

VILLAGE OF GILBERTS CODE – 2005

(AMENDED AND RESTATED)

A & L Doc. No. 36430_1 (3)

VILLAGE OF GILBERTS CODE
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Table of Revisions
(Post February 23, 2005)

Revision Date	Sections Revised	Summary of Changes

SECTION 1. GENERAL PROVISIONS

1.1. HOW CODE DESIGNATED AND CITED

The ordinances codified herein constitute and be designated the “Village of Gilberts Code” or “Village Code”, and may be so cited. This Village Code may be referred to herein as “this Code”. References in this Code to prior ordinances are for convenience and are not part of this Code.

1.2. RULES OF CONSTRUCTION AND DEFINITIONS

- 1.2.1 In the construction of this Code, the rules and definitions set out in this Section 1 shall be observed, unless such construction would be inconsistent with the manifest intent of the Village Board. The rules of construction and definitions set out herein shall not be applied to any section of this Code which shall contain any express provision excluding such construction, or where the subject matter or context of such section may be repugnant thereto.
- 1.2.2 All general provisions, terms, phrases and expressions contained in this Code shall be liberally constructed in order that the true intent and meaning of the Village Board may be fully carried out.
- 1.2.3 In the interpretation and application of any and all provisions of this Code, each provision shall be held to be the minimum requirements adopted for the promotion of public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing greater restriction or regulation shall be deemed controlling.
- 1.2.4 Corporate Authorities: The term “Corporate Authorities” shall mean the President and the Board of Trustees of the Village.
- 1.2.5 County: The words “the County” or “this County” shall mean the County of Kane in the State of Illinois
- 1.2.6 Gender: A word importing the masculine gender only shall extend and be applied to females and to associations, clubs, societies, bodies, politics, firms, partnerships, limited liability companies, corporations, trusts and other entities as well as to males.
- 1.2.7 May: The word “may” is permissive.
- 1.2.8 Non-technical and technical words: Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law, trades or professions shall be construed and understood according to such meaning.

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- 1.2.9 Number: A word importing the singular number may extend and be applied to several persons and things as well as to one person and thing.
- 1.2.10 Officers and employees generally: Whenever any officer or employee is referred to by title, such as “Village Clerk”, “Village Treasurer”, such reference shall be construed as followed by the Village of Gilberts.
- 1.2.11 Owner: The word “owner”, when applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety, of the whole or of a part of such building or land unless the context dictates a contrary result.
- 1.2.12 Person: The word “person” shall mean and include any association, club, society, firm, partnership, limited liability company, corporation, trust, body of politic and other entity as well as an individual.
- 1.2.13 Personal property: Every species of property except real property, as herein described.
- 1.2.14 Property: The word “property” shall include real and personal property.
- 1.2.15 Real property: Lands, tenements and hereditament.
- 1.2.16 Shall: The word “shall” is mandatory.
- 1.2.17 Structure: A “structure” is anything constructed or erected, the use of which requires location on the ground or which is attached to something having a location on the ground.
- 1.2.18 Tenant or occupant: The words “tenant” or “occupant” applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such buildings or lands, either alone or with others.
- 1.2.19 Tense: Words used in the past or present tense include the future as well as the past and present.
- 1.2.20 Village: The word “village” shall mean the Village of Gilberts.
- 1.2.21 Village Board: The words “Village Board” or the word “Board” shall mean the Village of Gilberts Board of Trustees.
- 1.2.22 Village Code: The words “Village Code” or “this Code” shall mean the Village of Gilberts Code.

1.3. CERTAIN LEGISLATION NOT AFFECTED BY AMENDMENTS TO CODE

Nothing in this Code or in the ordinances adopting, amending or adding to this Code shall affect any of the following:

- 1.3.1 Any offense to act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Code or such ordinance;

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- 1.3.2 Any ordinance, resolution or motion promising or guaranteeing the payment of money by the Village, or authorizing the issuance of bonds of the Village or any evidence of the Village's indebtedness, or any contract or obligation assumed by the Village.
- 1.3.3 Any administrative ordinances, resolutions or motions of the Village Board which, are not in conflict or inconsistent with the provisions of this Code or such ordinance;
- 1.3.4 Any right or franchise granted by the Village;
- 1.3.5 Any ordinance, resolution or motion dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the Village;
- 1.3.6 Any appropriation ordinance, resolution or motion;
- 1.3.7 Any ordinance, resolution or motion levying or imposing taxes;
- 1.3.8 Any ordinance, resolution or motion providing for local or special improvements and making assessments therefore;
- 1.3.9 Any ordinance, resolution or motion dedicating or accepting any plat or subdivision in the Village;
- 1.3.10 Any ordinance, resolution or motion prescribing the number, classification or compensation of any Village officers or employees, not inconsistent herewith;
- 1.3.11 Any ordinance, resolution or motion regulating traffic in specific areas;
- 1.3.12 Any ordinance, resolution or motion creating specific funds;
- 1.3.13 Any ordinance concerning zoning, litigation, intergovernmental agreements, comprehensive plans, adoption of laws by reference, prevailing wages, compensation, appointment and any other ordinance relating thereto.

1.4. CATCH LINES OF SECTIONS

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

1.5. EFFECT OF REPEAL OF ORDINANCE, RESOLUTION, ETC.

When any ordinance, resolution or motion repealing a Code Section, ordinance, resolution, motion, clause or provision shall be itself repealed, such repeal shall not be constructed to revive such former ordinance, resolution, motion, clause or provision unless it shall be therein so expressly provided.

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The repeal of a Code Section, ordinance, resolution or motion shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, or for an offense committed or cause of action arising under the ordinance, resolution or motion repealed.

1.6. SEVERABILITY OF PARTS OF CODE

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

1.7. ADOPTION AND PUBLICATION

This Code compilation, when passed, shall be published in pamphlet form pursuant to law. Every subsequent ordinance, unless provided to the contrary therein, shall be in full force and effect from and after its passage and approval and publication in pamphlet form.

1.8. ADOPTION BY REFERENCE

Where any statute, code, ordinance, rule, regulation or other promulgation is adopted by reference herein or as an ordinance of the Village, subsequent amendments to said adopted statute, code or ordinance shall not affect the Code section or the ordinance adopted by the Village unless such Code section or ordinance is specifically amended by the Village.

1.9. SEPARATE OFFENSES

Unless specifically provided otherwise, or the context of thereof so dictates, each day any violation of any provision of this code or other Village ordinance, resolution or motion shall continue shall constitute a separate offense.

SECTION 2. ADMINISTRATION AND PERSONNEL

2.1. MEETING DATE, TIME & PLACE

- 2.1.1 Meetings of the Village board shall be held in the meeting room provided for that purpose. Meetings of the Village Board shall commence at the hours specified by the board.
- 2.1.2 The regular meeting shall be held on the 1st and 3rd Tuesdays following the first Monday of each month.
- 2.1.3 Unless there is a substantial reason to the contrary, all regular meetings, special meetings, and subcommittee meetings of the Village board will be held in a Village building. The time, date and place of all meetings will be announced pursuant to law.
- 2.1.4 Special meetings may be called by the Village President or any three (3) Trustees upon at least forty eight (48) hours notice to all members and the President. Notice of a special meeting shall include an agenda and otherwise comply with law.
- 2.1.5 Emergency meetings may be called by the Village President or any three (3) Trustees upon less than forty-eight (48) hours notice to all Trustees and the Village President. Notice of such emergency meetings shall be in accordance with state law.

2.2. CONDUCT OF MEETINGS

- 2.2.1 **ORDER OF BUSINESS:** The order of business for meetings of the Village board shall be as follows:
 - Call to order.
 - Pledge of Allegiance.
 - Roll call.
 - Establish quorum.
 - Approval or disposal of the minutes of the previous meeting.
 - Public comment and discussion.
 - Reports from Officers, Boards, Commissions and Consultants:
 - Treasurer
 - Village Clerk
 - Office Manager
 - Police Chief
 - Attorney
 - Zoning Board of Appeals
 - Planning Commission
 - Engineer
 - Village Planner
 - Village President.
 - Bills and Salaries.

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- Old Business.
- Reports of standing committees.
- Reports of special committees.
- Petitions.
- Communication and correspondence.
- Orders.
- Resolutions to be adopted.
- Ordinances to be adopted.
- Ordinances pending.
- Appointments
- New Business.
- Adjournment.

2.2.2 RULES OF ORDER

Robert's Rules of Order shall govern the conduct and procedures of all meetings of the Village Board and all committees, commissions and other boards of the Village not in-consistent with state statutes or this Code.

2.3. VILLAGE PRESIDENT

- 2.3.1 The Village President shall be elected pursuant to state law and shall hold the office for four (4) years and until his successor is elected and qualified, unless otherwise provided by state law.
- 2.3.2 The Village President is the chief executive officer of the Village, with duties and rights and powers prescribed by laws of the State of Illinois, by this Code, or by Robert's Rules of Order (when not in conflict with state law or this Code).
- 2.3.3 **PRESIDENT PRO TEM:** If a temporary absence or disability of the president incapacitates him from the performance of his duties but does not create a vacancy in the office, the Village Board shall elect one (1) of its members to act as the President Pro Tem. The President Pro Tem, during the absence or disability of the President, shall perform the duties and possess all the rights and powers of the President. Nothing in this Section shall deprive the President Pro Tem from voting in his capacity as Trustee, but he shall not be entitled to another vote in his capacity as President Pro Tem.
- 2.3.4 **BOND, OATH, COMPENSATION:** Before entering into the duties of his office, the President shall give a bond with sureties to be approved by the Village Board, conditioned upon his faithful performance of his duties, in the sum of Three Thousand Dollars (\$3,000). He shall take the oath of office as prescribed by state statute, and shall receive such compensation as may be set from time to time by the Board.
- 2.3.5 **ADDITIONAL POWERS:** In addition to the foregoing, the President shall perform all such other duties and have all additional powers that are or

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may be prescribed by the laws of the State of Illinois, or the provisions of this Code.

2.4. BOARD OF TRUSTEES

2.4.1 MEMBERS: The Board of Trustees shall consist of the Village President and six (6) Trustees, each of whom shall be qualified electors and residents of the Village. Each Trustee shall hold office for four (4) years, with three (3) Trustees to be elected every two (2) years, and until their successors are elected and qualified, unless otherwise provided by law.

2.4.2 Commencement of Terms of Office of Village President and Trustees.

2.4.2.1 The terms of office of the newly elected Village President and Trustees shall begin at the first regular or special meeting of the Board of Trustees occurring not less than 22 days following the municipal election at which they were elected.

2.5. STANDING COMMITTEES

2.5.1 The standing committees of the Village Board, each committee consisting of three (3) of the Corporate Authorities unless otherwise provided, shall be as follows:

- Finance, License & Ordinance
- Public Works, Public Property
- Public Safety & Police
- Building, Zoning, Planning & Development
- Parks Committee
- Economic Development Committee

2.5.2 Appointments. The members and the chairperson of all standing committees shall be appointed by the Village President, with the concurrence of the Village Board, each member and chairperson to serve at the pleasure of the Village President.

2.5.3 Quorum. A majority of a committee shall constitute a quorum. In the absence of a quorum, the member or members of that committee present shall have the power to adjourn the meeting to another date or time without the necessity of further notice.

2.5.4 The chairperson of each committee shall appoint the secretary for the committee from the committee membership. The secretary of such committee shall prepare minutes of all committee meetings and file said minutes with the chairperson of the committee and the Village Clerk no later than one week subsequent to the adjournment of each such meeting.

2.5.5 Meetings of all committees shall be subject to call upon forty eight (48) hours notice of the committee chairperson, or of the majority of committee members, except that a meeting may be called upon shorter notice in the

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event of an emergency. Notices of all meetings shall be pursuant to state law and the provisions of this Code.

2.6. VILLAGE CLERK

2.6.1 The Village Clerk, an officer of the Village, will be appointed by the Village President with the advice and consent of the Village Board for a one year term expiring on April 30 of each year. The Village Clerk by State Statute shall be a resident of the Village. The Village Clerk shall perform all duties and have all powers of a Village Clerk provided by state statutes.

