

TITLE IX: GENERAL REGULATIONS

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CHAPTER 90: PARKS AND RECREATION

Section

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§ 90.01 OPENING AND CLOSING HOURS.

(A) All parks and recreational facilities shall be open from dawn until 30 minutes after sunset every day of each week. No person or property shall remain in the park before opening time or after closing time unless permission has been granted by the Village President and/or Parks Commissioner for extended hours.

(B) The following exceptions to the previously delineated hours shall be permitted. Any areas of the park for which lights are provided shall remain open until 10:00 p.m. provided the lights are turned on. After 10:00 p.m. those areas of the park for which lights are provided shall be closed regardless of whether the lights are turned on or off. On Rockton Village park-on days when the swimming pool is open and operating, the closing time for the park shall be 30 minutes after the closing time for the swimming pool. The pool closing time shall be decided by the Recreation Director or his or her assistant.

(C) Unless there is flooding or another safety reason to close this area, 24-hour access to the boat launch and dock shall be permitted. Persons will be allowed to load and unload their boats/canoes and park their vehicles in the parking area while they are using the river for recreational purposes. Persons using the park 30 minutes after sunset and before dawn are not permitted to remain in the park after loading or unloading their boat/canoe.

(Ord. 1986-11, passed 10-20-86; Am. Ord. 1995-42, passed 9-18-95; Am. Ord. 2004-35, passed 12-21-04) Penalty, see § 10.99

§ 90.02 ENTRY OF DOMESTICATED ANIMALS INTO VILLAGE GREENS PARK RESTRICTED.

(A) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DOMESTIC ANIMALS. Includes dogs, cats, rabbits, pigs, horses, ponies, cows and any breed of rodent which are owned by an individual.

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LEASHED AND UNDER CONTROL. An animal will be deemed to be properly leashed and under the control of a person where the animal is restrained by means of a leash, cord or rope of not more than ten feet in length and of sufficient strength that it cannot be broken by the animal.

PLAYGROUND AREA. Includes all areas of Village Greens Park containing swings, climbing bars, slides or any other equipment designed for play activities by minor children, as well as other areas clearly set off from the rest of the park by timber borders or fencing or containing chip bark, mulch, sand or stone ground cover.

(B) *Control.* It shall be unlawful for any person to bring any domestic animals within Village Green Park unless properly leashed and under control at all times.

(C) *Playground area restricted.* It shall be unlawful for any person to permit any domestic animal to enter into any playground area within Village Greens Park.

(D) *Sign to be erected.* It is directed that the Department of Public Works shall purchase and erect in the center of the playground area a single double-faced sign. The sign erected shall read in word and substance as follows:

PLAY AREA
NO PETS ALLOWED

(E) *Animal defecation prohibited.*

(1) No person being the owner of or having charge of any domestic animal shall permit it to defecate upon any portion of the Village Greens Park.

(2) Any person being the owner of or having charge of any domestic animal shall immediately remove any animal feces deposited on the property in violation of division (E)(1) as above.

(F) *Penalties.* Any person convicted of violating any of the provisions of this section shall be subject to the following fines and penalties:

(1) Except as designated in divisions (B) and (C) of this section, any person convicted of violating any provision of this section shall be fined \$10 for the first violation and not less than \$25 and no more than \$750 for any second or subsequent violations.

(2) Any person convicted of violating division (E)(1) relating to animal defecation where such violation occurred within the designated playground area shall be fined \$25 for the first offense and not less than \$50 and no more than \$750 for any second or subsequent violations.

(3) Any person convicted of violating subsection (E)(2) relating to a failure to immediately remove any animal feces where such violation occurs within the designated playground area shall be fined not less than \$25 and no more than \$100 for the first such violation and not less than \$50 and no more than \$750 for any second or subsequent violation. Additionally, any person convicted of any such second or subsequent violation may also be required to perform not less than 8 and no more than 40 hours of public service work involving, but not limited to, picking up litter or performing maintenance work within Village Greens Park and along the public roads and streets of the village.

(G) *Court appearance.*

(1) As an alternative to any other manner of charging a violation of this section, any village police officer may issue a ticket charging a violation of a provision of this section. The ticket would allow the person charged to satisfy the violation without a court appearance by written plea of guilty and payment of the minimum fine prescribed in division (F) above, along with the applicable cost. Any such payment must be submitted to the Village Clerk along with the written plea of guilty no later than 48 hours before the scheduled court date reflected on the written ticket.

(2) This provision permitting the avoidance of a court appearance by written plea of guilty and the submission of the designated fine shall not be applicable to any violations of division (E) where such violations occur within the confines of the designated playground area. Violations of division (E) occurring within the designated playground area shall necessitate an appearance at the court date reflected on the ticket.

(Ord. 1997-17, passed 11-3-97)

CHAPTER 91: FIRE PREVENTION AND PROTECTION

Section

91.01 Open burning

Cross-reference:

Administrative enforcement, see Ch. 35

Board of Fire and Police Commissioners, see §§ 32.35 et seq.

§ 91.01 OPEN BURNING.

(A) *Definitions.*

AIR POLLUTION. The presence in the atmosphere of one or more contaminants in sufficient quantities and of such characteristics and duration as to be injurious to human, plant, or animal life, to health, or to property, or to unreasonably interfere with the enjoyment of life or property.

GARBAGE. Refuse resulting from the handling, processing, preparation, cooking, and consumption of food or food products.

LANDSCAPE WASTE. Any vegetable or plant refuse, except garbage and agricultural waste. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

OPEN BURNING. The combustion of any matter in such a way that the products of the combustion are emitted to the open air without originating in or passing through equipment for which a permit could be issued pursuant to Illinois statute, as amended from time to time.

REFUSE. Any discarded matter or any matter which is to be reduced in volume, or otherwise changed in chemical or physical properties, in order to facilitate its discard, removal or disposal.

(B) *Prohibitions.*

(1) No person shall cause or allow open burning, except as provided in division (C).

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(2) No person shall cause or allow the burning of any refuse in any chamber or apparatus, unless such chamber or apparatus is designated for the purpose of disposing of the class of refuse being burned.

(C) *Exemptions.* The following open burning activities are permitted within the village unless they cause air pollution:

(1) The open burning of landscape waste during the calendar months of April, October and November, but only if:

(a) Burning shall be allowed every day during the hours of 8:00 a.m. to 8:00 p.m.; and

(b) Burning must be maintained a minimum of 25 feet from the nearest building structure or combustible fencing;

(c) A fire extinguishing source will be immediately available during all fires;

(d) At all times that a flame, glow, or smoke is present, the burning must be monitored and attended by an adult of at least 18 years of age;

(e) No accelerant can be used in connection with any fire;

(f) Burning of only yard waste produced on the property, such as grass and shrubbery cuttings, leaves, and tree limbs. Waste generated elsewhere may not be moved onto another property and disposed of (which includes all methods of disposal such as burning, mulching, and composting);

(g) Open burning permitted by these terms of the exceptions stated in this section shall under no circumstances, occur upon the sidewalk, right-of-way, or the paved or improved portions of any street, or other public roadway; and

(h) If such burning does not create a visibility hazard on roadways, railroad tracts or air fields.

(2) The burning of cooking fuels, charcoal and/or wood for legitimate campfire, recreational, and cooking purposes, or in domestic fireplaces, in areas where such burning is consistent with other laws, provided that no garbage shall be burned in such cases.

(3) The burning of waste gases, provided that in the case of refineries all flares shall be equipped with smokeless tips or comparable devices to reduce pollution.

(4) Small open flames, for heating tar, for welding, acetylene torches, highway safety flares, and the like.

(Ord. 1985-3, passed - -; Am. Ord. 2002-5, passed 5-21-02; Am. Ord. 2003-25(1), passed 9-3-03)

CHAPTER 92: HEALTH AND SANITATION; NUISANCES

Section

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Cross-reference:

Administrative enforcement, see Ch. 35

GENERAL PROVISIONS

§ 92.001 TITLE.

This chapter shall be known as the “Public Health Ordinance of the Village of Rockton, County of Winnebago, State of Illinois.”
(Ord. 1957-4, passed 3-18-57)

§ 92.002 SCOPE AND PURPOSE.

The following by-laws, rules and regulations in this title are deemed necessary for the purpose of promoting and preserving the public health, safety, morals, comfort and general welfare of the people of the village.

(Ord. 1957-4, passed 3-18-57)

SANITATION RULES

§ 92.020 WELLS MUST CONFORM TO STATE STANDARDS.

(A) All wells dug, drilled or driven in the village shall conform to the standards stipulated by the Department of Public Health of the State of Illinois and all other laws and regulations applicable.

(B) It is unlawful to drill or maintain a well within 50 feet from any cesspool, spring, catch basin, vault or stable.

(Ord. 1957-4, passed 3-18-57) Penalty, see § 92.999

§ 92.021 SEWAGE DISPOSAL SYSTEMS MUST CONFORM TO STATE STANDARDS.

All sewerage disposal systems shall be so constructed in the village that they conform to the standards of design and location approved by the Department of Public Health of the State of Illinois and all other applicable laws and regulations.

(Ord. 1957-4, passed 3-18-57)

Cross-reference:

Sewer Service, see Ch. 51

§ 92.022 COMPLIANCE WITH HEALTH REGULATIONS OF VILLAGE.

No building, tent, trailer, edifice or premises used for a home, dwelling or human habitation shall be constructed, erected, set-up, moved or used in the village without first complying with all health regulations of the village and all other applicable laws and regulations.

(Ord. 1957-4, passed 3-18-57)

§ 92.023 THINGS DETRIMENTAL TO HEALTH.

