office or for or against any referendum question.

(M) Managing or working on a campaign for elective office or for or against any referendum question.

(N) Serving as a delegate, alternate, or proxy to a political party convention.

(O) Participating in any recount or challenge to the outcome of any election.

"Prohibited Source" means any person or entity who:

(A) is seeking official action (i) by an officer or (ii) by an employee, or by the officer or another employee directing that employee;

(B) does business or seeks to do business (i) with the officer or (ii) with an employee, or with the officer or another employee directing that employee;

(C) conducts activities regulated (i) by the officer or (ii) by an employee, or by the officer or another employee directing that employee; or

(D) has interests that may be substantially affected by the performance or non-performance of the official duties of the officer or employee.

"Village" means the Village of New Berlin, Illinois.

1-6-2 PROHIBITED POLITICAL ACTIVITIES.

(A) No officer or employee shall intentionally perform any prohibited political activity during any compensated time, as defined herein. No officer or employee shall intentionally use any property or resources of the Village in connection with any prohibited political activity.

(B) At no time shall any officer or employee intentionally require any other officer or employee to perform any prohibited political activity (i) as part of that officer or employee's duties, (ii) as a condition of employment, or (iii) during any compensated time off (such as holidays, vacation or personal time off).

(C) No officer or employee shall be required at any time to participate in any prohibited political activity in consideration for that officer or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise, nor shall any officer or employee be awarded additional compensation or any benefit in consideration for his or her participation in any prohibited political activity.

(D) Nothing in this Section prohibits activities that are permissible for an officer or employee to engage in as part of his or her official duties, or activities that are undertaken by an officer or employee on a voluntary basis which are not prohibited by this Article.

(E) No person either (i) in a position that is subject to recognized merit principles of public employment or (ii) in a position the salary for which is paid in whole or in part by federal funds and that is subject to the Federal Standards for a Merit System of Personnel Administration applicable to grant-in-aid programs, shall be denied or deprived of employment or tenure solely because he or she is a member or an officer of a political committee, of a political party, or of a political organization or club.

1-6-3 GIFT BAN – GENERAL RULE. Except as permitted by this Article, no officer or employee, and no spouse of or immediate family member living with any officer or employee (collectively referred to herein as “recipients”), shall intentionally solicit or accept any gift from any prohibited source, as defined herein, or which is otherwise prohibited by law or ordinance. No prohibited source shall intentionally offer or make a gift that violates this Section.

1-6-4 EXCEPTIONS TO GENERAL RULE. Section 1-6-1 is not applicable to the following:

(A) Opportunities, benefits, and services that are available on the same conditions as for the general public.

(B) Anything for which the officer or employee, or his or her spouse or immediate family member, pays the fair market value.

(C) Any (i) contribution that is lawfully made under the Election Code or (ii) activities associated with a fundraising event in support of a political organization or candidate.

(D) Educational materials and missions.

(E) Travel expenses for a meeting to discuss business.

(F) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual’s spouse and the individual’s fiance or fiancee.

(G) Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between

those individuals; (ii) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iii) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other officers or employees, or their spouses or immediate family members.

(H) Food or refreshments not exceeding **Seventy-Five Dollars (\$75.00)** per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to consume which are delivered by any means.

(I) Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of an officer or employee), if the benefits have not been offered or enhanced because of the official position or employment of the officer or employee, and are customarily provided to others in similar circumstances.

(J) Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intragovernmental gift" means any gift given to an officer or employee from another officer or employee, and "inter-governmental gift" means any gift given to an officer or employee by an officer or employee of another governmental entity.

(K) Bequests, inheritances, and other transfers at death.

(L) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than **One Hundred Dollars (\$100.00)**.

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

1-6-5 DISPOSITION OF GIFTS. An officer or employee, his or her spouse or an immediate family member living with the officer or employee, does not violate this Article if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

1-6-6 ETHICS ADVISOR. The Village Attorney shall be the Ethics Advisor for the Village. As such, the Village Attorney shall provide guidance to the officers and employees of the Village concerning the interpretation of and compliance with the provision of this Article and State ethics laws.

1-6-7 **PENALTIES.** Persons violating this Article shall be subject to a fine of up to **Seven Hundred Fifty Dollars (\$750.00)** per offense. Violations shall be prosecuted by the Village Attorney at the specific request of a majority of corporate authorities upon motion made, seconded and adopted. In any case where a member of the corporate authority is accused of a violation of this Article, such member shall abstain from any such vote. In any case of an alleged violation of this Article by the Village Attorney or by a member of the corporate authorities, the Village shall obtain separate counsel to handle the prosecution. In a case where the corporate authorities believe a criminal act has occurred, they may direct the Village Attorney to refer the matter to the States Attorney for prosecution.

(Ord. No. 04-07; 04-21-04)

CHAPTER 3

ANIMALS

ARTICLE I - GENERAL PROVISIONS

3-1-1 DEFINITIONS. For the purpose of this Chapter, all terms have the same meaning as in the Animal Control Act, **510 ILCS 5/1 et seq.** The following definitions shall apply unless the context clearly indicates or requires a different meaning.

"ADMINISTRATOR" means a veterinarian licensed by the State of Illinois and appointed by Sangamon County Animal Control, or in the event a veterinarian cannot be found and appointed, a non-veterinarian may serve as Administrator under this Chapter. In the event the Administrator is not a veterinarian, the Administrator shall defer to a veterinarian regarding all medical decisions.

"ANIMAL" means every living creature, other than man, which may be affected by rabies.

"ANIMAL CONTROL WARDEN" means any person appointed by the Administrator to perform the duties set forth in this Act, and those designated by the Chief of Police whose duty it is to enforce the provisions of this Chapter.

"AT LARGE". Any animal not under restraint as defined herein.

"BITE". To seize 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.

"CAT" shall mean all members of the family Felidae.

"CHIEF OF POLICE". The Chief of the Village Police Department.

"CONFINED" means restriction of an animal at all times by the owner, or his agent, to an escape-proof building, house, or other enclosure away from other animals and the public.

"COUNTY". Sangamon County, Illinois.

"COUNTY ANIMAL CONTROL PERSONNEL". Personnel who are employed by the County to take up domestic animals and transport them to the County Pound, or take

up wild animals and dispose of them in accordance with the procedures of the County Animal Control Department.

"COUNTY POUND". The animal pound operated by the County Animal Control Department.

"DANGEROUS DOG". "Dangerous dog" means any individual dog when 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 a companion animal in a public place.

"DEPARTMENT OF AGRICULTURE" means the Department of Agriculture of the State of Illinois.

"DOG". All members of the family Canidae.

"ENCLOSURE". A fence or structure of at least **six (6) feet** in height, forming or causing an enclosure suitable to prevent the entry of young children, and suitable to confine a vicious dog in conjunction with other measures that may be taken by the owner or keeper, such as tethering of the vicious dog within the enclosure. The enclosure shall be securely enclosed and locked and designed with secure sides, top, and bottom and shall be designed to prevent the animal from escaping from the enclosure. If the enclosure is a room within a residence, the dog must be locked. A vicious dog may be allowed to move about freely within the entire residence if it is muzzled at all times.

"FERAL CAT". A cat that (i) is born in the wild or is the offspring of an owned or feral cat and is not socialized, or (ii) is a formerly owned cat that has been abandoned and is no longer socialized or lives on a farm.

"FIGHT". A prearranged conflict between or among **two (2)** or more animals, but does not include a conflict that is unorganized or accidental.

"IMPOUNDED". Taken into the custody of the public animal control facility in the city, town, or county where the animal is found.

"INOCULATION AGAINST RABIES" means the injection, subcutaneously or otherwise, as approved by the Department of Agriculture of the canine anti-rabies vaccine approved by the Department.

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

"LIVESTOCK". Cattle, cows, horses, sheep, swine, goats, chickens, ducks, turkeys, geese, and any other animals commonly recognized as livestock.

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

"NIP". To pinch or squeeze with teeth with no breaking of skin or tissue.

"OWNER" OR "KEEPER". A person having a right of property in an animal, who keeps or harbors such animal, who cares for or who acts as its custodian, or who knowingly permits an animal to remain on or about any premises occupied by such person.

"POLICE ANIMAL". An animal owned or used by a law enforcement department or agency in the course of the department or agency's work.

"POLICE OFFICER". The Chief of Police of the Village, or any police officer employed by the Village, or any police officer from another jurisdiction operating in the Village under a mutual aid agreement or under the direction of the Chief of Police of the Village.

"POUND" or "ANIMAL CONTROL FACILITY". May be used interchangeably and mean any facility approved by the Administrator for the purpose of enforcing this Act and used as a shelter for seized, stray, homeless, abandoned, or unwanted dogs or other animals.

"PUBLIC ENTRANCE". The entranceway of a residence or other building closest to the public street or sidewalk or one which would be reasonably perceived by the public to be the entrance to the dwelling available for public use.

"REGISTRATION CERTIFICATE". A printed form prescribed by the Department for the purpose of recording pertinent information as required by the Department under this Act.

"RESTRAINT". An animal is under restraint if it is:

- (A) Attached to a leash held by a responsible person;
- (B) Attached to a structure or fixture in such a manner that it is unable to reach beyond the limits of the owner's or keeper's property and is unable to reach or molest service persons or casual visitors to the owner's or keeper's property using the public entrance or persons placing mail in the mailbox or delivering newspapers at the request of the owners; or

(C) Enclosed in a fenced yard from which it is unable to escape without assistance from a person; or

(D) On the property of its owner or keeper authorized by the owner, and under voice command.

Herding of animals, and tethering of animals for grazing purposes it not "under restraint" as defined herein.

"VICIOUS DOG". A dog that, without justification, attacks a person, and causes serious physical injury or death or any individual dog that has been found to be a "dangerous dog" upon **three (3)** separate occasions.

"WORKING DAY". Any day when the office or public entity referred to was open for the transaction of business.

3-1-2 EXERCISE OF CERTAIN POWERS.

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

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

3-1-3 KEEPING OF CERTAIN ANIMALS PROHIBITED.

(A) The keeping of livestock within the corporate limits of the Village is prohibited, except in areas in the Village zoned agricultural.

(B) The keeping of undomesticated animals within the Village is prohibited.

(C) The keeping of more than **three (3) dogs** or **three (3) cats** on one zoning lot within the Village is prohibited, provided this Section does not apply to a litter of pups or kittens less than **five (5) months** of age.

3-1-4 INOCULATION OF DOGS; INOCULATION TAG AFFIXED TO COLLARS. Each calendar year, or at such intervals as may hereafter be promulgated by the Department of Agriculture, every owner or keeper of a dog which is **four (4) months** of age or older 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 at all times.

3-1-5 INOCULATION TO BE PERFORMED BY LICENSED VETERINARIAN; ISSUANCE OF CERTIFICATE.

(A) The inoculation of dogs required by this Chapter shall be performed by a veterinarian, duly licensed to practice in this State or in the State where the inoculation occurred. On performing such inoculation, such veterinarian shall issue to the owner or keeper a certificate of such fact.

(B) Each owner or keeper is responsible for obtaining annually from the County Clerk a metallic tag suitable for attaching to the collar of such dog which tag shall also certify to the fact of inoculation against rabies. The tag shall be in such form as shall be determined by the Department of Agriculture and adopted for use by the County Clerk.

3-1-6 DURATION OF INOCULATION. The inoculation performed under the provisions of **Section 3-1-4** shall be effective until the expiration of a 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.

3-1-7 EXHIBITION OF CERTIFICATE UPON REQUEST. At any reasonable time on request of any member of the Police Department or animal control officer, the owner or keeper of any dog shall exhibit any current, valid certificate, required under the provisions of this Code, certifying the inoculation against rabies of any dog owned or kept by him.

3-1-8 RESTRAINT OF DOGS AND OTHER ANIMALS. Owners and keepers of dogs and other animals shall keep the dogs and other animals under restraint at all times and shall not permit such dogs and other animals to be at large. Any animal found running at large contrary to provisions of this Code may be apprehended and impounded.

3-1-9 ANIMALS AS NUISANCES.

(A) The owner or keeper of an animal shall not suffer or permit the animal to bark, howl, cry, or make other distressing or loud or unusual noise or to disturb the peace or quiet of any place, neighborhood, family, or person in the Village. The disturbing of any neighborhood or persons by any such animal is declared to be a nuisance, and no person shall suffer or permit any such nuisance to exist.

(B) In addition to the general restrictions of paragraph (A), for the purpose of this Section, an owner or keeper is in violation of this Section if he or she permits a dog to bark in a substantially continuous manner between the hours of **10:00 P.M.** and **7:00 A.M.** for a period of more than **fifteen (15) minutes**, or who allows

such animal to bark, howl or cry for numerous periods of time, regardless of duration, so as to disturb the quiet of the neighborhood or of particular neighbors.

(C) In case any animal shall repeatedly disturb the peace or quiet of any place or neighborhood or become a nuisance as defined in this Code, the Village police department may contact animal control to remove the animal for placement in the Sangamon County Animal Pound.

(D) The owner may redeem the animal from the Sangamon County Animal Pound pursuant to **Section 3-1-22**. Failure to redeem the animal will result in its disposition pursuant to **Section 3-1-23**.

3-1-10 KEEPING ANIMALS. No person shall house or keep animals in any pen, stable, yard, confinement structure, or any other place in such a manner that associated debris or odors are unreasonably offensive to persons residing in the vicinity or passing along any nearby street or alley, or constitute a hazard to the health of persons residing nearby. Any pen, stable, yard, confinement structure or other place where animals are housed or kept in violation of this Section is declared to be a nuisance.

3-1-11 BITING ANIMALS. No owner or keeper of an animal shall suffer, permit, or fail to prevent an animal from biting or attacking a person or another animal resulting in injury to the person or animal attacked, provided that such an attack on a person who is or reasonably appears to be in the commission of a criminal act is not prohibited if the animal is acting in the defense of the owner or keeper of his or her family or premises, and the animal remains on its premises. For purposes of this Section, it is not necessary that the person bitten or attacked be arrested or convicted of a criminal offense.

3-1-12 CONFINEMENT; WARNING OF DANGEROUS ANIMALS. No person shall own, keep, or harbor within the Village an animal known to be dangerous or vicious, unless such person shall keep such animal safely and securely confined so as to protect from injury any child or other person who may come on the premises in the vicinity where such animal may be located. Adequate warning by sign, or otherwise, shall be given to all persons coming on the premises in the vicinity of any such vicious or dangerous animal.

3-1-13 KILLING OR ATTACKING ANIMALS.
(A) No person shall kill or wound or attempt to kill or wound by the use of firearms, sling shot, bow and arrow, B-B gun, air rifle, or any other dangerous weapon, any animal within the Village limits, provided that this Section shall not prohibit

a person from defending himself or another from attack by an animal. This Section does not prohibit the use of a weapon by a police officer to destroy animals which are seriously injured to avoid unnecessary suffering, or in self-defense or defense of others.

(B) Any owner seeing his or her livestock, poultry, or equidae being injured, wounded, or killed by a dog, not accompanied by or not under the supervision of its owner, may kill such dog.

3-1-14 CRUELTY TO ANIMALS. No person shall commit acts of cruelty to animals. The following acts shall be deemed to be examples of cruelty to animals and are not intended to be a complete list of acts which may constitute cruelty. Doctors or veterinary medicine, in the performance of their profession, are not subject to the provisions of this Section.

(A) Overloading, overdriving, overworking, beating, torturing, tormenting, mutilating, or killing any animal or causing or knowingly allowing the same to be done.

(B) Cruelly working any old, maimed, injured, sick, or disabled animal or causing or knowingly allowing the same to be done.

(C) Failing to provide any animal in one's charge or custody, as owner or keeper, with proper food, drink, shelter, air, sanitation, or medical care.

(D) Abandoning any animal without making provisions for its care and feeding.

3-1-15 COCK FIGHTING; DOG FIGHTING. No person shall use or keep animals or be in any way connected with the management of any place kept or used for the purpose of fighting or baiting any dogs, cocks, or other animals or permit such place to be kept or used on premises owned or controlled by such persons.

3-1-16 DEAD ANIMALS.

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

(B) Animals remains shall be disposed of:

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

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

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

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

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

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

3-1-17 INJURED ANIMALS; ANIMALS FOUND DEAD ON PUBLIC WAY.

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

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

3-1-18 INTERFERENCE WITH ENFORCEMENT. No person shall, in any way, interfere with any person who is known to such person to be or who identifies himself to be and is in fact, a Village or County employee or other officer enforcing the provisions of this Chapter or engaged in catching or impounding any animal under the authority of this Chapter.

3-1-19 AUTHORITY TO IMPOUND ANIMALS AND ENTER ONTO PRIVATE PROPERTY.

(A) It shall be the duty of police officers to request the County Animal Control Personnel to take up and impound in the County Animal Pound any animal found at large or any dog found in the Village without inoculation tags contrary to any of the provisions of this Chapter, or statutes of the State.

(B) Police officers and County Animal Control Personnel are authorized to go on private property in order to enforce this Chapter or to take up any animal which is believed to be at large or take up any dog found without required inoculation tags; however, such persons may not enter a private dwelling house for this purpose without a valid warrant or the consent of the occupant. Nor shall such persons remove an animal believed to be at large without reasonably attempting to ascertain whether the property on which the animal is found is owned by the owner or the authorized keeper of the animal.

3-1-20 IMPOUNDMENT OF DOGS OR OTHER ANIMALS WHICH HAVE BITTEN PERSONS.

(A) Any dog whether under restraint or not, which shall have bitten or otherwise injured any persons so as to cause an abrasion of the skin shall be immediately taken by the Police Department or County Animal Control Personnel, impounded at the County Pound, and kept separated from other animals for **ten (10) days**. The Chief of Police and Sangamon County Animal Control Personnel may reduce such period of confinement. The victim of such bite shall notify the Police Department of the bite within **twenty-four (24) hours**. If during that period such animal develops symptoms of illness, a veterinarian shall diagnose its condition. If the symptoms disclose or are such as to indicate the presence of rabies, the animal shall be destroyed in such manner, however, as to preserve intact the head, which shall be detached and immediately sent to the diagnostic laboratory of the Department of Agriculture. In case the animal cannot be safely taken up and impounded, it may be killed, care being taken to preserve the head intact which shall be detached and immediately delivered to the diagnostic laboratory of the Department of Agriculture.

(B) If at the expiration of the period of **ten (10) days**, no symptoms of rabies have developed in such animal so impounded, the same may be redeemed by the owner or keeper on payment of the redemption fees and charges specified by this Code.

(C) After having been notified that his or her animal has bitten or otherwise injured any person, the owner or keeper thereof shall not, under any circumstances, permit such animal to be outside of his premises except on a leash with

a responsible adult until the procedures prescribed in subsections (A) and (B) of this Section have been completed. An owner who has knowledge that his or her animal has bitten or otherwise injured any person and knows that the Police Department or Sangamon County Animal Control Center is investigating a claim shall not under any circumstances trade, sell, or give away the animal until such investigation is complete.

3-1-21 NOTICE TO OWNERS OR KEEPERS OF IMPOUNDMENT AND VIOLATION. The Police Department shall make best efforts to notify the owners or keepers of animals impounded pursuant to this Chapter, if known to them, of the fact of impoundment and the procedures for redemption of the impounded animal. Such notification shall be independent of any citation for ordinance violation, but may be served together with a citation for ordinance violation. Notice shall be sufficient if substantially in the form attached to this Chapter as Appendix A. Notice shall be given within **twenty-four (24) hours** of impoundment, either by personal service, or if the owner is not at home when service is made, by taping the notice to the front door of the residence of the owner, if known.

3-1-22 REDEMPTION OF IMPOUNDED ANIMALS.
(A) An animal impounded under the provisions of this Chapter, except an animal that may have bitten any person, shall, unless sooner redeemed, be held until it may be disposed of pursuant to **Section 3-2-27** in order to afford opportunity to the owner or keeper thereof to redeem the same. Any owner or keeper desiring to redeem an impounded animal shall pay an impounding fee of **Fifty Dollars (\$50.00)** per animal payable to the Sangamon County Animal Control Center in the form of cash, cashier's check or money order in addition to the fees and set forth in subparagraph (B). Prior to disposition, animals shall be held for a minimum of **three (3) calendar days**, if the owner is not known, and for a minimum of **seven (7) calendar days**, if the owner is known, in order to give the owner an opportunity to redeem the animal. Animals which have bitten persons are subject to an impoundment of at least **ten (10) days** in the Sangamon County Pound.

(B) Pursuant to an intergovernmental agreement with the Village, Sangamon County will remit the impounding fee to the Village. Any owner or keeper desiring to redeem an impounded animal shall, as a condition of release:

- (1) Show proof of inoculation or pay the requisite deposit as set forth in subparagraph (D); and
- (2) Pay to County Animal Control Officer, or reimburse the Village, for all fees charged by Sangamon County Pound or to be charged by Sangamon County Pound for responding to any and all calls with respect to the animal, picking up the animal, and boarding the animal. Sangamon County Animal Control's hourly charges and boarding fees for impounded

animals are established by Sangamon County and are outside the Village's control.

(C) If the animal is in the County Pound, it may be released only upon the owner's showing of proof of inoculation, or by payment by the owner of the Sangamon County Pound's charges for inoculation. If the owner cannot show proof of inoculation, then in addition to all other charges, the owner shall pay Sangamon County Animal Control the amount of money required for inoculation, which fee is established by Sangamon County.

(D) The owner of an impounded animal shall pay the Sangamon County Animal Control Center directly for all impoundment fees, costs, and services rendered. In the event that the Village is billed for the fees, costs, and services rendered, the Village will be entitled to collect costs from the owner in the amount of **Eighty Dollars (\$80.00)** per hour for each call with a minimum **one (1) hour** charge and boarding fees for impounded animals of **Ten Dollars (\$10.00)** per day.

3-1-23 VICIOUS DOG (ANIMALS).

(A) In order to have an animal deemed "vicious", an Animal Control Officer, Chief of Police, or the Village Attorney, must give notice of the infraction that is the basis of the investigation to the owner. The police department shall conduct a thorough investigation, interview any witnesses, including the owner, gather any existing medical records, veterinary medical records or behavioral evidence, and make a detailed report recommending a finding that the animal is a vicious animal and give the report to the States Attorney's Office and the owner. The State's Attorney, or Village Attorney, or Animal Control Officer may file a complaint in the circuit court to deem a dog to be a vicious dog. Testimony of a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert may be relevant to the court's determination of whether the dog's behavior was justified. The petitioner must prove the dog is a vicious dog by clear and convincing evidence. Sangamon County Animal Control shall determine where the animal shall be confined during the pendency of the case. The provisions and appeal rights of this Section shall be carried out pursuant to Section 15 of the Animal Control Act, **510 ILCS 5/15.**

(B) If the dog is found to be a vicious dog, the dog shall be spayed or neutered within **ten (10) days** of the finding at the expense of its owner and microchipped, and subject to enclosure. A dog found to be a vicious dog shall not be released to the owner until the Animal Control Warden, or Chief of Police approves the enclosure. No owner or keeper of a vicious dog shall sell or give away the dog without court approval. Whenever an owner of a vicious dog relocates, he or she shall notify both the Administrator of County Animal Control where he or she has relocated and the Administrator of County Animal Control where he or she formerly resided.

(C) It shall be unlawful for any person to keep or maintain any dog which has been found to be a vicious dog unless the dog is kept in an enclosure. The only times that a vicious dog may be allowed out of the enclosure are (i) if it is

necessary for the owner or keeper to obtain veterinary care for the dog, (ii) in the case of an emergency or natural disaster where the dog's life is threatened, or (iii) to comply with the order of a court of competent jurisdiction, provided that the dog is securely muzzled and restrained with a leash not exceeding **six (6) feet** in length, and shall be under the direct control and supervision of the owner or keeper of the dog or muzzled in its residence.

Any dog which has been found to be a vicious dog and which is not confined to an enclosure shall be impounded by the Administrator, an Animal Control Warden, or the law enforcement authority having jurisdiction in such area.

If the owner of the dog has not appealed the impoundment order to the circuit court in the County in which the animal was impounded within **fifteen (15) working days**, the dog may be euthanized.

Upon filing notice of appeal, the order of euthanasia shall be automatically stayed pending the outcome of the appeal. The owner shall bear the burden of timely notification to animal control in writing.

Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and sentry, guard, or police-owned dogs are exempt from this Section; provided, an attack or injury to a person occurs while the dog is performing duties as expected. To qualify for exemption under this Section, each such dog shall be currently inoculated against rabies in accordance with Section 8 of this Act. It shall be the duty of the owner of such exempted dog to notify the Administrator of changes of address. In the case of a sentry or guard dog, the owner shall keep the Administrator advised of the location where such dog will be stationed. The Administrator shall provide police and fire departments with a categorized list of such exempted dogs, and shall promptly notify such departments of any address changes reported to him.

3-1-24 DANGEROUS DOG (ANIMAL) DETERMINATION.

(A) After a thorough investigation including: sending, within **three (3) days** of the Chief of Police or Animal Control Officer becoming aware of the alleged infraction, notifications to the owner of the alleged infractions, the fact of the initiation of an investigation, and affording the owner an opportunity to meet with the Chief of Police or Animal Control Officer prior to the making of a determination; gathering of any medical or veterinary evidence; interviewing witnesses; and making a detailed written report, an animal control warden, or Chief of Police, may ask the Administrator of Sangamon County Animal Control, or his or her designee, to deem a dog to be "dangerous". No dog shall be deemed a "dangerous dog" without clear and convincing evidence. The owner shall be sent immediate notification of the determination by registered or certified mail that includes a complete description of the appeal process.

(B) A dog shall not be declared dangerous if the Administrator, his or her designee, or the Director determines the conduct of the dog was justified because:

- (1) The threat was sustained by a person who at the time was committing an offense upon the owner or custodian of the dog;
- (2) The threatened person was tormenting, abusing, assaulting, or physically threatening the dog or its offspring;
- (3) The injured, threatened, or killed companion animal was attacking or threatening to attack the dog or its offspring; or
- (4) The dog was responding to pain or injury or was protecting itself, its owner, custodian, or a member of its household, kennel, or offspring.

(C) Testimony of a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert may be relevant to the determination of whether the dog's behavior was justified pursuant to the provisions of this Section.

(D) If deemed dangerous, the Administrator, or his or her designee, or the Director shall order the dog to be spayed or neutered within **fourteen (14) days** at the owner's expense and microchipped, if not already, and one or more of the following as deemed appropriate under the circumstances and necessary for the protection of the public:

- (1) Evaluation of the dog by a certified applied behaviorist, a board certified veterinary behaviorist, or another recognized expert in the field and completion of training or other treatment as deemed appropriate by the expert. The owner of the dog shall be responsible for all costs associated with evaluations and training ordered under this subsection; or
- (2) Direct supervision by an adult **eighteen (18) years** of age or older whenever the animal is on public premises.

(E) The Administrator or Chief of Police may order a dangerous dog to be muzzled whenever it is on public premises in a manner that will prevent it from biting any person or animal, but that shall not injure the dog or interfere with its vision or respiration.

(F) Guide dogs for the blind or hearing impaired, support dogs for the physically handicapped, and sentry, guard, or police-owned dogs are exempt from this Section; provided, an attack or injury to a person occurs while the dog is performing duties as expected. To qualify for exemption under this Section, each such dog shall be currently inoculated against rabies and performing duties as expected. It shall be the duty of the owner of the exempted dog to notify the Administrator of changes of address. In the case of a sentry or guard dog, the owner shall keep the Administrator advised of the location where such dog will be stationed. The Administrator shall provide police and fire departments with a categorized list of the exempted dogs, and shall promptly notify the departments of any address changes reported to him or her.

3-1-25 **DANGEROUS DOG; LEASH.** It is unlawful for any person to knowingly or recklessly permit any dangerous dog to leave the premises of its owner when not under control by leash or other recognized control methods.

3-1-26 **DANGEROUS DOG; APPEAL.**

(A) The owner of a dog found to be a dangerous dog to this Chapter by an Administrator may file a complaint against the Administrator in the circuit court within **thirty-five (35) days** of receipt of notification of the determination, for a de novo hearing on the determination pursuant to Section 15.3 of the Animal Control Act; **510 ILCS 5/15.3.**

(B) The owner of a dog found to be a dangerous dog pursuant to this Act by the Director may, within **fourteen (14) days** of receipt of notification of the determination, request an administrative hearing to appeal the determination pursuant to the Department of Agriculture's rules applicable to formal administrative proceedings; 8 Ill. Adm. Code Part 1, Sub Parts A and B.

(C) Until the order has been reviewed and at all times during the appeal process, the owner shall comply with the requirements set forth by the Administrator, the court, or the Director.

(D) At any time after a final order has been entered, the owner may petition the circuit court to reverse the designation of dangerous dog.

3-1-27 **DISPOSITION OF ANIMALS.** Any dog or other animal, which has not been redeemed within the time specified in **Section 3-1-22** shall be humanely destroyed or otherwise disposed of by the director of the County Animal Pound.

(Ord. No. 05-10; 06-22-05)

ARTICLE II - PENALTIES AND ENFORCEMENT

3-2-1 CITATIONS IN ORDINANCE VIOLATION CASES.

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

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

3-2-2 PROSECUTION OF VIOLATIONS.

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

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

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

3-2-3 FINES AND PENALTIES. Any person found to have violated this Chapter shall, in addition to boarding costs and impoundment fees required herein, be fined as follows:

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

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

(B) For violation of any section of this Chapter pertaining to vicious, dangerous or biting animals not less than **Two Hundred Fifty Dollars (\$250.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)** for each offense.

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

(Ord. No. 05-10; 06-22-05)

ADDENDUM "A"

INTERGOVERNMENTAL COOPERATION AGREEMENT FOR ANIMAL CONTROL SERVICES

This AGREEMENT is entered into by SANGAMON COUNTY, for and on behalf of its Department of Public Health (hereinafter called the Department) and the Village of New Berlin (hereinafter called the Village) for Animal Control Service.

WHEREAS, Section 10 of Article 7 of the 1970 Constitution of the State of Illinois and Section 3 of the Intergovernmental Cooperation Act (**5 ILCS 220/3**) provides that a public agency may enter into an intergovernmental agreement with other public agencies to obtain services;

WHEREAS, there is a need to respond to requests for animal control services within the Village; and,

WHEREAS, under the provisions of the Intergovernmental Cooperation Act, **5 ILCS 220/1 et seq.**, governmental units of the State of Illinois are permitted to enter into Intergovernmental Cooperation Agreements for any lawful purpose;

WHEREAS, there is a need to remove stray or straying dogs and other animals subject to impoundment from within the Village upon the request of the Village; and,

WHEREAS, the Department has the capacity to provide such services through its Animal Control Center; and,

WHEREAS, the Department, by and through the Sangamon County Department of Public Health, has been designated as the supervising and administrative agent to administer and oversee all animal control functions as defined in the Illinois Animal Control Act and County ordinances attendant thereto by the County of Sangamon; and,

IT IS THEREFORE AGREED AS FOLLOWS:

1. The Department agrees to provide to the Village the same services as provided by the Sangamon County Animal Control Ordinance.
2. The Department will respond to the request for animal control services only from the Village Police Department. They will not respond to a request from a Village resident. Villages that do not have 24-hour police coverage may make arrangements with the Director of Public Health for alternative notification protocol.

3. For services provided by the Department from May 1, 2012 through April 30, 2013, the Village agrees to pay the Department the amount of \$70.70, payable by November 1, 2012. This fee covers animal control officer response and boarding costs for animals impounded.
4. The yearly payment for services to the Board by the Village for each successive year shall be adjusted by the number of calls and boarding days recorded for the Village during the previous year.
5. The Department agrees to provide yearly reports to the Village breaking down the number of calls responded to and number of boarding days for impounded animals on the request of the Village Police Department.
6. This agreement shall continue in effect from year to year unless terminated by either party giving written notice to the other at least thirty days prior to the annual renewal date.
7. This agreement shall become effective upon execution of this agreement by the Mayor or President of the Village and by the Director of Public Health of Sangamon County.

Sangamon County

/s/ Stephen R. Frank
Village Mayor/President

10/22/12
Date

10/17/12
Date

(Ord. No. 12-15; 10-17-12)

EXHIBIT "A"

A supplement to Item No. 2 of the Intergovernmental Cooperation Agreement for Animal Control Services approved by the Board of Trustees of the Village of New Berlin on May 19, 2004.

In the event that an Officer of the New Berlin Police Department is not on duty, a Village Official will contact the Sangamon County Sheriff's Department at 753-6666 and request assistance for animal control services.

Only calls from the following Village Officials will be recognized and responded to:

William M. Pfeffer, Mayor

Joel Sander, Clerk

Mary E. Pfeffer, Deputy Clerk

Ryan Sours, Chairman of the Health and Safety Committee

(Ord. No. 04-09; 05-19-04)

CHAPTER 6

BUILDING REGULATIONS

ARTICLE I – BUILDING CODE

6-1-1 **ADOPTION OF INTERNATIONAL BUILDING CODE.** Pursuant to Section 1-3-1 of the Illinois Municipal Code, 2003 edition of the International Building Codes as published by the International Code Council, (“the IBC”) is hereby adopted as the Building Code of the Village. The IBC shall control all matters concerning the construction, alteration, addition, repair, removal, demolition, use, location, occupancy, and maintenance of all buildings and structures, other than one and two family dwellings, and shall apply to existing or proposed building and structures, except if such matters are otherwise provided for in this Code or in other ordinances or statutes or rules or regulations of the Village. The IBC shall also govern the removal and demolition of all buildings and structures, including one and two family dwellings. **(Ord. No. 11-10; 09-21-11)**

6-1-2 **ADOPTION OF ONE AND TWO FAMILY DWELLING CODE.** Pursuant to Section 1-3-1 of the Illinois Municipal Code, the 2003 edition of the International Residential Codes for One and Two Family Dwellings as published by the International Code Council, (“the IRC”) is hereby adopted by reference as the One and Two Family Dwelling Code of the Village. The IRC shall control all matters concerning construction, prefabrication, alteration, repair, use, occupancy, and maintenance of detached one or two family dwellings and one family townhouses not more than **three (3) stories** in height, and their accessory structures.

6-1-3 **PERMIT APPLICATIONS AND INSPECTIONS.**
(A) **Building Permits.**

- (1) Notwithstanding anything contained to the contrary in the IBC and IRC, the Village’s building permit review shall be limited to a plan review and a building plan review. The Village shall not itself perform any building inspections or issue occupancy permits as set forth in the IBC and IRC.
- (2) All applications for building permits shall be on a form provided by the Building Administrator and shall be accompanied by a site plan, and the appropriate application fee.
- (3) The form provided by the Building Administrator shall contain the following legend, to be initialed as applicable in each case by the applicant:

_____ THE APPLICANT CERTIFIES THAT THE STRUCTURE TO WHICH THIS APPLICATION APLIES HAS BEEN DESIGNED AND SHALL BE BUILT IN ACCORDANCE WITH THE INTERNATIONAL BUILDING CODE, 2003 EDITION, THE CURRENT EDITION OF THE ILLINOIS PLUMBING CODE AND THE 1998 EDITION OF THE INTERNATIONAL MECHANICAL CODE. ALL SUBCONTRACTORS

AND THE OWNER HAVED BEEN OR WILL BE NOTIFIED OF THIS CERTIFICATION.

_____ THE APPLICANT CERTIFIES THAT THE STRUCTURE TO WHICH THIS APPLICATION APPLIES HAS BEEN DESIGNED AND SHALL BE BUILT IN ACCORDANCE WITH THE INTERNATIONAL RESIDENTIAL CODE FOR ONE AND TWO FAMILY DWELINGS, 2003 EDITION, THE CURRENT EDITION OF THE ILLINOIS PLUMBING CODE AND THE 1998 EDITION OF THE INTERNATIONAL MECHANICAL CODE. ALL SUBCONTRACTORS AND THE OWNER HAVE BEEN OR WILL BE NOTIFIED OF THIS CERTIFICATION.

- (4) Upon receipt of the application for building permit, the Building Administrator shall perform a site plan review and a plan review and shall issue or deny the permit within **five (5) working days**. Any denial shall be accompanied with a statement of reasons, in writing. In case of denial, the applicant may resubmit the application with changes within **thirty (30) days** without paying additional permit fees.

(B) **Demolition Permits.** The Building Code Administrator shall prescribe a form for an application for a demolition permit containing, as a minimum, the information set forth in **Appendix "A"** to this Chapter.

All demolitions shall be completed within **ninety (90) days** of the issuance of the permit. A demolition permit may be re-issued for good cause shown, with the payment by the permittee of a reissuance fee of **Two Hundred Fifty Dollars (\$250.00)**.
(Ord. No. 11-120; 09-21-11)

6-1-4 PERMIT FEES. Building permit fees shall be as follows:

(A) **New Construction.** Application fee of **Seven Cents (\$0.07)** per square foot of living space or **One Hundred Dollars (\$100.00)** minimum, plus a **Fifty Dollar (\$50.00)** inspection fee. Re-inspections are **Fifteen Dollars (\$15.00)** per inspection.

(B) **Remodeling.** **Fifty Dollar (\$50.00)** application fee plus **Twenty-Five Dollars (\$25.00)** inspection fee if remodeling project does not involve an increase in the square footage of living space. If the project involves an increase in the square footage of living space the inspection fee is **Fifty Dollars (\$50.00)**. Base application fee is waived if project cost is less than **One Thousand Dollars (\$1,000.00)**. Inspection fees still apply. Re-inspections are **Fifteen Dollars (\$15.00)** per inspection.

(C) **Changes or Alterations.** Changes or alterations to an approved permit will require a new permit application at a fee of **One Hundred Dollars (\$100.00)**.

(D) **Demolition Permit Fee.** **Sixty-Five Dollars (\$65.00)**.

(E) **Fees Non-Refundable.** If a permit application is rejected, the applicable base permit fee and the plan review fee will not be refunded.

(Ord. No. 04-26; 12-15-04)
(Formerly in Chapter 41)

ARTICLE II – PLUMBING CODE

6-2-1 ADOPTION OF ILLINOIS PLUMBING CODE.

(A) The Illinois State Plumbing Code 1993 ("ISPC"), promulgated pursuant to authority granted by the Illinois Plumbing License Law, as amended from time to time, is hereby adopted and incorporated herein by reference pursuant to the authority of the Illinois Municipal Code; provided that in the event any of the provisions of the said ISPC are in conflict with any other applicable Code, regulation or Ordinance of the Village, the more restrictive provision shall prevail, except that in the event of such conflict with the provisions of **Chapter 40** of the Village Code (as amended by this Chapter or hereafter), the provisions of **Chapter 40** shall prevail.

(B) For the purpose of this Chapter any reference to the ISPC will mean the 1993 Edition of the Illinois State Plumbing Code as amended from time to time; any reference in the ISPC and this Chapter to the governing body or the appointing authority shall be read as meaning the President and Board of Trustees of the Village of New Berlin, Illinois; any reference to the Village will mean the Village of New Berlin, Illinois; and any further reference to the Trustee will mean the Trustee who is the Chairman of the Zoning and Building Committee of the Village Board. Any reference to the Code Official and/or Plumbing Inspector will mean the person or persons appointed from time to time by the President and Board of Trustees of New Berlin, Illinois to administer the Plumbing Code.

(Ord. No. 04-26; 12-15-04)
(Formerly in Chapter 41)

ARTICLE III – ELECTRICAL CODE

6-3-1 ADOPTION OF THE NATIONAL ELECTRICAL CODE.

(A) The National Electrical Code, 1999 Edition ("NEC"), as published by the National Fire Protection Association, is hereby adopted and incorporated herein by reference pursuant to the authority of the Illinois Municipal Code; provided that in the event any of the provisions of the said NEC are in conflict with the Illinois Municipal Code or any other applicable Code, regulation or Ordinance of the Village, the more restrictive provision shall prevail, except that in the event of such conflict with the provisions of **Chapter 40** of the Village Code (as amended by this Chapter or hereafter), the provisions of **Chapter 40** shall prevail.

(B) For the purpose of this Chapter any reference to the NEC will mean the 1996 Edition of the National Electrical Code; any reference in the NEC and this Chapter to the governing body or the appointing authority shall be read as meaning the President and Board of Trustees of the Village of New Berlin, Illinois; any reference to the Village will mean the Village of New Berlin, Illinois; and any further reference to the Trustee will mean the Trustee who is the Chairman of the Zoning and Building Committee of the Village Board. Any reference to the Code Official and/or Electrical Inspector will mean the person or persons appointed from time to time by the President and Board of Trustees of New Berlin, Illinois to administer the Electrical Code.

(Ord. No. 04-26; 12-15-04)
(Formerly in Chapter 41)

ARTICLE IV – MECHANICAL CODE

6-4-1 ADOPTION OF INTERNATIONAL MECHANICAL CODE.

(A) The International Mechanical Code, 1998 Edition ("IMC"), as published by the Building Officials and Code Administrators International, Inc. is hereby adopted and incorporated herein by reference pursuant to the authority of the Illinois Municipal Code; provided that in the event any of the provisions of the said IMC are in conflict with the Illinois Municipal Code or any other applicable Code, regulation or Ordinance of the Village, the more restrictive provision shall prevail, except that in the event of such conflict with the provisions of **Chapter 40** of the Village Code (as amended by this Chapter or hereafter), the provisions of **Chapter 40** shall prevail.

(B) For the purpose of this Chapter any reference to the IMC will mean the 1998 Edition of the International Mechanical Code; any reference in the IMC and this Chapter to the governing body or the appointing authority shall be read as meaning the President and Board of Trustees of the Village of New Berlin, Illinois; any reference to the Village will mean the Village of New Berlin, Illinois; and any further reference to the Trustee will mean the Trustee who is the Chairman of the Zoning and Building Committee of the Village Board. Any reference to the Code Official and/or Mechanical Inspector will mean the person or persons appointed from time to time by the President and Board of Trustees of New Berlin, Illinois to administer the Mechanical Code.

(Ord. No. 04-26; 12-15-04)
(Formerly in Chapter 41)

ARTICLE V - GENERAL PROVISIONS GOVERNING ALL CODES

6-5-1 **EXCEPTIONS TO ADOPTION BY REFERENCE.** Certain sections of the Codes adopted by reference in this Chapter shall be of no force and effect, as follows:

- (A) Any provision of the Codes pertaining to penalties for violation there.
- (B) Any section of the Codes pertaining to construction inspection and inspection fees.
- (C) Any section of the Codes pertaining to appeals of decisions of any building, plumbing or electrical Administrator.
- (D) Any provision of any of the above Codes, other than the Illinois Plumbing Code, relating to plumbing. It is the intent of this Chapter that the State of Illinois Plumbing Code shall control all matters relating to plumbing.

6-5-2 **RESOLUTION OF CONFLICTS AMONG CODES.** In the event of conflicts among the Codes adopted pursuant to this Chapter, or among such Codes and this Chapter, the following rules shall apply:

- (A) The provisions of this Chapter shall prevail over the provisions of any Code.
- (B) The Illinois Plumbing Code shall prevail over the provisions of any other Code.
- (C) The IRC shall prevail over the IBC with respect to one and two family dwellings.
- (D) In the event of any other conflict, the most stringent requirement shall apply.

6-5-3 **CREATION OF OFFICES TO ENFORCE CODE.**

- (A) There is hereby created the office of Building Administrator, who shall perform the site and plan reviews as set forth in this Chapter.
- (B) The Building Administrator shall have the powers and duties of the Code Official and Building Official as defined in the Codes adopted in this Chapter. The Building Administrator may have other duties prescribed by the Village Board not related to his duties as Building Administrator. The Building Administrator shall be an officer of the Village appointed by the Mayor with the advice and consent of the Board of Trustees for an indefinite term not to exceed the term of office of the Mayor who appointed him.

6-5-4 **APPEALS.**

- (A) **General.** The provisions of this Division are inconsistent in some respects with the appeal provisions in the Codes adopted in this Chapter.
- (B) **Application for Appeal.** Any applicant or holder of a building permit aggrieved by an adverse decision of the Building Administrator shall have the right to appeal within **thirty (30) days** of the decision to the Zoning Board of Appeals. A petition for appeal shall be in writing and shall state the basis for the appeal. Any basis for appeal not stated in the petition shall be deemed waived at the subsequent hearing.
- (C) The petition to appeal shall be submitted to the Village Clerk, who shall forward the petition to the Building Administrator within **two (2) working days**. For

decisions of the Building Administrator other than stop work orders, the Zoning Board of Appeals, shall convene a meeting and conduct hold a hearing within **thirty (30) working days** of the Clerk's receipt of the petition. For decisions involving a stop work order, the Zoning Board of Appeals shall convene and conduct a hearing within **seven (7) working days** of the Clerk's receipt of the petition.

(D) At the hearing, the Applicant shall have the right to be heard and present witnesses. The Building Administrator shall be present and shall state the basis of the denial, and may present witnesses in rebuttal of the Applicant's position. The Zoning Board of Appeals shall render its decision within **thirty (30) days** of the hearing. Decisions shall be in writing. A person aggrieved by the decision of the Zoning Board of Appeals shall have a right to review under the Administrative Review Law.

6-5-5 GENERAL PROVISIONS.

(A) No structure, fence, or swimming pool in the Village shall be constructed, enlarged, altered or repaired without a permit being issued by the Building Administrator. All work performed pursuant to any permit issued hereunder shall meet the requirements for workmanship, methods and materials as set forth in the Codes adopted in this Chapter and all requirements of the Zoning Code and other applicable ordinances of the Village. The permit shall be posted on the premises at the time the work is commenced.

(B) Notwithstanding the above or any provision in the Codes adopted pursuant to this Chapter, a building permit shall not be required for the following:

- (1) Cases, counters and partitions not over **five (5) feet** high;
- (2) Painting, papering, window replacement and/or window additions, and similar finish work;
- (3) Temporary motion picture, television and theater stage sets and scenery;
- (4) Window awnings supported by an exterior wall when projecting out not more than **fifty-four (54) inches**;
- (5) Interior alterations and remodeling, does not constitute or affect corridors, exit ways, and load-bearing members of those structures.
- (6) Applying siding.

6-5-6 GRANDFATHER CLAUSE. No existing building or structure not in compliance with any of the Codes adopted herein as of the effective date of this Chapter or of any amendment hereto, and no building, the foundation of which has been laid as of the effective date of this Chapter or any amendment hereto which is completed within **six (6) months** of the effective date of this Chapter or the amendment, shall be deemed to be in violation of this Chapter by reason of continuation of the noncomplying condition; nor is any owner required to bring any such structure into compliance with any Code adopted hereunder.

6-5-7 PENALTIES. Any person violating this Chapter or the Codes adopted herein shall, upon conviction, be subject to a fine of not less than **Fifty Dollars (\$50.00)** per day and not more than **Seven Hundred Fifty Dollars (\$750.00)** per day for each day a violation exists. In addition, the Village may seek equitable relief in a court of law to restrain violations of this Chapter and of Codes adopted pursuant to this Chapter, or to compel compliance with a stop work order.

**(Ord. No. 04-26; 12-15-04)
(Formerly in Chapter 41)**

ARTICLE VI - SWIMMING POOLS

6-6-1 **DEFINITION.** The term “**swimming pool**” is hereby defined as any receptacle for water, either above or below ground level, that is intended to be used for the immersion or partial immersion of human beings, and includes all appurtenant equipment.

6-6-2 **REGULATIONS.** In regard to the operation, use, and maintenance of private swimming pools, the following regulations shall be complied with:

(A) No portion of a swimming pool outside a building shall be located at a distance less than **eight (8) feet** from any side or rear property line, or building line. Pumps, filters and pool water disinfection equipment installations shall be located at a distance not less than **eight (8) feet** from any side property line. **(See Ch. 40 - Zoning)**

(B) It shall be unlawful to proceed with the construction, installation, enlargement or alteration of any private residential swimming pool and appurtenances within the Village unless permits therefor shall have first been obtained from the building inspector. The fee for a permit for the construction of a swimming pool shall be **Ten Dollars (\$10.00)**.

(C) All drawings and plans for the construction, installation, enlargement or alteration of any swimming pool and appurtenances shall first be presented to the building inspector for examination and approval as to proper location and construction.

(D) All private residential swimming pools, appurtenances, water supply and drainage systems shall be constructed in conformity with the approved plans.

(E) All outdoor swimming pools shall be completely enclosed by a fence. All fence openings or points of entry into pool area enclosure shall be equipped with gates. The fence and gates shall be not less than **four (4) feet**, nor more than **six (6) feet** in height above the grade level and shall be constructed of a minimum number 9 gauge woven wire mesh corrosion-resistant material, or similar material. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate.

(F) **Two (2)** or more means of egress in the form of steps or ladders shall be provided for all swimming pools.

(G) Every swimming pool shall be equipped with facilities for completely emptying the water therefrom. The water so emptied from the pool shall not be permitted to run into sanitary sewers or onto abutting property.

(H) For safety purposes, life-saving buoys, ropes, and poles shall be maintained within the pool fence.

(I) Whenever night lighting shall be installed, the rays of such lighting shall be directed away from abutting property.

(J) Any noise resulting from the use of any swimming pool shall be substantially diminished after **10:00 P.M.**, so that abutting and nearby residents are not disturbed.

(K) It shall be unlawful to construct, maintain, use, or enlarge any swimming pool in the Village except in compliance with all the provisions of this Code and the Zoning Code.

(Ord. No. 507; 06-06-78)

ARTICLE VII - FIRE REGULATIONS

6-7-1 **DEFINITIONS.** The following terms shall apply with regard to this Article:

"Flammable Liquids" as used in this Article shall be construed to mean coal oil, benzene, turpentine, gasoline, propane, petroleum or any products thereof in liquid form.

"Explosive" shall mean gunpowder, black powder, nitroglycerine, T.N.T., dynamite, and similar materials except for ammunition and very small amounts used only for medicinal purposes.

"Extinguish" shall be defined to mean that the flame is completely dead and that no smoldering exists.

6-7-2 **EXPLOSIVES.** It shall be unlawful to store any explosives within the Village.

6-7-3 **TANKS AND RECEPTACLES.** It shall be unlawful to store any flammable liquids in any other but lead-proof metallic tanks or receptacles in the Village. Provided, that receptacles and tanks of other materials may be used if such material used is leak and absorption proof. It shall be unlawful to store any flammable liquids in greater quantity than **fifteen (15) gallons** in any building in the Village, except in an underground tank. Tanks containing more than **fifteen (15) gallons** of such liquids must be equipped with adequate escape valves.

6-7-4 **OPEN BURNING OF REFUSE.** The outdoor burning of refuse, including but not limited to paint, oil, automobiles, tires, plastics, building materials, grass and weed clippings, garbage, trash, debris or any other noxious combustible materials, within the boundaries of the Village is hereby prohibited; however, nothing in this Article shall be construed to prohibit the burning of wood, charcoal, gasoline or other clean fuel oil, or natural gas, in a fireplace, grill, or a like facility for cooking or social heating purposes. Recreation fires may burn until midnight. All recreation fires shall be extinguished after **12:00 midnight**.

6-7-5 **LEAF BURNING.** The burning of leaves or trees and shrubbery trimmings and clippings is permitted providing:

(A) The burning is conducted between the hours of **10:00 A.M.** and sunset.

(B) The burning is not conducted on any public street, alley or thoroughfare; and all leaf and shrub burning shall be confined to **two (2) feet** or more of the edge of the oil mat.

(C) The burning shall not create a visibility hazard on streets or railroad tracks.

(D) All residue that is produced by the burning of lawful items shall be cleaned, and the area shall be restored to a normal state within **five (5) working days**.

6-7-6 **LOCATION.** No fires shall be started within **one hundred (100) feet** of any gasoline station, fertilizer plant or storage area, elevator or business establishment. No fires shall be built or lit so close to any building or other structure or any street or sidewalk or pavement as to endanger it. Burning containers and burning barrels may be placed not less than **eight (8) feet** from the tar patch, street pavement, or other improved street surface; but in no event shall burning containers or burning barrels block or obstruct any public sidewalk, street or other public thoroughfare. **(Ord. No. 97-01; 11-20-96)**

6-7-7 **BURNING REQUIREMENTS.** No fires shall burn for more than **four (4) consecutive hours**. All fires shall be completely extinguished by sunset. All fires shall be personally attended by someone over the age of **sixteen (16) years**.

6-7-8 **FIRE HAZARDS.** Upon finding any hazardous or dangerous condition, it shall be the duty of the Fire Chief or any other person so designated by the Mayor to direct that such conditions be corrected. As a guide to giving orders or suggestions for correction of hazardous fire conditions, either as to buildings or materials therein, or the business operated therein, the Fire Chief is hereby authorized to use the "Fire Prevention Code", as required by the National Board of Fire Underwriters and the rules and regulations as therein set forth.

6-7-9 **INSPECTIONS.** The Fire Chief may enter and inspect any premises or materials therein, for the purpose of eliminating conditions that might present fire hazards, when the Fire Chief:

- (A) Has the consent of the owner or occupant of the premises; or
- (B) Has reasonable cause to believe that the premises present a fire hazard and has obtained a search warrant identifying the premises to be entered and the purpose of the inspection.

6-7-10 **ENFORCEMENT OF ORDERS.** All persons shall obey the orders and directions of the Fire Chief issued to enforce the provisions of this Article. All police officers shall be empowered to write citations for any violations of this Code and/or ordinances as pertaining to burning.

(November, 1992)

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 Municipal 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. Whenever a license or permit is required in this Code or in any municipal ordinance for the maintenance, operation, or conduct of any business or establishment, or for doing business or engaging in any activity or occupation, any person, firm, or corporation shall be subject to the requirement if by himself or itself, or through an agent, employee or partner, he or it is held forth as being engaged in the business, activity or occupation, or if he or it solicits patronage therefor actively or passively; or if he or it performs or attempts to perform any part of such business, activity or occupation in this municipality.

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. 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 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.

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 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 RESERVED.

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.

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 prospective customers for application or purchase of insurance of any type, kind or character or;
- (C) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication or;
- (D) 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 municipality 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; also, Social Security Number.
- (B) Address of place of residence during the past **three (3) years** if other than present address.
- (C) Age of applicant and marital status; and if married, the name of spouse.

- (D) Physical description of the applicant.
- (E) Name and address of the person, firm or corporation or association with whom the applicant is employed or represents; and the length of time of such employment or representation.
- (F) Name and address of employer during the past **three (3) years** if other than the present employer.
- (G) Description sufficient for identification of the subject matter of the soliciting in which the applicant will engage.
- (H) Period of time for which the Certificate is applied.
- (I) The date or approximate date of the latest previous application for a Certificate under this Chapter, if any.
- (J) Has a Certificate of Registration issued to the applicant under this Chapter ever been revoked?
- (K) Has the applicant ever been convicted of a violation of any of the provisions of this Code or the regulations of any other Illinois municipality regulating soliciting?
- (L) Has the applicant ever been convicted of the commission of a felony under the laws of the State of Illinois or any other State or Federal law of the United States?
- (M) The last **three (3) municipalities** where the applicant carried on business immediately preceding the date of application in this municipality and the address from which such business was conducted in those municipalities.
- (N) Also, such additional information as the Chief of Police may deem necessary to process the application.

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

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

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

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

7-2-4 **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. If no determination is made as is provided in Section 7-2-7 hereof, then in that event, registration is not required

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 four inches (3" x 4")** 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 inch (1/3")** 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.** of any weekday 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 **10:00 A.M.** or after **5:00 P.M.** of any weekday 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 solicitors, 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 **EXCLUSIONARY PROVISION.** 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:** **\$50.00 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, pin-ball machines or other similar games. The term does not include vending machines in which there are not incorporated gaming or amusement features.

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

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

7-4-2 **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 a citizen of the United States.

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

(C) 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.

(D) Any person whose license issued under this Chapter has been revoked for cause.

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

(F) 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.

(G) 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.

(H) 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 shall be **Twenty Dollars (\$20.00) 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 municipality, and all applications for renewal shall be made to the Clerk not more than **thirty (30) days, but no less than fifteen (15) days** prior to the expiration of such license.

7-4-6 **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 PLACEMENT; GAMBLING PROHIBITED.

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

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

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

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.

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

ARTICLE V - RAFFLE CODE

7-5-1 **DEFINITIONS.** Unless the context otherwise requires, the words and phrases herein defined are used in this Code in the sense given them in the following definitions:

"NET PROCEEDS" means 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.

"RAFFLE" means a form of lottery, as defined in **Section 28-2, subparagraph (b) of the Criminal Code of 1961**, conducted by an organization licensed under this Article in which:

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

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

The definitions contained in **Section 15/2, of Chapter 230; (Ill. Comp. Stat.)** are hereby adopted by reference as if fully set out herein. **(See 230 ILCS Sec. 15/1)**

7-5-2 **ADMINISTRATION.** The Mayor is hereby charged with the administration of the appropriate provisions of this Code, and may appoint persons to assist in the exercise of the powers and the performance of the duties herein provided, including, but not limited to, the members of his staff, the Village Attorney, the Village Clerk, and the Chief of Police. **(See 230 ILCS Sec. 15/2)**

7-5-3 **LICENSE REQUIRED.** No person or organization shall conduct or partake in the selling of raffle chances within the limits and territory of this Village without having a license to do so issued by the Mayor in a manner hereinafter provided and a valid license for such purpose as provided by the Illinois Compiled Statutes. Licenses shall be issued only 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 or to a nonprofit fundraising organization that the licensing authority 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. **(See 230 ILCS Sec. 15/2)**

(A) The above mentioned types of organizations shall be defined pursuant to the Illinois Compiled Statutes and incorporated herein;

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

(C) The manager of a raffle game shall give a fidelity bond in the sum of **One Thousand Dollars (\$1,000.00)** 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 majority 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.

(D) Any license issued under this Code shall be nontransferable.

7-5-4 APPLICATIONS FOR LICENSE. The Mayor is authorized to grant and issue licenses to eligible organizations to conduct raffles and to participate in the sale of raffle tickets within the limits and territory of the Village upon the conditions and in the manner provided by this Code 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 Village Clerk with the seal of his office affixed thereto.

Prior to the issuance of a license, the applicant shall submit to the Village Clerk an application, in triplicate, in writing and under oath stating the following:

(A) The name and address of the organization;

(B) The type of organization that is conducting the raffle, i.e., religious, charitable, labor, fraternal, educational, veterans or other;

(C) The length of time the organization has continually existed immediately before making application for a license;

(D) The applicant shall give the aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle;

(E) The applicant will give the maximum retail value of each prize awarded by a licensee in a single raffle;

(F) The amount that the organization plans to charge for each raffle chance issued or sold;

(G) The time and location where the raffle is to be held;

(H) The purpose for which the proceeds of the raffle will be used;

(I) The name and address of the person conducting and performing the raffle, and his relationship with the organization;

(J) The last date which the applicant has applied for a raffle license;

(K) The area in which the organization plans to sell or issue its raffle chances;

(L) Whether or not the applicant has ever been convicted of a felony.

7-5-5 APPLICATION: ISSUANCE. All licenses issued by the Mayor or Village Clerk are subject to the following restrictions:

(A) No person, firm or corporation shall conduct raffles or chances without having first obtained a license therefor pursuant to this Code.

(B) The license and application for a license shall specify the area or areas within the licensing authority in which raffle chances will be sold or issued, the time period during which raffle chances will be sold or issued, the time of determination in winning chances, and the location or locations with which winning chances will be determined.

(C) The application shall contain 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.

(D) The Mayor shall act upon a license application within **thirty (30) days** from the date of application.

(E) The application for license shall be prepared in accordance with this Code.

(F) A license authorizes the licensee to conduct raffles as defined in this Code. **(See 230 ILCS Sec- 15/3)**

7-5-6 PROHIBITED LICENSEES. The following are ineligible for any raffle license:

(A) Any person who has been convicted of a felony.

(B) Any person who is or has been a professional gambler or gambling promoter;

(C) Any person who is not of good moral character;

(D) Any firm or corporation in which a person defined in paragraphs (A), (B) or (C) above has a propriety, equitable or credit interest, or in which such a person is active or employed;

(E) Any organization in which a person defined in paragraphs (A), (B), or (C) above is an officer, director or employee, whether compensated or not;

(F) Any organization in which a person defined in paragraphs (A), (B), or (C) above is to participate in the management or operation of a raffle as defined by this Code. **(See 230 ILCS Sec. 15/3)**

7-5-7 RESTRICTIONS ON THE CONDUCT OF RAFFLES.

(A) The entire net proceeds of any raffle must be exclusively devoted to the lawful purposes of the organization permitted to conduct that game.

(B) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle;

(C) No person may receive any remuneration or profit for participating in the management or operation of the raffle;

(D) A licensee may rent a premises on which to determine a winning chance or chances in a raffle only from an organization which has also been licensed under the Raffle Act;

(E) Raffle chances may be sold or issued only within the area specified on the license, and winning chances may be determined only at those locations specified on the license;

(F) No person under the age of **eighteen (18) years** may participate in the conducting of raffles or chances. A person under the age of **eighteen (18) years** may be within the area where winning chances are being determined only when accompanied by his parent or guardian.

(G) If a lessor rents premises where a winning chance or chances on a raffle are 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 governing body of any county or municipality under the provisions of this Code. **(See 230 ILCS Sec. 15/4)**

7-5-8 RECORDS.

(A) Each organization licensed to conduct raffles and chances shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are determined. All deductions from 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 raffle programs 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. The person who accounts for the gross receipts, expenses, and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the organization.

(C) Each organization licensed to conduct raffles shall report monthly to its membership and to the Village its gross receipts, expenses and net proceeds from raffles and the distribution of net proceeds itemized as required by this section.

(D) Records required by this section shall be preserved for **three (3) years**, and the organization shall make available their records relating to operation of raffles for public inspection at reasonable times and places. **(See 230 ILCS Sec. 15/6)**

7-5-9 TERM AND FEES.

(A) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle shall not exceed **Twenty-Five Thousand Dollars (\$25,000.00)**;

(B) The maximum retail value of each prize awarded by a licensee in a single raffle shall not exceed **Fifteen Thousand Dollars (\$15,000.00)**;

(C) The maximum price which may be charged for each raffle chance issued or sold shall not exceed **Twenty-Five Dollars (\$25.00)**;

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

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

7-5-10 **LIMITED CONSTRUCTION.** Nothing in this Code shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity or device other than raffles as provided for herein.

ED. NOTE: Political committees are required by Chapter 230, Sec. 15/8.1 to secure raffle licenses from the State Board of Elections.

(See 230 ILCS Sec. 15/2)

ARTICLE VI – VIDEO GAMING

7-6-1 **DEFINITIONS.** As used in this Chapter, the following terms have the following meanings:

“Licensed establishment” means any retail establishment which is licensed under the Liquor Control Code of the Village, and where alcoholic liquor is drawn, poured, mixed, or otherwise served for consumption on the premises.

“Licensed fraternal establishment” means the location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

“Licensed truck stop establishment” means a facility (i) that is at least a **three (3) acre** facility with a convenience store, (ii) with separate diesel islands for fueling commercial motor vehicles, (iii) that sells at retail more than **ten thousand (10,000) gallons** of diesel or biodiesel fuel per month, and (iv) with parking spaces for commercial motor vehicles. “Commercial motor vehicle” has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code. The requirements of item (iii) of this paragraph may be met by showing that estimated future sales or past sales average at least **ten thousand (10,000) gallons** per month.

“Licensed veterans establishment” means the location where a qualified veterans organization that derives its charter from a national organization regularly meeting.

“Video gaming terminal” means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, as authorized by the Illinois Gaming Board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash or tokens or is for amusement purposes only.

7-6-2 **VIDEO GAMING PERMITTED.** Notwithstanding any provision of any Village ordinance heretofore adopted, including but not limited to **Section 21-3-7** of this Code of Ordinances, video gaming from video gaming terminals licensed by the State of Illinois and operated pursuant to the Video Gaming Act, **230 ILCS 40/1 et seq.**, is permitted in the Village at licensed establishments, licensed fraternal establishments, licensed truck stop establishments and licensed veterans establishments.

(Ord. No. 12-13; 08-15-12)

OFFICIAL BUSINESS LICENSE

STATE OF ILLINOIS)
COUNTY OF SANGAMON) ss.
VILLAGE OF NEW BERLIN)

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 Berlin, Illinois** in this behalf made and required license is, by authority of the **Village of New Berlin, Illinois** given and granted to the _____
_____ to _____ at _____
_____ in the **Village of New Berlin, County of Sangamon, and State of Illinois**, from the _____ date hereof until the _____ day of _____, 19____,
said _____ to be subject to all laws of the State of Illinois and all ordinances of the **Village of New Berlin, 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 Berlin, County of Sangamon, Illinois** and the seal thereof, this _____ day of _____, 19____.

MAYOR
VILLAGE OF NEW BERLIN

COUNTERSIGNED:

VILLAGE CLERK
VILLAGE OF NEW BERLIN

(SEAL)

VILLAGE OF NEW BERLIN
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.

**VILLAGE OF NEW BERLIN
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 _____, 19__.

PRESIDING OFFICER

SECRETARY

STATE OF ILLINOIS)
) ss.
COUNTY OF SANGAMON)

Signed and sworn to before me this _____ day of _____, 19__.

PRESIDING OFFICER

SECRETARY

NOTARY PUBLIC

VILLAGE OF NEW BERLIN
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 President of the New Berlin Village Board of Trustees and the Corporate Seal thereof, this _____ day of _____, 19__.

PRESIDENT: VILLAGE BOARD OF TRUSTEES
NEW BERLIN, ILLINOIS

VILLAGE CLERK
NEW BERLIN, ILLINOIS

(SEAL)

VILLAGE OF NEW BERLIN
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, the 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 President of the New Berlin Village Board of Trustees and the Corporate Seal thereof, this _____ day of _____, 19__.

PRESIDENT: VILLAGE BOARD OF TRUSTEES
NEW BERLIN, ILLINOIS

VILLAGE CLERK
NEW BERLIN, ILLINOIS

(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: _____

CHAPTER 8

CABLE TELEVISION

ARTICLE I – SHORT TITLE AND DEFINITIONS

8-1-1 **SHORT TITLE.** This Chapter shall be known and cited as the Cable Communications Franchise.

8-1-2 **DEFINITIONS.** For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the singular number include the plural number. The word “shall” is always mandatory and not merely directory. The word “may” is directory and discretionary and not mandatory.

(A) **“Basic Cable Service”** means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the franchise to be carried on the basic tier. Basic cable service as defined herein shall not be inconsistent with 47 U.S.C. § 543(b)(7)(1993).

(B) **“Cable Communications System” or “System”** means a system of antennas, cables, wires, lines, towers, waveguides, or other conductors, converters, equipment, or facilities located in Village, and designed and constructed for the purpose of producing, receiving, transmitting, amplifying, or distributing audio, video, and other forms of electronic signals in Village. System as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 522(6)(1993).

(C) **“Cable Programming Service”** means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

- (1) Video programming carried on the basic service tier;
- (2) Video programming offered on a pay-per-channel or pay-per-program basis; or
- (3) A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service:
 - (a) consists of commonly-identified video programming; and
 - (b) is not bundled with any regulated tier of service.

Cable programming service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543(1)(2)(1993) and 47 C.F.R. 76.901(b)(1993).

(D) **“Cable Communications Service”** means the provision of television reception, communications and/or entertainment services distributed over a Cable Communications System. This definition shall not include telecommunications services regulated pursuant to federal and state law as may be amended from time to time.