The Village Deputy Clerk, an officer of the Village, will be appointed by the Village Clerk pursuant to the authorization of the Village Corporate Authorities for a one year term expiring on April 30th of each year. The Village Deputy Clerk need not be a resident of the Village. The Village Deputy Clerk shall have such duties as set forth in the Personnel Code of the Village unless such duties are expanded or limited by the Village Board of Trustees. In addition, the Village Deputy Clerk shall perform all duties and have all powers of a Village Deputy Clerk as provided by state statutes. ([Ordinance No. 05-14 passed 5/17/05](#))

2.7. VILLAGE TREASURER

The Village Treasurer, an officer of the Village, will be appointed by the Village President with the advice and consent of the Village Board for a one year term expiring on April 30 of each year. The Village Treasurer shall perform all duties and have all powers of a Village Treasurer provided by state statutes.

2.8. VILLAGE ADMINISTRATOR

2.8.1 The Village Administrator if any, shall be appointed by the Village President with the advice and consent of a majority of the Village Board of Trustees.

2.8.2 The Village Administrator shall not be considered an officer of the Village for the purpose of 65 ILCS 5/1-1-1 et seq.

2.8.3 The Village Administrator shall enter into a contractual agreement for compensation, benefits, termination provisions and appointment term. provided however that during the appointment term (term of the contract) the Village Administrator shall be removed only by a majority vote of the Board of Trustees. ([Ordinance No. 05-11 passed 4/5/05](#)).

2.8.4 The Village Administrator shall not accept employment by any other village or any other employer while serving the Village, without the express consent of the Corporate Authorities.

2.8.5 The Village Administrator shall have such duties as are provided by the Personnel Code of the Village unless such duties are expanded or limited by the contractual agreement.

2.9. PRE-AUTHORIZED EXPENDITURES

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- 2.9.1 Village President, Village Administrator and the Department Heads are authorized to make or approve the expenditure of Village funds on behalf of the Village if within the applicable budget, in an amount not to exceed, as set forth below:
- | | | |
|-------|-----------------------|---------|
| 2.9.2 | Village President | \$5,000 |
| 2.9.3 | Village Administrator | \$5,000 |
| 2.9.4 | Department Head | \$1,500 |

Further, the Village President and Village Administrator collectively, are authorized to make or approve the expenditure of Village funds on behalf of the Village, if within the applicable budget in an amount not to exceed \$9,999.00. [[Ordinance No. 05-11 passed April 5, 2005](#)].

2.10. ELECTED AND APPOINTED OFFICER COMPENSATION

From and after April 17, 2001 the elected officials of the Village elected in April 2001, and from and after the commencement of the terms of office of elected officials of the Village elected in April 2003 shall be compensated as follows:

President: \$120.00 for each Board of Trustees Meeting attended.
\$25.00 per Committee Meeting and Board liaison meetings attended.

Trustee: \$60.00 per Board Meeting attended.
\$50.00 Committee Chairperson, per committee meeting attended.
\$40.00 Committee member, per meeting attended.
\$25.00 per meeting as Board Liaison.
\$10.00 per meeting Planning Commission, Zoning Board of Appeals, or Standing Committee, not to exceed 5 per month.

Clerk: The Village Clerk's compensation shall be established from time to time by resolution of the Village Board.

Treasurer: The Village Treasurer's compensation shall be established from time to time by resolution of the Village Board.

2.11. POLICE DEPARTMENT

- 2.11.1 The Village will advance the funds necessary for Village police officer trainees to obtain such police training as is mandated from time to time for municipal police officers by state law and by the Village. Such trainees shall reimburse the Village for all of such training expenses subject to the following monthly discount formula: the total reimbursement amount due from the trainee shall be reduced by 1/24th for each full month the officer continues his employment as a police officer with the Village after completion of his training so that if he continues such employment for two

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years after completing training he will not owe the Village any reimbursement amount. However, if the trainee/officer is dismissed from employment during training, or after completing training, as a result of misrepresenting his qualifications for employment or because of his own misconduct, then the entire reimbursement amount shall be due from the trainee and the monthly discount formula shall not apply to that trainee/officer.

2.11.2 POLICE OFFICER RESIDENCY

- 2.11.2.1 Within 180 days of appointment, any individual sworn as a member of the police department shall thereafter continually reside within thirty miles (30) of the Village limits.
- 2.11.2.2 Prior to appointment, an appointee not residing within thirty miles (30) of the Village limits shall agree in writing that he will so reside within 180 days of appointment.
- 2.11.2.3 In the event that an appointee fails to timely become a resident within such territory and such time as specified in Code Section 2.10.2.1 and Code Section 2.10.2.2 above, or thereafter ceases to reside within such territory, he shall thereupon cease to be a police officer of the Village.

2.12. ADVISORY BOARDS

Unless specifically designated to the contrary, all boards, committees, commissions, officers and employees of the Village are to be advisory in nature to the Corporate Authorities. The recommendations of such groups and persons shall not be binding upon deliberations, decisions or actions of Corporate Authorities.

2.13. INDEMNIFICATION OF OFFICERS, EMPLOYEES AND AGENTS.

- 2.13.1 The Village shall hold harmless and indemnify any person who was or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (other than an action by or in the right of the Village) by reason of the fact that such person is or was a trustee, president, officer, employee or agent of the Village or who is or was serving at the request of the Village as a trustee, president, officer, employee or agent of the Village, against expenses, including but not limited to attorneys fees, costs of litigation and investigation, judgments, fines and amounts paid in settlement actually and reasonably incurred by such person in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in and not opposed to the best interests of the Village and with respect to any criminal action or proceeding, had no reasonable cause to believe his or her conduct was unlawful.

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The termination of any action, suit or proceeding by judgment or settlement, conviction or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he or she reasonably believed to be in or not opposed to the best interests of the Village and with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

2.13.2 The Village shall hold harmless and indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action or suit by or in the right of the Village to procure a judgment in its favor by reason of the fact that such person is or was a trustee, president, officer, employee or agent of the Village against expenses including but not limited to attorneys' fees and costs of litigation and investigation actually and reasonably incurred by such person in connection with the defense or settlement of such action or suit if he or she acted in good faith and in a manner he or she reasonably believed to be in or not opposed to the best interests of the Village and except that no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for willful actions or willful misconduct in the performance of his duty to the Village unless and only to the extent that the court in which such action or suit was brought shall determine upon application that despite the adjudication of liability but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper. In the event the court fails or refuses to make such determination, such person shall be so indemnified as otherwise provided for herein.

2.13.3 Any indemnification under Code Sections 2.12.1 and 2.12.2 shall be made by the Village only as authorized in the specific case upon a determination that indemnification of the trustee, president, officer, employee or agent is proper in the circumstances because he or she has met the applicable standard of conduct set forth in Sections 2.12.1 and 2.12.2. Such determination shall be made (a) by the Corporate Authorities by a majority vote of a quorum consisting of trustees who were not parties to such action, suit or proceeding, or (b) if such a quorum is not obtainable, or, even if obtainable, a quorum of disinterested trustees so direct or by independent legal counsel in a written opinion.

In the event the Village refuses indemnification as herein provided and should the indemnitee prevail in an action against the Village to provide indemnification, he has be entitled to an additional award of fees and costs incurred in such proceeding.

2.13.4 Expenses incurred in defending an indemnitee in a civil or criminal action, suit or proceeding shall be paid by the Village in advance of the final disposition of such action, suit or proceeding upon receipt of a signed

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agreement executed by the indemnitee to return any funds to which the indemnitee is not entitled to.

- 2.13.5 The indemnification provided under this Code Section 2.12 shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any law or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a trustee, president, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person.
- 2.13.6 The Village may purchase and maintain insurance on behalf of any person who is or was a trustee, president, officer, employee or agent of the Village or join a self insurance pool or intergovernmental risk association to protect the Village against any liability asserted against such person and incurred by such person in any such capacity or arising out of his or her status as such, whether or not the Village would have the power to indemnify such person against such liability under the provisions of this Code.

2.14. IML RISK MANAGEMENT

- 2.14.1 The Village shall be a member in the Illinois Municipal League Risk Management Association (“the Association”) unless and until the Village Board decides otherwise. Unless directed otherwise by the Village Board, the Village President and Village Clerk to execute an Intergovernmental Cooperation Contract with the Association for membership for a period of (1) one year beginning the date the Association commences providing risk coverage to its members and each year thereafter.

The Village Shall contribute to the Association a sum of money to be determined by the Association at the time of application based on the needs of the Association and the loss experience of the Village, which sum shall constitute the cost of the Village’s first year contribution for membership in the Association. Membership contributions for second and subsequent years shall be calculated in accordance with the loss experience of the Village, and the needs of the Association including total losses and expenditures of the Self-Insured Retention Fund of the Association.

2.15. STATE OFFICIALS AND EMPLOYEES ETHICS ACT:

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

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- 2.15.2 The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, by any officer or any employee of the Village, is hereby prohibited.
- 2.15.3 The offering or making of gifts prohibited to be offered or made to an officer or employee of the Village under the Act, is hereby prohibited.
- 2.15.4 The participation in political activities prohibited under the Act, by any officer or employee of the Village, is hereby prohibited.
- 2.15.5 For purposes of this Section, the terms “officer” and “employee” shall be defined as set forth in 5 ILCS 430/70-5(c).
- 2.15.6 The penalties for violations of this Section shall be the same as those penalties set forth in 5 ILCS 430/50-5 for similar violations of the Act.
- 2.15.7 This Section does not repeal or otherwise amend or modify any existing ordinances or policies which regulate the conduct of Village officers and employees. To the extent that any such existing ordinances or policies are less restrictive than this Section, however, the provisions of this Section shall prevail in accordance with the provisions of 5 ILCS 430/70-5(a).
- 2.15.8 Any amendment to the Act that becomes effective after the effective date of this Section shall be incorporated into this Section by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the corporate authorities of the Village.
- 2.15.9 If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court’s decision becomes final and not subject to any further appeals or rehearings. This Section shall be deemed repealed without further action by the Corporate Authorities of the Village if the Act is found unconstitutional by the Illinois Supreme Court.
- 2.15.10 If the Illinois Supreme Court declares part of the Act unconstitutional but upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act as adopted by this Section shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the Village.”

2.16. PLAN COMMISSION

2.16.1 Creation and Membership.

The establishment and appointment of a Plan Commission for the Village of Gilberts is hereby confirmed.

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- 2.16.1.1 Said Plan Commission shall consist of nine (9) members who are residents in the Village for at least one year appointed by the Village President, subject to confirmation by the Corporate Authorities. One of said nine (9) members shall be designated by Village President, subject to confirmation by the Corporate Authorities as Chairperson of said Commission and shall hold office as chairperson for a period of one (1) year from June 1st to May 31st except that the initial appointment shall be from date of appointment in the year 2003 until May 31, 2004 or until his or her successor is appointed and confirmed. One of said members shall be designated by the Village President, subject to confirmation by the Corporate Authorities as Vice-Chairperson of said Commission and shall hold office as vice-chairperson for a period of one (1) year from June 1st to May 31st except that the initial appointment in the year 2003 shall be from date of appointment until May 31, 2004 or until his or her successor is appointed and confirmed.
- 2.16.1.2 The Terms of office of the nine (9) members of the Plan Commission shall be as follows:

Plan Commission Terms	
"Term A1", "Term A2", & "Term A3"	Three (3) year terms which initially began on June 1, 2001 and expire on May 31, 2004
"Term B1", "Term B2", & "Term B3"	Three (3) year terms which initially began on June 1, 2002 and expire on May 31, 2005
"Term C1", "Term C2", & "Term C3"	Three (3) year terms which initially began on June 1, 2003 and expire on May 31, 2006

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- 2.16.1.3 Upon expiration of said initial three (3) year terms, the successor is appointed for a term of three (3) years.
- 2.16.1.4 Any appointment to fill a vacancy in an unexpired term shall be for the remainder of such unexpired term.
- 2.16.1.5 The members of said Commission shall be paid such compensation, if any, as the Corporate Authorities shall, from time to time, provide. They shall be subject to removal by the Village President for cause only after hearing before the Corporate Authorities at which such cause is found by such Corporate Authorities to be justifiable cause for removal.

2.16.2 Ex Officio Members

- 2.16.2.1 The Plan Commission for the Village of Gilberts shall also be comprised of no more than five (5) ex officio members appointed by the Village President, subject to confirmation by the Corporate Authorities, each for a term of two (2) years.