Any building, vehicle, structure, receptacle, yard, lot or premises shall be maintained in a safe and sanitary condition at all times, whether vacant or occupied. Any person, persons, firm, company, corporation or association or their representatives violating any provision of this chapter, upon conviction or a finding of liability, the village may seek an order: requiring the violator to remediate such violation at the violator's sole costs and expense; authorizing the village to remediate the violation with the village being reimbursed by the violator for any and all costs, incurred by the village for such remediation; and/or the imposition of fines of up to \$750 per day for each and every violation with each day a violation exists constituting a separate offense. In addition to any other relief available to the village, the village may apply to a court of competent jurisdiction for any injunction to prohibit the continuation of any violation of this chapter, including, but not limited to, seeking a temporary restraining order, temporary injunction and/or permanent injunction. The village shall also be entitled to recover any and all costs, including attorney fees, it incurs as a part of enforcing any violation of this chapter.

(Ord. 1957-4, passed 3-18-57; Am. Ord. 2014-19, passed 7-22-14)

§ 92.024 GENERAL PROHIBITION OF UNHEALTHFUL BUSINESS.

(A) It shall be unlawful for any substance, matter or thing of any kind whatsoever which shall be dangerous or detrimental to health to be allowed to exist in connection with any business, be used therein or thereon or to be used in any work or labor carried on in the village, and no health menace shall be permitted to exist in connection with any business or in connection with any such work or labor.

(B) Any person, persons, firm, company, corporation or association or their representatives violating any provision of this chapter, upon conviction or a finding of liability, the village may seek an order: requiring the violator to remediate such violation at the violator's sole costs and expense; authorizing the village to remediate the violation with the village being reimbursed by the violator for any and all costs, incurred by the village for such remediation; and/or the imposition of fines of up to \$750 per day for each and every violation with each day a violation exists constituting a separate offense. In addition to any other relief available to the village, the village may apply to a court of competent jurisdiction for any injunction to prohibit the continuation of any violation of this chapter, including, but not limited to, seeking a temporary restraining order, temporary injunction and/or permanent injunction. The village shall also be entitled to recover any and all costs, including attorney fees, it incurs as a part of enforcing any violation of this chapter.

(Ord. 1957-4, passed 3-18-57; Am. Ord. 2014-19, passed 7-22-14) Penalty, see § 92.999

§ 92.025 NOXIOUS MATTER, REUSE, OFFAL AND GARBAGE DUMPING PROHIBITED.

It shall be unlawful for any ashes, rubbish, tin cans and all combustibles to be deposited or dumped upon any lot or land in the village, but must be deposited or dumped in the area set aside for that purpose.

(Ord. 1957-4, passed 3-18-57) Penalty, see § 92.999

§ 92.026 REGULATIONS FOR DWELLINGS FOR HUMAN HABITATION.

(A) It shall be unlawful to maintain any building for human habitation where the floors, walls and ceiling are kept in an unsanitary condition where flies, dogs, cats, vermin, dust and dirt are allowed to accumulate and spread filth in the dwelling.

(B) It is unlawful to maintain and reside in a home or place of dwelling that is not equipped with sufficient windows to provide adequate light and ventilation.

(C) It is unlawful to maintain and reside in a home or dwelling whereby drain water is permitted to run anywhere but within a cesspool or catch basin.

(D) It shall be unlawful for any dwelling to contain or be in use for human purposes, beds or bed clothes that have been used by a known diseased person or beds or bed clothes that show indication of bed bugs or other vermin that are carriers of disease.

(E) It is unlawful to maintain an indoor chemical toilet unless sanctioned by the Board of Trustees.

(F) It is unlawful to have heating devices such as stoves, oil burners and furnaces so constructed and arranged that they are a menace or health hazard to the occupants residing therein.
(Ord. 1957-4, passed 3-18-57) Penalty, see § 92.999

§ 92.027 GARBAGE.

(A) For the purpose of construing and applying this chapter, the word **ASHES** is defined as residue resulting from combustion of any substance; the word **GARBAGE** as all rejected or waste household material.

(B) All property owners residing in the village or all tenants renting and residing within the village who accumulate garbage from the household shall obtain and have in their possession at all times a suitable container.

(C) All garbage is to be wrapped in paper, being free from moisture and placed in this container or incinerator.

(D) It is unlawful to place garbage in the streets, alleys or roadways, except on collection days.
(Ord. 1957-4, passed 3-18-57) Penalty, see § 92.999

Cross-reference:

Solid Waste, see Ch. 50

§ 92.028 NOT ALLOWED TO BECOME OFFENSIVE.

The contents of any receptacle, cesspool, privy, catch basin, vault or water closet shall not be allowed to become offensive or to become dangerous to health.
(Ord. 1957-4, passed 3-18-57)

§ 92.029 DISINFECTION OF MATERIAL.

The contents of any receptacle, cesspool, privy, catch basin, vault or water closet shall be disinfected as often as may be necessary with a suitable chemical.
(Ord. 1957-4, passed 3-18-57)

§ 92.030 LIMIT OF CONTENTS.

It shall be unlawful to permit the contents of any vault, privy or cesspool to accumulate within two feet from the surface.
(Ord. 1957-4, passed 3-18-57) Penalty, see § 92.999

§ 92.031 LOCATION OF PRIVY VAULT.

(A) It shall be unlawful for any person, firm or corporation to maintain any privy vault or suffer same to remain upon the premises abutting upon or adjoining any street, alley, court or public place in which is located a public sewer after one year from the date this section became effective.

(B) It shall constitute and is declared a health menace for any person to erect or maintain any privy as near as 50 feet from a well.
(Ord. 1957-4, passed 3-18-57) Penalty, see § 92.999

§ 92.032 SHALL BE ABATED WHEN OFFENSIVE.

All privies, vaults, cesspools or catch basins, any part of the contents of which are above the surface, within two feet of the surface or that are foul or emit smells or odors prejudicial to Public Health are declared a menace to health, and the village shall have the power to abate them.
(Ord. 1957-4, passed 3-18-57)

§ 92.033 VEHICLES FOR REMOVAL.

The contents of all privies and cesspools are to be removed in an airtight substantial vehicle as often as may be necessary, depending upon the usage of such privy or cesspool.
(Ord. 1957-4, passed 3-18-57)

§ 92.034 NOTICE OF VIOLATION.

In all cases where any firm, person, company or corporation violates or permits any violation of any part of the foregoing subchapter, 24 hours notice shall be given in writing, to such person, firm, company or corporation in charge or control of such building or premises, to cease such violation. In cases of neglect or refusal to do so in accordance with such notice by the violator, upon conviction or a finding of liability, the village may seek an order: requiring the violator to remediate such violation at the violator's sole costs and expense; authorizing the village to remediate the violation with the village being reimbursed by the violator for any and all costs, incurred by the village for such remediation; and/or the imposition of fines of up to \$750 per day for each and every violation with each day a violation exists constituting a separate offense. In addition to any other relief available to the village, the village may apply to a court of competent jurisdiction for any injunction to prohibit the continuation of any violation of this chapter, including, but not limited to, seeking a temporary restraining order, temporary injunction and/or permanent injunction. The village shall also be entitled to recover any and all costs, including attorney fees, it incurs as a part of enforcing any violation of this chapter.
(Ord. 1957-4, passed 3-18-57; Am. Ord. 2014-19, passed 7-22-14)

NUISANCES

§ 92.065 NUISANCE DEFINED.

In addition to those things which are elsewhere by ordinance of the village declared to be and constitute a nuisance, it is declared to be a nuisance for any person within the limits of the village:

(A) To so negligently conduct any business or use any premises as to create such an offensive smell as may taint the air and render it unwholesome or disagreeable to the neighborhood;

(B) To cause or suffer the carcass of any animal or vegetable matters, slop, swill, suds, garbage, filth or noisome substances of any kind to be collected, deposited or to remain in any place in the village to the prejudice of others;

(C) To throw or deposit, or cause to be thrown or deposited, any offensive matter or the carcass of any animal in any watercourse, pond, spring or well or on land within the village;

(D) To deposit any night soil, dead animal or other filthy, offensive or noisome substance upon any lot, street, alley, highway, park or other place;

(E) To corrupt or render unwholesome or impure the water of any drinking hydrant, spring, stream, pond or lake to the injury or prejudice of others;

(F) For any person to keep, or suffer to be kept, in a foul, offensive, nauseous or filthy condition any chicken coop, cow house, stable, cellar, drain, pool, toilet, sewer or sink of any railroad car, building, yard, grounds or premises.

(G) To cause or allow the depositing and/or dumping of landscape waste and refuse on private property.

(Ord. 1957-4, passed 3-18-57; Am. Ord. 2015-22, passed 6-16-15)

§ 92.066 PROCEDURE IN ABATING NUISANCES.

Whenever the existence of any nuisance or cause of any disease set forth in §§ 92.065, 92.084 and/or 92.095 shall come to the knowledge of the village or its agents, the village shall then serve or cause to be served a written or printed notice upon the owner, occupant or agent of the premises or building whereon or wherein such nuisance or cause of disease is located, giving notice thereof and directions for its abatement or removal and requiring the owner or occupant or agent to abate the nuisance or cause of disease. In cases where any owner, occupant or agent refuses or neglects to strictly comply with the requirements or directions in the notice, upon conviction or a finding of liability, the village may seek an order: requiring the violator to remediate such violation at the violator's sole costs and expense; authorizing the village to remediate the violation with the village being reimbursed by the violator for any and all costs, incurred by the village for such remediation; and/or the imposition of fines of up to \$750 per day for each and every violation with each day a violation exists constituting a separate offense. In addition to any other relief available to the village, the village may apply to a court of competent jurisdiction for any injunction to prohibit the continuation of any violation of this chapter, including, but not limited to, seeking a temporary restraining order, temporary injunction and/or permanent injunction. The village shall also be entitled to recover any and all costs, including attorney fees, it incurs as a part of enforcing any violation of this chapter.

(Ord. 1957-4, passed 3-18-57; Am. Ord. 2014-19, passed 7-22-14; Am. Ord. 2014-23, passed 9-2-14)
Penalty, see § 92.999

LITTER

§ 92.080 REFUSE; DEPOSITING.