- (E) **“Cable Service”** means:
- (1) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and
 - (2) subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- (F) **“Converter”** means an electronic device which converts signals to a frequency acceptable to a television receiver of a subscriber and by an appropriate selector permits a subscriber to view all Cable Communications Services which the subscriber is lawfully authorized to receive.
- (G) **“Drop”** means the cable that connects the ground block on the subscriber’s residence to the nearest feeder cable of the system.
- (H) **“FCC”** means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
- (I) **“Grantee”** is Mediacom, its agents and employees, lawful successors, transferees or assignees.
- (J) **“Gross Revenues”** means all revenue received from cable service directly by the Grantee from the operation of its system within Village. Gross revenues shall include Internet services to the extent Internet services are included in the definition of cable service under any present or future federal law or a decision of a court of applicable jurisdiction interpreting the same, or if a franchise authority is otherwise permitted to collect franchise fees from Internet services. The term gross revenues shall not include Internet services to the extent Internet services are subject to the Telecommunications Municipal Infrastructure Maintenance Fee Act. The term gross revenues shall not include franchise fees, late fees, any fees itemized and passed through as a result of franchise imposed requirements or any taxes or fees on services furnished by Grantee imposed directly on any subscriber or user by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.
- (K) **“Installation”** means the connection of the system from feeder cable to the point of connection, including standard installation and custom installations.
- (L) **“Lockout Device”** means an optional mechanical or electrical accessory to a subscriber’s terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the Cable Communication System.
- (M) **“Pay Television”** means the delivery over the system of pay-per-channel or pay-per-program audio-visual signals to subscribers for a fee or charge, in addition to the charge for basic cable service or cable programming services.
- (N) **“Person”** is any person, firm, partnership, association, corporation, company, or other legal entity.
- (O) **“Standard Installation”** means any residential installation which can be completed using a drop of **one hundred fifty (150) feet** or less.
- (P) **“Street”** means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by Village.
- (Q) **“Subscriber”** means any person who lawfully receives cable service. In the case of multiple office buildings or multiple dwelling units, the “subscriber” means the lessee, tenant or occupant.
- (R) **“Village”** means Village of New Berlin, a municipal corporation, in the State of Illinois, acting by and through its Village Board.
- (S) **“Village Board”** means the New Berlin, Illinois Village Board.

ARTICLE II - GRANT OF AUTHORITY AND GENERAL PROVISIONS

8-2-1 **FRANCHISE REQUIRED.** It shall be an unlawful for any person to construct, operate or maintain a Cable Communications System in Village, unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid Franchise Ordinance. It shall also be unlawful for any person to provide cable service in Village unless such person shall have first obtained and shall currently hold a valid Franchise Ordinance. All Cable Communications Franchises granted by Village, shall contain the same substantive terms and conditions.

8-2-2 **GRANT OF FRANCHISE.** This Franchise is granted pursuant to the terms and conditions contained herein.

8-2-3 **GRANT OF NONEXCLUSIVE AUTHORITY.**

(A) The Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in Village, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in Village of a Cable Communications System as herein defined.

(B) This Franchise shall be nonexclusive, and Village reserves the right to grant a similar use of said streets, alleys, public ways and places, to any person at any time during the period of this Franchise, provided, however, that any additional Franchises granted shall contain the same substantive terms and conditions as this Franchise.

8-2-4 **FRANCHISE TERM.** The Franchise shall be in effect for a period of **ten (10) years** from the effective date, unless renewed, revoked or terminated sooner as herein provided. The Franchise shall automatically be extended for an additional **five (5) years** provided that during the initial **ten (10) year** term, Village has not finally terminated the Franchise after Grantee's exhaustion of all procedural rights and judicial remedies pursuant to **Article VIII** herein.

8-2-5 **PREVIOUS FRANCHISES.** Upon acceptance by Grantee as required by **Article XIII** herein, this Franchise shall supersede and replace any previous Ordinance or Agreement granting a Franchise to Grantee to own, operate and maintain a Cable Communications System within Village is hereby expressly repealed.

8-2-6 **RULES OF GRANTEE.** The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.

8-2-9 **DROPS TO PUBLIC BUILDINGS.** Grantee shall provide installation of **one (1)** cable drop, **one (1)** cable outlet, and monthly basic cable service without charge to the following institutions:

- (A) New Berlin Village Hall
- (B) All New Berlin State Certified Public and Private Schools
- (C) New Berlin Public Library
- (D) New Berlin Police Station
- (E) New Berlin Fire Station

Additional drops and/or outlets in any of the above locations will be provided by Grantee at the cost of Grantee's time and material. Alternatively, at the institution's request, said institution may add outlets at its own expense, as long as such installation meets Grantee's standards and provided that any fees for cable services are paid. Nothing herein shall be construed as requiring Grantee to extend the System to service additional institutions as may be designated by Village. Grantee shall have **one (1) year** from the date of Village Board designation of additional institution(s) to complete construction of the drop and outlet.

ARTICLE III – CONSTRUCTION STANDARDS

8-3-1 **CONSTRUCTION CODES AND PERMITS.**

(A) Grantee shall obtain all necessary permits from Village before commencing any construction upgrade or extension of the system, including the opening or disturbance of any street, or private or public property within Village.

(B) The Village shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provision of local, state and federal law.

8-3-2 **REPAIR OF STREETS AND PROPERTY.** Any and all streets or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the system shall be promptly and fully restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work.

8-3-3 **BUILDING MOVERS.** The Grantee shall, on request of any person holding a moving permit issued by Village, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the person requesting the same, and the Grantee shall be given not less than **ten (10) days** advance notice to arrange for such temporary changes.

8-3-4 **TREE TRIMMING.** The Grantee shall have the authority to trim any trees upon and overhanging the streets, alleys, sidewalks, or public easements of Village so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.

8-3-5 **NO WAIVER.** Nothing contained in this Franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.

8-3-6 **UNDERGROUNDING OF CABLE.**

(A) In all areas of Village where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground.

(B) In any area of Village where **one (1)** or more public utilities are aerial, Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

8-3-7 **SAFETY REQUIREMENTS.** The Grantee shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

8-3-8 **EASEMENTS AND RIGHTS-OF-WAY ON PRIVATE PROPERTY.**
It shall be the sole responsibility of Grantee to secure any necessary easements or other rights-of-way for the installation of its equipment and lines on private property.

8-3-9 **CONSTRUCTION STANDARDS.** Grantee shall perform all construction required in this Franchise in compliance with state and federal law.

ARTICLE IV – OPERATIONS PROVISIONS

8-4-1 **MINIMUM CHANNEL CAPACITY.** Grantee shall provide a system which utilizes 450 MHz equipment and which is capable of delivering a minimum of **sixty (60) channels** within **forty-eight (48) months** of the effective date of this Franchise.

8-4-2 **TECHNICAL STANDARDS.** The technical standards used in the operation of the system shall comply, at minimum, with the technical standards promulgated by the FCC relating to cable communications systems pursuant to the Federal Communications Commission's rules and regulations and found in Title 47, Section 76.601 to 76.617.

8-4-3 **LOCKOUT DEVICE.** Upon the request of a subscriber, Grantee shall provide by sale or lease a lockout device.

ARTICLE V – SERVICES PROVISIONS

8-5-1 **SUBSCRIBER INQUIRIES.** Grantee shall have a publicly listed toll-free telephone number and be operated so as to receive subscriber complaints and requests on a **twenty-four (24) hour-a-day, seven (7) days-a-week** basis.

8-5-2 **REFUND POLICY.** In the event a subscriber established or terminates service and receives less than a full month's service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which service was rendered to the number of days in the billing.

8-5-3 **CREDIT POLICY.** For service interruptions of **twenty-four (24) hours** or more, Grantee shall provide, at the subscriber's request, a credit of **one-thirtieth (1/30)** of **one (1) month's** fees for each **twenty-four (24) hour** period of affected service.

8-5-4 **CUSTOMER SERVICE STANDARDS.** Grantee agrees to adhere to the customer service obligations promulgated by the FCC at 47 C.F.R. § 76.309.

8-5-5 **BOOKS AND RECORDS.** Grantee shall comply with federal law regarding books and records to be maintained.

8-5-6 **CLOSED-CAPTION PROGRAMMING.** The system shall be designed so as not to prohibit the delivery of closed-caption programming but subscribers will continue to be required to obtain their own descrambling equipment in order to receive and view the closed captioned signal.

8-5-7 **COMPLAINT PROCEDURE.** Subject to the privacy provisions of 47 U.S.C. § 521 et seq., as amended from time to time. Village and Grantee shall prepare and maintain written records of complaints made to them which would constitute a violation of this Franchise and the resolution of such complaints, including the date of such resolution. Such written records shall be on file at the office of Grantee.

8-5-8 **REGULATION OF SERVICE RATES.** The Village may regulate rates for the provision of cable service, equipment, or any other communications service provided over the system to the extent allowed under federal or state law(s).

8-5-9 **SUBSCRIBER CONTRACTS.** Subscribers may terminate cable service at any time in the absence of an agreement to the contrary provided, however, said subscribers remain responsible for any costs or fees incurred.

ARTICLE VI – COMMUNITY ACCESS CHANNEL

8-6-1 **COMMUNITY ACCESS.**

(A) Village or its designee is hereby designated to operate, administer, promote, and manage access to the cable system established pursuant to this Section. Grantee shall have no responsibility whatsoever for community access except as expressly stated in this Section.

(B) Upon **ninety (90) days** prior written notice by Village, Grantee shall dedicate **one (1) channel** for community access programming.

(C) All residential subscribers who receive all or any part of the total services offered on the system shall be eligible to receive the access channel at no additional charge.

ARTICLE VII – FRANCHISE FEES AND INSURANCE PROVISIONS

8-7-1 FRANCHISE FEE.

(A) Grantee shall pay to Village a franchise fee in an annual amount equal to **three percent (3%)** of its annual gross revenues. Upon **ninety (90) days** prior written notice to Grantee, Village may increase or decrease the franchise fee which in no event shall exceed the maximum amount permitted by law. Village shall exercise the option to increase or decrease the franchise fee no more than once per year.

(B) Payments due Village under this provision shall be payable quarterly. The payment shall be made within **ninety (90) days** of the end of Grantee's fiscal quarters together with a brief report showing the basis for the computation.

8-7-2 INSURANCE.

(A) Upon request, Grantee shall file with its acceptance of this Franchise, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy coverage, in protection of Village in its capacity as such. The policies of insurance shall be in the sum of not less than **One Million Dollars (\$1,000,000)** for personal injury or death of any **one (1) person**, and **Three Million Dollars (\$3,000,000)** for personal injury or death of **two (2)** or more persons in any one occurrence, **One Million Dollars (\$1,000,000)** for property damage to any **one (1) person** and **Three Million Dollars (\$3,000,000)** for property damage resulting from any one act or occurrence.

(B) The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the Franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after **thirty (30) days'** advance written notice have been provided to Village.

ARTICLE VIII – REVOCATION OF FRANCHISE

8-8-1 **VILLAGE’S RIGHT TO REVOKE.**

(A) In addition to all other rights which Village has pursuant to law or equity, Village reserves the right to revoke, terminate or cancel this Franchise, and all rights and privileges pertaining thereto, if after the hearing required by **Section 8-8-2** herein, it is determined that:

- (1) Grantee has violated any material provision of this Franchise; or
- (2) Grantee has practiced fraud or deceit upon Village or subscriber.

8-8-2 **PROCEDURES FOR REVOCATION.**

(A) Village shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee **sixty (60) days** subsequent to receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the Franchise. Together with the notice required herein, Village shall provide Grantee with written findings of fact which are the basis of the revocation.

(B) Grantee shall be provided the right to a public hearing affording due process before the Village Board prior to revocation, which public hearing shall follow the **sixty (60) day** notice provided in paragraph (A) above. Village shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.

(C) After the public hearing and upon written determination by Village to revoke the Franchise, Grantee may appeal said decision with an appropriate state or federal court or agency.

(D) During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.

(E) Upon satisfactory correction by Grantee of the violation upon which said notice was given as determined, the initial notice shall become void.

ARTICLE IX – SALE OR TRANSFER OF FRANCHISE

8-9-1 **SALE OR TRANSFER OF FRANCHISE.** No sale or transfer of this Franchise shall take place without the written approval of the Village, which approval shall not be unreasonably withheld. All of the rights, privileges, obligations, duties, and liabilities created by this Franchise shall pass to and be binding upon the successor or assign of Grantee.

(A) Said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure an indebtedness.

(B) Transfers or assignments of the Franchise and/or the system or any rights or privileges granted by the Franchise shall be allowed between Grantee and any parent, affiliate or subsidiary corporation or between entities of which at least **fifty-one percent (51%)** of the beneficial ownership is held by Grantee or any parent corporation shall be permitted without the prior approval of Village.

8-9-2 **TRANSFER PROCEDURE.**

(A) Grantee shall file a written request for transfer of the Franchise with Village.

(B) Village shall have **thirty (30) days** from the time of the request to reply in writing and indicate approval of the request or its determination that a public hearing is necessary due to potential adverse affect on Grantee's subscribers resulting from the sale or transfer. Such approval or determination shall be expressed by Board Resolution within **thirty (30) days** of receipt of said request, or the request shall be deemed approved as a matter of law.

(C) If a public hearing is deemed necessary pursuant to (B) above, such hearing shall be commenced within **thirty (30) days** of such determination and notice of any such hearing shall be given in accordance with local law or **fourteen (14) days** prior to the hearing by publishing notice thereof once in a newspaper of general circulation in Village. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by Village. Said hearing may be continued only with Grantee's written consent.

(D) Within **thirty (30) days** after the closing of the public hearing, Village shall approve or deny in writing the sale or transfer request. Village shall set forth in writing with particularity its reason(s) for denying approval. Village shall not unreasonably withhold its approval.

ARTICLE X – PROTECTION OF INDIVIDUAL RIGHTS

8-10-1 **SUBSCRIBER POLICY.** Grantee shall comply with the terms of 47 U.S.C. § 551 relating to the protection of subscriber privacy.

ARTICLE XI – UNAUTHORIZED CONNECTIONS AND MODIFICATIONS

8-11-1 **UNAUTHORIZED CONNECTIONS OR MODIFICATIONS PROHIBITED.** It shall be unlawful for any firm, person, group, company, corporation, or governmental body or agency, without the express consent of the Grantee, to make or possess, or assist anybody in making or possessing, any connection, extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the system.

8-11-2 **REMOVAL OR DESTRUCTION PROHIBITED.** It shall be unlawful for any firm, person, group, company, corporation, or government body or agency to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of the system for any purpose whatsoever.

8-11-3 **PENALTY.** Any firm, person, group, company, corporation or government body or agency found guilty of violating this Section may be fined not less than **Twenty Dollars (\$20.00)** and the costs of the action nor more than **Five Hundred Dollars (\$500.00)** and the costs of the action for each and every subsequent offense. Each continuing day of the violation shall be considered a separate occurrence. **(See Section 1-1-20 for penalties also.)**

ARTICLE XII – MISCELLANEOUS PROVISIONS

8-12-1 **FRANCHISE RENEWAL.** Any renewal of this Franchise shall be done in accordance with applicable federal, state and local laws and regulations.

8-12-2 **AMENDMENT OF FRANCHISE ORDINANCE.** Grantee and Village may agree, from time to time, to amend this Franchise. Such written amendments may be made at any time if Village and Grantee agree that such an amendment will be in the public interest or if such an amendment is required due to changes in federal, state or local laws. Village shall act pursuant to local law pertaining to the ordinance amendment process.

8-12-3 **PERIODIC REVIEW.** The field of cable communications is rapidly changing and may see many regulatory, technical, financial, marketing and legal changes during the term of this Franchise. Therefore, in order to provide for a maximum degree of flexibility in this Franchise, and to help achieve a continued advanced and modern system, the following evaluation provisions shall apply:

(A) Upon **thirty (30) days** prior written notice to Grantee, Village may require an evaluation session. Evaluation sessions may be required no more than once per year beginning **one (1) year** from the effective date of this Franchise.

(B) A representative of Grantee shall attend all evaluation sessions. All evaluation sessions shall be open to the public and notice of sessions published in the same way as a legal notice.

(C) Topics which may be discussed at any evaluation session may include, but are not limited to, application of new technologies, system performance, programming offered, access channels, facilities and support, municipal uses of cable, customer complaints, amendments to this Franchise, judicial rulings, FCC rulings, line extension policies and any other topics Village and Grantee deem relevant.

(D) As a result of the evaluation session, Village and Grantee may develop such changes and modifications to the terms and conditions of the Franchise as are mutually agreed upon and which are both economically and technically feasible.

8-12-4 **APPLICABLE LAW.** This Franchise is governed by the laws of the State of Illinois and of the United States.

ARTICLE XIII – PUBLICATION EFFECTIVE DATE; ACCEPTANCE AND EXHIBITS

8-13-1 **PUBLICATION; EFFECTIVE DATE.** This Franchise shall be published in accordance with applicable Illinois law. The effective date of this Franchise shall be date of acceptance by Grantee.

8-13-2 **ACCEPTANCE.**

(A) Grantee shall accept this Franchise within **sixty (60) days** of its enactment by the Village Board, unless the time for acceptance is extended by Village. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes. Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein.

(B) Grantee shall accept this Franchise in the following manner:

- (1) This Franchise will be properly executed and acknowledged by Grantee and delivered to Village.
- (2) With its acceptance, Grantee shall also deliver the insurance certificate required herein that has not previously been delivered.

(Ord. No. 99-03; 05-19-99)

CHAPTER 12

EMPLOYEE REGULATIONS

ARTICLE I – SEXUAL HARASSMENT POLICY

12-1-1 **DEFINITIONS.** “Sexual harassment” as used herein, shall have the meaning assigned to that term under the Illinois Human Rights Act, which is as follows:

“Sexual harassment” means 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.

12-1-2 **PROHIBITED ACTIVITY.** The Village shall not permit any sexual harassment of any person by any of its officers, trustees, employees or other representatives.

No individual shall engage in any sexual harassment of any person in connection with any employment or conditions of employment by the Village. Such acts are unlawful and prohibited whether the acts occur in the place of employment or elsewhere. Such acts are prohibited whether such acts are by one person or more, and whether condoned by the employer or not, and whether or not the person perpetrating such acts can, in fact, affect the employment or conditions of employment.

12-1-3 **NOTIFICATION OF ACTIVITY.** Should any employee of the Village believe he or she has been the victim of sexual harassment, such employee may notify the Village Clerk in writing specifying the alleged perpetrator, the date and time of the alleged sexual harassment and all other facts pertinent to the alleged sexual harassment. Upon receipt of such complaint, the Village Clerk shall immediately provide a copy of the complaint to the Mayor. The Mayor shall, as soon as practicable, appoint an ad hoc committee of the Village Board to investigate the complaint. If the complaint is found to be meritorious after a hearing is conducted by the committee, a report shall be made by the committee to the Village Board of Trustees. The Village Board of Trustees may execute such penalties as the Village Board deems appropriate, including but not limited to discharge from employment.

12-1-4 **STATE AUTHORITIES.** Any person who believes to be a victim of sexual harassment is hereby notified of the legal recourse available through the Department of Human Rights and the Illinois Human Rights Commission, including the investigative and

complaint process available through said Department and Commission. Provisions relating to sexual harassment and employment under the Illinois Human Rights Act are found in **755 ILCS Sec. 5/2-101 et seq.**

The addresses and telephone numbers of the Illinois Department of Human Rights and the Illinois Human Rights Commission are as follows:

Illinois Department of Human Rights
222 South College
Springfield, IL 62704
Phone: (217) 785-5100
(217) 785-5125 (TDD)

Illinois Human Rights Commission
404 Stratton Office Building
Springfield, IL 62706
Phone: (217) 785-4350

12-1-5 **RETALIATION.** All persons are hereby further notified that it is illegal for an employer to retaliate against an individual who has made a complaint of alleged sexual harassment, all as is more fully set forth in **755 ILCS Sec. 5/2-105(B)(5)**.

The Village shall post a copy of this policy in full public review in the Village Hall.

(Approved 07-19-00)

CHAPTER 14

FLOOD PLAIN CODE

14-1-1 **PURPOSE.** This Code is enacted pursuant to the police powers granted to the 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 lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, as well as flood rescue and relief operations;
- (D) To maintain property values and a stable tax base by minimizing the potential for creating blight areas;
- (E) To make federally subsidized flood insurance available; and
- (F) To preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and storm water impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

14-1-2 **DEFINITIONS.** Unless specifically defined below, word or phrases used in this Chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Chapter its most reasonable application.

(A) **"Development"**. Any man-made change to real estate including, but not necessarily limited to:

- (1) demolition, construction, reconstruction, repair, placement of a building, or any structural alteration to a building;
- (2) substantial improvement of an existing building;
- (3) 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;
- (4) installation of utilities, construction of roads, bridges, culverts or similar projects;
- (5) construction or erection of levees, dams, walls, or fences;
- (6) drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
- (7) storage of materials including the placement of gas and liquid storage tanks; and
- (8) 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.

(B) **"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.

(C) **"Floodplain"**. Any land area susceptible to being inundated by water from any source (See "Flood").

(D) **"Floodproofing"**. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

(E) **"Manufactured Home"**. A structure transportable in one 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.

(F) **"Structure"**. For floodplain management purposes, a walled and roofed building, including gas or liquid storage tanks, that is principally above ground. The term includes RVs and travel trailers on site for more than **one hundred eighty (180) days**.

(G) **"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.

(H) **"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.

14-1-3 PERMIT REQUIREMENTS. No person, firm, corporation, or governmental body not exempted by state law shall commence any development activity in an area known to flood without first obtaining a development permit from the Zoning Administrator.

14-1-4 PERMIT APPLICATION. To obtain a permit the applicant must first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the Zoning Administrator.

14-1-5 DUTIES OF THE ZONING ADMINISTRATOR. The Zoning Administrator shall be responsible for the general administration of this Chapter and ensure that all development activities under the jurisdiction of the Village meet the requirements of this Chapter. The Zoning Administrator shall be responsible for receiving applications and examining the plans and specifications for the application, the Zoning Administrator shall require any additional measures which are necessary to meet the minimum requirements of this Chapter.

14-1-6 **REVIEW OF PROPOSED DEVELOPMENT.**

(A) The Zoning Administrator shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(B) If the development is proposed for a channel or adjacent area of a stream draining **one (1) square mile** or more, the applicant must first secure a permit from the Illinois Division of Water Resources, or a letter stating "Permit Not Required."

14-1-7 **REVIEW OF PERMIT APPLICATION.** The Zoning Administrator shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of prefabricated buildings and manufactured homes) shall:

- (A) be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure,
- (B) be constructed with materials resistant to flood damage,
- (C) be constructed by methods and practices that minimize flood damage,
- (D) be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding.

14-1-8 **REVIEWS OF SUBDIVISION PROPOSALS.** The Zoning Administrator shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposals shall be reviewed to assure that:

- (A) all such proposals are consistent with the need to minimize flood damage within the flood prone area,
- (B) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage, and
- (C) adequate drainage is provided to reduce exposure of flood hazards.

14-1-9 **WATER SUPPLY SYSTEMS.** The Zoning Administrator shall require within flood prone areas new and replacement water supply systems to be designed to minimize or eliminate infiltrations of flood waters into the systems.

14-1-10 **SANITARY SEWAGE AND WASTE DISPOSAL SYSTEMS.** The Zoning Administrator shall require within flood prone areas:

- (A) new and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters and
- (B) on-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

14-1-11 **VARIANCES.** Whenever the standards of this Code place undue hardship on a specific development proposal, the applicant may apply to the Zoning Board of Appeals for a variance. The Zoning Board of Appeals shall review the applicant's request for a variance and shall submit its recommendation to the Village Board. The Village Board may attach such conditions to granting of a variance as it deems necessary to further the intent of this Code.

(A) No variance shall be granted unless the applicant demonstrates that all of the following conditions are met:

- (1) The development activity cannot be located outside the floodplain.
- (2) An exceptional hardship would result if the variance were not granted.
- (3) The relief requested is the minimum necessary.
- (4) There will be no additional threat to public health, safety or creation of a nuisance.
- (5) There will be no additional public expense for flood protection, rescue or relief operations, policing, or repairs to roads, utilities, or other public facilities.
- (6) The applicant's circumstances are unique and do not establish a pattern inconsistent with the intent of the NFIP, and
- (7) All other state and federal permits have been obtained.

(B) The Zoning Board of Appeals shall notify an applicant in writing that a variance from the requirements of the building protection standards 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.

14-1-12 **PENALTY.** Any person who violates this Chapter shall upon conviction thereof be fined not less than **Twenty-Five Dollars (\$25.00)** nor more than **Two Hundred Fifty Dollars (\$250.00)**. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

14-1-13 **ABROGATION AND GREATER RESTRICTIONS.** This Code repeals and replaces other ordinances adopted by the Village to fulfill the requirements of the National Flood Insurance Program, including Ordinance No. 07-08 adopted June 20, 2007. 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.

14-1-14 **DISCLAIMER OF LIABILITY.** The degree of protection required by this Code is considered reasonable for regulatory purposes and is based on available information derived from engineering and scientific methods of study. Larger floods may occur or flood heights may be increased by man-made or natural causes. This Code does not imply that development either inside or outside of the floodplain will be free from flooding or damage. This Code does not create liability on the part of the Village or any officer or employee thereof for any flood damage that results from proper reliance on this Code or any administrative decision made lawfully thereunder.

14-1-15 **SEVERABILITY.** The provisions and sections of this Code shall be deemed separable and the invalidity of any portion of this Code shall not affect the validity of the remainder.

(See 65 ILCS 5/1-2-1; 5/11-12-12; 5/11-30-2; 5/11-30-8 and 5/11-31-2)

(Ord. No. 14-02; 02-19-14)

NEW BERLIN, ILLINOIS
PRIVATE WASTE DISPOSAL APPLICATION
(SEPTIC TANK ETC.)

The undersigned, being the _____ of the property located
at _____ (owner, owner's agent)
(Number) (Street) does hereby request a permit to install 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 feet (100')** [**30.5 meters**] of any boundary of said property are shown on the plat attached hereunto as **Exhibit "B"**.

IN CONSIDERATION OF THE GRANTING OF THIS PERMIT, THE UNDERSIGNED AGREES:

1. To furnish any additional information relating to the proposed work that shall be requested by the Village.
2. To accept and abide by all provisions of the **Revised Code** and of all other pertinent codes or ordinances that may be adopted in the future.
3. To operate and maintain the wastewater disposal facilities covered by this application in a sanitary manner at all times, in compliance with all requirements of the Village and at no expense to the Village.
4. To notify the Village **at least twenty-four (24) hours** to commencement of the work proposed, and again **at least twenty-four (24) hours** prior to the covering of any underground portions of the installation.

DATE: _____, 19__ SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CLERK)

\$ _____ (Inspection Fee Paid) DATE: _____, 19__

\$ _____ (Connection Fee Paid) SIGNED: _____
(CLERK)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 19__ SIGNED: _____
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

NEW BERLIN, ILLINOIS
RESIDENTIAL OR COMMERCIAL BUILDING SEWER APPLICATION

The undersigned, being the _____ of the property
(owner, owner's agent)
located at _____ does hereby request a permit to install and connect a building
(Number)(Street)
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:

- 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.
- To maintain the building sewer at no expense to the Village.
- 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: _____, 19__ SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CLERK)

\$ _____ (Inspection Fee Paid) DATE: _____, 19__
\$ _____ (Connection Fee Paid) SIGNED: _____
(CLERK)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 19__ SIGNED: _____
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

NEW BERLIN, ILLINOIS
INDUSTRIAL SEWER CONNECTION APPLICATION

The undersigned, being the _____ of the property
(owner, owner's agent)
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: _____, 19__ SIGNED: _____
(APPLICANT)

(ADDRESS OF APPLICANT)

(CERTIFICATION BY CLERK)

\$ _____ (Inspection Fee Paid) DATE: _____, 19__
\$ _____ (Connection Fee Paid) SIGNED: _____
(CLERK)

(APPLICATION APPROVED AND PERMIT ISSUED)

DATE: _____, 19__ SIGNED: _____
(PUBLIC WORKS DIRECTOR OR SUPERINTENDENT)

NEW BERLIN, ILLINOIS
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)

NEW BERLIN, ILLINOIS
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)

NEW BERLIN, ILLINOIS

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 BERLIN
SANGAMON COUNTY, ILLINOIS**

DATE: _____

ADDRESS: _____

OWNER(S): _____

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 _____, 19__.

**VILLAGE OF NEW BERLIN
SANGAMON COUNTY, ILLINOIS**

SIGNED: _____

VILLAGE OF NEW BERLIN
UTILITY MAIN EXTENSION CONTRACT

AGREEMENT made and entered into this _____ day of _____, by and between the Utility System of the **Village of New Berlin, 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 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 BERLIN, ILLINOIS

BY: _____

ATTEST:

PUBLIC WORKS DIRECTOR

VILLAGE CLERK

DEPOSITOR

WITNESSES:

VILLAGE OF NEW BERLIN
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 _____, 19__.

NOTE: After services have been shut off there will be a reconnection fee of \$ _____.

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 concentraed 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

APPENDIX "A"

WHOLESALE WATER AGREEMENT

This Agreement is between the South Sangamon Water Commission, an Illinois municipal corporation, ("Commission"), and the Village of New Berlin, an Illinois municipal corporation ("Village"). The parties agree as follows:

1. **Authority.** This Agreement is authorized and is entered into pursuant to Division 135 of the Illinois Municipal Code, **65 ILCS 5/11-135-1 et seq.** ("Division 135"), the Intergovernmental Cooperation article of the Illinois Constitution and the Intergovernmental Cooperation Act, all of which are incorporated herein by reference.
2. **All-Requirements Contract.** During the term of this Agreement, Commission shall sell to Village, and Village shall purchase from Commission, all potable water to be resold by Village to retail customers of Village's water system, including customers located both within the without the corporate limits of Village. This is an "all requirements" contract.
3. **Conditions of Service.** The water shall meet applicable purity standards of the Illinois EPA. The initial metering point shall be determined by the Village. Water shall be delivered to the metering point or to such other points as may be agreed on by the parties from time to time. Emergency failures of pressure or supply due to main supply lines breaks, power failure, flood, fire, use of water to fight fires, earthquake or other events beyond the control of Commission shall excuse Commission from this provision for such reasonable period of time as may be necessary to restore service.
4. **Metering.** Commission shall be responsible at its sole expense for installing the meter at the delivery point at such time as the transmission main to Village is constructed. Commission shall own the meter and all water lines and works on its side thereof, and shall be responsible for maintenance and replacement thereof. Village shall own all water lines and works on its side of the meter and shall be responsible for maintenance and replacement thereof. Commission shall calibrate the meter from time to time at its discretion or upon the request of Village, but not more frequently than once every **twelve (12) months**. A meter registering not more than **two percent (2%)** above or below the test result shall be deemed to be accurate. The previous readings of any meter disclosed by test to be inaccurate shall be corrected for the **six (6) months** previous to such test in accordance with the percentage of inaccuracy found by such tests. If any 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 the parties agree upon a different amount.
5. **Rates.** Pursuant to Section 5 of Division 135, Commission shall from time to time establish such charges and rates for water supplied to Village and other member municipalities as will be sufficient at all times (a) to pay the cost of operation and maintenance of the common source of supply of water, (b) to provide an adequate depreciation fund therefor, (c) to pay the principal of and interest on the bonds issued by Commission, (d) to comply with the covenants of the ordinance or resolution authorizing the issuance of such bonds, and (e) to carry out the corporate purposes and powers of Commission pursuant to Division 135. The price charged for water at the delivery point shall be the same for all municipalities which are members of Commission,

and shall at all times be less than or equal to the price charged by Commission to any other customer of Commission. Commission shall give Village at least **sixty (60) days** prior notice of any rate adjustment and an opportunity to audit and dispute Commission's calculations.

6. **Village's Responsibility for Bills.** As required by Section 5 of Division 135, during the term of this Agreement, Village shall pay the charges and rates established by Commission for the sale of water by Commission to Village. Water delivered to Village will be billed monthly, and paid within **thirty (30) days**, and will bear interest at **one percent (1%)** per month if not paid within **thirty (30) days**. If Village contests a bill, it shall nevertheless pay the bill, and the parties shall promptly consult pursuant to paragraph 11 of this Agreement to determine if any refund is appropriate.
7. **Village's Other Responsibilities.** As required by Section 5 of Division 135, Village shall establish such charges and rates for water supplied to its consumers as will be sufficient at all times (a) to pay the cost of operation and maintenance of the waterworks system of Village, or if combined with the sewer system, of the combined water/sewer system of Village; (b) to provide an adequate depreciation fund therefor, (c) to pay the principal of and interest on all bonds of the Village payable from the revenues of its waterworks system (or combined waterworks and sewerage system); and (d) to pay the charges and rates established by the Commission for water sold to Village by the Commission.
8. **Water and New Customer Restrictions.**
 - A. Due to drought, equipment failures, acts of God, or other reasons, Commission may from time to time impose rationing or other restrictions on its wholesale and retail customers. In such event, and upon Commission's request, Village shall impose similar restrictions on Village's retail customers. Commission may, during periods of announced shortages and rationing, curtail the amounts of water delivered to Village, but only after consultation with Village, and only in a nondiscriminatory manner. Whenever such curtailment occurs, Village may seek additional water supplies from other sources, and in such event will not be deemed to be in violation of the all requirements clause of this agreement. Whenever during a curtailment situation Commission declares a moratorium on new retail customers, Village shall do the same unless Village can arrange alternative wholesale supplies for such new customers.
 - B. Whenever in the judgment of the Commission, the water treatment plant is nearing or at capacity, it may restrict Village from adding new customers to the Village's system until the Commission can add treatment capacity to its plant. Such restrictions, if imposed, shall also apply to all other member municipalities and wholesale customers, and the Commission itself shall add no new retail customers during any period during which such restrictions are in effect. During the period of such restrictions on new customers: (i) Village may obtain additional water supplies from other sources sufficient to serve new customers, and in such event the restrictions shall not apply as to Village, and Village shall not be deemed to be in violation of the all requirements clause of this agreement; and (ii) Commission shall use best efforts to add capacity to render such customer restrictions unnecessary.
 - C. Commission shall give Village at least **ten (10) days** prior notice of any scheduled maintenance (such as tank cleaning) which would require the cessation of operations at the treatment plant, and the parties shall cooperate in

arranging storage of water supplies anticipated to be needed during any such period of scheduled maintenance.

9. **Effective Date and Term.**

- A. This Agreement shall become effective on the date Commission initially issues bonds to defray the cost of the design and construction of its water production facility and transmission mains and expenses incidental thereto ("Project Expenses"). Commission may also repay the Village of Chatham from the bond proceeds all funds advanced by Chatham for Project Expenses, including interest thereon, prior to the date of the bond issue. However, Commission shall have no obligation to provide water, and Village shall have no obligation to take water, until the IEPA issues all required operating permits and the treatment plant commences operation. The initial term of the agreement shall be through **December 31, 2040** or **five (5) years** after the expiration of the original issue of Commission's bonds, whichever is later. A prepayment of the initial bond issue shall not affect the initial termination date.
- B. Should Commission issue additional or refunding bonds during the term of this Agreement, this Agreement shall be automatically extended until the date of expiration of such additional or refunding bonds. However, no additional or refunding bonds shall be issued without at least **sixty (60) days** prior notice to Village and other member municipalities of Commission.
- C. After expiration of the initial or any extended or renewal term, this Agreement shall automatically renew in successive **five (5) year** increments, unless at least **three (3) years** before the expiration of the original term or any extended or renewal term, either party serves written notice upon the other of an intention not to renew.

10. **Consultations and Exchanges of Information.** During the term of this Agreement, each party shall provide the other with such data and usage forecasts as either party may reasonably require for its planning purposes. Either party may inspect the books and records of the other at reasonable times and places, insofar as such books and records relate to the subject matter of this Agreement, and without the necessity for a formal request pursuant to the Freedom of Information Act. Each party to this Agreement shall consult with the other whenever requested to do so.

11. **Dispute Resolution.** Disputes between the parties that cannot be resolved by consultation shall be settled by arbitration, in the following manner. The parties will attempt to agree on a single arbitrator to decide the dispute. If they cannot agree on an arbitrator, then each party will select an arbitrator, and the two arbitrators so selected shall select a third arbitrator, and the panel so composed shall decide the dispute. Arbitrations shall be conducted and enforced pursuant to the Illinois Uniform Arbitration Act, and the cost of arbitration shall be divided equally by the parties. Notwithstanding the duty to arbitrate in the event of a breach of contract which, in the absence of the arbitration clause would give rise to the right of a party to apply for a temporary restraining order, either party may apply to the Circuit Court of the Seventh Judicial Circuit, Sangamon County, Illinois, for a temporary restraining order maintaining the *status quo* pending referral of the matter to arbitration.

12. **Service Areas.**

- A. Commission is primarily a wholesale supplier and may serve any wholesale customer (defined as a customer which resells water to third parties) outside the corporate limits of Village. Village shall not serve any wholesale customers

wherever situated, without the prior written consent of Commission, which Commission may grant or withhold in its sole discretion.

- B. Village shall have the exclusive right to serve customers within its corporate limits. Consistent with Division 135, Commission may in its discretion serve retail customers in unincorporated areas. Whenever Village annexes unincorporated territory containing retail customers of Commission, Commission shall convey, and Village shall purchase, any water mains, meters and works belonging to Commission serving such customers (not, however, including any part of the transmission mains from Commission's water treatment plant to the Village) at such price and on such terms as the parties may agree.
 - C. Whenever Village enters into an annexation agreement including noncontiguous unincorporated territory containing retail customers of Commission, Village may at its option purchase any water mains, meters and works belonging to Commission serving such customers (not, however, including any part of the transmission mains from Commission's water treatment plant to the Village) at such price and on such terms as the parties may agree.
 - D. If with respect to a purchase pursuant to paragraphs B. or C., the parties cannot agree on a price, then the price shall be the then-current replacement cost of the mains, meters, and works, less depreciation based on a **thirty (30) year** straight line basis.
 - E. Village shall also have the right of first refusal to serve any retail customer or group of retail customers within **two (2) miles** of the corporate limits of Village.
13. **Alternate Bonds.** If the Commission is authorized to issue alternate bonds pursuant to Section 15 of the Local Government Debt Reform Act, the Commission may issue such bonds in its discretion.
14. **Miscellaneous.** This is the entire Agreement between the parties with respect to its subject matter. All oral representations regarding this Agreement prior to the date hereof are expressly disclaimed. This Agreement is effective upon approval by ordinance of each party and signed by the Village President and the Chairman of Commission. All modifications to this Agreement shall be in writing and shall be effective only when approved by ordinance and signed by the Village President and the Chairman of Commission. The headings in this Agreement are for convenience only and are not substantive parts of this Agreement. This Agreement shall be governed in accordance with Illinois law. In the event any portion of this Agreement is unenforceable, such shall not affect the enforceability of the remainder of the Agreement.

VILLAGE OF NEW BERLIN, ILLINOIS

Approved pursuant to Ordinance No. 04-10 dated March 17, 2010.

By: /s/ Stephen R. Frank
Its President

Date: March 17, 2010

Attest: /s/ Deborah LaKamp
Its Clerk

SOUTH SANGAMON WATER COMMISSION

By: _____
Its Chairman

Date: March 24, 2010

Attest: _____
Its Clerk

(Ord. No. 10-04; 03-17-10)

CHAPTER 40

ZONING CODE

ARTICLE I – GENERAL

40-1-1 **PURPOSE.** This Zoning Code has been prepared in accordance with a comprehensive plan and is adopted in order to protect and to promote adequate light, pure air, and safety from fire and other dangers; that the taxable value of land and buildings throughout the municipality may be conserved; that congestion in the public streets may be lessened or avoided; and that the public health, safety, comfort, morals, and welfare may otherwise be promoted. Specifically, the powers of the Zoning Code are as follows:

(A) To regulate and limit the height and bulk of buildings hereafter to be erected.

(B) To establish, regulate and limit the buildings, or setback lines on or along any street, traffic-way, drive or parkway.

(C) To regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of open spaces, within and surrounding such buildings.

(D) To regulate and restrict the location of trades and industries and the location of buildings designed for specified industrial, business, residential, and other uses.

(E) To divide the entire municipality, and all of that area extending **one and one-half (1 1/2) miles** beyond the corporate boundaries, into districts of such number, shape, area, and of such different classes (according to use of land and buildings, height and bulk of buildings, intensity of the use of lots area, area of open spaces, or other classification) as may be deemed best suited to carry out the purposes of this Article.

(F) To fix standards to which buildings or structures therein shall conform.

(G) To prohibit uses, buildings, or structures incompatible with the character of such districts.

(H) To prevent additions to and alteration or remodeling of existing buildings or structures in such a way as to avoid the restrictions and limitations lawfully imposed under this Article.

40-1-2 **COMPLIANCE WITH REGULATIONS.**

(A) Except as hereinafter provided, no building or land shall hereafter be used or occupied and no building or part thereof shall be erected, moved, or altered unless in conformity with the regulations herein specified for the district in which it is located.

(B) No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller rear yards, front yards, side yards, inner or outer courts than is specified herein for the district in which such building is located.

(C) No part of a yard or other open space required about any building for the purpose of complying with the provisions of this Code shall be included as a part of a yard or other open space similarly required for another building.

40-1-3 **NATURE.** The Zoning Code consists of a zoning map describing certain districts and a set of regulations set forth in this Code.

40-1-4 DEFINITIONS. Except where specifically defined herein, all words used in this Code shall carry their customary meanings. Words used in the present tense include the future tense, and the plural includes the singular; the word "person" includes a corporation as well as an individual; the word "lot" includes the word "plot" or "parcel"; the word "building" includes the word "structure"; the word "shall" is always mandatory; the word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended", "arranged", or "designed to be used or occupied".

Accessory Use: A use customarily incidental and subordinate to the principal use of a building and located on the same lot with such principal use of building.

Agriculture: The growing, harvesting and storing of crops, including but not limited to legume, hay, grain, fruit and truck or vegetable crops, floriculture, horticulture, mushroom growing, nurseries, orchards, vineyards and commercial wine production facilities, forestry and greenhouses; buildings used for growing, harvesting and preparing agricultural products for market, buildings for storing and protecting farm machinery and equipment, and retail operations for selling produce, wine and other agricultural products produced on the same zoning lot. **(Ord. No. 13-12; 06-26-13)**

Alley: A narrow service way providing a secondary public means of access to abutting properties.

Alteration: Any change in size, shape, character, occupancy, or use of a building or structure.

Animal Agriculture: The keeping, raising and feeding of poultry (including but not limited to chickens, ducks, geese, pheasants, peacocks, quail and turkeys, and whether kept for eggs, as pets or otherwise) livestock (including but not limited to, poultry, swine, sheep, beef cattle, ponies, goats, and horses, asses and mules, and including such animals kept as pets); bees, fur farms, and fish farms, and the breeding of cats and dogs, and buildings used in connection therewith. **(Ord. No. 13-12; 06-26-13)**

Apartment: A room or suite of rooms in a multiple or two-family dwelling, or where more than **one (1) living unit** is established above non-residential uses, a room or suite of rooms intended or designed for use as a residence by a single family.

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 uncovered porches, terraces and steps.

B-Truck: "B-Truck" is a vehicle with an Illinois B-Truck license plate, or an unlicensed vehicle which, if licensed in Illinois, would qualify for an Illinois B-Truck license plate as a Second Division Vehicle weighing **eight thousand (8,000) pounds** or less. **(Ord. No. 08-13; 09-17-08)**

Basement: A story partly underground but having less than half of its clear height below finished grade.

Building: Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

Building, Accessory: A supplemental building, the use of which is incidental to that of a main or principal building and located on the same lot therewith.

Building, Detached: A building surrounded by open space on the same lot.

Building, Front Line of: The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches whether enclosed or unenclosed, but does not include steps.

Building Height of: The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line on mansard roofs, and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

Cellar: A story partly underground and having more than **one-half (1/2)** of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

Coverage: That percentage of the plot or lot area covered by the building area.

Curb Level: The officially established grade of the curb in front of the mid-point of the lot.

Dog Kennel: The keeping of more than **three (3) dogs** that are more than **six (6) months** old.

Dump: A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles, or parts thereof, or waste material of any kind.

Duplex: A building with **two (2)** dwelling units. **(Ord. No. 13-12; 06-26-13)**

Dwelling: A building used wholly for habitation.

Dwelling, Multiple-Family: A building used or designed as a residence for **three (3)** or more families living independently of each other and doing their own cooking therein, including apartment houses, apartment hotels, flats and group homes.

Dwelling Unit: A building or portion thereof providing complete housekeeping facilities for **one (1) family**.

Family: One or more persons living, sleeping, cooking and eating on the same premises as a single housekeeping unit.

Filling Station: Buildings or premises or a portion thereof arranged, intended or designed to be used for the retail sale of gasoline or other motor vehicle or motor boat fuel.

Floor Area of a Building: The sum of the gross horizontal areas of the several floors of a building and its accessory building on the same lot, excluding the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

Garage: An accessory building intended or designed to be used for the storage of noncommercial motor vehicles.

Home Occupation: A "home occupation" is an occupation or profession customarily carried on in a dwelling unit by a person or persons residing in that dwelling unit, and which is clearly incidental or secondary to the residential use of the dwelling unit and does not involve the conduct of a retail business, and which conforms to the following additional conditions:

(A) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding **four (4) square foot** in area, non-illuminated, and mounted flat against the wall of the principal building.

(B) No home occupation shall be conducted in any accessory building.

(C) No traffic shall be generated by such home occupation in greater volumes than in a single family residential neighborhood and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in required front yard.

(D) No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference reasonably offensive to neighbors, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

Home occupation includes day care for **three (3)** or fewer children cared for solely by a person residing in the dwelling unit. **(Ord. No. 06-01; 02-15-06)**

House Trailer: Any portable or mobile vehicle used or designed to be used for living purposes and with its wheels, rollers or skids in place.

Junk Yard: A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of waste paper, rags, scrap metal or discarded material; or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition, and for the sale of parts thereof.

Lot: A parcel of land occupied or capable of being occupied by **one (1) building**, and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this Code.

Lot, Corner: A parcel of land at the junction of and fronting on **two (2)** or more intersecting streets.

Lot, Depth of: A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.

Lot, Interior: A lot other than a corner lot.

Lot, Through: A lot which has a pair of opposite lot lines along **two (2)** more or less parallel public streets, and which is not a corner lot. On a through lot both street lines shall be deemed front lot lines. **(Ord. No. 04-03; 03-17-04)**

Lot, Width of: The mean width measured at right angles to its depth.

Lot Line: A property boundary line of any lot held in single or separate ownership; except that where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley right-of-way line. **(Ord. No. 04-03; 03-17-04)**

Lot Line, Front: That boundary of a lot which is along an existing or dedicated street. The owner of a corner lot may select either street lot line as the front lot line. **(Ord. No. 04-03; 03-17-04)**

Lot Line, Rear: That boundary of a lot which is most distant from and is parallel or approximately parallel to the front lot line. If the rear lot line is less than **ten (10) feet** in length, or if the lot forms a point at the rear, the rear lot line shall be deemed to be a line **ten (10) feet** in length within the lot, parallel to and at the maximum distance from the front lot line. **(Ord. No. 04-03; 03-17-04)**

Lot Line, Side: Any boundary of a lot which is not a front or rear lot line. **(Ord. No. 04-03; 03-17-04)**

Mobile Home: Any structure designed for permanent human habitation and so constructed as to permit its transport on the streets and highways on its own wheels or on a trailer to be placed at the site where it is to be occupied as a dwelling unit. "Mobile Home", however, shall not include any structure which meets all of the following criteria:

- (A) The structure is placed on a permanent foundation constructed solely of masonry materials of one type suitable for a conventional single family dwelling;
 - (B) The structure consists of at least **two (2)** separate sections;
 - (C) The structure contains at least **one thousand ten (1,010) square feet** and is at least **twenty-four (24) feet** wide for **sixty percent (60%)** or more of its total length;
 - (D) The wheels, axles and tongue are permanently removed from the structure;
- and
- (E) The structure is served by permanent utilities, including electricity, water and sewage disposal. **(Ord. No. 549; 03-15-89)**

Mobile Home Space: A plot of ground within a mobile home community or park which is designed for and designated as the location for only **one (1) automobile** and **one (1)** mobile home and not used for any other purpose whatsoever other than the customary accessory uses thereof.

Nonconforming Use: A building, structure or use of land existing at the time of enactment of this Code, and which does not conform to the regulations of the district or zone in which it is situated.

Nursing or Convalescent Home: Any dwelling with less than **ten (10) sleeping rooms** where persons are housed or lodged and furnished with meals and nursing care for hire.

Parking Space: An off-street space available for the parking of **one (1) motor vehicle** and having an area of not less than **two hundred (200) square feet**, exclusive of passageways and driveways appurtenant thereto, and giving access thereto, and having direct access to a street or alley.

Recreational Vehicle: "Recreational vehicle" has the same definition as in the Illinois Motor Vehicle Code: 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. **(Ord. No. 08-13; 09-17-08)**

Semitrailer: "Semitrailer" has the same meaning as in the Illinois Vehicle Code and means every vehicle without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle. **(Ord. No. 08-13; 09-17-08)**

Second Division Vehicle: "Second Division Vehicle" has the same definition as in the Illinois Motor Vehicle Code: Those motor vehicles which are designed for carrying more than **ten (10) persons**, those motor vehicles designed or used for living quarters, those motor vehicles which are designed for pulling or carrying freight, cargo or implements of husbandry, and those motor vehicles designed for carrying **ten (10)** or fewer persons which have been remodeled for use and used as Second Division Vehicles. **(Ord. No. 08-13; 09-17-08)**

Sign: Any structure or part thereof or device attached thereto or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. The word "sign" includes the word "billboard" but does not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement or event.

Sign, Advertising: A "sign" which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises, and only incidentally on the premises, if at all.

Sign, Business: A "sign" which directs attention to a business or profession conducted on the premises. A "For Sale" sign or a "To Let" sign relating to the property on which it is displayed shall not be deemed a "business sign".

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 any floor and the ceiling next above it.

Street: A public way which affords principal means of access to abutting properties.

Street Line: The legal line between street right-of-way and abutting property.

Structures: A combination of material other than a building to form a construction that is safe and stable and includes, among other things, stadiums, platforms, radio towers, sheds, storage bins, fences and display signs.

Truck Tractor: "Truck Tractor" has the same definition as in the Illinois Motor Vehicle Code: Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn. A Truck Tractor licensed in Illinois has an Illinois truck tractor license plate. **(Ord. No. 08-13; 09-17-08)**

Use: The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

Yard: An unoccupied space open to the sky, on the same lot with a building or structure. A yard is measured to the exterior wall of a structure. **(Ord. No. 04-23; 10-27-04)**

Yard, Front: An open, unoccupied space on the same lot with the building between the front line of the building and the front line of the lot and extending the full width of the lot.

Yard, Rear: An open, unoccupied space on the same lot with the building between the rear line of the building and the rear line of the lot and extending the full width of the lot.

Yard, Side: An open, unoccupied space on the same lot with the building, situated between the building and side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

40-1-5 DISTRICTS.

(A) The districts into which the Village, together with the area which extends **one and one-half (1 1/2) miles** beyond the corporate limits of said Village, is divided by the Zoning Code, shall be designated as follows:

<u>DISTRICT</u>	<u>DESIGNATION</u>
Agricultural District	A
Residential District	R
Multiple Family Residential District	R-3
Mobile Homes District	M-H
Commercial District	C
Industrial District	I

(Ord. No. 13-12; 06-26-13)

(B) The boundaries of the districts shall be as shown on the Zoning Map which together with all amendments, changes and additions thereto, and all legends, symbols, notations and other matter shown thereon shall be a part of this Code.

40-1-6 BOUNDARIES. Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Map, the following rules shall apply.

(A) Where district boundaries are indicated as approximately following the center lines of alleys, streets or highways, said alley, street lines, or highway right-of-way lines shall be construed to be such boundaries.

(B) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be said boundaries.

(C) Where district boundaries are so indicated that they are approximately parallel to the center lines or alley lines or street lines of streets, or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at

such distance therefrom as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.

(D) Where the boundary of a district follows a railroad line, such boundary shall be deemed to be located midway between the main tracks of said railroad line.

(E) Where the application of the aforesaid rules leaves a reasonable doubt as to the boundaries between **two (2) districts**, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the Board of Appeals.

(Ord. No. Z-1; 01-03-62)

40-1-7 FENCES.

(A) For purposes of the following regulations, the term *fence* shall include fences of all types, walls, other structures similar to a fence or wall, and plantings and other vegetation.

(B) Fences may be erected and maintained within any required yard, subject to the following regulations; however, no fence may be erected or maintained upon or within any portion of a platted drainage easement. Furthermore, notwithstanding the following provisions, no fence may be erected or maintained which constitutes a nuisance or is otherwise a detriment to the public health, safety or welfare.

(C) **Requirements in Residential Districts.** No fence may be erected within the Village and within a residential district which does not comply with the following specifications:

- (1) Any fence erected in a required front yard shall be at least **fifty percent (50%)** open, and no fence erected in a required front yard may exceed **four (4) feet** in height measured from ground level. A clearance of **three (3) inches** shall be allowed for installation purposes and shall not count in determining the height of a fence. No privacy fence may be erected in the front of a residence on the same zoning lot. For through lots, that yard which is used as a rear yard, and which would normally be considered a rear yard for lots other than through lots, shall be considered a rear yard for purposes of erecting a fence.
- (2) Any fence erected in that portion of a required rear yard where the rear lot line borders a public street shall be at least **fifty percent (50%)** open, and shall not exceed **four (4) feet** in height measured from ground level. A clearance of **three (3) inches** shall be allowed for installation purposes and shall not count in determining the height of a fence.
- (3) No fence may be erected which exceeds **six (6) feet** in height above ground level. A clearance of **three (3) inches** shall be allowed for installation purposes and shall not count in determining the height of a fence.
- (4) No fence may be constructed with barbed wire, metal spikes, or any other sharp pointed materials. All chain link fences shall be installed with the knuckle portion of the fence up and with the barb portion of the fence at or near the ground. No fence may be electrified.

(D) **Requirements in Commercial and Industrial Districts.** No fence may be erected or maintained within the Village and within a commercial or industrial district which does not comply with the following specifications:

- (1) Any fence erected in a required front yard shall be at least **fifty percent (50%)** open.
- (2) Any fence erected in that portion of a required rear yard where the rear lot line borders a public street shall be at least **fifty percent (50%)** open, and shall not exceed **four (4) feet** in height measured from ground level. A clearance of **three (3) inches** shall be allowed for installation purposes and shall not count in determining the height of a fence.
- (3) No fence may exceed a height of **eight (8) feet** above ground level. A clearance of **three (3) inches** shall be allowed for installation purposes and shall not count in determining the height of a fence.
- (4) No fence may be constructed with barbed wire, metal spikes, or any other sharp pointed materials unless the sharp pointed materials are erected at least **six (6) feet** above ground level, but not higher than **eight (8) feet** above ground level. All chain link fences shall be installed with the barbed portion of a fence at or near the ground unless it is installed at least **six (6) feet** above ground level. No fence may be electrified.

(E) **Permits.**

- (1) No fence which exceeds **four (4) feet** in height may be erected within any residential, commercial, or industrial district unless a fence permit is obtained from the office of the Village Clerk at a cost of **Twenty-Five Dollars (\$25.00)**. The individual or agency actually constructing the fence shall be responsible for obtaining the permit. No work shall start until the permit has been obtained. Any individual or agency starting work prior to applying for and receiving said permit shall be subject to a fine of **Five Dollars (\$5.00)** per day for each day the violation exists after the owner is mailed a written notice of violation at the property address or the owner's other current address.
- (2) A fence permit will become null and void after **one (1) year** from the date of issuance if the fence authorized by said permit has not been completed.

(F) **Variances.** Application for and other procedures for a variance of any of the above provisions shall be made in the same manner as provided in **Section 40-8-4** and **40-8-5** for variances of other provisions of the Zoning Code, except that the filing fee for a petition requesting a variance with respect to a fence existing on the effective date of the ordinance establishing this **Section 40-1-7** shall be **Twenty-Five Dollars (\$25.00)**.

(G) **Recreational Purpose Fences.** Fences erected for purposes of providing fencing around sports or recreation facilities or areas as listed below, shall not be subject to the height restrictions specified elsewhere in this Section, provided that such facility or area is not located within **twenty (20) feet** of a zoning lot corner formed by the intersection of any **two (2)** street lines; the fence is at least **seventy-five percent (75%)** open; and a fence permit is obtained. The maximum height of a fence is listed by each sports or recreational facility or area as follows:

<u>Use</u>	<u>Maximum Height in Feet</u>
Tennis court (public or private)	12
Baseball diamond backstop (public or private)	16
Swimming pools (public)	8
Elementary, middle or high schools (public or private)	8

(H) **Swimming Pool Fences.** The provisions of this Section shall not apply to swimming pool fences specifically regulated by other provisions of the Village Code.
(Ord. No. 02-06; 10-16-02)

ARTICLE II - RESIDENTIAL DISTRICT REGULATIONS

40-2-1 APPLICATION OF REGULATIONS. The following regulations and the general provisions and exceptions set forth in Article VII of this Code shall apply in the "R" and "R-3" Districts. **(Ord. No. 13-12; 06-26-13)**

40-2-2 PERMITTED USES IN THE "R" DISTRICT. The following uses shall be permitted in the "R" district.

One-family dwelling.

Duplexes.

Nursing or convalescent home.

Churches or similar places of worship, parish house, convent.

Public parks, public playgrounds and recreational areas operated by membership organizations for the benefit of their members and not for gain.

Public schools and institutions of higher education, public libraries, municipal buildings.

Philanthropic or eleemosynary institutions.

Customary home occupations, provided that there shall be no external evidence of such occupations except a small announcement or business sign not over **two (2) square feet** in area.

Other customary accessory uses and buildings, provided such uses are incidental to the principal use and do not include any activity commonly conducted as a business. Any accessory building shall be located on the same lot with the principal building.

(Ord. No. 13-12; 06-26-13)

40-2-3 PERMITTED USES IN THE "R-3" DISTRICT.

All uses permitted in the "R" District.

Multi-family dwellings.

(Ord. No. 13-12; 06-26-13)

40-2-4 REGULATIONS FOR SIGNS. Except for bulletin boards used in conjunction with churches and institutions, and business signs for the sale or lease of property, all advertising signs shall be excluded from the "R" and "R-3" Districts. **(Ord. No. 13-12; 06-26-13)**

40-2-5 BUILDING HEIGHT LIMIT. No building shall be erected to a height in excess of **thirty-five (35) feet** in the "R" and "R-3" Districts. **(Ord. No. 13-12; 06-26-13)**

40-2-6 REQUIRED LOT AREA. Lot area shall be not less than **seven thousand five hundred (7,500) square feet** and lot width not less than **seventy-five (75) feet** in the "R" and "R-3" Districts. **(Ord. No. 13-12; 06-26-13)**

40-2-7 **PERCENTAGE OF LOT COVERAGE.** All buildings, including accessory buildings, shall not cover more than **thirty-five percent (35%)** of the area of the lot, presently or hereafter platted, in the "R" District. This limitation does not apply in the "R-3" District. **(Ord. No. 13-12; 06-26-13)**

40-2-8 **YARD REQUIRED.** Each lot in the "R" and "R-3" Districts shall have front, side and rear yards not less than the following depths or widths:

(A) **Front Yard Depth.** **Twenty-five (25) feet** to residence and garage or accessory building. Provided, however, that in presently platted additions or subdivisions, residence improvements erected on lots therein after the effective date of this Code, shall comply with the existing setback line. If the existing improvements have not resulted in a uniform setback line, then any new improvements shall set back at least as far as the existing improvement which is closest to the front of such lot.

(B) **Each Side Yard Width.** **Ten (10) feet** provided, however, that lots presently platted of a width of less than **fifty (50) feet** shall have side yards of at least **three (3) feet.**

(C) **Rear Yard Depth.** **Twenty-five (25) feet** to principal use or **three (3) feet** to accessory use or detached garage, if the rear line abuts on an alley. **(Ord. No. 13-12; 06-26-13)**

40-2-9 **OFF-STREET PARKING.** A minimum of **one (1)** off-street parking space shall be provided for each dwelling unit on each lot in the "R" and "R-3" Districts. **(Ord. No. 13-12; 06-26-13)**

40-2-10 **SEA-LAND CONTAINERS.**

(A) **Definition.** A sea-land container is a unit, usually constructed of steel, which is customarily used for storing construction tools and supplies at a construction site. Such units are also known as cargo boxes and are also used for transporting cargo on water (by loading such units on board ships) and on land (by loading such units on railroad cars). Such units are also usually designed to be capable of stacking one on top of another. Such units are usually designed with one or more access doors and are usually accessible through the top. Standard sizes of such units are **eight (8) feet** high and **eight (8) feet** wide, with lengths varying from **ten (10) feet** up to **forty (40) feet.**

(B) **Permit Required.** No person or entity shall place or maintain a sea-land container on any real estate in the Village without first having obtained a permit therefore. Such permit shall be applied for in the same manner and subject to the same requirements and procedures as a building permit. The application for such permit shall state the purpose for which the container shall be utilized and the amount of time such container shall remain in place. The fee for such permit shall be **Seventy-Five Dollars (\$75.00)**, and shall be valid for a period of **twelve (12) months**, after which time a renewal permit shall be required; the fee for each renewal permit shall be **Thirty-Seven Dollars Fifty Cents (\$37.50).**

(C) **Restrictions.**

(1) No sea-land container shall be placed or maintained on real estate zoned for residential use.

- (2) A sea-land container shall be considered a "structure", subject to all of the restrictions, requirements and other provisions of the Building Code of the Village as in effect and amended from time to time.
- (3) The restrictions set forth in paragraphs (1) and (2) above shall not apply to:
 - (a) Sea-land containers offered for sale or rent from real estate which is zoned for commercial or industrial use; or
 - (b) Sea-land containers which are utilized in connection with construction or other work for which a current permit, if required, has been issued by the Village.
- (4) No sea-land container shall be used or adapted for use as a residence, office or other use involving human occupancy.
- (5) The placement of any and all sea-land containers for any purpose shall be subject to the setback requirements applicable to buildings under the applicable provisions of the Village Code.
- (6) All sea-land containers shall be kept securely locked except when being accessed or attended to in connection with a lawful use thereof.
- (7) Sea-land containers may not be stacked.

(Ord. No. 03-05; 04-16-03)

ARTICLE III – AGRICULTURAL ZONE

40-3-1 PERMITTED USES.

Agriculture.

Animal agriculture.

Single-family dwellings, when occupied by farm owners, operators, tenants or farm workers.

40-3-2 REQUIRED LOT AREA AND LOT WIDTH. Each lot shall have a lot area of not less than **two and one-half (2.5) acres** and shall not be less than **eighty (80) feet** in width.

Lots used for Animal Agriculture shall have a lot area of not less than **twenty (20) acres** and shall be not less than **four hundred (400) feet** in width.

Areas depicted on the Village Zoning Map as having agricultural zoning as of the effective date of this Chapter but not meeting the **two and one-half (2.5) acre** requirement set forth in this Section may continue to be used for Agriculture and Single-Family Dwellings.

40-3-3 HEIGHT REGULATION. No residential dwelling in the A Zone shall exceed **thirty-five (35) feet** in height. No agricultural building in the A Zone shall exceed in height, its distance from the lot line.

40-3-4 REQUIRED YARDS. Where a lot in the A Zone adjoins a lot in the "R" or "R-3" Zone, it shall have a **ten (10) foot** side yard, **twenty-five (25) foot** rear yard, and **twenty-five (25) foot** front yard setback requirement.

40-3-5 SEPARATION DISTANCES. A dwelling in the A Zone shall be at least **thirty (30) feet** from any structure used for sheltering livestock or poultry or for storage of agricultural implements.

A lot in the A Zone used for Animal Agriculture shall be at least **one thousand three hundred twenty (1,320) feet** from any lot zoned "R" or "R-3", measured at the closest points of both lots.

40-3-6 OFF-STREET PARKING. There shall be sufficient off-street parking provided in the "A" District that no person living on the zoning lot or visiting the zoning lot shall park on or in an adjoining street. Commercial operations selling produce, wine or other agricultural products produced on the zoning lot shall have sufficient paved or gravel parking areas for the customers and shall prevent the customers from parking other than on the paved or gravel parking areas.

(Ord. No. 13-12; 06-26-13)

ARTICLE IV - MOBILE HOME PARK REGULATIONS

40-4-1 **PERMITTED USES.** The following uses shall be permitted in all "M-H" Districts.

 All uses permitted in any residential district subject to all the provisions specified for such "R" District.

 Mobile homes.

40-4-2 **REQUIREMENTS.**

(A) The mobile home park shall be located on a well-drained site properly graded to insure rapid drainage and freedom from stagnant pools of water.

(B) Mobile home spaces shall be provided having a minimum of **two thousand (2,000) square feet** for each mobile home space.

(C) Each mobile home space shall be provided with storage locker space off the mobile home space of at least **fifty (50) cubic feet.**

(D) Mobile homes shall be so harbored on each space so that there shall be at least a **fifteen (15) foot** clearance between mobile homes; provided, however, that with respect to mobile homes parked end to end, the end to end clearance may be less than **fifteen (15) feet** but not less than **ten (10) feet.** No mobile home shall be located closer than **fifteen (15) feet** from any building within the mobile home park or from any property line bounding the mobile home park.

(E) All mobile home spaces shall abut upon a driveway of not less than **twenty (20) feet** in width, which shall have unobstructed access to a public street or highway, and the sole vehicular access shall not be by an alley, and all dead-end driveways shall include adequate vehicular turning space or cul-de-sac.

(F) **One (1)** off-driveway parking site shall be maintained on each mobile home space, and in addition, parking sites shall be maintained within the park equal to **one-fourth (1/4)** of the total mobile home space.

(G) All driveways and walkways within the mobile home park shall be hard surfaces and lighted at night with electric lamps of not less than **fifty (50) watts** each, spaced at intervals of not more than **one hundred (100) feet.**

(H) An electrical outlet supply of at least **one hundred ten (110) volts** shall be provided for each mobile home space, with a minimum **thirty (30) ampere** individual service outlet.

(I) Outdoor laundry space of adequate area and suitable location shall be provided.

(Ord. No. Z-1; 01-03-62)

ARTICLE V - COMMERCIAL DISTRICT REGULATIONS.

40-5-1 **PERMITTED USES.** The following uses shall be permitted in all "C" Districts.

All uses permitted in any residential district subject to all the provisions specified for such residential district and including apartment, hotel or motel.

Stores and shops for the conducting of any retail business.

Personal service shops (barber shops, beauty parlors, etc.).

Banks, theaters, offices, restaurants and similar community services.

Garages and filling stations upon approval of the Board of Appeals and subject to such conditions and safeguards as deemed appropriate by such Board and upon the securing of a permit therefor. Garages and filling stations are subject to the following provisions.

- (1) No repair work is performed out-of-doors.
- (2) Pumps, lubricating or other devices are located at least **ten (10) feet** from any street line or highway right-of-way.
- (3) All fuel, oil or similar substances stored above ground shall be at least **twenty-five (25) feet** distant from any street or lot line.
- (4) All automobile parts, dismantled vehicles and similar articles are stored within a building.

Undertaking establishments.

Accessory buildings and accessory uses.

Other uses which, in the opinion of the Board of Appeals, are of the same general character as those listed as permitted uses and which will not be detrimental to the district in which they are located.