Ex Officio Plan Commission Terms	
"Term EA1", "Term EA2", & "Term EA3"	Two (2) year terms which initially began on June 1, 2003 and expire on May 31, 2005
"Term EB1", "Term EB2"	Two (2) year terms which initially began on June 1, 2002 and expire on May 31, 2004

- 2.16.2.2 Upon expiration of said two (2) year terms, the successor is appointed for a term of two (2) years.
- 2.16.2.3 Any appointment to fill a vacancy in an unexpired term shall be for the remainder of such unexpired term.
- 2.16.2.4 Said ex officio members shall have no power to vote on any issues before the Commission and shall not be compensated for the time that they donate to the Village.
- 2.16.2.5 They shall be subject to removal by the Village President for cause only after hearing before the Corporate Authorities at which such cause is found by such Corporate Authorities to be justifiable cause for removal.
- 2.16.2.6 The sole function of ex officio members of the Plan Commission shall be to make recommendations and submit ideas and input to the Plan Commission with regard to any issues that may be before said Commission.

2.16.3 Meetings

- 2.16.3.1 The Plan Commission shall meet on the second and last Wednesday of each month to consider matters within its jurisdiction, and at such other times and places as the Chairperson

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or the Village Board may determine. Such Chairperson, or in his/her absence, the Vice- Chairperson, may administer oaths, and compel the attendance of witnesses. All meetings of the Plan Commission shall be open to the public except as permitted by the Illinois Open Meetings Act. Such Commission shall keep minutes of the proceedings, showing the vote of each member on every question, or if absent or failing to vote, indicating such fact, and also shall keep a record of its proceeding.

- 2.16.3.2 Every rule, regulation or amendment or repeal thereof, and every order, requirement, decision or determination of the Commission shall be filed in the office of the Commission and with the Village Clerk and shall be a public record.

2.16.4 General Powers.

The Plan Commission shall have the following powers:

- 2.16.4.1 To prepare and recommend to the corporate authorities a comprehensive plan for the present and future development of the municipality as provided by State law. Such plan may be adopted in whole or in separate geographical or functional parts, each of which, when adopted, shall be the official comprehensive plan, or part thereof, of the Village of Gilberts. This plan may include reasonable requirements with reference to streets, alleys, public grounds, other improvements and other matters as provided by State law. The plan, may be applicable by the terms thereof, to land situated within the corporate limits and contiguous unincorporated territory not more than one and one-half miles beyond the corporate limits and not included in any other municipality. Such plan may be implemented by ordinances,
- 2.16.4.1.1. establishing reasonable standards of design for subdivisions and for resubdivisions of unimproved land and of areas subject to redevelopment;
 - 2.16.4.1.2. establishing reasonable requirements governing the location, width, course, and surfacing of public streets and highways, alleys, ways for public service facilities, curbs, gutters, sidewalks, street lights, parks, playgrounds, school grounds, size of lots to be used for residential purposes, storm water drainage, water supply and distribution, sanitary sewers, and sewage collection and treatments, and
 - 2.16.4.1.3. may designate land suitable for annexation to the Village and the recommended zoning classifications for such land upon annexation.
- 2.16.4.2 To recommend changes, from time to time, in the official comprehensive plan.

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- 2.16.4.3 To prepare and recommend to the corporate authorities, from time to time, plans for the specific improvements in pursuance of the official comprehensive plan.
- 2.16.4.4 To exercise such other powers germane to the powers granted under the laws of the State of Illinois.

2.17. SPECIAL EVENTS COMMISSION

There is hereby established a commission to be known as the Special Events Commission, consisting of nine (9) members, at 2/3 of the members shall be residents of the village. The members of the Special Events Commission shall be appointed by the Village President with the consent of the Board of Trustees.

2.17.1 Membership

- 2.17.1.1 When first appointed, the members of the special events commission shall serve respectively for the following terms:

Special Events Commission Terms	
"Term A1", "Term A2", & "Term A3"	Three (3) year terms which initially began on August 1, 2004 and expire on July 31, 2007
"Term B1", "Term B2", & "Term B3"	Two (2) year terms which initially began on August 1, 2004 and expire on July 31, 2006
"Term C1", "Term C2", & "Term C3"	One (1) year terms which initially began on August 1, 2004 and expire on July 31, 2005

- 2.17.1.2 Upon expiration of said initial terms, the successor is appointed for a term of one (1), two (2) or three (3) years. There is no limit to the number of terms a member can be appointed to.
- 2.17.1.3 Any appointment to fill a vacancy in an unexpired term shall be for the remainder of such unexpired term.
- 2.17.1.4 One of said members shall be designated by the Village President, as Chair of the Special Events Commission, who shall be a voting member of said Commission and shall hold office as chairperson for a period of one (1) year from August 1st to July 31st. The chairperson shall be responsible for setting the agenda and conducting the meeting. The chairperson shall prepare a written b-monthly report including status of events and financial data for the Village Board meetings and attend to discuss said reports if requested by the Village President or a Trustee.
- 2.17.1.5 Upon first meeting in August of the Special Events Commission, the members of the commission shall select from its membership a vice chair for a period of one (1) year from August 1st to July 31st. The

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- vice chair shall serve as acting chair whenever the chairperson is absent from the meeting.
- 2.17.1.6 The Village President shall have the power to remove any member of the Special Events Commission with consent of the Board of Trustees.
- 2.17.1.7 Members of the special events commission shall serve without compensation of any kind.
- 2.17.1.8 There shall be no ex-officio members of the Special Events Commission.
- 2.17.1.9 A recording secretary will be provided to insure minutes of the Special Events Commission are prepared and a copy forwarded to the Village Clerk for distribution and for the official files of the Village. The recording secretary will receive compensation as set forth by the Village Board.
- 2.17.1.10 The Village Treasurer shall be responsible for all financial transactions of the Special Events Commission and the Treasurer shall produce a monthly report for the Village Board of Trustees. All monetary donations shall be placed in a separate account and all payouts and deposits on contracts shall require the signature of the Village Treasurer and the Chair of the Commission.
- 2.17.2 Powers and Duties:
- 2.17.2.1 It shall be the duty of the Special Events Commission to develop, promote and coordinate a series of community events for the enjoyment and education of the residents of the village and visitors to the village.
- 2.17.2.2 All activities organized by the Special Events Commission shall be conducted within the financial constraints placed upon the commission as established by the Village Board through passage of the annual budget for the Village unless otherwise approved by the Village Board.
- 2.17.2.3 The Special Events Commission shall prepare a calendar of events for the Village. Said calendar shall be presented to the Village Board on a quarterly basis for review and approval.
- 2.17.2.4 The Special Events Commission shall have the power and authority to solicit and/or accept contributions of cash and in-kind services or products in furtherance of the promotion and/or staging of any special event.
- 2.17.3 Meetings:
- The Special Events Commission shall meet on a regular basis, as established by the Commission. Special meetings of the Commission may be called by the chair of said Commission. All meetings of the

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Commission shall be open to the public except as permitted by the Illinois Open Meetings Act. Such Commission shall keep written minutes of the proceedings, showing the vote of each member on every question, or if absent or failing to vote, indicating such fact.

SECTION 3. HEALTH AND SANITATION

3.1. PUBLIC HEALTH OFFICER

- 3.1.1 The President may nominate an individual, subject to the advice and consent of the Village Board, to serve as the Public Health Officer of the Village.
- 3.1.2 The Public Health Officer is hereby authorized and empowered to inspect all buildings, land and places as to their condition affecting health and sanitation and, whenever any nuisance or condition prejudicial to the public health is found to exist, the Public Health Officer shall have the power and the authority, subject to approval of the Corporate Authorities, to order the owner, occupant or agent thereof to make such alterations or changes necessary to correct and remove said nuisance or condition prejudicial to public health and to impose a penalty thereon for violations thereof, pursuant to Code Section 10.2 this Code.
- 3.1.3 The County of Kane shall approve and inspect or cause inspection of all private sewage disposal systems prior to and during their installation and shall improve and inspect all engineering and soil data for private sewage disposal systems.

3.2. PLANT, GRASS AND WEED CONTROL

- 3.2.1 “Weeds” as used in this Village of Gilberts Code shall include but not be limited to the following:

Ragweed, giant and common; Canada thistle, all of its varieties; perennial sow thistle; European bind weed; hoary cress; leafy spurge, Russian knapweed; burdock; cocklebur; jimson; blue vervain; common milkweed; wild carrot; poison ivy; wild mustard; rough pigweed; lambsquarter; wild lettuce; curled dock; smart weeds, all varieties; poison hemlock; wild hemp; oxeye daisy; goldenrod; yellow hemlock; buckhorn; or other weeds of a like kind or family.
- 3.2.2 Owners and/or possessors (jointly and severally) of real estate located in the Village shall cut weeds and grasses when such weeds and grasses have reached a height in excess of eight inches (8”).
- 3.2.3 Any such weeds or grasses exceeding eight inches (8”) are declared to be a nuisance.
- 3.2.4 If an owner or possessor of real estate in the Village fails to cut such grasses or weeds so that they do not exceed eight inches (8”) in height, the Village Corporate Authorities or designee may, upon ten (10) days written notice to such owner or possessor, sent by certified mail, return receipt requested, cut the same. Such grasses or weeds exceeding eight inches in height may be cut immediately by the Village Corporate Authorities or their designee if the grasses or weeds are on vacant land.

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- 3.2.5 If weeds and grasses are cut by, or at the direction of, the Village or its designee, a notice of lien of the cost and expense thereof incurred by the Village shall be recorded in accordance to state law. The lien may be enforced pursuant to state law.
- 3.2.6 In addition to being liable for any expense incurred by the Village in correcting such violation, the owner(s) and possessor(s) of any real estate in violation of this Section 3.2 shall be jointly and severally liable for cost and penalties provided for in Code Section 10.2.

3.3. MECHANICAL PRIVATE SEWAGE TREATMENT SYSTEM

- 3.3.1 Designee and upon such installation of any type of a mechanical private sewage treatment system, other than a septic seepage system, the owner of any structure serviced thereby shall cause such system to be kept and remain in a good state of repair.
- 3.3.2 The owner of any structure serviced by such a system shall cause an inspection of the system to be made no less than annually. Evidence of such inspection including a statement of approval by a licensed septic contractor must be annually furnished to the Village no later than June 1 of each year.
- 3.3.3 Failure to obtain such annual inspection and provide proof thereof shall subject the owner of the structure serviced by such non-inspected system to the penalty provisions of Section 10.2 of this Code, except that newly installed mechanical type systems are exempt from inspection for the first twelve months following their installation. In addition, any such mechanical private sewage treatment system, other than a septic seepage system, which, excluding the first twelve months following installation of same, has not been inspected for a period longer than twelve months shall be considered a nuisance.

3.4. OPEN BURNING PROHIBITED

- 3.4.1 Subject to the provisions of Section 3.4.4 of this Code, burning of unpainted wood shall be permitted outdoors in bonfires, ceremonial fires and individual burning pits and inside buildings in stoves, fireplaces and furnaces.
- 3.4.2 It shall be unlawful to burn any grass clippings painted wood, chemically treated wood, pressurized lumber, rubbish or garbage or materials containing rubbish or garbage, indoors and outdoors, at any time.
- 3.4.3 Subject to the provisions of Section 3.4.4 of this Code, outdoor burning of unpainted wood and landscape waste, including weeds and leaves, shall be permitted only on Sundays and Wednesdays between the hours of 10:00 AM and 6:00 PM.

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- 3.4.4 In addition to the restrictions of Section 3.4.3 of this Code, it shall be unlawful to burn any unpainted wood or landscape waste, including weeds and leaves, outdoors under the following conditions:
- 3.4.4.1 Within 20 feet of any building or structure.
 - 3.4.4.2 On the paved portion of any roadway or alley, on any sidewalk, within any drainage ditch, in any location where burning will impede traffic flow or in any Village Park.
 - 3.4.4.3 At any time when the Kane County Health Department has determined and announced that outside burning will be injurious to public health.
 - 3.4.4.4 Unless the burning is supervised at all times until extinguished.
 - 3.4.4.5 Unless an adequate fire extinguisher or an adequate water supply is readily available at the site of the burning.
 - 3.4.4.6 Unless the burning can be conducted with reasonable safety, considering wind conditions and dryness of surrounding areas.