No person shall deposit or place any refuse or garbage in or upon any street, alley, sidewalk, publicly-owned property or other public place except as provided in this code.
(Ord. 1985-3, passed - -)

§ 92.081 SCATTERING FROM LOADED VEHICLES.

No vehicle shall be loaded with ashes, cinders, coal, mortar, snow or similar material so as to scatter such material along the street, avenue or alley over which the same is being driven. Vehicles shall be so constructed that when loaded with ashes, cinders, coal, mortar or other similar matter they shall not scatter such material along or upon any avenue, street or alley over which the same is being delivered.
(Ord. 1985-3, passed - -)

§ 92.082 GLASS AND SIMILAR INJURIOUS MATERIAL IN STREETS.

(A) No person shall throw or deposit upon any street, alley or other public place any glass bottle, glass, nails, tacks, cans or any other substance likely to injure any person, animal or vehicle upon such street, alley or other public place.

(B) Any person who drops or permits to be dropped or thrown upon any street, alley or other public place any destructive or injurious material shall immediately remove the same or cause it to be removed.

(C) Any person removing a wrecked or damaged vehicle from a street or alley shall remove any glass or other injurious substance dropped upon the street or alley from such vehicle.
(Ord. 1985-3, passed - -)

§ 92.083 TIRES WITH ROUGH, SHARP OR UNEVEN SURFACE.

No tractor, road roller, steam shovel, concrete mixer, excavating machine, traction engine or other vehicle, of which any tire is worn or is not smooth or has sharp or uneven surfaces or has cleats, spikes or projections of any kind attached thereto or have a tire of less than three inches in width that will cause damage to the road or pavement, shall be propelled along, over or across the pavement in any public street, avenue or alley.
(Ord. 1985-3, passed - -)

§ 92.084 NUISANCE.

(A) *Definition.* For the purposes of this section, the term *NUISANCE* is defined to mean any condition of use of premises or of building exteriors which is detrimental to the property of others or which causes or tends to cause substantial diminution in the value of other property in the neighborhood in which such premises are located. This includes, but is not limited to, the keeping or the depositing on or the scattering over the premises of any of the following:

(1) Lumber, junk, trash or debris;

(2) Abandoned, discarded or unused objects or equipment such as furniture, stoves, refrigerators, freezers, cans or containers;

(3) Unsheltered storage of machinery, implements and/or equipment and personal property of any kind which is no longer safely usable for the purposes for which it was manufactured, which hereinafter are collectively described as "said personalty," for a period of 30 days or more (except in licensed junk yards) within the corporate limits of this village.

(B) *Duty of maintenance of private property.* No person owning, leasing, occupying or having charge of any premises shall maintain or keep any nuisance thereon, nor shall any such person keep or maintain such premises in a manner causing substantial diminution in the value of the other property in the neighborhood in which such premises are located.

(C) *Abatement of nuisance by owners.* The owner, owners, tenants, lessees and/or occupants of any lot within the corporate limits of this village upon which such storage is made, and also the owner, owners and/or lessees of the personalty involved in such storage (all of whom are hereinafter referred to collectively as owners) shall jointly and severally abate the nuisance by the prompt removal of said personalty into completely enclosed buildings authorized to be used for such storage purposes, if within the corporate limits of the village, or otherwise to remove it to a location without the corporate limits.

(Ord. 1985-3, passed - -)

WEEDS

§ 92.095 NUISANCE.

Whoever shall suffer or permit any cockleburs, thistles, burdocks or rank or noxious weeds, grass or vegetation to grow or be upon any lot or premise owned or controlled by him or her shall be deemed guilty of maintaining a nuisance.

(Ord. 1988-6, passed 7-5-88)

§ 92.096 DUTY TO CUT.

No owner of real estate shall refuse or neglect to cut weeds, including burdock, ragweed (giant), ragweed (common), thistle, cocklebur, jimson, vervain, common ladsquarter, wild lettuce, curled dock, nettles, smart weeds (all varieties), poison hemlock, English Cahrlick or Wild Mustard, field bind weed, commonly known as "Creeping Jenny," goatsbeard, field dodder, Indian mustard, Oxeye daisy, sow thistle, harmful barberry, bull thistle, poison ivy, leafy spurge, nodding thistle, also known as musk thistle, wild parsnip and wild himp when such weeds shall have reached a height in excess of eight inches.

(Ord. 1988-6, passed 7-5-88)

§ 92.097 LIEN.

If weeds are cut by the village or by someone directed to cut them on its behalf, a notice of lien for the cost and expense thereof incurred shall be recorded in the office of the Recorder of Deeds of Winnebago, County, Illinois within one year after the removal cost and/or expense is incurred. The amount of the lien shall be the removal cost and/or expense incurred.

(Ord. 1988-6, passed 7-5-88; Am. Ord. 2012-5, passed 3-6-12)

§ 92.098 CONTENTS.

The notice of lien shall consist of a sworn statement setting out:

(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; and

(C) The dates or dates when the cost and expense was incurred.

(Ord. 1988-6, passed 7-5-88)

§ 92.099 RELEASE OF LIEN.

Upon payment of the cost and expense, the lien shall be released by the village or person in whose name the lien has been filed and the release shall be filed and recorded in the same manner as filing notice of the lien.

(Ord. 1988-6, passed 7-5-88)

§ 92.100 GRASS.

No owner of real estate shall refuse or neglect to cut grass when such grass shall have reached a height in excess of eight inches, except as provided in §§ 92.115 *et seq.* If any owner permits grass in excess of eight inches in height to remain standing upon his or her property, the village may cut the grass or authorize someone to cut the grass on its behalf, and in such event the provisions of §§ 92.101 and 92.999 shall be applied to this section.

(Ord. 1988-6, passed 7-5-88)

§ 92.101 MANDATORY INJUNCTION.

In addition to all other penalties and remedies provided for in this chapter, the village shall have the right to seek and obtain a mandatory injunction against the owner of any such real estate who is in violation of any of the provisions of this subchapter enjoining and ordering him or her to cut grass and weeds in compliance with the provisions of this subchapter.

(Ord. 1988-6, passed 7-5-88)

§ 92.102 STATUTORY INCORPORATION.

All applicable and pertinent provisions of Illinois Municipal Code, 65 ILCS 5/11-20-7 are incorporated herein by reference.

(Ord. 1988-6, passed 7-5-88)

NATURAL LAWNS

§ 92.115 APPLICATION FOR NATURAL LAWN.

(A) *Application.* Any owner of land in the village may apply for approval of a natural lawn plan where the grasses may exceed eight inches in height with the Village Board.

(B) *Application requirements.* Each application for a natural lawn plan shall be on a form provided by the Village Clerk. A copy of the application for a natural lawn, together with an adjoining owner's reply to a natural lawn application, shall be personally delivered or mailed by certified mail to all adjoining owners at least 15 days prior to the regular monthly board meeting that will act upon the application.

(C) *Hearing on application.* The Village Clerk, upon receipt of a properly completed application for a natural lawn, will schedule a hearing at a regular monthly board meeting of the Village Board of Trustees. The hearing must be at least 15 days after receipt of the application by the Village Clerk. The Village Clerk will mail out notices of the hearing date to the applicant, any adjoining owners who have requested notice of the hearing and any additional property owners who are owners of real estate situated in whole or in part within 200 feet of the boundaries of the property listed in the application. The Clerk will also mail notices of the hearing to the Winnebago County Health Department and the Chief of the Rockton Fire Department. On the hearing date, the Village Board of Trustees will conduct a hearing on the application. All parties desiring to be heard on the matter must be given at least five minutes of presentation time. At the conclusion of the hearing, the Board will vote to grant or deny the application. The vote will be by majority of those Board members present.

(D) *Term of application.* Any application granted hereunder by the Village Board for a natural lawn will be valid only for a period of one calendar year and must be renewed annually.
(Ord. 1988-6, passed 7-5-88)

§ 92.116 NATURAL LAWN PLAN; DEFINITION.

(A) *NATURAL LAWN PLAN* means a written plan relating to management of the lawn which contains a drawing of the plot upon which the grass will exceed eight inches in length, a statement of intent and purpose for the lawn, a general description of the vegetational types, plants and plan succession involved and the specific management and maintenance techniques to be employed. The natural lawn plan must include provisions for cutting, at a length not greater than eight inches, the terrace area, that portion between the sidewalk and the street or a strip not less than four feet adjacent to the street where there is no sidewalk and at least a five foot strip to neighboring property lines unless waived by the abutting property owner on the side so affected.

(B) In order to maintain a natural lawn plan, an application or renewal application showing all requirements are met must be submitted prior to June of each year to the Village Board. Upon receipt of any application, a representative of the Village Board will inspect the property prior to the Village Board meeting, which will pass upon the plan.
(Ord. 1988-6, passed 7-5-88)

§ 92.117 BURNING.

If an owner of a natural lawn plans to burn for regeneration purposes, notice must be given to the Rockton Fire Chief no later than 24 hours in advance of the burning date, and the Fire Chief has the authority to cancel the burning if weather conditions are not suitable.
(Ord. 1988-6, passed 7-5-88)

§ 92.118 REVOCATION OF NATURAL LAWN PLAN.

The natural lawn plan may be revoked by the Village Board for failure to comply with the requirements. Upon request of any party, the Village Clerk will send a written notice by certified mail to the owner of the natural lawn setting forth the fact that a request for a hearing on revocation of a natural lawn has been made, and the notice will contain the date the matter is to be heard in an open meeting by the Village Board. The hearing date shall not be sooner than 15 days from the date the Clerk sends the notice by certified mail. The Village Board will conduct a hearing and at the conclusion of the hearing the Board will vote to grant or deny the request. The vote will be by majority of those Board members present.

(Ord. 1988-6, passed 7-5-88)

§ 92.119 ENFORCEMENT.