40-5-2 **BUILDING HEIGHT LIMIT.** No building shall be erected to a height in excess of **thirty-five (35) feet**.

40-5-3 **REQUIRED LOT AREA.** Lot area shall not be less than **two thousand four hundred (2,400) square feet** and lot width not less than **twenty (20) feet**.

40-5-4 **PERCENTAGE OF LOT COVERAGE.** All buildings including accessory buildings shall not cover more than **seventy-five percent (75%)** of the area of the lot.

40-5-5 **YARDS REQUIRED.** Each lot shall have a rear yard not less than **twenty (20) feet**.

40-5-6 **OFF-STREET PARKING SPACES.** Off-street parking spaces shall be owned or provided under common ownership by the owner of the lot within **three hundred (300) feet** of the site of each of the permitted uses in accordance with the following schedule:

(A) For stores, service establishments, shops and studios, **one (1) square foot** of parking area per square foot of gross floor area in the structure(s), provided that no store, service establishment, shop or studio shall provide less than **three hundred (300) square feet** of off-street parking area.

(B) For offices and office buildings, **one (1) parking space** for each individual office, either separate or part of a suite of offices, plus **one (1) additional space** for every **three (3) employees**.

40-5-7 OFF-STREET LOADING SPACES.

(A) **One (1)** off-street loading space shall be provided on the site of a store or warehouse having a gross floor area exceeding **two thousand (2,000) square feet**, and **one (1)** additional off-street loading space shall be provided for each additional **two thousand (2,000) square feet** or major fraction thereof of gross floor area.

(B) Off-street loading spaces shall be provided on the site of any of the permitted uses when found to require the receipt or distribution by vehicle of materials or merchandise and when found to be necessary for the public safety, convenience or welfare by the Board of Appeals. The number of off-street loading spaces shall be determined by the Board of Appeals on the basis of the number of truck movements anticipated.

(Ord. No. Z-1; 01-03-62)

ARTICLE VI - INDUSTRIAL DISTRICT REGULATIONS

40-6-1 USES PERMITTED.

(A) Any use not in violation with the enacted laws of the State of Illinois or of the Village of New Berlin may be permitted; provided, however, that no building or premise shall be used for any industrial purpose unless approved by the Village Board after a review and report by the Board of Appeals and subject to such requirements as it may deem necessary to protect adjacent property and prevent objectionable or offense conditions.

(B) In recommending approval or disapproval of specific industries, the Board of Appeals shall take into consideration the degree or amount of smoke, dust, gas, noise, vibration and other operational characteristics of the industry, its location and distance from residential areas and its effects on surrounding property, and the Board may impose such reasonable conditions and requirements as to landscaping, paving and other features of the development as are deemed necessary for the protection of affected property.

(C) Adult uses, as defined in **Section 40-11-1** of the Village Code and pursuant to permits granted in accordance with **Section 40-11-4** and **40-11-5** of the Village Code. **(Ord. No. 02-05; 08-21-02)**

40-6-2 BUILDING HEIGHT LIMIT. Three (3) stories or forty-five (45) feet.

40-6-3 STRUCTURE HEIGHT LIMIT. Height limitations subject to review by the Board of Appeals.

40-6-4 REQUIRED LOT AREA. Lot area shall be not less than **seven thousand five hundred (7,500) square feet** and lot width not less than **seventy-five (75) feet**.

40-6-5 YARDS REQUIRED.

(A) Each lot shall have a front yard of not less than **twenty-five (25) feet** in depth.

(B) There shall be a side yard along the side of every lot in an "I" District of not less than **ten (10) feet**; provided, however, any lot bordering a residence district on a side yard shall have a side yard of a width not less than the minimum width required in said adjacent residence district.

(C) There shall be a rear yard on every lot of an "I" District of not less than **ten (10) feet**.

40-6-6 OFF-STREET PARKING SPACES. **One (1)** off-street parking space shall be provided for each **two (2) employees** on the maximum work shift.

40-6-7 **OFF-STREET LOADING SPACE.** Off-street loading space shall be provided on the site of any of the permitted uses found to require the receipt or distribution by vehicle of materials or merchandise and found to be necessary for the public safety, convenience or welfare by the Board of Appeals. The number of off-street loading spaces that may be required by the Board of Appeals shall be determined on the basis of the number of truck movements anticipated, but not more than **four (4) additional spaces** may be required.

(Ord. No. Z-1; 01-03-62)

ARTICLE VII - NON-CONFORMING USES

40-7-1 GENERAL RULE. Except as otherwise provided in **Section 40-11-7** with respect to adult uses, the lawful use of any building or land existing at the time of enactment of this Code may be continued although such use does not conform with the provisions of this Code. **(Ord. No. 02-05; 08-21-02)**

40-7-2 UNSAFE STRUCTURES. Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition, but may not be altered.

40-7-3 ALTERATIONS. A non-conforming building may not be reconstructed or structurally altered during its life to an extent exceeding in aggregate cost **fifty percent (50%)** at any **one (1) time** of the fair cash market value of the building as determined by the Board of Appeals unless said building is changed to a conforming use.

40-7-4 EXTENSION. A non-conforming use shall not be extended, but the extension of a lawful use to any portion of a non-conforming building which existed prior to the enactment of this Code shall not be deemed the extension of such non-conforming use.

40-7-5 CONSTRUCTION APPROVED PRIOR TO CODE. Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued and the construction of which shall have been diligently prosecuted within **three (3) months** of the date of such permit, and the ground story framework of which, including the second tier of beams, shall have been completed within **six (6) months** of the date of the permit, and which entire building shall be completed according to such plans as filed within **one (1) year** from date of this Code.

40-7-6 RESTORATION. No building damaged by fire or other cause to the extent of more than **fifty percent (50%)** of its fair cash market value as determined by the Board of Appeals shall be repaired or rebuilt except in conformity with the regulations of this Code.

40-7-7 DISCONTINUANCE OF NON-CONFORMING USE. Whenever a non-conforming use has been discontinued for a period of one year, such use shall not thereafter be reestablished, and any future use shall be in conformity with the provisions of this Code.

40-7-8 CHANGES. Once changed to a conforming use no building or land shall be permitted to revert to a non-conforming use.

40-7-9 **DISPLACEMENT.** No non-conforming use shall be extended to displace a conforming use.

40-7-10 **CESSATION.** Notwithstanding any other provisions of this Code, any dump, automobile wrecking yard or other junk yard in existence in any Residential District at the date of enactment of this Code shall at the expiration of **three (3) years** from such date become a prohibited and unlawful use and shall be discontinued.

40-7-11 **DISTRICT CHANGES.** Whenever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall also apply to any non-conforming uses existing therein.

(Ord. No. Z-1; 01-03-62)

ARTICLE VIII - ADMINISTRATION AND ENFORCEMENT

40-8-1 **ENFORCEMENT.** This Code shall be enforced by the Building Inspector. No building permit or certificate of occupancy shall be granted by him for any purpose except in compliance with the provisions of this Code.

40-8-2 **BUILDING PERMITS.** Application for and issuance of all building permits required by the Village Code shall be made and administered in accordance with written procedures adopted by the Village Board and in effect from time to time and kept on file by the Village Clerk. The written procedures attached to this Code as Exhibit "A" are hereby adopted by the Village Board as part of this Code. **(Ord. No. 2001-05; 08-15-01)**

40-8-3 **BUILDING PERMIT FEES.** The Village Clerk or other official designated by the Village Board is hereby authorized and directed to collect a Building Permit fee from the owner and/or contractor for any work for which a permit is required on the basis of the fee schedule as adopted by the Village Board and in effect from time to time, the current schedule to be kept on file by the Village Clerk. The building permit fee schedule attached to this Code as Exhibit "A" is hereby adopted by the Village Board as part of this Code. **(Ord. No. 2001-05; 08-15-01)**

40-8-4 **CERTIFICATE OF OCCUPANCY.**

(A) **Two (2)** types of certificates of occupancy are hereby established:

- (1) A Zoning Certificate of Occupancy, pursuant to which the Building Inspector certifies that the use or proposed use of land or a structure is in accordance with the regulations which pertain to the zoning district in which the land is located;
- (2) A Zoning and Building Certificate of Occupancy, pursuant to which, in addition to the certification in subsection (1), the Building Inspector certifies that a structure is in accordance with the Village's Building Code and other applicable codes.

(B) Any landowner may apply for a Zoning Certificate of Occupancy. The application shall be on a form specified by the Building Inspector and shall be accompanied by:

- (1) a **Twenty-Five Dollar (\$25.00) fee** payable to the Village;
- (2) a sworn statement of the landowner stating the use or proposed use of the land; and
- (3) a drawing to scale of the land and all structures and uses thereon, including data relating to setbacks from the property lines.

(C) Any landowner may apply for a Zoning and Building Certificate of Occupancy. The application shall be on a form specified by the Building Inspector and shall be accompanied by:

- (1) a **Fifty Dollar (\$50.00) fee** payable to the Village;
- (2) a sworn statement of the landowner stating the use or proposed use of the land;
- (3) a drawing to scale of the land and all structures and uses thereon, including data relating to setbacks from the property lines; and

- (4) (a) in the case of a one or two-family dwelling, a certificate from a person licensed pursuant to the Home Inspector License Act, **225 ILCS 441/1-1 et seq.**, that such person has determined after inspection that all structures thereon are built in accordance with the Village's Building Code and all applicable fire, plumbing and electrical codes; or
- (b) in the case of a multi-family or commercial building, a certificate from a licensed architect that the architect has determined after a review of the plans and an inspection that all structures thereon are designed and built in accordance with the Village's Building Code and all applicable fire, plumbing and electrical codes.

The Building Inspector may rely on the certifications of the licensed home inspector or architect without further investigation.

(D) The Building Inspector shall examine the application, and if the application meets the requirements of this Section and the use or proposed use of land or a structure is in accordance with the regulations which pertain to the zoning district in which the land is located, shall issue the certificate to the applicant within **three (3) working days** of receipt of the application.

(E) Denials of an application for a certificate of occupancy may be appealed to the Zoning Board of Appeals.

(F) No certificate of occupancy is required as a legal prerequisite for any person to own or occupy land or operate any use thereon.

(Ord. No. 08-10; 07-16-08)

40-8-5 **VIOLATIONS AND PENALTIES.** A violation of this Code is a misdemeanor punishable by a fine not exceeding **Five Hundred Dollars (\$500.00)** except that each day's violation may be considered a separate offense.

(Ord. No. Z-1; 01-03-62)

ARTICLE IX - BOARD OF APPEALS

40-9-1 **COMPOSITION.** A Board of Appeals is hereby created which shall consist of **seven (7) members** appointed by the Village Board to serve for a term of **five (5) years**. **One (1) member** of the Board shall be designated by the Village Board as Chairman and shall hold office as Chairman until his successor is appointed. The Board may select or appoint such other officers as it deems necessary. The Chairman shall have the power to administer oaths and compel attendance of witnesses. The members of the Zoning Board of Appeals shall also comprise the Plan Commission of the Village in accordance with the Subdivision Code. (**Ord. No. 08-12; 09-17-08**)

40-9-2 **MEETINGS.** The Board shall meet at the call of the Chairman and at such other times as it may determine. The Board shall keep minutes of its proceedings including findings of fact, all its determinations and decisions, the reasons therefor, and the vote of each member upon every question, which minutes shall immediately be filed in the office of the Village Clerk and shall be a public record.

40-9-3 **APPEALS.** An appeal may be taken to the Board of Appeals by any person, group or organizations, public or private, effected by a decision by the Building Inspector. Such appeal shall be taken within such time as prescribed by the Board by general rule, by filing with the Building Inspector and with the Board a notice of appeal specifying the grounds thereof.

40-9-4 **DUTIES.** The Board of Appeals shall have all the power and duties prescribed by law and by this Code, which are more particularly specified as follows:

(A) **Interpretation.** Upon appeal from a decision by the Building Inspector or other administrative official, to decide any question involving the interpretation of any provision of this Code, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

(B) **Variances.**

(1) **Initiation.** A written petition for a variance in the form specified by the Zoning Administrator may be made by any person, firm or corporation which is the owner of real estate for which such variation is sought.

(2) **Processing.** A petition for a variance shall be filed with the Zoning Administrator. Such petition shall be forwarded to the Zoning Board of Appeals with a request to hold a public hearing. Notice shall be given of the petition, the relief requested therein, the name of the petitioner, and the time and place of the hearing (a) by publishing a notice thereof at least once in **one (1)** or more newspapers in general circulation within the Village not more than **thirty (30)** nor less than **fifteen (15) days** prior to the hearing, and (b) by giving a written notice by mail before the hearing to the owners of the properties located adjacent to the location for which the variation is requested. Failure to give notice to the adjacent property owners will not void the proposed variance.

- (3) **Standards.** The Zoning Board of Appeals shall not recommend variance of the provisions of this Chapter as authorized in this Section unless it shall have made findings based upon the evidence presented to it that all of the following conditions apply:
- (a) That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located;
 - (b) That the plight of the owner is due to unique circumstances; and
 - (c) That the variance, if granted, will not alter the essential character of the locality.
- (4) The Zoning Board of Appeals, in making the foregoing determination may take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:
- (a) That the particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of regulation were to be carried out;
 - (b) That the conditions upon which the petition for variance is based would not be applicable generally to other property within the same zoning classification;
 - (c) That the purpose of the variance is not based exclusively upon a desire to make more money out of the property;
 - (d) That the alleged difficulty or hardship has not been created by any person presently having an interest in the property;
 - (e) That the granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; or
 - (f) That the proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.
- (5) The Zoning Board of Appeals may require such conditions and restrictions upon the premises benefitted by a variance as may be necessary to comply with the standards set forth in this Section to reduce or minimize the injurious effect of such variance upon other property in the neighborhood, and to implement the general purpose and intent of this Chapter.
- (6) **Authorized Variations.** Variations from the regulations of this Chapter may be recommended by the Zoning Board of Appeals only in accordance with the standards set forth in this Section and only in the following instances:
- (a) To permit a height greater than allowed;

- (b) To permit a yard less than the yard required by the applicable regulation;
- (c) To permit the use of a lot located in a residence district having insufficient area and width for a single-family dwelling, provided such lot is of record on the effective date of the ordinance codified in this Section;
- (d) To permit the use of any lot not covered above, for a use otherwise prohibited solely because of insufficient area of the lot;
- (e) To permit the same off-street parking spaces to qualify as required spaces for **two (2)** or more uses, provided that the maximum use of such facility by each user does not take place during the same hours of the same days of the week;
- (f) To reduce the applicable off-street parking or loading requirements;
- (g) To vary setback requirements, in an area permitting duplex structures, to allow a duplex structure to be situated on more than **one (1)** separately platted lot but subject to the following conditions:
 - (i) The duplex structure will be bisected by the lot line, and each dwelling unit will be located exclusively on **one (1) lot**, except for a party wall which is bisected by the lot line;
 - (ii) A party all agreement or other appropriate covenant will be recorded with the Recorder of Deeds of Sangamon County with respect to both lots, which will provide for the perpetual maintenance of the party wall and reconstruction of the structure in event of fire or casualty;
 - (iii) The variance will cease to exist if a structure containing **one (1)** or more dwelling units, other than a duplex structure bisected by the lot line and meeting the requirements of this Section, is constructed on either or both lots; and
 - (iv) The duplex structure would otherwise meet the minimum lot are requirement and all other requirements of this Chapter, including setback requirements, if the **two (2) lots** on which it is located, taken together, were considered a single lot;
 - (v) If a lot is divided, a tract survey is prepared, approved and recorded in accordance with the subdivision regulations of the Village.

(7) **Decisions.**

- (a) At the conclusion of the public hearing, the Zoning Board of Appeals shall submit a report of its findings and recommendations on each petition to the Village Board.

- (b) The Village Board, after receiving the report of the Zoning Board of Appeals and without further public hearing, may grant or deny by majority vote and proposed variation or may refer it back to Zoning Board of Appeals for further consideration.

(Ord. No. 09-14; 12-16-09)

(C) **Amendments to Zoning Regulations and Districts.** All proposed or requested amendments to this Code shall be filed with the Village Clerk and then referred by the Village Board to the Zoning Board of Appeals for public hearing. **(Ord. No. 11-8-66)**

(D) To conduct hearings on Adult Use construction and occupancy permits in accordance with **Article XI** of the Zoning Code. **(Ord. No. 02-05; 08-21-02)**

40-9-5 PROCEDURES.

(A) The Board of Appeals shall act in strict accordance with the procedure specified by law and by this Code. All appeals, made to the Board, shall be in writing. Every appeal or application shall refer to the specific provision of the ordinance involved, and shall exactly set forth the interpretation that is claimed, the use for which the special permit is sought, the details of the variance sought to be granted, or a copy of the proposed amendment to the Code, as the case may be.

(B) The Board of Appeals shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties and decide the appeal within a reasonable time. Hearings and all proceedings of the Board shall be in conformity with **Chapter 65, Sec. 5/11-13-1 of the Illinois Compiled Statutes**. All hearings shall be open to the public and any party at interest may appear in person or by agent or attorney. A written record shall be made and kept of all proceedings of the Board. All final administrative decisions of the Board of Appeals shall be subject to judicial review.

(C) Every decision of the Board of Appeals as to the interpretation of any provision of this Code, including determinations of location of district boundaries, shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case. As to applications for variations or for amendments to this Code, the findings and recommendations of the Board of Appeals shall likewise be by resolution. Each such resolution shall be filed in the office of the Village Clerk by case number under one or the other of the following headings: Interpretations; Variances; Amendments; together with all documents pertaining thereto.

(D) Each appeal or application filed hereunder, pertaining to interpretation of this Code, shall be accompanied by the payment of a filing fee of **Twenty Dollars (\$20.00)**. Each appeal or application filed hereunder, pertaining to variations or amendments to this Code, except those initiated by the Village Board, shall be accompanied by the payment of a filing fee of **One Hundred Dollars (\$100.00)**. Such fees shall be used to defray the cost of publication notices, reporting services, printing and general administration of this Code.

(Ord. No. 11-6-66)

ARTICLE X - AMENDMENTS

40-10-1 **AMENDMENTS.** The regulations imposed and the districts created may be amended or varied from time to time by ordinance after the ordinance establishing them has gone into effect, but no such amendments shall be made without a hearing before the Board of Appeals. Notice shall be given of the time and place of the hearing, not more than **thirty (30)** nor less than **fifteen (15) days** before the hearing, by publishing a notice thereof at least once in one or more newspapers within a general circulation within the municipality. In case of a written protest against any proposed variation, signed and acknowledged by the owners of **twenty percent (20%)** of the frontage immediately adjoining or across an alley therefrom or by the owner of **twenty percent (20%)** of the frontage directly opposite the frontage proposed to be altered, is filed with the Clerk of the municipality, the amendments or variations shall not be passed except by a favorable vote of **two-thirds (2/3)** of all of the Village Board.

(Ord. No. 11-8-66)

ARTICLE XI – ADULT USES

40-11-1 DEFINITIONS.

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.

Adult Club: A public or private establishment, a primary purpose of which is to provide members or guests with a venue to perform any one or more “specified sexual activities” with other members or guests.

Adult Entertainment Cabaret: A public or private establishment which:

(A) features topless dancers, strippers, “go-go” dancers, male or female impersonators, lingerie or bathing suit fashion shows;

(B) not infrequently features entertainers who display “specified anatomical areas”; or

(C) 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”.

Adult Entertainment Facility: As defined in **65 ILCS 5/11-5-1.5,**

(A) a striptease club or pornographic movie theater 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 whose primary business is the commercial sale, dissemination or distribution of sexually explicit material, shows or other exhibitions.

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.

Adult Novelty Store: An establishment having a substantial or significant portion of its sales or stock in trade consisting of toys, devices, clothing “novelties”, lotion 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.

Adult Use: Adult bookstores, adult motion picture theaters, adult entertainment cabarets, adult entertainment facilities, adult novelty stores, adult clubs, and other similar uses of property within the Village.

Specified Sexual Activities:

- (A) human genitals in the state of sexual stimulation or arousal;
- (B) acts of human masturbation, sexual intercourse or sodomy; and
- (C) fondling or other erotic touching of human genitals, pubic region, buttock or female breasts; or
- (D) excretory functions as part of or in connection with any of the foregoing activities.

Specified Anatomical Areas:

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

40-11-2 **LIQUOR SALE AND CONSUMPTION PROHIBITED.** No liquor license shall be issued and no liquor shall be sold or consumed on the premises of any adult use.

40-11-3 **LOCATION.** Adult uses are permitted only in areas zoned I (Industrial) under and pursuant to the provisions of **Article VI** of **Chapter 40** of the Village Code, provided:

- (A) No adult use shall be located within **one thousand (1,000) feet** of any property which is zoned residential or used for residences, churches, schools, parks or another adult use;
- (B) No adult entertainment facility shall be located within **one thousand (1,000) feet** of the property boundaries of any school, day care center, cemetery, public park, forest preserve, public housing or place of religious worship, all as provided in **65 ILCS 5/11-5-1.5**; and
- (C) No adult use shall be located in a building in which there is an establishment selling alcoholic liquors.

40-11-4 **PERMIT REQUIRED.**

(A) No adult use shall be constructed, occupied or conducted without a permit issued pursuant to this Section and **Section 40-11-5**. A permit shall be valid for **twelve (12) months** after the date of its approval by the Village Board; the applicant must apply for a renewal permit for each period of **twelve (12) months** thereafter. Applications for renewal permits must be submitted not less than **sixty (60) days** before the expiration of the existing permit. Permits for constructing, occupying or conducting an adult use shall be issued only after the following review process. The applicant shall apply to the Building Inspector for the permit; the original application shall be accompanied by a non-refundable **Five Hundred Dollars**

(\$500.00) application fee, and each application for a renewal permit shall be accompanied by a non-refundable **One Hundred Dollar (\$100.00)** application fee. The application shall be on a form specified by the Building Inspector, and shall include, in addition to any additional information submitted by the applicant, the following information:

- (1) The name, address, and phone number of all owners of record of the property on which the adult use is proposed to be constructed or operated;
- (2) The name, address, and phone number of all persons who will be operating the adult use; and if such person is a corporation or limited liability company, the name, address and phone numbers of all officers and directors and managers of the corporation or limited liability company, and the name, address and phone number of all management personnel.
- (3) The common address and legal description of the property;
- (4) A site plan and floor plan drawn to scale, identification of construction materials, and plans for lighting, parking and circulation, ingress and egress, landscaping and screening, and signage;
- (5) A statement as to the nature of the adult use proposed.

The Building Inspector shall forward the application to the Zoning Board of Appeals for review. Within **sixty (60) days** of filing, the Board of Appeals shall conduct a review of the application for conformance with the Zoning, Subdivision, and Adult Use Chapters of the Village Code. The Board of Appeals shall render a recommendation to the Village Board as to whether the proposed adult use conforms with all Village ordinances, and may recommend conditions on the development and operation of the adult use related to site plan, floor plan, construction materials, lighting, parking and circulation, ingress and egress, landscaping and screening, and signage in order to assure that the design and operation of the adult use is in conformance with all Village ordinances and is compatible with surrounding uses.

(B) **Criminal Background Restrictions.** No permit shall be issued to a person who has been convicted of a felony or misdemeanor involving drugs, prostitution, pandering, obscenity, sexual abuse or other crime or offense of a sexual nature, nor shall a permit be issued to a corporation or other entity, any manager or owner of **five percent (5%)** or more of which has been so convicted. Upon application for an adult use license, the Chief of Police shall conduct such background checks as are required to demonstrate compliance with the above restrictions and shall report his findings to the Village Board.

40-11-5 ACTION BY CORPORATE AUTHORITIES. Within **thirty (30) days** of receipt of the recommendation of the Zoning Board of Appeals and the report of the Chief of Police as to the criminal background investigation required under **Section 40-11-4(B)**, the Village Board shall, by ordinance or resolution, grant or deny the original or renewal permit. The Village Board's action shall specify the location, by legal description and common address, of the adult use, and shall specify the nature of the adult use permitted. The Village Board may place conditions on the adult use. The Village Board's determination is a final agency action subject to administrative review.

40-11-6 **EXTERIOR DISPLAY.** No adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to “specified sexual activities” or “specified anatomical areas” from any public way or from any property not registered as an adult use. This provision shall apply to any display, decoration, sign, show window or other opening.

40-11-7 **EXISTING ADULT USES.** Any adult use which existed lawfully, but which became nonconforming upon the adoption of this Article, may be continued as hereinafter provided:

(A) Upon written notice from the Village to the owners or interests therein that any building, structure, lot or regulated use is nonconforming under the provisions of the Zoning Code as amended, the owners or interests therein shall, within **two (2) months** from the date of such notice, apply to the Village Clerk for a Certificate of Nonconformance.

(B) Failure to apply for a Certificate of Nonconformance within **two (2) months** of the notice provided in paragraph (A) above will require the amortization of the nonconformance within **six (6) months** of the notice provided for in paragraph (A).

(C) Nonconformances that have applied for a Certificate of Nonconformance from the Village Clerk shall be discontinued within **one (1) year** of the notice provided in paragraph (A) above.

40-11-8 **OFFENSES.**

(A) No person, firm or corporation shall own, manage, or operate an adult use within the corporate limits of the Village without a permit from the Village obtained in accordance with this Article.

(B) No person, firm or corporation shall provide false information on an application for an adult use permit.

(C) No person, firm or corporation shall own, manage or operate an adult use within the corporate limits of the Village except in conformance with this Article.

40-11-9 **PENALTIES.** Persons found guilty of violating this Article shall, upon conviction thereof, be subject to a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)**. Each day a violation occurs shall be deemed a separate offense. Where a corporation or limited liability company owns or operates an adult use, all officers, directors, managers and employees who knowingly participated in management decisions shall be liable to the same extent as the corporation.

40-11-10 **ENLARGEMENT OR CHANGE IN NATURE OF USE.** An adult use permit is specific to a location and to a use. No adult use may be enlarged, nor the nature of the adult use changed, without the owner and manager thereof securing a new permit.

(Ord. No. 02-05; 08-21-02)

APPENDIX "A"

**VILLAGE OF NEW BERLIN, IL
APPLICATION FOR DEMOLITION PERMIT**

Date of Application: _____

Project Address: _____

New Berlin, Illinois

Tax ID No. of Parcel: _____

Owner of Record of Property:

Name: _____

Address: _____

Phone: _____ e-mail: _____

Current Use of Building: _____

Dimensions of Building _____ **Number of Stories** ____ **Number of Dwelling Units** ____

Frame Type (Masonry, Wood, Steel, etc.) _____

Disposal Site for Demolition Materials: _____

Are there Hazardous Materials Known to be on this Site?

(Asbestos, Lead Based Paints, Underground Tanks, etc.) _____ Yes _____ No

Demolition Contractor Information:

Name: _____

Address: _____

Phone: _____ e-mail: _____

Fax: _____

Anticipated start date: _____ Anticipated finish date: _____

Applicant has provided written proof of:

1. disconnection of services from utility companies having jurisdiction.
2. notification to Illinois EPA of proposed demolition.
3. abatement plans and abatement contract, if there are known hazardous materials on site.
4. demolition contract.
5. plans, if applicable, for pedestrian protection during demolition.

Applicant's Statement: I hereby apply for a demolition permit for the above-described project. The information contained in this application is true and correct, and the documents submitted herewith are genuine. I have reviewed Section 3303 of the International Building Code pertaining to demolitions.

Signature

Date

Owner's statement (if different from Applicant): I have reviewed this demolition application, and the Applicant is authorized to proceed with the demolition of the building or structure described herein.