3.5. SANITARY AND STORM SEWER SYSTEMS

Sections:

- 3.5.1 Purpose and Policy
- 3.5.2 Administration
- 3.5.3 Abbreviations
- 3.5.4 Definitions
- 3.5.5 Sewer Engineering and Installation
- 3.5.6 Overhead Sanitary Sewers
- 3.5.7 Connection Permit Requirements - Application and Issuance
- 3.5.8 Discharge of Stormwater and Other Unpolluted Drainage to Sanitary Sewer Prohibited
- 3.5.9 Unlawful Use or Construction of Private Sewer Disposal Systems
- 3.5.10 Connection of Certain Sewers to Public Sanitary Sewer Prohibited
- 3.5.11 Construction of combined sewers prohibited
- 3.5.12 Installation of toilet facilities required
- 3.5.13 Unauthorized destruction or defacement of sewage equipment prohibited
- 3.5.14 Private sewage disposal systems requirements generally
- 3.5.15 Building sewers - Requirements generally
- 3.5.16 Building sewers - Owner and Occupant responsibility for cost of installation and connection
- 3.5.17 Owner and Occupant Responsibility for Maintenance
- 3.5.18 Inspections of residences to be connected to sewer system
- 3.5.19 Use of storm sewers
- 3.5.20 Unlawful discharge of polluted substances into natural outlets
- 3.5.21 Connection of devices discharging polluting substances to

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- stormwater drains prohibited
- 3.5.22 Maintenance of stormwater detention and retention basins
- 3.5.23 Prohibited Discharge Standards
- 3.5.24 National Categorical Pretreatment Standards
- 3.5.25 State Pretreatment Standards
- 3.5.26 Local Limits
- 3.5.27 The Village's Right of Revision
- 3.5.28 Dilution
- 3.5.29 Pretreatment Facilities
- 3.5.30 Additional Pretreatment Measures
- 3.5.31 Accidental Discharge/Slug Control Plans
- 3.5.32 Accidental Discharges
- 3.5.33 Wastewater Discharge Permit Requirement
- 3.5.34 Wastewater Analysis
- 3.5.35 Industrial User Wastewater Discharge Permit Application
- 3.5.36 Wastewater Discharge Permitting
- 3.5.37 Wastewater Discharge Permit Application Contents
- 3.5.38 Application Signatories and Certification
- 3.5.39 Wastewater Discharge Permit Decisions
- 3.5.40 Wastewater Discharge Permit Duration
- 3.5.41 Wastewater Discharge Permit Contents
- 3.5.42 Wastewater Discharge Permit Appeals
- 3.5.43 Wastewater Discharge Permit Modification
- 3.5.44 Wastewater Discharge Permit Revocation
- 3.5.45 Procedures for Revocation
- 3.5.46 Transfer of Permits
- 3.5.47 Wastewater Discharge Permit Reissuance
- 3.5.48 Baseline Monitoring Reports
- 3.5.49 Compliance Schedule Progress Reports
- 3.5.50 Reports on Compliance with Categorical Pretreatment Standard
Deadline
- 3.5.51 Periodic Compliance Reports
- 3.5.52 Reports of Changed Conditions
- 3.5.53 Reports of Potential Problems
- 3.5.54 Reports from Unpermitted Users
- 3.5.55 Notice of Violation/Repeat Sampling and Reporting
- 3.5.56 Analytical Requirements
- 3.5.57 Sample Collection
- 3.5.58 Timing
- 3.5.59 Record Keeping
- 3.5.60 Falsification
- 3.5.61 Confidential Information
- 3.5.62 Public Notification of Significant Non Compliance
- 3.5.63 Notice of Violation

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- 3.5.64 Consent Orders
- 3.5.65 Show Cause Hearing
- 3.5.66 Compliance Orders
- 3.5.67 Cease and Desist Orders
- 3.5.68 Administrative Settlement in Lieu of Civil Penalty
- 3.5.69 Emergency Suspensions
- 3.5.70 Termination of Discharge
- 3.5.71 Injunctive Relief
- 3.5.72 Civil Penalties/Penalties and Costs
- 3.5.73 Criminal Prosecution
- 3.5.74 Remedies Nonexclusive
- 3.5.75 Performance Bonds
- 3.5.76 Liability Insurance
- 3.5.77 Water Supply Severance
- 3.5.78 Public Nuisances
- 3.5.79 Disqualification Contractor Listing
Right of Cut-Off of Service-Reconnection Procedure for Non-
- 3.5.80 payment
- 3.5.81 Lien Rights
- 3.5.82 Affirmative Defense – Upset
- 3.5.83 Affirmative Defense to Prohibitive Discharge Standards
- 3.5.84 Bypass
- 3.5.85 Pretreatment Charges and Fees
Surcharge to Industrial Users for Discharge of Compatible
- 3.5.86 Pollutants
- 3.5.87 Water – Sanitary Sewer Charges
- 3.5.88 Monitoring Program by Village
- 3.5.89 Right of Entry: Inspection and Sampling
- 3.5.90 Search Warrants
- 3.5.91 Control Manhole Device and Sampling Requirements: Location,
Construction, Maintenance, and Facility Monitoring
- 3.5.92 Severability

3.5.1 Purpose and Policy

This Section 3.5 sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the purpose of protecting public health, enabling the Village to comply with applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this Section 3.5 are:

- 3.5.1.1 To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- 3.5.1.2 To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned

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Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the purposes and objectives of Publicly Owned Treatment Works;

- 3.5.1.3 To protect Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- 3.5.1.4 To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- 3.5.1.5 To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- 3.5.1.6 To enable the Village to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This Section 3.5 shall apply to all Users of the Publicly Owned Treatment Works. The Section 3.5 authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

3.5.2 Administration

Except as otherwise provided herein, the Village shall administer, implement, and enforce the provisions of this Section 3.5. The Corporate Authorities may delegate any powers or duties to employees or consultants of the Village or contractors engaged by the Village.

3.5.3 Abbreviations

The following abbreviations, when used in this Section 3.5, shall have the designated meanings:

- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- FOG - Fats, oil and grease
- GPD - gallons per day
- IEPA - Illinois Environmental Protection Agency
- MG/L - milligrams per liter
- NPDES- - National Pollutant Discharge Elimination System
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification
- TSS - Total Suspended Solids

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- U.S.C. - United States Code

3.5.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Section 3.5, shall have the meanings hereinafter designated.

- 3.5.4.1 Accidental Discharges. Unplanned release of substances either directly or indirectly in such magnitude to cause substantial effects on receiving systems or treatment processes. Release is the result of accident, act of nature or operational malfunctions.
- 3.5.4.2 Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*
- 3.5.4.3 Administrator. The Administrator of the United States Environmental Protection Agency.
- 3.5.4.4 Applicable Pretreatment Standards. For any specified pollutant, the prohibitive discharge standards, specific limitations on discharge, the State of Illinois pretreatment standards or the National Categorical Pretreatment Standards (when effective), whichever standard is most stringent.
- 3.5.4.5 Approved. Item or procedure must meet the conditions of and be accepted by the Village of Gilberts.
- 3.5.4.6 Approval Authority. USEPA
- 3.5.4.7 Authorized Representative.
- 3.5.4.7.1. If the User is a corporation:
- 3.5.4.7.1.1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- 3.5.4.7.1.2. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- 3.5.4.7.2. If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

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- 3.5.4.7.3. If the User is a federal, state or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- 3.5.4.7.4. If the User is a limited liability partnership, limited liability company, or any other entity not previously described:
- 3.5.4.7.4.1. A person in charge of principal business functions or any other person who performs similar policy or decision-making functions for the entity; or
- 3.5.4.7.4.2. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred-fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with the entity's procedures; or

The individuals or entities described in section 3.5.4.7, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the entity, and the written authorization is submitted to the Village.

If such authorization under paragraph is no longer applicable because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for the environmental matters for the company, a new authorization satisfying the requirements of the immediate preceding sentence must be submitted to the Village prior to or together with any reports to be signed by an Authorized Representative.

- 3.5.4.8 Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).
- 3.5.4.9 Building Sanitary Sewer. A sewer, which carries only sewage and industrial wastes from the building plumbing to the public sanitary sewer.
- 3.5.4.10 Building Storm Sewer. A sewer, which carries storm drainage, surface water, foundation drainage and roof drainage but excludes sewage and industrial wastes from the building plumbing to a public storm sewer or natural outlet.

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- 3.5.4.11 Bypass. The intentional diversion of wastestreams from any portion of a User's treatment facility.
- 3.5.4.12 Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of Users and which appear in 40 CFR **Chapter** I, Sub**chapter** N, Parts 405-471.
- 3.5.4.13 Carbonaceous Biochemical Oxygen Demand or CBOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter, excluding the quantity of oxygen utilized for nitrogenous oxygen demand.
- 3.5.4.14 Village. The Village of Gilberts, Kane County, Illinois.
- 3.5.4.15 Compatible Pollutant. Biochemical oxygen demand, suspended solids, FOG, pH and fecal coliform bacteria.
- 3.5.4.16 Composite Sample. Sample of wastewater based on a flow proportional or time proportional method.
- 3.5.4.17 Concentration Limitations. The limits imposing the amount of a given substance in a discrete unit volume of a solution or applied to a unit weight of solid.
- 3.5.4.18 Control Authority. The Village of Gilberts.
- 3.5.4.19 Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, to which the only pollutant added is heat.
- 3.5.4.20 Discharge. The discharge of treated or untreated wastewater to the POTW.
- 3.5.4.21 Discharger. Any person, firm, establishment, or institution which discharges wastewater, excluding inflow and infiltration, to a sanitary sewer which eventually leads into a Village-owned sanitary sewer or treatment plant. Each single connection is a separate discharge by a discharger. "User" is used interchangeably with "Discharger".
- 3.5.4.22 Easement. An acquired legal right for the specific use of land owned by others.
- 3.5.4.23 Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Village, or other duly authorized official of said agency.
- 3.5.4.24 Environmental Remediation Water. Discharges from soil and/or groundwater remediations.

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- 3.5.4.25 Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- 3.5.4.26 FOG. Any hydrocarbons, fatty acids, soaps, fats, waxes, oils, and any other material that is extracted by freon solvent.
- 3.5.4.27 Garbage. Solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.
- 3.5.4.28 General Pretreatment Regulations. The General Pretreatment Regulations for Existing and New Sources, 40 CFR Part 403, as amended.
- 3.5.4.29 Grab Sample. A sample which is taken from a waste stream with no regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.
- 3.5.4.30 Hazardous Waste. Any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.
- 3.5.4.31 Illinois Act. The Environmental Protection Act, as amended 415 ILCS 5/1 et seq.
- 3.5.4.32 Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.
- 3.5.4.33 Incompatible Pollutant. Any pollutant which is not a compatible pollutant as defined in this section.
- 3.5.4.34 Industrial User. A source of indirect discharge, including but not limited to, a manufacturing, commercial or process facility, or other facility engaged in the purchase or sale of goods, transaction of business or who otherwise renders services to the public.
- 3.5.4.35 Industrial Wastes. The liquid wastes from industrial processes as distinct from sanitary sewage.
- 3.5.4.36 Instantaneous Maximum Allowable Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- 3.5.4.37 Interference. A discharge, which, 1) alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts a POTW, its treatment processes or operations or its sludge processes, use or disposal; and, 2) therefore, is a cause of a) a violation of any NPDES permit or other permit of the Village issued

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by any State or Federal agency or b) of the prevention of sewage sludge use or disposal in compliance with any of the following statutory provisions and regulations or of permits issued thereunder, or of any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

- 3.5.4.38 Local Limits. Limits on discharges established by the Village in Section 3.5.26.
- 3.5.4.39 Mass Limitation. Limits imposed upon a discharger based upon volumes or concentrations that are converted to weight units.
- 3.5.4.40 Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- 3.5.4.41 Milligrams per liter. A unit of the concentration of water or wastewater constituent. It is 0.001 grams of the constituent in one thousand milliliters of water.
- 3.5.4.42 National Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by the USEPA in accordance with Section 307(b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to 40 CFR Section 403.5.
- 3.5.4.43 Natural outlet. Any outlet into watercourse, pond, ditch, lake or other body of surface water or groundwater.
- 3.5.4.44 New Source.
- 3.5.4.44.1. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication in the Code of Federal Regulations of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section 307(c), provided that:
 - 3.5.4.44.1.1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - 3.5.4.44.1.2. The building, structure, facility, or installation totally replaces the process or production equipment that