The Zoning Administrator shall be responsible for enforcing this subchapter and shall first give notice to the Clerk of the village of any property owner who is in violation. The Village Clerk would give written notice to the property owner by mailing a letter giving a date certain but not less than ten days to come into compliance. At the end of the time given the Zoning Administrator would then reinspect it. If the property owners were not in compliance then a citation for noncompliance would be issued and the village could take any further action authorized by this subchapter.

(Ord. 1988-6, passed 7-5-88)

LAWN SPRAYING

§ 92.130 SIGNS REQUIRED.

(A) Any yard, golf course, playground, athletic facilities, school grounds, parks and other similar facilities upon which a pesticide has been applied shall be posted with at least four signs at the time of application by the chemical application for 72 hours.

(B) The sign shall be a four-inch by five-inch waterproof sign, with a white background with dark lettering stating "Lawn Chemicals Applied."

(Ord. 1988-6, passed 7-5-88)

§ 92.131 LIST OF PESTICIDES APPLIED.

In addition to the sign the chemical application shall provide the customer with a list of those pesticides applied, including both the common and trade names and any health, safety or environmental statements contained on the label.

(Ord. 1988-6, passed 7-5-88)

§ 92.132 LIMITATIONS ON CHEMICAL APPLICATION.

No chemical application shall apply any chemicals to any property in any manner that will result in drift of the chemicals to property other than to the property being treated.

(Ord. 1988-6, passed 7-5-88)

§ 92.999 PENALTY.

(A) Any person who shall violate a provision of this chapter for which no specific penalty is provided shall be punished as set forth in § 10.99 of this code of ordinances.

(B) Any owner who fails to comply with the requirements of § 92.096 shall be subject to a fine of not less than \$25 for the first offense and not less than \$50 for each subsequent offense. At the same time, if any owner permits weeds in excess of eight inches in height to remain in standing upon his or her property, the village may cut the weeds or authorize someone to cut the weeds on its behalf.

(Ord. 1988-6, passed 7-5-88)

(C) Any person or company who fails to comply with the requirements of §§ 92.115 *et seq.* and §§ 92.130 *et seq.* shall be subject to a fine of not less than \$50 for the first offense and for each subsequent offense.

(Ord. 1988-6, passed 7-5-88)

(D) Upon conviction or a finding of liability for violation of any provision of this chapter, the village may seek an order: requiring the violator to remediate such violation at the violator's sole costs and expense; authorizing the village to remediate the violation with the village being reimbursed by the violator for any and all costs, incurred by the village for such remediation; and/or the imposition of fines of up to \$750 per day for each and every violation with each day a violation exists constituting a separate offense. In addition to any other relief available to the village, the village may apply to a court of competent jurisdiction for any injunction to prohibit the continuation of any violation of this chapter, including, but not limited to, seeking a temporary restraining order, temporary injunction and/or permanent injunction. The village shall also be entitled to recover any and all costs, including attorney fees, it incurs as a part of enforcing any violation of this chapter.

(Ord. 2014-19, passed 7-22-14)

CHAPTER 93: ABANDONED VEHICLES

Section

- 93.01 Definitions
- 93.02 Exceptions
- 93.03 Abandonment prohibited
- 93.04 Certain vehicles prohibited on streets and highways
- 93.05 Inoperable vehicles
- 93.06 Towing away
- 93.07 Impoundment; disposal
- 93.08 Immunity from damages
- 93.09 Reimbursement of towing costs
- 70.99 Penalty

Cross-reference:

Administrative enforcement, see Ch. 35

Administrative fees and procedures for impounding vehicles for specified violations, see § 70.110

§ 93.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ABANDONED VEHICLE. Any vehicle which is left at any place for such a time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

INOPERABLE MOTOR VEHICLE. Any motor vehicle from which the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power; provided, however, that the term inoperable motor vehicle shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own power in order to perform ordinary service or repair operations nor to any motor vehicle that is kept within a building when not in use, to historic vehicles over 25 years of age or to motor vehicles on the premises of a place of business engaged in wrecking or junking of motor vehicles.

PROPERTY. Any real property within the village which is not a street or highway.
(Ord. 1985-3, passed - -)

§ 93.02 EXCEPTIONS.

The provisions of this chapter shall not apply to any of the following:

(A) A vehicle in an enclosed building;

(B) A vehicle on the premises of a business enterprise operated in a lawful place and manner, when necessary to the operation of such business enterprise;

(C) A vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the village.

(Ord. 1985-3, passed - -)

§ 93.03 ABANDONMENT PROHIBITED.

No person shall abandon any vehicle within the village nor leave any vehicle at any place within the village for such time and under such circumstances as to cause such vehicle reasonably to appear to have been abandoned.

(Ord. 1985-3, passed - -)

§ 93.04 CERTAIN VEHICLES PROHIBITED ON STREETS AND HIGHWAYS.

No person shall leave any partially dismantled, nonoperating, wrecked or junked vehicle on any street or highway in the village.

(Ord. 1985-3, passed - -)

§ 93.05 INOPERABLE VEHICLES.

(A) *On private property.* No person in charge or control of any property within the village, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, nonoperating, wrecked, junked or discarded vehicle to remain on such property longer than seven days; and no person shall leave any such vehicle on any property within the village for a longer time than seven days.

(B) *Prohibited on streets and highways.* No person shall leave any partially dismantled, nonoperating, wrecked or junked vehicle on any street or highway within the village.

(C) *Disposal of inoperable motor vehicles.* All persons are required to dispose of any inoperable motor vehicles under their control upon written notice received from the President or from the Chief of

Police or any member of his or her Department by him or her commanding such disposition of the inoperable motor vehicle.

(Ord. 1985-3, passed - -)

§ 93.06 TOWING AWAY.

(A) Whenever any police officer finds a vehicle in violation of any of the provisions of this chapter, such officer is authorized to move such vehicle or require the driver or other person in charge of the vehicle to move the same to a position off the roadway.

(B) Any police officer is authorized to remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any highway, bridge, causeway or in a tunnel in such a position or under such circumstances as to obstruct the normal movement of traffic. Whenever the Department finds an abandoned or disabled vehicle standing upon the paved or main-traveled part of a highway, which vehicle is or may be expected to interrupt the free flow of traffic on the highway or interfere with the maintenance of the highway, the Department is authorized to move the vehicle to a position off the paved or improved or main-traveled part of the highway.

(C) Any police officer is authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:

(1) Report has been made that such vehicle has been stolen or taken without the consent of its owner; or

(2) The person or persons in charge of such vehicle are unable to provide for its custody or removal; or

(3) When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before a proper magistrate without unnecessary delay.

(D) When a vehicle removed from either public or private property is authorized by order of the Chief of the Police Department of the village, the owner of the vehicle will be responsible for all towing costs.

(Ord. 1985-3, passed - -)

§ 93.07 IMPOUNDMENT; DISPOSAL.

Any vehicle which reasonably appears to be abandoned, lost, stolen or unclaimed or which is inoperable shall be impounded until lawfully claimed or disposed of in accordance with state law.

(Ord. 1985-3, passed - -)

§ 93.08 IMMUNITY FROM DAMAGES.

Any police officer, towing service owner, operator or employee shall not be held to answer or be liable for damages in any action brought by the registered owner, former registered owner or his or her legal representative or any other person legally entitled to the possession of a motor vehicle or other vehicle when the vehicle was processed and sold or disposed of as provided by this chapter.
(Ord. 1985-3, passed - -)

§ 93.09 REIMBURSEMENT OF TOWING COSTS.

(A) The village is entitled to reimbursement for all reasonable expenses for towing, storage and custodial fees incurred by the village or its Police Department for seized, forfeited, abandoned, lost or stolen vehicles, of which possession is transferred to the Police Department.

(B) The village shall make reasonable inquiry and efforts to identify and notify the owner or the person entitled to possession (such as, lienholder) of the vehicle, and shall return the vehicles after the owner, lienholder or other such person provides reasonable and satisfactory proof of their ownership or right to possession.

(C) All reasonable expense incurred by the village or its Police Department shall be reimbursed by the lienholder or owner before possession of any vehicle may be recovered.
(Ord. 2002-12, passed 8-20-02)

CHAPTER 94: ANIMALS

Section

- 94.01 Definitions
- 94.02 Control
- 94.03 Harboring of animals
- 94.04 Impoundment; redemption fees
- 94.05 Adoption; destruction
- 94.06 Animal waste
- 94.07 Number of animals per household
- 94.08 Excessive noise
- 94.09 Cruelty

- 94.99 Penalty

§ 94.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DOMESTIC ANIMALS. Includes dogs, cats, ferrets, rabbits, pigs, ponies, any breed of rodent, any breed of fowl and any breed of reptile which are owned by an individual.

HARBOR. To give shelter, food or care to any animal other than the owner's.

OWNER. Any person having a right of property in any domestic animal or who harbors, feeds, cares for, acts as a custodian for or knowingly permits any animal to remain on or about any premises occupied by him or her.

RUNNING AT LARGE. An animal will be deemed to be running at large when it is located anywhere within the village other than on the premises of its owner and not under control as defined in this section.

UNDER CONTROL. An animal will be deemed to be properly under control where the animal is confined within a home, building, cage or fenced yard where the fence is of sufficient height and

construction to prevent exit by the animal. An animal shall also be deemed properly ***UNDER CONTROL*** when restrained by means of a leash, cord or rope of not more than ten feet in length and of sufficient strength that it cannot be broken by the animal.

(Ord. 1998-2, passed 2-2-98)

§ 94.02 CONTROL.

It shall be unlawful for any person to permit any domestic animal owned or kept by him or her to go upon any public street, alley, sidewalk, public place or way or upon the private premises of any other person unless the animal is properly under control.

(Ord. 1998-2, passed 2-2-98) Penalty, see § 94.99

§ 94.03 HARBORING OF ANIMALS.