Signature

Date

~~~~~  
This application is granted/denied this \_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Building Inspector

## **EXHIBIT “A”**

### **VILLAGE OF NEW BERLIN SANGAMON COUNTY, ILLINOIS**

#### **BUILDING CODE APPLICATION PROCESS AND PERMIT FEE STRUCTURE**

**This application process and fee structure is a supplement to and a part of  
Section 40-7-2 and 40-7-3 of the Revised Code of Ordinances**

#### **Permit Application Process**

- Chapters 40 and 41 of the Revised Code of Ordinances shall be follows.
- All applications for building permits shall be approved and a formal permit issued by the Building Inspector prior to project start-up.
- Building permit applications can be obtained by contacting the Village Clerk or his or her designate either in person, by U.S. Mail or by “E-Mail”.

Phone No. (217) 488-6312

Fax No. (217) 488-2003

Mailing Address:

301 E. Illinois

PO Box 357

New Berlin, IL 62670-0357

E-Mail: [village@newberlin.il.us](mailto:village@newberlin.il.us)

- Building permit applications must be presented to the Clerk or its designate, in writing, with the appropriate fees and supporting required documentation.
- Supporting documentation shall include but may not be limited to two copies of the floor plans, and plat map indicating location of structure, lot lines and location of easements.
- The application will then be forwarded to the Building Inspector for formal approval.
- All inspections will be performed within 48-72 hours after a request is made for the inspection, except for reasonable cause preventing such time frame to be met.
- A person will be designated in writing by the Building and Zoning Committee to carry out the Building Inspector’s prescribed duties in the Building Inspector’s absence.

- Changes or alterations to an approved permit will require a new permit application at a fee of \$100.00.

Except when needed for on site inspections, all building permits, including but not limited to all supporting documentation, shall be kept at the Village Hall, 301 East Illinois Street, New Berlin, IL.

### **New Construction Permit Fee Structure**

- Base Permit Fee \$100.00 (Non-refundable)  
 10 inspections for each project  
 \$15.00 fee for each inspection \* 10 = \$150.00 (Non-refundable)  
Total \$250.00

Re-inspection fee: \$15.00  
 Replacement Project Job Card \$50.00

- New construction projects shall be inspected **ten (10) times**. There are as follows:
  1. Plan review
  2. Placing of home on lot
  3. Footing and foundation inspection
  4. Framing inspection
  5. Mechanical rough-in
  6. Insulation
  7. Electrical rough-in
  8. Windows
  9. Plumbing rough-in
  10. Final inspection
- The inspector shall be paid \$15.00 per inspection or \$150.00 per permit. The inspector shall be paid when final inspection of project is completed.
- Re-inspection of a project phase \$15.00
- All additional inspection fees including re-inspection fee(s) shall be paid to the Village Clerk or its designate prior to issuance of a Certificate of Occupancy.

The inspection fee for multi-unit structures will be as follows:

\$250.00 for the first unit (10 inspections).

\$35.00 for each additional unit.

For example the total inspection fee for a duplex would be \$285.00 and \$355.00 for a four-plex.

If the permit application is rejected, the applicable base permit fee and the plan review fee will not be refunded.

### **Remodeling Permit Fee Structure**

|                   |                                 |
|-------------------|---------------------------------|
| Base Permit Fee   | \$45.00 (Non-refundable)        |
| Inspection fee    | \$15.00 per required inspection |
| Re-inspection fee | \$15.00, if applicable          |

***The \$45.00 base permit fee for the purpose of remodeling a residential structure with a project cost of under \$1,000.00 is waived. All other required inspection fees will be applicable.***

A permit will be required for the following remodeling projects:

- Room additions. (\*) ***A room addition is defined as an increase in the square footage of the living area of an existing structure.***
- Attached and un-attached garages. (\*)
- Closure of patios or decks into an enclosed room. (\*)
- Storage building (on a foundation or temporary). (\*)
- Any other interior or exterior remodeling of a residential structure for commercial use. (\*)
- Any other interior or exterior remodeling of an existing commercial structure. (\*)
- Construct, renovate or replace a roof.
- Construct new porches, patios and/or decks.
- Signs or signage.
- Installation of a wood or gas burning stove and/or fireplace.

(\*) These noted above will require a \$15.00 fee for each applicable inspection in addition to the \$45.00.

Re-inspection of a project phase: \$15.00

All additional inspection fees including re-inspection fee(s) shall be paid to the Village Clerk prior to issuance of a Certificate of Occupancy.

The fee for remodeling multi-unit structures will be \$45.00 per unit being remodeled in addition to the other fees, as applicable.

If the permit application is rejected, the \$45.00 base permit application fee will not be refunded.

***Even in the situations where a permit is not required, all work must comply with all applicable Federal, State, and local laws, codes, rules and regulations.***

## **Demolition Permit Fee Structure**

A permit to demolish or remove a structure shall not be issued until a written release is obtained from the utilities.

Chapter One  
BOCA National Building Code  
1999 Fourteenth Edition  
Section 110.0 Demolition of Structures  
    110.1 Service Connection  
    110.2 Notice to Adjoining Owners  
    110.3 Lot Regulations

This permit fee of \$65.00 for the demolition of a building or a structure or to move a structure shall go into effect January 2, 2002.

The Village Board of Trustees, New Berlin, Sangamon County, Illinois, can waive this permit of \$65.00 for the demolition of a building or a structure or to move a structure.

**CHAPTER 42**

**BILLBOARDS**

**42-1-1**      **DEFINITIONS.** The following term used in this Chapter shall have the following meanings:

**Billboard:** A billboard is an object, device, display, sign, or structure, or part thereof, displayed outdoors or visible from a public way, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location, or to express a point of view, by any means, including words, letters, figures, design, symbols, advertising flags, fixtures, colors, illuminations or projected images, which are not substantially related to the primary economic activity or use conducted on the zoning lot. "Billboard" does not include commercial signage related to the business conducted on the zoning lot, nor signs temporarily placed in residential lawns by residents, owners, contractors, realtors, or by or on behalf of political candidates or issues.

**Billboard Area:** The facing of a billboard, including copy, insignia, background, structural supports, and border and trim. The measurement shall be determined by the smallest rectangle inclusive of all letters and images. The structural supports shall be excluded if they do not constitute a major part of the billboard or if the structure is not used to identify or attract attention to the business or product. A double-sized billboard, with sign faces parallel to each other, shall be deemed to have the billboard area of the larger sign face.

**Spacing:** Spacing of billboards shall be the minimum distance between outdoor advertising billboard structures measured along the nearest edge of the pavement between points directly opposite the billboards along each side of the highway and shall apply to outdoor advertising billboard structures located on both sides of the highway involved. Spacing shall be calculated with respect to existing billboards whether or not the existing billboards are within the corporate limits of the Village.

**Illuminated Billboard:** A billboard having its characters, letters, figures, designs or outlines illuminated by a source of artificial light.

**Electronic Billboard:** A billboard that displays its characters, letters, figures and designs electronically, e.g., with light emitting diodes.

**Old Route 54 Corridor:** An area including all land located within **two hundred (200) feet** of the north and south boundaries of the Old Route 54 right-of-way and within the corporate limits of the Village.

**Highway 10 Corridor:** An area including all land located within **two hundred (200) feet** of the east and west boundaries of the Sangamon County 10 right-of-way and within the corporate limits of the Village.

**Zoning Code:** Chapter 40 of this Code of Ordinances.

**42-1-2 PURPOSE.** The regulations set forth in this Chapter are established in order to promote and protect generally public health, safety, comfort, prosperity and welfare and in order to accomplish the following specific purposes:

- (A) To maintain and enhance the visual environment, and to preserve the right of citizens to enjoy the Village's scenic beauty;
- (B) To improve pedestrian and traffic safety;
- (C) To minimize the possible adverse effect of billboards on nearby public and private property.
- (D) To provide a reasonable amortization period for nonconforming billboards, in order to lessen the economic impact thereof on the owners thereof.

**42-1-3 GENERAL CONSTRUCTION, MATERIAL, LOCATION AND PERFORMANCE STANDARDS.**

- (A) **Electrical Requirements.**
  - (1) The electrical components, connections, and installations of all billboards shall conform to the Electric Code of the Village and all regulations promulgated thereunder.
  - (2) In no case shall electrical wiring be exposed to the view of, or access by, the public.
- (B) **Illumination and Movement.**
  - (1) The light from every illuminated billboard shall be shaded, shielded or directed so that no ray emanating from any light fixture shall directly impinge upon any residential structure or public road, and all light visible from any residential structure or public road is either reflected from, or diffused and filtered through, the sign.
  - (2) Flashing billboards, flashing or moving lights on billboards, and reflective pennants are prohibited, except signs exhibiting time and temperature, date or other similar information.
  - (3) Electronic billboards shall change their display not more frequently than every **ten (10) seconds**.
- (C) **Location.**
  - (1) Billboards shall be located within the zoning lot in accordance with the applicable setback and yard provisions of the zoning district in which such lot is located.
  - (2) Billboards shall not be located on the public right-of-way, or affixed to or upon public property on the public right-of-way, including but not limited to any sidewalk, crosswalk, curb, curbstone, street lamp post, hydrant, tree, shrub, tree stake or guard, electric light or power, telephone or telegraph system, fire alarm, lighting system, public bridge, drinking fountain, trash receptacle, street sign or traffic sign.
- (D) **Maintenance.** All billboards shall be properly maintained, free of broken or missing parts, rust or oxidation, faded or chipped paint, and similar conditions of disrepair.

**42-1-4**      **LOCATION RESTRICTIONS.**

(A) Billboards are permitted only in areas of the Village which meet all of the following conditions:

- (1) The applicable zoning classification is Business.
- (2) The billboard is located within the Highway 10 Corridor or the Old Route 54 Corridor.
- (3) The zoning lot on which the billboard is located borders directly on the right-of-way of County Highway 10 or Old Route 54.
- (4) The base of the billboard shall not be less than **seven hundred fifty (750) feet** from the exterior wall of the nearest residence.

(B) Billboards are subject to the following additional regulations:

- (1) Spacing between billboards shall be at least **five hundred (500) feet**.
- (2) A billboard shall be single face, with an area not exceeding **one hundred seventy-five (175) square feet**, or back-to-back double face, with an area not exceeding **one hundred seventy-five (175) square feet** per face.
- (3) The top of the billboard shall not be more than **thirty (30) feet** above the surface of the lot.
- (4) The billboard shall be so designed and located such that its primary audience is the traveling public on Sangamon County Highway 10 or Old Route 54.

**42-1-5**      **ENFORCEMENT.**

(A) From and after the effective date of this Chapter, it shall be unlawful to erect, or to structurally or electronically alter, any billboard within the Village unless a permit therefore has been issued by the Building Inspector in accordance with the provisions of this Chapter. A written application for such permit shall be filed with the Building Inspector, and the application shall contain, as a minimum, a site plan; a plan of the proposed billboard; a map showing spacing with respect to existing billboards; and evidence of any federal or state permits which the applicant has obtained with respect to the billboard. The application shall be signed by the owner of record of the zoning lot on which the billboard will be located. Prior to or concurrently with the filing of such application, the applicant shall pay to the Village a permit fee in the amount of **Ten Dollars (\$10.00)** for each sign, plus **Twenty-Five Cents (\$0.25)** for each square foot of surface area of such sign in excess of **twenty (20) square feet**. If the application shows that the proposed billboard would be in conformance with this Chapter, the Building Inspector shall grant the application and issue a permit. If the application shows that the proposed billboard would not be in conformance with this Chapter, the Building Inspector shall deny the application in writing. The Building Inspector shall have **five (5) business days** to grant or deny the permit application; his decision shall be reviewable by the Zoning Board of Appeals in accordance with the appeal provisions in the Zoning Code.

(B) **Compliance with State Law.** No billboard permit shall be issued by the Building Inspector unless the applicant has obtained all necessary state or federal permits, if any. The issuance of such state or federal permits shall not entitle the applicant to issuance of a Village permit, unless the applicant is in compliance with all applicable Village, state and federal laws.



(C) **Maintenance of Billboards.** Billboards shall be maintained in a safe condition. If the Building Inspector shall find that any billboard has not been properly maintained, as evidenced by damaged, dented, cracked, broken or missing parts; the presence of rust or oxidation, faded or chipped paint, or similar conditions of disrepair, he shall give written notice of such violation to the owner or occupant of the premises upon which such sign is located, stating the condition noted and providing not less than **fifteen (15) days** within which to remedy the deficiency, unless the billboard presents an immediate threat to life or property, in which case the notice shall provide that the deficiency shall be remedied immediately.

**42-1-6 NONCONFORMING BILLBOARDS.**

(A) Billboards which were lawfully erected prior to the adoption of this Chapter, but which do not conform to the requirements of this Chapter, may continue in existence; however, they may not be enlarged, nor may the illumination thereof be increased, nor may a nonconforming, non-illuminated sign be converted to an electronic sign. This Section shall not be construed as permitting any billboard which was not in conformity with all Village ordinances prior to the effective date of this Chapter, or which do not conform to all safety, electrical and maintenance requirements of this chapter.

(B) The Village may in its discretion order the alteration or removal of any nonconforming billboard, subject to any right of the owner thereof, and the owner of the property on which the billboard is located, to just compensation pursuant to Illinois eminent domain law.

(C) This Chapter shall not affect any right which has vested pursuant to any annexation agreement executed prior to the effective date hereof.

**42-1-7 NUISANCES DECLARED.** The Village hereby declares that any billboard which does not conform to the requirements of this Chapter, and is not allowed pursuant to the nonconforming sign provisions of **Section 42-1-6**, is a nuisance. In addition to any other remedies available to the Village, the Village may sue the owner of any land on which a such a billboard is located, to abate such a nuisance.

**42-1-8 PENALTY.** Any person, firm or corporation who or which owns, leases (as lessor or lessee) or controls a billboard which violates any provision of this Chapter, or owns a zoning lot on which such a billboard is located, or fails to remedy a deficiency as to which notice has been sent by the Building Inspector as set forth in **Section 42-1-5(C)**, shall be subject to a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each violation. Each day a violation continues shall be deemed a separate offense.

**(Ord. No. 2011-09; 10-19-11)**

**[ED. NOTE: This Chapter is an extension of the Zoning Code.]**

CHAPTER 43

WIRELESS TELECOMMUNICATIONS TOWERS

**43-1-1**      **PURPOSE.** The purpose of this Chapter is to establish general guidelines for the siting of wireless communications towers and antennas. The goals of this Chapter are to:

- (A)            protect residential areas and land uses from potential adverse impacts of towers and antennas;
- (B)            encourage the location of towers in non-residential areas;
- (C)            minimize the total number of towers throughout the community;
- (D)            strongly encourage the joint use of new and existing tower sites as a primary option rather than construction of additional single-use towers;
- (E)            encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- (F)            encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas through careful design, siting, landscape screening, and innovative camouflaging techniques;
- (G)            enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
- (H)            consider the public health and safety of communication towers; and
- (I)            avoid potential damage to adjacent properties from tower failure through engineering and careful siting of tower structures.

In furtherance of these goals, the Village shall give due consideration to its comprehensive plan, zoning map, existing land uses, and environmentally sensitive areas in approving sites for the location of towers and antennas.

**43-1-2**      **RELATIONSHIP TO ZONING CODE.** This Chapter is closely related to and shall be interpreted together with the Zoning Code, **Chapter 40** of the Village Code of Ordinances. All terms contained in this Chapter shall have the meanings as when used in **Chapter 40**, unless the context clearly indicates otherwise. However, in the event of any conflict between this Chapter and **Chapter 40**, this Chapter shall control.

**43-1-3**      **DEFINITIONS.** As used in this Chapter, the following terms shall have the meanings set forth below:

***Alternative Tower Structure*** means man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

***Antenna*** means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

**Backhaul Network** means the lines that connect a provider's towers/cell sites to **one (1)** or more cellular telephone switching offices, and/or long distance providers, or the public switched telephone network.

**FAA** means the Federal Aviation Administration.

**FCC** means the Federal Communications Commission.

**Height** means, when referring to a tower or other structure, the distance measured from the finished grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

**Preexisting towers and preexisting antennas** means any tower or antenna for which a building permit or conditional permitted use permit has been properly issued prior to the effective date of this Code, including permitted towers or antennas that have not yet been constructed so long as such approval is current and not expired.

**Tower** means any structure that is designed and constructed primarily for the purpose of supporting **one (1)** or more antennas for telephone, radio and similar communication purposes, including self-supporting lattice towers, guyed towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like. The term includes the structure and any support thereto.

**Village** refers to the Village of New Berlin.

**Zoning Code** refers to **Chapter 40** of the Code of Ordinances of the Village of New Berlin.

**Zoning Committee** means the committee of the Village Board having jurisdiction over zoning matters.

**43-1-4      APPLICABILITY.**

(A)      **New Towers and Antennas.** All new towers or antennas in the Village shall be subject to these regulations, except as provided in **Sections 43-1-2(B)** through **(D)**, inclusive.

(B)      **Amateur Radio Station Operators/Receive Only Antennas.** This Chapter shall not govern any tower, or the installation of any antenna, that is under **seventy (70) feet** in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

(C)      **Preexisting Towers or Antennas.** Preexisting towers and preexisting antennas shall not be required to meet the requirements of this Chapter, other than the requirements of **Sections 43-1-5(F)** and **43-1-5(G)**.

(D)      **AM Array.** For purposes of implementing this Chapter, an AM array, consisting of **one (1)** or more tower units and supporting ground system which functions as **one (1)** AM broadcasting antenna, shall be considered one tower. Measurements for setbacks and separation distances shall be measured from the outer perimeter of the towers included in the AM array. Additional tower units may be added within the perimeter of the AM array by right.

**43-1-5 GENERAL REQUIREMENTS.**

(A) **Principal or Accessory Use.** Antennas and towers may be considered either principal or accessory uses under the Zoning Code. A different existing use of an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.

(B) **Lot Size.** For purposes of determining whether the installation of a tower or antenna complies with zoning district regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lot.

(C) **Inventory of Existing Sites.** Each applicant for an antenna or tower shall provide along with its application an inventory of its existing towers, antennas, or sites approved for towers or antennas, that are either within the jurisdiction of the Village or within **one (1) mile** of the border thereof, including specific information about the location, height, and design of each tower. The Village may share such information with other applicants applying for administrative approvals or conditional use permits under this Chapter or other organizations seeking to locate antennas within the jurisdiction of the Village, provided, however that the Village is not, by sharing such information, in any way representing or warranting that such sites are available or suitable.

(D) **Aesthetics.** Towers and antennas shall meet the following requirements:

- (1) Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
- (2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend them into the natural setting and surrounding buildings.
- (3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(E) **Lighting.** Towers shall not be artificially lighted unless required by the FAA or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least disturbance to the surrounding views.

(F) **State or Federal Requirements.** All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Chapter shall bring such towers and antennas into compliance with such revised standards and regulations within **six (6) months** of the effective date of such standards and regulations, unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to bring towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(G) **Building Codes: Safety Standards.** To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers

that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Village concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have **thirty (30) days** to bring such tower into compliance with such standards. Failure to bring such tower into compliance within said **thirty (30) days** shall constitute grounds for the removal of the tower or antenna at the owner's expense.

(H) Towers and antennas shall be regulated and permitted pursuant to this Chapter and shall not be regulated or permitted as essential services, public utilities, or private utilities.

(I) **Franchises.** Owners and/or operators of towers or antennas shall certify, that all franchises required by law for the construction and/or operation of a wireless communication system in the Village have been obtained and shall file a copy of all required franchises with the Zoning Committee.

(J) **Public Notice.** For purposes of this Chapter, any conditional permitted use request, variance request, or appeal of an administratively approved use or conditional permitted use shall require public notice to all abutting property owners and all property owners of properties that are located within the corresponding separation distance listed in **Section 43-1-8(B)(5)(ii)**, Table 2, in addition to any notice otherwise required by the Zoning Code.

(K) **Signs.** No signs shall be allowed on an antenna or tower.

(L) **Buildings and Support Equipment.** Buildings and support equipment associated with antennas or towers shall comply with the requirements of **Section 43-1-9**.

(M) **Multiple Antenna/Tower Plan.** The Village encourages the users of towers and antennas to submit a single application for approval of multiple towers and/or antenna sites. Applications for approval of multiple sites shall be given priority in the review process.

**43-1-6 PERMITTED USES.**

(A) **General.** The uses listed in this Section are deemed to be permitted uses and shall not require administrative approval or a special use permit.

(B) **Permitted Uses.** The following uses are specifically permitted:

- (1) Antennas or towers located on property owned, leased, or otherwise controlled by the Village, provided a license or lease authorizing such antenna or tower has been approved by the Village, and irrespective of the applicable zoning district.

**43-1-7 ADMINISTRATIVELY APPROVED USES.**

(A) **General.** The following provisions shall govern the issuance of administrative approvals for towers and antennas.

- (1) The Zoning Committee may administratively approve the uses listed in this Section.
- (2) Each applicant for administrative approval shall apply to the Village Clerk providing the information set forth in **Sections 43-1-8(B)(1)** and **43-1-8(B)(3)** of this Chapter and a nonrefundable fee of **Three Hundred Fifty Dollars (\$350.00)** to reimburse the Village for the costs of reviewing the application. The Village Clerk shall transmit the application to the Zoning Committee.

- (3) The Zoning Committee shall review the application for administrative approval and determine if the proposed use complies with **Sections 43-1-5, 43-1-8(B)(4) and 43-1-8(B)(5)** of this Chapter.
- (4) The Zoning Committee shall respond to each such application within **sixty (60) days** after receiving it by either approving or denying the application. If the Zoning Committee fails to respond to the applicant within said **sixty (60) days**, then the application shall be deemed to be denied.
- (5) In connection with any such administrative approval, the Zoning Committee may, in a case involving shared use, administratively waive any zoning district setback requirements in **Section 43-1-8(B)(4)** or separation distances between towers in **Section 43-1-8(B)(5)** by up to **fifty percent (50%)**.
- (6) In connection with any such administrative approval, the Zoning Committee may, in order to encourage the use of monopoles, administratively allow the reconstruction of an existing tower to monopole construction.
- (7) If an administrative approval is denied, the applicant's administrative remedy shall be limited to filing an application for a special use permit pursuant to **Section 43-1-8**.

(B) **List of Administratively Approved Uses.** The following uses may be approved by the Zoning Committee after conducting an administrative review:

- (1) Locating a tower or antenna, including the placement of additional buildings or other supporting equipment used in connection with said tower or antenna, in any industrial zoning district.
- (2) Locating antennas on existing structures or towers consistent with the terms of subsections (a) and (b) below.
  - (a) **Antennas on Existing Structures.** Any antenna which is not attached to a tower may be approved by the Zoning Committee as an accessory use to any commercial, industrial, professional, institutional, or multi-family structure of **eight (8)** or more dwelling units, provided:
    - (i) The antenna does not extend more than **thirty (30) feet** above the highest point of the structure;
    - (ii) The antenna complies with all applicable FCC and FAA regulations; and
    - (iii) The antenna complies with all applicable building codes.
  - (b) **Antennas on Existing Towers.** An antenna which is attached to an existing tower may be approved by the Zoning Committee and, to minimize adverse visual impacts associated with the proliferation and clustering of towers, collocation of antennas by more than one carrier on existing towers shall take precedence over the construction of new towers, provided such collocation is accomplished in a manner consistent with the following:
    - (i) A tower which is modified or reconstructed to accommodate the collocation of an additional

antenna shall be of the same tower type as the existing tower, unless the Zoning Committee allows reconstruction as a monopole.

(ii) **Height.**

- a. An existing tower may be modified or rebuilt to a taller height, not to exceed **thirty (30) feet** over the tower's existing height, to accommodate the collocation of an additional antenna.
- b. The height change referred to in subsection (ii)(a) may only occur one time per communication tower.
- c. The additional height referred to in subsection (ii)(a) shall not require an additional distance separation as set forth in **Section 43-1-8**. The tower's pre-modification height shall be used to calculate such distance separations.

(iii) **Onsite Location.**

- a. A tower which is being rebuilt to accommodate the collocation of an additional antenna may be moved onsite within **fifty (50) feet** of its existing location.
- b. After the tower is rebuilt to accommodate collocation, only one tower may remain on the site.
- c. A relocated onsite tower shall continue to be measured from the original tower location for purposes of calculating separation distances between towers pursuant to **Section 43-1-8(B)(5)**. The relocation of a tower hereunder shall in no way be deemed to cause a violation of **Section 43-1-8(B)(5)**.
- d. The onsite relocation of a tower which comes within the separation distances to residential units or residentially zoned lands as established in **Section 43-1-8(B)(5)** shall only be permitted when approved by the Zoning Committee.

- (3) New towers in non-residential zoning districts. Locating any new tower in a non-residential zoning district other than industrial, provided a licensed professional engineer certifies the tower can structurally accommodate the number of shared users proposed by the applicant; the Zoning Committee concludes the tower is in conformity with the goals set forth in Section 43.1 and the requirements of **Section 43-1-5**; the tower meets the setback requirements in **Section 43-1-8(B)(4)** and separation distances in **Section 43-1-8(B)(5)**; and the tower meets the following height and usage criteria:

- (a) for a single user, up to **ninety (90) feet** in height;
  - (b) for **two (2)** users, up to **one hundred twenty (120) feet** in height; and
  - (c) for **three (3)** or more users, up to **one hundred fifty (150) feet** in height.
- (4) Installing a cable microcell network through the use of multiple low-powered transmitters/receivers attached to existing wireline systems, such as conventional cable or telephone wires, or similar technology that does not require the use of towers.

**43-1-8 SPECIAL USE PERMITS.**

(A) **General.** The following provisions shall govern the issuance of special use permits for towers or antennas by the Plan Commission:

- (1) If the tower or antenna is not a permitted use under **Section 43-1-6** of this Chapter or permitted to be approved administratively pursuant to **Section 43-1-7** of this Chapter, then a special use permit shall be required for the construction of a tower or the placement of an antenna in all zoning districts.
- (2) Applications for special use permits under this Section shall be subject to the procedures and requirements of the Zoning Code, except as modified in this Section.
- (3) In recommending the grant of a special use permit, the Plan Commission may suggest conditions to the extent the Plan Commission concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
- (4) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical, shall be certified by a licensed professional engineer.
- (5) An applicant for a special use permit shall submit the information described in this Section and a non-refundable fee of **Three Hundred Fifty Dollars (\$350.00)** plus a commitment to reimburse the Village its out-of-pocket costs for a review by a licensed engineer.

(B) **Towers.**

- (1) **Information Required.** In addition to any information required for applications for special use permits pursuant to the Zoning Code, applicants for a special use permit for a tower shall submit the following information:
  - (a) A scaled site plan clearly indicating the location, type and height of the proposed tower, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), zoning classification of the site and all properties within the applicable separation distances set forth in **Section 43-1-8(B)(5)**, adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed tower and any other structures, topography, parking, and other information



deemed by the Zoning Committee to be necessary to assess compliance with this Chapter.

- (b) Legal description of the parent tract and leased parcel (if applicable).
- (c) The setback distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
- (d) The separation distance from other towers described in the inventory of existing sites submitted pursuant to **Section 43-1-5(C)** shall be shown on an updated site plan or map. The applicant shall also identify the type of construction of the existing tower(s) and the owner/operator of the exiting tower(s), if known.
- (e) A landscape plan showing specific landscape materials.
- (f) Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
- (g) A description of compliance with **Sections 43-1-5(C), (D), (E), (F), (G), (J), (L), and (M), 43-1-8(B)(4), and (B)(5)** and all applicable federal, state or local laws.
- (h) A notarized statement by the applicant as to whether construction of the tower will accommodate collocation of additional antennas for future users.
- (i) Identification of the entities providing the backhaul network for the tower(s) described in the application and other towers and antennas owned or operated by the applicant in the municipality.
- (j) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures to provide the services to be provided through the use of the proposed new tower.
- (k) A description of the feasible location(s) of future towers or antennas within the Village based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

(2) **Factors Considered in Granting Special Use Permit for Towers.**

In addition to the standards for consideration of special use permit applications pursuant to the Zoning Code, the Plan Commission shall consider the following factors in determining whether to recommend issuance of a special use permit, although the Plan Commission may recommend waiver or reduction of the burden on the applicant of one or more of these criteria if the Plan Commission concludes that the goals of this Chapter are better served thereby:

- (a) Height of the proposed tower;
- (b) Proximity of the tower to residential structures and residential district boundaries;
- (c) Nature of uses on adjacent and nearby properties;
- (d) Surrounding topography;
- (e) Surrounding tree coverage and foliage;

- (f) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (g) Proposed ingress and egress; and
- (h) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of towers or structures, as discussed in **Section 43-1-8(B)(3)** of this Chapter.

(3) **Availability of Suitable Existing Towers, Other Structures, or Alternative Technology.**

No new tower shall be recommended unless the applicant demonstrates to the reasonable satisfaction of the Plan Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the Plan Commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:

- (a) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- (b) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (c) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (d) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- (e) The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonably. Costs exceeding new tower development are presumed to be unreasonable.
- (f) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (g) The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

- (4) **Setbacks.** The following setback requirements shall apply to all towers for which a special use permit is required; provided, however, that the Plan Commission may recommend reduction of the standard setback requirements if the goals of this Chapter would be better served thereby:
  - (a) Towers must be set back a distance equal to at least **seventy-five percent (75%)** of the height of the tower from any adjoining lot line.
  - (b) Guys and accessory buildings must satisfy the minimum zoning district setback requirements.
- (5) **Separation.** The following separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the Plan Commission may reduce the standard separation requirements if the goals of this Chapter would be better served thereby.
  - (a) **Separation From Off-Site Uses/Designated Areas.**
    - (i) Tower separation shall be measured from the base of the tower to the lot line of the off-site uses and/or designated areas as specified in Table 1, except as otherwise provided in Table 1.
    - (ii) Separation requirements for towers shall comply with the minimum standards established in Table 1.

Table 1:

| Off-site Use/Designated Area                                                                                                                       | Separation Distance                                    |
|----------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------|
| Single-family or duplex residential units <sup>1</sup>                                                                                             | 200 feet or 300% height of tower whichever is greatest |
| Vacant single-family or duplex residentially zoned land which is either platted or has preliminary subdivision plan approval which is not expired. | 200 feet or 300% height of tower <sup>2</sup>          |
| Vacant unplatted residentially zoned lands <sup>3</sup>                                                                                            | 100 feet or 100% height of tower whichever is greater  |
| Existing multi-family residential units greater than duplex units                                                                                  | 100 feet or 100% height of tower whichever is greatest |
| Non-residentially zoned lands or non-residential uses                                                                                              | None; only setback apply                               |

<sup>1</sup>Includes modular homes and mobile homes used for living purposes.

<sup>2</sup>Separation measured from base of tower to closest building setback line.

<sup>3</sup>Includes any unplatted residential use properties without a valid preliminary subdivision plan or valid development plan approval and any multi-family residentially zoned land greater than duplex.

(b) **Separation Distances Between Towers.**

- (i) Separation distances between towers shall be applicable for and measured between the proposed tower and preexisting towers. The separation distances shall be measured by drawing or following a straight line between the base of the existing tower and the proposed base, pursuant to a site plan, of the proposed tower. The separation distance (listed in linear feet) shall be shown in Table 2.

Table 2:

Existing Towers – Types

|                                     | Lattice | Guyed | Monopole 75 Ft In Height or Greater | Monopole Less Than 75 Ft in Height |
|-------------------------------------|---------|-------|-------------------------------------|------------------------------------|
| Lattice                             | 5,000   | 5,000 | 1,500                               | 750                                |
| Guyed                               | 500     | 500   | 1,500                               | 750                                |
| Monopole 75 Ft In Height or Greater | 1,500   | 1,500 | 1,500                               | 750                                |
| Monopole Less Than 75 Ft in Height  | 750     | 750   | 750                                 | 750                                |

- (6) **Security Fencing.** Towers shall be enclosed by security fencing not less than **six (6) feet** in height and shall also be equipped with an appropriate anti-climbing device; provided however, that the Plan Commission may waive such requirements, as it deems appropriate.
- (7) **Landscaping.** The following requirements shall govern the landscaping surrounding towers for which a special use permit is required; provided, however, that the Plan Commission may waive such requirements if the goals of this Chapter would be better served thereby.
- (a) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from property used for residences. The standard buffer shall consist of a landscaped strip at least **four (4) feet** wide outside the perimeter of the compound.
- (b) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived.
- (c) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be sufficient buffer.

**43-1-9 BUILDINGS OR OTHER EQUIPMENT STORAGE.**

(A) **Antennas Mounted on Structure or Rooftops.** The equipment cabinet or structure used in association with antennas shall comply with the following:

- (1) The cabinet or structure shall not contain more than **two hundred twenty-five (225) square feet** of gross floor area or be more than **fifteen (15) feet** in height. In addition, for buildings and structures which are less than **sixty-five (65) feet** in height, the related unmanned equipment structure, if over **one hundred fifty (150) square feet** of gross floor area or **eight (8) feet** in height, shall be located on the ground and shall not be located on the roof of the structure.
- (2) If the equipment structure is located on the roof of a building, the area of the equipment structure and other equipment and structures shall not occupy more than **ten percent (10%)** of the roof area.
- (3) Equipment storage buildings or cabinets shall comply with all applicable building codes.

(B) **Antennas Mounted on Utility Poles or Light Poles.** The equipment cabinet or structure used in association with antennas shall be located in accordance with the following:

- (1) In residential districts, the equipment cabinet or structure may be located:
  - (a) In a front or side yard provided the cabinet or structure is no greater than **three (3) feet** in height or **sixteen (16) square feet** of gross floor area and the cabinet/structure is located a minimum of **fifteen (15) feet** from all lot lines. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of at least **forty-three – forty-eight (43-48) inches** and a planted height of at least **thirty-six (36) inches**.
  - (b) In a rear yard, provided the cabinet or structure is no greater than **five (5) feet** in height or **twenty-five (25) square feet** in gross floor area. The cabinet/structure shall be screened by an evergreen hedge with an ultimate height of **eight (8) feet** and a planted height of at least **thirty-six (36) inches**.
- (2) In commercial or industrial districts the equipment cabinet or structure shall be no greater than **five (5) feet** in height or **twenty-five (25) square feet** in gross floor area. The structure or cabinet shall be screened by an evergreen hedge with an ultimate height of **eight (8) feet** and a planted height of at least **thirty-six (36) inches**.

(C) **Antennas Located on Towers.** The related unmanned equipment structure shall not contain more than **two hundred twenty-five (225) feet** of gross floor area or be more than **fifteen (15) feet** in height, and shall be located in accordance with the minimum yard requirements of the zoning district in which located.

(D) **Modification of Building Size Requirements.** The requirements of **Sections 43-1-9(A)** through **(C)** may be modified by the Zoning Committee in the case of administratively approved uses or by the Plan Commission in the case of uses permitted by special use to encourage collocation.

**43-1-10 REMOVAL OF ABANDONED ANTENNAS AND TOWERS.** Any antenna or tower that is not operated for a continuous period of **twelve (12) months** shall be considered abandoned, and the owner of such antenna or tower shall remove the same within **ninety (90) days** of receipt of notice from the Village notifying the owner of such abandonment. Failure to remove an abandoned antenna or tower within said **ninety (90) day** shall be ground to remove the tower or antenna at the owner's expense. If there are **two (2)** or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

**43-1-11 NONCONFORMING USES.**

(A) **No Expansion of Nonconforming Use.** Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Chapter shall not be deemed to constitute the expansion of a nonconforming use or structure.

(B) **Preexisting Towers.** Preexisting towers shall be allowed to continue their usage as they presently exist. Routine maintenance (including replacement with a new tower of like construction and height) shall be permitted on such preexisting towers. New construction other than routine maintenance on a preexisting tower shall comply with the requirements of this Chapter.

(C) **Rebuilding Damaged or Destroyed Nonconforming Towers or Antennas.** Notwithstanding **Section 43-1-10**, bona fide nonconforming towers or antennas that are damaged or destroyed may be rebuilt without having to first obtain administrative approval or a special use permit and without having to meet the separation requirements specified in **Sections 43-1-8(B)(4)** and **43-1-8(B)(5)**. The type, height, and location of the tower onsite shall be of the same type and intensity as the original facility approval. Building permits to rebuild the facility shall comply with the then applicable building codes and shall be obtained within **one hundred eighty (180) days** from the date the facility is damaged or destroyed. If no permit is obtained or if said permit expires, the tower or antenna shall be deemed abandoned as specified in **Section 43-1-10**.

**43-1-12 SPECIAL PROCEDURES FOR SPECIAL USE DETERMINATIONS.** The procedures for special uses shall be the same as in the Zoning Code with respect to a public hearing and approval of the special use by ordinance of the corporate authorities. However, the following requirements, peculiar to the Telecommunications Act, shall apply:

(A) If the applicant shows that the antenna tower and the equipment to be installed thereon meet all requirements of the FCC, the Plan Commission shall disallow and disregard evidence regarding the environmental effects (including interference) of radio frequency emissions, and the Village Board shall disregard any such evidence in making its final determination.

(B) All findings of the Plan Commission shall be in writing and shall be based on substantial evidence.

(C) Since the Telecommunications Act requires a written record, there shall be a certified shorthand reporter present at any public hearing, and a written transcript shall be prepared of any public hearing.

(D) The Village Board shall not take final action on a special use permit application until all fees required to be paid, including reimbursement of the cost of an engineering review, have been paid.

**(Ord. No. 13-05; 04-17-13)**

**[ED. NOTE: This Chapter is also an extension of the Zoning Code as it establishes land use regulations.]**

## EXHIBIT A

### A RESOLUTION TO APPLY TO PARTICIPATE IN THE NATIONAL FLOOD INSURANCE PROGRAM

WHEREAS, certain areas of New Berlin may be subject to periodic flooding or flood-related erosion, causing serious damages to properties within these areas; and

WHEREAS, relief is available in the form of federally subsidized flood insurance as authorized by the National Flood Insurance Act of 1968; and

WHEREAS, it is the intent of the Village Board of the Village of New Berlin to require the recognition and evaluation of flood or flood-related erosion hazards in all official actions relating to land use in areas having these hazards; and

WHEREAS, the Village Board has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to (cite appropriate section of state law and other relevant authority).

NOW, THEREFORE, BE IT RESOLVED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF NEW BERLIN, ILLINOIS, AS FOLLOWS:

**Section 1.** The Village of New Berlin assures the Federal Emergency Management Agency ("FEMA") that it will enact as necessary in those areas having flood or flood-related erosion hazards, adequate land use and control measures with effective enforcement provisions, including:

A. Requiring permits for all proposed construction or other development in the community so that it may determine whether such construction or other development is proposed with the floodplain.

B. Reviewing proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law.

C. Reviewing and maintaining all permit applications to determine whether proposed building sites will be reasonably safe from flooding.

D. Reviewing and maintaining all permit applications to ensure that any development activities are consistent with criteria set forth in Section 60.3 of the National Flood Insurance Program Regulations.

**Section 2.** The Zoning Administrator shall have the responsibility, authority, and means to:

A. Assist the FEMA Administrator, at his or her request, in his delineation of the limits of the area having special flood or flood-related erosion hazards.



B. Provide such information as the FEMA Administrator may request concerning present uses and occupancy of the floodplain or flood-related erosion areas.

C. Cooperate with federal, state and local agencies and private firms which undertake to study, survey, map and identify floodplain or flood-related erosion areas, and cooperate with neighboring communities with respect to management of adjoining floodplain and/or flood-related erosion areas in order to prevent aggravation or existing hazards.

D. Submit on the anniversary date of the community's initial eligibility an annual report to the FEMA Administrator on the progress made during the past year within the community in the development and implementation of floodplain management measures.

E. Upon occurrence, notify the FEMA Administrator, in writing, whenever the boundaries of the community have been modified by annexation or the community has otherwise assumed or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that all Flood Hazard Boundary Rate Maps accurately represent the community's boundaries, include within such notification a copy of a map of the community suitable for reproduction, clearly delineating the new corporate limits or new area for which the community has assumed or relinquished floodplain management regulatory authority.

F. Ensure that the community's Flood Insurance Rate Maps are maintained and kept current by providing the Federal Emergency Management Agency with any new or updated flood risk data or any modified data reflecting natural or man-made changes to the floodplain.

**Section 3.** The Zoning Administrator shall maintain for public inspection and furnish upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a Flood Hazard Boundary Map or Flood Insurance Rate Map, any certificates of flood-proofing, and information on the elevation (in relation to mean sea level) of the level of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement, and if the structure has been flood proofed the elevation (in relation to mean sea level) to which the structure was floodproofed.

**Section 4.** The Village of New Berlin agrees to take such other official action as may be reasonably necessary to carry out the objectives of the program.

PASSED this 20<sup>th</sup> day of June, 2007.

/s/ Stephen R. Frank

Village President

ATTEST:

/s/ Deborah Lakamp

Village Clerk

## CHAPTER 16

### GARBAGE

#### ARTICLE I – GENERAL REGULATIONS

**16-1-1**        **DEFINITIONS.** As used in this Chapter, the words, “garbage” and “rubbish” have the following meanings:

(A)            **“Garbage”.** Wastes resulting from the handling, preparation, cooking and consumption of food; wastes from the handling, storage and sale of produce.

(B)            **“Rubbish”.** Combustible trash, including, but not limited to paper, cartons, boxes, barrels, wood, excelsior, wood furniture, bedding; non-combustible trash, including but not limited to metals, tin cans, metal furniture, dirt, small quantities of rock and pieces of concrete, glass, crockery, other mineral waste; street rubbish, including, but not limited to street sweepings, dirt, catch-basin dirt, contents of litter receptacles provided, however, that refuse shall not include earth and wastes from building operations, nor shall it include solid wastes resulting from industrial processes and manufacturing operations such as food processing, wastes, boiler house cinders, lumber, scraps and shavings.

(C)            **“Yard Waste”.** Material such as tree branches, yard trimmings, leaves and grass.

(D)            **“Container”.** The term “container” as used in this Article shall be held to mean a container constructed of metal, rubber or plastic not easily corroded, water tight, rodent proof and shall have a tight fitting cover. Such container shall have a capacity of not less than **five (5) gallons** and not more than **fifty (50) gallons** and shall be equipped with suitable handles. Dumpsters provided by sanitation companies are exempt from these limitations.

(E)            **“Dumpster”.** The term “dumpster” shall mean a container with a capacity of more than **fifty (50) gallons**, including but not limited to dumpsters provided by sanitation companies. **(Ord. No. 03-02; 01-15-03)**

**16-1-2**        **DISPOSAL REQUIRED.** It shall be unlawful for any person firm or corporation to deposit or place any garbage, rubbish, or trash in any alley, street or other public place within the Village, nor shall any person, firm or corporation deposit or place any garbage upon private property, whether owned by such person or not, within the limits of the Village unless the same shall be enclosed in a suitable garbage or rubbish container.

**16-1-3**        **CONTAINER REQUIRED.** Every owner, tenant, lessee or occupant of every dwelling house, tenement house, lodging house, store or restaurant, boarding house or other person, persons, firm or corporation on whose

premises garbage, rubbish, or trash collects, shall provide and at all times keep within such building or on the premises garbage containers sufficient to hold all garbage which may accumulate on the premises between collections, and shall place such containers so as to be readily accessible for removal and emptying and where they shall not be a public nuisance.

**16-1-4**        **VEHICLES TO BE COVERED.** It shall be unlawful for any person, firm or corporation, in person or by his or its agent, employee or servant, to use any vehicle to haul any kind of dirt, rubbish, waste articles or things or substance, whether liquid or solid, unless such vehicle is covered to prevent any part of its load from spilling or dropping at all times while such vehicle is in motion on any street or alley in the municipality, except while actually being loaded or unloaded. Provided, however, that the requirements herein for covering such vehicles shall not apply to vehicles carrying brush cuttings, tree trimmings, branches, logs and similar waste material, if such matter is securely lashed to such vehicle to prevent spilling or dropping as aforesaid.

**16-1-5**        **DEPOSITING OF LITTER PROHIBITED.** It shall be unlawful for any person, firm or corporation, in person or by his agent, employee or servant, to cast, throw, sweep, sift, or deposit in any manner in or upon any public way or other public place in the Village or in any river, canal, public water, drain, sewer or receiving basin within the jurisdiction of the Village, any kind of dirt, rubbish, waste article, thing or substance whatsoever, whether liquid or solid. Nor shall any person, firm or corporation cast, throw, sweep, sift or deposit any of the aforementioned items anywhere within the jurisdiction of the Village in such manner that it may be carried or deposited in whole or in part, by the action of the sun, wind, rain or snow, into any of the aforementioned places. Provided, that this Section shall not apply to the deposit of material under a permit authorized by any ordinance of the Village; or to goods, wares or merchandise deposited upon any public way or other public place temporarily, in the necessary course of trade, and removed there from within **two (2) hours** after being so deposited; or to articles or things deposited in or conducted into the Village sewer system through lawful drains in accordance with the ordinances of the Village relating thereto. It shall be unlawful for any garbage, trash, rubbish, or domicidial waste to be deposited on private property for more than **thirty (30) days**.

**16-1-6**        **DANGEROUS APPLIANCES.** It shall be unlawful to keep or permit to be kept in any accessible outdoor location, any refrigerator, ice box, freezer, washing machine or other similar appliance that may cause bodily harm to any child or other person who may gain access to said appliance.

**16-1-7**      **DUMPSTER REGULATIONS.**    All dumpsters maintained by commercial, office and industrial users, not-for-profit organizations, and any multi-family units consisting of **three (3)** or more dwellings shall be subject to the regulations set forth in this Section. All such dumpsters shall have working and securely fitting lids. The contents of such dumpsters shall be regularly removed and properly disposed of, and no such dumpster shall be loaded or filled beyond its capacity. All such dumpsters shall be maintained in good repair and free of objectionable odors and shall not leak liquids onto the ground.

The provisions of this Section shall apply to all dumpsters maintained by commercial, office and industrial users and not-for-profit organizations existing on the date of this Article or placed in use hereafter. All existing dumpsters maintained by commercial, office and industrial users and not-for-profit organizations shall comply with the requirements of this Article not more than **twelve (12) months** after the date of this Article. **(Ord. No. 03-02; 01-15-03)**

**(See 65 ILCS Sec. 5/11-19-1)  
(November, 1992)**

## ARTICLE II – RESIDENTIAL YARD WASTE DISPOSAL FACILITY

**16-2-1**        **DEFINITIONS.** The following terms shall be defined in this Article accordingly:

(A)            **“Yard Waste”** means, and is specifically limited to, vegetation, leaves, wood chips, grass clippings, garden waste such as weeds and stalks, and branches and other tree or shrub parts. “Yard Waste” excludes, without limitation, food, paper, cardboard, plastic, tires, paint, solvents, appliances, furniture, metal, dead animals, and construction or demolition waste.

(B)            **“Residential Yard Waste”** means Yard Waste which originated from a lot within the corporate limits of the Village upon which a single family, duplex, or multi-family residential structure is located, in which **one (1)** or more persons reside.

(C)            **“Commercial Activity”** means any activity for which a consideration is paid, and it includes but is not limited to the businesses of landscaping, tree removal, tree surgery and general hauling. The leasing or renting of real property, without more, is not a “commercial activity”.

**16-2-2**        **LOCATION.** The Village shall maintain a Residential Yard Waste disposal site at a location to be specified by the Streets and Park Superintendent for the use, without charge, of the citizens of New Berlin. The facility is referred to in this Article as the Residential Yard Waste Facility.

**16-2-3**        **OPERATION DAYS AND HOURS.** The days and hours of operation of the Residential Yard Waste Facility shall be sunrise to sunset, **three hundred sixty-five (365) days** per year. However, the Streets and Park Superintendent may in his sole discretion close the Residential Yard Waste Facility at any time and for any reason.

**16-2-4**        **PROOF OF RESIDENCY.** The Streets and Park Superintendent and the Chief of Police and their designees may demand that any person found in or about the Residential Yard Waste Facility produce evidence of residence.

**16-2-5**        **REGULATIONS.** The following regulations shall govern the Residential Yard Waste Facility:

(A)            No person shall deposit any materials other than Residential Yard Waste at the Residential Yard Waste Facility;

(B)            All Residential Yard Waste deposited at the Residential Yard Waste Facility shall be placed inside the area specifically identified by signage

erected by the Village. No person shall deposit any materials at the Residential Yard Waste Facility outside the designated area.

(C) No person other than a resident of New Berlin shall deposit any materials at the Residential Yard Waste Facility.

(D) No person shall deposit any materials at the Residential Yard Waste Facility in connection with any commercial activity.

(E) No person shall be in, or deposit any materials in, the Residential Yard Waste Facility at times other than the hours set forth in **Section 16-2-3**, or when the Residential Yard Waste Facility is closed by order of the Streets and Park Superintendent. Any person violating this rule is deemed a trespasser.

(F) No person found in the Residential Yard Waste Facility shall fail to produce evidence of residence when requested to do so in accordance with **Section 16-2-4**.

**16-2-6** **SIGNS.** The Streets and Park Superintendent shall erect signage at the Residential Yard Waste Facility indicating:

(A) the days and hours of operation; and

(B) a summary of the rules as set forth in **Section 16-2-5**.

If the Streets and Park Superintendent closes the Residential Yard Waste Facility, he shall erect a sign notifying that the Residential Yard Waste Facility is closed by his order.

**16-2-7** **PENALTY.** Any person violating this Article, upon conviction thereof, shall be subject of a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** or more than **Seven Hundred Fifty Dollars (\$750.00)**, and in addition, shall be liability to reimburse the Village for any landfill or hauling fees caused by the violation.

**16-2-8** **PROSECUTION.** In addition to the penalties set forth in **Section 16-2-7**, a person violating **Section 16-2-5(E)** may be prosecuted under State law as a trespasser.

**(Ord. No. 03-12; 07-16-03)**

## 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.

**"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.

**"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.

**"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.

**"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.

**"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 one who has his residence in this municipality and is a registered voter at that place of residence.

**"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.

**"RETAILER"** means a person who sells or offers for sale alcoholic liquor for use or consumption and not for resale in any form.

**"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.

**"SELL AT RETAIL"** and **"SALE OF RETAIL"** refer to any mean sales for use or consumption and not for resale in any form.



**"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.

**"TO SELL"** includes to keep or expose for sale and to keep with intent to sell.

**"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. 5/1-3.01, et seq.)**

## 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.** No retail license shall be issued by the Mayor to the following:

- (A) A person who **is not** a resident of this municipality;
- (B) A person who **is not twenty-one (21) years** of age;
- (C) A person who has been convicted of a felony under any federal or state law if the Mayor determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;
- (D) A person who has been convicted of being the keeper of or is keeping a house of ill-fame;
- (E) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency or morality;

- (F) A person whose license has previously been revoked for cause;
- (G) A person who, at the time of the application for renewal for any license issued hereunder, would not be eligible for such license upon first application;
- (H) 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;
- (I) A corporation, if any officer, manager or director thereof or any stockholder owning in the aggregate more than **five percent (5%)** of such corporation, would not be eligible to receive a license hereunder for any reason other than the requirement for citizenship and residence;
- (J) A corporation unless it is incorporated in the State of Illinois, or unless it is a foreign corporation which is qualified under the "**Business Corporation Act of 1983**" to transact business in Illinois;
- (K) 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;
- (L) Any person, association, or corporation not eligible for a state retail liquor license;
- (M) A person who is not of good character and reputation in the community in which he resides;
- (N) 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 Code or has forfeited his bond to appear in court to answer charges for any such violation;
- (O) A person who does not own the premises for which a license is sought, or does not rent nor have a lease thereon for the full period for which the license is to be issued;
- (P) Any law enforcing public official, including members of local liquor control commissions, any mayor, alderman, or member of a city council or commission, any president of a village board of trustees, any member of a village board of trustees, or any president or member of a county board; and no such official shall be interested directly in the manufacture, sale or distribution of alcoholic liquor, except that license may be granted to such official in relation to premises which 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 the Mayor.
- (Q) A person who is not a beneficial owner of the business to be operated by the licensee;
- (R) A person who has been convicted of a gambling offense as prescribed by any of **subsections (a)(3) through (a)(11) of Section 28-1.1 of, or as proscribed by Section 28-3 of the "Criminal Code of 1961", approved July 28, 1961**, as heretofore or hereafter amended, or as proscribed by a statute replaced by any of the aforesaid statutory provisions;
- (S) A person to whom a federal wagering stamp has been issued by the federal government for the current tax period; except those persons who are eligible to receive a license under the Raffles Act or the Illinois Pull Tabs and Jar Games Act;

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

(U) A corporation, if any officer, manager or director thereof, or any stockholder owning in the aggregate more than **twenty percent (20%)** of the stock of such corporation has been issued a federal wagering stamp for the current tax period;

(V) Any premises for which a federal wagering stamp has been issued by the federal government for the current tax period. **(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.

The license fee shall be payable in advance by the applicant for a license at the time the application for a license is submitted to the Mayor as hereinbefore provided. A licensee may make arrangements to pay the liquor license fees quarterly. In the event the license is denied, the license fee shall be returned to the applicant. The fees shall be deposited in the Municipal General Fund. The application for a license shall be filed with the Municipal Clerk.

Licenses shall state thereon the names of the licensees and the address and description of the premises for which they are granted and the dates of their issuance and expiration.

With respect to a corporation operating an establishment for which a liquor license has been issued, should the manager of said establishment change after the issuance of said liquor license, the corporation **must submit** the new manager's name and shall be submitted within **thirty (30) days**. Continuation of the license will be contingent upon a background check of the new manager as set out in this Chapter, and all fees shall be waived should the license be changed only as a result of a change of managers. If, for some reason, the manager is not acceptable, the licensee shall have **thirty (30) days** to submit a new name before revocation. Failure to provide new information shall be grounds for suspension or revocation of said license. **(See 235 ILCS Sec. 5/4-1)**

**21-2-6 CLASSES OF LICENSES; TERM; ANNUAL FEES.** Licenses as required by this Article shall be divided into **four (4) classes** as follows:

(A) **Class "A" License.** Class "A" licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises as well as other retail sales of alcoholic liquor. The annual license fee for the Class "A" license shall be the sum of **Three Hundred Sixty Dollars (\$360.00)**. There shall be a limit of **three (3) licenses**. **(Ord. No. 06-08; 08-16-06)**

(B) **Class "B" Licenses: Package Stores.** Class "B" licenses shall authorize the retail sale of alcoholic liquor, but which shall not be consumed on the premises where sold. The annual fee for the Class "B" license shall be the sum of **Two Hundred Forty Dollars (\$240.00)**. There shall be a limit of **two (2) licenses**.

(C) **Class "C" Licenses: Civic Organizations.** Special license, which shall authorize the retail sale of beer, wine coolers and other alcoholic beverages which (i) do not exceed **six percent (6%)** alcohol by volume; or (ii) do not exceed **eight percent (8%)** by volume if sold in a package of **eight (8) fluid ounces** or less, for consumption only on the premises where sold, and not for resale in any form, to be issued for temporary stands, booths and counters such as used at picnics, dances, fairs, celebrations and the like, and for a duration not to exceed **five (5) consecutive days**. The fee for such license shall be **Twenty-Five Dollars (\$25.00)** per day. **(Ord. No. 14-04; 03-19-14)**

(D) **Class "D": Club Licenses.** Any organization which is a "club" as defined in Section 21-1-1, may obtain a license to sell alcoholic liquors to its own members at the building or premises actually used as the club's quarters upon filing with the Mayor or Clerk of this Village of its written application therefor, signed by its president or corresponding officer and its secretary or similar officer, together with **two (2) copies** of a list of names and residences of all its members. The license shall be in the form approved by the Mayor and shall be signed by the Mayor and attested by the Clerk. The license shall be **One Hundred Dollars (\$100.00)** per year. There shall be a limit of **two (2) licenses**. **(Ord. No. 508; 05-07-80)**

(E) **Class "LW" License.** Class "LW" licenses shall authorize the retail sale of wine for both on-premise and off-premise consumption by the holder of a State of Illinois license as a "limited wine manufacturer" as defined in the Liquor Control Act of 1934 and consistent with the terms of the State license. The annual license fee shall be **Two Hundred Twenty-Five Dollars (\$225.00)**. There shall be a limit of **one (1) license**. **(Ord. No. 13-16; 07-17-13)**

**21-2-7 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)**

**21-2-8 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)**

**21-2-9 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 minimum coverages:

(A) **Bodily Injury Liability.** **\$ 50,000 for each person  
\$100,000 each occurrence**

(B) **Property Damage:** **\$ 50,000 each occurrence**

(C) **Loss of Support Coverage:** **\$ 50,000 each occurrence**

**(See 235 ILCS Sec. 5/6-15)**

**21-2-10 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)**

**21-2-11 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)**

## ARTICLE III - REGULATIONS

**21-3-1**      **HOURS.** The hours for retail liquor licenses shall be as follows:

(A)      **Closing Hours for All Licenses.** It shall be unlawful for any licenses to give or sell or offer for sale or gift or in any way provide any alcoholic liquors, spirits, beer, or wine in the Village during the following hours:

**Hours of Closing:**

|           |      |           |    |            |
|-----------|------|-----------|----|------------|
| Monday    | From | 1:30 A.M. | to | 6:00 A.M.  |
| Tuesday   | From | 1:30 A.M. | to | 6:00 A.M.  |
| Wednesday | From | 1:30 A.M. | to | 6:00 A.M.  |
| Thursday  | From | 1:30 A.M. | to | 6:00 A.M.  |
| Friday    | From | 1:30 A.M. | to | 6:00 A.M.  |
| Saturday  | From | 2:00 A.M. | to | 6:00 A.M.  |
| Sunday    | From | 2:00 A.M. | to | 10:00 A.M. |

The times referred to above shall refer to Daylight Savings Time or when the same is in effect in the Village and upon cessation of Daylight Savings Time, shall be Central Standard Time.

It shall be unlawful to keep open for business, or to admit the public to, or to permit the public to remain within any premises in or on which alcoholic liquor is sold at retail during the hours within which the sale of such liquor is prohibited; provided that in the case of restaurants, such establishments may be kept open during such hours, but no alcoholic liquor shall be sold or consumed by the public during such hours. **(Ord. No. 519; 05-05-82)**

**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)      Serve **two (2)** or more drinks of alcoholic liquor at one time to one person for consumption by that one person, except selling or delivering wine by the bottle or carafe;
- (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;
- (3)      Sell, offer to sell or serve any drink of alcoholic liquor to any person on any one date at a reduced price other than that charged other purchasers of drinks on that day where such reduced price



is a promotion to encourage consumption of alcoholic liquor, except as authorized in subsection C(7) of this section.

- (4) 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;
  - (5) 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 licensed premises; or
  - (6) Advertise or promote in any way, whether on or off the licensed premises, any of the practices prohibited under paragraphs (1) through (5).
- (C) Nothing in subsection B shall be construed to prohibit a licensee from:
- (1) Offering free food or entertainment at any time;
  - (2) Including drinks or alcoholic liquor as part of a meal package;
  - (3) Including drinks of alcoholic liquor as part of a hotel package;
  - (4) Negotiating drinks of alcoholic liquor as part of a contract between a hotel or multi-use establishment and another group for the holding of any function, meeting, convention or trade show;
  - (5) Providing room service to persons renting rooms at a hotel;
  - (6) Selling pitchers (or the equivalent, including but not limited to buckets), carafes, or bottles of alcoholic liquor which are customarily sold in such manner and delivered to **two (2)** or more persons at one time; or
  - (7) Increasing prices of drinks of alcoholic liquor in lieu of, in whole, or in part, a cover charge to offset the cost of special entertainment not regularly scheduled.
- (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 Code. **(See 235 ILCS Sec. 5/6-28)**

**21-3-3**      **PROHIBITED LOCATIONS.** No license shall be issued for the sale of any alcoholic liquor at retail within **one hundred (100) feet** of any church, school (other than an institution of higher learning), hospital, home for the aged or indigent persons, or for veterans, their spouses or children or any military or naval station; provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs or to restaurants, food shops, or other places where the sale of alcoholic liquors is not the principal business carried on if such place of business so exempted shall have been established for such purposes prior to the taking effect of this Chapter; nor to the renewal of a license for the sale at retail of alcoholic liquor on the premises within **one hundred (100) feet** of any church or school where such church or school has been established within such **one hundred (100) feet** since the issuance of the original license. In the case of a church, the distance of **one hundred (100) feet** shall be measured to the nearest part of any building used for worship services or educational programs and not to property boundaries.

Nothing in this Section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec- 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. **(See Chapter 40 of the Revised Code)**

**21-3-10 ELECTION DAYS.** All such licensees may sell alcoholic liquor at retail, by the drink or in the original package for consumption either on or off the premises licensed on the day of any national, state, county or municipal election, including primary elections during the hours the polls are open within the political area in which such election is being held and on Sundays; subject to all the remaining terms, conditions and opening hours and closing hours as set forth in this 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.** Except as permitted by **Section 7-5-2** of this Code of Ordinances, 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. **(See 720 ILCS Sec. 5/28-1) (Ord. No. 12-07; 06-20-12)**

**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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec- 5/6-16)**

**21-3-20**      **PERSONS SELLING LIQUOR.** It shall be unlawful for any person under the age of **twenty-one (21) years** to draw, pour or mix any alcoholic liquor in any licensed retail premises. It shall be unlawful for persons under the age of **eighteen (18)** to be employed as waiters and waitresses to deliver to customers alcoholic liquor drawn, poured or mixed by another. It shall be unlawful for any person under the age of **twenty-one (21) years** to dispense, sell or

deliver any alcoholic liquor in the original package, bottle, or case for consumption off the premises of any licensed establishment. **(See 235 ILCS Sec. 5/4-1) (Ord. No. 07-10; 08-15-07)**

**21-3-21      UNDERAGED; ENTRY ON LICENSED PREMISES.**

(A) It shall be unlawful for any person under the age of **twenty-one (21) years** to enter upon premises where alcoholic liquors, spirits, beer or wine are sold by the holder of a 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 **twenty-one (21) years** not accompanied by a parent or legal guardian to enter the licensed premises. For the purpose of preventing the violation of this section, any holder of a 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 **twenty-one (21) years** who is unable to produce adequate written evidence of the fact that the person accompanying such person under the age of **twenty-one (21) years** is that person's parent or legal guardian. **(See 235 ILCS Sec- 5/4-1)**

(B) Notwithstanding any of the provisions of subsection (A) above, persons under the age of **twenty-one (21)** may enter upon premises where alcoholic liquors, spirits, beer or wine are sold by the holder of a Class "A" or a Class "B" license, even if not accompanied by a parent or legal guardian, if each of the following conditions are met:

- (1) the premises is a restaurant or similar food service facility selling food for consumption on the premises or for carry-out, or is another retail establishment (other than a tavern) selling goods or products in addition to alcoholic liquors, spirits, beer or wine; and
- (2) such person under the age of **twenty-one (21) years** enters and/or remains upon such premises solely for a purpose other than the purchase or consumption of alcoholic liquors, spirits, beer or wine. **(Ord. No. 97-14; 12-17-97)**

**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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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 \$500 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec- 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 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 **eighteen (18) years** of age and the following factors also apply:



(A) the person occupying the residence knows that any such person under the age of **eighteen (18)** is in possession of or is consuming any alcoholic beverage; and

(B) the possession or consumption of the alcohol by the person under **eighteen (18)** is not otherwise permitted by this Code and

(C) the person occupying the residence knows that the person under the age of **eighteen (18)** 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. **(See 235 ILCS Sec. 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. **(See 235 ILCS Sec. 5/6-16)**

## **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 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 suspension and/or revocation, the Liquor Commissioner may levy a fine on the licensee for such violations. The fine imposed shall not exceed One Thousand Dollars (\$1,000.00) for each violation; each day on which a violation continues shall constitute a separate violation. No more than Ten Thousand Dollars (\$10,000.00) 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, as the case may be. **(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 license. 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 by 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)**

**CHAPTER 22**

**MANDATED POLICIES**

**ARTICLE I – IDENTITY THEFT PREVENTION PROGRAM**

**22-1-1**        **PURPOSE.** 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 (electric, natural gas, water and waste water) 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:

(A)            **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 customers the Village or its customers from identity theft. (16 CFR 681.2(b)(3)(ii)).

(B)            **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)).

(C)            **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).

(D)            **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      ADMINISTRATION OF THE PROGRAM.** 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 \_\_\_\_\_ (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.

Issues to be addressed in the annual Identity Theft Prevention Report include:

- (A) 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.
- (B) Service provider arrangements.
- (C) Significant incidents involving Identity Theft and management's response.
- (D) Recommendations for material changes to the Program, if needed for improvement.

**22-1-5      IDENTITY THEFT PREVENTION ELEMENTS.**

(A) **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 application appears to have been altered or forged, or gives the appearance of having been destroyed and 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.

(B) **Detection of Red Flags.** The employees of the Village that 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 existing accounts.

(C) **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.

**22-1-6      PROGRAM MANAGEMENT AND ACCOUNTABILITY.**

(A)      **Initial Risk Assessment – Covered Accounts.** 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 conclude 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.

**22-1-7      OTHER LEGAL REQUIREMENTS.** Awareness of the following related legal requirements should be maintained:

- (A)      31 U.S.C. 5318(g) – Reporting of Suspicious Activities.
- (B)      15 U.S.C. 1681c-1(h) – Identity Theft Prevention; Fraud Alerts and Active Duty Alerts – Limitations on Use of Information for Credit Extensions.
- (C)      15 U.S.C. 1681 s-2 – Responsibilities for Furnishers of Information to Consumer Reporting Agencies.
- (D)      15 U.S.C. 1681 m – Requirements on Use of Consumer Reports.

**(Ord. No. 08-15; 10-15-08)**

**ARTICLE II – USE OF SOCIAL SECURITY NUMBERS**

**22-2-1 GENERAL.** This Identity Protection Policy is adopted pursuant to the Illinois Identity Protection Act, **5 ILCS 179/1 et seq.**, to protect Social Security Numbers from unauthorized disclosure. All Village officers, employees, and agents shall comply with the Identity Protection Act and this Policy at all times.

**22-2-2 DEFINITIONS.** The following words shall have the following meanings when used in this Policy.

**"Act"** means the Illinois Identity Protection Act, **5 ILCS 179/1 et seq.**

**"Board"** means the Board of Trustees of the Village.

**"Village"** means the Village of New Berlin.

**"Person"** means any individual in the employ of the Village.

**"Policy"** means this Identity Protection Policy.

**"Publicly post" or "publicly display"** means to intentionally communicate or otherwise intentionally make available to the general public.

**"Redact"** means to alter or truncate data so that no more than **five (5)** sequential digits of a SSN are accessible as part of personal information.

**"SSN(s)"** means any Social Security Number provided to an individual by the Social Security Administration.

**"Statement of Purpose"** means the statement of the purpose or purposes for which the Village is collecting and using an individual's SSN that the Act requires the Village to provide when collecting a SSN or upon request by an individual.

**22-2-3 PROHIBITED ACTIVITIES.**

(A)

Neither the Village nor any Person may:

- (1) Publicly post or publicly display in any manner an individual's SSN.
- (2) Print an individual's SSN on any card required for the individual to access products or services provided by the person or entity.
- (3) Require an individual to transmit a SSN over the Internet unless the connection is secure or the SSN is encrypted.
- (4) Print an individual's SSN on any materials that are mailed to the individual, through the U.S. Postal Service, any private mail service, electronic mail, or any similar method of delivery, unless State or federal law requires the SSN to be on the document to be mailed. Notwithstanding the foregoing, SSNs may be included in applications and forms sent by mail, including, but not limited to:
  - (i) any material mailed in connection with the administration of the Unemployment Insurance Act; (ii) any material mailed in connection with any tax administered by the Department of Revenue; and (iii) 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 SSN. A SSN that is permissibly mailed pursuant to this paragraph will 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 paragraph (C) below or unless otherwise provided in the Act, neither the Village nor any Person may:

- (1) Collect, use, or disclose a SSN 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 SSN is otherwise necessary for the performance of the Village's duties and responsibilities; (ii) the need and purpose for the SSN is documented before collection of the SSN; and (iii) the SSN collected is relevant to the documented need and purpose.
- (2) Require an individual to use his or her SSN to access an Internet website.
- (3) Use the SSN for any purpose other than the purpose for which it was collected.

(C) The prohibitions in paragraph (B) above do not apply in the following circumstances:

- (1) The disclosure of SSNs to agents, employees, contractors, or subcontractors of a governmental entity 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 governmental entity first receives from the contractor or subcontractor a copy of the contractor's or subcontractor's policy that sets forth how the requirements imposed under this Act on a governmental entity to protect an individual's SSN will be achieved.
- (2) The disclosure of SSNs pursuant to a court order, warrant, or subpoena.
- (3) The collection, use, or disclosure of SSNs in order to ensure the safety of: State and local government 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 State or local government agency facility.
- (4) The collection, use, or disclosure of SSNs for internal verification or administrative purposes.
- (5) The disclosure of SSNs by a State agency to the Village for the collection of delinquent child support or of any State debt or to the Village to assist with an investigation or the prevention of fraud.
- (6) The collection or use of SSNs 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.

**22-2-4 COORDINATION WITH THE FREEDOM OF INFORMATION ACT AND OTHER LAWS.** The Village shall comply with the provisions of the Illinois Freedom of Information Act, **5 ILCS 140/1 et seq.**, and 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 SSN. However, the Village shall redact SSNs from the information or documents before allowing the public inspection or copying of the information or documents.

When collecting SSNs, the Village shall request each SSN in a manner that makes the SSN easy to redact if required to be released as part of a public records request.

**22-2-5 LIMITED EMPLOYEE ACCESS TO SOCIAL SECURITY NUMBERS.** Only employees who are required to use or handle information or documents that contain SSNs will have access. All employees who have access to SSNs shall first be trained to protect the confidentiality of SSNs. The training will include instructions on the proper handling of information that contains SSNs from the time of collection through destruction of the information.

**22-2-6 EMBEDDED SOCIAL SECURITY NUMBERS.** Neither the Village nor any Person shall encode or embed a SSN 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 SSN as required by the Act and this Policy.

**22-2-7 APPLICABILITY.** If any provision of this Policy conflicts with any provision of the Act, the provisions of the Act shall prevail.

This Policy does not apply to:

- (A) the collection, use, or disclosure of a SSN as required by State or federal law, rule, or regulation; or
- (B) documents that are recorded with a county recorder or required to be open to the public under a State or federal law, rule, or regulation, applicable case law, Supreme Court Rule, or the Constitution of the State of Illinois; provided, however, that the Village shall redact the SSN from such document if such law, rule, or regulation permits.

**22-2-8 AVAILABILITY OF POLICY.** All Village employees shall be advised of the existence of this Policy. Village employees who are required to use or handle information or documents that contain SSNs have been provided a copy of this Policy, which each shall maintain at all times. A copy of the Policy is available to all other employees and any member of the public by requesting a copy from the Village Clerk.

**22-2-9 AMENDMENTS.** This Policy may be amended by the Village at any time. If the Policy is amended, the Village shall file a written copy of the Policy, as amended, with the Board and shall also advise all Village employees of the existence of the amended Policy. A copy of the amended Policy will be made available to Village employees and the public as set forth in the preceding section above.

**22-2-10**      **STATEMENT OF PURPOSE.** The Village shall provide an individual with the following Statement of whenever an individual is asked to provide the Village with his or her SSN or if an individual requests it.

**STATEMENT OF PURPOSE**

The Village of New Berlin complies with the Identity Protection Act, **5 ILCS 179/1 et seq.** which requires each local and State government agency to draft, approve, and implement an Identity Protection Policy that includes a statement of the purpose or purposes for which the Village is collecting and using an individual's social security number.

We will only use your social security number for the purpose for which it was collected. We will not:

- Sell, lease, loan, trade, or rent your social security number to a third party for any purpose;
- Publicly post or publicly display your social security number;
- Print your social security number on any card required for you to access our services;
- Require you to transmit your social security number over the internet, unless the connection is secure and your social security number is encrypted; or
- Print your social security number on any materials that are mailed to you, unless State or Federal law requires that number to be on documents mailed to you, or unless we are confirming the accuracy of your social security number.

We collect and use social security numbers for one or more of the following reasons:

- Complaint mediation or investigation;
- Crime victim compensation;
- Vendor services, such as executing contracts and/or billing;
- Law enforcement investigation;
- Internal verification;
- To investigation and prevention of fraud, conducting background checks, debt collection, and obtaining credit report from consumer reporting agencies;
- Administrative services;
- Other reasons that would be explained to you at the time we ask for your social security number.

The President and Board of Trustees have adopted Identity Protection Act requirements as **Article II** of Chapter 22 of the Revised Code of Ordinances. You may request a copy of the Statement of Purpose any time you have been asked by the Village to provide your social security number or if you request a copy of the statement.

If you have questions or complaints about the Village's Identity Protection Policy, contact:

New Berlin Village Clerk  
301 E. Illinois  
New Berlin, IL 62670

**(Ord. No. 14-05; 04-16-14)**



**ARTICLE III - FREEDOM OF INFORMATION POLICY**

**22-3-1 DEFINITIONS.** For the purpose of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**"Commercial Purpose":** The use of any part of a public record or records, or information derived from public records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education.

**"Copying":** The reproduction of any public record by means of any photographic, electronic, mechanical, or other process, device or means now known or hereafter developed and available to the Village.

**"Exempt Materials":** Materials which are exempt from disclosure pursuant to Sections 7 and 7.5 of the Freedom of Information Act. See Appendix A to this Chapter.

**"Freedom of Information Act" or "FOIA":** The Illinois Freedom of Information Act, **5 ILCS 140/1.1 et seq.**

**"Person":** Any individual, corporation, partnership, firm, organization, or association, acting individually or as a group.

**"Private Information":** Unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person.

**"Public Access Counselor":** The Public Access Counselor is an Illinois Attorney General Office appointee responsible for various duties described in Section 9.5 of the Illinois Freedom of Information Act and Section 7 of the Attorney General Act (**15 ILCS 205/7**). Contact information for the Public Access Counselor is as follows:

Public Access Bureau  
500 S. 2<sup>nd</sup> Street  
Springfield, Illinois 62706  
217-558-0486  
[publicaccess@atg.state.il.us](mailto:publicaccess@atg.state.il.us)

**"Public Record":** All records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of the Village.

"Public record" also includes the following:

- (A) All records relating to the obligation, receipt, and use of public funds.
- (B) Certified payroll records submitted to the Village under Section 5(a)(2) of the Prevailing Wage Act [**820 ILCS 130/5**] are public records; except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted by the Village prior to disclosure.

(C) Arrest reports (except for arrests of persons under the age of **twenty-one (21)** subject to the Juvenile Court Act of 1987). (See **Section 22-3-16** for further provisions with respect to arrest reports).

(D) Criminal history records (except for arrests of persons under the age of **twenty-one (21)** subject to the Juvenile Court Act of 1987), including but not limited to:

- (1) court records that are public;
- (2) records that are otherwise available under State or local law; and
- (3) records in which the requesting party is the individual identified, except as provided under Section 7(1)(d)(vi) [**5 ILCS 140/7**] of the Freedom of Information Act.

**"Village"**: The Village of New Berlin, Illinois.

**22-3-2 POLICY.** It is declared to be the public policy of the Village that all persons are entitled to full and complete information regarding the affairs of the Village. The official acts and policies of the public officials and public employees of the Village shall be consistent with the terms of this Article.

**22-3-3 INDIVIDUAL PRIVACY PROTECTED.** This Article is not intended to be used to violate individual privacy or to disrupt the duly undertaken work of the Village.

**22-3-4 PUBLIC RECORDS AVAILABLE.** The Village shall make available to any person for inspection or copying all public records, as provided in the Freedom of Information Act.

**22-3-5 FREEDOM OF INFORMATION ACT OFFICER.** The Village shall designate one or more officials or employees to act as its Freedom of Information Act officer ("FOIA Officer"). The Chief of Police is hereby designated as deputy FOIA Officer for FOIA requests involving the police department and the Village Attorney is designated as deputy FOIA Officer in the place and stead of the FOIA Officer if the FOIA Officer is unavailable. Except in instances when records are furnished immediately, the FOIA Officer, or designee, shall receive requests submitted to the Village under this Article and issue responses accordingly. All Village officers and employees who receive a FOIA request from any source whatsoever shall notify the FOIA Officer within **one (1) working day**. If the FOIA Officer is not available, the Village Attorney shall be notified.

Upon receiving a request for a public record, the FOIA Officer shall:

- (A) note the date the Village receives the written request;
- (B) compute the day on which the period for response will expire and make a notation of that date on the written request;
- (C) maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied; and
- (D) create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.

The Village FOIA Officer and deputies shall, by **July 1, 2010**, successfully complete an electronic training curriculum to be developed by the Public Access Counselor and thereafter

successfully complete an annual training program. Thereafter, whenever a new FOIA 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 FOIA Officer.

**22-3-6      REQUESTS TO BE IN WRITING.** All requests for inspection or copying of public records shall be in writing and shall be addressed to the FOIA Officer. The requestor shall include the following information in any request for public records:

- (A)            The requestor's full name, mailing address and telephone number at which the requestor can be reached during normal business hours;
- (B)            A description of the records sought, as specific as possible;
- (C)            An indication of whether the records are requested for a commercial purpose and whether the requestor seeks a fee waiver; and
- (D)            A statement as to whether the request is for inspection, copying, or both.

The FOIA Officer shall make available a form for use by requestors; however, no request shall be denied for failure to use the form.

All requests for inspection and copying received by the Village shall immediately be forwarded to its FOIA Officer or designee.

**22-3-7      FEES.**

(A)            The Village hereby establishes and shall charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the Village to copy records. Such fees exclude the costs of any search for and review of the record, and shall not exceed the actual cost of reproduction and certification, unless otherwise provided by state statute. The charge for copying shall be **Ten Cents (\$0.10)** per page for photocopies, **Five Cents (\$0.05)** per page for computer printouts, and **Two Dollars Fifty Cents (\$2.50)** per audio tape, CD, or DVD. No fees shall be charged for the first **fifty (50) pages** of black and white, letter or legal sized copies requested by a requestor. If the Village provides copies in color or in a size other than letter or legal, it shall charge the actual cost for reproducing the records. In calculating the actual cost for reproducing records or for the use of the equipment of the Village to reproduce the records, the Village shall not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records. The cost for certifying a record shall be **One Dollar (\$1.00)**.

(B)            Documents shall be furnished without charge or at a reduced charge where the Village determines that waiver or reduction of the fee is in the public interest because furnishing information can be considered as primarily benefitting the general public. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit. For purposes of this paragraph, "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public. In setting the amount of the waiver or reduction, the Village may take into consideration the amount of materials requested and the cost of copying them.

**22-3-8**      **TIME LIMIT FOR COMPLIANCE WITH REQUEST.**

(A)      **Compliance with Request (Non-Commercial Purpose).** The Village shall either comply with or deny a request for public records within **five (5) business days** after its receipt. If the Village fails to respond to a request within the requisite periods in this Section but thereafter provides the requester with copies of the requested public records may not impose a fee for such copies. If the Village fails to respond to a request received may not treat the request as unduly burdensome under **Section 22-3-10**. Denials shall be in writing and in accordance with **Section 22-3-12**.

(B)      **Compliance with Request (Commercial Purpose).** 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 requestor 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 this Article,
- (3) notify the requestor that the request is unduly burdensome and extend an opportunity to the requestor to attempt to reduce the request to manageable proportions, or
- (4) provide the records requested.

Unless the records are exempt from disclosure (see Appendix A to this Chapter), the Village shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes. No person shall knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by the Village.

**22-3-9**      **EXTENSION OF TIME LIMIT (NON-COMMERCIAL PURPOSE); NOTICE.**

(A)      The time limit prescribed in **Section 22-3-8(A)** may be extended in each case for not more than **five (5) additional business days** from the original due date for any of the following reasons:

- (1) The requested records are stored in whole or in part at other locations other than the office having charge of the requested records.
- (2) The request requires the collection of a substantial number of specified records.
- (3) The request is couched in categorical terms and requires an extensive search for the records responsive to it.
- (4) The requested records have not been located in the course of routine search and additional efforts are being made to locate them.
- (5) The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under the terms of the Illinois Freedom of Information Act or should be revealed only with appropriate deletions.

- (6) The request for records cannot be complied with by the Village within the time limits prescribed by the foregoing paragraph without unduly burdening or interfering with the operations of the Village.
- (7) There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among **two (2)** or more components of a public body having a substantial interest in the determination or in the subject matter of the request.

(B) The person making a 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 requestor 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.

(C) When additional time is required for any of the above reasons, the FOIA Officer shall notify the person making the request, by letter, within the **five (5) business days** after receipt of the request, of the reasons for the delay and the date by which the records will be made available or denial will be forthcoming. In no instance may the delay in processing last longer than **five (5) business days**. A failure to render a decision within the time permitted for extension shall be considered a denial of the request.

(D) If the Village fails to respond to a request within the time permitted for extension but thereafter provides the requestor with copies of the requested public records, the Village may not impose a fee for those copies. If the Village requests an extension and subsequently fails to respond to the request, it may not treat the request as unduly burdensome under **Section 22-3-10**.

**22-3-10 UNDULY BURDENDOME REQUESTS.**

(A) Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the Village, there is no method of narrowing the request, and the burden on the Village strongly outweighs the public interest in the information. Before invoking this exemption, the Village shall extend to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions. If the Village responds to a categorical request by stating that compliance would unduly burden its operation and the conditions described above are met, it shall do so in a writing signed by the FOIA Officer specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operation of the Village. Such a response shall be treated as a denial of the request for information.

(B) Repeated requests for the same public records by the same person shall be deemed unduly burdensome. Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under this Article shall be deemed unduly burdensome.

**22-3-11 CERTAIN INFORMATION EXEMPT FROM INSPECTION AND COPYING.** Information exempted by Sections 7 and 7.5 of the Freedom of Information Act shall be exempt from inspection and copying (see Appendix A to this Article). If a record contains both exempt and nonexempt information, the Village may elect to redact the information that is exempt and make the remainder of the record available for inspection and copying.

Moreover, information described in items (iii) through (vi) of subsection (C) of the definition for "Public Record" may be withheld if it is determined that disclosure would: (i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement agency; (ii) endanger the life or physical safety of law enforcement or correctional personnel or any other person; or (iii) compromise the security of any correctional facility.

**22-3-12      NOTICE OF DENIAL OF REQUEST; REQUEST FOR REVIEW.**

(A)            The FOIA Officer, when denying a request for public record, shall notify the requestor, by letter, of the decision to deny the information, the reason for the denial, including a detailed factual basis for the application of any exemption claimed, and the names and titles or positions of each person responsible for the denial.

(B)            Each notice of denial by the FOIA Officer shall inform the person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor.

(C)            Each notice of denial shall also inform such person of his or her right to judicial review in accordance with Section 11 of the Freedom of Information Act.

(D)            When a request is denied on the grounds that the records are exempt under the provisions of this Article, the notice of denial shall specify the exemption claimed to authorize the denial and briefly explain how the exemption applies to the specified records withheld.

(E)            Copies of all notices of denials shall be retained by the Village in a single central office file that is open to the public and indexed according to the type of exemption asserted and, to the extent feasible, according to the types of records requested.

(F)            Any person making a request for public records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the Village fails to act within the time periods provided in **Sections 22-3-8** and **22-3-9**.

**22-3-13      PUBLIC ACCESS COUNSELOR; OPINIONS.**

(A)            A person whose request to inspect or copy a public record is denied by the Village may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than **sixty (60) days** after the date of the final denial. The request for review must be in writing, signed by the requestor, and include (i) a copy of the request for access to records and (ii) any responses from the public body.

(B)            If the Village receives a request for records, and asserts that the records are exempt under General Exemptions (1)(C) or (1)(F) (see Appendix A of this Article), it shall, within the time periods provided for responding to a request, provide written notice to the requester 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 public body; and
- (3)          a detailed summary of the public body's basis for asserting the exemption.

(C)            In accordance with FOIA, upon receipt of a notice of intent to deny from the Village, the Public Access Counselor determines whether further inquiry is warranted. Within **five (5) working days** after receipt of the notice of intent to deny, the Public Access Counselor notifies the Village and the requester whether further inquiry is warranted. If the

Public Access Counselor determines that further inquiry is warranted, the procedures set out in this Section regarding the review of denials, including the production of documents, shall also be applicable to the inquiry and resolution of a notice of intent to deny from the Village. Times for response or compliance by the Village under **Sections 22-3-8** and **22-3-9** shall be tolled until the Public Access Counselor concludes his or her inquiry.

(D) In accordance with FOIA, upon receipt of a request for review, the Public Access Counselor determines whether further action is warranted. If the Public Access Counselor determines that the alleged violation is unfounded, he or she so advises the requester and the Village and no further action shall be undertaken. In all other cases, the Public Access Counselor forwards a copy of the request for review to the Village within **seven (7) working days** after receipt and specifies the records or other documents that the Village shall furnish to facilitate the review. Within **seven (7) working days** after receipt of the request for review, the FOIA Officer shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor. If the FOIA Officer fails to furnish specified records pursuant to this Section, or if otherwise necessary, the Attorney General may issue a subpoena to any person or public body having knowledge of or records pertaining to a request for review of a denial of access to records under the Freedom of Information Act. By statute, to the extent that records or documents produced by the Village contain information that is claimed to be exempt from disclosure under Appendix A of this Article, the Public Access Counselor does not further disclose that information.

(E) In accordance with FOIA, within **seven (7) working days** after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the FOIA Officer may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor forwards a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. The requestor may, but is not required to, respond in writing to the answer within **seven (7) working days** and shall provide a copy of the response to the Village. In addition to the request for review, and the answer and the response thereto, if any, a requester or the Village may furnish affidavits or records concerning any matter germane to the review.

(F) In accordance with FOIA, unless the Public Access Counselor extends the time by no more than **twenty-one (21) business days** by sending written notice to the requester and the Village that includes a statement of the reasons for the extension in the notice, or decides to address the matter without the issuance of a binding opinion, the Attorney General examines the issues and the records, makes findings of fact and conclusions of law, and issues to the requester and the Village an opinion in response to the request for review within **sixty (60) days** after its receipt. The opinion is binding upon both the requester and the Village, subject to administrative review under Section 11.5 of the Freedom of Information Act **[5 ILCS 140/11.5]**.

Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, the FOIA Officer shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section 11.5 of FOIA. If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under Section 11.5 of FOIA. If the Village discloses records in accordance with an opinion of the Attorney General, it is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA.

(G) In accordance with FOIA, the Attorney General may also issue advisory opinions to the Village regarding compliance with FOIA. A review may be initiated upon receipt of a written request from the Village President or the Village Attorney, which shall contain

sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the Village in order to assist in the review. If the Village relies in good faith on an advisory opinion of the Attorney General in responding to a request, it is not liable for penalties under FOIA, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor.

**22-3-14 GRANTING OF REQUEST; PROCEDURE FOR INSPECTION.** When a freedom of information request is granted, the documents will be made available for inspection at the Village Hall during regular business hours. Copies shall be made upon request as set forth in **Section 22-3-7.**

**22-3-15 WRITTEN REQUEST NOT REQUIRED FOR CERTAIN DOCUMENTS.** The following documents shall be made available for inspection and copying without a written request; however, the requestor shall contact the FOIA Officer or designee in advance to set a mutually convenient time. These documents, if copied, shall be subject to the copying fee set forth in **Section 22-3-7:**

- (A) Ordinances and written resolutions.
- (B) The journal of the Village Board of Trustees, not including executive session minutes.
- (C) Any personnel code, building code, other technical code, or any other regulation of the Village adopted by the Village, whether by ordinance, resolution or otherwise.

**22-3-16 SPECIAL PROVISIONS PERTAINING TO CERTAIN LAW ENFORCEMENT RECORDS.** The following chronologically maintained arrest and criminal history information maintained by the Village Police Department shall be furnished as soon as practical, but in no event later than **seventy-two (72) hours** after the arrest, notwithstanding the time limits otherwise provided for in **Section 22-3-8** of this Article:

- (A) information that identifies the individual, including the name, age, address, and photograph, when and if available;
- (B) information detailing any charges relating to the arrest;
- (C) the time and location of the arrest;
- (D) the name of the investigating or arresting law enforcement agency;
- (E) if the individual is incarcerated, the amount of any bail or bond; and
- (F) if the individual is incarcerated, the time and date that the individual was received into, discharged from, or transferred from the Village Police Department's custody.

**22-3-17 DISSEMINATION OF INFORMATION ABOUT PUBLIC BODIES.** The Village shall prominently display at the Village Hall, make available for inspection and copying without charge, and shall send through the mail if requested, each of the following:

- (A) A brief description of itself, which will include, but not be limited to a short summary of its purpose, a block diagram giving its functional subdivisions, 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 Board of Trustees which operates in an advisory capacity



relative to the operation of the Village, or which exercises control over its policies or procedures, or to which the Village is required to report and be answerable for its operations;

(B) A brief description of the methods whereby the public may request information and public records, a directory designating for the FOIA Officer or officers, the address where requests for public records should be directed, and any fees allowable under **Section 22-3-7**; and

(C) The Village shall also post this information on its website, if one is maintained.

**22-3-18** **LIST OF CATEGORIES OF RECORDS.** As to public records prepared or received after the effective date of this Article, the FOIA Officer shall maintain and make available for inspection and copying a reasonably current list of all types or categories of records under its control. The list shall be reasonably detailed in order to aid persons in obtaining access to public records pursuant to this Article. The FOIA Officer shall furnish upon request a description of the manner in which public records stored by means of electronic data processing may be obtained in a form comprehensible to persons lacking knowledge of computer language or printout format.

**(Ord. No. 10-01; 01-20-10)**

**MANDATED POLICIES**

**APPENDIX "A"**

**EXEMPT MATERIALS PER THE FOIA (AS AMENDED 2009)**

**Section 7 of FOIA:  
General Exemptions**

1. The following shall be exempt from inspection and copying:
  - A. Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.
  - B. Private information, unless disclosure is required by another provision of this Act, a State or federal law or a court order.
  - C. Personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy.
  - D. Records in the possession of the Village created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:
    - i. interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;
    - ii. interfere with active administrative enforcement proceedings conducted by the Village that is the recipient of the request;
    - iii. create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;
    - iv. unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic accidents, traffic accident reports, and rescue reports shall be provided by agencies of local government, except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request;
    - v. disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the agency or public body that is the recipient of the request;
    - vi. endanger the life or physical safety of law enforcement personnel or any other person; or

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- vii. obstruct an ongoing criminal investigation by the agency that is the recipient of the request.
- E. Records that relate to or affect the security of correctional institutions and detention facilities.
- F. Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the Village President.
- G. Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested.
  - i. All trade secrets and commercial or financial information obtained by the Village, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.Nothing contained in this paragraph (G) shall be construed to prevent a person or business from consenting to disclosure.
- H. Proposals and bids for any contract, grant, or agreement including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the Village, until an award or final selection is made. Information prepared by or for the Village in preparation of a bid solicitation shall be exempt until an award or final selection is made.
- I. Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this paragraph does not extend to requests made by news media as defined in Section 2 of the FOIA when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.
- J. Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security.

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- K. Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.
- L. Communications between the Village and its attorney or auditor representing the Village that would not be subject to discover in litigation, and materials prepared or compiled by or for the Village in anticipation of a criminal, civil or administrative proceeding upon the request of the Village Attorney advising the Village, and materials prepared or compiled with respect to internal audits of the Village.
- M. Records relating to the Village's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed.
- N. Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides. Documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.
- O. Records relating to collective negotiating matters between the Village and its employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.
- P. Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment.
- Q. The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.
- R. Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk management information, records, data, advice or communications.
- S. Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of the Village responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.
- T. Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.
- U. Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or

- contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.
- V. Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency.
  - W. Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Power Agency or by the Illinois Commerce Commission.
2. A public record that is not in the possession of the Village but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the Village, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the Village, for purposes of the FOIA.

**Section 7.5 of FOIA:  
Statutory Exemptions**

To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

- A. All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act [**20 ILCS 700/4002**].
- B. Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act [**75 ILCS 70/1 et seq.**].
- C. Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.
- D. Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act [**410 ILCS 325/1 et seq.**].
- E. Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act [**420 ILCS 44/30**].
- F. Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act [**30 ILCS 535/55**].
- G. Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act [**110 ILCS 979/50**].
- H. Information the disclosure of which is exempted under the State Officials and Employees Ethics Act [**5 ILCS 430/1 et seq.**], and records of any lawfully

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- created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.
- I. Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code **[65 ILCS 5/11-21.5-5]**.
  - J. Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act **[50 ILCS 751/1 et seq.]**.
  - K. Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code **[625 ILCS 5/11-212]**.
  - L. Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Board of Trustees under the Abuse Prevention Review Team Act **[210 ILCS 28/1 et seq.]**.
  - M. Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act **[765 ILCS 77/70 et seq.]**, except to the extent authorized under that Article.
  - N. Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act **[725 ILCS 124/10 and 725 ILCS 124/15]**. This subsection N. shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.
  - O. Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act **[410 ILCS 525/4]**.
  - P. Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act **[70-3615/2.11]** or the St. Clair County Transit District under the Bi-State Transit Safety Act **[45-111/1 et seq.]**.
  - Q. Information prohibited from being disclosed by the Personnel Records Review Act.
  - R. Information prohibited from being disclosed by the Illinois School Student Records Act **[105 ILCS 10/1 et seq.]**.
  - S. Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act **[220 ILCS 5/5-108]**.

**(Ord. No. 10-01; 01-20-10)**

## CHAPTER 24

### MOTOR VEHICLE CODE

#### ARTICLE I - DEFINITIONS

**24-1-1**        **ILLINOIS VEHICLE CODE; DEFINITIONS ADOPTED.** The Illinois Vehicle Code, **Illinois Compiled Statutes, Chapter 625, Chapter 1**, entitled "**Title and Definitions**", as passed, approved and amended by the Illinois General Assembly is hereby adopted by the Village, the provisions thereof shall be controlling within the corporate limits of the Village.

#### ARTICLE II - GENERAL REGULATIONS

**24-2-1**        **OBEDIENCE TO POLICE.** Members of the Police Department, Special Police, Auxiliary Police and Marshals 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 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 State Department of Public Works and Buildings, 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        LAMPS AND OTHER EQUIPMENT ON BICYCLES.**  
(A)            Every bicycle, when in use at nighttime, shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least **five hundred feet (500')** to the front and with a red reflector on the rear of a type approved by the Department which shall be visible from all distances of **one hundred feet (100')** to **six hundred feet (600')** to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. A lamp emitting a red light visible from a distance of **five hundred feet (500')** to the rear may be used in addition to the red reflector.



(B) A bicycle shall not be equipped with, nor shall any person use any siren upon a bicycle.

(C) Every bicycle shall be equipped with a brake which will adequately control movement of and stop and hold such bicycle.

(D) No person shall sell a new bicycle or pedal for use on a bicycle that is not equipped with a reflex reflector or conforming to specifications prescribed by the State on each pedal, visible from the front and rear of the bicycle during darkness from a distance of **two hundred feet (200')**.

(E) No person shall sell or offer for sale a new bicycle that is not equipped with side reflectors. Such reflectors shall be visible from each side of the bicycle from a distance of **five hundred feet (500')** and shall be essentially colorless or red to the rear of the center of the bicycle and essentially colorless or amber to the front of the center of the bicycle provided. The requirements of this paragraph may be met by reflective materials which shall be at least **three-sixteenths of an inch (3/16th")** wide on each side of each tire or rim to 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. Such reflectors shall conform to specifications prescribed by the State.

(F) No person shall sell or offer for sale a new bicycle that is not equipped with an essentially colorless front-facing reflector.

(G) Any person charged with a violation of this section shall pay a fine of **One Dollar (\$1.00)** for the first offense and for a similar charge during the same year a fine of **Five Dollars (\$5.00)**. (See 625 ILCS Sec. 5/11-1507)

## **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)**

## 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 Unlawful.** No person shall be a participant in drag racing as defined in **Section 5/11-504 of the Illinois Compiled Statutes.**

(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.** The Department of Local Authorities with reference to traffic-control signals, signs or markers owned by the Department of Local Authorities are authorized to indicate the ownership of such signs, signals or markers on the back of such devices in letters not less than **three-eighths of an inch (3/8")** or more than **three-fourths of an inch (3/4")** in height, by use of a metal stamp, etching or other permanent means and except for employees of the Department of Local Authorities, police officers, contractors and their employees engaged in highway construction, contract or work on the highway approved by the Department of Local Authorities, it is a violation of this Chapter for any person to possess such sign, signal or marker so identified. **(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 and **thirty-five miles per hour (35 MPH)** on Berlin Road north of Old Route 36; otherwise, **thirty miles per hour (30 MPH)** on an arterial street unless otherwise posted. **(See Schedule "D") (See 625 ILCS Sec. 5/11-604) (Ord. No. 08-14; 09-17-08)**

(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)**

## ARTICLE VI - PARKING RULES

**24-6-1**      **TIME LIMIT PARKING.** It shall be unlawful to park any vehicle for a period of time in excess of the amount of time designated by law and so posted.

**24-6-2**      **PARKING FOR SALE OR REPAIR.** No person shall park a vehicle upon any street for the purpose of:

- (A)            displaying such vehicle for sale; or
- (B)            washing, greasing or repairing such vehicle, except when emergency repairs are necessary.

**24-6-3**      **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 feet (20')** 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) Schedule "H" shall list all applicable no-parking zones. **(See 625 ILCS 5/11-1303 and 5/11-1304) (Ord. No. 10-13; 09-15-10)**

**24-6-4 PARKING FOR THE HANDICAPPED.**

(A) **Designated Parking.** Certain parking spaces within the confines of the Village shall be designated for use by handicapped persons' vehicles only and will be posted with appropriate signs to that effect.

(B) **Use of Designated Handicapped Parking.** The use of designated handicapped parking locations, duly posted and signed shall to that effect, be open to any vehicle which bears the appropriate handicapped Illinois Registration Plate issued by the Secretary of State for the State of Illinois, or a valid handicapped parking permit issued by another governmental agency or which bears a handicapped card furnished in accordance with **Illinois Compiled Statutes, Chapter 625; Section 5/11-1301.1, et. seq.** furnished by the Village.

(C) **Application for Illinois Handicapped Registration Plate.** The issuance of an Illinois Handicapped Motor Vehicle Registration Plate shall be made with the Secretary of State of the State of Illinois at any facility provided and approved for that purpose by the Secretary of State. **(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 **Fifty Dollars (\$50.00)**. 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.

(E) **Handicapped Parking Areas.** Those places designated as "Handicapped Parking Spaces" are listed in **Schedule "H"**.

**24-6-5 PARKING ON PUBLIC STREETS IN RESIDENTIAL ZONES.**

(A) For purposes of this Section: **"Semitrailer", "Second Division Vehicle", "Recreational Vehicle", "Truck Tractor" and "B-Truck"** have the same meanings as in **Section 40-1-4** of this Code of Ordinances.

(B) It shall be unlawful to park any semitrailer or Second Division Vehicle other than a B-truck or Truck Tractor on any public street in an area of the Village zoned residential, except:

- (1) when engaged in loading or unloading of household goods or the unloading of materials to be used for the construction of improvements on an adjacent lot; or
- (2) when used for storage of materials used or to be used for construction of improvements on the same zoning lot where the semitrailer is parked, subject to the following conditions:
  - (a) the semitrailer shall not be parked on a public street but rather shall be parked at all times on the lot itself; and
  - (b) the semitrailer may not be parked for more than **six (6) months** unless the time is extended by the Village Board in its discretion and for good cause shown.

(C) It shall be unlawful at any time to park any Recreational Vehicle on any public street in an area of the Village zoned residential.

**(Ord. No. 13-06; 04-17-13)**

**24-6-6 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).

**24-6-7 PARKING VIOLATIONS.** Any person accused of a violation of an ordinance prohibiting parking a vehicle in a designated area or restricting the length of time a vehicle may be there parked, may settle and compromise the claim against him or her for such illegal parking by paying to the Village **Five Dollars (\$5.00)** for each such offense. Such

payment may be made at the Village Hall and a receipt shall be issued for all money so received and such money shall be promptly turned over to the Treasurer to be credited to the General Fund. The members of the Police Department are hereby authorized to refrain from instituting a prosecution for the alleged offense involved for at least **forty-eight (48) hours**; provided, however, that this section shall not apply to persons parking a vehicle so as to obstruct the entrance or 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.

**24-6-8      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.

**24-6-9      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.

**24-6-10      PARKING DURING SNOW EVENTS.**  
(A) As used herein, a "snow event" is any period of time during which **two (2) inches** or more of snow has accumulated in the Village during any continuous **twenty-four (24) hour** period.

(B) Parking is prohibited on the following Village streets during a snow event and for a period of **twenty-four (24) hours** after cessation of a snow event:

LeBeau Street  
Chafe Court  
Fairview Boulevard  
Caroline Drive

Frank Street  
Bourbaki Avenue  
Molly Lane

Arthur Jones Avenue  
Ronanderson Avenue  
Dieudonne Drive

provided, however, that after cessation of a snow event, parking may be resumed on an individual street as soon as final plowing has been completed on that street.

(C) Vehicles parked on Village streets in violation of this Section may be towed by the Police Department and may be reclaimed upon payment of any towing and storage fee, if any.

(D) Persons parking vehicles in violation of this Section do so at their own risk. The Village shall not be liable for accidental damage caused by any Village vehicle or equipment engaged in snow removal operations to any vehicle parked in violation of this Section.

(E) The Street Department is hereby authorized and directed to place and establish signs notifying the public of these regulations at all entrances to the Village along public streets, and other places where notice is deemed appropriate by the Street Department.

(F) The Village President, the Chief of Police, Public Works Superintendent and their designates are hereby authorized to declare the existence of a snow event and to provide notice thereof via the e-alert system or a news release to local media when a snow event has occurred or is expected and of the Village's intent to remove snow on the Village streets and to tow vehicles which may be parked thereon in violation of this Section. However, no such notice is a necessary prerequisite to the enforcement of this Section.

**(Ord. No. 11-01; 04-20-11)**

## ARTICLE VII – OFF-HIGHWAY VEHICLES

**24-7-1**        **DEFINITIONS.** As used in this Article, the following terms are defined as follows:

**"All-terrain vehicle":** Any motorized off-highway device designed to travel primarily off-highway, **fifty (50) inches** or less in width, having a manufacturer's dry weight of **one thousand five hundred (1,500) pounds** or less, traveling on **three (3)** or more non-highway tires, designed with a seat or saddle for operator use, and handlebars or steering wheel for steering control, except equipment such as lawnmowers.

**"Golf cart":** 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.

**"Off-highway motorcycle":** Any motorized device designed to travel primarily off-highway on **two (2) wheels**, having a seat or saddle for the use of the operator, upon or by which any person, persons or property may be transported or drawn.

**"Recreational off-highway vehicle":** Any motorized off-highway device designed to travel primarily off-highway, **sixty-four (64) inches** or less in width, having a manufacturer's dry weight of **two thousand (2,000) pounds** or less, traveling on **four (4)** or more non-highway tires, designed with a non-straddle seat and a steering wheel for steering control, except equipment such as lawnmowers.

**"Non-highway vehicles":** All-terrain vehicles, golf carts, off-highway motorcycles and recreational off-highway vehicles.

The foregoing definitions are verbatim from the Illinois Vehicle Code.

**24-7-2**        **PERMITTED VEHICLES.** In accordance with Section 11-1426.1 of the Illinois Vehicle Code, the Village hereby allows the operation of the following types of non-highway vehicles on roadways under its jurisdiction where the posted speed limit is **thirty-five miles per hour (35 MPH)** or less:

Golf carts

Recreational off-highway vehicles

**24-7-3**        **PROHIBITED.** The Village does not allow the operation of all-terrain vehicles or off-highway motorcycles on any roadways under its jurisdiction. Nor does the Village allow the operation of any non-highway vehicles on roadways under its jurisdiction where the posted speed limit is over **thirty-five miles per hour (35 MPH)**. This Section does not, however, prohibit a golf cart or recreational off-highway vehicle from crossing a road or street at an intersection where the road or street has a posted speed limit of more than **thirty-five miles per hour (35 MPH)**.

**24-7-4**        **ILLINOIS VEHICLE CODE.** Operation of golf carts and recreational off-highway vehicles on roadways under the jurisdiction of the Village shall be in accordance with the Illinois Vehicle Code, including but not limited to Section 11-1426.1 thereof, as in effect on the date of adoption of this Article or as hereafter amended, and including but not limited to provisions relating to mandated insurance coverage, mandated lights, emblems, turn

signals and other safety equipment and warning devices, manner of operation, rules of the road, crossing of state highways and licensure of operators.

**24-7-5      INSPECTIONS.** The Chief of Police is authorized in his discretion to implement a voluntary program for citizens to have their vehicles inspected for compliance with this Article and Section 11-1426.1 of the Illinois Vehicle Code.

**(Ord. No. 12-18; 11-21-12)**

**CITATION FORM**

NO. \_\_\_\_\_

DATE \_\_\_\_\_

TIME \_\_\_\_\_

LICENSE NO. \_\_\_\_\_

STATE \_\_\_\_\_

LICENSE EXPIRES \_\_\_\_\_

MAKE OF VEHICLE \_\_\_\_\_

METER NUMBER \_\_\_\_\_

OFFICER \_\_\_\_\_

**YOU ARE CHARGED WITH THE VIOLATION MARKED BELOW:**

- |     |                                                                                 |        |
|-----|---------------------------------------------------------------------------------|--------|
| 1.  | Overparked, Two Hour Zone                                                       | \$5.00 |
| 2.  | Double Parked                                                                   | \$2.00 |
| 3.  | Parked at Fire Plug                                                             | \$2.00 |
| 4.  | Blocking Driveway or Alley                                                      | \$2.00 |
| 5.  | Parked Where Official Signs Erected                                             | \$2.00 |
| 6.  | Improper Parking                                                                | \$2.00 |
| 7.  | Yellow Line                                                                     | \$2.00 |
| 8.  | Each Additional Hour Violation                                                  | \$2.00 |
| 9.  | Parking on Sidewalk                                                             | \$2.00 |
| 10. | Consecutive Use of Free 15 Minute Parking Without depositing coins in the meter | \$5.00 |

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

VILLAGE \_\_\_\_\_

STATE \_\_\_\_\_

ZIP CODE \_\_\_\_\_

You may settle and compromise a claim for illegal parking by paying the sum set forth above for the first particular violation and the same sum shall apply for the same particular offense for the second and each subsequent violation within 5 days after the time set out above. If not paid within this time limit, an **Enforcement Warrant** will be issued and an assessment of not less than **\$5.00** will be collected.

**FOR YOUR CONVENIENCE**

After detaching your Ticket Stub, place the fine in the envelope and deposit it in any of the **FINE-O-METER** collection boxes installed on the parking meter standards, or such payment may be made at the Village Hall.

## SCHEDULE "A"

### STOP INTERSECTIONS

In accordance with the provisions of Sections 24-3-1 and 24-3-3, the following are hereby designated stop intersections:

#### **I. ONE AND TWO-WAY STOPS.**

| <b>THROUGH STREET</b>  | <b>STOP STREET - DIRECTION</b>               |
|------------------------|----------------------------------------------|
| Illinois St. (Rte. 34) | All Intersecting Streets                     |
| Berlin Rd.             | Gibson St. (East Bd.)                        |
| Berlin Rd.             | Heritage Pointe Ave.(East Bd.)(#97-07)       |
| Benton St.             | Isaac St. (Both)                             |
| Birch St.              | Anderson St. (North Bd.) ( <b>#05-14</b> )   |
| Birch St.              | Benton St. (Both)                            |
| Birch St.              | Jackson St. (Both)                           |
| Birch St.              | Locust St. (Both)                            |
| Birch St.              | Main St. (North Bd.)                         |
| Birch St.              | Oak St. (Both)                               |
| Birch St.              | Olive St. (Both)                             |
| Birch St.              | Patton Ave. (South Bd.) ( <b>#08-17</b> )    |
| Birch St.              | Washington St. (Both)                        |
| Birch St.              | Wilcox St. (North Bd.) ( <b>#05-14</b> )     |
| Cedar St.              | Birch St. (Both)                             |
| Cedar St.              | Gibson St. (East Bd.)                        |
| Cty. Rte. #10          | Elm St. (Both)                               |
| Cty. Rte. #10          | Frank St. (West Bd.)                         |
| Ellis St.              | Locust St. (North Bd.) ( <b>#02-08</b> )     |
| Ellis St.              | Washington St. (North Bd.) ( <b>#02-08</b> ) |
| E. Elm St.             | Henry St. (West Bd.)                         |
| E. Elm St.             | Locust St. (Both)                            |
| Gibson St.             | Henry St. (South Bd.)                        |
| Gibson St.             | Jackson St. (Both)                           |
| Gibson St.             | Locust St. (Both) (#97-07)                   |
| Gibson St.             | Olive St. (Both)                             |
| Henry St.              | Birch St. (Both)                             |
| Heritage Point Ave.    | Berlin Rd. (West Bd.)                        |
| Locust St.             | Maple St. (East Bd.)                         |

**THROUGH STREET****STOP STREET - DIRECTION**

---

Oak St.  
Olive St.  
Olive St.

Yates St. (Both)  
Elm St. (Both)  
Yates St. (Both)

Washington St.

Yates St. (Both)

Yates St.  
Yates St.  
Yates St.  
Yates St.

Benton St. (Both) **(#14-03)**  
Jackson St. (Both) **(#14-03)**  
Locust St. (Both) **(#02-08)**  
Main St. (Both) **(#02-08)**

**II. TWO AND THREE-WAY STOP.**

Ellis St. (West Bd.)  
Ellis St. (Both)  
Ellis St. (Both)

and Cedar St. (North Bd.)  
and Olive St. (North Bd.)  
and Benton St. (North Bd.)

Heritage Point Ave. (Both)

and Liberty Ln. (North Bd.)

LeBeau St. (East Bd.)

and Cedar St. (North Bd.)

**III. FOUR-WAY STOPS.**

Ellis St.

and Oak St.

Gibson St.  
Gibson St.  
Gibson St.  
Gibson St.

and Benton St.  
and Oak St.  
and Washington St.  
and Main St.

LeBeau St.

and Cedar St. **(#13-18)**

Maple St.

and Benton St.

Olive St.

and Birch St.



## SCHEDULE "B"

### ONE-WAY STREETS AND ALLEYS

In accordance with the provisions of Section 24-3-2 the following are hereby designated as one-way streets and alleys.

| <b>STREET - DIRECTION</b>                                                                     |      | <b>LOCATION</b>                           |
|-----------------------------------------------------------------------------------------------|------|-------------------------------------------|
| Locust St. (North Bd.)                                                                        | From | Illinois St. to Birch St.                 |
| Main St. (North Bd.)                                                                          | From | Illinois St. to Birch St.                 |
| Alley parallel to and north of Illinois St. and parallel to and south of Birch St. (West Bd.) | From | Locust St. to Cedar St. ( <b>#10-06</b> ) |

**SCHEDULE "F"**

**ANGLE PARKING ZONES**

In accordance with the provisions of Section 24-6-3, the following are designated as "angle parking" zones wherein all vehicles shall be parked at a 45° angle where posted:

| <b>STREET</b> |      | <b>LOCATION</b>           |
|---------------|------|---------------------------|
| Locust St.    | From | Illinois St. to Birch St. |
| N. Main St.   | From | Illinois St. to Birch St. |

**SCHEDULE "H"**

**NO PARKING ZONES**

In accordance with the provisions of Section 24-6-3 the following areas are hereby designated as "no parking zones".

**I. NO PARKING DURING SCHOOL HOURS.** No vehicle shall park on the following streets or parts thereof on school days between the hours of 8:00 A.M. and 4:30 P.M. except those vehicles belonging to the residents of the adjacent property.

| <b>STREET</b>  |         | <b>LOCATION</b>          |
|----------------|---------|--------------------------|
| Ellis St.      | Between | Jackson St. and Oak St.  |
| Jackson St.    | Between | Gibson St. and Ellis St. |
| Oak St.        | Between | Gibson St. and Ellis St. |
| Olive St.      | Between | Gibson St. and Ellis St. |
| Washington St. | Between | Gibson St. and Ellis St. |

**II. NO PARKING ZONES - GENERALLY.**

| <b>STREET</b> |  | <b>LOCATION</b>                                                                  |
|---------------|--|----------------------------------------------------------------------------------|
| Illinois St.  |  | Entire length; except between Henry St. and Roesch St. <b>(Ord. No. 3-18-70)</b> |

**III. NO PARKING ZONES – VILLAGE BUSINESS.** There will be no parking in the following area, except by persons visiting the Village Hall or Police Department or otherwise engaged in business with the Village.

| <b>STREET</b>         |         | <b>LOCATION</b>                                              |
|-----------------------|---------|--------------------------------------------------------------|
| Olive St. (West side) | Between | Illinois St. and the railroad tracks <b>(Ord. No. 10-13)</b> |

**IV. NO PARKING ZONES – COUNTY FAIR.** During the annual event known as the Sangamon County Fair, there will be no parking in the following area:

| <b>STREET</b>           |         | <b>LOCATION</b>            |
|-------------------------|---------|----------------------------|
| Birch St. (North side)  | Between | Cedar St. and Illinois St. |
| LeBeau St. (South side) |         | Entire length              |

Annually, during the Sangamon County Fair, the Street Department shall place temporary signs indicating these temporary No Parking areas, and the foregoing No Parking prohibition shall be in effect so long as the temporary signs are in place.

**(Ord. No. 13-10; 06-05-13)**

**SCHEDULE "J"**

**SPEED ZONES**

In accordance with the provisions of Section 24-4-2(F) and (G), the following school "speed zones" are hereby established, with a **20 MPH** maximum speed, to be designated by appropriate signage:

**I. SCHOOL SPEED ZONES - 20 MPH MAXIMUM.**

| <b><u>STREET</u></b> |         | <b><u>LOCATION</u></b>       |
|----------------------|---------|------------------------------|
| Cedar St.            | Between | LeBeau and City limits       |
| Ellis St.            | Between | Oak St. and Jackson St.      |
| Gibson St.           | Between | Olive St. and Washington St. |

**(Ord. No. 09-13; 11-18-09)**

## 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 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 Offense Materials.** To throw or deposit any offal or other offensive matter, or the carcass of any dead animal in any watercourse, lake, pond, spring, well, or common sewer, street or public highway.

(C)     **Corruption of Water.** To corrupt or render unwholesome or inure the water of any spring, river, stream, pond or lake 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 **five hundred (500) 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 **one thousand (1,000) feet** of any occupied dwelling house.

(G)     **Noxious Odors.** To erect, continue or use any building or other place or 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 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 within the limits of the Village or within **one and one-half (1 1/2) miles** of the limits.

(O) **Filthy Premise Conditions.** To keep or suffer to be kept in a foul, offensive, nauseous or filthy condition, any chicken coop, cow barn, stable, cellar, vault, drain, privy, sewer or sink upon any premises belonging to or occupied by him, 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, ashes, garbage, refuse, plastic, brush, litter, weeds, slush, lead, glass bottles or broken glass upon any 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) **Motor Transport Engines.** To operate motor 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.

(W) **Generally.** To commit any offense which is a nuisance according to the common law of the land or made such by Statute of the State.

**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, maintaining of same shall be dangerous or detrimental to health.

**25-1-3** **NOTICE TO ABATE.** Whenever the Village President believes that a nuisance exists, he shall direct the Village Clerk or Village Attorney to mail (certified) to the party responsible for the nuisance and to the owner of record of the property 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) A statement of which provision of this Code of Ordinances or statute is violated by the nuisance;
- (E) The date by which abatement must be completed;
- (F) If applicable, the date by which a request for a hearing must be filed and a statement of the procedure for so filing;
- (G) If applicable, a statement that the responsible party has a right to appeal the abatement order to the Village Board.
- (H) If applicable, a statement indicating that if the nuisance is not abated by the date prescribed or if no request for hearing is made within the time prescribed, this municipality may abate the nuisance and assess the costs against the property or at the Village's option, apply for relief in the Circuit Court for any appropriate relief, including an injunction and a fine.
- (I) If applicable, a statement indicating that if the nuisance is not abated by the date prescribed, the Village may apply for relief in the Circuit Court for any appropriate relief, including an injunction and a fine. **(Ord. No. 03-13; 07-16-03)**

**25-1-4** **ABATEMENT BY VILLAGE.** If the person ordered to abate a nuisance fails to do so, or if the nuisance poses an emergency, this municipality may perform the required action to abate. Any municipal official who is authorized to abate any nuisance as defined in this Chapter 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.

**25-1-5**      **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 Chapter. The corporate authorities 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 740 ILCS Secs. 55/221 and 55/222)**



## ARTICLE II - WEEDS

**25-2-1**     **DEFINITIONS.** "Weeds" as used in this Code shall include, but not be limited to the following:

Burdock, Ragweed (giant), Ragweed (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 and Johnson 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 **ten (10) inches** anywhere in the Village. Any such plants or weeds 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 or Village Board 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 **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.

**25-2-5**     **ABATEMENT.** If the person so served does not abate the nuisance within **five (5) days**, the Village may proceed to abate and such expense shall be charged and paid by such owner or occupant.

**25-2-6**     **LIEN.** Charges for such weed 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 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 Mayor, Chief of Police, or the Mayor's 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 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 Village 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 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 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)**

## **ARTICLE IV - INOPERABLE AND ABANDONED VEHICLES**

**25-4-1**     **DEFINITIONS.** As used in this Chapter, the following terms have the following meanings:

**"Abandoned Vehicle":** As defined in Section 1-101.05 of the Illinois Vehicle Code, **625 ILCS 5/1-101.5**, an "abandoned vehicle" is any vehicle in a state of disrepair rendering the vehicle incapable of being driven in its condition or any motor vehicle that has not been moved or used for **seven (7) consecutive days** or more and is apparently deserted.

**"Inoperable Motor Vehicle":** As defined in Section 11-40-3 of the Illinois Municipal Code, **65 ILCS 5/11-40-3**, an "inoperable motor vehicle" is any motor vehicle from which, for a period of at least **seven (7) days**, the engine, wheels, tires, or other parts have been removed, or on which the engine, wheels, or other parts have been altered, damaged, or otherwise so treated that the vehicle is incapable of being driven under its own motor power. "Inoperable motor vehicle" shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations nor to any motor vehicle that is kept within a building when not in use, nor to any operable historic vehicles over **twenty-five (25) years** of age, nor to a motor vehicle on a premises lawfully engaged in the wrecking and junking of motor vehicles.

**"Person":** Any human being, firm, partnership, association, corporation, company, or organization of any kind.

**"Property":** Any real property, public or private, within the corporate limits within the Village that is not a street or highway.

**"Street" or "Highway":** The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

**"Motor Vehicle":** As defined in Section 1-146 of the Illinois Vehicle Code, a "motor vehicle" means every vehicle which is self-propelled, except for vehicles moved solely by human power and motorized wheelchairs.

**25-4-2**     **INOPERABLE OR ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY.** Inoperable motor vehicles which are on public property, a street or a highway, are hereby declared a nuisance. They shall be towed or otherwise dealt with by the Police Department in accordance with procedures set forth in Chapter 4, Article II of Illinois Motor Vehicle Code, **625 ILCS 5-201 et seq.**, which is herein incorporated by reference together with all future amendments thereto.

**25-4-3**     **INOPERABLE MOTOR VEHICLES ON PRIVATE PROPERTY.**  
(A)           Inoperable motor vehicles on private property are hereby declared a nuisance.

(B) Whenever a police officer discovers an inoperable motor vehicle on private property, the officer shall determine the owner of record of the property, and if the vehicle has a license plate, the owner of the vehicle. The officer shall attempt to determine the identity of persons occupying the property if different from the owner of record. The officer shall cause a notice in substantially the following form to be mailed, by Certified U.S. Mail, return receipt requested, or by personal delivery to the owner of record of the property, and to all persons known to the officer, after reasonable investigation, to occupy such property, and also to the owner of the motor vehicle, if the owner is known. **(See Notice at end of Chapter)**

(C) Notice by certified mail pursuant to this Section shall be accomplished if the Village receives a return receipt from the addressee or if the certified or regular mailing is returned "unclaimed" or "refused".

(D) In the event that a violation of **Section 25-4-2** or **25-4-3** is not corrected within the time specified in the notice, or if there is a hearing conducted by the Chief of Police in accordance with the notice and the Chief determines that the vehicle is inoperable, then within **five (5) days** after the hearing, the Police Department may proceed to tow and dispose of the inoperable motor vehicle in accordance with the procedures set forth in Chapter 4, Article II of Illinois Motor Vehicle Code, **625 ILCS 4-201 et seq.**, which is herein incorporated by reference.

**25-4-4 ABANDONED BUT NOT INOPERABLE MOTOR VEHICLES ON PRIVATE PROPERTY.** Vehicles which are not inoperable, but which are abandoned in the sense of not having been moved for **seven (7) consecutive days** or more and being apparently deserted, may be removed by the Police Department and otherwise dealt with in accordance with Article II of Section 4 of the Illinois Vehicle Code, but only if:

- (A) the owner of the property on which the vehicle was abandoned is different from the owner of the vehicle; and
- (B) the owner of the property on which the vehicle was abandoned requests the Police Department to take action; and
- (C) if approved by the Chief of Police in his sole discretion.

**25-4-5 OTHER REMEDIES.** In addition to any other remedies, the corporate authorities may at any time instruct the Village Attorney to filing a lawsuit in the Circuit Court of Sangamon County, seeking any or all remedies available in the Illinois Municipal Code respecting abatement of nuisances. The corporate authorities may seek penalties in accordance with **Section 25-4-7** of this Chapter.

**25-4-6 PARKING OF VEHICLES WITH EXPIRED REGISTRATION STICKERS.** No person may stop, park, or leave standing upon a public street, highway, or roadway a vehicle upon which is displayed an Illinois registration plate

or plates or registration sticker after the termination of the registration period for which the registration plat or sticker was issued or after the expiration date set by Section 3-314 or 3-314.1 of the Illinois Vehicle Code.

**25-4-7      PENALTIES AND REMEDIES.**

(A) Any person who violates or aids and abets in the violation of **Section 25-4-2, 25-4-3 or 25-4-4** of this Chapter shall be fined not less than **Two Hundred Fifty Dollars (\$250.00)** and no more than **Seven Hundred Fifty Dollars (\$750.00)**, plus the cost to the Village of its attorney's fees and shall be required by the Court to make a disposition on the abandoned, unclaimed, or inoperable vehicle. Each day a violation occurs shall constitute a separate offense.

(B) In addition to the remedies set forth in this Chapter and in Article II of Chapter 4 of the Illinois Motor Vehicle Code, the Village may bring a common law nuisance action against a person who is responsible for a nuisance as defined in this Chapter, and in connection therewith, may seek all remedies available in law or equity in connection with such an action, and shall be entitled as part of the action to an award of its attorneys fees and costs.

(C) A person who violates **Section 25-4-6** of this Chapter shall be fined the sum of **Twenty-Five Dollars (\$25.00)** for each violation. Each day a violation occurs shall constitute a separate offense.

**(Ord. No. 03-14; 07-16-03)**  
**(See 65 ILCS Sec. 5/11-40-3)**

## ARTICLE V - BUILDING AS NUISANCE

**25-5-1 BUILDING CONDITION - NUISANCE.** The Police Chief shall report to the Village Board when any building, structure or mobile housing unit in the Village is in a dangerous condition and constitutes a nuisance. All references to building shall include structure or mobile housing unit.

**25-5-2 TIME LIMIT.** The owner of such building shall repair or alter it so as to make it safe within **ninety (90) days** from the time the notice is served upon him in the manner provided by law.

**25-5-3 NOTIFICATION.** The Police Chief with the approval of the Village Board shall place a notice on all "dangerous and unsafe buildings", which notice shall read as follows:

"This building has been found to be a dangerous and unsafe building by the Village Officials. This notice shall remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, occupant, lessee, mortgagee, or agent of this building, or person or persons in whose name or names such building was last assessed, and all other persons having an interest in said building as shown by the land records of the County Recorder of Deeds. It is unlawful to remove this notice until, such notice is complied with."

**25-5-4 DANGEROUS AND UNSAFE BUILDINGS DEFINED.** All buildings or structures which have any or all of the following defects shall be deemed "dangerous and unsafe buildings".

(A) Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.

(B) Those which, exclusive of the foundation, show **thirty-one percent (31%)** or more of damage or deterioration of the supporting member or members, or **fifty percent (50%)** of damage or deterioration of the non-supporting enclosing or outside walls or covering.

(C) Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used.

(D) Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety, morals, or the general health and welfare of the occupants or the people of the Village.



(E) Those which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to cause injury to the health, morals, safety or general welfare of those living therein.

(F) Those having light, air, and sanitation facilities which are inadequate to protect the health, morals, safety, or general welfare of human beings who live or may live therein.

(G) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication.

(H) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.

(I) Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, morals, safety or property.

(J) Those buildings existing in violation of any provision of the Revised Code of this Village, or any other ordinances of the Village.

(K) Those vacant buildings with unguarded openings shall be deemed to constitute a fire hazard and to be unsafe within the provisions of this Code.

(L) Those buildings which are uncompleted or abandoned.

#### **25-5-5 STANDARDS FOR REPAIR, VACATION OR DEMOLITION.**

The following standards shall be followed in substance by the Police Chief in ordering repair, vacation, or demolition:

(A) If the "dangerous and unsafe building" is in such condition as to make it dangerous to the health, morals, safety, or general welfare of its occupants, it shall be ordered to be vacated.

(B) If the "dangerous and unsafe building" can reasonably be repaired to that it will no longer exist in violation of the terms of this Code, it shall be ordered repaired.

(C) In any case where a "dangerous and unsafe building" is **fifty percent (50%)** damaged or decayed, or deteriorated from its original value or structure, it shall be demolished, and in its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this Code, it shall be demolished. In all cases where a "dangerous and unsafe building" is a fire hazard existing or erected in violation of the terms of this Code, or any ordinance of the Village, or statute of the State of Illinois, it shall be demolished.

**25-5-6 DANGEROUS AND UNSAFE BUILDINGS - NUISANCES.** All dangerous and unsafe buildings within the terms of this Article are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as hereinbefore and hereinafter provided.

**25-5-7**      **DUTIES OF THE ATTORNEY.** The Village Attorney shall apply to the Circuit Court for an order authorizing the demolition, repair, or vacation of dangerous and unsafe buildings or uncompleted or abandoned buildings when notices have not been complied with and when requested to do so by the Police Chief.

**25-5-8**      **LIENS.** The cost of repair, demolition, vacation, or enclosure shall be recoverable from the owner or owners of such real estate and shall be a lien thereon, which lien shall be subordinate to all prior existing liens and encumbrances; provided that within **sixty (60) days** after said cost and expense is incurred, the Village or person performing the service by authority of the Village, in his or its own names, shall file notices of lien in the office of the County Recorder of Deeds. The notice shall consist of a sworn statement setting out:

- (A)            A description of the real estate sufficient for identification therefor;
- (B)            The amount of money representing the cost and expense incurred or payable for the service; and
- (C)            The date or dates when said cost and expense was incurred by the Village.

Upon payment of said cost and expense by the owner of or persons interested in said property after notice of lien has been filed, the lien shall be released by the Village or person in whose name(s) the lien has been filed and said release may be filed of record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in the case of mortgages or mechanics of lien. Suit to foreclose this lien shall be commenced within **three (3) years** after the date of filing notice of lien.

**(See 65 ILCS Sec. 5/11-31-1)**

## ARTICLE VI – NOISE

**25-6-1**     **DEFINITIONS.** The following words, terms and phrase, when used in this Chapter, shall have the meanings except where the context clearly indicates a different meaning:

**"Boundary line"** means:

(A)           In the case of a dwelling unit in a duplex or multifamily structure, the boundary line shall be the perimeter of such dwelling unit.

(B)           In the case of publicly owned property, the boundary line shall be the lot line of a publicly-owned zoning lot or a publicly owned right-of-way.

(C)           In all other cases, the boundary line shall be the lot line of a zoning lot.

(D)           Lot lines of zoning lots shall be determined in accordance with the Zoning Chapter of this Code of Ordinances.

**"Construction"** means on-site erection, fabrication, installation, alteration, repair, remodeling, demolition or removal of any structure, facility, or addition thereto, including all related activities, including, but not restricted to, clearing of land, earth-moving, excavation, drilling, blasting and landscaping.

**"Dwelling Unit"** has the same meaning as in the Zoning Chapter of this Code of Ordinances.

**"National Holiday"** means a holiday observed by the United States government.

**"Residential"** means a legal use of property for temporary or permanent dwelling purposes.

**25-6-2**     **APPLICABILITY.** This Article applies to all sources of sound except aircraft in flight, railroad equipment in operation on a railroad right-of-way, and motor vehicles. Such sources of sound may be regulated pursuant to other laws and regulations of the State of Illinois or other entities.

**25-6-3**     **PROHIBITED ACTIVITIES.** No person shall conduct any of the following activities if any such activity produces clearly audible sound beyond the boundary line of the property or dwelling unit on which or in which the activity is conducted:

(A)           Construction between **9:00 P.M.** and **7:00 A.M.** during the months of October through May, and **10:00 P.M.** and **5:30 A.M.** during the months of June through September;

(B)           The operation of power tools or power equipment, except in connection with:

(1)          construction activities as set forth in subsection (A), or

(2) business activities (other than entertainment) in an area zoned Industrial during the hours of **7:00 A.M.** to **7:00 P.M.**,

(3) occasional and reasonable hobby activities in areas zoned residential, during the hours of **7:00 A.M.** to **7:00 P.M.**

(C) The operation of any bell, siren, whistle, or similar device, except that amplified or unamplified bells or chimes may be used for noncommercial purposes for reasonable lengths of time;

(D) The operation of any device for killing, trapping, attracting or repelling insects except that such device may be used between the hours of **7:00 A.M.** and **10:00 P.M.**;

(E) Except as permitted in accordance with **Section 25-6-7**, the operation or use of any sound amplification device, except that sound amplification devices may be used in areas zoned Business and Industrial between the hours of **7:00 A.M.** and **10:00 P.M.** if the sound produced by such device is not clearly audible at the boundary line of any residential unit, and is not clearly audible at any one location for an unreasonable length of time;

(F) The use of any musical instrument, except that single musical instrument without amplification may be used between the hours of **7:00 A.M.** and **10:00 P.M.** for reasonable lengths of time.

**25-6-4 EXEMPTIONS.** The following activities are exempted from the prohibitions set out in **Section 25-6-3**:

(A) Emergency work necessary to restore property to a safe condition following a fire, accident or natural disaster, to restore public utilities, or to protect persons or property from an imminent danger;

(B) Sound made to alert persons to the existence of an emergency, danger or attempted crime;

(C) Parades, concerts, festivals, fairs or other such activities which are open to the general public and operated or conducted in accordance with other applicable ordinances and pursuant to a permit or other specific approval of the corporate authorities of the Village;

(D) The Sangamon County Fair;

(E) Athletic, musical or cultural activities or events, including practices and rehearsals, conducted by or under the auspices of governmental units or educational institutions.

(F) Bells used in connection with religious buildings and religious services.

(G) Parties sponsored by private individuals on private property, not open to the general public, and for which the sponsor has obtained a permit in accordance with **Section 25-6-7**. Such parties may be held only after Noon on Fridays, Saturdays, Sundays and national holidays, subject to the following additional limitations:

- (1) Music and noise may be clearly audible past the property line only until **11:00 P.M.**, Friday and Saturday;
- (2) Music and noise may be clearly audible past the property line only until **8:00 P.M.** on a Sunday unless the following Monday is a national holiday, in which case music and noise may be clearly audible past the property line until **11:00 P.M.**;
- (3) Music and noise may be clearly audible past the property line only until **8:00 P.M.** on a national holiday which falls on Monday through Thursday;
- (4) Notwithstanding subsections (1) through (3) above, in the event the Police Department receives multiple complaints of amplified sound generated by a private party for which a permit has been obtained; and if the Police Department verifies that such amplified sound may be heard beyond the boundary lines of the property for which the permit was issued; and if, in the opinion of the Police Chief or the senior police officer on duty, such amplified sound constitutes a threat to the public health, safety or welfare, the Police Chief or the senior officer on duty, may revoke the permit and cause the party to be shut down.

**25-6-5      PRESUMPTION OF ACCOUNTABILITY.**

(A)            The occupant of a property or dwelling unit, and the agent of the occupant on which a generally or specifically prohibited activity takes place shall be presumed to have permitted the activity to occur.

(B)            The occupant of the property or dwelling unit, and any agent of the occupant who permits another person to create a noise or conduct an activity in violation of this Article shall be deemed responsible for the noise or activity to the same extent as the person creating the noise or conducting the activity, and shall be subject to the same punishment.

**25-6-6      PRIVATE PARTY NOISE PERMITS.**

(A)            No person shall knowingly sponsor, engage in, conduct or participate in any private party or gathering, conducted on private property, which includes any kind of amplified music or other amplified noise which is clearly audible beyond the boundary line of the property unless a permit has been obtained therefore.

(B)            A person desiring a permit for a private party with amplified music or noise which is clearly audible beyond the boundary line of the property shall submit an application for the permit at least **seven (7) calendar days** prior to the party to the Chief of Police on an application form to be designed by the Chief of Police which will contain, as a minimum, the following information:

- (1) The name, address and telephone number of the owner of the property at which the party will be held;
  - (2) An estimate of the number of persons who will attend;
  - (3) A description of the number and type of musicians or musical presentations proposed to be part of the party, and the number and type of sound amplification devices proposed to be used;
  - (4) A statement of whether alcoholic beverages will be provided as part of the event;
  - (5) An acknowledgement that the sponsor has read this Article and is familiar with the hour limitations contained therein.
- (C) The Chief of Police shall grant the permit unless:
- (1) The applicant or the property has already received **two (2)** such permits in the previous year; or has had a permit revoked in the previous year; or
  - (2) The information on the application is incomplete or inaccurate.
- (D) If the Chief of Police denies an application for a party permit, the applicant shall have an immediate right of appeal to the Village President, who will conduct an informal hearing within **two (2) business days**, and whose decision is subject to administrative review.
- (E) The sponsor of the party shall have the party noise permit available for inspection by law enforcement officers for the duration of the party.

**25-6-7**     **NUISANCE DECLARED.**     The Village hereby declares that operation of any premises in violation of this Article is a nuisance. In addition to any other remedies available to the Village, the Village may sue the owner and operator of any premises which is in violation of this Article, to abate and restrain such a nuisance.

**25-6-8**     **PENALTIES.**     Any person, firm or corporation who or which violates any provision of this Article, or owns a lot on which a violation occurs, or fails to remedy a violation upon order of the Chief of Police or other law enforcement officer, shall be subject to a fine of not less than **Two Hundred Fifty Dollars (\$250.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)** for each violation. Each day a violation occurs shall be deemed a separate offense.

**(Ord. No. 08-02; 03-19-08)**

## CHAPTER 27

### OFFENSES

#### ARTICLE I - JUNK YARDS

**27-1-1**        **DEFINITIONS.** The following terms shall have the meanings ascribed to them pursuant to this Chapter.

**“Junk”** as used in this Chapter shall be held to mean and include scrap and old iron, steel, chain, brass, copper, magnesium, aluminum, tin, lead or other base metals, scrap lumber, old rope, old bags, rags, waste paper, paper clippings, scraps of woolens, clips, bagging, rubber and glass, and empty bottles of different kinds or sizes when the number of each kind or size is less than **one (1) gross**, any wrecked or dilapidated motor vehicle, engine, or machinery received, stored or held for more than **ninety (90) days**, and all articles and things discarded or no longer used as a manufactured article composed of or consisting of any **one (1)** or more of the materials or articles herein mentioned.

**“Junk Dealer”** as used in this Chapter shall be held to mean and include every person, firm, partnership, or corporation that shall engage in the business of buying, selling, bartering or exchanging, or shall collect, receive, store or hold in possession for sale, barter or exchange, any of the things in and by this Section defined as “junk”.

**“Junk Yard”** as used in this Chapter shall be held to mean and include the premises on which a junk dealer is engaged in the business of buying, selling, bartering, exchanging, or collecting, receiving, storing or holding in possession for sale, barter, or exchange, any of the things in any by this Section defined as “junk”.

(Also see Chapter 25, Articles I and III)

**27-1-2**        **ILLEGAL.** It shall be unlawful for any person to keep, conduct, maintain or operate a junk yard within the corporate limits of the Village. **(See Zoning Code)**

## CHAPTER 28

### PARKS

**28-1-1**        **SUPERVISION.** All parks in the Village shall be operated and maintained under the supervision of the Park Committee of the Board of Trustees.

**28-1-2**        **SUPERINTENDENT OF PARKS.** The Village Board may designate an individual as Superintendent of Parks, who shall see to the operation and maintenance of the Village parks, and he shall perform his duties subject to the supervision of the Village Board.

**28-1-3**        **ENFORCEMENT OF ORDINANCES.** The Superintendent of Parks shall see to the enforcement of all ordinances relating to the parks. He shall enforce all rules relating to the use of parks.

**28-1-4**        **PARK PROPERTY.** No person in a park shall have brought in or shall dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, garbage, refuse or other trash. No such refuse or trash shall be placed in any waters in or contiguous to any park, or left anywhere on the grounds thereof, but shall be placed in the proper receptacles where these are provided; where receptacles are not so provided, all such rubbish or waste shall be carried away from the park by the person responsible for its presence, and properly disposed of elsewhere.

**28-1-5**        **GROUP ACTIVITY.** Whenever any group or organization desires to use the park facilities for a particular purpose, such as picnics, parties, or entertainment performances, a representative of said group shall first obtain a permit from the Park Committee for such purposes. The Park Committee shall grant the application if it appears that the group will not interfere with the general use of the park by the individual members of the public.

**28-1-6**        **SPEED OF VEHICLES.** It shall be unlawful for any person to operate a motor vehicle in any area of a Village park in excess of **ten (10) miles per hour.**

**28-1-7**        **ALCOHOLIC BEVERAGES.** It shall be unlawful for any person to have in his or her possession, custody or control any alcoholic beverage (including beer) of any kind whatsoever in any Village park.



**28-1-8**            **ANIMALS.** It shall be unlawful to bring any dangerous animal into any park, and it shall be unlawful to permit any dog to be in any park unless such dog is on a leash not more than **six (6) feet** long.

**28-1-9**            **AUTOMOBILES.** It shall be unlawful to drive or park any automobile except on a street, driveway or parking lot in any park; or to park or leave any such vehicle in any place other than one established for public parking.

**28-1-10**          **CLOSING HOURS.** All parks in the Village shall be closed between the hours of **11:00 P.M.** and **6:00 A.M.** It shall be unlawful for any person to be in any park during the hours the park is closed. (**Ord. No. 505; 09-20-72 and Ord. No. 513; 07-15-81**)

## CHAPTER 29

### PERSONNEL CODE

#### ARTICLE I - GENERALLY

##### **VILLAGE PHILOSOPHY**

It is sincerely hoped that your employment at the Village is rewarding and enjoyable. This Village is proud of its excellent record of employee relations, as evidenced by its long term employees. It is important however, that all employees are aware of and fully understand the terms and conditions of their employment status with the Village.

The Village Board is committed to reviewing its policies. Accordingly, the policies and benefits outlined in this handbook are subject to review and change by the Village Board at any time. Be assured that all employees will be given prior notice and documentation of any changes contained herein.

It is impossible to cover every situation that may arise in the employment relationship. If a situation is not covered, the matter shall be referred to the appropriate Department Head and then reviewed and implemented with the assistance of the Personnel Committee and Village Board.

##### **INTRODUCTION**

The purpose of this Personnel Code is to establish policies, procedures and plans relating to employees of the Village. The Village reserves the right in the sole discretion of the Village Board to add, change, or eliminate its policies, procedures or plans, or to make special allowances for situations not specifically addressed in this Code. This Code governs all Village employees, but should not be considered or construed as a contract of employment or a guarantee of employment. Unless otherwise specifically agreed, all employment with the Village is employment at will, terminable without notice and without cause. This Code does not apply to officers of the Village except where specifically indicated.

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##### **29-1-1      EQUAL OPPORTUNITY; STATEMENT OF POLICY.**

(A)            It is the policy of the Village to provide equal opportunity to all employees and applicants for employment in accordance with all applicable laws, directives and regulations of federal, state and local legislative bodies and administrative agencies.

(B)            The Village shall recruit, hire, train and promote persons in all job classifications without regard to race, color, religion, national origin, sex, age, disability or political affiliation; provided, however, that nothing in this Section shall impair the right of the Village to establish bona fide occupational qualifications for any job category.

(C)            The Village shall insure that all personnel actions, including compensation, benefits, transfers, terminations, reductions in work force, rehires, education, tuition assistance, and the like, shall be administered without regard to race, color, religion, national origin, sex, age, handicap or political affiliation.

**29-1-2**      **DEFINITIONS.** As used herein, the following terms have the following definitions:

(A)      **Board.** The Village Board of Trustees of the Village of New Berlin, Illinois.

(B)      **Compensation.** All form of valuable consideration, including salary, wages, benefits, and allowances earned by or paid to any employee by reason of service in a position with the Village.

(C)      **Employee.** A person other than an officer or an independent contractor who regularly performs remunerative work for the Village.

(D)      **Full-Time Employee.** An employee who is not a part-time employee or a temporary employee.

(E)      **Part-Time Employee.** An employee other than a temporary employee who works for the Village or is reasonably expected to work for the Village less than **thirty-two (32) hours** per week or less than **one thousand six hundred sixty-four (1,664) hours** per calendar year with the exception of Village Officer Personnel who will receive the benefits of a full time employee. The following employment positions are part time: chief of police, police sergeant, police officer, and mower. All other employment positions in the Village heretofore created are full time positions. Whenever the Board of Trustees creates a new employment position, it shall designate the position as full time or part time.

(F)      **Immediate Family.** Includes and is limited to parents, spouses, brothers, sisters, children, including legally adopted children, grandparents, grandchildren, parents-in-law, brothers-in-law, sisters-in-law, legal guardians, and stepchildren.

(G)      **Independent Contractor.** A person who performs remunerative work for the Village on a contractual basis. Examples of independent contractors include vendors of goods and services, engineers, attorneys and consultants for the Village.

(H)      **Municipal Code.** The Illinois Municipal Code, **65 ILCS 5/1-1-1 et seq.**

(I)      **Officer.** A person designated by the Municipal Code as an officer of the Village, including, but not limited to, the Village President, Village Trustees, the Village Clerk, members of Boards and Commissions who take an oath of office (such as the Zoning Board and Planning Commission). Police officers and the Chief of Police are employees for purposes of this Personnel Code.

(J)      **Personnel Committee.** The Personnel Committee of the Village Board.

(K)      **President.** The President of the Village Board of Trustees.

(L)      **Probationary Employee.** A full-time employee who has worked for the Village less than **six (6)** continuous calendar months.

(M)      **Temporary Employee.** An employee who is hired temporarily, for a period of less than **six (6) months**, or who is hired only to work during particular seasons of the year (for example, a person hired to work in the Street Department during the summer).

(N)      **Work Day.** A working day is **eight (8) hours**.

(O)      **Work Week.** Monday 12:01 A.M. through Friday 11:59 P.M.

(P)      **Fiscal Year.** May 1<sup>st</sup> through April 30<sup>th</sup>.

**29-1-3**      **HIRING AND FIRING AUTHORITY; EMPLOYEES.**

(A)      All hiring authority for employees is vested in the Board. Employees shall be hired upon motion duly made, seconded and passed by the Board, subject to the President's veto and the Board's right of override as in the case of ordinances as set forth in the Municipal

Code. No person shall be hired, and no motion to hire a person shall be made, unless that person has been evaluated by the Personnel Committee of the Village Board or by the Chief of Police in the hiring of police officers, and a report, either oral or written, rendered to the Board.

(B) Firing authority for employees is vested in the Board and shall be exercised as set forth in the sections of this Personnel Code relating to discipline or by the Police Chief upon reporting to the Personnel Committee.

(C) An offer of employment to any new full-time employee shall be conditional on the employee undergoing, at the Village's expense, a physical examination by a licensed physician and an opinion from such physician that the employee is physically capable of doing the work. The Village shall provide the physician with a description of the employee's job duties in advance of the examination.

(D) An offer of employment to any new full-time or part-time employee could be conditional on the employee undergoing and passing a urinalysis drug test in accordance with the Village's drug testing program.

**29-1-4 LINES OF AUTHORITY.**

(A) **Departments and Committee Heads.** Each employee of the Village, except office employees, is assigned to a department and his or her supervisor shall be the head of that department. For purposes of this Personnel Code, the Departments of the Village are as follows: Water & Sewer Department, Police Department, Streets & Parks Department. Committee heads may lend department employees to other departments; in such cases the supervisor of the employee shall be the committee head of the receiving department for the duration of the assignment.

(B) **Committees of the Board.** The Department heads are supervised by the various committees of the Board, as follows:

| <b><u>Department</u></b>          | <b><u>Committee</u></b> |
|-----------------------------------|-------------------------|
| Superintendent of Water & Sewer   | Utilities               |
| Superintendent of Streets & Parks | Streets and Parks       |
| Police Department                 | Health and Safety       |
|                                   | Personnel               |
|                                   | Finance                 |
|                                   | Zoning                  |

Each Department Superintendent shall submit a written report to the Committee Chairman no later than **two (2) days** prior to the Village Board meeting.

Each committee reports the activities of its departments to the full Village Board.

(C) **Chief of Police.** The Chief of Police is head of the Police Department and is supervised by the Chairman of Health & Safety Committee to the Village Board. The Chief of Police reports monthly to the full Village Board regarding the activities of the Police Department.

(D) **Deputy Clerk.** If the Village by Ordinance permits the Village Clerk to appoint a Deputy Clerk, then the Deputy Clerk reports to the Clerk insofar as the Deputy Clerk's clerkship duties are concerned and to such employee's department head insofar as all of the employee's other duties are concerned. The Deputy Clerk does not lose his or her status as employee by virtue of appointment to the position of Deputy Clerk.

(E) **Supervisors Other Than Department Heads.** For administrative convenience department heads may designate one or more employees to assist them with their supervision of other employees; however, while authority is delegated, responsibility is not.

Committee heads are always responsible as supervisors for all employees within their departments.

(F) **Village Office Employees.** Village Office employees are supervised by the President, who shall perform duties of committee head with respect to them. The Personnel Committee Chairman shall act as the Committee Head for the Office Employees in the absence of the President.

**29-1-5 ATTENDANCE AND HOURS OF WORK.**

(A) **Village Office.** The Village Office hours are **8:00 A.M. to 4:00 P.M.** weekdays, except Tuesdays **8:00 A.M. to 5:00 P.M.** Employees of this Department are entitled to a **fifteen (15) minute** break in the morning and a **fifteen (15) minute** break in the afternoon. Lunch period is **one (1) hour** daily.

(B) **Village Street Department.** The Village Street Department hours are **6:30 A.M. to 3:00 P.M.,** Monday through Friday. Employees of this Department are entitled to a **fifteen (15) minute** break in the morning and a **fifteen (15) minute** break in the afternoon. Lunch period is **thirty (30) minutes** daily.

(C) **Police Department.** Police officers are subject to scheduling by the Chief of Police.

(D) **Basic Work Week.** The basic work week is **forty (40) hours,** consisting of **five (5) working days,** each of **eight (8) hours** in duration. Be advised that employees may be requested from time to time to work overtime but **only as instructed and/or approved by their respective supervisors.** Overtime is not a condition of employment, however, when necessary, employee cooperation is expected.

(E) **Attendance.** Reliable attendance of all employees is essential. Continual absences, tardiness and unsatisfactory attendance will be dealt with under provisions of this Code pertaining to disciplinary actions.

(F) **Water and Sewer Department.** The Village Water and Sewer Department hours are **6:30 A.M. to 3:00 P.M.,** Monday through Friday. Employees of this Department are entitled to a **fifteen (15) minute** break in the morning and a **fifteen (15) minute** break in the afternoon. The lunch period is **thirty (30) minutes** daily.

**29-1-6 COMPENSATION AND TIME KEEPING.**

(A) **New Hires.**

(1) The salary of a newly hired employee shall be established when the employee is hired.

(2) The salary of a new employee, other than temporary employees, shall be reviewed at the end of that employee's **three (3) month** and **six (6) month** probationary period, and the Board may in its discretion decide to raise, lower or keep in force the employee's initial salary.

(3) The salaries of temporary employees may be reviewed by the Board at any time or not at all.

(B) **Annual Salary Review.** The salaries of all full-time employees and part-time employees shall be reviewed by the Board annually. The Board shall annually by appropriate motion, resolution or ordinance, establish salaries for all full-time and part-time employees upon completion of its review. Salary decreases shall be effective when approved

by the Board and shall not be retroactive. Any bonuses for full time employees shall be based on performance evaluations and shall be given at the beginning of a new fiscal year.

(C) **Time Records.** Employees shall keep accurate time records. Each employee shall daily record his or her time worked and absences on timesheet forms approved by the Board. Timesheets shall be signed by the employee upon completion of each pay period's entries and reviewed and signed by the Department Head (or in the absence of a Department Head, by a person designated by the Committee Chairman). Department head's timesheets shall be signed by the Department Head and reviewed and signed by the Committee Chairman. Time shall be recorded to the nearest quarter hour increment. *In no event shall any employee be paid for time not recorded on a timesheet and approved by his or her department head or committee chairman.* No department head or other supervisor shall permit or encourage any employee to work but not record his or her time. **Timesheets are important legal documents and are the source documents for the Village payroll system. Their accuracy is an absolute must.**