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- causes the discharge of pollutants at an existing source; or
- 3.5.4.44.1.3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- 3.5.4.44.2. A site at which an existing source is located and where construction results in a modification rather than a source as defined in Paragraph 44(1) above, provided the construction does not create a new building, structure, facility, or installation meeting the criteria of Paragraph 44(1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- 3.5.4.44.3. A site where construction has commenced, including where the owner or operator has:
- 3.5.4.44.3.1. Begun, or caused to begin, as part of a continuous onsite construction program,
- i. any placement, assembly, or installation of facilities or equipment; or
 - ii. site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which are necessary for the placement, assembly, or installation of new source facilities or equipment; or
- 3.5.4.44.3.2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- 3.5.4.45 Non-Residential Dischargers. All dischargers, excluding residential dischargers.
- 3.5.4.46 Noncontact Cooling Water. Water used for cooling, which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

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- 3.5.4.47 NPDES Permit. Any permit or equivalent document or requirements issued by the Administrator or, where appropriate, by the Director of the IEPA, after enactment of the Federal Water Pollution Control Amendments of 1972, to regulate the discharge of pollutants pursuant to Section 402 of the Act.
- 3.5.4.48 Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of violation of any requirement of a Village NPDES Permit, including an increase in the magnitude or duration of a violation.
- 3.5.4.49 Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, limited liability company, limited liability partnership, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- 3.5.4.50 pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- 3.5.4.51 Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- 3.5.4.52 Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- 3.5.4.53 Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a pretreatment standard.
- 3.5.4.54 Pretreatment Standards. Prohibited discharge standards, categorical standards, and local limits.
- 3.5.4.55 Prohibited Discharge Standard. Any regulation developed under the authority of Section 307 (b) of the Act and 40 CFR Part 403.5.
- 3.5.4.56 Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; such prohibitions appear in Section 3.5.23.

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- 3.5.4.57 Publicly Owned Treatment Works or POTW. A "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the Village. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant owned by the Village.
- 3.5.4.58 RCRA. The Resource Conservation and Recovery Act, Public Law 94-482 including all subsequent amendments and applicable regulations promulgated pursuant thereto.
- 3.5.4.59 Required. That the tasks stated must be done.
- 3.5.4.60 Residential User or Commercial User. A non-industrial User and means any User of the treatment works not classified as an Industrial User or excluded as an Industrial User by this Section.
- 3.5.4.61 Shall and May. shall is required; may is permissive.
- 3.5.4.62 Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- 3.5.4.63 Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
- 3.5.4.64 Significant Industrial User.
- 3.5.4.64.1. A User subject to categorical pretreatment standards; or
- 3.5.4.64.2. A User that meets any of the criteria listed below:
- 3.5.4.64.2.1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater);
- 3.5.4.64.2.2. Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
- 3.5.4.64.2.3. Is designated as such by the Village on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- 3.5.4.64.3. Upon a finding that a User meeting the criteria in paragraph (2) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Village may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 CFR

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403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

- 3.5.4.65 Slug Load or Slug. Any discharge at a flow rate or concentration which potentially would cause interference with the POTW and/or a violation of the prohibited discharge standards in Section 3.5.23. Any discharge of water, sewage, or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds, for any period or duration longer than fifteen minutes, more than five times the average twenty-four hour concentration of flows during normal operation and in no event more than five times the allowable concentration of constituents set forth in this **Section** or the User's permit or any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which potentially will cause interference with the POTW and/or violate prohibited discharge standards in Section 3.5.23.
- 3.5.4.66 Solid Wastes. Any trash, ashes, rags, bottles, tin cans, tree limbs, manure of domestic animals, offal, dead animals or portions thereof, foodstuffs, and wastes thereof other than normally contained in sanitary sewage and any and all other solid objects, materials, refuse or debris. The term ashes shall include the residuum resulting from the combustion of coal, coke, wood or any other material or substance and shall include soot, cinders, slag, and charcoal.
- 3.5.4.67 Standard Industrial Classification (SIC) Code. A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.
- 3.5.4.68 Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- 3.5.4.69 Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering. Non-filterable solids expressed in milligrams per liter, contained in wastewater and measured by the methods set forth in "Standard Methods for the Examination of Water and Wastewater" or such other method as approved by the United States Environmental Protection Agency.
- 3.5.4.70 SWDA. The Solid Waste Disposal Act, 42 U.S.C. §6901 et seq.
- 3.5.4.71 TSS. Solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids, and which are removable by laboratory filtering.

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- 3.5.4.72 Toxic Pollutants. Any pollutant or combination of pollutants listed in regulations promulgated by the Administrator under provision of the Act.
- 3.5.4.73 Unpolluted Water. Water of quality equal to or better than effluent criteria in effect, or water that would not cause violation of receiving stream quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- 3.5.4.74 User. A source of indirect discharge.
- 3.5.4.75 User Severe Property Damage. Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- 3.5.4.76 Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- 3.5.4.77 Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.
- 3.5.4.78 Watercourse. A channel in which a flow of water occurs, either continuously or intermittently.
- 3.5.5 Sewer engineering and installation.
- All sanitary and storm sewer systems shall be engineered and installed in accordance with the then applicable provisions of the Village of Gilberts Code and the then applicable Subdivision Ordinance of the Village.
- 3.5.6 Overhead Sanitary Sewers
- 3.5.6.1 All building sewers shall be overhead sewers, except where a preliminary or final plat of subdivision has been approved prior to the effective date of this Section 3.5 and remains valid at the time of construction of the building. No building sewers shall be laid parallel to or within three feet (3') of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at uniform grade in a straight alignment insofar as possible. Changes in direction shall be made only with properly curved pipe and fittings.
- 3.5.6.2 An overhead sewer shall be required to be constructed in the lowest level of all new structures where the lowest level is three feet below the elevation of the crown of the street adjacent to the

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structure when such structures contain a toilet or shower facility within the lowest level.

Plumbing fixtures to be served by an overhead sewer shall drain into an ejection pit with pump and tight seal lid, which meets the requirements of the Illinois State Plumbing Code. The ejector pit shall be properly sealed, vented and located to receive sewage by gravity flow from which the liquid shall be lifted and discharged into the sanitary sewer service. The discharge size of the pump shall be a minimum of two inches, and discharge line shall be equipped with a backwater check valve, and ball valve. Plumbing fixtures above the aforesaid elevation shall drain entirely by gravity and shall not be drained through the ejection pit.

3.5.6.3 Where an overhead sanitary sewer system is not required by this Section 3.5, a threaded floor drain and plug shall be required to be constructed in the basement of any structure with a level lower than three feet below the elevation of the crown of the street adjacent to the residence.

3.5.6.4 Where an overhead sanitary sewer system is not required by this Section, a manual shutoff valve will be required for all utility tubs which are installed in the basement of any structure with a level lower than three feet below the elevation of the crown of the adjacent street.

3.5.7 Connection permit requirements - Application and issuance.

3.5.7.1 It is unlawful to make any connection with any Village sewer without first having obtained a permit therefor.

3.5.7.2 Applications for connection permits shall be made to the Building Commissioner and shall be accompanied by a statement setting forth the purpose of connecting to a Village sewer, the premises to be served, the specifications of the sewer pipe to be connected and the drain from the house to the sewer pipe.

3.5.7.3 No permit for connection to any Village sewer shall be issued by the Building Commissioner unless it is determined that all applicable ordinances of the Village are complied with including all applicable state and federal requirements.

3.5.7.4 No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Building Commissioner.

3.5.8 Discharge of stormwater and other unpolluted drainage to sanitary sewer prohibited.

3.5.8.1 No person owning, or in possession of real estate, shall discharge, or cause or permit to be discharged any stormwater, surface water,

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- groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted waters to any sanitary sewer.
- 3.5.8.2 All downspouts, outside stairwells and roof drains shall discharge onto the ground or be connected to storm sewers, drainage ditches or storm drainage systems. Footing drains shall be connected to sump pumps and discharge shall be made into storm sewers, sewer lines connected to storm sewers, drainage ditches or storm drainage systems. Sump pumps installed to receive and discharge groundwater or surface water shall be connected to a storm sewer or into a drainage ditch or storm drainage system. Sump pumps installed to receive and discharge building floor drain flow, laundry tubs or other wastewater shall be connected to the sanitary sewers. Each individual sump pump shall be used for one function only, either the discharge of uncontaminated storm related groundwater or the discharge of wastewater.
- 3.5.9 Unlawful use or construction of private sewage disposal systems.
It is unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in **Section 3.5.14**.
- 3.5.10 Connection of certain sewers to public sanitary sewer prohibited.
It is unlawful for any person owning or in possession of real estate to connect, permit to be connected or permit to remain connected any sewer to a public sanitary sewer which sewer receives roof drainage, foundation drainage, surface water or groundwater.
- 3.5.11 Construction of combined sewers prohibited.
It is unlawful to construct combined sewers or other facilities intended to receive both runoff and sewage. Separate sanitary sewers and separate storm sewers shall be provided.
- 3.5.12 Installation of toilet facilities required by owner.
The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose, situated in the Village and abutting on any street, alley, right-of-way, or easement in which there is now located, or may in the future be located, a public sanitary sewer of the Village, are required at their expense to install suitable toilet facilities connecting directly with the proper public sewer in accordance with the provisions of this Section 3.5, within ninety days after date of official notice to do so; provided, that said public sanitary sewer is within one hundred feet of the property line and any downstream portion of the wastewater facilities has sufficient capacity to handle the additional flow.
- 3.5.13 Unauthorized destruction or defacement of sewage equipment prohibited.

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No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenances, or equipment which is a part of the Village sewage works.

3.5.14 Private sewage disposal systems requirements generally.

3.5.14.1 Where a public sanitary sewer is not available under the provisions of this Section, the building sanitary sewer shall be connected to a private sewage disposal system complying with the provisions of the section.

3.5.14.2 Permit and Fee. No construction shall be permitted for any private sewage disposal system or for any building to be served by a private sewage disposal system, within the Village limits, unless a permit for private sewage disposal system has first been obtained from Kane County. In addition, no permit will be issued unless the construction is to be performed by an Illinois Department of Public Health licensed private sewage disposal system contractor. All percolation tests and private sewage disposal system plans shall be completed in conformance with Kane County regulations, based on location of property and shall conform to Village ordinances. No criteria shall be less stringent than the criteria of the Illinois State Plumbing Code, 225 ILCS 320/1 and the Private Sewage Disposal Licensing Act, 225 ILCS 225/1. Percolation tests shall be conducted and evaluated under the supervision of a registered professional engineer licensed to practice in Illinois.

3.5.14.3 Adoption of Code. There is adopted by the Village those certain codes, which are known as the Illinois State Plumbing Code and the Private Sewage Disposal Licensing Act, the same being hereby adopted and incorporated as fully as if set out at length herein.

3.5.14.4 Inspections and Cleaning. All private sewage disposal systems installed and operated within the Village limits may be subject to inspection by the Village or the County of Kane, to determine if the system is functioning properly and which determination shall include, but not be limited to, a finding relative to whether or not the following conditions exist:

3.5.14.4.1. Contaminated surface or ground water;

3.5.14.4.2. Odorant production;

3.5.14.4.3. Depth of sludge in the septic tank;

3.5.14.4.4. Clogged seepage field;

3.5.14.4.5. Improper draining of the plumbing fixtures as a result of clogged septic tank and/or seepage field;

3.5.14.4.6. Contaminated footing drain sump water.

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If, after inspection, it is determined that the private sewage system is not functioning properly, the owner and/or occupant shall be notified in writing to have the necessary work performed to correct the malfunction. If modifications to the system are required and are allowable, pursuant to the Illinois State Plumbing Code and the Private Sewage Disposal Licensing Act and Code, both as modified herein, said modifications shall be done by a licensed private sewage disposal contractor. The owner and/or occupant shall be given a reasonable amount of time. It is the responsibility of the property owner and occupant to have the septic tank cleaned no less than once every five years. The Village may require the property owner to submit a copy of the paid bill for such cleaning and services rendered by a licensed private sewage disposal contractor. The Village may maintain a file system to inform property owners and occupants of the necessity for cleaning the septic tank.