It shall be unlawful for any person to harbor or otherwise provide food or care to any domestic animal within the village no matter where it is located unless such action is done at the request of or with the consent of the owner of the domestic animal or animals in question.

(Ord. 1998-2, passed 2-2-98) Penalty, see § 94.99

§ 94.04 IMPOUNDMENT; REDEMPTION FEES.

(A) Any animal found within the village in violation of the this chapter shall be impounded by any police officer or such person as may be designated by the Village Board. Any animal so impounded shall be transported and placed with the Village Pound, if and when one is built, any licensed veterinarian within or without the village with whom the village may at such time have entered into a contractual arrangement for the housing of impounded animals or such other facility, including the Winnebago County Animal Control Department, as designated from time to time by the Village Board.

(B) After impoundment, if the owner of the animal is known or their identity is discoverable through reasonable investigation, every reasonable attempt shall be made to notify the owner of the impoundment. Notice may be by telephone, mail or in person. If notice is given by telephone rather than in person, notice by mail shall also be sent to the last known address of the owner of the impounded animal. Failure to actually notify the owner of the impoundment of their animal shall not serve as a defense to any violation of this chapter, nor shall it serve to extend the specified redemption period.

(C) The Office of the Village Clerk shall maintain timely information regarding the location where impounded animals shall be housed.

(D) No animal so impounded shall be released unless and until the owner shall pay to the village the sum of \$20 as an impoundment fee as well as any housing fees to the facility in which the animal is housed.

(E) No animal so impounded shall be released by any facility where housed, including the Winnebago County Animal Control Department shelter, unless presented with a receipt from the Village Clerk as proof of payment by the owner of the designated impoundment fee.
(Ord. 1998-2, passed 2-2-98)

§ 94.05 ADOPTION; DESTRUCTION.

(A) Any animal impounded pursuant to this chapter may be redeemed as above by its owner within seven days from the date of impoundment.

(B) Any animal not redeemed within the seven-day time period may be put up for adoption or disposed of in accordance with the laws of the State of Illinois.

(C) It shall be lawful for the Chief of Police or any other village police officer to kill any animal found running at large within the limits of the village if, in their opinion, the animal poses an immediate threat to the safety of the officer or other person and it cannot be safely captured for impoundment or otherwise safely detained until County Animal Control can be called to impound the animal.
(Ord. 1998-2, passed 2-2-98)

§ 94.06 ANIMAL WASTE.

(A) No person, being the owner of or having charge of any animal, shall permit it to defecate anywhere within the village limits except upon the owner's premises.

(B) It shall be a defense to a violation of division (A) of this section that the person, who is the owner of or in charge of any animal, did immediately remove any animal feces so deposited.

(C) Every owner shall be responsible for the cleanup of waste caused by any animal in his or her care and control and shall not permit waste to accumulate upon their property so as to become a health hazard or otherwise to become a public nuisance.
(Ord. 1998-2, passed 2-2-98)

§ 94.07 NUMBER OF ANIMALS PER HOUSEHOLD.

(A) No person within the village unless otherwise licensed by the State of Illinois for such purposes, shall own, harbor or otherwise, keep and care for more than five domestic animals within one residence.

(B) This limitation shall not apply to domestic mice, rats, other rodents or other small animals that are kept in cages within the owner's residence at all times. This limitation shall not apply to domestic mice, rats, other rodents, reptiles or any other small animals or fowl that are kept in a cage or aquarium within the owner's residence at all times.

(C) This provision shall also not be applicable in the event of any animal having a litter, the owner shall make every effort to sell or give away the excess number of animals within 24 weeks of the birth of the litter.

(D) The restrictions of this chapter regarding the number of domestic animals kept in an individual household shall have no application to and shall not be enforceable against the owners or residents of any household in which more than the specified number of domestic animals are housed prior to and on the effective date of this chapter. No owner who possesses more than five domestic animals as of the effective date of this chapter shall be required to dispose of or otherwise reduce the number of domestic animals currently kept in their care. However, upon the death or other disposition of any such domestic animal, the owner shall not be allowed to obtain a replacement to the extent that such an act would again increase the total number of domestic animals within a single household in excess of the limits set out above.

(E) The restrictions of this chapter regarding the number of domestic animals kept in an individual household shall have no application to and shall not be enforceable against any individual who possesses a license from the State of Illinois authorizing them to act as a breeder or authorizing them to operate a shelter for the care and keeping of injured or abandoned animals.
(Ord. 1998-2, passed 2-2-98)

§ 94.08 EXCESSIVE NOISE.

It shall be unlawful for any person to own, keep, possess or harbor any animal which, as a result of frequent barking, howling or by other means, make noise sufficient to cause annoyance or disturbance to persons in the village. This section shall not apply to hospitals or clinics conducted for the treatment of animals which have been licensed by the State of Illinois and approved by the Winnebago County Health Department for such purposes.

(Ord. 1998-2, passed 2-2-98) Penalty, see § 94.99

§ 94.09 CRUELTY.

It shall be unlawful for any person to treat cruelly any animal in any of the ways mentioned in this section:

(A) By overloading, overdriving, overworking, cruelly beating, tormenting, torturing, mutilating or cruelly killing any animal or causing or knowingly allowing the same to be done;

(B) By unnecessarily failing to provide any animal in his or her charge or custody, as owner or otherwise, with proper food, drink or shelter;

(C) By abandoning any animal;

(D) By instigating, causing or assisting in any dog fight, prize fight, cock fight or any public or private fighting of any animals of any kind.

(Ord. 1998-2, passed 2-2-98) Penalty, see § 94.99

§ 94.99 PENALTY.

(A) Any person who knowingly violates the provisions of § 94.04(E) regarding the redemption of or attempt to redeem any impounded animal without payment of the required impoundment fee shall be fined a sum not less than \$80 nor more than \$750 for each such violation.

(B) Any person convicted of any of the provisions of § 94.09 regarding cruelty to animals shall be guilty of a misdemeanor offense, the penalty for which may include imprisonment in the Winnebago County Jail for a period not to exceed six months, performance of public service work and a fine not to exceed \$750. Where the cruelty involves more than one animal, the cruelty or abuse to each animal involved shall be deemed a separate violation of this chapter and the penalties set out herein may be imposed concurrently or consecutively.

(C) Any person found in violation of any other provision of this chapter shall be subject to a fine not to exceed \$750.

(Ord. 1998-2, passed 2-2-98)

CHAPTER 95: STREETS AND SIDEWALKS

Section

- 95.01 Regulating the placement of objects and the like on the village rights-of-way and the like
- 95.02 Encroachments
- 95.03 Snow and ice removal
- 95.04 Street construction
- 95.05 Excavations under village rights-of-way and property
- 95.06 Small wireless facilities

§ 95.01 REGULATING THE PLACEMENT OF OBJECTS AND THE LIKE ON THE VILLAGE RIGHTS-OF-WAY AND THE LIKE.

(A) (1) No person, corporation, group or entity may cause to be placed within or upon property owned by the village, upon the right-of-way of the streets within the village or any easement that the village has for egress and ingress, any objects, obstacles, ornaments, trees, bushes, plants, landscaping materials or conduct any landscaping upon the area without prior written approval of the village. This provision shall not be applicable to the placement of marker flags or reflectors constructed of plastic or similar material selected and approved by the Director of Public Works in writing. The markers may be placed on village rights-of-way and easements to mark the edging of any lawn or grassy areas in specific locations and at specific distances as designated by the Director of Public Works.

(2) The Director of Public Works and employees under his or her supervision, may remove any such markers at such times, locations and in such manner as deemed necessary by the Director of Public Works, in his or her sole discretion, to ensure the safe and proper plowing of snow from village streets.

(3) It shall be unlawful for any person, corporation, group or entity to damage, destroy, remove or move any reflective markers placed upon village rights-of-way or easements without the consent of the Director of Public Works. Any person damaging, destroying, removing or moving any such markers shall be subject to payment of an amount equal to the replacement cost of any markers damaged, destroyed, removed or moved as well as reimbursement for the cost of any property damage proximately caused by any such acts.

(B) Any existing trees or bushes in the right-of-way that are not a serious threat to pedestrians or vehicles shall not be required to be removed, but shall not be replaced.

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(C) Any object in the right-of-way that the village believes poses a threat to a pedestrian or vehicle, the village shall cause to be removed by first requesting the property owner to remove same and, if not removed, the village shall remove same and shall bill the individual or property owner the cost of the removal.

(D) Any object in the right-of-way that the village believes poses a serious threat to pedestrians or vehicles shall be removed by the village. The village shall then notify the individual or property owner that the village has removed the object.

(E) This section shall not prohibit the placement of mailboxes that are placed in compliance with the United States of America postal regulations.

(Ord. 1995-41, passed 10-2-95; Am. Ord. 1998-7, passed 4-6-98; Am. Ord. 2018-22, passed 8-21-18)

§ 95.02 ENCROACHMENTS.

(A) It shall be unlawful for any person, firm or corporation to erect or cause to be erected, to retain or cause to be retained, an encroachment within the limits of the roadway right-of-way.

(B) This section is intended to and shall be in addition to all other ordinances, rules and regulations concerning encroachments and shall not be construed as repealing or rescinding any other ordinance or part of any ordinance unless in direct conflict therewith.

(C) Any person, firm or corporation violating this section shall be fined not less than \$50 nor more than \$1,000 for each offense, and a separate offense shall be deemed committed for each and every day during which a violation continues or exists.

(Ord. 1984-2, passed 1-3-84)

§ 95.03 SNOW AND ICE REMOVAL.

(A) It is declared to be a nuisance to suffer and permit the entrance to business or residential premises within the village to remain covered with ice and congealed snow and in a slippery condition or uneven rendering travel thereon perilous; and whenever such sidewalks or approaches shall become so covered the tenant or occupant of such commercial or residential property shall without delay sprinkle such sidewalks or approaches with ashes or sand and as soon as practicable remove such ice and congealed snow.