(D) **Overtime.** Under the Fair Labor Standards Act, an employee has the choice of taking either the cash for overtime, or comp time if comp time is offered by the employer. As a matter of good business practice, overtime is to be kept to a minimum. All employees will receive compensatory time equal to time and one-half for all hours in excess of **forty (40) hours** in a **seven (7) day** period. Compensatory overtime will only be received on **authorized** overtime, meaning if previously approved by the Department Head or in event of an Emergency. Paid holidays, sick days and vacation days shall be credited as **eight (8) hours** worked for purposes of this Section; any other time off, such as unpaid holiday and vacation days, sick days, bereavement days, and tardiness or other absences with or without leave, shall not be credited toward the **forty (40) hours**. Be advised that overtime is not a condition of employment; however, when overtime is necessary, employee cooperation is expected.

(E) **Compensatory Time.** An employee will not accrue more than **one hundred twenty (120) hours** in compensatory overtime in a fiscal year. Any hours over **one hundred twenty (120)** will be paid to the employee.

(F) **Pay Period.** Village employees shall be paid on the **fifteenth (15<sup>th</sup>)** and **thirtieth (30<sup>th</sup>)** of each month. The pay period for each paycheck covers a **two (2) week** period ending the day before payday. (In the case of Police Officers working a Sunday night to Monday morning shift, the pay period shall include the hours worked on the Monday morning).

(G) **Docking of Pay.** Employees shall not be compensated for absences other than paid absences as set forth in the sections of this Code pertaining to paid vacations and leaves; their salaries shall be docked for unpaid absences.

## **29-1-7      BENEFITS.**

(A) **Paid Vacations.** Only full-time employees are entitled to paid vacations. The length of an employee's paid vacation is based upon years of continuous service completed as of his or her anniversary date. Once an employee has completed **one (1) year** of continuous service, vacation time, sick time, compensatory time, etc., will be earned and used based on the fiscal year.

Except for special rules governing new hires, vacation days earned on or prior to the employee's anniversary date are accrued and available for use during the following year. The following rules shall govern paid vacations.

- (1) **New Hires and Less Than Five (5) Years of Service.** New hires may earn **one (1) day** per month toward vacation, excluding April and October, however shall not be eligible to use the earned vacation time until completion of **one (1) year** of continuous service based on a fiscal year. Employee's vacation time earned will be prorated based on month and day of employment. After completion of **one (1) year** of continuous service an employee is entitled to **eighty (80) hours** of vacation.
- (2) **Employees With Five (5) or More Years of Service.** An employee with **five (5) full years** or more of service will earn **one and one-half (1 ½) days** per month, with the exception of April and October. This is equivalent to **fifteen (15) days** or **one hundred twenty (120) hours** paid vacation to be given at the beginning of each fiscal year. This is the maximum amount of vacation employee may earn.
- (3) **Limitations on Vacation Length.** No employee may take more than **ten (10)** consecutive working days of vacation, compensatory time and/or combination of sick time, (exclusive of holidays) without the prior consent of the appropriate committee.
- (4) **Carryover of Vacation Hours.** Prior to the employee's **fifth (5<sup>th</sup>) anniversary** date, no employee may carry over vacation hours from one year to the next. Thereafter, an employee may carry over vacation hours from year to year, not to exceed **two hundred forty (240) hours** total for all years.
- (5) **Payment of Vacation Credits Upon Termination.** An employee whose employment is terminated will receive payment at the then current straight time rate for vacation days accumulated and unused. If an employee dies, the employee's estate will be entitled to such payment.
- (6) **Payment of Compensatory Time Upon Termination.** An employee whose employment is terminated will receive payment at the then current straight time rate for compensatory time accumulated and unused. If an employee dies, the employee's estate will be entitled to such payment.
- (7) **Requests for and Reports of Vacations.** Employees other the Department Heads shall request vacation from Department Heads. Department Heads shall request vacation from the appropriate Committee Chairman. An employee shall request vacation at least **one (1) week** prior to the vacation requested. Department Heads have the discretion and responsibility to grant or deny vacations subject to the needs of the Village. Department Heads shall inform the Village Office daily of all personnel who are on vacation.
- (8) **Minimum Increments of Vacations.** Employees may take paid vacations in hourly increments.

(B) **Unpaid Vacations for Part-Time and Temporary Employees.** A part-time employee is entitled to vacation to the same extent as a full-time employee with equivalent lengths of service. However, a part-time employee will receive no pay during

vacation. Temporary employees are entitled to no vacation but may take unpaid vacations in the discretion of their respective Department Heads.

(C)

**Paid Holidays.**

(1) Only full-time employees are entitled to paid holidays. Part-time and temporary employees shall not report to work for Village holidays, and will not be paid for such holidays.

If a holiday falls on a Saturday or Sunday, the following Monday is observed as a holiday. Police Officers will be paid at time and a half and is excluded from this policy. The official holidays of the Village are as follows:

|                               |                  |
|-------------------------------|------------------|
| New Year's Day                | Labor Day        |
| Martin Luther King's Birthday | Veteran's Day    |
| President's Day               | Thanksgiving Day |
| Memorial Day                  | Christmas Day    |
| Fourth of July                |                  |

All full time employees are entitled to **eight (8) hours** pay for each of the holidays listed above.

(2) Full time employees scheduled to work on one of the above listed holidays shall be paid for **eight (8) hours** of regular pay in addition to **one and one-half (1 ½) times** their regular pay, for actual hours worked.

(D)

**Sick Leave.**

(1) All employees may take sick leave in accordance with this Section, but only full-time employees are entitled to paid sick leave.

(2) An employee is entitled to a maximum of **eighty (80) hours** sick leave per year, which will accrue at **eight (8) hours** per month for the calendar months January through December, with the exception of April and October.

(3) A full-time employee may accumulate sick leave up to a maximum of **two hundred forty (240) hours**. When the services of a full-time employee are terminated, no compensation will be paid for accrued sick leave.

(4) A full-time employee without accumulated paid sick leave who requires additional sick leave will have sick days deducted from vacation time, if the employee has accumulated vacation time, or the time will be docked.

(5) Part-time and temporary employees are entitled to **eighty (80) hours** unpaid sick leave per year and may not accumulate sick leave.

(6) Sick leave shall be taken in minimum increments of **one (1) hour** and may be used for illness, disability, injury, doctor or dentist appointments, or appointments with other professional medical practitioners. Sick leave may be used for serious illness, injury or disability of the employee's immediate family.

(7) An employee taking sick leave shall, unless incapacitated, notify his or her Department Head by telephone no later than **one (1) hour** after starting time on the date of the absence, and of each day thereafter of absence. (If a Department Head is sick, he or



she shall notify any other Department Head). The Department Head shall notify the Village Office of the employee's absence. An employee who does not comply with these rules shall be charged with an unauthorized absence.

- (8) An employee must have a doctor's slip to return to work after **three (3)** consecutive days of sick leave.

(E) **Leaves of Absence.** *Please be advised that in the event of a conflict between the Village Personnel Code and the Federal Family and Medical Leave Act, the provisions of the Federal Family and Medical Leave Act shall take precedence.*

- (1) **Medical Leave.** An employee who has no sick leave entitlement and reasonably anticipates illness, disability or convalescence for more than **ten (10) working days** shall apply to the Board for an unpaid medical leave of absence. Applications shall be filed at least **two (2) weeks** prior to the requested leave. The employee shall inform the Village Board in writing of the nature of the medical reason and the approximate time needed for leave, and shall accompany the application with a statement from the attending physician. In case of emergency or incapacitation of the employee, the Village Board shall waive these requirements. The Village Board may in its sole discretion allow or deny the request for medical leave; no employee is entitled to medical leave.

- (2) **Personal Leave.** A temporary unpaid personal leave of absence without pay may be granted an employee for up to **five (5) days** by the Committee Chairman for the employee's department, or in cases greater than **five (5) days**, by the Board. The employee shall submit the request for personal leave in writing to his or her Department Head. In the event that personal leave is a Department Head, the request will go to his or her Committee Chairman, at least **three (3) days** before the beginning of the leave, and, where Board approval is required, at least **two (2) weeks** before the beginning of the leave. The request shall be in writing, shall state the beginning and ending dates of the leave, and the reason therefore. No employee is entitled to personal leave, and personal leave may be granted or denied in the sole discretion of the Committee Chairman or Board.

- (3) **Bereavement Leave.** A maximum of **three (3) days** leave may be taken by an employee who has a death in his or her immediate family. Full-time employees are entitled to paid bereavement leave; part-time and temporary employees are entitled to bereavement leave without pay. In addition, to the forgoing bereavement leave, a Department Head may grant any employee an unpaid day of leave to participate in the funeral of an aunt, uncle, niece, nephew, cousin, or friend. The employee may in his or her discretion take a paid vacation day for such purposes if the employee is entitled to a paid vacation day.

- (4) **Military Leave.** Any employee called to active duty in or drafted in the Armed Services of the United States or ordered to training

with the Army, Navy, Air Force, Marine Corps, or Coast Guard Reserves or National Guard shall be entitled to unpaid leave for the duration of his or her service. Such an employee shall present his or her Committee Chairman with a copy of his or her orders in advance of taking leave, and shall report back to work within **ten (10) business days** after return from active duty. Certain benefits will remain intact for the duration of said leave at the discretion of the Personnel Committee and must be approved before leave commences. Military leave shall not be granted to an employee who voluntarily joins the active Armed Services of the United States.

(5) **Jury Leave.** An employee called for jury duty shall be given leave to attend jury duty. The employee upon receiving a summons shall immediately provide a copy to his or her Department Head, or if the employee is a Department Head, to his or her Committee Chairman. An employee taking jury leave has the following options regarding pay:

- (a) The employee may continue to receive pay from the Village and pay over to the Village Treasurer all compensation paid by the court.
- (b) The employee may take an unpaid leave of absence from the Village and retain all compensation paid by the court.
- (c) The employee may take paid vacation days and retain all compensation paid by the court.

(6) **Maternity Leave.**

(a) A pregnant employee is entitled to an unpaid maternity leave of absence. An employee who becomes pregnant shall notify her Department Head. If the employee is a Department Head she will notify her Committee Chairman. Notification of her condition must be submitted by the beginning of the **fifth (5<sup>th</sup>) month** of the pregnancy. In addition, a written statement from her personal physician specifying the estimated delivery date and the estimated date that the employee should cease working. From time to time the employee shall provide written statements, if necessary, from her personal physician if the initial estimated dates change. The Department Head shall forward all such statements to the Personnel Committee.

(b) A maternity leave of absence shall commence when the employee's physician certifies that she is no longer able to perform work safely and efficiently. Maternity leave shall continue until such time as the employee's physician certifies that the employee is able to return to work, but not later than **ten (10) weeks** after commencement of maternity leave, or **eight (8) weeks** after the birth of the child, whichever is later. An employee on maternity leave is required to contact the Personnel Committee and report

her return to work plans within **thirty (30) days** of the birth of the child.

- (c) An employee may submit a request for an extended maternity leave in excess of the above time periods to her Department Head (or if the employee is a Department Head, to her Committee Chairman) at least **thirty (30) days** prior to the expiration of the leave or of any extension. The Department Head or Committee Chairman shall forward the request, with recommendations, to the Personnel Committee. The Personnel Committee, in its sole discretion, may approve or deny the extension or approve the extension in part.
- (d) An employee who returns to work at the conclusion of maternity leave shall be restored to her former position or to a comparable position at the same rate of pay unless circumstances have changed or made it impossible or unreasonable to reinstate the employee.
- (e) A pregnant employee may, consecutively with her unpaid maternity leave, take any accrued paid sick days or her then allowable paid vacation days.

- (7) **Leaves Required Under Workers Compensation Laws.** An employee suffering from an injury that is job related under the Workers Compensation Laws shall be entitled to leave for such injury strictly and exclusively in accordance with those laws.
- (8) **Election Leave.** Employees may be granted reasonable time off with pay as needed to vote in national, state and local elections if they are unable to vote during non-work hours. Requests need to be made in advance to the Department Head.
- (9) **Religious Accommodation.** It is the practice of the Village to make reasonable accommodations for an employee's request for time off to observe religious obligations or holy days. Employees who are excused from work for religious observances may elect to take vacation, accrued unused personal time or unpaid personal leave. Employees should request time off for religious observations in advance to allow for appropriate scheduling.

(F) **Tuition Reimbursement Program.**

- (1) The Village encourages its employees to further their education and, therefore, will reimburse tuition as set forth in this Section.
- (2) Only full-time employees are entitled to participate in the tuition reimbursement program. An employee must make application for reimbursement to the Personnel Committee in time for the Personnel Committee to rule on the application prior to commencement of the course work.
- (3) An eligible employee is entitled to **one hundred percent (100%)** reimbursement for any course work at a suitable institution taken to prepare the employee to receive a GED. The employee must receive a passing grade to qualify for any reimbursement.

- (4) An employee who takes a course as part of the requirements to obtain a license or certification required for the employee to perform his or her job responsibilities is entitled to **one hundred percent (100%)** tuition reimbursement upon receiving a passing grade in any such course from a suitable institution.
- (5) An employee electing to take course work not required for but related to the employee's job responsibilities is eligible to partial tuition reimbursement according to the grade received by the employee from a suitable institution, as follows:

| <u>Course Grade</u> | <u>% of Reimbursement</u> |
|---------------------|---------------------------|
| A                   | 90%                       |
| B                   | 75%                       |
| C                   | 50%                       |
| D or F              | 0%                        |
| Pass                | 90%                       |
| Fail                | 0%                        |

**Note:** Please be advised that if said course work has been stated at time of enrollment to be a graded course but the employee elects the Pass/Fail grading option for said course, reimbursement will be at 50%.

- (6) The Personnel Committee shall in its sole discretion determine whether or not course work meets the criteria of subsection (3), (4) and (5) and whether the institution selected by the employee is suitable. The Personnel Committee shall notify the employee of its findings in writing prior to the employee commencing the course work. The employee has the right to appeal to the Board for any adverse decision by the Personnel Committee.
- (7) On completion of an approved course the employee shall submit to the Board:
  - (a) An official grade notice
  - (b) A copy of the official fee schedule
  - (c) A copy of a canceled check or other proof of payment
  - (d) Prior written authorization from the Personnel Committee
 The Board shall approve reimbursement of any properly submitted application. Reimbursement is limited to tuition only and does not include other costs such as books, travel, health fees, late fees, application fees.
- (8) Full-time Police Officers may, with the advance approval of the Chief of Police, be given up to **forty (40) hours** paid leave per year to attend continuing education courses. Any paid leave for continuing education in excess of **forty (40) hours** per year must also be approved in advance by the Board.

(G) **Other Benefits.**

- (1) **Medical Benefits.** The Village will subsidize a full-time employee has medical insurance as set forth in the governing medical insurance policy at a cost not to exceed **Six Hundred One Dollars (\$601.00)** of the total monthly premium. This is to be reviewed by the Board on an annual basis consistent with the

fiscal year. Dependent coverage will be the sole responsibility of the employee. Employees terminating employment with the Village are entitled to participate in the Village's medical insurance program at their own cost as set forth in the Village's governing medical insurance policy. The Village's medical insurance program is subject to change without notice.

(2) **Retirement Benefits.** Retirement benefits are provided by the Illinois Municipal Retirement Fund (IMRF). Employees qualify for participation in the IMRF as set forth in IMRF rules and regulations. A minimum of **one thousand (1,000) hours** per fiscal year for IMRF participation.

(3) **Clothing.**

(a) The Chief of Police and police officers are entitled to replacement uniform items to be provided by the Village in an amount approved yearly, pursuant to the Village budget or appropriation ordinance, beginning the January after the police officer's first full year of employment.

(b) For each newly-hired police officer, the Village may purchase, from vendors selected by the Chief of Police, the clothing and accessory items listed herein.

- (i) Winter coat with insulated liner
- (ii) Windbreaker jacket
- (iii) Summer shirt, 2 per year
- (iv) Winter shirt, 2 per year
- (v) Trouser, all weather, 2 per year
- (vi) Shoes, 1 per year
- (vii) Raincoat
- (viii) Police Department collar pin
- (ix) Shield (badge)
- (x) Name Plate

(c) A newly-hired police officer is required to provide, at his/her own expense, clothing and accessory items as listed below. Upon resignation or termination, the police officer shall return all items purchased or issued by the Village Police Department. Failure to return such items may result in appropriate legal action by the Village. All items listed below must meet Department and Chief of Police specifications.

- (i) Gun belt
- (ii) Pant belt
- (iii) Holster
- (iv) Handcuff case
- (v) Belt keepers
- (vi) Magazine pouch/case
- (vii) Duty weapon (must be approved by the Chief of Police)

**29-1-8            EMPLOYEE RELATIONS.**

(A)            **Anti-Discrimination and Harassment Policy.**    The Village is committed to employment opportunities which are based upon ability and performance demonstrating in a productive climate free from racial, sexual or other discrimination and harassment. Discrimination and harassment based on categories listed in the Village's equal opportunity policy (**Section 29-1-1**) will not be tolerated. An employee who believes he or she has been so discriminated against or harassed shall immediately contact his or her supervisor or a member of the Board. Any employee determined by investigation to have so discriminated against or harassed another employee shall be subject to appropriate disciplinary action.

(B)            **Policy on Sexual Harassment. [Adopted by the Village Board of Trustees, July 19, 2000.]** "Sexual harassment" as used herein, shall have the meaning assigned to that term under the Illinois Human Rights Act, which is as follows:

"Sexual harassment" means 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.

The Village shall not permit any sexual harassment of any person by any of its officers, trustees, employees or other representatives.

No individual shall engage in any sexual harassment of any person in connection with any employment or conditions of employment by the Village. Such acts are unlawful and prohibited whether the acts occur in the place of employment or elsewhere. Such acts are prohibited whether such acts are by one person or more, and whether condoned by the employer or not, and whether or not the person perpetrating such acts can, in fact, affect the employment or conditions of employment.

Should any employee of the Village believe he or she has been the victim of sexual harassment, such employee may notify the Village Clerk in writing specifying the alleged perpetrator, the date and time of the alleged sexual harassment and all other facts pertinent to the alleged sexual harassment. Upon receipt of such complaint, the Village Clerk shall immediately provide a copy of the Complaint to the President of the Village Board of Trustees. The President shall, as soon as practicable, appoint an ad hoc committee of the Village Board to investigate the Complaint. If the Complaint is found to be meritorious after a hearing is conducted by the committee, the committee shall make a report to the Village Board of Trustees. The Village Board of Trustees may execute such penalties as the Village Board deems appropriate, including but not limited to discharge from employment.

Any person who believes to be a victim of sexual harassment is hereby notified of the legal recourse available through the Department of Human Rights and the Illinois Human Rights Commission, including the investigative and complaint process available through said Department and Commission. Provisions relating to sexual harassment and employment under the Illinois Human Rights Act are found in **755 ILCS 5/2-101 et seq.**

The address and telephone numbers of the Illinois Department of Human Rights and the Illinois Human Rights Commission are as follows:

Illinois Department of Human Rights  
222 South College  
Springfield, IL 62704  
Phone: (217) 785-5100  
(217) 785-5125 (TDD)

Illinois Human Rights Commission  
404 Stratton Office Building  
Springfield, IL 62706  
Phone: (217) 785-4350

All persons are hereby further notified that it is illegal for an employer to retaliate against an individual who has made a complaint of alleged sexual harassment, all as is more fully set forth in **755 ILCS 5/2-105(B)(5)**.

(C) **Changes in Personal Status.** An employee shall immediately report any change of name, address, telephone number or marital status to his or her supervisor.

(D) **Dress Code.** An employee shall wear attire appropriate to his or her job functions. An employee working out of the shop is not expected to be neat and clean at all times because of the demanding nature of the job; however, the employee shall report to work in clean clothes in good repair. Office personnel shall wear attire appropriate to a business office. If an employee is in question as to what is appropriate, he or she may inquire of his or her supervisor. Police officers shall, unless called out on emergency, wear their complete uniforms at all times while on duty.

(E) **Nepotism.** The Village may employ a member of the immediate family of a Village employee, trustee or other officer upon approval by the Village Board after full disclosure of the relationship. It will be noted that said applicant and/or employee will be judged based on his/her qualifications and/or performance.

(F) **Job Description.** A written job description should include the employee's primary job function and other various duties and responsibilities, as well as the person to whom the employee should report to and be supervised by.

This job description shall be:

- (1) Reviewed by employee at time of employment and signed to reflect understanding of duties.
- (2) Reviewed annually in conjunction with annual evaluations.
- (3) Reviewed with employee as new services are added or as operational changes take place.
- (4) Made part of employee personnel file.

(G) **Performance Measurement.** Once a year prior to each employee's anniversary date, the employee shall be evaluated by his or her immediate supervisor in accordance with Village Board evaluation policies.

(H) **Residency Requirements.** There are no residency requirements, however, all permanent full-time employees must be able to be within the Village Limits within **thirty (30) minutes**, in case of emergency, to report to a Committee Chairman.

(I) **Outside Employment.** Since Village service is the primary responsibility of each employee, outside employment is discouraged. However, an employee may accept occasional or part-time jobs if:

- (1) There is no conflict with Village working hours.
- (2) The employee's efficiency is maintained.
- (3) There is no conflict of interest.

(J) **Drug Testing.** All potential new hires are subject to a drug test at the Village's expense. Those who choose refuse for any reason to a pre-employment drug test, will not be considered for employment. All Village employees are subject to random drug testing. Any employee that chooses not to undergo a drug test will automatically be considered for

termination unless the employee's physician submits a drug test to the Village within **twenty-four (24) hours**. A positive drug test, without documentation from a certified physician, will result in automatic termination.

(K) **Physical.** Prior to and during employment, any and all employees shall be subject to a physical examination at the request of the Village, with the expense of such examination to be the responsibility of the Village with the doctors to be designated by the Village. If an employee is unable at any given time to qualify physically to carry out his/her designated duties, said employee shall be subject to transfer or dismissal.

(L) **Village Vehicles.** Some employee's positions require regular driving of the Village's vehicles. Village vehicles are limited to business use only. Personal use of a Village vehicle is not allowed at any time. Employee's whose position requires driving a Village vehicle will have their driving records reviewed on a periodic basis for insurance purposes. Employees who have an unacceptable driving record will have their position with the Village reviewed by the Department Head and the Personnel Committee. An unacceptable driving record may result in disciplinary action, up to and including termination.

#### **29-1-9 PROBATIONARY AND TEMPORARY EMPLOYEES.**

(A) **Probationary Employees.** Full time employees shall be subject to a probationary period of **six (6) months**. During the probationary period, a full time employee may be terminated by the Village Board with or without cause, and without any notice or any hearing other than an opportunity to meet with the chairman of the personnel committee to discuss the reasons, if any, for their discharge. On or about the end of the **fifth (5<sup>th</sup>) month** of such new employee's tenure, the new employee's Department Head shall provide a written review of the probationary employee's job performance to the Personnel Committee. The Personnel Committee shall decide on or before the end of the **fifth (5<sup>th</sup>) month** of the new employee's tenure whether or not to retain the new employee and shall make recommendations on that subject to the Village Board along with a recommendation regarding any salary adjustment. The Board shall decide whether or not to retain the employee on or before the end of the **sixth (6<sup>th</sup>) month** of the new employee's tenure.

(B) Part-time and temporary employees shall have no probationary period. They may be terminated at any time by the Board with or without cause, and without any notice or any hearing other than an opportunity, at the employee's option, to meet with the chairman of the personnel committee to discuss the reasons, if any, for their discharge.

(C) **Temporary Employees.** Temporary employees may be terminated at any time by the Village Board without notice or hearing.

#### **29-1-10 DISCIPLINARY ACTIONS.**

(A) **General.** Any Village employee may be subject to disciplinary action as described below because of the employee's failure or refusal to perform assigned duties in a manner acceptable to the Board.

(B) **Verbal Warning.** One method of disciplinary action is a verbal warning by the employee's Department Head or Committee Chairman.

(C) **Written Warning.** Another method of disciplinary action is a written warning by the Department Head or Committee Chairman.

(D) **Suspension Without Pay.** Suspension without pay is another method of disciplinary action, to be used, as to full time employees, only for serious infractions or where



the employee has not rectified deficiencies noted in verbal or written warnings. (Neither a verbal warning nor a written warning is a condition precedent for a suspension.) For full time employees, suspensions without pay are limited to **ten (10) working days** for any infraction. The authority to suspend is vested in the Committee Chairman and, if the appropriate Committee Chairman is not available, in the President, subject to hearing rights for full time employees set forth in subsection (H)(2).

(E) **Dismissal.** Dismissal is another method of disciplinary action, to be used, as to full time employees, for serious offenses or for failure to correct problems or deficiencies, which have resulted in written warnings, or in suspension. Dismissal of full time employees shall only be after the employee has had an opportunity for a hearing with the Board.

(F) **Demotions.** Demotions are, strictly speaking, not a disciplinary action, but the Board may demote any employee whose work in his or her job has not been satisfactory, but who, in the opinion of the Board, can satisfactorily perform less difficult work.

(G) **Disciplinary Rules.** The following actions may result in disciplinary action up to and including discharge:

- (1) Conviction of a felony, or a misdemeanor involving moral turpitude or dishonesty.
- (2) Use of the employee's official position for personal gain.
- (3) Falsification of Village records or timesheets.
- (4) Sexual harassment or discrimination based on gender, race, color, creed, religion, national origin, or handicap.
- (5) Carelessness and/or abuse in the handling Village equipment.
- (6) Illegal or abusive uses of sick time or other leave.
- (7) Use of, or being under the influence of, alcohol or illegal drugs as defined by the Illinois Criminal Code while on the job, or failure to submit to or pass a urinalysis examination as set forth in the Village drug-testing program.
- (8) Incompetence or inefficiency in the performance of assigned duties or inattention to duties.
- (9) Insubordination by disobedience to any order or directive, or disrespect toward a Department Head or Officer of the Village.
- (10) Misuse or abuses of Village working time for person gain or for any reason other than performing the employee's assigned duties.
- (11) Excessive absenteeism or tardiness, including leaving work early and overstaying meal periods.
- (12) Solicitation or acceptance of any gratuity, gift, present, reward or other thing of value in return for the performance of the employee's official duties, or as a condition for not performing those duties.
- (13) Failure to pay promptly any indebtedness owed to the Village, including, but not limited to, taxes and utility bills.
- (14) Habitual discourtesy or disrespect to the public or to fellow employees.
- (15) Theft, destruction, loss or unauthorized use of Village property, equipment and materials, either willfully or through unnecessary carelessness.

- (16) Unauthorized dissemination of information protected from disclosure under the Illinois Freedom of Information Act.
- (17) Any act which brings disrepute upon the Village or the Village Board.

(H)

**Hearing Rights.**

- (1) Part time employees have no right to any notice or hearing in disciplinary actions except the opportunity, at the employee's option, to meet with the chairman of the Personnel Committee to discuss the reasons, if any, for imposition of discipline.
- (2) A full time non-probationary employee shall have the right to a hearing and appeal of certain disciplinary actions, as follows:
  - (a) Written warnings may be appealed by presentation of grievance in writing to the employee's Department Head, (or, in the case of discipline of a Department Head, to the Committee Chairman) who, if possible, will resolve the grievance. If the aggrieved employee is not satisfied with the disposition of the written warning, the employee shall submit his case in writing to the Personnel Committee within **five (5) working days**. The Personnel Committee shall require in writing the action taken and justification therefore against the aggrieved employee. The Personnel Committee may conduct a hearing allowing witnesses for both or either side to testify, or it may call witnesses of its own, before deciding on the issue. The Personnel Committee shall render its decision within **ten (10) days** of the receipt of the appeal of the aggrieved employee, and will advise the aggrieved employee of its decision in writing.
  - (b) In case of suspension, the full time employee is entitled to a hearing at the employee's request. The hearing shall be pre-suspension unless in the judgment of the Committee Chairman, or in the absence of the Committee Chairman, the President, circumstances require immediate suspension and a post-suspension hearing. After such hearing, the Board may elect to affirm the suspension without pay, shorten or lengthen the suspension without pay, or if it determines in a post-suspension hearing that the suspension was improper, terminate the suspension and award back pay.
  - (c) A full time employee faced with discharge is entitled to a pre-discharge hearing at the employee's request, which shall be held by the Board. The pre-discharge hearing shall, in the case of an employee suspended without pay pending discharge, be held in conjunction with the post-suspension hearing.
  - (d) Prior to any hearing under subparagraph (b) or (c), the full time employee shall be entitled to a written notice of hearing. The notice shall contain a statement of charges

signed by the Village President or Chair of the Personnel Committee; it shall identify the conduct complained of; it shall explain the employee's rights under this Code, and it shall identify any complainants. At any such hearing, the employee may present witnesses, may be represented by counsel, and may, at the employee's own expense, have a court reporter present. The President shall preside at any such hearing, and the Village Attorney shall be present to advise the Board.

- (e) The Board shall make its decision by majority vote of those present. The President is entitled to vote at such hearing and shall be counted in determining the majority.
  - (3) Police officers are entitled to rights set forth in the Uniform Peace Officers' Disciplinary Act, **50 ILCS 725/1 et seq.** in the case of any interrogations which may lead to discipline.
- (I) **Records of Disciplinary Action.**
- (1) Supervisors may in their discretion keep written records of verbal warnings given to employees. Such written records shall not become part of an employee's official personnel file unless they form the basis of a later written warning for repeated behavior.
  - (2) Written warnings, and decisions of the Personnel Committee sustaining appeals of a written warning, shall be maintained in an employee's personnel file for a minimum of **three (3) years**. If after **three (3) years**, the employee has had no disciplinary actions resulting from a violation of the same provision of the Personnel Code as gave rise to the written warning, the written warning, and any appeal decision, shall be removed from the personnel file. If there has been a disciplinary action resulting from a violation of the same provision of the Personnel Code as gave rise to the original warning, the record of the original warning shall be maintained in the personnel file until the record of the subsequent violation is removed under this subparagraph.
  - (3) If an employee appeals a written warning and the Personnel Committee decides that the written warning was without merit, the written warning shall be removed from the employee's personnel file.
  - (4) Records of suspensions without pay, demotions and dismissal shall be maintained permanently in the employee's personnel file.

**29-1-11      TERMINATIONS.**

(A) **Resignations.** An employee shall give at least **ten (10) working days** written notice prior to the effective date of resignation. The resignation shall be filed with the employee's supervisor, who, in turn, will notify the Personnel Committee. The Personnel Committee shall determine the proper termination pay and see to it that any Village property is either returned or charged as a deduction from termination pay.

(B) **Layoffs.** When it is necessary in the judgment of the Board to reduce the number of employees on the Village payroll or on the payroll of any department, the Board

may lay off employees in its sole discretion. A laid off employee shall receive a **ten (10) working day** notice of separation or shall be paid for **ten (10) days** following the notice of layoff. An employee thus separated is eligible for re-employment and if re-employed shall retain seniority rights as of the date of separation for purposes of this Section.

(C) **Return of Village Property.** An employee leaving the Village's service, whether through resignation, layoff or dismissal shall return any property of the Village in which the employee has in his or her possession. Any property in the care of a Village employee which is deemed unusable or in poor condition due to misuse or abuse will be the responsibility of the Village employee to replace, repair to suitable working condition or pay to have the equipment replaced or repaired. Equipment age and normal wear and tear will be taken into consideration regarding this matter. The property shall be returned to the employee's Supervisor, before the employee receives his or her final check.

**29-1-12      PERSONNEL FILES.**

(A) The Personnel Committee shall maintain a personnel file on each employee. The file shall contain the employee's employment application, and copies of every annual review, all letters of commendation or awards deemed relevant by the Personnel Committee, verbal and written disciplinary warnings, records pertaining to suspensions and discharge, and any other information deemed relevant by the Personnel Committee.

(B) The personnel files are confidential and not subject to disclosure to the public without a legitimate subpoena or other judicial order. An employee shall have the right, upon written request and at reasonable times and places, to inspect and copy all or part of his or her personnel file and to request the Personnel Committee to make legitimate additions thereto or deletions therefrom. The personnel files shall be maintained in a secure file cabinet that shall be kept locked when not in use. The Personnel Committee shall have free access to the personnel files and shall allow the President and other trustees to review the files upon request.

**(Ord. No. 13-09; 05-05-13)**

**ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING  
OF THE VILLAGE OF NEW BERLIN PERSONNEL CODES**

I have received a copy of the Village of New Berlin Personnel Codes. I know that I must read this handbook so I understand my rights and responsibilities as an employee of this Village.

I understand that the Personnel Code handbook is not an employment contract, but it is an explanation of Village policies and procedures. The Village of New Berlin has not solicited my agreement to the policies and procedures set forth in this handbook. I realize that the Village may interpret, clarify, revise and/or deviate from the procedures set forth in the handbook.

I also realize the employment relationship between the Village and me is terminable at will by either party and that nothing in this handbook creates additional rights or provide a basis for me to believe my employment is not terminable at will.

I understand that if I have any questions, I am to speak with my immediate supervisor or the Personnel Committee.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

## CHAPTER 30

### PUBLIC SAFETY

#### ARTICLE I - CIVIL EMERGENCY

##### **30-1-1**      **DEFINITIONS.**

**"CIVIL EMERGENCY"** is hereby defined to be:

(A)            A "riot or unlawful assembly" characterized by the use of actual force or violence or any power to execute by **three (3)** or more persons acting together without authority of law; or

(B)            Any "natural disaster" or "man-made calamity", including flood, conflagration, cyclone, tornado, earthquake, or explosion within the corporate limits of the Village resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public health, safety and welfare.

**"CURFEW"** is hereby defined as a prohibition against any person or persons walking, running, loitering, standing or motoring upon any alley, street, highway, public property or vacant premises within the corporate limits of the Village excepting officials of any governmental unit and persons officially designated to duty with reference to the civil emergency.

**30-1-2**      **DECLARATION OF EMERGENCY.** Whenever an emergency as defined in **Section 30-1-1** exists, the Mayor shall declare the existence by means of a written declaration, setting forth the facts which constitute the emergency.

**30-1-3**      **CURFEW.** After proclamation of a civil emergency by the Mayor, he may order a general curfew applicable to such geographical areas of the Village or to the Village as a whole as he deems advisable and applicable during such hours of the day or night as he deems necessary in the interest of the public safety and welfare.

**30-1-4**      **AUTHORITY OF MAYOR TO ISSUE ORDERS.** After the proclamation of a civil emergency, the Mayor may also, in the interest of public safety and welfare, make any or all of the following orders.

(A)            Order the closing of all retail liquor stores including taverns and private clubs or portions thereof wherein the consumption of intoxicating liquor and beer is permitted.

(B)            Order the discontinuance of the sale of alcoholic liquor by any wholesaler or retailer.

(C) Order the discontinuance of selling, distributing or giving away of gasoline or other flammable liquid or combustible products in any container other than a gasoline tank properly affixed to a motor vehicle.

(D) Order the discontinuance of selling, distributing, dispensing or giving away of any firearms or ammunition of any character whatsoever.

(E) Issue such other orders as are imminently necessary for the protection of life and property.

**30-1-5** **EFFECTIVENESS.** The proclamation herein authorized shall be effective for a period of **forty-eight (48) hours** unless sooner terminated by a proclamation of the Mayor indicating that the civil emergency no longer exists. The Mayor shall have the power to reproclaim 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 Fire House.

**(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**     **POSITION OF CHIEF OF POLICE.** There is hereby established the position of Chief of Police. The Chief of Police shall be a part-time employee of the Village, and shall be hired and fired in accordance with the Village Personnel Code. **(Ord. No. 05-03; 03-16-05)**

**30-2-3**     **DUTIES OF THE CHIEF OF POLICE.** The Chief of Police shall exercise general management and control of the Police Department.

(A)           He shall supervise over and be responsible for the conduct and performance of all officers and employees of said department.

(B)           He shall be the custodian of all stolen goods or other property received and retained under police authority.

(C)           He shall be the custodian of all vehicles, equipment, structures, and property provided by the Village for the use of said department.

(D)           He shall enforce the provisions of this Code and make such inspections as necessary for the purpose.

(E)           He shall perform such other duties as may be assigned to him by the provisions of this Code or by the Corporate Authorities. (See Sec. 5.103 - Village Code)

(F)           **Police Record.** He shall provide a suitable police record in which each officer making an arrest shall enter the name of the person arrested, where arrested, on what charge, what property, if any, was taken or found on such person, and how disposed of, and shall also record his own name as the officer making the arrest. The disposition of all cases arising out of such arrests shall be shown on such record.

**30-2-4**     **POSITION OF SERGEANT.** There is hereby established the position of Police Sergeant. The Sergeant shall be a part-time employee of the Village, and shall be hired and fired in accordance with the Village Personnel Code. The corporate authorities of the Village shall establish the number of sergeants in the police department from time to time. **(Ord. No. 05-03; 03-16-05)**



**30-2-5**        **POSITION OF POLICE OFFICER.** There is hereby established the position of Police Officer. A police officer shall be a part-time employee of the Village, and shall be hired and fired in accordance with the Village Personnel Code. The corporate authorities of the Village shall establish the number of police officers from time to time. **(Ord. No. 05-03; 03-16-05)**

**30-2-6**        **DUTIES.** The policeman and the sergeant 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. In addition, the sergeant shall assist the Chief of Police, as requested, and shall perform administrative duties as prescribed by the Chief of Police, including, but not limited to, evaluating the performance of patrolmen, compiling department activity statistics, providing on-the-job training of patrolmen and coordinating specific programs and activities on behalf of the Department. **(Ord. No. 98-03; 03-18-98)**

**30-2-7**        **MUTUAL AID CONTRACT.** The Police Department, with the approval of the Village Board, may enter into an agreement to provide police protection to neighboring municipalities.

**30-2-8**        **COMPENSATION.** The compensation of the members of the Police Department shall be fixed annually by the corporate authorities by a salary ordinance or in the appropriation ordinance, and in accordance with the Personnel Code. **(Ord. No. 05-03; 03-16-05)**

**30-2-9**        **LEGAL PROCESSES.** All police shall have the power and authority to execute Village warrants or other similar legal processes outside the corporate limits of the Village and within such distance therefrom as authorized by law in all cases when any ordinance of the Village Board made pursuant to law shall prescribe a penalty for the violation of any of its provisions by persons residing, acting or doing any business within the limits of the Village.

**30-2-10**       **ASSISTING POLICE OFFICER.** Every police officer of the Village may, at any time, call upon any able-bodied person(s) above the age of **eighteen (18) years** to aid him in the arresting, retaking or holding in custody of any person guilty of having committed any unlawful act or charged therewith, or to aid such officer in preventing the commission of any unlawful act.

**30-2-11**     **AIDING FIRE DEPARTMENT.** Every police officer shall aid the fire department by giving the alarm in case of fire and in clearing the streets or grounds in the immediate vicinity of any fire so that the firemen shall not be hindered or obstructed in the performance of their duties.

**30-2-12**     **FAILURE TO PERFORM.** Any member of the Police Department who shall neglect or refuse to perform any duty required of him by this Code or the rules and regulations of the Department, or who shall be, in the discharge of his official duties, guilty of any fraud, favoritism, extortion, oppressions or willful wrong or injustice, shall be subject to removal from office.

**30-2-13**     **AIDING IN ESCAPE.** It shall be unlawful for any person in this Village to resist or obstruct any member of the Police Force in the discharge of his duty or to endeavor to do so, in any manner, assist any person in the custody of any member of the Police Department to escape or to attempt to escape from such custody or to attempt to rescue any such person in custody.

**30-2-14**     **USE OF INTOXICATING LIQUOR.** No member on an active tour of duty or while wearing the official policeman's badge of the Village shall indulge in the use of intoxicating liquor of any kind and intoxication at any time shall be sufficient cause for removal.

**30-2-15**     **WITNESS FEES.** Any member of the Police Department shall appear as witness whenever this is necessary in a prosecution for a violation of an ordinance or of any state or federal law. No such member shall retain any witness fee for service as witness in any action or suit to which the Village is a party; and fees paid for such services shall be turned over to the Chief of Police who shall deposit the same with the Village Treasurer.

**30-2-16**     **RULES AND REGULATIONS.** The Chief of Police may make or prescribe such rules and regulations for the conduct and guidance of the members of the Police Department as he shall deem advisable and such rules, when approved by the Mayor, shall be binding on such members.

**30-2-17**     **STOLEN PROPERTY.** The Chief of Police shall be the custodian of all lost and abandoned or stolen property in the Village. **(See 65 ILCS Sec. 5/11-1-1 through 5/11-1-7)**

**30-2-18**     **PART-TIME OFFICERS.** The Village may hire part-time police officers from time to time. A part-time officer shall have all the responsibilities of a full-time police officer and such specific duties as delineated in the policies and procedures of the Police Department, but the number of hours a part-time officer may work within a calendar year is restricted. Part-time police officers shall not be assigned to supervise or direct full-time police officers. A person hired as a part-time police officer shall have the following qualifications:

- (A) The person shall be **twenty-one (21) years** of age.
  - (B) The person shall not have been convicted of any criminal felony or criminal misdemeanor offense.
  - (C) The person shall successfully complete a drug and alcohol test as prescribed by the department and shall undergo a background check conducted by the department.
  - (D) The person shall either:
    - (1) have completed the part-time police training course prescribed by the Illinois Police Training Board; or
    - (2) otherwise qualify as part-time officer pursuant to Section 8.2 of the Police Training Act, **50 ILCS 705/8.2**; or
    - (3) qualify as a full-time police officer, having completed the basic training for full-time officers as required by the Illinois Law Enforcement Training Standards Board pursuant to Police Training Act.
  - (E) The person shall have successfully completed that training required under the Illinois Peace Officer Firearm Training Act, **50 ILCS 710/0.001 et seq.**
  - (F) The person shall have provided the Chief of Police with proof of qualification under paragraphs (D) and (E).
- (Ord. No. 12-08; 07-18-12)**

**30-2-19** **PLEASANT PLAINS AGREEMENT.** The intergovernmental agreement by and between the Village of New Berlin and the Village of Pleasant Plains pertaining mutual police aid, a copy of which is attached as **Appendix "A"**. **(Ord. No. 09-03; 02-18-09)**

**(See 65 ILCS Sec. 5/11-1-2)**

## ARTICLE III

### EMERGENCY SERVICES AND DISASTER AGENCY (ESDA)

#### **30-3-1**      **DEFINITIONS.**

**"Emergency Services"** means the preparation for and the carrying out of such functions, as may be necessary or proper to prevent, minimize, repair and alleviate injury and damage resulting from disasters caused by fire, flood, earthquake, accident, or other manmade or natural causes. These functions include, without limitation, firefighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and 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 the preparation for the carrying out of the foregoing functions.

**"Disaster"** means an occurrence of threat of widespread or severe damage, injury or loss of life or property resulting from any natural or manmade cause, including but not limited to, fire, flood, earthquake, wind, storm, oil spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, riot, accident, or hostile military or para-military action. "Disaster" includes but is not limited to all occurrences and threats thereof which are contemplated by the concept of "Emergency Services and Disaster Operations".

**"Disaster Operations"** means the functions created in accordance with the provisions of this Code to be performed by the Village and other political subdivisions to alleviate the effects of disasters.

**"Coordinator"** means the staff assistant to the President of the Village of New Berlin with the duty of carrying out the requirements of this Code.

**"Political Subdivision"** means any county, city, village or incorporated town.

**"United States"** means the several states, the District of Columbia, and possessions thereof.

#### **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 action 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 the dissemination of news or comment of public affairs; but any communications facility or organization (including but not limited to

newspapers and radio and television stations) may be requested to transmit or print public service messages furnishing information or instructions in connection with a disaster or emergency;

(C) After the jurisdiction or responsibilities of police forces, firefighting forces, units of the armed forces of the United States, or any personnel thereof, when on active duty; but the Village of New Berlin Emergency Preparedness Plan shall place reliance upon such forces available for performance of functions related to disaster emergencies;

(D) Limit, modify, or abridge the authority of the Village President or the Board of Trustees vested in them under the Constitution, Statutes, or common law of this State or Village, independent of or in conjunction with any provisions of this Code.

### **30-3-3 ESTABLISHMENT.**

(A) There is hereby created an Emergency Services and Disaster Agency to prevent, minimize, repair and alleviate injury or damage resulting from disaster caused by enemy attack, sabotage, or other hostile action, or from natural or manmade disaster, in accordance with "The Illinois Emergency Management Act of 1992".

(B) This agency will supersede any Civil Defense agency heretofore authorized, and shall be known as the New Berlin Emergency Services and Disaster Agency (hereinafter E.S.D.A.).

(C) The New Berlin E.S.D.A. shall consist of the Coordinator and other such technical, clerical, and administrative personnel as may be selected by the Coordinator with the approval of the Village President or Village Administrator. The Coordinator may make such expenditures within his appropriation in accordance with the guidelines set forth by the Village for expenditures, as may be necessary to carry out the purpose of this Code.

(D) The New Berlin E.S.D.A. shall have jurisdiction over and serve the entire Village of New Berlin, Village property not located within the Corporate Limits of the Village, and with the approval of the Village Board of Trustees, any other area which may decide to contract with the Village of New Berlin for emergency services and disaster assistance.

### **30-3-4 COORDINATOR.**

(A) The Coordinator of the New Berlin E.S.D.A. shall be appointed by the President of the Village of New Berlin with the concurrence of the Board of Trustees and shall serve until removed by same.

(B) The Coordinator shall have direct responsibility for the organization, administration, training and operation of the New Berlin E.S.D.A. as prescribed in the Village of New Berlin Emergency Preparedness Plan subject to the

direction and control of the Village President. He shall coordinate the activities of all organizations for emergency services and disaster operations within the area served by the New Berlin E.S.D.A. and shall maintain liaison and cooperate with the Emergency Services and Disaster Agency of the County of Sangamon.

(C) In the event of the absence, resignation, death, or inability of the Coordinator to serve, the President of the Village of New Berlin, or any person designated by him, shall act as Coordinator until a new appointment is made as provided in this Code.

### **30-3-5      FUNCTIONS.**

(A) Prepare and keep current a disaster emergency plan for the New Berlin E.S.D.A.

(B) Interrelate with business, labor, industry, agriculture, civic and volunteer organizations and community leaders in the development of such plan.

(C) Prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local departments and offices and of the disaster chain of command.

(D) Cooperate with all other Emergency Services and Disaster Agencies.

(E) Establish, train and maintain such communications unit(s) as may be deemed proper by the Village Board of Trustees.

(F) Establish, train and maintain such other volunteer E.S.D.A. units as may be deemed proper by the Coordinator or the Village President to place the Village in a position to promptly and efficiently respond to disaster.

(G) Prepare, for issuance by the Village President or Board of Trustees, resolutions, proclamations, and regulations as necessary or appropriate in coping with disaster.

(H) Cooperate with the federal, state and County or local 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.

(I) Do all other things necessary, incidental or appropriate for the implementation of this Code.

### **30-3-6      LOCAL DISASTER EMERGENCIES.**

(A) A Local Disaster Emergency may only be declared only by the Village President or Village Board of Trustees. If declared by the Village President, it shall not continue for a period in excess of **seven (7) days** except by or with consent of the Village Board of Trustees. 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 Village Clerk.

(B) The effect of a Local Disaster Emergency is to activate the response and recovery aspects of the New Berlin Emergency Preparedness Plan and to authorize the furnishing of aid and assistance thereunder.

**30-3-7 PURCHASES AND EXPENDITURES.** The Board of Trustees may, on the recommendation of the Coordinator, authorize any purchases or contracts necessary to place the Village in a position to effectively combat any disaster resulting from the explosion of any nuclear or other bomb or missile, and to protect the public health and safety, protect property, and provide emergency assistance to victims in the case of such disaster, or from manmade or natural disaster.

**30-3-8 OATH.** Every person appointed to serve in any capacity in the New Berlin E.S.D.A. shall, before entering upon his duties, subscribe to the oath as set forth in the "Illinois Emergency Management Act of 1992", which oath shall be filed with the ESDA Coordinator of Sangamon County.

**30-3-9 TESTING OF DISASTER WARNING DEVICES.** The testing of disaster warning devices including outdoor warning sirens shall be held only on the **first (1<sup>st</sup>) Tuesday** of each month at **10:00** in the morning.

**30-3-10 AUTHORITY TO ACCEPT SERVICES, GIFTS, GRANTS OR LOANS.** Whenever the Federal, State or County governments or any agency or officer thereof or whenever any person, firm or corporation shall offer to the Village of New Berlin services, equipment, supplies, materials or funds by way of gift or grant for purposes of Emergency Services and Disaster Operations, the Village, acting through the Board of Trustees, may authorize any officer of the Village to receive such services, equipment, supplies, materials, or funds on behalf of the Village.

**30-3-11 IMMUNITY.** Neither the municipality, the agency or any member thereof or any person acting at their direction, engaged in any emergency services and disaster operation or disaster activities, while complying with or attempting to comply with this Code or any rule or regulation 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 APPROPRIATION AND LEVY OF TAX FOR EMERGENCY SERVICES AND DISASTER OPERATIONS.** The Village Board may make appropriations for emergency services and disaster 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 services and disaster 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 Village 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.

**30-3-13 COMPENSATION.** The Village Board, by its annual appropriations ordinance, may provide for the payment of the salary of the Coordinator and such other office staff and personnel as may be expressly provided for in this Article. Nothing herein contained shall prohibit any member of the agency from receiving compensation from the State of Illinois Emergency Management Agency under any provision of this agency.

**(Ord. No. 03-03; 01-15-03)**



## **APPENDIX "A"**

### **INTERGOVERNMENTAL AGREEMENT TO PROVIDE LAW ENFORCEMENT ASSISTANCE**

THIS AGREEMENT entered into by and between the VILLAGE OF PLEASANT PLAINS, ILLINOIS, and the VILLAGE OF NEW BERLIN, ILLINOIS, (each of which is an Illinois municipal corporation and is hereafter called "Municipality"),

WITNESSETH:

WHEREAS, each of the parties hereto maintains equipment and personnel for the purpose of law enforcement within its own governmental jurisdiction; and

WHEREAS, the parties hereto desire to augment law enforcement services available in each Municipality when necessary; and

WHEREAS, it is recognized that in certain situations the use of law enforcement personnel to perform police duties outside the jurisdictional boundaries of the Municipality where such personnel are employed may be desirable and necessary in order to protect the health, safety and welfare of the public.

NOW, THEREFORE, pursuant to Article VUIII, Section 10 of the Illinois Constitution and the Illinois Intergovernmental Cooperation Act, the parties hereto agree as follows;

1. Each Municipality hereby authorizes its police chief, or other officer commanding in his absence, to render (and request when necessary) law enforcement assistance to the other Municipality when so requested, to the extent of available personnel and equipment not immediately required for protection of the Municipality rendering assistance. The judgment of the police chief or officer commanding in his absence of the Municipality rendering assistance as to the personnel and equipment available for assistance is conclusive.
2. It is expressly understood and agreed by the parties hereto that the rendering of assistance under the terms of this Agreement shall not be mandatory, and the failure to provide such service or improper or insufficient provision of such service shall create no liability of any party under or pursuant to this Agreement. It is not intended that any party, person or entity rely upon the provision of such assistance. Such assistance when, and as rendered, is intended to be provided only on an "as available" basis and solely at the discretion of the party rendering such assistance.
3. Peace officers who, pursuant to request, are performing police duties outside the boundaries of the Municipality by which they are regularly employed, shall act under the direction of the commanding officer of the Municipality to which they are dispatched, and shall have all authority of peace officers thereof as provided by law, including the power of arrest.
4. The necessity of a request for assistance notwithstanding peace officers of either Municipality which has executed this Agreement may act as peace officers in the other

- Municipality with the same authority as peace officers thereof when said action is in response to a situation or incident which endangers persons or property.
5. All wages and liability payments, pension and workmen's compensation claims, damages or causes of action for personal injury, damages to equipment, and medical expenses of any peace officer, incurred while acting as a peace officer, shall be borne by and remain the responsibility of the Municipality employing said officer regardless of whether said claim, damage or cause of action arose while said officer was acting in his own Municipality, or in the other Municipality pursuant to this Agreement.
  6. Each party hereto waives all claims against the other party for any loss or damage to such party by reason of or caused by the other party's, or its officials' and employees', performance of or failure to perform this Agreement.
  7. Each Municipality shall remain solely responsible for the acts, errors or omissions, of its employees when said employees respond to a request for law enforcement assistance.
  8. Each party (the indemnifying party) hereto agrees to save and hold harmless and defend the other party, its officials and employees, from and against all claims, losses, liability and causes of action for damage, injury or death arising from the acts, errors or omissions of said indemnifying party, its officials and employees, while acting pursuant to this Agreement.
  9. In order to assure that each Municipality has the capacity to thus save and hold harmless, each Municipality agrees to keep in force and effect so long as this Agreement remains in effect the following insurance coverages protecting the other Municipality against acts, errors or omissions of the indemnifying Municipality, its officers and employees:
    - a. General liability insurance (including owners; landlords and tenants; manufacturers and contractors; owners and contractors protective; products and completed operations; and contractual liability which insures this Agreement).
    - b. Personal injury liability insurance (including false arrest, false imprisonment, malicious prosecution, libel, slander and invasion of the right of private occupancy, and violation of federal civil rights). All law enforcement officials and employees of the parties must be insured under such personal injury liability insurance.

Such general liability and personal injury liability insurance shall have limits of no less than **Six Million Seven Hundred Fifty Thousand Dollars (\$6,750,000.00)** aggregate.
    - c. Automobile liability insurance covering all owned or leased automobiles with limits of no less than **Six Million Seven Hundred Fifty Thousand Dollars (\$6,750,000.00)** per accident.
    - d. Workers' compensation insurance in accordance with Illinois law.
    - e. Each party will provide to the other party, upon request, a certificate of insurance, in a form acceptable to the requesting party, evidencing the existence of workers' compensation insurance in accordance with Illinois law.
  10. This Agreement and its performance shall create no employment relationship. The relationship of the parties is that of independent contractor. The employees of each party hereto shall remain the employees of such party while engaged in the performance of this Agreement.

11. This Agreement shall become effective upon approval by resolution or ordinance of the governing body of each Municipality, and execution of this Agreement by authorized representatives of both Municipalities.
12. This Agreement shall remain in force and effect until terminated by mutual agreement of all the parties hereto, or by **ten (10) days** written notice of either party to the other.
13. The original of this Agreement shall be filed with the Village Clerk of each Municipality.

VILLAGE OF PLEASANT PLAINS, ILLINOIS

Date: February 9, 2009

By: /s/ Jim Verkuilen

Attest:

By: /s/ Stacie Lewis

VILLAGE OF NEW BERLIN, ILLINOIS

Date: February 18, 2009

By: /s/ Stephen Frank

Attest:

By: /s/ Debbie LaKamp

## CHAPTER 33

### STREET REGULATIONS

#### ARTICLE I - DEPARTMENT ESTABLISHED

**33-1-1** **DEPARTMENT ESTABLISHED.** There is hereby established a Department of the municipal government which shall be known as the **Street Department**. It shall embrace the Street Committee, the Superintendent of Streets and Parks, 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 STREET.** Whenever public safety or the improvement or repair of any street, alley or public place requires it, the Mayor and/or Street Superintendent may order any street, alley, or public place temporarily closed to traffic and the placing of signs indicating that the street, alley or public place is closed by order of the Mayor. Whenever such signs are so placed, no person shall ride or drive upon or cross such street, alley or public place, or in any manner, destroy, deface, or remove any such sign.

**33-2-6      SIGNS ACROSS STREET.** No person shall place any sign, advertisement or banner over any or across any street, alley or sidewalk in the Village, unless he has written approval of the Village Board. **(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 feet (4')**; and provided that no such article shall remain on such walk for more than **thirty (30) minutes.**

**33-2-12**     **MERCHANDISE ON PUBLIC STREET.** It shall be unlawful for any person, firm or corporate 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 City Council. **(See 65 ILCS Sec. 5/11-80-3)**

**33-2-13**     **ENCROACHMENTS.** It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property.

**33-2-14**     **POSTING BILLS.** It shall be unlawful for any person to paste, paint, print or nail any handbill, sign, poster, advertisement or notice of any kind on any curbstone, flagstone, or any other portion or part of any sidewalk, or upon any tree, lamppost, utility pole, hydrant, or upon any private wall, door or gate without the consent, in writing, of the owner of such curbstone, flagstone, sidewalk, tree, lamppost, utility pole, hydrant, private wall, door or gate.

**33-2-15**     **SIGNS ON POLES.** No person shall nail, tack, paste, paint or fasten, or cause to be nailed, tacked, painted or fastened, any sign or any other foreign substance or material onto any telephone, telegraph, electric light, police and/or fire alarm pole or post, or any street or traffic sign located on any sidewalk, street, alley or public grounds or injure or deface any such pole or post.

**33-2-16**     **INJURY TO NEW PAVEMENTS.** It shall be unlawful to walk upon or drive any vehicle or animal upon or destroy any newly-laid sidewalk pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any soft, newly-laid pavement.

**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 designated to cause injury to persons, or any wire charged with electrical current, anywhere within **three feet (3')** of any public street, sidewalk, alley, park or other public way or place unless such barbs or charged wire are at least **six feet (6')** above the level of such public place.

**33-2-18**     **BURNING ON PUBLIC STREETS.** It shall be unlawful for any person to burn any leaves, paper, rubbish or other substances upon any of the public streets, sidewalks or alleys in the City.

It shall be unlawful for a person to burn with an **"open-air fire"** between the hours of **6:00 P.M.** and **7:00 A.M.**, any trash, garbage or rubbish within the City.

## ARTICLE V - SIDEWALKS

**33-5-1**     **DUTIES OF STREET COMMISSIONER.** It shall be the duty of the Superintendent, unless otherwise ordered, to supervise the maintenance of all sidewalks and crossings in the Village and to lay any new sidewalks and crossings when so directed by the Corporate Authorities and to report to the Board of Trustees at each regular meeting thereof any defects or injuries to, and needed repairs in, said sidewalks.

**33-5-2**     **RESPONSIBILITY.** It shall be the responsibility of the owner of the property adjacent to any public sidewalk to keep such sidewalk in good repair. Except as provided in Section 33-5-7 below, a property owner shall bear the entire cost of repairing, replacing or constructing any sidewalk located on the boulevard adjacent to the property of such owner.

**33-5-3**     **PERMIT REQUIRED.** It shall be unlawful to construct or lay the pavement for any public sidewalk within the Village without having first obtained a permit therefor. Applications for such permits shall be made in writing to the Village Clerk in accordance with this Code. The Clerk shall forward the application and detailed plans to the Street and Alley Committee for its inspection and approval. There shall be no fee for a Sidewalk Permit.

**33-5-4**     **SPECIFICATIONS.** All sidewalks shall be of concrete, **four (4) feet** in width and **four (4) inches** in thickness. All sidewalks shall be **six (6) inches** in thickness and reinforced with steel rods where they may cross a driveway or alley. No sidewalk shall be constructed so as to obstruct or hinder the free flow of water in any drainageway. Such specifications shall be incorporated in the permit and it shall be unlawful to deviate in any material way from such specifications.

**33-5-5**     **COMPLIANCE WITH OTHER PROVISIONS.** The holder of any sidewalk construction permit issued by the Village shall comply with such other provisions of this Code as are appropriate.

**33-5-6**     **BARRICADES.** All repair or construction work on any sidewalk shall be protected by barricades and lights as provided in this Code.

**33-5-7**      **COST SHARING.** The Village Board may, from time to time and in its discretion, enter into a cost sharing agreement for constructing new or replacement sidewalks, curbing, gutters, or related storm sewer construction. In such event, the Village shall pay **one-half (1/2)** of such construction costs, or **Five Hundred Dollars (\$500.00)**, whichever is lesser, and the adjoining property owner shall pay the remainder of the construction costs. The Village Board shall prepare a list of materials and an estimate of costs before any such agreement is approved by the Village Board. **(Ord. No. 09-12; 09-16-09)**

**33-5-8**      **SNOW REMOVAL.** It shall be the duty of every owner or occupant of any dwelling house or other building, or proprietor or lessee of any enclosed lot or premises, and every person having the charge or control of any church, hall, or public building within the Village, during the winter season, whenever there is a fall of snow and by **ten o'clock (10:00)** on every morning thereafter, to clear the sidewalks in front of or adjoining such house, building or premises, from snow and ice, and keep the same conveniently free therefrom, and shall, in case the snow and ice are so congealed as not to be removed without difficulty or injury to the pavement, strew the same with ashes, sand, salt, or sawdust, and shall also, at all times, keep such sidewalks clear and free from dirt, filth, weeds or other obstructions, so as to allow pedestrians the safe and unobstructed use of the same.

**33-5-9**      **OVERHANGING AWNINGS.** No awning shall be erected or maintained over any sidewalk in the Village at a less height than **seven (7) feet** above the surface of such sidewalk.



## ARTICLE VI - CULVERTS

**33-6-1**     **OBSTRUCTION OF DRAIN OR STORM SEWER.** It shall be unlawful to obstruct any drain or storm sewer in any public street or property.

**33-6-2**     **PERMIT FOR CULVERT.** It shall be unlawful to install any culvert or replace any culvert without first obtaining a permit from the City Clerk.

**33-6-3**     **APPLICATION FOR PERMIT.** Any person desiring a permit to install or replace any culvert shall file an application therefor with the City Clerk upon a form to be provided for that purpose. The application and the permit issued pursuant thereto shall be on the same form which shall be substantially as outlined in **Appendix 'B'** attached hereto.

**33-6-4**     **TERMINATION OF PERMIT.** All such permits shall terminate upon the expiration of **one (1) year** following the date of issue.

**33-6-5**     **TYPE OF CULVERT.** Culverts shall be installed where driveways or walkways cross open ditches. The material used for the construction of the culverts shall be reinforced concrete, corrugated steel culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, corrugated aluminum alloy culvert pipe with a minimum wall thickness of **sixteen (16) gauge**, asbestos cement storm drain pipe (**Class IV**), or of such other material as determined by the Street Department, depending upon the conditions existing. The culverts shall be of such size, installed at the grade and constructed with couplings as determined by the Street Superintendent. The person desiring the culvert shall purchase a culvert as provided herein and shall have it delivered on the site. The City shall install the culvert.

**33-6-6**     **COST OF INSTALLATION.** Any person installing or replacing a culvert shall, at his own expense, construct and install drainage inlet boxes in such form and manner as the Street Superintendent determines necessary depending on the conditions existing.

**33-6-7**     **BACKFILL COST.** Any person installing or replacing a culvert shall, at his own expense, provide and place such backfill material as the Street Superintendent determines necessary to complete the project.

**33-6-8**     **REPLACEMENT COST.** The expense of replacing any culvert shall be borne by the person making application for the permit to install the same.

**(See 65 ILCS Sec. 5/11-80-7)**

**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)

**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: \_\_\_\_\_, 19\_\_ SIGNED: \_\_\_\_\_  
(APPLICANT)

**CULVERT/DRIVEWAY PERMIT**

**APPLICATION**

**Approved ( )**

**Disapproved ( )**

If disapproved, state reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATED: \_\_\_\_\_, 19\_\_ 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: \_\_\_\_\_, 19\_\_ SIGNED: \_\_\_\_\_

## CHAPTER 34

### SUBDIVISION CODE

#### ARTICLE I - GENERAL PROVISIONS

**34-1-1**      **TITLE CITATION.** This Chapter may be cited as "The Subdivision Code of the Village of New Berlin, Illinois".

**34-1-2**      **JURISDICTION.**

(A)            The subdivision jurisdiction of the Village shall include all land within the corporate limits of the Village. Should the Village adopt a Comprehensive Plan, the jurisdiction shall extend to all unincorporated land within **one and one-half (1 ½) miles** of the corporate limits of the Village.

(B)            When the **one and one-half (1 ½) miles** subdivision jurisdiction of the Village and that of another municipality overlap, a contractual agreement between the village and the other municipality may be established which designates subdivision jurisdiction boundaries in the overlap area. In the absence of such an agreement, the jurisdiction shall extend to a median line equidistant from the Village's boundary and the boundary of the other municipality nearest to the boundary of the Village at any given point on the line.

**34-1-3**      **PURPOSE.** It is the purpose of this Chapter to promote growth and development and to regulate and control the division of land within the subdivision approval jurisdiction of the Village in order (1) to provide for the legal and orderly division of land by requiring proper description, monumentation and recording of subdivided land and (2) to promote growth of the community which protects the public health and safety and provides essential public services to existing and future residents. The goals of this Chapter shall be to promote:

(A)            Conformance with the New Berlin Comprehensive Plan, if such a Plan is adopted.

(B)            Provision of adequate public services including public water and sewer, electricity, and police and fire protection to land to be developed.

(C)            Prevention of leap frog and scattered development.

(D)            Prevention of development on unsuitable land.

(E)            Provision of safe and efficient street network.

(F)            Prevention of agricultural/residential conflicts.

(G)            Conservation and protection of natural resources.

(H)            Prevention of inappropriate development in or filling of the 100 year floodplain.

(I)            Establishment of lots that are of a practical size and shape.

(J)            Enhancement and preservation of aesthetic qualities.

**34-1-4 SEVERABILITY.** If any section, provision or portion of this Chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Chapter shall not be affected by that decision.

**34-1-5 PLAT; WHEN REQUIRED.** It shall be unlawful for a subdivider of land within the subdivision jurisdiction of the Village to subdivide land into lots, blocks, streets, alleys, or public open space unless by plat in accordance with the laws of the State of Illinois and the provisions of this Chapter. It shall be unlawful to divide land without obtaining tract survey approval, when required.

(A) The provisions of this Chapter shall not apply, except as noted with respect to tract surveys, and no plat is required in any of the following instances (Plats Act, **765 ILCS 205/0.01 et seq.**):

- (1) The division or subdivision of land into parcels or tracts of **five (5) acres** or more in size which does not involve any new streets or easements of access;
- (2) The division of lots or blocks of less than **one (1) acre** in any recorded subdivision which does not involve any new streets or easements of access;
- (3) The sale or exchange of parcels of land between owners of adjoining and contiguous land except where the transfer results in the creation of another buildable lot;
- (4) The conveyance of parcels of land or interests therein for the use as a right-of-way for railroads or other public utility facilities and other pipe lines which does not involve any new streets or easements of access;
- (5) The conveyance of land owned by a railroad or other public utility which does not involve any new streets or easements of access;
- (6) The conveyance of land owned for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use;
- (7) Conveyances made to correct descriptions in prior conveyances;
- (8) The sale or exchange of parcels or tracts of land following the division into no more than **two (2)** parts of a particular parcel or tract of land existing on **July 17, 1959** and not involving any new streets or easements of access. If a division is made prior to **October 1, 1973** for which an exemption is claimed pursuant to this paragraph, and the division results in one part being greater than **five (5) acres** and the other part being less than **five (5) acres**, then the subsequent division of the part greater than **five (5) acres** shall qualify for the exemption set forth in paragraph (9) of this Section. If a

division is made on or after **October 1, 1973** for which an exemption is claimed pursuant to this paragraph, and the division results in one part being greater than **five (5) acres** and the other part being less than **five (5) acres** then the subsequent division of the part greater than **five (5) acres** shall not qualify for the exemption set forth in paragraph (9).

(9) The sale of a single lot less than **five (5) acres** from a tract of **five (5) acres** or larger when a survey is made by a registered surveyor; provided, however, that this exemption shall not apply to the sale of any subsequent lots from the same larger tract of land, as determined by the dimensions and configuration of the larger tract on **October 1, 1973**, and provided that this exemption does not invalidate any other local requirements applicable to the subdivision of the land.

(10) The division of a lot of record as of the date of this Chapter, if the new lots created by such division, together with any structures existing as of the date of the division, meet all requirements of the Zoning Code for the Village with respect to the Zoning District in which such new lots are located, and not involving any new streets or easements of access. Provided, however, that this exemption shall not apply to the further division of any lots created thereby.

(B) A tract survey shall be required for a division or subdivision of land for which no plat is required under subsection (A) of this Section. All tract surveys shall be approved and recorded in accordance with **Sections 34-10-1 through 34-11-1** of this Chapter.

**34-1-6**     **DEFINITIONS.** For the purpose of this Chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**Alley:** A public way used primarily as a service access to the rear or side of a property which abuts on a street.

**Arterial Roadway Network Plan:** The portion of the Official Village Plan providing and planning for the present and future system of streets for the Village.

**As Built Plans:** Final plans showing any changes from the construction plans, indicating in detail how the project was constructed. Such plans show all public facilities as built on the surface and underground, both on public property and on easements and also indicate all private utility locations that are known. Details shown include: sanitary and storm sewers, manholes, invert grades, bench marks, location of sanitary sewer laterals,

street inlets, hydrants, general flow of surface water, and grades for drainage swales on the lot. The "as built plans" carry the seal of a registered professional engineer certifying that construction was completed in conformance with the plans and specifications.

**Block:** A tract of land bounded by streets, or by a combination of streets, parks, railroad rights-of-way or bodies of water.

**Collector Street:** Streets penetrating neighborhoods collecting traffic from local streets and channeling it into the arterial street system. A minor amount of through traffic may be expected, but collector streets primarily provide land access service and carry local traffic movements within residential neighborhoods and commercial and industrial areas.

**Construction Plans:** The drawings prepared in the manner and containing the data, documents and information required by **Article IV - Construction Plans**.

**Covenants:** A private agreement written into the deed in which property owners of the development promise to do or refrain from doing certain acts.

**Cul-de-Sac:** A permanent street with a single access point that ends in a turnaround and cannot be further extended without taking property not dedicated as a street. A cul-de-sac begins at its point of intersection with a street with multiple access.

**Dedicate:** To transfer ownership of land, either fee simple or a partial interest, for a public use, and for a public body to accept it for that public use.

**Drainage Course:** A natural watercourse, swale, depression or ditch for the drainage of surface waters and storm waters.

**Easement:** A liberty, privilege or advantage which a party or the general public may have regarding the land of another. The remainder of the rights in the land remain in the hands of the owner who retains the legal title.

**Existing Township Highway:** Any public road in the township which is owned and maintained by the township.

**Final Plat:** The drawing of a subdivision prepared in the manner and containing the data, documents and information required by this Chapter showing lots of record and which is to be recorded.

**Flag Lot:** A lot located behind another lot or parcel with access to a public street only by a narrow strip of land extending from the buildable area of the lot to the street.

**Large Scale Development:** A form of land subdivision which involves the construction of a multi-family or commercial building on a lot or parcel of land **one (1) acre** or more



in size or **two (2)** or more principal multi-family or commercial buildings on a lot or parcel of land of any size served by an internal street and utility distribution.

**Local Streets:** Streets not classified in a higher system which primarily provide direct access to abutting land and access to higher types of roadways. They offer the lowest level of mobility being the narrowest and shortest streets in the street system. Service to through traffic is deliberately discouraged.

**Location Map:** A preliminary drawing or map of a proposed subdivision containing the data and information as required by this Chapter.

**Lot:** The tract within a subdivision marked by the subdivider as a numbered tract to be offered as a unit of land for sale or transfer of ownership.

**Major Arterial Streets and Roadways:** The highest traffic volume corridors serving major activity centers and the longest trip desires. Service to abutting land is subordinate to the provision of travel service to major traffic movements. They are normally spaced on a **one (1) mile** grid pattern and may include expressways.

**Minor Arterial Streets and Highways:** Streets and roadways which interconnect with and augment the major arterial street system and provide service trips of moderate length at a somewhat lower level of travel mobility than major arterials. Minor arterials place more emphasis on land access and distribute travel to geographic areas smaller than those identified with major arterials.

**Minor Subdivision:** The creation of a total of up to **four (4) lots** (counting the original tract from which the lots are created) which front along a public road.

**Official Plan or Comprehensive Plan:** The New Berlin, Illinois, Comprehensive Plan, if such is adopted at a future date.

**Owner:** Any and all persons, entities, trusts, or corporation holding legal title to the land to be subdivided. If the owner is a trust, all beneficiaries shall be listed as owners. If the owner is a corporation, all principals and officers shall be listed as owners.

**Pavement Width:** The distance from the edge of the pavement to the edge of the pavement but not including curb and gutter.

**Planned Unit Development:** A form of land subdivision that allows the development of **ten (10)** or more acres of land with variations of some of the restrictions of standard zoning and subdivision regulations.

**Plan Commission:** The Village of New Berlin Plan Commission as set forth in **Section 34-1-8** hereof. **(Ord. No. 08-12; 09-17-08)**

**Plat:** The action of officially subdividing land or the final plat which is approved by the Village and recorded.

**Plats Officer:** The Executive Director of the Springfield-Sangamon County Regional Plan Commission or duly authorized representative.

**Preliminary Plan:** A plan of proposed subdivision or greater area prepared in the manner and containing the data, documents and information required by this Chapter.

**Principal Building:** A building in which the principal use of the lot on which it is located is conducted.

**Private Street:** A purported street, way or strip of land reserved for the use of a limited number of persons or purposes and which is not a publicly dedicated street.

**Public Crosswalk:** A **ten (10) foot** right-of-way through the interior of a block in which a sidewalk meeting the construction standards of this Chapter is built.

**Public Improvement:** Any street, sanitary sewer, storm sewer, drainage way, water main, sidewalk, parkway or other facility for which the Village or other governmental unit owns, maintains or operates.

**Public Street:** A street owned and maintained by a governmental body.

**Record:** To file a final plat approved by the Village with the Sangamon County Recorder of Deeds.

**Right-of-Way:** A strip of land which has been dedicated in fee simple to a public body for streets, alleys and other public improvements as determined by the public body.

**Sanitary Sewer:** A constructed conduit connected with the sewer system that is designed to carry liquids and solids other than storm water to a sanitary sewer treatment plant.

**Service Access Street:** A street parallel to and adjacent to a major arterial which provides access from the arterial to abutting properties.

**Setback:** The minimum horizontal distance required between the building and the lot line adjoining the street right-of-way.

**Shall:** Means something is mandatory; **"may"** means something is discretionary.

**Sketch Plan:** A general layout of a proposed subdivision prepared in the manner and containing the information required by this Chapter.

**Storm Sewer:** A constructed conduit for carrying storm waters to a drainage course.

**Storm Water:** Water from roof downspouts, basement footing perimeter drains and yard drains as well as surface runoff.

**Stub Street:** A street which is intended to be extended but which temporarily ends.

**Subdivider:** Any or all owners, agents or persons controlling land who commence proceedings under this Chapter by submitting location and sketch maps to the Plan Commission office or by making land improvements in the form of buildings, drives, and utilities, but not necessarily involving the actual division of land.

**Subdivision of Land:** The (1) division of land into **two (2)** or more parts, any of which is less than **five (5) acres** in size (**See Section 31-1-5(A) for exemptions**), (2) dedication of streets or easements of access, or (3) creation of a Planned Unit Development. In the event a subdivision is a Planned Unit Development, the standards and regulations of this Chapter shall govern.

**Superintendent of Highways:** The Sangamon County Superintendent of Highways.

**Surety:** A bonding agency that is financially qualified to do business in the State of Illinois.

**Through Lot:** Any lot which is not a corner lot and which adjoins **two (2) streets** that are parallel or within **forty-five (45) degrees** of being parallel to each other.

**Township Highway Commissioner:** The Township Highway Commissioner for the township in which the subdivision is located.

**Tract Survey:** A land survey, made by an Illinois Professional Land Surveyor, complying with the requirements of Section 1 of "An Act to revise the law in relation to plats." (**765 ILCS 205/0.01**) as now or hereafter amended, and Section 35 of the "Revenue Act of 1939" (**35 ILCS 205/35**) as now or hereafter amended.

**Traffic Control Device:** Any sign, signal marking or device placed on or adjacent to a street or highway by authority of the Village of New Berlin, the State of Illinois Department of Transportation or the Sangamon County Superintendent of Highways.

**Village:** The Village of New Berlin, Illinois.

**Village Clerk:** The Village Clerk of the Village of New Berlin, Illinois.

**Village Engineer:** The professional engineer appointed or designated by the Village Board of Trustees.

**Water Department:** The Water Department of the Village of New Berlin.

**Zoning Administrator:** The Zoning Administrator of the Village of New Berlin.

**34-1-7 DUTIES OF ZONING ADMINISTRATOR.** The Zoning Administrator of the Village shall be the staff person primarily responsible for administering this Chapter. He or she may be a trustee designated by the Village Board to perform such functions, or may be an officer of the Village appointed by the Village President with the advice and consent of the Village Board. The Zoning Administrator shall:

- (A) accept all plats and other documents for filing with the Village;