3.5.14.5 In the event the malfunction cannot be corrected by cleaning and the property is within one hundred (100) feet of an accessible public sanitary sewer system, the private system shall be disconnected and connection made to the public sanitary sewer system. The expense of such work shall be the responsibility of the owner and/or occupant.

3.5.15 Building sewers - Requirements generally.

3.5.15.1 A separate and independent building sanitary sewer shall be provided for every building. The sanitary sewer service shall be installed to within ten (10) feet of the center of each lot or as otherwise approved by the Building Department. A building having one common wall with another building is considered a separate building and shall have its own sanitary sewer.

3.5.15.2 Existing building sanitary sewers and/or storm sewers may be used in connection with new buildings only when they are found on examination and test by the Building Department to meet all requirements of this section.

3.5.15.3 New building sanitary and/or storm sewers shall be installed in accordance with the standards and procedures set forth in the Village of Gilberts Code.

3.5.16 Building sewers - Owner and Occupant responsibility for cost of installation and connection.

All costs and expense incidental to the installation and connection of the building sewers shall be borne by the owner and occupant jointly and severally. The owner shall indemnify and hold the Village harmless from any liability or loss including reasonable attorneys fees arising out of, or in

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connection with, the installation of the sewer for a building, except, to the extent prohibited by law.

3.5.17 Owner and Occupant Responsibility for Maintenance

The owner and occupant of the premises served by the public sewer system shall jointly and severally properly maintain and operate a building service sewer, house connection or sanitary sewer line to the point of connection to the Village sewer system. Maintenance means keeping the sanitary sewer connection, sewer lines and other sewer facilities in satisfactory working condition and in a good state of repair (including but not limited to preventing any obstruction of extraneous material or flows from entering said facilities, protecting said facilities from any damage and keeping same free from defects or malfunctions), and making necessary provisions and taking necessary precautions to assure that said sewer facilities are at all times capable of satisfactorily performing the services and adequately discharging as the facilities are intended to perform, discharge or produce.

3.5.18 Inspections of residences to be connected to sewer system.

3.5.18.1 Upon payment of the permit fee, the Building Department shall make the following inspections of each residence to be connected to the sewage system:

3.5.18.1.1. An inspection shall be made at the time the sewer ditch is opened and the connection is made to the sewer system to determine that there is proper grade and connection.

3.5.18.1.2. An inspection shall be made before the fill is put around the foundation and while the tile is still exposed around the foundation to see that there has been no connection of such drain tile with the sanitary sewer system. The second inspection shall also include the inspection of rough plumbing on the inside of the residence.

3.5.18.1.3. A third and final inspection shall be made after the eaves-troughs and downspouts have been installed to see that there is no connection of the aforesaid with the sanitary sewer. This final inspection shall also include an inspection of the fixture connections within the residence.

3.5.18.2 The provisions of the Gilberts Code relating to excavations in streets shall be complied with in making excavations in streets or other public places for sewer connections.

3.5.19 Use of storm sewers.

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to an outlet approved by the Village. Industrial cooling water or unpolluted water may be discharged, upon approval of the Village, to a storm sewer, or natural

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outlet, subject however, to the delivery of a copy of all necessary State and Federal Permits to the Village.

3.5.20 Unlawful discharge of polluted substances into natural outlets.

It is unlawful to discharge into any natural outlet within the Village, or in any area under the jurisdiction of the Village, any sanitary sewage, industrial wastes, or any other polluted water, except where suitable treatment has been provided in accordance with the provisions of this Section 3.5.

3.5.21 Connection of devices discharging polluting substances to stormwater drains prohibited.

It is unlawful for any person, firm, or corporation to connect or cause to be connected, any drain carrying, or to carry, any toilet, sink, basement, septic tank, cesspool, industrial waste, or any fixture or device discharging polluting substances, to any stormwater drain.

3.5.22 Maintenance of stormwater detention and retention basins.

3.5.22.1 Maintenance. The owner or person in possession, if not the owner, of a detention or retention basin shall maintain the same as follows:

3.5.22.1.1. Control the growth of noxious weeds;

3.5.22.1.2. Control the creation of conditions, which support the growth of mosquitoes and other insects;

3.5.22.1.3. Control the decrease in available storage by accumulated sediments; and

3.5.22.1.4. Clean up accumulated debris, flotsam and other materials after runoff events have subsided.

The Village does not accept maintenance assignments of basins.

3.5.22.2 Inspections. All privately owned detention and retention basins constructed and operated within the Village limits shall be subject to inspection by the Village to determine the physical conditions of required storage capacity and the operational conditions of key elements of the basin and appurtenances.

3.5.22.3 Corrective Measures. If, after inspection, it is determined that the basin and appurtenances are not functioning properly, the owner and person in possession, if not the owner, shall be notified in writing to have the necessary work performed to eliminate the malfunctions. If modifications to the basin and appurtenances are required, they shall be completed in accordance with the then applicable provisions of the Village of Gilberts Code within a period of time which is reasonable under all the applicable circumstances. The Village shall maintain a file system to inform the owner or person in possession, if not the owner, of the necessity for cleaning

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the basin and appurtenances. The failure of the Village to maintain such file system or failure to notify an owner or person in possession shall be no defense to an action taken pursuant to this Code.

3.5.23 Prohibited Discharge Standards

3.5.23.1 General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions and the specific prohibitions in paragraph B of this section apply to all Users of the POTW whether or not they are subject to categorical pretreatment standards or any other Federal, State, or local pretreatment standards or requirements.

3.5.23.2 Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- 3.5.23.2.1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;
- 3.5.23.2.2. Wastewater having a pH less than 5.5 or more than 9, or otherwise causing corrosive structural damage to the POTW or equipment;
- 3.5.23.2.3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one-half inch (1/2") or 1.27 centimeters;
- 3.5.23.2.4. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
- 3.5.23.2.5. Wastewater having a temperature greater than 157 degrees F (65 degrees C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);
- 3.5.23.2.6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

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- 3.5.23.2.7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- 3.5.23.2.8. Trucked or hauled pollutants;
- 3.5.23.2.9. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- 3.5.23.2.10. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby causing a violation of a Village NPDES permit;
- 3.5.23.2.11. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- 3.5.23.2.12. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Village in a wastewater discharge permit;
- 3.5.23.2.13. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- 3.5.23.2.14. Medical wastes, except as specifically authorized by the Village in a wastewater discharge permit;
- 3.5.23.2.15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- 3.5.23.2.16. Detergents, surface-active agents, or other substances that may cause excessive foaming in the POTW;
- 3.5.23.2.17. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l.
- 3.5.23.2.18. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter;
- 3.5.23.2.19. Hazardous waste. Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW

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3.5.24 National Categorical Pretreatment Standards

The categorical pretreatment standards found at 40 CFR **Chapter** I, Sub**chapter** N, Parts 405-471, as published in the Code of Federal Regulations, revised as of July 1, 1994, published by the Office of the Federal Register, National Archives and Records Administration are hereby incorporated by reference.

- 3.5.24.1 Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Village may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- 3.5.24.2 When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Village shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- 3.5.24.3 A User may obtain a variance from USEPA, or if authorized, IEPA of a categorical pretreatment standard if the User can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- 3.5.24.4 A User may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
- 3.5.24.5 The User shall identify the Pretreatment Standards applicable to each regulated process.

3.5.25 State Pretreatment Standards

State pretreatment standards located at Title 35, Illinois Compiled Statutes, Subtitle C, **Chapter** 1, Section 302 are hereby incorporated by reference.

3.5.26 Local Limits

The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing pollutants in excess of the following:

- 62.0 mg/L Ammonia
- 0.69 mg/L Arsenic
- 2.00 mg/L Barium
- 574 mg/L CBOD
- 0.85 mg/L Cadmium
- 0.50 mg/L Chromium (hex)
- 3.00 mg/L Chromium
- 1.00 mg/L Chromium (tri)
- 1000 mg/L COD

1.00 mg/L Copper
0.50 mg/L Cyanide
123 mg/L FOG
45.0 mg/L Fluoride
3.00 mg/L Iron (dissolved)
32.0 mg/L Iron
0.50 mg/L Lead
4.00 mg/L Manganese
0.0005 mg/L Mercury
3.00 mg/L Nickel
0.80 mg/L Phenols
1.00 mg/L Selenium
0.20 mg/L Silver
3500 mg/L Total Dissolved Solids
540 mg/L Total Suspended Solids
7.50 mg/L Zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Village may impose mass limitations in addition to, or in place of, the concentration based limitations above.

3.5.27 The Village's Right of Revision

The Village reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

3.5.28 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Village may impose mass limitations on Users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

3.5.29 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this **Section 3.5** and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in this **Section 3.5** within the time limitations specified by EPA, the State, or the Village, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Village for review, and shall be approved by the Village before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User

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from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Village under the provisions of this **Section 3.5**.

3.5.30 Additional Pretreatment Measures

3.5.30.1 Whenever deemed necessary, the Village may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this **Section 3.5**.

3.5.30.2 The Village may require any User discharging into the POTW to install and maintain, on the User's property and at the User's expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

3.5.30.3 Grease, oil, and sand interceptors shall be provided when, in the opinion of the Village, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential Users. All interception units shall be of type and capacity approved by the Village and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the User at the User's expense.

3.5.30.4 Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

3.5.31 Accidental Discharge/Slug Control Plans

At least once every two (2) years, the Village shall evaluate whether each Significant Industrial User needs an accidental discharge/slug control plan. The Village may require any Significant Industrial User to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

3.5.31.1 Description of discharge practices, including non-routine batch discharges;

3.5.31.2 Description of stored chemicals;

3.5.31.3 Procedures for immediately notifying the Village of any accidental or slug discharge, as required by this Section 3.5; and

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3.5.31.4 Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

3.5.32 Accidental Discharges

3.5.32.1 Each User shall provide protection from an accidental discharge of prohibited materials, regulated materials or any other substances regulated. Where necessary, facilities to prevent an accidental discharge of the above mentioned materials shall be provided and maintained at the User's own cost and expense. Detailed plans showing facilities and operating procedures to the Village for review, and shall be approved by the Village before construction and operation of the facility. Review and approval of such plans and operating procedures shall not relieve the User from the responsibility to modify the User's facility as necessary to meet all the requirements.

3.5.32.2 Users shall notify the Village immediately upon becoming aware of the discharge of substances prohibited or regulated by this **Section 3.5**. Notification shall include location of discharge, date and time thereof, type of waste, concentrations and volume, and corrective actions to be taken. The User shall be required to submit a written explanation of any "slug loads" or accidental discharges within five working days after the first notification.

3.5.32.3 Signs shall be permanently posted in conspicuous places advising employees whom to call in the event of an accidental spill of prohibited materials. In lieu of using signs, User may use an alternative method for training employees in the procedures for reporting of accidental discharges.

3.5.32.4 Follow up reports may be required as needed. Such report, or reports, shall not relieve the User of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such report relieve the User of any fines, civil penalties, or other liability which may be imposed by this **Section 3.5** or otherwise. Failure to report accidental or deliberate discharges may, in addition to any other remedies available, result in the revocation of the discharger's wastewater permit.