(B) No owner, tenant or occupant of any premises located within the village upon which there is a sidewalk shall allow any obstruction, tree, bush or any other plant or part thereof to grow or remain over the sidewalk so as to obstruct pedestrians walking on the sidewalk.

(C) No person in cleaning snow from lots, parking areas, driveways, filling stations, garages or other large areas shall pile or redistribute the snow in any street or sidewalk which in any way tends to narrow or obstruct the traveled portion of such street or sidewalk, block the vision of motorists or intersections, prevent parking at the curb or in any way impede snow removal or create a traffic hazard; provided, however, that nothing contained in this section shall be applicable to the removal of snow from sidewalks.

(D) (1) In the event the village determines, in its sole discretion, that village snow plows/vehicles have actually and physically hit and damaged a mailbox during the course of providing snow removal services, the village may replace the damaged mailbox with a basic metal mailbox and wooden four-by-four post. In no event shall the village be obligated to spend more than \$31 for the replacement mailbox and post. To the extent the owner of the damaged mailbox desires to install a more expensive mailbox, the owner shall notify the village Public Works Director of such intent and the village shall forward the owner a check in the amount of \$31 to be applied toward the costs of the more expensive mailbox.

(2) Notwithstanding the foregoing, payment by the village shall only be applicable to those damaged mailboxes which conformed to any and all applicable federal, state, local and postal regulations. The village shall not be obligated to replace any mailboxes which are damaged as a result of the snow that is thrown or plowed by the plow blade.

(Ord. 1985-3, passed - -; Am. Ord. 2010-01, passed 1-5-10)

§ 95.04 STREET CONSTRUCTION.

(A) All new street construction proposed to be constructed by private and public means shall require the submission of the plans, including the grading, cross-cut and engineering maps, to the City Engineer of the village, prior to construction thereof.

(B) Unless hereafter provided, all streets shall conform to standards established by the Illinois Department of Public Roads and in conformity with the highway motor fuel tax standards. Streets shall hereafter consist of not less than a 24-foot gravel or crushed stone base, with a 20-foot A-3 surface, as said term is defined by the Illinois Department of Highways. The surface shall consist primarily of a primer, two cover coats and a seal coat, in conformity with standard specifications of the Department of Public Highways.

(C) No street or proposed construction shall be accepted for maintenance by the village unless first approved by the Village Engineer and a permit for construction issued thereon.

(D) Subdividers submitting plats providing for the construction of streets at some future time shall provide for the deposit of funds to cover such construction before the plats shall be approved for acceptance or annexation to the village.

(E) (1) Whoever sells or offers for sale lots under proposed plats or plans not providing for the construction of streets meeting the minimum requirements heretofore provided within the village shall be fined in an amount as established from time to time by ordinance of the Village Board of Trustees.

(2) Whenever it shall come to the knowledge of any officer or employee of the village that the provisions of this section have been violated, it shall be his or her duty to notify the village legal officer of the fact, and the legal officer shall be authorized to institute suit for the enjoining of the construction or proposed construction which is contrary to the provisions herein and shall be further authorized to prosecute for the recovery of any fine before any Justice of the Peace of the County of Winnebago.

(Ord. 1962-7, passed 10-1-62)

§ 95.05 EXCAVATIONS UNDER VILLAGE RIGHTS-OF-WAY AND PROPERTY.

(A) *Permit required.*

(1) It shall be unlawful for any person, business, company, entity or utility agency to make any excavation or alteration to, in or across, or to tunnel under, any curb, gutter, street, sidewalk or any other village property, without first having secured a permit pursuant to this section from the Public Works Manager, or his or her authorized designee.

(2) Notwithstanding the foregoing, a utility company may make any excavation or alteration to, in or across, or tunnel under, any curb, gutter, street, sidewalk or any other village property in emergency situations, without first having secured a permit. The utility company shall contact the Village President, the Public Works Manager, and/or the Village Engineer, prior to commencing any emergency work, to obtain authority to proceed with the emergency work without first obtaining a permit. As soon as practically possible thereafter, the utility shall apply for a permit.

(3) The permit holder will repair, cause to be repaired, or reimburse the village for repairs of any and all damages or alterations to any village property or improvements that may arise due to the operations of the permit holder. The repair shall be in accordance with all applicable village regulations, codes and standards, and shall return the damaged or altered village property to a reasonably similar condition as previously existed.

(B) *Permit fee and costs.* For each permit issued, a fee shall be charged and collected, which shall be as determined by the Village Board from time to time. In addition, any and all fees and costs incurred by the village for work performed by its designated agents/consultants relating to the issuance of a permit, and/or the work associated with the permit, shall be charged against the applicant as an additional expense to be paid by the applicant. The fees and costs provided for under this division may be waived for any utility agencies at the discretion of the Village Board.

(C) *Application.*

(1) Applications for this permit must be made in writing to the Public Works Manager, upon the form furnished by the village. The application shall, at a minimum, contain the name and address of the person making the application, on whose behalf the work is to be done, the name and address of the person actually performing the work, the nature of the work desired to be done, and the reason therefor, and the size, type and location of the street surface, sidewalk or other village property/improvement to be injured or altered, a proposed date for commencement of the work to be done, and the anticipated timeframe for completion of the work.

(2) The application shall be signed by the applicant, and the application shall contain a statement that the applicant agrees that if he or she, or his or her agent, representative, contractor, employee or assigns, shall injure, damage or alter, for any purpose whatsoever, any pavement of any street or alley, any sidewalk, curb or gutter, or any part thereof, or dig any hole, trench, ditch or drain, or dig or remove any sod, stone curb, earth, sand or gravel from or below any street, alley, sidewalk, parkway, or other public property, that he or she shall be responsible for repairing any injured, damaged or altered public property, and shall be liable to the village for damages to persons or property in consequence thereof, which the village shall suffer or be adjudged to pay. It shall further contain a statement that the applicant shall pay for all damages to any public property or improvements that may arise due to operations of the applicant, and applicant agrees to pay all damages that may be recovered against the village to any person or property occasioned by or in any manner resulting from the operations of the applicant on public property, and that applicant shall otherwise indemnify, save and hold the village harmless from any and all loss, costs, damage, expense or liability of any kind whatsoever that the village may suffer, or that may be recovered against the village from or on account of the issuance of the permit for excavation, and from or on account of any act or thing done by the applicant, its agents, representatives or subcontractors, and from or on account of any negligence or omission of the applicant in excavating. As a part of the application submittal, applicant shall provide a certificate of liability insurance, showing that applicant has general commercial comprehensive liability insurance in an amount of no less than \$1,000,000 per occurrence, and naming the village as an additional insured.

(D) *Surety for performance.*

(1) Each applicant for a permit required by this section shall provide surety in the form set forth hereinafter to ensure that:

(a) The improvements authorized by the permit will be completed by the permit holder, or his or her subcontractor, within the timeframe specified in the application, but in no event later than one year from the date of issuance of the permit, unless otherwise agreed upon by the village;

(b) The performance of the work for which the permit has been issued will be performed in a proper and workmanlike manner and in accordance with all specifications set for by law, village ordinance or otherwise;

(c) The permit holder will repair, cause to be repaired, or reimburse the village for repairs for any and all damages to any public property or improvement that may arise due to the operations of the permit holder;

(d) The permit holder will repair, cause to be repaired, or reimburse the village for repairs necessitated by defects in material and/or workmanship of the improvements authorized by the permit during the period commencing on the date of completion of the improvement and ending one year thereafter; and

(e) The permit holder will indemnify the village for any loss or damage resulting from the work undertaken or the manner of doing the work.

(2) At the option of the permit applicant, this surety shall be in either of the following forms:

(a) An irrevocable letter of credit in an amount not less than 150% of the cost of the project to be performed pursuant to the permit, issued in favor of the village, and payable upon presentation of a site draft; or

(b) A performance bond, (naming the village as an additional owner) in an amount equal to 150% of the cost of the project contemplated by the permit, with good and sufficient security as may be approved by the Village Board or any other officer designated by the Village Board.

(c) To the extent the applicant is a utility company, the utility company may post a yearly standing irrevocable letter of credit or performance bond to serve as surety for the projects performed by the utility in any given year, as opposed to obtaining a separate surety for each project performed during the year. The standing surety shall be maintained in the minimum amount of \$30,000. To the extent the surety is not drawn down upon for a particular project, the surety shall serve as surety for the next project by the utility company. However, should the costs of any individual project exceed \$30,000, then the utility shall be required to obtain a separate irrevocable letter of credit or performance bond in an amount not less than 150% of the costs of that project.

(d) Any such surety shall be filed with the Village Clerk prior to the issuance of the permit. Any termination of any surety provided for in this chapter prior to the completion of the project, as reasonably determined by the village, without further action of the Village Board or any officer of the village, shall result in immediate revocation of the permit.

(E) *Penalty.* Any person, business, company, entity or utility agency in violation of any provision of this section shall be subject to a fine of up to \$750 per violation, with each day that such violation exists constituting a separate offense.

(Ord. 2014-31, passed 12-2-14)

§ 95.06 SMALL WIRELESS FACILITIES.*(A) Purpose and scope.*

(1) *Purpose.* The purpose of this section is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the village's jurisdiction, or outside the rights-of-way on property zoned by the village exclusively for commercial or industrial use, in a manner that is consistent with the Small Wireless Facilities Deployment Act (the "Act").

(2) *Conflicts with other ordinances.* This section supersedes all ordinances or parts of ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.

(3) *Conflicts with state and federal laws.* In the event that applicable federal or state laws or regulations conflict with the requirements of this section, the wireless provider shall comply with the requirements of this section to the maximum extent possible without violating federal or state laws or regulations.