- (B) insure that the proper number of plats and other documents as required by this Chapter are filed by the subdivider;
- (C) insure the timely and proper dissemination of all plats and other documents to interested parties;
- (D) perform whatever staff work is required by the Plan Commission;
- (E) assure collection of all fees required by this Chapter;
- (F) pay all such fees over to the General Fund of the Village; and
- (G) insure, prior to the approval and signing of any final plat, that all necessary fees have been paid by the subdivider.

In addition to these general duties, the Zoning Administrator shall have all other duties required by this Chapter.

**34-1-8 PLAN COMMISSION.**

(A) **Creation.** The Plan Commission of the Village is created. The members of the Plan Commission shall be the same as the members of the Zoning Board of Appeals. Appointment to the Zoning Board of Appeals shall also be appointment to the Plan Commission, and removal or resignation from the Zoning Board of Appeals shall also be removal or resignation from the Plan Commission.

(B) **Meetings.** Members of the Zoning Board of Appeals and Plan Commission may at any meeting constitute themselves as the Zoning Board of Appeals or as the Plan Commission, or both, but in the event they act as both the Zoning Board of Appeals and the Plan Commission in a single meeting, they shall be entitled to compensation for only one meeting.

(C) **Jurisdiction and Duties.** The Plan Commission is hereby vested with the powers and duties set forth in this Chapter and in the Illinois Municipal Code with respect to Plan Commissions, including but not limited to:

- (1) Meeting at the call of the Chairman.
- (2) Examining sketch maps, preliminary plans, final plats and other materials submitted by subdividers from time to time in accordance with this Chapter, and making written reports and recommendations to the Village Board on any such subdivision materials.

**(Ord. No. 08-12; 09-17-08)**

## ARTICLE II - LOCATION AND SKETCH MAPS

**34-2-1** **PURPOSE.** The purpose of the location and sketch maps is to determine the suitability of the site for subdividing and subsequent development. Suitability shall be measured by the conformance with the comprehensive plan, effect on natural resources and natural systems, ability to provide adequate essential services to the site and conformance with the goals of this Chapter set forth in **Section 34-1-3**.

**34-2-2** **SUBMISSION REQUIREMENTS.** Information filed with the Plan Commission shall be of sufficient detail so that the Committee can determine whether and how essential services will be provided and if the site is suitable.

(A) **Location Map.** The location map shall consist of data added to an existing base map of a suitable scale, covering an area of at least **one (1) mile** radius from the tract proposed for development. The location map shall show the following information:

- (1) North point, scale and date.
- (2) Outline of the entire area owned or controlled by the subdivider with approximate boundary dimensions and total acreage.
- (3) Existing streets and roads expected to serve the area to be subdivided.
- (4) Existing utility lines expected to serve the area to be subdivided.

(B) **Sketch Map.** The sketch map shall show the general layout and character of the proposed development. The scale shall be no more than **one hundred (100) feet** to the inch. Exact dimensions or engineering plans are not required. The sketch map shall show the following information:

- (1) North point, scale and date.
- (2) Area to be subdivided with general dimensions.
- (3) Proposed street network and alignments with existing streets.
- (4) General lot layout.
- (5) Potential open space - public parks, existing waterways, drainage or retention areas, etc.
- (6) Outstanding or unusual natural features and vegetation.

(C) **Additional Information.** In addition to the information required below, any other information necessary for the Plan Commission to determine site suitability or adequacy of mitigating factors as outlined in **Section 34-2-3** shall be submitted:

- (1) Title of the proposed subdivision.
- (2) Names, addresses and phone numbers of the owner, subdivider, engineer and land surveyor. A contact person should be designated.

- (3) Proposed use and approximate number of housing units.
- (4) Existing and proposed zoning.
- (5) Method of sewage disposal.
- (6) Method of water supply.
- (7) Electric service provider.
- (8) Fire protection district.
- (9) School district.

**34-2-3      SUBDIVISION SITE SUITABILITY.**

(A)      **Essential Utilities and Public Services.** Land proposed to be subdivided shall have essential utilities and public services available within a reasonable distance and time period. Land to which these essential utilities and services will not be so provided shall be deemed unsuitable for subdividing. Essential utilities and services and criteria for determining if they can adequately be provided shall include the following:

- (1)      **Sewage Disposal.** Land shall be considered unsuitable for subdividing unless it can be shown that adequate private sewage systems can be provided, which will comply with the technical requirements in **Section 34-7-10.**
- (2)      **Water Supply.**
  - (a)      An Illinois Environmental Protection Agency approved public water supply shall be the preferred method of water supply.
  - (b)      Private wells may be permitted for developments outside the Village if the developer can demonstrate that it is not feasible to extend water mains to the land proposed to be subdivided. As a minimum guideline, the extension of **one hundred twenty (120) feet** ± of water main per lot of the preliminary plan shall be deemed feasible. This distance shall be measured between the nearest suitable public water main and the proposed development. Mains within the development shall not count toward this extension footage.
- (3)      **Fire Protection.** Land proposed to be subdivided shall meet the following conditions in order to be deemed suitable for subdividing:
  - (a)      Land shall be within a fire protection district, if possible, or the subdivider shall make arrangements to have the land served by a fire protection district under contract, if it is not within a fire protection district.
  - (b)      There shall be a public road providing adequate access for emergency vehicles to the site. Roadways shall have an all weather driving surface (minimum oil and chip) with **twenty (20) feet** of unobstructed width. Where a bridge is required to be used as a part of the

most direct fire truck access route, it shall have a minimum vertical clearance of **thirteen (13) feet six (6) inches** and be constructed and maintained to carry the live loads imposed by fire trucks; and

- (c) There shall be a system of water mains or other source of water adequate for fire fighting purposes. Specific fire flows shall be determined by the New Berlin/Island Grove Fire Protection District using a standard published by the Insurance Service Office entitled "Guide for Determination of Required Fire Flow".

A full sprinkler system installed with adequate water available as determined by the National Fire Protection Association Standards 13 or 13D depending on the occupancy of the building shall also satisfy this requirement.

- (4) **Streets.** The suitability of existing streets for access to the proposed subdivision and/or for incorporation into the proposed subdivision's street system shall also be considered. A street shall be considered suitable if:

- (a) The street is constructed of all weather material (concrete, asphalt, oil mat);  
(b) The paved area is at least **twenty (20) feet** wide with a road bed **twenty-four (24) feet** wide; and  
(c) The street has good drainage.

If only a portion of the criteria set forth in paragraph (A)(4) is met, the Village Engineer, a representative of the New Berlin/Island Grove Fire Protection District, and a representative of the Plan Commission shall make the recommendations as to whether the street is suitable for the proposed development or what improvements must be undertaken to make it suitable.

- (5) **Police Protection.** In determining the suitability of land for subdivision purposes, the distance that police would have to travel to respond to a call for service shall be considered.

(B) **Other Requirements.** Land proposed to be subdivided shall meet the following requirements:

- (1) Site must be in conformance with the New Berlin Comprehensive Plan, if one is adopted;  
(2) Development must not be located in a one hundred year floodplain or flood prone area.  
(3) Development must not be located in any environmentally sensitive area including sites adjacent to Lake Springfield and its tributaries unless the subdivider can show that environmental concerns can be mitigated.

- (4) Site must be of a shape, size and terrain so that usable lots and streets in conformance with this Chapter can and will be created.
- (5) Development must not have a major conflict with existing use of adjacent property (waste water treatment plans, power plans, major industrial plants, landfills, certain agricultural uses, etc.) unless it is shown that factors which cause the conflict can and will be mitigated.
- (6) Development must not cause major off-site impacts and problems relating to, but not limited to, streets, drainage water systems, parks. If it is determined by the Plan Commission that major off-site impacts will result, the subdivider must agree to mitigate the portion of the impact caused by the subdivision.
- (7) When soils in the area to be developed have severe limitations for building site development or sanitary facilities as determined by the USDA Soil Conservation Service, the subdivider shall submit information indicating how these limitations will be addressed.

**34-2-4      LOCATION AND SKETCH MAPS REVIEW PROCESS.**

(A) The subdivider shall submit **thirteen (13) prints** of the location and sketch maps and support data to the Zoning Administrator. The subdivision will be reviewed according to the filing deadline and review schedule established by the Plan Commission.

(B) The Zoning Administrator shall retain **one (1) print** on file and distribute the location map and sketch maps and support data as follows:

**Two (2) prints** to the Plan Commission;

**Two (2) prints** to the Water Department;

**One (1) print** to the Village Engineer;

**One (1) print** to the Village Clerk;

**One (1) print** to the New Berlin/Island Grove Fire Protection District;

**One (1) print** to the Sangamon County Superintendent of Highways, if applicable;

**One (1) print** to the Sangamon County Soil and Water Conservation District, if applicable;

**One (1) print** to the appropriate Township Highway Commissioner, if applicable;

**One (1) print** to the appropriate school district;

**One (1) print** to the electric utility serving the area to be subdivided; and

**One (1) print** to the gas company serving the area to be subdivided.



(C) The entities listed in (B) above shall transmit any comments on suitability of the site in writing to the Plan Commission within **seven (7) calendar days** of receipt.

(D) The Plan Commission shall make a recommendation to the Village Board with respect to the suitability of the site and the proposed layout no later than **thirty (30) days** after the plan was filed with the Zoning Administrator. Lack of action within the allotted time period shall constitute a negative recommendation to the Village Board.

(E) After receiving the Plan Commission's recommendation, the Village Board shall, at its next regularly scheduled board meeting, approve or disapprove the location and sketch maps based on the suitability criteria outlined in **Section 34-2-3**.

#### **34-2-5 VALIDITY OF LOCATION AND SKETCH MAPS APPROVAL.**

The location and sketch maps shall be valid for a period of **one (1) year** after Village Board approval. If a preliminary plan has not been submitted within the **one (1) year** period, approval of the location and sketch maps shall expire. If interest is renewed in subdividing the site at a later time, the entire location and sketch maps review process and submission requirements shall be repeated.

## **ARTICLE III - PRELIMINARY PLAN**

**34-3-1**      **PURPOSE.** The preliminary plan is intended to provide a detailed layout of the proposed subdivision showing the location of public improvements, lots, drainage and open space areas.

**34-3-2**      **SUBMISSION REQUIREMENTS.**

(A)            The preliminary plan shall show the information required by paragraph (B) on plan sheets no larger than **twenty-four (24) inches by thirty-six (36) inches** with matching lines if **two (2)** or more sheets are necessary. The scale shall be no more than **one hundred (100) feet** to the inch. All dimensions shall be to the nearest foot.

The preliminary plan shall be consistent with the current zoning district classification of the property.

(B)            Information to be shown on the plan sheets shall include:

- (1) The title under which the proposed subdivision is to be recorded; the names and addresses of the engineer, registered land surveyor, subdivider and owner of the tract with the name and address of the contact person with whom any notice is to be sent.
- (2) North point, scale and date of preparation and any revisions.
- (3) A notation stating "Preliminary Plan - Not to be recorded by Recorder of Deeds".
- (4) Total acreage.
- (5) Location of all present property lines and section lines.
- (6) The location of all streets, watercourses, and other existing features within the area to be subdivided and within **two hundred (200) feet** of the site.
- (7) Location and dimensions of existing buildings and their proposed disposition.
- (8) The existing utilities, drainage courses and culverts including the location and size of water mains and sewer outlets within the area to be subdivided and on the adjacent land.
- (9) Contours referring to the United States Geological Survey datum with intervals of **two (2) feet** or less unless a greater interval is required because of terrain.
- (10) The elevation of the 100 year floodplain if any portion of the land to be subdivided would be submerged by the flood. Adequate buildable area must be provided above the elevation of the 100 year floodplain.
- (11) Lot numbers.

- (12) Proposed location of sewer mains (may be shown on a supplemental sheet).
- (13) The proposed storm drainage system including preliminary drainage computations when detention or retention is likely to be needed (may be shown on a supplemental sheet). An assessment of long term erosion, sedimentation and runoff changes caused by the subdivision should be included.
- (14) Proposed location of water mains and fire hydrants.
- (15) Location and width to the nearest foot of all proposed streets, alleys and their associated rights-of-way.
- (16) Location and width to the nearest foot of lots.
- (17) Location and width to the nearest foot of all utility easements. The subdivider shall determine the correct location of all easements to be shown on the preliminary plan from the utility companies.
- (18) The location of areas to be reserved for public use.
- (19) The minimum setback requirements for the appropriate zoning district.
- (20) Proposed staging of final plats if more than one final plat will be submitted based on traffic, utilities and other factors which would determine the sequence of development with the least impact on existing residents of the Village.
- (21) Draft of subdivision covenants relating to the requirements of this Chapter.
- (22) If subdivision road access is to a state, county, or township road, written approval of the access by the Illinois Department of Transportation, County Highway Department or Township Road Commissioner.

(C) The subdivider shall submit the results of percolation tests for planned septic systems for each and every lot shown on the preliminary plan. No preliminary plan shall be approved unless the feasibility of septic systems for each lot is demonstrated to the satisfaction of the Village Engineer.

**34-3-3      PRELIMINARY PLAN REVIEW PROCESS.**

(A) The subdivider shall file **eleven (11) prints** of the preliminary plan of the proposed subdivision in the office of the Zoning Administrator with a filing fee of **One Hundred Dollars (\$100.00)** to be deposited in the Village General Fund. The subdivision will be reviewed according to the filing deadline and review schedule established by the Plan Commission, and then by the Village Board.

(B) The Zoning Administrator shall retain **one (1) print** on file and distribute the prints as follows:

- Two (2) prints** to the Water Department;
- One (1) print** to the Village Engineer;

**One (1) print** to the Sangamon County Superintendent of Highways, if applicable;  
**One (1) print** to the appropriate Township Highway Commissioner, if applicable;  
**One (1) print** to the Village Clerk;  
**One (1) print** to the New Berlin/Island Grove Fire Protection District;  
**One (1) print** to the electric utility serving the area; and  
**One (1) print** to the gas company serving the area.

The reviewing entities shall transmit any comments or requirements in writing to the Plan Commission within **one (1) week** of receipt.

(C) The Plan Commission shall recommend to the Village Board that it approve or disapprove the preliminary plan no later than **thirty (30) days** after the plan was filed with the Zoning Administrator. However, no review will take place and no recommendation will be made by the Plan Commission until the Village Board has approved the location and sketch maps. Failure by the Plan Commission to act by the end of said second regularly scheduled meeting shall constitute a recommendation of disapproval of the plan.

#### **34-3-4 COMMITTEE ACTION.**

(A) **Recommendation of Approval.** If the Plan Commission finds that the preliminary plan meets the requirements of this Chapter, the Plan Commission shall forward two prints of the preliminary plan to the Village Board, together with minutes of all meetings at which the preliminary plan was considered. The Chairman shall indicate its recommendation of approval on the plan in substantially the following language:

"The Plan Commission of the Village of New Berlin recommends that this preliminary plan of subdivision be approved. This is not an approval of the final plat and is not to be recorded."

By: \_\_\_\_\_

Date: \_\_\_\_\_

(B) **Recommendation of Disapproval.** If the Plan Commission finds that the preliminary plan does not comply with the requirements of this Chapter, it shall inform the subdivider of its recommendation of disapproval at the meeting when a vote is taken, followed within **seven (7) calendar days** by a written recommendation of disapproval stating the noncompliance found. Unless the subdivider indicates its desire to amend the preliminary plan in accordance with subsection (C), either verbally at the Plan Committee meeting (which shall be reflected in the minutes) or in writing within **seven (7) calendar days** of receipt of the written recommendation, then **three (3) prints** of the proposed preliminary plan with the written findings of the Plan Commission recommending disapproval shall be submitted to the Village Board, together with minutes

of all meetings at which the preliminary plan was considered. The Chairman shall indicate the Plan Commission's recommendation of disapproval on the plan in substantially the following language.

"The Plan Commission of the Village of New Berlin recommends that this preliminary plan of subdivision be disapproved.

By: \_\_\_\_\_

Date: \_\_\_\_\_

(C) If the subdivider desires to amend the preliminary plan prior to its being considered by the Village Board, the subdivider shall submit **eleven (11) prints** of the amended plan to the Zoning Administrator, which shall be reviewed according to the filing deadline and review schedule established by the Plan Commission. No filing fee shall be necessary if the amended preliminary plan is filed within **two (2) calendar months** of the date the Plan Commission recommends disapproval. The Village Clerk shall transmit copies of the amended plan as described in **Section 34-3-3**, and review or proceed as indicated in that Section.

**34-3-5 VILLAGE BOARD ACTION.** Not later than the second regularly scheduled meeting after its receipt of the prints of the preliminary plan recommending approval or disapproval by the Plan Commission and of the minutes of the Plan Commission meetings considering the preliminary plan, the Village Board shall consider approval or disapproval of the preliminary plan. At such meeting, the subdivider may appear and be heard by the Village Board if it so desires. The Village Board shall by resolution approve or disapprove the preliminary plat, and shall appropriately endorse the prints of the preliminary plan, and if the preliminary plan is approved, the original of the preliminary plan, as follows:

Approved by resolution of the President and Board of Trustees of the Village of New Berlin this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Village President

Attest:

\_\_\_\_\_  
Village Clerk

**34-3-6 VALIDITY OF PRELIMINARY PLAN; REAFFIRMATION OF PRELIMINARY PLAN.**

(A) The preliminary plan shall be valid for a period of **three (3) years** after Village Board approval. If the final plat has not been submitted to the Plan Commission within said **three (3) year** period, or if submitted, no final plat is approved, the preliminary plan shall expire.

(B) If the subdivider will not have submitted a final plat within **three (3) years** after preliminary plan approval, but wishes to avoid expiration of the plan, the subdivider shall seek reaffirmation of the plan by submitting **eleven (11) prints** to the Village Clerk for review according to the review schedule established by the Plan Commission in accordance with **Sections 34-3-3, 34-3-4, 34-3-5** no later than **thirty-five (35) months** after the initial Village Board approval. If the subdivider has submitted a final plat within said **three (3) year** period, but it is not approved during or after said **three (3) year** period, the subdivider may avoid expiration of the preliminary plan by making the same preliminary plan reaffirmation submission described above, provided that if the disapproval of the final plat occurs during or after the **thirty-fifth (35<sup>th</sup>) month**, the submission required shall be made within **one (1) month** of such disapproval. In such event, the review process in **Section 34-3-3, 34-3-4, and 34-3-5** shall be followed.

(C) Where reaffirmation of the preliminary plan is sought the Plan Commission shall recommend, and the Village Board shall require, any changes in the plan it deems necessary to meet the requirements of this Chapter. If the subdivider has not resubmitted the preliminary plan with the required changes to the Village Board within **thirty (30) days** after the Village Board meeting requiring changes, or if the resubmitted plan is disapproved, the plan shall expire at that time or at the end of any appeal process provided for in this Chapter, whichever is later.

(D) A preliminary plan may be reaffirmed **one (1) time**. If a final plat has not been submitted to the Plan Commission within **three (3) years** from the date of the reaffirmation, or if submitted, is not approved, the plan shall expire.

(E) Final plat approval shall extend the validity of the preliminary plan for **three (3) years** from the date of final plat approval, provided that the Plan Commission may require any changes necessary to meet the requirements of this Chapter, and in such an event, the provisions of paragraph (C) of this Section with respect to resubmission shall apply. The preliminary plan may be reaffirmed **one (1) time** after each final plat approval. If another final plat has not been resubmitted within **three (3) years** from the date of the reaffirmation, the preliminary plan shall expire. In the event a preliminary plan expires, a subdivider wishing to proceed with subdivision of the land involved must resubmit a location and sketch map for review and proceed as in the case of an original submittal.

## ARTICLE IV - CONSTRUCTION PLANS

**34-4-1**     **PURPOSE.** Construction plans are intended to show the design of public improvements for the subdivision so that a determination can be made as to whether Village standards are met and whether the improvements are compatible with existing public improvements.

**34-4-2**     **SUBMISSION REQUIREMENTS.** Construction plans shall be submitted on sheets not larger than **twenty-four (24) by thirty-six (36) inches** and to a scale of not more than **one hundred (100) feet** to the inch. Construction plans shall include the following information:

(A)           Cover sheet showing the location of the development; scales and symbols that are used; index to sheets; summary of quantities; appropriate place for approval of the Village Engineer; and the signature and seal of a registered professional engineer.

(B)           North arrow and bench marks with their elevations noted. Bench marks shall be referenced to mean sea level datum as determined by the United States Geological Survey.

(C)           Plan sheets showing the locations of all existing streets, right-of-way lines, sanitary sewers, storm sewers, sidewalks, drainage ditches, easements, rear lot drainage, direction of storm drainage flow, survey monuments, water mains, fire hydrants, and any other appurtenance or structure that might influence design considerations.

(D)           Profile sheets indicating the existing ground line and proposed grades and elevations for all proposed streets, sanitary sewers, drainage structures, drainage ditches, and rear lot drainage. Elevations shall be referenced to the United States Geological Survey datum.

(E)           Typical sections showing the right-of-way lines, proposed pavement widths, pavement thickness, base thickness, sub-base thickness, subgrade, crown, curbs and gutters, sidewalks and design data when required.

(F)           Detail sheets showing the details of manholes, inlets, catch basins, curbs and gutters, drainage structures and any other structure or appurtenance to be constructed, or reference made to the Standard Specifications for Road and Bridge Construction in Illinois or Highway Standards published by the Illinois Department of Transportation.

(G)           Design computations for storm sewer design, for special structures and pavement designs when required and for anticipated fire flow.

(H)           Detailed description of erosion control measures to be taken during construction.

(I)           Proof of application for an access permit from the County Highway Department when access to a county highway is involved.

- (J) Proof of application for a 404 permit if any dredging, riprapping, fill work or similar activities will be conducted in or around streams.
- (K) Other specific additional information may be requested by the Village Engineer.
- (L) Permits for sanitary sewer and water main construction, if required.

**34-4-3 CONSTRUCTION PLAN REVIEW PROCESS.**

(A) After receiving approval of the preliminary plan, the subdivider shall submit **three (3) sets** of construction plans to the Zoning Administrator who shall retain **one (1) set** on file and distribute the remaining as follows:

- (1) **One (1) set** to the Village Engineer;
- (2) **One (1) set** to the County Superintendent of Highways when the subdivision is located outside the corporate limits of New Berlin.

(B) Construction plans shall be submitted a minimum of **thirty (30) calendar days** before the final plat is to be submitted for review.

(C) The Village Engineer shall complete his review within **thirty (30) calendar days** after all items of information required by **Section 34-4-2** have been submitted in writing.

(D) Within **thirty (30) calendar days** after complete submission, the Village Engineer shall notify the subdivider's engineer of approval of the plans or of any required changes unless the review time is extended for no more than **fourteen (14) calendar days** by the Village Engineer in a letter to the subdivider's engineer listing reasons for the extension. If plans must be resubmitted, the Village Engineer shall also inform the engineer of the number of sets of plans to be submitted.

(E) When construction plans are resubmitted with the required changes, they shall be re-reviewed within **fourteen (14) calendar days** unless the review time is again extended by the Village Engineer in the manner set forth in paragraph (D) above.

(F) The Village Engineer shall notify the subdivider's engineer and the Plan Commission of the approval of the construction plans. Construction plans shall not be approved until proof of acquisition of a county access permit or 404 permit, if applicable, is submitted.



## **ARTICLE V - CONSTRUCTION AND BONDING OF PUBLIC IMPROVEMENTS**

Approval of the construction plans shall give the subdivider the right to begin construction of the subdivision improvements. Construction must be started within **one (1) year** of approval of the construction plans. If construction is not started within the year, reapproval by the Village Engineer shall be required before construction is started.

**34-5-1      NOTIFICATION OF CONSTRUCTION.** The Village Engineer shall be notified at least **twenty-four (24) hours** before construction begins. Construction shall begin only after approval of construction plans and payment of the review and inspection fee as set forth in **Section 34-5-2** of this Chapter. Whenever construction stops for **twenty-four (24) hours** or longer, the Village Engineer shall be notified **twenty-four (24) hours** before construction begins again.

**34-5-2      REVIEW AND INSPECTION FEES.** Before starting construction of any public improvements, the subdivider shall be assessed and shall deposit with the Zoning Administrator for the Village an amount equal to **seven-tenths of one percent (0.7%)** of the estimated construction cost (including but not limited to grading, drainage, roadway, sidewalk, sewer, waterline and other improvements which are to be dedicated to public use or which benefit the subdivision generally) as approved by the Village Engineer. The Zoning Administrator shall cause such funds to be deposited in the General Fund of the Village.

The foregoing fee is intended to reimburse the Village for charges of the Village Engineer in connection with the review and inspection of the preliminary and final plats and the construction of the public improvements. In the event that the engineering expenses incurred by the Village are in excess of the amount initially paid by the subdivider, the Village shall bill the subdivider for the difference, and such amount shall be paid by the subdivider prior to acceptance by the Village of the final plat. However, the subdivider shall not be entitled to any refund in the event the fees actually charged to the Village by the Village Engineer is less than **0.7%** of the estimated construction costs.

**34-5-3      INSPECTION OF CONSTRUCTION.**  
(A) **Presence of Subdivider's Observer.** The subdivider's engineer shall have a full-time, qualified resident observer present on the construction site for the following:

- (1) Approval of the subgrade prior to paving; and
- (2) Continuous observation of all phases of the paving operation, and construction of storm sewer and appurtenances and construction of water mains.

(B) **Presence of Subdivider's Contractor Superintendent.** The subdivider's contractor shall have a superintendent on the job site at all times while construction is in progress. The Superintendent shall be responsible for the entire construction procedure. In his absence, the Superintendent shall indicate to the subdivider's observer, the person temporarily responsible for the conduct of the work.

(C) **Inspection by Village Engineer.** All required improvements to be installed under the provisions of this Chapter shall be checked during the course of construction by the Village Engineer. The cost of any re-inspection of any required improvement found to be faulty or not in accordance with the approved plans and specification shall be paid by the subdivider to the Village. The testing of any concrete, asphalt, soil, other materials or workmanship shall be done at the direction of the Village and at the expense of the subdivider.

**34-5-4 SECURITY FOR PUBLIC IMPROVEMENTS.** If construction has not been completed and approved by the Village Engineer before the final plat is submitted to the Village Board, security in the amount equal to **one hundred twenty-five percent (125%)** of the estimated construction costs (including but not limited to grading, drainage, roadway, sidewalk, sewer, waterline or other improvements which are to be dedicated to public use or which benefit the subdivision generally) of the public improvements remaining to be constructed shall be filed with the Zoning Administrator in order to insure completion of the public improvements as required by this Chapter within a reasonable length of time without cost to the Village. The form and sufficiency of security shall be subject to the approval of the Village Attorney and the Village Engineer. Security may be in the form of a bond issued by a commercial surety licensed to do business in the State of Illinois, or it may be in the form of an irrevocable letter of credit issued by an Illinois or national bank of at least **one (1) year** in duration, which provides for automatic annual renewals thereof unless at least **sixty (60) days** prior to the expiration of its term or any renewal thereof, written notice of nonrenewal is sent by certified mail to the Village.

The bond or letter of credit shall by its terms secure payment not only the construction of the public improvements but also of any additional review and inspection fees charged by the Village Engineer and imposed by the Village pursuant to **Section 34-5-2** of this Chapter.

**34-5-5 LENGTH SECURITY IN EFFECT; FORFEITURE.** The security shall remain in effect until it is released by the Village Board upon acceptance of the public improvements. **(Section 34-6-7)** All public improvements must be completed within **two (2) years** from the date when the security was approved. If public improvements have not been completed within said **two (2) years**, the subdivider shall forfeit the security in the amount necessary for the Village to carry out the construction or repairs so that the public improvements meet the standards of this Chapter, plus administrative costs involved.

**34-5-6      APPROVAL OF PUBLIC IMPROVEMENTS.** After the Village Engineer informs the Village that the following conditions have been met, the public improvements shall be accepted by the Village:

(A)            The Village Engineer has inspected the construction and all necessary repairs and corrections and certifies that the public improvements required by this Chapter have been constructed.

(B)            "As Built Plans" have been prepared by the subdivider's engineer and delivered to the Village Engineer.

(C)            The Village Engineer has received a signed statement of a registered professional engineer stating that the public improvements have been observed during construction and installed to the specifications shown on the construction plans.

(D)            The improvements, such as drainage swales and the like, which are not to be dedicated to public use but which benefit the subdivision generally, have been built to specification shown in the construction plans.

## ARTICLE VI - FINAL PLAT

**34-6-1 PURPOSE.** The final plat is intended to provide the accurate location of lots, monuments and property dedicated to public use.

**34-6-2 SUBMISSION REQUIREMENTS.** The final plat need not cover the entire preliminary plan area. It may cover only the portion which the subdivider presently wishes to record and develop in accordance with the staging approved with the preliminary plan. The final plat submission shall include the following information on the plat and accompanying documents:

(A) **Final Plat.** The final plat shall be drawn in black india ink on a reproducible material to a scale of not more than **one hundred (100) feet** to the inch. Maximum size of the plan sheets shall be **twenty-four (24) by thirty-six (36) inches**. If more than **two (2) sheets** are used, an index sheet with component areas on the remaining sheets shall be included. The final plat shall show:

- (1) The name of the owner and subdivider.
- (2) North point, scale and date of preparation and latest revisions.
- (3) Boundary lines with accurate distances and angles.
- (4) General land legal description of the plat with total acreage.
- (5) All lots designated by numbers and other grounds designated by names and numbers.
- (6) Location of all survey monuments and their descriptions.
- (7) The location of all easements provided for purpose use, services or utilities. Easements shall include anchor space for pole lines.
- (8) An accurate outline of any portions of the property intended to be dedicated for public use.
- (9) Lines of all proposed streets with their widths and names.
- (10) The line of departure of one street from another.
- (11) The names and widths of adjoining streets.
- (12) All dimensions, both linear and angular, necessary for locating the boundaries of the subdivision, lots, streets, easements, and other areas for public or private use. Linear dimensions shall be given to the nearest 1/100 of a foot.
- (13) Radii, arcs, chords, points of tangency and central angles for all curvilinear streets and radii for rounded corners.
- (14) If applicable, a note on the final plat stating: "Approval of this final plat by the Village of New Berlin does not constitute a guarantee that well water is of adequate quantity or quality for residential needs or that a suitable sewage disposal system can be constructed on each lot." Any guarantees are the subdivider's responsibility.

- (15) A statement indicating whether or not any part of the plat is located in a special flood hazard area as identified by the Federal Emergency Management Agency.
- (16) A notation stating any setbacks required through covenants if the setbacks are different from those of the appropriate zoning district.

(B) **Accompanying Documents.** The following documents shall accompany the final plat:

- (1) Letter from the Village Engineer approving the construction plans.
- (2) Proof of acquisition of an access permit from either the State of Illinois or the County Highway Department, whichever applies.
- (3) The certificate of a registered Illinois land surveyor attesting to the accuracy of the survey and the location of all monuments shown. The certificate may be filed as a supplement to the final plat.
- (4) Notarized acknowledgement of the plat by the owner or a duly authorized attorney. This item may be a separate document or on the plat itself.
- (5) Certification of perpetual maintenance of drainage areas and common areas.
- (6) Exhibit showing the location of wells and seepage field areas (must be large enough to accommodate **two (2)** seepage fields) on each lot.
- (7) Any covenants or restrictions relating to the requirements of this Chapter.
- (8) A signed statement of a registered professional engineer and the owner of the land or his duly authorized attorney as required by the state statutes concerning drainage.

### **34-6-3 FINAL PLAT REVIEW PROCESS.**

(A) The subdivider shall submit **eleven (11) prints** of the final plat of the proposed subdivision to the Village Clerk with a filing fee of **One Hundred Dollars (\$100.00)** plus, if it has not already been paid, the review and inspection fee established pursuant to **Section 34-5-2** of this Chapter. The subdivision will be reviewed according to the filing deadline and review schedule established by the Plan Commission. A final plat shall be reviewed only after approval of the preliminary plan by the Plan Commission and the Village Board and approval of the construction plans by the Village Engineer. Preliminary plans and final plats will not be reviewed at the same meeting. However, if the preliminary plan is being reaffirmed, the preliminary being reaffirmed and its final plat may be reviewed and approved at the same meeting if there are no major changes required to reaffirm the preliminary.

(B) The Zoning Administrator shall retain **one (1) print** and shall distribute the final plats as follows:

**Two (2) prints** to the Plan Commission;

**Two (2) prints** to the Water Department;

**One (1) print** to the Village Engineer;

**One (1) print** to the Village Clerk;

**One (1) print** to the Sangamon County Superintendent of Highways;

**One (1) print** to the New Berlin/Island Grove Fire Protection District;

**One (1) print** to the appropriate Township Highway Commissioner, if applicable;

**One (1) print** to the electric utility serving the area; and

**One (1) print** to the gas utility serving the area.

The reviewing entities shall transmit any comments or requirements in writing to the Plan Commission within **one (1) week** of receipt.

(C) The Plan Commission shall review the final plat to determine if it meets the requirements of this Chapter and conforms to the preliminary plan previously submitted.

The Plan Commission shall recommend approval or disapproval of the final plat no later than **thirty (30) days** after the plat was filed. Failure to act by the end of said second regularly scheduled meeting shall constitute a recommendation of disapproval.

(1) **Disapproval.** If the Plan Commission finds that the final plat does not meet the requirements of this Chapter, the subdivider shall be notified in writing of the Plan Commission's disapproval and of the noncompliance found.

(2) **Approval.** If the Plan Commission finds that the final plat meets the requirements of this Chapter, the following shall be printed or stamped on the original plat and **two (2) prints** and signed by the Chairman of the Plan Commission.

"The Final Plat of this subdivision is recommended to the Village Board for approval by the New Berlin Plan Commission subject to the certifications set forth in **Section 34-6-4.**"

By: \_\_\_\_\_

Chairman

Dated: \_\_\_\_\_

New Berlin Plan Commission

(D) The Plan Commission shall transmit the endorsed original plat and **two (2) prints** to the Village Board.

#### **34-6-4 SUBMISSION OF FINAL PLAT TO VILLAGE BOARD.**

(A) Upon receipt of the endorsed original final plat and **two (2) prints**, the Zoning Administrator shall retain **one (1) print** on file and shall deliver **one (1) print** to the Village Engineer.

(B) The Zoning Administrator shall deliver the original final plat to the Village Board at its next regular session after receiving the documents from the Plan Commission, along with the applicable minutes of the Plan Commission and any reports or other written documents generated by the Plan Commission with respect to the final plat.

(C) The final plat shall remain pending on the agenda of the Village Board and shall not be approved by the Village Board until the following have been received:

- (1) Written certification from the Village Engineer that the public improvements required by this Chapter have been approved as described in **Section 34-5-6** or, in lieu of construction, a security has been provided as described in **Section 34-5-4**.
- (2) A certificate provided by the subdivider from the Sangamon County Clerk indicating that payment of taxes is not delinquent.

(D) If the requirements of this Section have not been met within **two (2) years** from the final plat approval by the Plan Commission, the existing final plat shall expire and must be resubmitted and reviewed as a new final plat.

**34-6-5**     **VILLAGE BOARD APPROVAL.** When the requirements of **Section 34-6-4** have been met, the Village Board may by resolution approve the final plat, accept the security, if any, and authorize the President to sign the plat for and in the name of the Village, with the Village Clerk attesting to it. The Village Clerk shall retain **one (1) print** on file.

**34-6-6**     **RECORDING THE FINAL PLAT.** When the final plat has been approved by the Village Board and signed by the President and the Village Clerk, the original tracing shall be recorded in the office of the Recorder of Deeds of Sangamon County, Illinois. If the final plat is not recorded within **six (6) months** after approval by the Village Board, the plat must be resubmitted to the Plan Commission to determine if any changes in the final plat are needed to meet the requirements of this Chapter. No title to any lots shall be conveyed until the original tracing is recorded.

**34-6-7**     **ACCEPTANCE OF PUBLIC IMPROVEMENTS.** After the Village Engineer has approved the public improvements as described in **Section 34-5-6** and has received a signed statement from the subdivider stating that all contractors and subcontractors have been paid and that there are no liens against the property, and further, has received **two (2) sets** of as-built plans for the public improvements, the Village Engineer shall provide **one (1) set** of as-built plans to the Village, and shall issue a letter to the subdivider and the Village Board stating that the public improvements meet

the Village's standards. Within **one (1) month** after receiving the Village Engineer's approval, the Village Board shall release the security, if any, and accept the public improvements.

In areas within the Village's subdivision but outside the Village's corporate limits, the Village Engineer and County Superintendent of Highways shall jointly determine whether the standards of this Chapter have been met. If met, the Village Engineer shall so indicate in a letter to the subdivider and the Village Board and the Village Board shall release the bond, if any. The County Superintendent of Highways, as a representative of the appropriate Township Highway Commissioner shall indicate in a letter to the Village Engineer approval of the streets to Sangamon County standards which shall constitute acceptance of the streets by the appropriate Township Highway Commissioner.



## **ARTICLE VII - DESIGN STANDARDS AND SPECIFICATIONS FOR REQUIRED PUBLIC IMPROVEMENTS**

**34-7-1      STATE SPECIFICATIONS.** Unless stated otherwise in this Chapter, all construction of public improvements shall be performed in accordance with the latest revised edition of the State of Illinois Standard Specifications for Road and Bridge Construction adopted by the Illinois Department of Transportation and the Standards Specifications for Water and Sewer Main Construction in Illinois. If an engineering design or construction situation arises not covered by the above cited standard specifications or in the following sections, the decision of the Village Engineer shall be followed.

### **34-7-2      RIGHT-OF-WAY OF STREETS.**

(A) The location and width of all streets shall conform to the Arterial Roadway Network Plan. The minimum width of a street right-of-way (R-O-W) shall be as shown on the Arterial Roadway Network Plan, or if not shown on the plan, shall not be less than the following:

- (1) Major Arterial - 110-210 feet R-O-W
- (2) Minor Arterial - 80-100 feet R-O-W
- (3) Collector Street - 60 feet R-O-W
- (4) Local Street - 60 feet R-O-W
- (5) Alley - 20 feet R-O-W
- (6) Existing Township Highway - 80 feet R-O-W

(B) Additional rights-of-way may be required for drainage, slope, maintenance or other reasons not directly related to street classification.

(C) For subdivisions that adjoin existing streets, additional rights-of-way shall be dedicated, as needed, to meet the above requirements. This shall be done as follows:

- (1) The entire additional right-of-way shall be provided when the subdivision is located on both sides of the existing street.
- (2) One-half of the required right-of-way shall be provided when the subdivision is located on only one side of the existing street. However, in no case shall the resulting right-of-way width be less than **fifty (50) feet**.

**34-7-3      STREET DESIGN.** The following requirements shall be incorporated into the design of all streets:

(A) **Vertical Alignment; Grades.** The maximum grade on a major or minor arterial shall be **five percent (5%)**. The maximum grade on all other streets shall be **eight percent (8%)**. The minimum grade on all streets shall be **0.40 percent**. All street grades shall be subject to the approval of the Village Engineer.

(B)

**Horizontal Alignment.**

- (1) **Horizontal Curves.** When a center line deflection angle is greater than **one (1) degree**, the following curves shall be required in the street: major and minor arterials and collector streets shall have a minimum center line radius of **three hundred (300) feet** and a minimum length of curve of **one hundred (100) feet**; arterials and collectors having a design speed and/or expected posted speed greater than **thirty (30) miles per hour** shall be consistent with the latest revision of the Horizontal Curvature requirements of AASHTO. A Policy on Geometric Design of Highways and Streets for the appropriate roadway classification; all other types of streets shall have a minimum center line radius of **one hundred (100) feet**. The pavement in all cases shall be wide enough to allow the movement of a WB-50 Design vehicle, as described in the State of Illinois, Department of Transportation Design Manual.
- (2) **Intersections.** Intersections of major and minor arterials and collectors with roadways of the same classes shall not be closer than **one-quarter (1/4)** of a mile from any other such functionally classed roadways' intersections. These intersections shall be located at the quarter mile grid points.
- (3) **Street Offsets.** Street centerline offsets shall not be less than **one hundred twenty-five (125) feet**, unless otherwise warranted to the satisfaction of the Village Engineer.
- (4) **Curb Corners.** All curb corners shall have a minimum radius of **twenty-five (25) feet**.

(C) All local and collector streets shall be installed in accordance with the following pavement standards:

**Subgrade.** At the option of the subdivider, **twelve (12) inches** lime stabilized soil per latest IDOT Standard shall be employed within the street area (omit curb).

**Asphalt; Pavement Alternate.**

(Alternate A). If the subgrade is treated as in above, the pavement design will consist of **eight (8) inch** of aggregate base course type A and an A-3 bituminous surface treatment.

(Alternate B). If the subgrade is not lime treated, the pavement shall consist of **twelve (12) inches** aggregate base course type A and an A-3 bituminous surface treatment.

**All subgrades shall be inspected by the Village Engineer and if he deems necessary, proof rolled prior to paving.**

If the street is a minor arterial, the above base course shall be increased by **two (2) inches** for the lime treated and **four (4) inches** respectively for the non-lime treated subgrades.

**Concrete; Pavement Alternate.** Regardless if the subgrade is treated, a minimum of **six (6) inches** unreinforced Portland Cement Concrete pavement according to Section 408 of IDOT specs shall be employed. All transverse contraction joints shall be **fifteen (15) feet** and sealed per ASTM D3405.

If the street is a minor arterial, the pavement shall be increased to **eight (8) inches**. All transverse contraction joints shall be **twenty (20) feet** and sealed per ASTM D3405.

The base course shall be **four (4) inch** aggregate, Type A.

**Pavement Design.**

1. All major arterial pavements shall be designed in accordance with the requirements contained in the latest, revised edition of the State of Illinois DOT Design Manual and shall be designed for a **twenty (20) year** period. The minimum requirements listed in the tables of the Design Manual shall govern at all times.

2. An Illinois Bearing Ratio of 3.0 (IBR = 3.0) shall be used in pavement design unless the subdivider's engineer submits soil tests justifying a different IBR.

3. Vehicular traffic volumes and vehicle classification percentages used in the design shall be approved by the Village Engineer.

In all cases the minimum street will govern if the above major arterial design is less.

(D) **Pavement Width.** All streets shall be improved with pavements to an overall width in accordance with the following general guidelines, which are subject in every case to the discretion of the Village.

**Type of Street**

**Pavement Width**

(edge of pavement to edge of pavement)

Major Arterial

40 feet minimum and as required by IDOT

Minor Arterial

32 feet minimum

Collector Street

30 feet minimum

Local Street

30 feet minimum

The minimum pavement width shall be **thirty (30) feet** from the edge of pavement to edge of pavement, not including the curb and gutter. Different widths may be used depending on the anticipated traffic volumes and parking demand. These widths of pavement shall be determined by the Plan Commission and the Village Engineer in consultation with the engineer for the subdivider. If a pavement width narrower than the above stated minimum results from this consultation, the subdivider shall install No Parking signs at his expense.

(E) **Curb and Gutter.**

(1) The standard curb and gutter required adjacent to flexible pavement shall be a mountable type constructed of Portland cement concrete with the following dimensions: **twenty-four (24) inches** wide; **eight (8) inches** thick on the front face (pavement side), **ten (10) inches** thick on the back face,

**seven (7) inches** thick at center line (flow line), and a **ten (10) inch** radius in the flow line. The curb and gutter adjacent to concrete pavement, if poured monolithically, may be limited to the thickness of the pavement.

- (2) In subdivisions proposed to have streets with an anticipated daily traffic volume of **two thousand five hundred (2,500)** or more, a barrier type curb and gutter similar to Type B6.18 as described in the State of Illinois, Department of Transportation Highway Standards shall be used. Other locations where a barrier type curb and gutter are required shall be determined by the Engineer for the subdivision and the Village Engineer.

(F) **Pavement Crown.** The minimum crown used on all pavements shall be **one quarter (1/4) inch** per foot on concrete pavement, and **three-eighths (3/8) inch** per foot on bituminous pavements measured from the edge of the pavement to the centerline of the street.

(G) **Cul-de-Sac Streets.** Local streets that are also cul-de-sac streets shall be no more than **six hundred (600) feet** long unless necessitated by topography in which case they shall be no longer than **one thousand (1,000) feet** unless provision is made for an interim turnaround with a radius sufficient to accommodate emergency vehicles and/or a median entrance. A turnaround shall be provided at the closed end having an outside roadway diameter of at least **eighty-six (86) feet** edge to edge of pavement and a street right-of-way diameter of **one hundred ten (110) feet**. No obstructions shall be permitted in the cul-de-sac turnaround.

(H) **Stub Streets.** Access shall be provided to adjoining property not yet subdivided. Proposed streets shall be extended by dedication to the boundary of such unsubdivided property. At the end of all temporary stub streets, a barricade meeting the provisions of the Illinois Manual on Uniform Traffic Control Devices shall be installed by the subdivider. Stub streets in excess of **two hundred fifty (250) feet** shall be provided with a temporary cul-de-sac with an outside roadway diameter of at least **ninety (90) feet**. The type of construction shall be determined by the Village Engineer. The subdivider shall dedicate a temporary easement to the appropriate street authority in the amount needed in excess of the normally required right-of-way for the temporary turnaround. When the street is extended in the future, the extra turnaround pavement shall be removed and curb and gutters and sidewalks constructed by the subsequent developer.

(I) **Multiple Access.** Any area of development containing **seventy (70)** or more single family lots (or equivalent population) shall be served by **two (2)** functioning points of access. Where higher densities of development are proposed, a divided type entrance roadway may suffice with a median of adequate width to ensure continued emergency access lanes on one side. Depending on location and height of

nearby poles or trees, the required median width shall range between **twelve (12)** and **thirty (30) feet**. This type of roadway construction is intended to accommodate higher density developments and not to lengthen the overall length of a cul-de-sac.

(J) **Restriction of Access.** When a subdivision or a portion of its adjoins a major or minor arterial, no lot shall have direct access to the arterial. The lot shall have adequate depth for screen planting on the portion of the lot contiguous to the major or minor arterial.

(K) **Street Names and Street Signs.**

(1) A proposed street that is in alignment with and/or joins an existing named street shall bear the name of the existing street. In no case shall the proposed name of a street duplicate the name of an existing street within the plat jurisdiction of this Chapter. The use of the suffix "street", "avenue", "boulevard", "driveway", "place", "court" or similar description shall not be a distinction sufficient to constitute compliance with this requirement.

(2) Street names signs shall be erected at all intersections within the Village's jurisdiction at the expense of the subdivider and shall be subject to the specifications of the Illinois Manual on Uniform Traffic Control Devices.

(L) **Private Streets.** There shall be no private streets platted in any subdivision. Every subdivision lot shall be served from a publicly dedicated street.

(M) **Alleys.** Alleys are not recommended in residential subdivisions unless deemed necessary by the Plan Commission.

(N) **Ramps.** Where sidewalks cross a barrier type curb and gutter as described in paragraph (E) of this Section, ramps shall be constructed to accommodate the handicapped. These ramps shall be constructed to the lines and grades shown on the standard sidewalk ramp example. Inlets for storm drainage shall not be located so that a pedestrian way will be interrupted by the inlet grates. Other locations where these ramps are required shall be determined by the Village Engineer.

(O) **Typical Street Section.**

(P) **Medians and Islands.** Where medians or islands are proposed they shall be constructed with barrier curbing. All medians and islands shall be the responsibility of the subdivider and/or a subdivision association to maintain. No sign may be installed in the median which blocks the sight distance at the intersection. If such a sign is to be installed, detailed plans for the sign shall be submitted with the construction plans for approval. In no case shall an island or median contain any other sign or structure except as may be placed for traffic control under the direction of the Village Engineer.

The subdivider or subdivision association may landscape medians or islands. Ground cover may not exceed a maximum height of **twelve (12) inches**. Any additional living plant material must be maintained to allow visibility across, over or through medians and islands at a height of **three (3) to ten (10) feet** above the adjacent roadway pavements.

#### **34-7-4 LOT AND BLOCK DESIGN.**

(A) **Size of Lots.** Minimum lot sizes shall be the minimum for the applicable zoning district of New Berlin or Sangamon County, except when a private sewage disposal system is necessary. When a private sewage disposal system will be used for any length of time, lots shall be a minimum of **twenty thousand (20,000) square feet**.

#### (B) **Lot Arrangement.**

- (1) Side lot lines shall be at right angles to straight street lines or substantially radial to curved street lines. However, for purposes of solar orientation, side lot lines need not be at right angles to straight street lines or radial to curved street lines provided that side lot lines run within **twenty (20) degrees** east or west from due north to due south. If side lot lines are being varied for solar orientation, layout and building setbacks shall also be oriented with their long axis running from east to west, with a possible variation of **twenty (20) degrees** to the southwest or **twenty (20) degrees** to the southeast.
- (2) Each lot shall front upon a public street.
- (3) Flag lots shall be permitted only if the Plan Commission determines that no public health and safety problems or additional costs or difficulties providing municipal services will result.
- (4) Through lots shall be permitted only when access is prohibited to one street as described in **Section 34-7-3(J)**.
- (5) All lots must contain sufficient buildable area.

(C) **Sizes of Blocks.** Blocks shall not be less than **four hundred (400) feet**, nor more than **one thousand two hundred (1,200) feet**, in length measured along the greatest dimension of the enclosed block area. In blocks over **eight**

**hundred (800) feet** in length, the Plan Commission may require one or more public crosswalks with a right-of-way of not less than **ten (10) feet** in width to extend entirely across the block at locations deemed necessary at intervals not closer than **four hundred (400) feet**.

(D) **Survey Monuments.** All survey monuments shall be located and be made of the appropriate material as required by State law.

(E) **Lot Grading.**

- (1) Trees that cannot be saved, stumps, boulders, and similar items shall be removed.
- (2) All grading in the subdivision shall be related to the topography of the surrounding area. All street embankments shall be raised at least **one and one-half (1 1/2) feet** above the high water elevation.
- (3) All building lots shall be graded or have natural slopes that will properly allow surface drainage to flow away from the principal structures to be located on the lot.
- (4) Grading in the subdivision shall provide alternate drainage ways for the purpose of carrying water away from homes and preventing damage during periods of heavy rainfall.

#### **34-7-5 EROSION AND SEDIMENT CONTROL.**

(A) During construction of public improvements, measures shall be taken to control erosion and sedimentation to insure that sediment will not be transported from the site by a storm event of **two (2) year** frequency or less. The erosion and sediment control plan shall include measures to stabilize and protect disturbed areas, keep runoff velocities low, retain sediment on site and protect disturbed areas from runoff. The location, type and configuration of controls such as swales, berms, dams, sediment basins and release mechanisms shall be included with the construction plans.

(B) Temporary or permanent soil stabilization measures, whichever is applicable, shall be applied within **fifteen (15) days** after final grading to all areas where the soil has been disturbed or the vegetative cover removed. Seeding mixtures and rates, types of sod, method of seed bed preparation, expected seeding dates, type and rate of lime and fertilizer application and kind and quantity of mulch for temporary or permanent vegetative control measures shall be included with the construction plans.

#### **34-7-6 UTILITY EASEMENTS; LOCATION OF UTILITIES.**

(A) **Utility Easements.**

- (1) Utility easements shall be provided along front, rear or side lot lines for the purpose of erecting and maintaining one or more of the following facilities: storm sewers, sanitary sewers, surface drainage, gas mains, underground electric lines, telephone lines, cable TV and such other utilities reasonably required for an urban structure.

- (2) Easements shall be a minimum of **ten (10) feet** in width. A utility may be located in the street right-of-way if the respective company so desires and appropriate permits have been obtained.
- (3) Alternate locations for various utilities shall be decided upon by the appropriate utility companies, subject to the approval of the Village Engineer. In no case shall streets, permanent buildings, or other man-made improvements that obstruct surface drainage be placed on rear or side lot easements.
- (4) It is the responsibility of the subdivider to notify all utility companies in writing when the land to be developed has been graded in accordance with the construction plans and is ready for installation of a given utility.

(B)

**Location of Utilities.**

- (1) Utilities (sewers, electric, water and gas), whenever possible, shall be located in the public right-of-way or front lot easement in the following manner: water and electric lines shall be located on the south and east sides; sanitary sewer and gas lines shall be located on the north and west sides. In some cases, however, electric lines may also be located on the north and west sides. Storm sewers shall be located under the pavement near, but not in, the center.



- (2) The placement of storm sewers or electric lines in the rear of a lot is not acceptable unless circumstances determined by the Village Engineer require their placement in the rear, in which case the following easement diagrams indicate placement:
- (a) **Ten (10) Foot Easements.** When an easement will not include sanitary sewer or surface drainage systems, a **ten (10) foot** easement width shall be sufficient and the utilities shall be located as follows:
- (b) **Fifteen (15) Foot Easements.** When an easement will include either a sanitary sewer system or a surface drainage system, but not both systems, a **fifteen (15) foot** easement shall be required and the utilities shall be located as follows:

- (c) **Twenty (20) Foot Easements.** When a utility easement will include both a sanitary sewer system and a surface drainage system, a **twenty (20) foot** easement shall be required and the utilities shall be located as follows:

- (d) **Ten (10) Foot Access Easement.** When sanitary or storm sewers are located in the rear of a lot, a **ten (10) foot** easement in the side yard shall be required from the street right-of-way to each manhole or inlet.

**34-7-7 SURFACE WATER DRAINAGE.**

(A) All subdivisions shall be developed with adequate surface drainage. Surface water drainage improvements shall consist of storm sewers and/or open channels, inlets, catch basins and manholes designed and constructed to conform with standards established by the Village Engineer and shall adequately drain the area being developed including drainage from other areas which naturally drain through the area being developed.

(B) If, as the result of subdivision development, surface water is deposited in existing roadside ditches in quantities exceeding their capacity, the developer shall improve the ditches and replace culverts as needed to handle the flow.

(C) Unless engineering evidence is presented to the Village Engineer warranting exceptions, storm sewers which will drain **twenty (20) acres** or less for residential development shall be designed and constructed to meet the following criteria:

Major and minor arterials – 10 year storm frequency

All other areas – 5 year storm frequency

(D) It shall be the responsibility of the subdivider to provide grade control for rear lot drainage to each lot owner. Swales are not public works which shall be dedicated to and accepted by the Village; nevertheless, no construction surety shall be fully released until the Village Engineer has approved the swales in the subdivision. The

Village Engineer will not approve any swale until adequate turf and/or grass has been established at the elevations set forth in the construction plans. Upon approval by the Village Engineer, it shall be the lot owner's responsibility to maintain the drainage course and to keep it free from features that restrict natural drainage.

(E) The controlled release and storage of excess storm water runoff shall be required in combination for all of the areas indicated on the preliminary plan.

(1) The controlled release of storm water runoff shall not exceed the release or discharge rate which existed at the site prior to development. This rate shall be known as the pre-developed discharge rate. In the case of multiple discharge locations, no location shall discharge at a rate higher than the pre-developed discharge rate for that location under any set of conditions. The controlled release rate in any case shall not exceed the rates capacity of the existing natural downstream outlet channel or storm sewer system as determined by the Village Engineer. The rate at which storm water runoff is transported into a designated storage area may be as determined by the design engineer and is unrestricted.

(2) A natural or surface channel system shall be designed with adequate capacity to convey the storm water runoff from all tributary upstream areas through the development. This by-pass channel shall be designed to carry the peak rate of runoff from a 50-year storm assuming all storm sewers are blocked and that the upstream areas are fully developed and have been saturated with antecedent rainfall. No habitable structures shall be constructed within this channel, however, streets and parking or playground areas and utility easements shall be considered compatible primary uses.

(3) Storm water runoff capacity of detention facilities and discharge rates from such facilities shall be calculated by analyzing volume and rate of runoff during pre- and post-development conditions for the 10-year and the 100-year recurrence intervals.

Storage capacity and discharge rates shall be based on the maximum calculated volume and peak flow of storm waters, respectively. Precipitation information shall be based on the most recent publications by the Illinois State Water Survey, currently Circulars 172 and 173 "Frequency Distributions of Heavy Rainstorms in Illinois" and "Time Distributions of Heavy Rainstorms in Illinois" respectively.

Storage facilities shall be designed using the Soil Conservation Service (SCS) method described in Technical Release 55, "Urban Hydrology for Small Watersheds" of calculating runoff discharge rate and total volume of storage as a minimum. A more rigorous analysis using a detailed methodology may also

be submitted. The rational method of calculating runoff may be used for subdivisions less than **twenty (20) acres** in size. The storage volume shall be provided for the fully developed watershed that is tributary to the area designated for detention purposes. The control structure for discharge shall maintain the release rate at or below the rate established in subsection (1) for all rainfall events of 100-year or less frequency.

- (4) Detention reservoirs or bottom storm water storage areas shall be designed to serve a secondary purpose for recreation, open space or other types of uses that will not be adversely affected by occasional or intermittent flooding. A method of carrying the low flow through these areas shall be provided in addition to a system of drains, and both shall be provided with a positive gravity outlet to a natural channel or other storm sewer facility with adequate capacity. The combination of storage of the water from a 100-year storm and the design release rate shall not result in a storage duration in excess of **seventy-two (72) hours**. Maximum depths of planned storm water storage shall not exceed **four (4) feet** unless the existing natural ground contours and other conditions lend themselves to greater storage depth, which shall be approved by the Village Engineer. Minimum grades for turf areas shall be **0.6%** and maximum slopes shall be **ten percent (10%)**. Storage area side slopes shall be kept as close to the natural land contours as practical and a **ten percent (10%)** slope or less shall be used whenever possible. If slopes greater than **ten percent (10%)** are necessary to meet storage requirements or area restrictions, approval shall be obtained from the Village Engineer, and suitable erosion control shall be provided in addition to the protection required to insure public health and safety.

Outlet control structures shall be designed as simply as possible and shall require little or no maintenance and/or attention for proper operation. Each storm water storage area shall be provided with a method of emergency overflow in the event that a storm in excess of the 100-year return frequency storm occurs. The emergency overflow facility shall be designed to function without maintenance and/or attention and shall become part of the natural or surface channel system described in a preceding paragraph. Hydraulic calculations shall be submitted to substantiate all design features. Both outlet control structures and emergency overflow facilities shall be designed and constructed to fully protect the public health and safety. Storm water runoff

velocities shall be kept to a minimum and turbulent conditions at an outfall control structure will not be permitted without complete protection for the public safety. The use of restrictive fences shall be kept to a minimum and shall be used only as a last resort when no other method is feasible.

- (5) Retention reservoir or wet bottom storm water storage areas shall be designed with all of the items required for detention reservoir storage areas except that a low flow conduit and a system of drains with a positive gravity outlet shall not be required. However, the following additional conditions shall be complied with:
  - (a) Water surface area shall not exceed **one-tenth (1/10)** of the tributary drainage area.
  - (b) Shoreline protection shall be provided to prevent erosion from wave action.
  - (c) Minimum normal water depth shall be **four (4) feet**. If fish are to be used to keep the pond clean, a minimum of **one-fourth (1/4)** of the pond area shall be a minimum of **ten (10) feet** deep.
  - (d) Facilities shall be available, if possible, to allow the pond level to be lowered by gravity flow for cleaning purposes and shoreline maintenance.
  - (e) Control structures for storm water release shall be designed to operate at full capacity with only a minor increase in the water surface water level. Hydraulic calculations shall be submitted to substantiate all design features.
  - (f) Aeration facilities to prevent pond stagnation shall be provided, if necessary. Design calculations to substantiate the effectiveness of these aeration facilities shall be submitted with construction plans. Agreement for the perpetual operation and maintenance of aeration facilities shall be prepared to the satisfaction of the Village Engineer and Plan Commission.
- (6) Where developments form only a portion of the watershed or contain portions of several watersheds, the requirements for providing storage shall be based upon that proportion of the area being developed as compared to the total watershed tributary to the storage area. Compensating storage will be acceptable whenever it is justified and feasible. As a watershed is developed with a series of storm water storage facilities, due consideration will be given for calculations of the allowable release rate and capacity of the natural or surface channel system as described in **Section 34-7-7(E)(2)**.

- (7) Where development of a property presents the threat of flooding or damage by flash flood runoff to downstream residents, the facilities for storm water runoff control shall be constructed prior to any earthmoving or drainage construction on the project site.
- (8) The construction of the storm water control systems shall be accomplished as part of the cost of land development. If the amount of storage capacity can be increased to provide certain benefits to the surrounding properties, negotiations for public participation in the cost of such development may be feasible.
- (9) The ability to retain and maximize the ground water recharge capacity of the area being developed is encouraged. Design of the storm water runoff control system as provided in **Section 34-7-7(E)(4)** shall give due consideration to providing ground water recharge to compensate for the reduction in the percolation that occurs when the ground surface is paved and/or roofed over. The use of natural gravel deposits for the lower portions of storm runoff storage areas, the flattening of drainage slopes and the retention of existing topography are samples of possible recharge methods.
- (10) During the construction phase of land development, facilities shall be provided by appropriate stock-pile design, to prevent the erosion and washing away of the earth. Silting of downstream areas shall be prevented through the strategic use of silting basins, sodding of runoff channels, and by limiting the period of time during which the earth is stripped of vegetation.
- (11) Final engineering plans shall show complete details for all items covered in this Section. Plans, specifications and all calculations for storm water runoff control and storm sewers shall be submitted for review and approval as part of the construction plan submittal or as part of the site plan submittal for large scale developments.

**34-7-8      BACKFILL OVER UNDERGROUND UTILITIES.**

(A)            Where an underground utility is to be placed in an area which has a permanent type street or sidewalk surface, or upon which such a surface is to be constructed within a period of **one (1) year**, the backfill above the utility or in case of sewers, above the top of the granular cradle, to the level of the bottom of the permanent type pavement shall be made. This material will be in all areas where utility trenches cross the pavement subgrade except in areas which will be lime treated or areas where rock will be used to stabilize the subgrade. The backfill shall be IDOT CA-6 or CA-7 crushed stone. Boiler slag will not be permitted.

(B)            As an alternate, the use of "flowable fill" will be permitted. This mix shall consist of a lean concrete mix with no less than **fifty (50) pounds** of cement per cubic yard, **two hundred (200) to six hundred (600) pounds** of fly ash, **two thousand (2,000) to three thousand (3,000) pounds** of fine aggregate and **thirty-five (35) to sixty-five (65) gallons** of water. Minimum **twenty-eight (28) day** comprehensive strength shall not be less than **one hundred fifty (150) psi**.

(C)            In areas not now subject to vehicular traffic, nor in the opinion of the Village Engineer likely to be within a period of **one (1) year**, backfill may be made with selected excavation material which is free from clods and stones, provided such trench backfill is adequately jetted from the bottom up completely filling the trench immediately after backfilling.

**34-7-9      SIDEWALKS.** Concrete sidewalks at least **four (4) feet** wide and **four (4) inches** thick shall be constructed on both sides of each street at least **four and one-half (4.5) feet** from and at least **four (4) inches** above the backs of the curbs. Sidewalks shall be located **one (1) foot** inside the street right-of-way. Sidewalks shall be constructed along all streets bordering the subdivision.

**34-7-10     SEWAGE DISPOSAL.**

(A)            **Sanitary Sewers.** When a subdivision is located within the service area of a public sanitary sewerage system, sanitary sewers shall be constructed throughout the entire subdivision in such a manner as to serve adequately each building lot.

- (1)          Public sanitary sewers shall be located in the north or west boulevard (between curb and sidewalk) within the street right-of-way or in a **fifteen (15) foot** easement behind the sidewalk within the house setback area. Parallel sewer lines along the street may be used. Sanitary sewers shall not be located in the rear yard.
- (2)          Under no circumstances shall the entrance of storm water or ground water to the sanitary sewers be permitted.
- (3)          All sanitary sewer collection and disposal systems shall comply with the requirements of the Village as determined by the Village Engineer from time to time, and the Standard

Specifications for Sanitary Sewers and Water mains, and the requirements of the Illinois Environmental Protection Agency.

(B) **Private Sewage Disposal Systems.** Where no public sanitary sewerage system is available, individual sanitary disposal systems shall be installed to service individual dwelling units. These sanitary disposal systems shall be installed in accordance with the latest revised edition of the Illinois Private Sewage Disposal Licensing Act and private sewage disposal code promulgated by the Illinois Department of Public Health. Sufficient area shall be provided to accommodate **two (2)** seepage fields. (See also **Section 34-7-4(A)** pertaining to lot sizes.)

**34-7-11 WATER SUPPLY.**

(A) **Public Water Supply.**

- (1) Water mains not less than **six (6) inches** in diameter shall be constructed throughout the entire subdivision. Larger diameter pipes may be required by the Village to provide for future transmission needs, in which case, the Village shall pay any additional costs.
- (2) Every water supply system shall be designed in such a manner as to provide an area fire flow meeting the requirements established by the Fire Safety Division of the Fire Department. Water mains larger than **six (6) inches** in diameter shall be installed at the subdivider's expense if needed to provide the area fire flow required by the Insurance Services Office guild for determination of required fire flow. A minimum of **one thousand (1,000) gallons** per minute with a residual pressure of **twenty (20) pounds** per square inch shall be required. Fire hydrants with shut-off valves at each hydrant shall be installed throughout the entire system at maximum intervals of **four hundred (400) feet** or less if required by the Fire Protection District. All fire hydrants shall be **three (3) nozzle hydrants** with threads as specified by the Fire Department and shall have flow characteristics similar to those of a **five and one-quarter (5 ¼) inch** hydrant valve.
- (3) All water supply systems shall comply with the requirements of the Village as determined by the Village Engineer from time to time, and the Standard Specifications for Sanitary Sewers and Water Mains, and the requirements of the Illinois Environmental Protection Agency.

(B) **Private Water Supply.** When a public water supply is not feasible (**Section 34-2-3(A)(2)**), and the subdivision is outside the corporate limited, a private well may be used. Wells shall be constructed according to the Illinois Water Well Pump Installation Code.



**34-7-12**     **ELECTRIC DISTRIBUTION.** The underground electric distribution system shall be installed on utility easements along front lot lines. Transformers shall normally be placed on every other lot line with secondary conductors and distribution pedestals installed on the opposite side of the street. In some instances, transformers may be installed on both sides of the street. All primary and secondary cables shall be in conduit.

**34-7-13**     **STREET LIGHTING.** Street lights shall be installed along public streets in the Village by the subdivider at all intersections and at **five hundred (500) foot** intervals.

**34-7-14**     **PUBLIC AREAS AND OPEN SPACE.**

(A)           Due consideration shall be given to the allocation of areas suitably located and of adequate size for playgrounds and parks for local or neighborhood use as well as public service areas.

(B)           When a proposed school, neighborhood park, electric substation, water storage tank, recreation area, or public access to water frontage shown in the Official Plan, is located in whole or in part in a proposed subdivision, the Village Board may require, as a condition of final plat approval, that such space within the subdivision be reserved and not developed for a period not to exceed **one (1) year** from the date of such final plat approval. Within the **one (1) year** period, the appropriate public agency may acquire the reserved property in the manner provided by law. If the reserved site is not acquired and no legal action is filed within the **one (1) year** period, the reservation shall become void and the site previously reserved may then be used for other purposes.

## ARTICLE VIII – MINOR SUBDIVISION

### **34-8-1**      **PURPOSE.**

(A)            A minor subdivision is the creation of a total of up to **four (4) lots** (counting the original tract from which the lots are created) which front along an existing public road.

(B)            The minor subdivision is designed to allow the sale of said lots without the delay and expense of the conventional subdivision process.

### **34-8-2**      **LOCATION MAP.**

(A)            **Location Map Submission Requirements.** The location map shall consist of data added to an existing base map of a suitable scale covering an area of at least **one (1) mile** radius from the tract proposed for development. The location map shall show the following information:

- (1) Title of proposed subdivision.
- (2) North point, scale and date.
- (3) Names, addresses and phone numbers of the owner, subdivider, engineer and registered land surveyor with the name and address of the contact person to whom any notice is to be sent.
- (4) Outline of the entire area owned or controlled by the subdivider with approximate boundary dimensions and total acreage.
- (5) Existing streets and roads expected to serve the area to be subdivided.
- (6) Existing utility lines expected to serve the area to be subdivided.
- (7) Existing and proposed zoning.
- (8) Method of sewage disposal.
- (9) Method of water supply.
- (10) Electric service provider.
- (11) Fire protection district.
- (12) School district.

### (B)            **Location Map Review Process.**

- (1) The subdivider shall submit **thirteen (13) prints** of the location map to the Zoning Administrator according to the filing deadline and review schedule established by the Plan commission.
- (2) The Zoning Administrator shall retain **one (1) print** and distribute the remainder as follows:  
**Two (2) prints** to the Plan Commission;  
**Two (2) prints** to the Water Department;

- One (1) print** to the Village Engineer;  
**One (1) print** to the Village Clerk;  
**One (1) print** to the New Berlin/Island Grove Fire Protection District;  
**One (1) print** to the Sangamon County Superintendent of Highways, if applicable;  
**One (1) print** to the appropriate Township Highway Commissioner, if applicable;  
**One (1) print** to the Sangamon County Soil and Water Conservation District;  
**One (1) print** to the appropriate school district; and  
**One (1) print** to the electric utility serving the area; and  
**One (1) print** to the gas utility serving the area.
- (3) The entities listed in paragraph (B)(2) shall transmit their comments on suitability of the site in writing to the Plan commission within **one (1) week** of receipt.
- (4) The Plan Commission shall review the suitability of the site based on comments received and the suitability criteria outlined in **Section 34-2-3**. The Plan Commission shall either approve or disapprove the location map based on the suitability of the site at its next regularly scheduled meeting after the plan was filed. If the location map is disapproved, the owners shall be informed in writing of the noncompliance found.

**34-8-3 FINAL PLAT SUBMISSION REQUIREMENTS.**

(A) **Final Plat Submission Requirements.** The final plat shall be consistent with the current zoning district classification of the property.

The following shall be submitted on a plan drawn to a scale of no more than **one hundred (100) feet** to the inch or in accompanying documents:

- (1) North point, scale and date of preparation and any revisions.
- (2) Names and addresses of the owner, engineer and registered land surveyor.
- (3) Total acreage.
- (4) Lot numbers.
- (5) Existing utilities and drainage courses within and adjacent to the site.
- (6) Location of all present property lines, section lines, streets, building and watercourses within the area and within **one hundred (100) feet** of the area.
- (7) Location of proposed lots, setback lines and utility easements.
- (8) Contours referring to the United States Geological Survey datum with intervals of **two (2) feet** or less unless a greater interval is required because of terrain. This requirement may

be waived by the Plan Commission in its sole discretion. Any such waiver shall be noted on the final plat and signed by the Chairman of the Plan Commission.

- (9) If applicable, a note on the final plat stating: "Approved of this final plat by the Village of New Berlin does not constitute a guarantee that well water is of adequate quantity or quality for residential needs or that a suitable sewage disposal system can be constructed on each lot." Any guarantees are the subdivider's responsibility.
- (10) A statement indicating whether or not any part of the plat is located in a special flood hazard area as identified by the Federal Emergency Management Agency.
- (11) A notation stating any setback required through covenants if the setbacks are different from those of the appropriate zoning district.

(B) **Accompanying Documents.** The following documents shall accompany the final plat:

- (1) A signed statement of a registered professional engineer and the owner of the land, or his duly authorized attorney, as required by state statutes concerning drainage.
- (2) Notarized acknowledgement of the plat by the owner or a duly authorized attorney. This item may be a separate document or on the plat itself.
- (3) The certificate of a registered Illinois land surveyor attesting to the accuracy of the survey and the location of all monuments shown. The certificate may be filed as a supplement to the final plat.
- (4) Exhibit showing the location of wells and seepage field areas (must be large enough to accommodate **two (2)** seepage fields) on each lot.
- (5) Any covenants or restrictions relating to the requirements of this Chapter.

#### **34-8-4 REVIEW PROCESS.**

(A) The subdivider shall file **eleven (11) prints** of the minor subdivision in the office of the Zoning Administrator with a filing fee of **One Hundred Dollars (\$100.00)** to be deposited to the appropriate Village account. The subdivision will be reviewed according to the filing deadline and review schedule established by the Plan Commission.

(B) The Zoning Administrator shall retain **one (1) print** on file and shall distribute the prints as follows:

**Two (2) prints** to the Plan Commission;  
**Two (2) prints** to the Water Department;  
**One (1) print** to the Village Engineer;  
**One (1) print** to the Sangamon County Superintendent of Highways;  
**One (1) print** to the appropriate Township Highway Commissioner, if applicable;  
**One (1) print** to the Village Clerk;  
**One (1) print** to the New Berlin/Island Grove Fire Protection District;  
**One (1) print** to the electric utility serving the area; and  
**One (1) print** to the gas utility serving the area.

The reviewing entities shall transmit any comments or requirements to the Plan Commission within **seven (7) calendar days** of receipt.

(C) The Plan Commission shall recommend approval or disapproval no later than **thirty (30) days** after the plan was filed with Village Clerk. Failure to act by the end of said second regularly scheduled meeting shall constitute a recommendation of disapproval.

- (1) **Disapproval.** If the Plan Commission finds that the minor subdivision plat does not meet the requirements of this Chapter, it shall specify its disapproval in writing and state the noncompliance found.
- (2) **Approval.** If the Plan Commission finds that the minor subdivision plan meets the requirements of this Chapter, the subdivider shall submit the original and **two (2) prints** to the Plan Commission. The following shall be printed or stamped on the original plat and prints and signed by the Chairman of the Plan Commission:  
"The Plat of this subdivision is recommended to the Village Board for approval, by the New Berlin Plan Commission subject to the certifications set forth in **Section 34-8-5** of the New Berlin Subdivision Code".

By: \_\_\_\_\_  
Chairman

Dated: \_\_\_\_\_  
New Berlin Plan Commission

(D) The Plan Commission shall transmit the endorsed original plat and **two (2) prints** to the Zoning Administrator for immediate reference to the Village Board.

**34-8-5 SUBMISSION OF MINOR SUBDIVISION PLAT TO THE VILLAGE BOARD.**

(A) Upon receipt of the endorsed original minor subdivision plat and **two (2) prints**, the Zoning Administrator shall retain **one (1) print** on file and shall deliver **one (1) print** to the Village Engineer.

(B) The Zoning Administrator shall deliver the original minor subdivision plat to the Village Board at its next regular session after receiving the documents from the Plan Commission.

(C) The minor subdivision plat shall remain pending on the agenda of the Village Board and shall not be approved by the Village Board until the following have been received:

(1) Written certification from the Village Engineer that the plat has been reviewed and any required public improvements have been approved as described in **Section 34-5-6** or, in lieu of construction, a security has been provided as described in **Section 34-5-4**.

(2) A certificate provided by the subdivider from the Sangamon County Clerk indicating that payment of taxes is not delinquent.

(D) If the requirements of this Section have not been met within **two (2) years** from Plan Commission approval, the existing approvals and recommendations shall expire and the plat must be resubmitted and reviewed as a new minor subdivision.

**34-8-6 VILLAGE BOARD APPROVAL.** When The requirements of **Sections 34-8-4** and **34-8-5** have been met, the Village Board may by resolution approve the minor subdivision plat and authorize the Mayor to sign the plat for and in the name of the Village, with the Village Clerk attesting to it. The Village Clerk shall retain **one (1) print** on file.

**34-8-7 RECORDING THE MINOR SUBDIVISION PLAT.**

(A) When the minor subdivision plat has been approved by the Village Board and signed by the Mayor and Village Clerk, the original tracing shall be recorded in the office of the Recorder of Deeds of Sangamon County, Illinois.

(B) If the minor subdivision plat is not recorded within **six (6) months** after approval by the Village Board, the plat must be resubmitted to the Plan Commission to determine if any changes in the plat are needed to meet the requirements of this Chapter. No title to any lots shall be conveyed until the original tracing is recorded.

**34-8-8 LIMITATIONS ON MINOR SUBDIVISIONS.** Only one minor subdivision shall be allowed for any parcel of record as of the date of this Chapter. If **three (3) lots** have been created from a parcel of record after said date, all additional divisions at a later time shall follow conventional subdividing procedures.

## ARTICLE IX

### LARGE SCALE DEVELOPMENTS

**34-9-1**     **PURPOSE.** The Large Scale Development site plan is intended to provide a detailed layout of buildings, utilities, other improvements and construction details to insure that Village public health and safety standards and subdivision and zoning requirements are met.

The permitted uses and densities and other requirements of the site's existing zoning district shall be met. However, yard and other bulk requirements can be varied within the site if more than one building is proposed.

**34-9-2**     **SUBMISSION REQUIREMENTS.** The site plan shall include the following information at a scale of no more than **one hundred (100) feet** to the inch:

- (A) Title of the development.
- (B) North point, scale and date.
- (C) Names, addresses and phone numbers of the owner, subdivider and engineer. A contact person should be designated.
- (D) Boundary lines with accurate distances and angles.
- (E) Acreage.
- (F) On-site vehicular circulation.
- (G) Parking.
- (H) Sidewalks.
- (I) Sewer distribution.
- (J) Site grading.
- (K) Storm drainage.
- (L) Location of structures.
- (M) Water distribution and size of mains.
- (N) Location of fire hydrants and valves.
- (O) Street profiles and typical cross-sections.
- (P) Yard setbacks.
- (Q) Landscape plans.
- (R) Location of outdoor lighting and signs.
- (S) Traffic analysis if more than **two hundred (200) cars** are to be accommodated on site.
- (T) Seal and signature of a registered professional engineer.

**34-9-3**     **STANDARDS AND REQUIREMENTS.** The plans must comply with all standards and requirements of applicable Village codes including Land Subdivision Regulations, Zoning Code, Arterial Roadway, Network Plan and any building, housing and fire codes. The following exceptions shall be observed:

(A)