3.5.33 Wastewater Discharge Permit Requirement

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- 3.5.33.1 No Significant Industrial User shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Village, except that a Significant Industrial User that has filed a timely application pursuant to **Section 3.5.37** of this Code may continue to discharge for the time period specified therein, provided the discharge in all other respects does not violate any provision of this Section 3.5.
- 3.5.33.2 The Village may require other Users as well as Significant Industrial Users to obtain wastewater discharge permits as necessary to carry out the purposes of this **Section 3.5**.
- 3.5.33.3 Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this **Section 3.5** and subjects the wastewater discharge permittee to the sanctions set forth in this **Section 3.5**. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements and local limits or with any other requirements of Federal, State, and local law.
- 3.5.34 Wastewater Analysis
- When requested by the Village, a User shall submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Village is authorized to prepare a form for this purpose and may periodically require Users to update this information.
- 3.5.35 Industrial User Wastewater Discharge Permit Application.
- 3.5.35.1 Applications for discharge permits shall be made to the Village and shall be accompanied by a statement setting forth the purpose of connecting to a Village sewer, the premises to be served, the specifications of the sewer pipe to be connected and the drain or drains from the structure to the sewer pipe.
- 3.5.35.2 Industrial Users, when issued a wastewater discharge permit by the Village shall pay a fee of \$100.00. Such fee is due and payable prior to the discharge permit being issued, modified or renewed.
- 3.5.36 Wastewater Discharge Permitting
- Any User required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW shall obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with this **Section 3.5**, shall be filed at least one hundred eighty (180) days prior to the date upon which any discharge will begin or recommence.
- 3.5.37 Wastewater Discharge Permit Application Contents

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All Users required to obtain a wastewater discharge permit shall submit a permit application. The Village may require all Users to submit as part of an application the following information:

- 3.5.37.1 Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- 3.5.37.2 Number and type of employees, hours of operation, and proposed or actual hours of operation;
- 3.5.37.3 Each product produced by type, amount, process or processes, and rate of production;
- 3.5.37.4 Type and amount of raw materials processed (average and maximum per day);
- 3.5.37.5 Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- 3.5.37.6 Time and duration of discharges; and
- 3.5.37.7 Any other information as may be deemed necessary by the Village to evaluate the wastewater discharge permit application.
- 3.5.37.8 All other information required by this Section 3.5;

Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

3.5.38 Application Signatories and Certification

All wastewater discharge permit applications and User reports shall be signed by an authorized representative of the User and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

3.5.39 Wastewater Discharge Permit Decisions

The Village will evaluate the data furnished by the User and may require additional information. A wastewater discharge permit application shall be deemed complete when the Village has received all such data and additional information required, if any. Within ninety (90) days of receipt of

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a complete wastewater discharge permit application, the Village will determine whether or not to issue a wastewater discharge permit. The Village may deny any application for a wastewater discharge permit. No permit shall be issued without the specific approval of the Village Board.

3.5.40 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Village. Each wastewater discharge permit will indicate a specific date upon which it will expire.

3.5.41 Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Village to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

3.5.41.1 Wastewater discharge permits shall contain the following matters; provided, however, a failure to include any such matter shall not invalidate or limit the requirements of such permit:

3.5.41.1.1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

3.5.41.1.2. A statement that the wastewater discharge permit is nontransferable;

3.5.41.1.3. Effluent limits based on applicable pretreatment standards;

3.5.41.1.4. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and

3.5.41.1.5. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

3.5.41.1.6. Notification requirement to report to the Village either orally or in writing, any violation of applicable pretreatment standards within twenty-four (24) hours of occurrence.

3.5.41.2 Wastewater discharge permits may contain, but need not be limited to, the following conditions:

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- 3.5.41.2.1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- 3.5.41.2.2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- 3.5.41.2.3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- 3.5.41.2.4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- 3.5.41.2.5. The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
- 3.5.41.2.6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- 3.5.41.2.7. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal, State and local pretreatment standards, including those which become effective during the term of the wastewater discharge permit;
- 3.5.41.2.8. Notification requirement to report to the Village, either orally or in writing any slug load discharges into the POTW, within 24 hours of occurrence; and
- 3.5.41.2.9. Other conditions as deemed appropriate by the Village to ensure compliance with this **Section 3.5**, and State and Federal laws, rules, and regulations.

3.5.42 Wastewater Discharge Permit Appeals

The Village shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the User, may petition the Village to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance.

- 3.5.42.1 Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- 3.5.42.2 In its petition, the appealing party shall indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

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- 3.5.42.3 The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- 3.5.42.4 If the Village fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- 3.5.42.5 Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision shall do so by filing a complaint with the Circuit Court for Kane County within thirty-five (35) days of the date of the final administrative wastewater discharge permit decision. Such proceeding shall be in accordance with the applicable statutes for judicial review of administrative decisions, or declaratory judgment, whichever applies.
- 3.5.43 Wastewater Discharge Permit Modification
- The Village may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- 3.5.43.1 To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- 3.5.43.2 To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- 3.5.43.3 A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- 3.5.43.4 Information indicating that the permitted discharge poses a threat to the Village's POTW, Village personnel, or the receiving waters;
- 3.5.43.5 Violation of any terms or conditions of the wastewater discharge permit;
- 3.5.43.6 Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- 3.5.43.7 Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- 3.5.43.8 To correct typographical or other errors in the wastewater discharge permit; or
- 3.5.43.9 To reflect a transfer of the facility ownership or operation to a new owner or operator.
- 3.5.44 Wastewater Discharge Permit Revocation

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The Village may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- 3.5.44.1 Failure to notify the Village of significant changes to the wastewater prior to the changed discharge;
- 3.5.44.2 Failure to provide prior notification to the Village of changed conditions pursuant to other provisions of this Section 3.5;
- 3.5.44.3 Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- 3.5.44.4 Falsifying self-monitoring reports;
- 3.5.44.5 Tampering with monitoring equipment;
- 3.5.44.6 Refusing to allow the Village timely access to the facility premises and records;
- 3.5.44.7 Failure to meet effluent limitations;
- 3.5.44.8 Failure to pay fines;
- 3.5.44.9 Failure to pay sewer charges;
- 3.5.44.10 Failure to meet compliance schedules;
- 3.5.44.11 Failure to complete and submit a wastewater survey or the wastewater discharge permit application;
- 3.5.44.12 Failure to provide advance notice of the transfer of business ownership of a permitted facility;
- 3.5.44.13 Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this **Section 3.5**;
- 3.5.44.14 Violation of this **Section 3.5**, its permit, the Illinois Act or the Act, or regulations promulgated under either act;
- 3.5.44.15 Failure of a User to factually report the wastewater constituents and characteristics of its discharge as determined by the User's or Village's analysis;
- 3.5.44.16 Failure to report an accidental discharge of a pollutant;
- 3.5.44.17 Failure to report an upset of User's treatment facilities.

Wastewater discharge permits automatically expire upon cessation of operations or transfer of business ownership, unless a transfer is authorized by the Village pursuant to this Section 3.5. All wastewater discharge permits issued to a particular User automatically expire and are void upon the issuance of a new wastewater discharge permit to that User.

3.5.45 Procedures for Revocation

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- 3.5.45.1 The Village may order any User who causes or allows any action relative to a permit, which is subject to revocation under **Section 3.5.52** above, to show cause before a hearing officer designated by the Village Board with advice and consent of the Village Board why the permit should not be revoked. A notice shall be served on the User specifying the time and place of a hearing to be held by such hearing officer regarding the violation, the reasons why the action is to be taken, the proposed action, and directing the User to show cause before the hearing why its permit should not be revoked. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, except where the Village determines an emergency exists, at least ten (10) days before the hearing. Service may be made on any agent or officer of a User.
- 3.5.45.2 The Village Board may itself conduct the hearing and take the evidence, or may designate any of its members, its attorney or other person as a hearing officer to:
- 3.5.45.2.1. Issue in the name of the Village notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;
 - 3.5.45.2.2. Take the evidence;
 - 3.5.45.2.3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendation to the Village Board for action thereon.
- 3.5.45.3 At any hearing held pursuant to this **Section 3.5**, testimony taken shall be under oath and recorded. The transcript, so recorded, will be made available to any party to the hearing upon payment of the usual copying charges therefore.
- 3.5.45.4 After the Village Board has reviewed the evidence, it may issue an order to the User responsible for the discharge directing:
- 3.5.45.4.1. that the discharge permit be revoked and the service be disconnected;
 - 3.5.45.4.2. that following a specified time the permit shall be revoked and sewer service discontinued unless adequate treatment facilities, devices or other related appurtenances have been installed and operated properly to comply with the discharge permit;
 - 3.5.45.4.3. direct the User to cease the unauthorized discharge effective after a specified period of time; or

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- 3.5.45.4.4. that such other relief as deemed necessary by the Village Board to abate the discharge be granted. Further orders and directives as are necessary may be issued.
- 3.5.45.5 Following an order of revocation, the User shall cease discharging to the Village's POTW. Failure to do so shall be evidence of continuing harm to the Village and provide grounds for the granting of injunctive relief or temporary restraining orders.
- 3.5.46 Transfer of Permits
- 3.5.46.1 The Village may authorize a transfer of a wastewater discharge permit upon application, providing notice of proposed transfer of business ownership has been given him which contains such information the Village may require.
- 3.5.46.2 At a minimum, the Village will require the new owner or operator to provide a written certification that:
- 3.5.46.2.1. states that the new owner or operator has no immediate intent to change the facility's operations and processes;
- 3.5.46.2.2. identifies the specific date on which the transfer is to occur; and
- 3.5.46.2.3. acknowledges full responsibility for complying with the existing wastewater discharge permit.
- 3.5.47 Wastewater Discharge Permit Reissuance
- A User with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with this **Section 3.5**, a minimum of one hundred eighty (180) days prior to the expiration of the User's existing wastewater discharge permit.
- 3.5.48 Baseline Monitoring Reports
- 3.5.48.1 Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, any existing categorical User currently discharging to or scheduled to discharge to the POTW shall submit to the Village a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of its discharge, a new source, or source that becomes a categorical User subsequent to the promulgation of an applicable categorical standard, shall submit to the Village a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give

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estimates of its anticipated flow and quantity of pollutants to be discharged.

- 3.5.48.2 Users described above shall submit the information set forth below.
- 3.5.48.2.1. Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - 3.5.48.2.2. Environmental Permits. A list of any environmental control permits held by or for the facility.
 - 3.5.48.2.3. Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.
 - 3.5.48.2.4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
 - 3.5.48.2.5. Measurement of Pollutants.
 - 3.5.48.2.5.1. The categorical pretreatment standards applicable to each regulated process.
 - 3.5.48.2.5.2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Village, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this **Section 3.5**. Sampling shall be performed in accordance with procedures set out in this **Section 3.5**.
 - 3.5.48.2.6. Certification. A statement, reviewed by the User's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - 3.5.48.2.7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards,

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the shortest schedule by which the User will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section shall meet the requirements set out in this **Section 3.5**.

3.5.48.2.8. Signature and Certification. All baseline monitoring reports shall be signed and certified in accordance with this **Section 3.5**

3.5.49 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by this **Section 3.5**.

3.5.49.1 The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

3.5.49.2 No increment referred to above shall exceed nine (9) months;

3.5.49.3 The User shall submit a progress report to the Village no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

3.5.49.4 In no event shall more than nine (9) months elapse between such progress reports to the Village.

3.5.50 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any User subject to such pretreatment standards and requirements shall submit to the Village a report containing the information described in this **Section 3.5**. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate

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sampling period. All compliance reports shall be signed and certified in accordance with this **Section 3.5**.

3.5.51 Periodic Compliance Reports

3.5.51.1 All Significant Industrial Users shall, at a frequency determined by the Village but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports shall be signed and certified in accordance with **Section 3.5.38**.

3.5.51.2 Such reports shall contain:

3.5.51.2.1. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

3.5.51.2.2. Measurement of Pollutants.

3.5.51.2.2.1. The categorical pretreatment standards applicable to each regulated process.

3.5.51.2.2.2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Village, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this **Section 3.5**.

3.5.51.2.2.3. Sampling shall be performed in accordance with procedures set out in this **Section 3.5**.

3.5.51.2.3. Certification. A statement, reviewed by the User's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

3.5.51.3 All wastewater samples shall be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its

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monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

- 3.5.51.4 If a User subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Village, using the procedures prescribed in this **Section 3.5**, the results of this monitoring shall be included in the report.

3.5.52 Reports of Changed Conditions

Each User shall notify the Village of any planned significant changes to the User's operations or system, which might alter the nature, character, or volume of its wastewater at least thirty (30) days before the change.

- 3.5.52.1 The Village may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under this **Section 3.5**.
- 3.5.52.2 The Village may issue a wastewater discharge permit under **this Section 3.5** or modify an existing wastewater discharge permit under this Section 3.5 in response to changed conditions or anticipated changed conditions.
- 3.5.52.3 For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

3.5.53 Reports of Potential Problems

- 3.5.53.1 In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the User shall immediately telephone and notify the Village of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
- 3.5.53.2 Within ten (10) days following such discharge, the User shall, unless waived by the Village, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability, which may be imposed pursuant to the Gilberts Code.
- 3.5.53.3 A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the

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event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

3.5.54 Reports from Unpermitted Users

All Users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Village as the Village may require.

3.5.55 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User shall notify the Village within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Village within thirty (30) days after becoming aware of the violation. The User is not required to resample if the Village monitors at the User's facility at least once a month, or if the Village samples between the User's initial sampling and when the User receives the results of this sampling unless the Village requires otherwise.