(B) Definitions. For the purposes of this section, the following terms shall have the following meanings:

ANTENNA. Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

APPLICABLE CODES. Uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes, including the National Electric Safety Code.

APPLICANT. Any person who submits an application and is a wireless provider.

APPLICATION. A request submitted by an applicant to the village for a permit to collocate small wireless facilities, and a request that includes the installation of a new utility pole for such collocation, as well as any applicable fee for the review of such application.

COLLOCATE OR COLLOCATION. To install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

COMMUNICATIONS SERVICE. Cable service, as defined in 47 USC 522(6), as amended; information service, as defined in 47 USC 153(24), as amended; telecommunications service, as defined in 47 USC 153(53), as amended; mobile service, as defined in 47 USC 153(53), as amended; or wireless service other than mobile service.

COMMUNICATIONS SERVICE PROVIDER. A cable operator, as defined in 47 USC 522(5), as amended; a provider of information service, as defined in 47 USC 153(24), as amended; a telecommunications carrier, as defined in 47 USC 153(51), as amended; or a wireless provider.

FCC. The Federal Communications Commission of the United States.

FEE. A one-time charge.

HISTORIC DISTRICT OR HISTORIC LANDMARK. A building, property, or site, or group of buildings, properties, or sites that are either:

(1) Listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or

(2) Designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the village pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

LAW. A federal or state statute, common law, code, rule, regulation, order, or local ordinance or resolution.

MICRO WIRELESS FACILITY. A small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

MUNICIPAL UTILITY POLE. A utility pole owned or operated by the village in public rights-of-way.

PERMIT. A written authorization required by the village to perform an action or initiate, continue, or complete a project.

PERSON. An individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

PUBLIC SAFETY AGENCY. The functional division of the federal government, the state, a unit of local government, or a special purpose district located in whole or in part within this state, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

RATE. A recurring charge.

RIGHT-OF-WAY. The area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. **RIGHT-OF-WAY** does not include village-owned aerial lines.

SMALL WIRELESS FACILITY. A wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

UTILITY POLE. A pole or similar structure that is used in whole or in part by a communications service provider or for electric distribution, lighting, traffic control, or a similar function.

WIRELESS FACILITY. Equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities. Wireless facility does not include: (i) the structure or improvements on, under, or within which the equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

WIRELESS INFRASTRUCTURE PROVIDER. Any person authorized to provide telecommunications service in the state that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the village.

WIRELESS PROVIDER. A wireless infrastructure provider or a wireless services provider.

WIRELESS SERVICES. Any services provided to the general public, including a particular class of customers, and made available on a nondiscriminatory basis using licensed or unlicensed spectrum, whether at a fixed location or mobile, provided using wireless facilities.

WIRELESS SERVICES PROVIDER. A person who provides wireless services.

WIRELESS SUPPORT STRUCTURE. A freestanding structure, such as a monopole; tower, either guyed or self-supporting; billboard; or other existing or proposed structure designed to support or capable of supporting wireless facilities. Wireless support structure does not include a utility pole.

(C) *Regulation of small wireless facilities.*

(1) *Permitted use.* Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in division (D)(9) regarding height exceptions or variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

(2) *Permit required.* An applicant shall obtain one or more permits from the village to collocate a small wireless facility. An application shall be received and processed, and permits issued shall be subject to the following conditions and requirements:

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

1. Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;
2. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility;
3. Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
4. The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
5. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
6. Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge.
7. In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the village, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.

(b) *Application process.* The village shall process applications as follows:

1. The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.

2. An application to collocate a small wireless facility on an existing utility pole or wireless support structure, or replacement of an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and shall be deemed approved if the village fails to approve or deny the application within 90 days after the submission of a completed application.

a. However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the village in writing of its intention to invoke the deemed approved remedy no sooner than 75 days after the submission of a completed application.

b. The permit shall be deemed approved on the latter of the 90th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the village. The receipt of the deemed approved notice shall not preclude the village's denial of the permit request within the time limits as provided under this section.

3. An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the village fails to approve or deny the application within 120 days after the submission of a completed application.

a. However, if an applicant intends to proceed with the permitted activity on a deemed approved basis, the applicant shall notify the village in writing of its intention to invoke the deemed approved remedy no sooner than 105 days after the submission of a completed application.

b. The permit shall be deemed approved on the latter of the 120th day after submission of the complete application or the 10th day after the receipt of the deemed approved notice by the village. The receipt of the deemed approved notice shall not preclude the village's denial of the permit request within the time limits as provided under this section.

4. The village shall deny an application which does not meet the requirements of this section.

a. If the village determines that applicable codes, ordinances or regulations that concern public safety, or the Collocation Requirements and Conditions contained herein require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.

b. The village shall document the basis for a denial, including the specific code provisions or application conditions on which the denial is based, and send the documentation to the applicant on or before the day the village denies an application.

c. The applicant may cure the deficiencies identified by the village and resubmit the revised application once within 30 days after notice of denial is sent to the applicant without paying

an additional application fee. The village shall approve or deny the revised application within 30 days after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within 30 days of denial shall require the applicant to submit a new application with applicable fees, and recommencement of the village's review period.

d. The applicant must notify the village in writing of its intention to proceed with the permitted activity on a deemed approved basis, which may be submitted with the revised application.

e. Any review of a revised application shall be limited to the deficiencies cited in the denial. However, this revised application does not apply if the cure requires the review of a new location, new or different structure to be collocated upon, new antennas, or other wireless equipment associated with the small wireless facility.

5. *Pole Attachment Agreement.* Within 30 days after an approved permit to collocate a small wireless facility on a municipal utility pole, the village and the applicant shall enter into a Master Pole Attachment Agreement, provided by the village for the initial collocation on a municipal utility pole by the application. For subsequent approved permits to collocate on a small wireless facility on a municipal utility pole, the village and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.

(c) *Completeness of Application.*

1. Within 30 days after receiving an application, the village shall determine whether the application is complete and notify the applicant. If an application is incomplete, the village must specifically identify the missing information. An application shall be deemed complete if the village fails to provide notification to the applicant within 30 days after all documents, information and fees specifically enumerated in the village's permit application form are submitted by the applicant to the village.

2. Processing deadlines are tolled from the time the village sends the notice of incompleteness to the time the applicant provides the missing information.

(d) *Tolling.* The time period for applications may be further tolled by:

1. An express written agreement by both the applicant and the village; or
2. A local, state or federal disaster declaration or similar emergency that causes the delay.

(e) *Consolidated Applications.*

1. An applicant seeking to collocate small wireless facilities within the jurisdiction of the village shall be allowed, at the applicant's discretion, to file a consolidated application and receive

a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure.

2. If an application includes multiple small wireless facilities, the village may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not qualify for consolidated treatment or that are denied. The village may issue separate permits for each collocation that is approved in a consolidated application.

(f) *Duration of permits.*

1. The duration of a permit shall be for a period of not less than five years, and the permit shall be renewed for equivalent durations unless the village makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable village codes or any provision, condition or requirement contained in this section.

2. If the Act is repealed as provided in Section 90 therein, renewals of permits shall be subject to the applicable village code provisions or regulations in effect at the time of renewal.

(g) *Means of submitting applications.* Applicants shall submit applications, supporting information and notices to the village by personal delivery at the village's designated place of business, by regular mail postmarked on the date due or by any other commonly used means, including electronic mail.

(D) *Collocation requirements and conditions.*

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

(2) *Installation and maintenance.* The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this section. The wireless provider shall ensure that its employees, agents or contractors that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.

(3) *No interference with public safety communication frequencies.* The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications.

(a) A wireless provider shall install small wireless facilities of the type and frequency that will not cause unacceptable interference with a public safety agency's communications equipment.

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(b) Unacceptable interference will be determined by and measured in accordance with industry standards and the FCC's regulations addressing unacceptable interference to public safety spectrum or any other spectrum licensed by a public safety agency.

(c) If a small wireless facility causes such interference, and the wireless provider has been given written notice of the interference by the public safety agency, the wireless provider, at its own expense, shall remedy the interference in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.

(d) The village may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the Code of Federal Regulations cited in the previous paragraph. Failure to remedy the interference as required herein shall constitute a public nuisance.

(4) The wireless provider shall not collocate small wireless facilities on village utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole.

(a) However, the antenna and support equipment of the small wireless facility may be located in the communications space on the village utility pole and on the top of the pole, if not otherwise unavailable, if the wireless provider complies with applicable codes for work involving the top of the pole.

(b) For purposes of this division, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers.

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

(6) The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a village ordinance, written policy adopted by the village, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.

(7) *Alternate placements.*

(a) Except as provided in this Collocation Requirements and Conditions Section, a wireless provider shall not be required to collocate small wireless facilities on any specific utility pole, or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application for the collocation of a small wireless facility associated with

a new utility pole, the village may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within 100 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

(b) If the applicant refuses a collocation proposed by the village, the applicant shall provide written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this division.

(8) *Height limitations.*

(a) The maximum height of a small wireless facility shall be no more than ten feet above the utility pole or wireless support structure on which the small wireless facility is collocated.

(b) New or replacement utility poles or wireless support structures on which small wireless facilities are collocated may not exceed the higher of:

1. Ten feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the village, that is located within 300 feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the village, provided the village may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or

2. Forty-five feet above ground level.

(9) *Height exceptions or variances.* If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for a variance in conformance with procedures, terms and conditions set forth in §§ 152.390 through 152.400 of the Village Code of Ordinances.

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

(11) *Ground-mounted equipment spacing.* The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way if the requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.

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

(13) *Collocation completion deadline.* Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the village and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the village grants an extension in writing to the applicant.

(E) *Application fees.* Application fees are imposed as follows:

(1) Applicant shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and \$350 for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures.

(2) Applicant shall pay an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.

(3) Notwithstanding any contrary provision of state law or local ordinance, applications pursuant to this section shall be accompanied by the required application fee. Application fees shall be non-refundable.