**Yard Requirements.**

(1) **For all Residential Developments:**

|             |          |
|-------------|----------|
| Front Yard: | 30'      |
| Side Yard:  | 20' each |
| Rear Yard:  | 20'      |

(2) **For all Commercial and Industrial Districts:**

|             |          |
|-------------|----------|
| Front Yard: | 20'      |
| Side Yard:  | 15' each |
| Rear Yard:  | 15'      |

Yard area shall be open area and not be used for parking.

When a commercial or industrial development abuts or adjoins a residential district on a side or rear yard, an additional **ten (10) feet** shall be required for each yard that abuts or adjoins a residential district. The proposed commercial or industrial development shall be screened on each side abutting or adjoining a residential district by a wall, opaque fence or densely planted compact hedge not less than **five (5) feet** in height.

For all developments the front yard shall be that area fronting a public street and which contains the main entrance to the main building or development. Only one front yard shall be required for each development.

(B) **Pavement Width.** Streets and drives within the development shall be of sufficient width to accommodate unimpeded movement of fire vehicles. Pavement width shall vary depending upon parking along the street and direction of vehicle movement.

(C) **Sidewalks.** Sidewalks shall provide pedestrian movement within the development and to existing public streets or sidewalks. Sidewalks shall also be constructed along streets adjoining the development. Sidewalks shall be a minimum of **four (4) feet** wide, **four (4) inches** thick and be constructed of Portland cement concrete.

**34-9-4 REVIEW PROCESS.**

(A) The developer shall file **thirteen (13) copies** of the site plan of the proposed development in the office of the Zoning Administrator with a filing fee of **One Hundred Dollars (\$100.00)** to be deposited in the appropriate Village account. The site plan will be reviewed according to the filing deadline and review schedule established by the Plan Commission.

(B) The Zoning Administrator shall retain **four (4) prints** on file and distribute the prints as follows:

**Two (2) prints** to the Plan Commission;

**Two (2) prints** to the Water Department;

**One (1) print** to the Village Engineer;

**One (1) print** to the Sangamon County Superintendent of Highways;

**One (1) print** to the appropriate Township Highway Commissioner, if applicable;



- One (1) print** to the Village Clerk;
- One (1) print** to the New Berlin/Island Grove Fire Protection District;
- One (1) print** to the electric utility serving the area; and
- One (1) print** to the gas utility serving the area.

The reviewing entities shall review the plans for conformance with Village Codes and transmit any comments or requirements in writing to the Plan Commission within **seven (7) calendar days** of receipt.

**34-9-5      COMMITTEE ACTION.**

(A)      **Recommendation of Approval.** If the Plan Commission finds (i) that the site plan meets the requirements of this Chapter; (ii) that the site plan meets the requirements of other Village Chapters pertaining to zoning, building, and fire safety; and (iii) utilities will be adequate, the Plan Commission shall indicate a recommendation for approval on **three (3) copies** of the plan in substantially the following language:

“This large scale development is recommended for approval by the New Berlin Plan Commission.”

By: \_\_\_\_\_

Date: \_\_\_\_\_

The prints so endorsed shall be forwarded to the Village Board for further disposition, along with minutes of the meeting at which the plans were approved.

(B)      **Recommendation of Disapproval.** If the Plan Commission does not make the findings in subsection (A) above, it shall inform the developer of its findings in writing and state the noncompliance found, and shall endorse **three (3) copies** of the site plan with its recommendation of disapproval, and shall forward the plans to the Village Board for further disposition, along with minutes of the meeting at which the plans were disapproved.

If the developer desires to amend the disapproved large scale plans prior to consideration by the Village Board, the developer shall submit **eleven (11) prints** of the amended plan to the Zoning Administrator, which shall be reviewed according to the filing deadline and review schedule established by the Plan Commission. No filing fee shall be necessary. The Zoning Administrator shall transmit copies of the amended plan as described in **Section 34-9-4** and review will proceed as indicated in said section.

**34-9-6      REVIEW BY THE VILLAGE BOARD.** The large scale development plans shall be reviewed by the Village Board as soon as practicable after review by the Plan Commission. The developer may appear and be heard at the Village Board meeting at which the large scale development plan is considered. The Village Board shall approve or disapprove the plan by Chapter or resolution; and the Mayor shall endorse the large

scale development plan in the same manner as prescribed herein for subdivision preliminary plans. Approved plans shall expire, if not completed in the same manner as set forth herein for final subdivision plats.

**34-9-7**      **CONSTRUCTION PLANS.** The developer shall submit construction plans for private drives, streets, sidewalks, grading, drainage and utilities to the Village Engineer for review in the same manner and for the same review and inspection fees as prescribed herein for subdivision plats.

**34-9-8**      **CONSTRUCTION AND SECURITIES.** No building permits shall be issued for any structure unless the large scale development plan has been approved by the Village Board and construction work either have been installed according to the approved construction plans or a security provided in the same manner as set forth in this Chapter for final plats of subdivision. Security for completion of private drives, streets, grading, and drainage shall not be required for purely residential developments containing less than **eight (8) living units**. However, utilities and other facilities serving a public function must be built or security provided.

**ARTICLE X - TRACT SURVEY**

**34-10-1     PURPOSE.**

- 5.**  
(A) Tract survey approval shall be required as set forth in **Section 34-1-**  
(B) Tract survey approval is designed to insure that all divisions of land comply with the State Plats Act, this Chapter and the appropriate Zoning Chapters.

**34-10-2     SUBMISSION REQUIREMENTS.** When a tract survey is required by this Chapter, the following shall be submitted:

- (A) Land survey.  
(B) Certification by a professional Illinois Land Surveyor, together with the surveyor's seal, attesting to the accuracy of the survey.

**34-10-3     REVIEW PROCESS.**

- (A) **Five (5) copies** of the tract survey shall be submitted to the Plats Officer accompanied by the appropriate fee.  
(B) The Plats Officer shall review the survey to insure that it conforms to the pertinent requirements of this Chapter and applicable zoning regulations. The owner shall be notified of tract survey approval or disapproval within **one (1) working day.**  
(1) **Disapproval.** If the Plats Officer finds that the tract survey does not meet the requirements of this Code, the disapproval and noncompliance found shall be specified in writing.  
(2) **Approval.** If the Plats Officer finds that the tract survey does meet the requirements of this Code, the following shall be printed or stamped on the original and prints and signed by the Plats Officer.

County of Sangamon)                             )  
State of Illinois                                 )     ss.

I, the Sangamon County Plats Officer, do hereby approve this tract survey this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Sangamon County Plats Officer

- (C) The Plats Officer shall keep **one (1) copy** and transmit **four (4) copies** of the approved tract survey to the owner for recording.

**34-10-4      RECORDING THE TRACT SURVEY.** After the tract survey has been approved, the original shall be recorded in the Office of the Recorder of Deeds of Sangamon County, Illinois. If the tract survey is not recorded within **one hundred eighty (180) days** of Plats Officer approval, the approval shall be null and void.

## ARTICLE XI - VARIANCES AND PENALTY

### **34-11-1**     **VARIANCE OF SUBDIVISION REQUIREMENTS.**

(A)           A subdivider may request a variance of the requirements of this Chapter. Application for a variance shall be made in writing and submitted with the location and sketch maps unless the need is not then evident. Variance applications shall clearly state the provisions to be varied and the reasons why the variance is needed. In all cases, variance requests shall be made no later than the time the preliminary plan is reviewed by the Plan Commission.

(B)           If, as a result of changes imposed by the Plan Commission at its preliminary plan review meeting, the subdivider desires a variance, it may be requested orally at that meeting.

(C)           The Plan Commission shall recommend approval or disapproval of the requested variance by the Village Board. Along with its recommendation the Plan Commission shall transmit findings to the Village Board as to whether the requested variance complies with the following requirements:

- (1)    The intent of this Chapter is maintained;
- (2)    Extraordinary circumstances of topography, land ownership, adjacent development or other circumstances not provided for in the Chapter exist;
- (3)    The extraordinary circumstances will result in a hardship, not merely an inconvenience;
- (4)    The circumstances upon which the request for variance is based are not common to most other tracts of land;
- (5)    The circumstances upon which the request for variance is based are not the result of the subdivider's affirmative act or failure to act; and
- (6)    The purpose of a variation is not based exclusively on the desire to eliminate development costs at the expense of the public improvement standards as outlined in this Chapter.

(D)           When the Village Board considers the preliminary plan it shall consider the requested variance. The Village Board may, if it finds that the requirements of subsection (C) are met, approve the plan with the requested variation; or it may require conditions to the variation if it believes the conditions are in the public interest; or it may in its discretion deny the variation and insist on the literal application of this Chapter.

**34-11-2**     **PENALTY.** Any subdivider who violates any of the provisions of this Chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not to exceed **Five Hundred Dollars (\$500.00)**. Each day that a violation of this Chapter continues shall constitute a separate and distinct offense and shall be punishable as such.

**(Ord. No. 05-04; 04-20-05)**

## SUBDIVISION REVIEW PROCEDURE

| Approval Stage                    | Prints Required | Reviewed By              | Fee                                                                | Term of Approval                   |
|-----------------------------------|-----------------|--------------------------|--------------------------------------------------------------------|------------------------------------|
| Location Map<br>Minor Subdivision | 14              | PC<br>Village<br>Board   | None                                                               | 1 Year                             |
| Location and Sketch<br>Maps       | 14              | NBPC<br>Village<br>Board | None                                                               | 1 Year                             |
| Preliminary Plan                  | 12              | NBPC<br>Village<br>Board | \$100                                                              | 3 Years                            |
| Construction Plans                | 3               | Village<br>Engineer      | Plan and<br>Inspection<br>Fee -- See<br>Footnote                   | As long as<br>Prelimin.<br>Current |
| Final Plat                        | 12              | NBPC<br>Village<br>Board | \$100 plus Plan<br>Review and<br>Inspection Fee --<br>See Footnote | 2 Years                            |
| Preliminary Plan<br>Reaffirmation | 12              | NBPC<br>Village<br>Board | None                                                               | 3 Years<br>Renewable<br>Time       |
| Minor Subdivision                 | 12              | NBPC<br>Village<br>Board | \$100                                                              | 2 Years                            |
| Large Scale<br>Development        | 12              | NBPC<br>Village<br>Board | \$100 plus Plan<br>Review and<br>Inspection Fee --<br>See Footnote |                                    |

**CHAPTER 36**

**TAXATION**

**ARTICLE I - GENERAL TAXES**

**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 Sec. 5/8-3-1**)

**36-1-2**        **POLICE TAX.** The maximum rate for police protection purposes of the Village be and the same is hereby established at a rate of **.075%**. (See **65 ILCS Sec. 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 Sec. 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 Sec. 5/21-101 et seq.**)

**36-1-5**        **TORT 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**        **TAXES IN GENERAL.** The following tax rates may be extended by the Board.

|              |                        |
|--------------|------------------------|
| IMRF         | Unlimited              |
| Garbage Tax  | .20 per \$100.00 A.V.  |
| Fire Hydrant | .075 per \$100.00 A.V. |

## ARTICLE II

### TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE

**36-2-1**        **DEFINITIONS.** As used herein, the following terms shall have the following meanings:

(A)        **“Gross Charges”** means the amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications within the Village, and for all services rendered in connection therewith, valued in money whether paid in money or otherwise, including cash, credits, services, and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs, or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. “Gross charges” for private line service shall include charges imposed at each channel point within the Village, charges for the channel mileage between each channel point within the Village, and charges for that portion of the interstate inter-office channel provided within the Village. However, “gross charges” shall not include:

- (1) any amounts added to a purchaser’s bill because of a charge made under:
  - (a) the fee imposed by this Section,
  - (b) additional charges added to a purchaser’s bill under Section 9-221 or 9-222 of the Public Utilities Act,
  - (c) amounts collected under Section 8-11-17 of the Illinois Municipal Code,
  - (d) the tax imposed by the Telecommunications Excise Tax Act,
  - (e) 911 surcharges, or
  - (f) the tax imposed by Section 4251 of the Internal Revenue Code;
- (2) charges for a sent collect telecommunication received outside the Village;
- (3) charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment, or accounting equipment and also includes the usage of computers under a time-sharing agreement;
- (4) charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;



- (5) charges to business enterprises certified 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 Village;
- (6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries, and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit other than a regulatory required profit for the corporation rendering such services;
- (7) bad debts (“bad debt” means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);
- (8) charges paid by inserting coins in coin-operated telecommunications devices; or
- (9) charges for telecommunications and all services and equipment provided to the Village.

(B) **“Public Right-of-Way”** means any municipal street, alley, water or public right-of-way dedicated or commonly used for utility purposes, including utility easements wherein the Village has acquired the right and authority to locate or permit the location of utilities consistent with telecommunications facilities. “Public Right-of-Way” shall not include any real or personal Village property that is not specifically described in the previous sentence and shall not include Village buildings and other structures or improvements, regardless of whether they are situated in the public right-of-way.

(C) **“Retailer maintaining a place of business in this State”**, or any like term, means and includes any retailer having or maintaining within the State of Illinois, 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.

(D) **“Sale of telecommunications at retail”** means 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.

(E) **“Service address”** means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, “service address” shall mean the location of the customer’s primary use of the telecommunications equipment as defined by the location in Illinois where bills are sent.

(F) **“Telecommunications”** includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context clearly requires otherwise, “telecommunications” shall also include wireless telecommunications as hereinafter defined. “Telecommunications” shall not include value-added services in which computer-processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. “Telecommunications” shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provisions and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. “Telecommunications” shall not include the provision of cable service through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Section 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

(G) **“Telecommunications provider”** means (1) any telecommunications retailer; and (2) any person that is not a telecommunications retailer that installs, owns, operates or controls equipment in the public right-of-way that is used or designed to be used to transmit telecommunications in any form.

(H) **“Telecommunications retailer” or “retailer” or “carrier”** means and includes every person engaged in the business of making sales of telecommunications at retail as defined in this Section. The Village may, in its discretion, upon application, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Village, furnishes adequate security to ensure collection and payment of the fee. When so authorized, it shall be the duty of such retailer to pay the fee upon all of the gross charges for telecommunications in the same manner and subject to the same requirements as a retailer maintaining a place of business in the Village.

(I) **“Wireless telecommunications”** includes cellular mobile services, personal wireless services as defined in Section 704(C) of the Telecommunications Act of 1996 (Public Law No. 104-104), 42 U.S.C. §331(c)(7), as now or hereafter amended, including all commercial mobile radio services, and paging services.

**36-2-2            REGISTRATION OF TELECOMMUNICATIONS PROVIDERS.**

(A)            Every telecommunications provider as defined by this Article shall register with the Village within **thirty (30) days** after the effective date of this Article or becoming a telecommunications provider, whichever is later, on a form to be provided by the Village, provided, however, that any telecommunications retailer that has filed a return pursuant to **Section 36-2-4(C)** of this Article shall be deemed to have registered in accordance with this Section.

(B)            Every telecommunications provider who has registered with the Village pursuant to **Section 36-2-2(A)** has an affirmative duty to submit an amended registration form or current return as required by **Section 36-2-4(C)**, as the case may be, to the Village within **thirty (30) days** from the date of the occurrence of any changes in the information provided by the telecommunications provider in the registration form or most recent return on file with the Village.

**36-2-3            MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE.**

(A)            A Village telecommunications infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of **one percent (1%)** of all gross charges charged by the telecommunications retailers to service addresses within the Village for telecommunications originating or received in the Village.

(B)            Upon the effective date of the infrastructure maintenance fee authorized in this Article, the Village infrastructure maintenance fee authorized hereunder shall be the only fee or compensation for the use of all public rights-of-way within the Village by telecommunications retailers. Imposition of the infrastructure maintenance fee provided under this Article does not, however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.

(C)            The Village telecommunications infrastructure maintenance fee authorized by this Section shall be collected, enforced, and administered as set forth in **Section 36-2-4** of this Article.

**36-2-4            COLLECTION, ENFORCEMENT, AND ADMINISTRATION OF TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEES.**

(A)            A telecommunications retailer shall charge to and collect from each customer an additional charge in an amount equal to the Village infrastructure maintenance fee attributable to that customer's service address.

(B)            Unless otherwise approved by the Village the infrastructure maintenance fee shall be remitted by the telecommunications retailer to the Village not later than the last day of the month subsequent to the month in which a bill is issued to the customer; provided, however, that the telecommunications retailer may retain an amount not to exceed **two percent (2%)** of the Village infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the fee.

(C) Remittance of the municipal infrastructure fee to the Village shall be accompanied by a return, in a form to be prescribed by the Village, which shall contain such information as the Village may reasonably require.

(D) Any infrastructure maintenance fee required to be collected pursuant to this Article and any such infrastructure maintenance fee collected by such telecommunications retailer shall constitute a debt owed by the telecommunications retailer to the Village. The charge imposed under **Section 36-2-4(A)** by the telecommunications retailer pursuant to this Article shall constitute a debt of the purchaser to the telecommunications retailer who provides such services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such services.

(E) If it shall appear that an amount of infrastructure maintenance fee has been paid that was not due under the provisions of this Article, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any infrastructure maintenance fee due, or to become due, under this Article, from the telecommunications retailer who made the erroneous payment; provided, however, the Village may request, and telecommunications retailer shall provide, written substantiation for such credit. However, no claim for such credit may be made more than **three (3) years** after the date of the erroneous payment unless, (1) the credit is used only to offset a claim of underpayment made by the Village within the applicable statutory period of limitations, and (2) the credit derives from an overpayment made by the same telecommunications retailer during the applicable statutory period of limitations.

(F) Amounts paid under this Article by telecommunications retailers shall not be included in the tax base under any of the following acts as described immediately below:

- (1) **“gross charges”** for purposes of the Telecommunications Excise Tax Act;
- (2) **“gross receipts”** for purposes of the municipal utility tax as prescribed in Section 8-11-2 of the Illinois Municipal Code;
- (3) **“gross charges”** for purposes of the municipal telecommunications tax as prescribed in Section 8-11-17 of the Illinois Municipal Code;
- (4) **“gross revenue”** for purposes of the tax on annual gross revenue of public utilities in Section 2-202 of the Public Utilities Act.

(G) The Village shall have the right, in its discretion, to audit the books and records of all telecommunications retailers subject to this Article to determine whether the telecommunications retailer has properly accounted to the Village for the Village infrastructure maintenance fee. Any underpayment of the amount of the Village infrastructure maintenance fee due to the Village by the telecommunications retailer shall be paid to the Village plus **five percent (5%)** of the total amount of the underpayment determined in an audit, plus any costs incurred by the Village in conducting the audit, in an amount not to exceed **five percent (5%)** of the total amount of the underpayment determined in an audit. Said sum shall be paid to the Village within **twenty-one (21) days** after the date of issuance of an invoice for same.

(H) The Village or his or her designee, may promulgate such further or additional regulations concerning the administration and enforcement of this Article consistent with its provisions, as may be required from time to time and shall notify all telecommunications retailers that are registered pursuant to **Section 36-2-2** of this Article of such regulations.

**36-2-5** **COMPLIANCE WITH OTHER LAWS.** Nothing in this Article shall excuse any person or entity from obligations imposed under any law, including but not limited to:

- (A) generally applicable taxes; and
- (B) standards for construction on, over, under, or within, use of or repair of the public rights-of-way, including standards relating to free standing towers and other structures upon the public rights-of-way, as provided; and
- (C) Any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under, or within, use of or repair of the public rights-of-way; and
- (D) Compliance with any ordinance or provision of this Code concerning uses or structures not located on, over, or within the right-of-way.

**36-2-6** **EXISTING FRANCHISES AND LICENSES.** Any franchise, license, or similar agreements between telecommunications retailers and the Village entered into before the effective date of this Article regarding the use of public rights-of-way shall remain valid according to and for their stated terms except for any fees, charges or other compensation to the extent waived.

**36-2-7** **PENALTIES.** Any telecommunications provider 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 general penalty provisions of the Village Municipal Code.

**36-2-8** **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.

**36-2-9** **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.

**36-2-10      WAIVER AND FEE IMPLEMENTATION.**

(A)            The Village hereby waives all fees, charges, and other compensation that may accrue, after the effective date of the waiver, to the Village by a telecommunications retailer pursuant to any existing Village franchise, license, or similar agreement with a telecommunications retailer during the time the Village imposes the Telecommunications Infrastructure Maintenance Fee. This waiver shall only be effective during the time the Infrastructure Maintenance Fee provided for in this Article is subject to being lawfully imposed on the telecommunications retailer and collected by the telecommunications retailer from the customer.

(B)            The Village Clerk shall send a notice of the waiver by certified mail/return receipt requested to each telecommunications retailer with whom the Village has a franchise.

(C)            The Village infrastructure maintenance fee provided for in this Article shall become effective and imposed on the **first (1<sup>st</sup>) day** of the month not less than **ninety (90) days** after the Village provides written notice by certified mail to each telecommunications retailer with whom the Village has an existing franchise, license, or similar agreement that the Village waives all compensation under such existing franchise, license, or similar agreement during such time as the fee is subject to being lawfully imposed and collected by the retailer and remitted to the Village. The infrastructure maintenance fee shall apply to gross charges billed on or after the effective date as established in the preceding sentence.

**(Ord. No. 97-12; 12-17-97)**

## CHAPTER 38

### UTILITIES

#### ARTICLE I - DEPARTMENT ESTABLISHED

**38-1-1**     **DEPARTMENT ESTABLISHED.**     There shall be an executive department of the Village known as the **Water and Sewer Department**. It shall include the Superintendent of Water and Sewer and the Water and Sewer Committee appointed by the Mayor, and its employees.

**38-1-2**     **WATER AND SEWER COMMITTEE.**     The Water and Sewer 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 Superintendent shall be subject to the supervision of the Mayor and the Water and Sewer Committee 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 office until his successor shall be appointed and qualified. He shall receive such salary as may be provided for by the Village Board. **(See Chapter 1; Art. II; Division X)**

## ARTICLE II - RATES AND 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, firm or entity who or which (i) is supplied with water and sewer services from the waterworks and sewerage system, (ii) accepts and uses Village water and sewer services, or (iii) is physically connected to the Village water and sewer system irrespective of whether water is actually taken from the system, and such persons, firms and entities shall be referred to herein as "**customers**" and held to have consented to be bound by such rates, rules and regulations. Persons, firms and entities who or which own vacant lots which are not physically connected to the water and sewer system are not "customers" for purpose of this Chapter. **(Ord. No. 09-02; 01-21-09)**

(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 Chapter 1, Article I of this Code.

(D) **Destroying Property.** Any person found guilty of defacing, tampering, injuring or destroying, or in any manner, limiting the use or availability of any meter or any property of the waterworks system and sewerage system, or erecting signs on the property of the Department without permission shall, upon conviction of such act, be fined as provided in Chapter 1, Article I of this Code.

(E) **Service Obtained By Fraud.** All contracts for water and sewer services must be made in the name of the head of the household, firm or corporation using the established spelling of that person's or firm's name. Attempts to obtain service by the use of other names, different spellings or by substituting other persons or firms shall be considered a subterfuge and service shall be denied. If service has been discontinued because of nonpayment of bills, or any unpaid obligation and service has again been obtained through subterfuge, misrepresentation or fraud, that service shall be promptly disconnected and the whole or such part of the advanced payment as may be necessary to satisfy the unpaid obligation shall be retained by the Village and credited to the appropriate account.

(F) **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. Reconnection charge shall be **Fifteen Dollars (\$15.00)** upon the filing of an application.



(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 **twentieth (20th) day** of the month, a penalty equal to **ten percent (10%)** of the amount due on said bill shall be added to the bill. This penalty shall be added in addition to the charge heretofore established for the utility services.
- (2) Any customer who fails to pay the utility bills within **thirty (30) days** of presentation shall have the utility services disconnected after a written notice by the Village Clerk has been sent by mail to the customer on the **twenty-first (21st) day** after billing, affording the customer an opportunity for a hearing. The notice shall specifically advise the customer of the following:
  - (a) Name and address of the customer and amount of the bill.
  - (b) The date, time, and location of the hearing to be held.
  - (c) That the customer has a right to be heard and to present evidence in his behalf if he does not agree with the bill.
  - (d) That if the customer fails to appear at the hearing, the consumer's utility service shall be terminated without further proceedings.
  - (e) The date of the cut-off.
- (3) The time, date and location of the hearing shall be determined by the Mayor, the Village Clerk, or the designee of the Mayor. The Mayor, Village Clerk or designee shall preside over the hearing. The Mayor, Village Clerk or designee of the Mayor shall make a final determination as to the rights of the consumer and the Village based on the information received at the hearing.
- (4) The customer shall be notified within **two (2) working days** of the decision rendered by the hearing officer. If the service is to be discontinued, a date and time will be set out in the notice to terminate the service or services of the customer. Notice of the hearing officer's decision shall be made by first-class mail.
- (5) If the hearing officer decides in favor of the Village, the Village shall have the right to discontinue the customer's utility services. Should the customer fail to appear at the hearing, or should the notice be returned non-accepted, then the Village shall also have the right to terminate the customer's utility services without further proceedings.
- (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 a fee of **Fifty Dollars (\$50.00)** for each connection of such utility services, plus expenses incurred in the reconnecting of the utility services.

(I) **Lien Notice.** Whenever a bill for utility services remains unpaid for **sixty (60) days** after it has been rendered, the Village Clerk 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 as well as for all charges for utility services served subsequent 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 Village Clerk has notice of this, then notice shall be mailed to the owner of the premises if his address is known to the Village Clerk whenever such bill remains unpaid for a period of **forty-five (45) days** after it has been rendered.

The failure of the Village Clerk 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.

(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 **sixty (60) days** after it has been rendered. **(See 65 ILCS Sec. 5/11-139-8)**

**38-2-2 CONSUMER LISTS.** It is hereby made the duty of the Water Clerk to prepare or cause to be prepared a complete and accurate list of all premises and properties receiving utility services, showing the name and address of the occupant and the owner of the same. The list shall be kept up-to-date, and shall be corrected from time to time to allow changes in the occupancy or ownership of any such property or premises. It shall be presented at the regular monthly meeting if requested.

**38-2-3 LIABILITY FOR CHARGES.** The owner of the premises where service is furnished and the occupant thereof and the user of such service shall be jointly and severally liable to pay for the service on said premises, the services shall be furnished to the premises by the Village of New Berlin only upon the condition that the owner of the premises, the occupant and the user of the service are jointly and severally liable therefore to the Village of New Berlin. **(Ord. W-5, S.6, August 26, 1960)**

**38-2-4**      **ESTIMATED CHARGE.** Whenever any meter, by reason of its being out of repair or from any cause fails to properly register the 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 Clerk to estimate the amount of utilities consumed during the time the meter fails to operate and the consumer shall be charged with such estimated amount. Bills may be estimated whenever it is impossible to read the meters during inclement weather.

**38-2-5**      **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.

**38-2-6**      **UTILITY DEPOSITS.**

(A)      **Residential.** When any application is made for utility services to any residence, the applicant shall pay a deposit of **One Hundred Dollars (\$100.00).**

(B)      **Non-Residential.** When any application is made for utility services to a premises which is not a residence, the applicant shall pay a deposit of **Two Hundred Dollars (\$200.00).**

(C)      When the amount of the deposit provided for above is not sufficient to adequately protect the Department, a greater amount than stated above may be required, based on the consumer's estimated bill for a customary billing period.

(D)      **Security for Payment - No Interest.** The deposits made under the provisions of this Chapter shall be held by the Village as security for the payment of utility services used by the applicant upon the premises to which his application pertains, and may be so applied when any default is made in the payment in the utilities bill in accordance with this Chapter. The depositor shall earn no interest.

(E)      **Replenishment of Deposit.** Whenever a portion of the deposit is applied against a bill in accordance with subsection (D) of this Section, notice shall be given by the Village to the account holder, who shall deposit with the Village Clerk an amount sufficient to bring the deposit to the established rate of deposit within **two (2) working days** of receipt of the notice. Failure to replenish the deposit shall be grounds for termination of service. **(Ord. No. 10-19; 12-15-10)**

**38-2-7**      **NEW CUSTOMERS.** Except for those properties located adjacent to the water transmission line, no new properties shall be connected to the Village's water or sewer system unless such properties are located within the corporate limits. **(Ord. September 5, 1962)**

## ARTICLE III - WATER SYSTEM

### DIVISION I - GENERAL REGULATIONS

**38-3-1 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. This Section applies only to taps within the corporate limits of the Village where no new water main is required. All taps to extraterritorial customers, and all taps requiring the construction of a water main, are governed by **Section 38-3-56 et seq.** of this Code. **(See Article IV for fees.) (Ord. No. 05-01; 02-16-05)**

**38-3-2 ALL SERVICE TO BE BY METER.** All water service, whether for domestic, commercial or industrial use shall be metered. All meters shall be so placed and installed as to render the same accessible at all times for the purpose of reading or repairing and so as to be free from danger of freezing. Meters outside of a building shall be set in a suitable meter box approved by the Water and Sewer Committee. Water shall not be turned on for new connections until the meter has been installed and all other requirements of this Chapter on the part of the property owner have been fully complied with.

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.

For every new (whether original or replacement) water service, whether for domestic, commercial or industrial use, installed after **July 16, 1997**, there shall be included, at the sole expense of the property owner, a meter read-out device of a type approved by the Water and Sewer Committee displaying water usage and installed above ground on the exterior of the building in a manner which is accessible for reading and repairing. **(Ord. No. 97-06; 07-16-97)**

#### **38-3-3 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.

**38-3-4**      **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.

**38-3-5**      **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 will 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 or renewals.

**38-3-6**      **RESALE.** No water shall be resold or distributed by the recipient or consumer thereof from the Village supply to any premises other than that for which application has been made and the meter installed, except in cases of emergency.

**38-3-7**      **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.

**38-3-8**      **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.

**38-3-9 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 of the Water and Sewer Department 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 of the Water and Sewer Department.

**38-3-10 FIRE HYDRANTS.**

(A) All public fire hydrants with gate valves, tees, and connections from the main, inside the Village Limits, shall be owned, maintained and used only by the Village and shall be solely responsible for same. Use of water from fire hydrants by contractors and others shall be only upon permission by the Village and after approved application to the Village.

(B) The Village shall not be held liable and will not assume any responsibility for the condition of any fire hydrant inside or outside of the Village Limits or the pressure or amount of water obtainable therefrom or any damage either direct or resultant because of the condition, pressure or amount of water available at any fire hydrant.

(C) All public fire hydrants located outside the Village Limits owned by the Village shall be maintained in as good order as reasonably possible, but the Village will not undertake or assume any responsibility or liability for their condition or use or abuse. Such public fire hydrants shall be used only for the purpose of extinguishing fires except when the Village may issue a special permit for their use to contractors who shall then be responsible for the hydrants and the use of water from them.

**38-3-11 LAWN WATERING.** The right is reserved to suspend the use of lawn fountains and hoses for sprinkling lawns and gardens whenever, in the opinion of the Village, public exigencies require it.

**38-3-12 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.

**38-3-13**     **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.

**38-3-14**     **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 Board of Trustees.

**38-3-15**     **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.

**38-3-16**     **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.

**38-3-17**     **RESERVED.**

## **DIVISION II - CROSS-CONNECTION ADMINISTRATION**

**38-3-18**     **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 Superintendent, an approved backflow prevention device is necessary for the safety of the public water supply system, the Superintendent 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.

**38-3-19**     **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.

**38-3-20**     **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 Superintendent shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least **five (5) years.**

**38-3-21**     **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 Superintendent or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system 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 Superintendent any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information when demanded shall, within the discretion of the Superintendent, be evidence of the presence of improper connections as provided in this Chapter.

**38-3-22     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 **Thirty-Five Dollars (\$35.00)** is paid to the Village Clerk.

(B)           Immediate disconnection with verbal notice can be effected when the Manager is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause of disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in the reasonable opinion of the Superintendent or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply.

(C)           The public water supply, the Superintendent 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.

**38-3-23     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. **(Ord. No. 548; 03-15-89)**

**38-3-24 - 38-3-30     RESERVED.**

## **DIVISION III - CROSS-CONNECTION CONTROL CODE**

**38-3-31**     **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.

**38-3-32**     **APPLICATION.** These Rules and Regulations shall apply to all premises served by the public potable water supply system of the        Village.

**38-3-33**     **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 customers water service connection. If, in the judgment of the Superintendent of Water 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 38-4-37(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.

**38-3-34**     **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.

**38-3-35      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 of Water up to the point where the consumer's water system begins.

(C)            The source shall include all components of the facilities utilized in the production, treatment, storage, and delivery of water to the public water supply distribution system.

(D)            The public water supply distribution system shall include the network of conduits used to deliver water from the source to the consumer's water system.

(E)            The consumer's water system shall include all parts of the facilities beyond the service connection used to convey water from the public water supply distribution system to points of use.

**38-3-36      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.

**38-3-37      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 inspection 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., 1992, 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.

**38-3-38      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 of Water 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 of Water.
- (3)    Premises having internal cross-connections that, in the judgment of the Superintendent of Water, 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 of Water determines that no actual or potential hazard to the public water supply system exists:

- (1)    Hospitals, mortuaries, clinics, nursing homes.
- (2)    Laboratories.
- (3)    Piers, docks, waterfront facilities.
- (4)    Sewage treatment plants, sewage pumping stations or storm water pumping stations.
- (5)    Food or 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.

**38-3-39**     **TYPE OF PROTECTION REQUIRED.**

(A)     The type of protection required under **Section 38-3-38** 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 38-3-38** of these regulations shall be an approved fixed proper air gap separation or an approved reduced pressure principle backflow prevention connected to the public water supply when:

(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.

**38-3-40      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.

**38-3-41      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.

**38-3-42 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.

**38-3-43 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 of Water, and the required reconnection fee is paid.

(C) Water service to such premises shall not be restored until the consumer has corrected or eliminated such conditions or defects on conformance with these Regulations and to the satisfaction of the Superintendent of Utilities/Operations.

(D) Neither the Village, the Superintendent, or its assigns, shall be liable to any customers of the Village for any injury, damages or lost revenues which may result from termination.

**(Ord. No. 548; 03-15-89)**

**38-3-44 - 38-3-45 RESERVED.**

## **DIVISION IV - MAIN EXTENSIONS**

**38-3-46**     **APPLICATION FOR EXTENSION.** Any prospective customer may apply for water service. Application shall be made at the Village Hall on forms prescribed by the Village. If the premises to be served is within the corporate limits of New Berlin and no new main is required, the tap is governed by **Section 38-4-10** of this Code. If the premises is to be served is located outside the corporate limits of New Berlin, or if the premises to be served requires extension of a main, the provisions of this Division shall apply. **(Ord. No. 05-01; 02-16-05)**

**38-3-47**     **APPLICATION FEES.** Each application for service outside the Village limits or requiring a main extension shall be accompanied by a nonrefundable fee in the amount of **Fifty Dollars (\$50.00)** to cover the cost of review by the Water Superintendent. The Village Clerk shall forward the application to the Water Superintendent, who shall provide the Village with an estimate of the cost of providing service to the prospective customer. The cost as estimated by the Water Superintendent shall include the cost of pipes and other materials, labor, meters, permits, construction observation, design work, and any other costs associated with the extension of water service from the nearest main through and including the water meter, which normally will be located in the customer's yard. The Water Superintendent shall have the discretion to specify all construction materials, including but not limited to the size of mains, for any extension of service. In the event a group of customers request water service, the cost of a water main for such customers may be prorated by the Water Superintendent among such customers. In performing his duties under this Section, the Water Superintendent may consult with the Village Engineer. **(Ord. No. 05-01; 02-16-05)**

**38-3-48**     **ESTIMATED COSTS OF SERVICE.** Within **thirty (30) days** of receipt of the application, the Superintendent shall report to the prospective customer and to the Village the estimated cost of the water service. Within **thirty (30) days** of mailing by the Superintendent of the estimated cost, the customer shall deposit with the Village a sum in the amount of **one hundred ten percent (110%)** of the estimated cost, or a tap-on fee of **Seven Hundred Dollars (\$700.00)**, whichever is greater. All such funds shall be placed and maintained in an account segregated from other funds of the Village. **(Ord. No. 05-01; 02-16-05)**

**38-3-49**     **PRORATED COSTS.** In the event the estimated cost of providing water service to a customer contains a prorated portion of the cost of a water main, and certain prospective customers elect, after reviewing the estimate of cost, not to

participate in the project, the Superintendent shall re-prorate the cost of the water main, and the remaining customers shall be required to provide, as an additional deposit, **one hundred ten percent (110%)** of the difference to the Village. **(Ord. No. 05-01; 02-16-05)**

**38-3-50 EASEMENTS AND PERMITS.** After deposit by the customer of the estimated cost of extending water service, the Village shall attempt to secure any necessary easements and permits that may be required by the Illinois Environmental Protection Agency or any other agency of government. In the event that such easements and permits are not obtained and the project, therefore, becomes infeasible, the deposit, less any engineering or other expenses incurred by the Village with respect to the proposed extension, shall be returned to the customer. In the event that such easements and permits are obtained, the Village shall proceed to let the necessary contracts for the water service extension under the supervision of the Village Superintendent or engineers. All waterworks constructed by the Village shall be the sole property of the Village to and including the meter installed for each customer. **(Ord. No. 05-01; 02-16-05)**

**38-3-51 RESPONSIBILITY OF CONSTRUCTION.** Construction of water lines downstream of each meter shall be entirely at the responsibility and expense of the customer; all lines shall be designed and constructed in accordance with the Illinois Plumbing Code in its current edition. **(Ord. No. 05-01; 02-16-05)**

**38-3-52 REJECTION OF APPLICATION.** The Village has limited water resources. Accordingly, it has no obligation whatever to provide extraterritorial service and may reject any application for service at its sole discretion. **(Ord. No. 05-01; 02-16-05)**

**38-3-53 COMPLETION OF CONSTRUCTION.** Upon the completion of construction of any water service extension, the Water Superintendent shall compute the actual cost of such extension. Regardless of the cost, the Village shall retain not less than **Seven Hundred Dollars (\$700.00)** as a tap-on fee. If the customer has deposited more than **Seven Hundred Dollars (\$700.00)** but the extension has cost the Village less than the amount deposited by the customer, the Village shall refund the different. If the construction costs more than the amount deposited by the customer, the Village shall bill the customer for the different, and the customer shall pay such difference before receiving any water from the Village. **(Ord. No. 05-01; 02-16-05)**

**38-3-54     TESTING OF SERVICE.** Upon completion and successful testing of any water service extension, the Village shall provide water to the customer, and the customer shall accept such water service, in accordance with the terms, conditions and rates set forth in applicable Village ordinances, which the Village may change from time to time at its sole discretion. **(Ord. No. 05-01; 02-16-05)**

**38-3-55     ADDITIONAL CUSTOMERS.** In the event that any customer or group of customers has paid for a water main pursuant to this Division, and additional customers desire to tap on to such main, the additional customers shall pay to the Village their prorated share of the main as determined by the Village's consulting engineer, and computed on the basis of the then-current construction cost of the main less depreciation calculated on a **ten (10) year** straight line basis. The Village shall apportion such payment among the customers who originally paid for the line, and shall pay such apportioned amounts over to such customers either in cash lump sum payments or in the form of credits against such customer's water bills. The apportionment by the Village shall be at the Village's discretion and shall be final. In the event that one of the original customer who paid for the line no longer resides where he or she did at the time of the extension, the prorated share of such customer shall become the property of the Village. No customer shall be entitled to any rebate more than **ten (10) years** after construction of such a water main. **(Ord. No. 05-01; 02-16-05)**

## **DIVISION V - EXTRATERRITORIAL WATER SERVICE**

**38-3-56**     **OUTSIDE CORPORATE LIMITS.** After **March 1, 2005**, all extensions of service to premises outside the corporate limits of the Village shall be expressly subject to the condition that if the premises ever become contiguous to the Village or contiguous to other property which is contiguous to the Village, and if the Village requests the property owner, either individually or in conjunction with other property owners, to file a petition for annexation to the Village, then the property owner shall do so.

**38-3-57**     **DISCONTINUANCE OF SERVICE.** The Village may at its sole discretion discontinue service to all extraterritorial customers at any time with **six (6) months** prior notice to such customers. In the event the Village's water supply is curtailed for any reason, the Village may curtail the water supply of its extraterritorial customers to the same extent as to the customers within the Village.

**38-3-58**     **ABIDE BY ORDINANCES.** Each extraterritorial customer agrees, as a condition of service, to abide by all Village ordinances respecting the water system, including but not limited to, any ordinance regarding plumbing or backsiphonage. Each customer consents to Village regulations regarding collection of delinquent accounts, imposition of liens for unpaid accounts, and disconnection and reconnection procedures.

**38-3-59**     **CONTIGUOUS PROPERTY.** On and after **March 1, 2006**, the Village's sales of water to any person who was a customer as of **March 1, 2005** and is located outside the Village's corporate limits, shall be subject to the condition that if the premises ever become contiguous to the Village or contiguous to other property which is contiguous to the Village, and if the Village requests the property owner, either individually or in conjunction with other property owners, to file a petition for annexation to the Village, then the property owner shall do so.

**38-3-60**     **PETITION FOR ANNEXATION.** On and after **March 1, 2006**, any extraterritorial water customer who is requested by the Village in writing to file a petition for annexation shall promptly comply, as follows. The Village's request shall be mailed to the billing address of the customer, with a questionnaire regarding the identity and addresses of all persons legally required to join in a petition for annexation--that is, all owners of record and all registered voters residing on the premises. The customer shall return the completed questionnaire to the Village within **thirty (30) days**. The Village shall then prepare the appropriate annexation

ordinance, with the annexation plats to be attached thereto to be prepared at the  
Village's own expense. It



shall provide the necessary petition forms to the customers, who shall promptly execute the petitions to enable the Village to pass the annexation ordinance within **ninety (90) days** of the original mailing of the questionnaire.

**38-3-61 TIME LIMITATIONS.** Extensions of the time limitations contained in **Section 38-3-60** shall be freely granted by the Village for good cause, and the Village shall not be deemed to have waived any of its rights hereunder by failing to comply with a time limitation.

**38-3-62 FAILURE OR REFUSAL TO ANNEX.** Customers who fail or refuse to annex their property or to execute petitions in accordance with this Chapter may have their water service discontinued by the Village upon **thirty (30) days** written notice.

**38-3-63 ZONING OF PROPERTY.** Upon annexation, all properties shall have the zoning as specified by the Village Zoning Code for newly annexed property. Any property owner may request a different zoning category upon or after annexation, and such requests shall be processed in accordance with the Zoning Code. Any use of property which the owner can prove (a) was in effect on the effective date of this Code and (b) was a valid use under the Sangamon County Zoning Code on the effective date of this Code shall be allowed to continue in accordance with the nonconforming uses sections of the Village Zoning Code.

**38-3-64 DEFINITION OF "PREMISES".** As used in this Division, the term "premises" includes all land contiguous to a residence served by the Village and under common ownership, whether or not the land is platted into separate lots.

**38-3-65 - 38-3-70 RESERVED.**

**(Ord. No. 05-01; 02-16-05)**

## **DIVISION VI – AGREEMENTS**

**38-3-71 SOUTH SANGAMON WATER COMMISSION.** The Wholesale Water Agreement between the South Sangamon Water Commission and the Village of New Berlin, a copy of which is included as **Appendix "A"** at the conclusion of this Chapter. **(Ord. No. 10-04; 03-17-10)**

## ARTICLE IV - UTILITY RATES

### DIVISION I - GENERAL

**38-4-1**     **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.

[**NOTE:** When **two (2)** or more families live in **one (1) dwelling**, one minimum per family may be charged. If more than the minimum is used, the owner or occupant of such dwelling shall pay the additional over such minimum as provided.]

**38-4-2**     **REVENUES.** All revenues and moneys derived from the operation of the water and sewer systems shall be deposited in the Combined Water and Sewage 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 Village Treasurer shall receive all such revenues from the water and sewer systems and all other funds and moneys incident to the operation of such systems 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 the **Illinois Compiled Statutes, Chapter 65. (See Chapter I; Art. II)**

**38-4-3**     **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 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 sewerage system.

In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the wastewater 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 wastewater 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.

**38-4-4 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 water and sewer systems 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 wastewater treatment services.

**38-4-5 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.

**38-4-6 TESTING OF METERS.** Each customer shall have the right to request a testing of his water meter, and if the water meter, after testing of his water meter, and if the water meter, after testing, proves to be within **two percent (2%)** of being correct, then such customer shall be charged a fee of **Fifty Dollars (\$50.00)**. The **Fifty Dollars (\$50.00)** shall be deposited with the Treasurer prior to the testing of the meter and shall be promptly refunded to the customer after the meter is tested in the event the meter proves to be outside **two percent (2%)** of being correct.

**38-4-7 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.

**38-4-8 - 38-4-9 RESERVED.**

## DIVISION II - WATER CHARGES

**38-4-10**      **WATER TAP-ON FEES.** Applicants for water service shall pay a charge of **One Thousand Two Hundred Dollars (\$1,200.00)** for each connection or tap-on to the water mains of the Village for properties not now connected or tapped-on to the water mains, whether presently constructed or to be constructed. All such connections shall be made in such a manner as the Village may direct through its duly authorized employees, including, but not limited to, the requirement that all such water service shall utilize not less than a **one (1) inch** water line. The Village will provide the water line up to the property line, and the property owner shall provide, at the sole expense of the property owner, a meter readout device as required under **Section 38-3-2** of the Village Code. The tap-in fee for water service outside the Village limits shall be the full actual cost of installing such service, or **One Thousand Two Hundred Dollars (\$1,200.00)**, whichever is greater. **(Ord. No. 10-02; 02-17-10)**

**38-4-11**      **WATER AND SEWER RATES.** There shall be established the following rates and charges for the use of the water and sewer system of the Village, based upon the amount of water consumed as follows:

(A)      **WATER USERS - INSIDE VILLAGE LIMITS.**

|       |               |                                           |
|-------|---------------|-------------------------------------------|
| First | 1,000 gallons | \$22.00 MINIMUM PER MONTH                 |
| Over  | 1,000 gallons | Minimum charge + \$5.50 per 1,000 gallons |

**(Ord. No. 12-01; 04-18-12)**

(B)      **WATER USERS - OUTSIDE VILLAGE LIMITS.**

|       |               |                                           |
|-------|---------------|-------------------------------------------|
| First | 1,000 gallons | \$26.40 MINIMUM PER MONTH                 |
| Over  | 1,000 gallons | Minimum charge + \$7.83 per 1,000 gallons |

These rates are effective as of **May 1, 2012** and will be raised **one percent (1%)** on **January 1** of each year beginning **January 1, 2014** and thereafter.

**(Ord. No. 12-01; 04-18-12)**

(C)      **WATER USERS - BULK SALES.**

\$5.00 per 1,000 gallons, regardless of amount

(D)      **SEWER USERS - INSIDE VILLAGE LIMITS.**

|       |               |                          |
|-------|---------------|--------------------------|
| First | 1,000 gallons | \$9.50 MINIMUM PER MONTH |
| Over  | 1,000 gallons | \$4.00 per 1,000 gallons |

These rates are effective as of **September 1, 2011** and will be raised **one percent (1%)** on **January 1** of each year beginning **January 1, 2014** and thereafter.

**(Ord. No. 12-01; 04-18-12)**

(E)      **SEWER USERS - OUTSIDE VILLAGE LIMITS.** Not Available.

(F)      **NON-METERED USERS.** All non-metered residential users of the wastewater facilities shall pay a minimum flat charge per month adequate to cover the costs of the service charge, the minimum user charge of **three thousand six hundred (3,600) gallons** per month, and is hereby established to be **Seventeen Dollars Thirty-Five Cents (\$17.35)** per month. In the event the **twelve (12) month** average use of the wastewater facilities is determined by the Authority to be in excess of **three thousand six hundred (3,600) gallons** per month, the Authority may require such a flat rate user to install metering devices on the water supply or sewer main to measure the amount of service supplied.

(F)      The rate for all service outside the corporate limits of the Village shall be the residential, commercial and industrial rate set forth in subparagraph (B) above, plus an additional sum equal to **thirty-five percent (35%)** of said rates.

Water furnished under this rate shall not be available for resale. **(Ord. No. 07-18; 11-21-07)**

**38-4-12 - 38-4-20**      **RESERVED.**

## DIVISION III

### WASTEWATER SERVICE CHARGES

#### **38-4-21 BASIS FOR WASTEWATER SERVICE CHARGES.**

(A) **Basis for Wastewater Service Charges.** The wastewater service charge for the use of and for service supplied by the wastewater facilities of the Village shall consist of a basic user charge for operation and maintenance plus replacement, a debt service charge and a surcharge, if applicable.

(B) The **debt service charge** shall be computed by dividing the annual debt service of all outstanding bonds by the number of users. Through further divisions, the monthly and quarterly debt service charges can be computed.

(C) The **basic user charge** shall be based on water usage as recorded by water meters and/or sewage meters for wastes having the following normal concentrations:

(1) A **five (5) day twenty degree centigrade (20°C)** biochemical oxygen demand **BOD of 200 mg/l**.

(2) A suspended solids (SS) content of **250 mg/l**.

It shall consist of operation and maintenance costs plus replacement and shall be computed as follows:

(3) Estimate the projected annual revenue required to operate and maintain the wastewater facilities including a replacement fund for the year, for all works categories.

(4) Proportion the estimated costs to wastewater facility categories by Volume, Suspended Solids and BOD, if possible.

(5) Estimate wastewater volume, pounds of SS and pounds of BOD to be treated.

(6) Proportion the estimated costs to non-industrial and industrial users by volume, suspended solids and BOD.

(7) Compute costs per 1,000 gallons for normal sewage strength.

(8) Compute surcharge costs per 1,000 gallons per mg/l in excess of normal sewage strength for BOD and SS.

(D) A **surcharge** will be levied to all users whose waste waters exceed the normal domestic concentrations of **BOD 200 mg/l and SS 250 mg/l**. The surcharge will be based on water usage as recorded by water meters and/or sewage meters for all wastes which exceed the **200 mg/l and 250 mg/l** concentration for BOD and SS respectively. (**Section 38-4-26** specifies the procedure to compute a surcharge.)

(E) The **adequacy of the wastewater service charge** shall be reviewed annually by Certified Public Accountants for the Village in their annual audit report. The wastewater service charge shall be revised periodically to reflect a change in debt service or a change in operation and maintenance costs, including replacement costs. (Ord. No. S-3)

**38-4-22 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 hundred (100) gallons**.

(A) If the person discharging wastes into the public sewers 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 sewers, 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 Superintendent 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 Superintendent.

**38-4-23 DEBT SERVICE CHARGE.** A debt service charge of \$\_\_\_\_\_ per month to each user of the wastewater facility is hereby established.

**38-4-24 BASIC USER RATE.** There shall be and there is hereby established a minimum charge and a basic user rate for the use of and for service supplied by the Wastewater Facilities of the Village.

A minimum charge of **Four Dollars (\$4.00)** per month, which includes the debt service charge, shall be applied to all users whose water consumption does not exceed **one thousand (1,000) gallons** per month.

A **basic user rate** of **Four Dollars Twenty-Five Cents (\$4.25)** per **one thousand (1,000) gallons** shall be applied to all users for water consumption in excess of **one thousand (1,000) gallons** per month.

All non-metered residential users of the wastewater facilities shall pay a minimum flat rate charge per month, adequate to cover the costs of the minimum debt service charge and the basic user rate. The flat rate charge will be **Eight Dollars Twenty-Five Cents (\$8.25)**.

The flat rate charge will allow a maximum of **one thousand (1,000) gallons** per month.

In the event use of the wastewater facilities is determined by the Village to be in excess of **one thousand (1,000) gallons** per month, the Village may require such flat rate user to install metering devices on the water supply or sewer main to measure the amount of service supplied.

**38-4-25 SURCHARGE RATE.** The rates or surcharges for BOD and SS shall be as follows:

(A) For BOD, a surcharge rate of **\$0.003** per mg/l per **1,000 gallons** shall be applied for a waste strength in excess of **200 mg/l**.

(B) For SS, a surcharge rate of **\$0.0024** per mg/l per **1,000 gallons** shall be applied for a waste strength in excess of **250 mg/l**.

**38-4-26** **COMPUTATION OF SURCHARGE.** The concentration of wastes used for computing surcharges shall be established by waste sampling. Waste sampling shall be performed as often as may be deemed necessary by the Authority and shall be binding as a basis for surcharges. The surcharge shall be the sum computed as follows:

(A) For BOD, multiply the surcharge rate by the strength of the waste in excess of **200 mg/l**, and further multiply this product by the total flow discharged per **1,000 gallons**.

(B) Plus for SS, multiply the surcharge rate, by the strength of the waste in excess of **250 mg/l**, and further multiply this product by the total flow discharged **per 1,000 gallons**.

**38-4-27** **COMPUTATION OF WASTEWATER CHARGE.** The wastewater charge shall be computed by the following formula:

$$W = SC + M (Vu - X)UR + S$$

|       |    |   |                                                                 |
|-------|----|---|-----------------------------------------------------------------|
| Where | W  | = | Amount of wastewater charged (\$) per billing period.           |
|       | SC | = | Service Charge                                                  |
|       | M  | = | Minimum User Charge for Operation, Maintenance and Replacement. |
|       | Vu | = | Wastewater Volume for the billing period.                       |
|       | X  | = | Allowable consumption in gallons for the minimum charge.        |
|       | UR | = | Basic User Rate for Operation, Maintenance and Replacement      |
|       | S  | = | Amount of Surcharge.                                            |

## ARTICLE V - SEWER SYSTEM

### DIVISION I - GENERAL PROVISIONS

**38-5-1 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 Sewage Works 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 sewers 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 Illinois.

**"CLARIFICATION OF WORD USAGE".** "Shall" is mandatory; "may" is permissible.



### **"SEWER 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 feet (5') (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 wastewater, 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 sewers 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 a pipe or conduit for conveying sewage or any other waste liquids, including storms, surface and groundwater drainage.

(H) **"Sewerage"** shall mean the system of sewers and appurtenances for the collection, transportation and pumping of sewage.

(I) **"Storm Sewer"** shall mean a sewer that carries storm, surface and groundwater drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

(J) **"Stormwater Runoff"** shall mean that portion of the precipitation that is drained into the sewers.

### **"TREATMENT":**

(A) **"Pretreatment"** shall mean the treatment of wastewater from sources before introduction into the wastewater treatment works.

(B) **"Wastewater Treatment Works"** shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater 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) **"Sewerage Fund"** is the principal accounting designation for all revenues received in the operation of the sewerage 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) **"Wastewater Service Charge"** shall be the charge per quarter or month levied on all users of the Wastewater 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 wastewater by treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable fat if it is properly pretreated and the wastewater 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 an industrial user 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 wastewater 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 wastewater 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 0.21 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 sewers, with no particle greater than **one half inch (1/2") (1.27 centimeters)** in any dimension.

(L) **"Sewage"** is used interchangeably with "wastewater".

(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 sewers and wastewater treatment facilities provided.

(P) **"Wastewater"** shall mean the spent water of a community. From this standpoint of course, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

(Q) **"Water Quality Standards"** are defined in the Water Pollution Regulations of Illinois.

**38-5-2 - 38-5-4 RESERVED.**

## DIVISION II

### USE OF PUBLIC SEWERS REQUIRED

**38-5-5**     **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.

**38-5-6**     **POLLUTING WATERS.** 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 Code.

**38-5-7**     **PRIVATE DISPOSAL FACILITIES.** 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.

**38-5-8**     **DISCONTINUANCE OF PRIVATE DISPOSAL SYSTEM.** 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 **sixty (60) days** after date of official notice to do so, provided that said public sewer is within **one hundred feet (100') (30.48 meters)** of the property line.

**38-5-9**     **RESERVED.**

## DIVISION III

### PRIVATE SEWAGE DISPOSAL

**38-5-10**     **PRIVATE SYSTEM REGULATIONS.** Where a public sanitary sewer is not available under the provisions of **Section 38-5-8**, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this division.

**38-5-11**     **PRIVATE SEWER SYSTEM PERMIT.** Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the Village, which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the Village. A permit and inspection fee of **Twenty-Five Dollars (\$25.00)** shall be paid to the Village at the time the application is filed.

**38-5-12**     **INSPECTION.** 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.

**38-5-13**     **REQUIREMENTS FOR SYSTEM.** 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 **twenty-one thousand six hundred (21,600) square feet or one thousand nine hundred forty-four (1,944) square meters.** No septic tank or cesspool shall be permitted to discharge to any natural outlet without supplemental treatment.

**38-5-14**     **MAINTENANCE 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.

**38-5-15**     **ADDITIONAL REQUIREMENTS.** No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Village or the County Health Department.

**38-5-16**     **AVAILABILITY OF PUBLIC CONNECTION.** At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in **Section 38-5-16**, a direct connection shall be made to the public sewer in compliance with this Code, the building sewer shall be connected to the public sewer within **sixty (60) days** and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

**38-5-17**     **RESERVED.**

#### **DIVISION IV**

#### **BUILDING SEWERS AND CONNECTIONS**

**38-5-18**     **PERMIT REQUIRED.** 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 Village.

**38-5-19**     **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.

**38-5-20**     **APPLICATION FOR PERMIT.**

(A)           There shall be a single class of building sewer permits, and the cost thereof shall be **Five Hundred Dollars (\$500.00)** per building sewer regardless of the type of structure. **(Ord. No. 10-03; 02-17-10)**

(B)           In all cases, the owner or his agent shall make applications on a special form furnished by the Village.

(C) The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent. Any industry, as a condition of permit authorization, shall provide information describing its wastewater constituents, characteristics and type of activity.

(D) The fee for a sewer connection shall be **One Hundred Dollars (\$100.00)** plus a **Twenty Dollar (\$20.00)** inspection fee.

**38-5-21 CAPACITY OF SEWER.** A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewerage facilities, including sewers, pump stations and wastewater treatment facilities, have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

**38-5-22 COST OF INSTALLATION.** All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the Village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**38-5-23 INDEPENDENT BUILDING SEWER REQUIRED.** 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.

**38-5-24 OLD BUILDING SEWERS.** Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Sewer Superintendent, to be of similar material and construction to that required of new sewers.

**38-5-25 SIZE AND ALIGNMENT.** 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. **(See Appendix)**



**38-5-26 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 38-5-20** and discharged to the building sewer.

**38-5-27 DOWNSPOUTS PROHIBITED.** 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.

**38-5-28 BUILDING SEWER; PLUMBING CODE.** 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 Sewer Superintendent before installation.

**38-5-29 NOTIFICATION FOR INSPECTION.** The applicant for the building sewer permit shall notify the Sewer Superintendent when the building sewer is ready for inspection and connection to the public sewer is ready for inspection and connection to the public sewer, and the Village shall make an inspection within **twenty-four (24) hours**. The connection shall be made under the supervision of the Sewer Superintendent or his representative.

**38-5-30 BARRICADES AT EXCAVATIONS.** All excavations for building sewer installation shall be adequately guarded with barricades and lights to 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.

**38-5-31 - 38-5-34 RESERVED.**

## **DIVISION V**

### **USE OF PUBLIC SEWERS**

**38-5-35**     **DISCHARGE OF STORM WATER.** No person shall discharge, or cause to be discharged, any stormwater, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

**38-5-36**     **STORM WATER DISCHARGE.** Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, or natural outlet.

**38-5-37**     **PROHIBITED DISCHARGES TO SEWERS.** No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(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 sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

**38-5-38**     **INDUSTRIAL DISCHARGES.** No industrial user may discharge sewage into any public sewer until the Village has adopted an industrial cost recovery system which:

(A)           Meets the requirements of **Section 204(b)(1)(B)** of the Federal Water Pollution Control Act Amendments of 1972 and applicable federal regulations; and

(B) Has been approved by the agency in accordance with the conditions of any grant made to the Village by the United States Environmental Protection Agency or by the State of Illinois for construction of any part of the sewer system or sewage treatment works of the Village.

**38-5-39**     **SPECIFIC SUBSTANCES PROHIBITED.** 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 sewers, 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 sewers, materials of construction of the sewers, 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 Superintendent in compliance with applicable State or Federal regulations.

(H) Any wastes or waters having a pH in excess of 9.5.

(I) 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.

(J) Any cyanide in excess of **2.0 mg/l** at any time except as permitted by the Superintendent in compliance with applicable State and Federal regulations.

(K) 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.

(L) 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.

**38-5-40 APPROVAL OF PROHIBITED WASTES.**

(A) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in **Section 38-5-39** of this Division, and/or which are in violation of the standards for pretreatment provided in **Chapter 1, "EPA Rules and Regulations", Subchapter D, Water Programs Part 128 - Pretreatment Standards, Federal Register Volume 38, No. 215, Thursday, November 8, 1973** and any amendments thereto, and which in the judgment of the Village 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 38-5-45**.

(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.

**38-5-41 GREASE AND OIL INTERCEPTORS.** Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent they are necessary for 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 Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

**38-5-42 FACILITY MAINTENANCE.** Where preliminary treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

**38-5-43 INDUSTRIAL WASTES CONTROL MANHOLE.** Each industry shall be required to install a control manhole and, when required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessible and safety located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

**38-5-44 LABORATORY ANALYSES.**

(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 wastewater 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 Superintendent at such times and in such a manner as prescribed by the Superintendent. The owner shall bear the expense of all measurements, analyses, and reporting required by the Superintendent. At such times as deemed necessary the Village reserves the right to take measurements and samples for analysis by an outside laboratory service.

**38-5-45     TESTING REQUIREMENTS.** All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of **IEPA Division of Laboratories Manual of Laboratory Methods**, and shall be determined at the control manhole provided, or upon suitable samples taken at the control manhole. In the event that no special manhole has been required the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a **twenty-four (24) hour** composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from **twenty-four (24) hour** composites of all outfalls, whereas pH's are determined from periodic grab samples.)

**38-5-46     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.

**38-5-47 - 38-5-49             RESERVED.**

## **DIVISION VI**

### **PROTECTION OF SEWAGE WORKS FROM DAMAGE**

**38-5-50**     **UNAUTHORIZED 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.

**38-5-51**     **RESERVED.**

## **DIVISION VII**

### **POWERS AND AUTHORITY OF INSPECTORS**

**38-5-52**     **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 sewers or waterway or facilities for waste treatment.

**38-5-53**     **OBSERVATION OF SAFETY RULES.**     While performing the necessary work on private properties referred to in **Section 38-5-52** 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 38-5-43**.

**38-5-54 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.

**38-5-55 RESERVED.**

## **DIVISION VIII - EXTENSION OF MAINS**

**38-5-56 DETERMINATION OF WHO PAYS EXPENSE OF EXTENSION.** The Village Board shall first determine if an extension of a sewer main is economically feasible based on the estimated cost of the extension and the number of existing potential users that will be served by the extension. If the extension is economically feasible, then the Village may install and pay the cost of the extension at the discretion of the Village Board. If the Village elects not to pay the cost of extending the sewer main, then the person or persons desiring sewer service shall install the extension at their own personal expense upon written consent by the Village Board. The Village shall not pay for any extension to an undeveloped area such as a subdivision being developed unless there are sufficient existing residents or businesses to make the extension economically feasible.

**38-5-57 REQUIREMENTS IF EXTENSION IS INSTALLED BY SOMEONE OTHER THAN THE VILLAGE.**

(A) The Village must approve all plans and specifications for any extensions.



(B) Before any extensions are installed, the plans and specifications must be reviewed and approved by the State of Illinois, Environmental Protection Agency.

(C) Ownership, rights-of-way, and title must be conveyed to the Village for all extensions installed by anyone other than the Village. The Village will maintain the mains thereafter.

(D) No extension will be permitted if in the opinion of the Village Board, the System does not have necessary capacity to serve the proposed extension.

**38-5-58 - 38-5-59      RESERVED.**

## **DIVISION IX**

### **INDUSTRIAL COST RECOVERY**

**38-5-60      CHARGE FOR DISCHARGE.** Each industrial user, as defined, whose premises are served by a sewer connection which discharges industrial wastewater or other liquids, either directly or indirectly, into treatment works under jurisdiction of the Village shall be subject to an industrial cost recovery charge for the State share of Illinois Environmental Protection Agency construction grants. such grants obtained by the Village for the financing of the construction of wastewater treatment works shall be allocable to the treatment of the wastewater from such user. Such user's share shall not include an interest component.

**38-5-61      ATTRIBUTABLE COST.** An industrial user's portion of any State grant shall be based on the population equivalents attributable to wastewater of such user tributary to the wastewater treatment works of the Village. The population equivalents shall be determined by the following calculations:

(A)      **Volume Population Equivalent.** The average daily rate of water consumption as determined by the consumption records of the past year divided by **one hundred (100) gallons** per day, or, where water consumption does not reflect the actual quantity of wastewater tributary to the treatment works from such user, then the average daily flow as recorded in the control and measurement structure, required by **Section 38-4-25** of this Code, divided by **one hundred (100) gallons** per day.

(B) **BOD Population Equivalent.** The average daily pounds of **five (5) day** biochemical oxygen demand (BOD) in the wastewater, as determined by the Superintendent in accordance with **Section 38-4-21** of this Code, divided by **seventeen-hundredths (0.17) pounds** of BOD per day.

(C) **SS Population Equivalent.** The average daily pounds of suspended solids in the wastewater as determined by the Superintendent in accordance with **Section 38-4-25** of this Code, divided by **twenty-two hundredths (0.22) pounds** of suspended solids per day.

**38-5-62 COST PER CAPITA.** The dollar cost per capita shall be determined as follows:

(A) Divide the total of grant funds received from the State of Illinois for construction of or expansion of the sewerage system by the Population Equivalent capacity of the sewerage system, as then currently determined by the State of Illinois Environmental Protection Agency; and further, to divide the above total by the number of years of useful life of the construction of or improvements to the sewerage system, being **thirty (30) years.**

(B) The above cost per population equivalent per year shall be further subdivided on the basis of average flow volume discharged, average pounds of BOD discharged, and average pounds of suspended solids as follows:

- (1) Determine the cost attributable to the discharge of flow volumes by multiplying the total cost per population equivalent per year by 0.70.
- (2) Determine the cost attributable to the discharge of BOD quantities by multiplying the total cost per population equivalent per year by 0.15.
- (3) Determine the cost attributable to the discharge of suspended solids quantities by multiplying the total cost per population equivalent per year by 0.15.

**38-5-63 COST FOR INDUSTRIAL USER.** The cost to be recovered from an industrial user shall be determined as follows:

(A) The summation of the product of the volume population equivalent, as determined by **Section 38-5-61(A)**, and the cost per population equivalent per year attributed to the discharge of flow volumes, as determined by **Section 38-5-62.**

(B) And the product of the BOD population equivalent, as determined by **Section 38-4-21** and the cost per population equivalent per year attributable to the discharge of BOD quantities, as determined by **Section 38-5-62.**

(C) And the product of the SS population equivalent, as determined by **Section 38-4-27** and the cost per population equivalent per year attributable to the discharge of suspended solids quantities, as determined by **Section 38-4-21.**

**38-5-64**     **PAYMENTS.** Each year during the industrial cost recovery period, each industrial user of the treatment works shall pay the cost recovery amount determined by **Section 38-5-63**, for such industry divided by the recovery period. Where an industry is connected to a public sewer after the start-up of the facilities constructed under a State grant, such industry shall only pay its portion of the State grant for each payment period remaining in the recovery period. Such industry will not be required to pay for those periods of the recovery period prior to connection to a public sewer. In the event an industrial user discontinues use of the treatment works, its cost recovery payments shall cease.

**38-5-65**     **BILLABLE PERIOD.** For the purpose of industrial cost recovery, the calendar year shall be divided into monthly periods, said periods to begin on the **first (1st) day** of each month, and all industrial users of the Village shall pay the costs, as determined by **Section 38-5-63**, for industrial cost recovery and such payments shall be made in equal amounts monthly on the **first (1st) day** of the month immediately following the expiration of the monthly period for which service has been supplied, and such charge shall be payable within **ten (10) days** after rendition thereof, and in the event such bills are not paid within said **ten (10) days**, a service charge of **ten percent (10%)** shall be added thereto.

**38-5-66**     **DELINQUENT CHARGES.** In the event the charges for industrial cost recovery are not paid within **twenty (20) days** after the rendition of that bill, then such service charges shall be deemed and are declared to be delinquent, and thereafter such delinquent charge shall constitute a lien upon the real estate for which such sewer services were applied. The Clerk of the Village is authorized and directed each month to file sworn statements showing such delinquencies in the office of the Recorder of Deeds of Sangamon County, Illinois, and the filing of such statements shall be deemed notice of a lien for the payment of such charges for sewer service. If the delinquency in the payment of the recovery cost continues for a period of more than **twenty (20) days**, the sewer service shall be discontinued.

**38-5-67**     **INITIAL PAYMENT.** The initial payment made by any industrial user which is connected to a public sewer after the start-up of the treatment works constructed with a State Grant shall be made by the next scheduled due date as defined in **Section 38-5-65** and shall be equal to **one-twelfth (1/12)** of the amount as defined in **Section 38-5-63**.

**38-5-68**     **CHANGE IN STRENGTH.** If there is a change in the strength and/or volume introduced into the treatment works by an industrial user as determined by the previous year's records, the Village shall adjust the user's portion of any State Grant accordingly. Such change shall be as determined by **Sections 38-5-63** and **38-5-64** of this Code. An industrial user's portion of any State Grant shall include any firm commitment to the Village of increased use by such user.

**38-5-69**     **EXPANSION COSTS.** If there is an expansion or upgrading of the treatment works utilizing a State Grant, each existing industrial user's share shall be adjusted accordingly.

**38-5-70**     **NO CHARGE FOR UNUSED OR UNRESERVED CAPACITY.** An industrial user's portion of any State Grant shall not include any portion of the grant amount allocable to unused or reserved capacity.

**38-5-71**     **COMMITMENT FOR INCREASED USE.** An industrial user's portion of any State Grant shall include allowance for the cost of any firm commitment to the Village for any increased use by such user.

**38-5-72**     **VILLAGE'S PORTION.** The Village shall retain **fifty percent (50%)** of the amounts recovered from industrial users. The remainder, together with any interest earned thereon, shall be returned to the State of Illinois Anti-Pollution Fund on an annual basis.

**38-5-73**     **ALLOCATION OF RETAINED EARNINGS.** A minimum of **eighty percent (80%)** of the retained amounts, together with interest earned thereon, shall be used solely for the eligible costs, as determined by the Illinois Environmental Protection Agency, of the expansion or reconstruction of treatment works associated with the project and necessary to meet the requirements of the Statutes of the State of Illinois and regulations pursuant thereto. The Village shall obtain the written approval of the Illinois Environmental Protection Agency prior to commitment of the retained amounts may be used as the Village sees fit for the operation and maintenance of the treatment works associated with the project.

**38-5-74**     **INVESTMENT OF FUNDS.** Pending use, the Village shall invest the retained amounts for expansion and reconstruction in:

- (A)           Obligations of the U.S. Government or the State of Illinois; or
- (B)           Obligations guaranteed as to principal and interest by the U.S. Government or any agency thereof or the State of Illinois or any agency thereof; or
- (C)           Shall deposit such amounts fully collateralized by obligations of the U.S. Government or the State of Illinois or by obligations fully guaranteed as to principal and interest by the U.S. Government of any agency thereof or the State of Illinois or any agency thereof.

**38-5-75     TREASURER'S DUTY.** The Treasurer shall be responsible for the investment and expenditure of all monies collected for industrial cost recovery in accordance with this Code.

**38-5-76     VILLAGE CLERK'S RECORDS.** The Clerk shall maintain the necessary records for determination of the user's share of the cost and shall provide the billing and collection services as required by **Sections 38-5-65** and **38-5-66** of this Code. The Village shall independently audit the industrial cost recovery system annually and shall maintain all records for the duration of the cost recovery period. The Illinois Environmental Protection Agency or any authorized representative shall have access to any books, documents, papers and records of the Village which are applicable to the industrial cost recovery system of the Village for the purpose of making audit, examination, excerpts and transcriptions thereof.

**38-5-77     SUPERINTENDENT'S MONITORING.** The Superintendent shall maintain a program of monitoring industrial user discharges, as the Superintendent deems necessary, provided that any major contributing industry shall be monitored no less than **twelve (12) times** annually and any industrial user that has a population equivalent, as determined by **Section 38-5-21**, greater than or equal to **fifty (50)** shall be monitored no less than once annually. All the industrial users shall be monitored at such frequency as deemed necessary by the Superintendent. Monitoring shall consist of taking and testing grab samples or **twenty-four (24) hour** composite samples as deemed necessary by the Superintendent for determination of the population equivalent of the industrial user. The monitoring data collected shall be used to determine the population equivalent in accordance with the provisions of this Chapter.

**38-5-78 - 38-5-80     RESERVED.**

## **DIVISION X**

### **PENALTIES**

**38-5-81**     **PRESCRIBED VIOLATION.** Any person found to be violating any provisions of Divisions II through V and Division VII of this Code 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 Code.

**38-5-82**     **CONTINUED VIOLATION.** Any person who shall continue any violation beyond the time limit provided for in **Section 38-5-56**, shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not less than **Fifty Dollars (\$50.00)** nor more than **Five Hundred Dollars (\$500.00)** for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

**38-5-83**     **LIABILITY OF PERSON.** Any person violating any of the provisions of this Code shall become liable to the Village by reasons of such violation.