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

(a) Routine maintenance;

(b) The replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the village at least ten days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with division (C)(2)(a)4. under the section titled Application Requirements; or

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

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

(F) *Exceptions to applicability.* Nothing in this section authorizes a person to collocate small wireless facilities on:

(1) Property owned by a private party or property owned or controlled by the village or another unit of local government that is not located within rights-of-way, or a privately owned utility pole or wireless support structure without the consent of the property owner;

(2) Property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or

(3) Property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code (625 ILCS 5/18c-7201), Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act (220 ILCS 5/16-102), without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this section do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act (220 ILCS 5/16-108.5(i)).

(4) For the purposes of this subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act (220 ILCS 5/3-105). Nothing in this section shall be construed to relieve any person from any requirement:

(a) To obtain a franchise or a state-issued authorization to offer cable service or video service; or

(b) To obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this section.

(G) *Pre-existing agreements.*

(1) Existing agreements between the village and wireless providers that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on village utility poles, that are in effect on June 1, 2018, remain in effect for all small wireless facilities collocated on the village's utility poles pursuant to applications submitted to the city before June 1, 2018, subject to applicable termination provisions contained therein. Agreements entered into after June 1, 2018, shall comply with this section.

(2) A wireless provider that has an existing agreement with the village on the effective date of the Act may accept the rates, fees and terms that the village makes available under this section for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject of an application submitted two or more years after the effective date of the Act by notifying the village that it opts to accept such rates, fees and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the village's utility poles pursuant to applications submitted to the village before the wireless provider provides such notice and exercises its option under this division.

(H) *Annual recurring rate.*

(1) A wireless provider shall pay to the village an annual recurring rate to collocate a small wireless facility on a village utility pole located in a right-of-way that equals (i) \$200 per year or (ii) the actual, direct and reasonable costs related to the wireless provider's use of space on the village utility pole.

(2) If the village has not billed the wireless provider actual and direct costs, the fee shall be \$200 payable on the first day after the first annual anniversary of the issuance of the permit or notice of intent to collocate, and on each annual anniversary date thereafter.

(I) *Abandonment.*

(1) A small wireless facility that is not operated for a continuous period of 12 months shall be considered abandoned. The owner of the facility shall remove the small wireless facility within 90 days after receipt of written notice from the village notifying the wireless provider of the abandonment.

(2) The notice shall be sent by certified or registered mail, return receipt requested, by the village to the owner at the last known address of the wireless provider. If the small wireless facility is not removed within 90 days of such notice, the village may remove or cause the removal of such facility pursuant to the terms of its pole attachment agreement for municipal utility poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

(3) A wireless provider shall provide written notice to the village if it sells or transfers small wireless facilities within the jurisdiction of the village. Such notice shall include the name and contact information of the new wireless provider.

(J) *Dispute resolution.* The Circuit Court of Winnebago County shall have exclusive jurisdiction to resolve all disputes arising under the Small Wireless Facilities Deployment Act. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on municipal utility poles within the right-of-way, the village shall allow the collocating person to collocate on its poles at annual rates of no more than \$200 per year per municipal utility pole, with rates to be determined upon final resolution of the dispute.

(K) *Indemnification.* A wireless provider shall indemnify and hold the village harmless against any and all liability or loss from personal injury or property damage resulting from or arising out of, in whole or in part, the use or occupancy of the village improvements or right-of-way associated with such improvements by the wireless provider or its employees, agents, or contractors arising out of the rights and privileges granted under this section and the Act. A wireless provider has no obligation to indemnify or hold harmless against any liabilities and losses as may be due to or caused by the sole negligence of the village or its employees or agents. A wireless provider shall further waive any claims that they may have against the village with respect to consequential, incidental, or special damages, however caused, based on the theory of liability.

(L) *Insurance.*

(1) The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance:

- (a) Property insurance for its property's replacement cost against all risks;
- (b) Workers' compensation insurance, as required by law; or

(c) Commercial general liability insurance with respect to its activities on the village improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of village improvements or rights-of-way, including coverage for bodily injury and property damage.

(2) The wireless provider shall include the village as an additional insured on the commercial general liability policy and provide certification and documentation of inclusion of the village in a commercial general liability policy prior to the collocation of any wireless facility.

(3) A wireless provider may self-insure all or a portion of the insurance coverage and limit requirement required by the village. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the name of additional insureds under this section. A wireless provider that elects to self-insure shall provide to the village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage limits required by the village. (Ord. 2018-33, passed 11-20-18)

CHAPTER 96: PARABOLIC OR DISH-TYPE SATELLITE TELEVISION ANTENNAS

Section

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- 96.07 Notice
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Cross-reference:

Administrative enforcement, see Ch. 35

§ 96.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

PARABOLIC OR DISH-TYPE SATELLITE TELEVISION ANTENNA. Any concave, circular or dish-shaped apparatus capable of receiving transmission of satellite signals, including communications from local commercial television stations or by way of cable television.

USABLE SATELLITE SIGNAL. Any satellite signal which when viewed on a conventional television set is at least equal in picture quality to that received from local commercial television stations or by way of cable television.

ZONING ADMINISTRATOR. The employee designated to perform duties under this chapter.

ZONING BOARD OF APPEALS. A Board of people appointed to hear and pass upon applications for special use permits and variations from a strict application of terms of this chapter, in the manner and subject to the standards set out in this chapter.
(Ord. 1985-6, passed 8-5-85)

§ 96.02 COMPLIANCE WITH CHAPTER REQUIRED.

No parabolic or dish-type satellite television antenna shall be constructed, erected, altered, maintained or operated on any lot within the village without complying with the terms of this chapter. (Ord. 1985-6, passed 8-5-85) Penalty, see § 10.99

§ 96.03 SATELLITE ANTENNA LOCATION.

(A) In any commercial, industrial, two-family or multiple-residential zone, such antenna may be located anywhere on the lot, except in the front yard or on the front roof of any structure or be placed in any side contiguous to residentially zoned property.

(B) In a noncommercial or single-family residential zone, subject to provisions contained herein, such antenna shall be located only in the rear yard of any lot at least ten feet from the nearest part of the main building on the same lot and at least ten feet from any rear property line. If a usable satellite signal cannot be obtained from such rear yard, the antenna may be located on the side of the property, such structure shall be located at least ten feet from the side property line, but not on the side adjacent to street or arterial setback.

(C) In the event that a usable satellite signal cannot be obtained by locating the antenna on the rear or side of the property, such antenna may be placed on the roof of the dwelling structure, attached or unattached garage, provided that a proper building permit is obtained prior to such installation. The permit shall be issued upon showing by the applicant that a usable satellite signal is not obtainable from any other location on the property, and provided further that the construction and erection otherwise is in compliance with the current building and electrical codes, regulations and requirements.

(D) All satellite antennas must be permanently mounted; they may be installed on a portable or moveable device for a ten-day period for the sole purpose of locating a good usable satellite signal.

(E) No satellite antenna shall be installed in a required parking space, sewer, water or street easement.
(Ord. 1985-6, passed 8-5-85)

§ 96.04 ANTENNA SIZE.

(A) Subject to § 96.03 in a noncommercial or single-family residential zone, such antenna shall not exceed 20 feet in height, including a platform or structure upon which the antenna is mounted or affixed. The antenna may not exceed 15 feet in diameter in a noncommercial or single-residential zone.

(B) All satellite television antennas shall be located and designed with screening to reduce visual impact from surrounding properties at street level and from public streets by either a six-foot high wood or masonry fence or by natural plants or trees at equal minimum height so planted as to provide maximum screening, except those satellite television antennas located in a commercial or industrial zoned area, provided that the satellite television antenna located on such property is not located immediately next to residential zoned property.

(C) Not more than one satellite television antenna shall be allowed in any noncommercial, single-family residential or two-family residential zone on any lot less than ½ acre in size.

(D) All antennas and the construction and installation thereof shall conform to applicable building and electrical codes, regulations and requirements.

(E) Antennas shall meet all manufacturers specifications, be of noncombustible and corrosive-resistant material and be erected in a secure wind-resistant manner.

(F) Every antenna must be adequately grounded for protection against a direct strike of lightning. (Ord. 1985-6, passed 8-5-85)

§ 96.05 APPLICATION.

(A) No person shall construct, erect or operate a parabolic or dish-type television antenna without a permit obtained from the village.

(B) A written application must be completed by any person wishing to construct or erect a parabolic or dish-type television antenna and pay the required fee according to the Building Code.

(C) Alterations of the original planned location, size, height and the like of the parabolic dish-type television antenna shall constitute the application of another written application and again payment of a required fee according to the Building Code.

(D) If, by compliance with this chapter, it becomes impossible to install a satellite dish antenna that is capable of receiving adequate usable signals, the individuals wishing to install a satellite dish antenna may apply to the Zoning Board of Appeals for waiver or special use permit, so that the installation of a satellite dish antenna is possible while still minimizing the impact on the neighborhood and surrounding properties. (Ord. 1985-6, passed 8-5-85)

§ 96.06 CONSTRUCTION TO MEET REQUIREMENTS.

No parabolic or dish-type satellite television antenna shall be made operable in the village until the Zoning Administrator shall certify in writing that both construction plans and final construction meet the requirements of this chapter or waiver, variance or special use permit.

(Ord. 1985-6, passed 8-5-85)

§ 96.07 NOTICE.

No person shall be prosecuted for any violation of this chapter unless such person persists in such violation more than ten days after written notice from the Village Zoning Administrator to stop the violation. No action for injunction shall be brought on behalf of the village under this chapter unless such person persists in a violation more than ten days after such written notice.

(Ord. 1985-6, passed 8-5-85)

§ 96.08 NUISANCE; INJUNCTION.

Any violation of this chapter is declared to be a nuisance. In addition to any other relief provided by this chapter, the Village Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this chapter. The application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

(Ord. 1985-6, passed 8-5-85)