3.5.56 Analytical Requirements

All measurements, tests and analyses of the characteristics of water and wastes to which reference is made in **Sections 3.5.23, 3.5.26, 3.5.29 and 3.5.48** shall be determined in accordance with 40 CFR Part 136 and amendments thereto or any other test procedures approved by the Administrator.

3.5.57 Sample Collection

3.5.57.1 Except as indicated in Paragraph B, below, the User shall collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the Village may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the User demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

3.5.57.2 Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds shall be obtained using grab collection techniques. A minimum of four (4) grab samples are required.

3.5.58 Timing

Written reports will be deemed to have been submitted on the date received.

3.5.59 Record Keeping

Users subject to the reporting requirements of this **Section 3.5** shall retain, and make available for inspection and copying, all records of

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information obtained pursuant to any monitoring activities required by this **Section 3.5** and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. Such records shall be retained and made available for a period of at least three (3) years. Such period shall be automatically extended for the duration of any litigation concerning the User or the Village, or where the User has been specifically notified of a longer retention period by the Village.

3.5.60 Falsification

Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this **Section 3.5** or General and/or Supplemental Wastewater Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this **Section 3.5**, shall be subject to the penalties and costs provided in this **Section 3.5** and shall in addition be guilty of a misdemeanor and upon conviction, be punished by a fine of not more than one thousand dollars (\$1000.00) or shall be incarcerated in a penal institution other than the penitentiary for a period not to exceed six (6) months.

3.5.61 Confidential Information

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Village' inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Village, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request shall be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

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3.5.62 Public Notification of Significant Noncompliance

The Village shall publish annually, in the daily newspaper, a list of the Users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall mean:

- 3.5.62.1 Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-(6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- 3.5.62.2 Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- 3.5.62.3 Any other discharge violation that the Village believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- 3.5.62.4 Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Village's exercise of his or her emergency authority to halt or prevent such a discharge;
- 3.5.62.5 Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- 3.5.62.6 Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- 3.5.62.7 Failure to accurately report noncompliance; or
- 3.5.62.8 Any other violation(s), which the Village determines will adversely affect the operation or implementation of the Village pretreatment program.

3.5.63 Notice of Violation

When the Village or his/her authorized designee finds that a User has violated, or continues to violate, any provision of this Section 3.5, a

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wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Village or designee may serve upon that User a written Notice of Violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Village. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Village to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

3.5.64 Consent Orders

The Village or his/her authorized designee may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents will include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this **Section 3.5** and shall be judicially enforceable. Issuance of a consent order shall not be a bar against, or a prerequisite for, taking any other action against the User.

3.5.65 Show Cause Hearing

The Village may order a User which has violated, or continues to violate, any provision of this **Section 3.5**, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Village and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least three (3) days prior to the hearing, unless the Village determines an emergency exists and less time is warranted. Such notice may be served on any authorized representative of the User. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

3.5.66 Compliance Orders

When the Village finds that a User has violated, or continues to violate, any provision of this **Section 3.5**, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Village may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices,

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or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

3.5.67 Cease and Desist Orders

When the Village or his/her authorized designee finds that a User has violated, or continues to violate, any provision of this **Section 3.5**, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the User's past violations are likely to recur, the Village may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- 3.5.67.1 Immediately comply with all requirements; and
- 3.5.67.2 Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

3.5.68 Administrative Settlement in Lieu of Civil Penalty

- 3.5.68.1 When the Village finds that a User has violated, or continues to violate, any provision of this **Section 3.5**, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Village may upon agreement of the User, enter an order of administrative settlement in lieu of civil penalty against such User in an amount not to exceed \$1000.00. Such settlements shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, administrative settlements in lieu of civil penalty shall be assessed for each day during the period of violation.
- 3.5.68.2 Users desiring to dispute such settlements shall file a written request for the Village to reconsider the administrative settlements in lieu of civil penalty along with full payment of the administrative settlement in lieu of civil penalty amount within ten (10) days of being notified of the administrative settlement in lieu of civil penalty. Where a request has merit, the Village may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Village may add the costs of preparing

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administrative enforcement actions, such as notices and orders, to the administrative settlement in lieu of civil penalty.

- 3.5.68.3 Issuance of an administrative settlement in lieu of civil penalty shall not be a bar against, or a prerequisite for, taking any other action against the User.

3.5.69 Emergency Suspensions

The Village or his/her authorized designee may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Village or designee may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- 3.5.69.1 Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Village may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Village may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Village that the period of endangerment has passed, unless the termination proceedings are initiated against the User.
- 3.5.69.2 A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Village prior to the date of any show cause or termination hearing.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

3.5.70 Termination of Discharge

In addition to the provisions in this **Section 3.5**, any User who violates the following conditions is subject to discharge termination:

- 3.5.70.1 Violation of wastewater discharge permit conditions;
- 3.5.70.2 Failure to accurately report the wastewater constituents and characteristics of its discharge;
- 3.5.70.3 Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

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3.5.70.4 Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or

3.5.70.5 Violation of the pretreatment standards in this **Section 3.5**.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under this **Section 3.5** why the proposed action should not be taken. Exercise of this option by the Village shall not be a bar to, or a prerequisite for, taking any other action against the User.

3.5.71 Injunctive Relief

When the Village finds that a User has violated, or continues to violate, any provision of this **Section 3.5**, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Village may petition the Circuit Court through the Village's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this **Section 3.5** on activities of the User. The Village may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

3.5.72 Civil Penalties/Penalties and costs.

Any User who is found to have violated an order of the Village Board or who has failed to comply with any provision of this **Section 3.5**, any rules and regulations, permits or orders issued hereunder, shall be fined in an amount not less than five dollars (\$5.00) nor more than one thousand dollars (\$1000.00). For the purpose of this section, each day in which any such violation shall occur or continue, shall be deemed a separate violation, and a separate violation shall be deemed to have occurred for each constituent found to exceed the limits established in this **Section 3.5** during any such day. For each separate violation, each such person shall be fined an amount not to exceed one thousand dollars (\$1000.00). In addition to the penalties provided in this **Section 3.5**, the Village may recover reasonable attorney's fees, court costs, court reporter fees and other expenses of litigation by appropriate suit against the person found to have violated this **Section 3.5** or the rules, regulations, permits or orders issued hereunder.

3.5.73 Criminal Prosecution

3.5.73.1 A User who willfully or negligently violates any provision of this **Section 3.5**, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1000.00 per violation, or imprisonment for not

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more than six (6) months, or both. Each day on which a violation occurs or continues shall be deemed a separate violation.

3.5.73.2 A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of not more than \$1000.00, or be subject to imprisonment for not more than six (6) months, or both. Each day on which a violation occurs or continues shall be deemed a separate violation. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

3.5.73.3 A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this **Section 3.5**, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this **Section 3.5** shall, upon conviction, be punished by a fine of not more than \$1000.00 per violation, or imprisonment for not more than six (6) months, or both.

3.5.73.4 In the event of a second conviction, a User shall be punished by a fine of not more than \$1000.00 per violation, or imprisonment for not more than six (6) months, or both. Each day on which a violation occurs or continues shall be deemed a separate violation.

3.5.74 Remedies Nonexclusive

The remedies provided for in this **Section 3.5** are not exclusive. The Village may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the Village's enforcement response plan; provided, however, the Village may take other action against any User when the circumstances warrant. Further, the Village is empowered to take more than one enforcement action against any noncompliant User.

3.5.75 Performance Bonds

The Village may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this **Section 3.5**, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such User first files a satisfactory bond, payable to the Village, in a form and of a sum not to exceed a value determined by the Village to be necessary to achieve consistent compliance.

3.5.76 Liability Insurance

The Village may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this **Section**

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3.5, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the User first submits proof that it has obtained liability insurance or provides financial assurances sufficient to restore or repair any damage to the POTW it may cause by its discharge.

3.5.77 Water Supply Severance

Whenever a User has violated or continues to violate any provision of this **Section 3.5**, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the User may be severed. Service will only recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply.

3.5.78 Public Nuisances

A violation of any provision of this **Section 3.5**, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Village. Any person(s) creating a public nuisance shall be subject to the provisions governing such nuisances, including reimbursing the Village for any costs incurred in removing, abating, or remedying said nuisance.

3.5.79 Disqualification Contractor Listing

Users which have not achieved compliance with applicable pretreatment standards and requirements may not be eligible to receive a contractual award for the sale of goods or services to the Village.

3.5.80 Right of cut-off service - Reconnection procedure for non-payment.

3.5.80.1 The Village shall have the right to discontinue its sewer service to the customer on due notice whenever bills for sewer service, other charges, penalties or fines pursuant to this **Section 3.5** remain unpaid for thirty days after the due date specified, or in case the customer fails to comply with, or perform, any of the conditions or obligations for service.

3.5.80.2 A customer's service so disconnected shall be reconnected after the customer has made settlement for all outstanding amounts owed, or has, to the Village's satisfaction, complied with or performed such other conditions or obligations hereof which were in default, as the case may be. The customer shall pay the entire cost of disconnection and reconnection prior to reconnecting the service.

3.5.81 Lien rights.

3.5.81.1 Whenever a bill for sewer service, including any charge, penalty or fine pursuant to this **Section 3.5**, remains unpaid sixty days after it has been rendered, the Village Attorney shall file with the Recorder of Deeds of Kane County a statement of lien claim. This statement

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shall contain a legal description of the premises served, the amount of the unpaid bill, and a notice that the Village claims a lien for such amount as well as for all charges for sewer service subsequent to the period covered by the bill.

- 3.5.81.2 If the customer whose bill is unpaid is not the owner of the premises, the Village Clerk shall notify the owner of the premises if his address is known to the Clerk, whenever such bill remains unpaid for a period of ninety days after it has been rendered.
- 3.5.81.3 The failure of the Village Attorney to record such lien claim or to mail such notice, or the failure of the owner to receive such notice shall not affect the right to foreclose the lien for unpaid sewer bills mentioned in subsection D of this Section.
- 3.5.81.4 Property subject to a lien for unpaid sewer service charges shall be sold for nonpayment of the same, and the proceeds of the sale shall be applied to pay the charges, after deducting costs as is the case in the foreclosure of statutory liens. Such foreclosure shall be by bill in equity or other appropriate proceeding in the name of the Village. The Village Attorney is authorized and directed to institute such proceedings in the name of the Village in any court having jurisdiction over such matters against any property for which the bill for sewer service has remained unpaid ninety days after it has been rendered.

3.5.82 Affirmative Defense - Upset

- 3.5.82.1 For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- 3.5.82.2 An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of section 3.5.82.3 below are met.
- 3.5.82.3 A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - 3.5.82.3.1. An upset occurred and the User can identify the cause(s) of the upset;
 - 3.5.82.3.2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

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- 3.5.82.3.3. The User has submitted the following information to the Village within twenty-four (24) hours of becoming aware of the upset if this information is provided orally, a written submission shall be provided within five (5) days:
- 3.5.82.3.3.1. A description of the indirect discharge and cause of noncompliance;
 - 3.5.82.3.3.2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - 3.5.82.3.3.3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- 3.5.82.3.4. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
- 3.5.82.3.5. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- 3.5.82.3.6. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

3.5.83 Affirmative Defense to Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in **Section 3.5.23** or the specific prohibitions in **Sections 3.5.25 and 3.5.26** if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- 3.5.83.1 A local limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the pass through or interference; or
- 3.5.83.2 No local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the Village was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

3.5.84 Bypass

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- 3.5.84.1 A User may allow any User Bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. Such User Bypasses are not subject to the provision of sections 3.5.84.3 and 3.5.84.4 of this section.
- 3.5.84.2 If a User knows in advance of the need for a User Bypass, it shall submit prior notice to the Village, at least ten (10) days before the date of the User Bypass, if possible.
- 3.5.84.3 A User shall submit oral notice to the Village of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the User Bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the User Bypass. The written submission shall contain a description of the User Bypass and its cause; the duration of the bypass, including exact dates and times, and, if the User Bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the User Bypass. The Village may waive in writing the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- 3.5.84.4 User Bypass is prohibited, and the Village may take an enforcement action against a User for a bypass, unless
- 3.5.84.4.1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - 3.5.84.4.2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - 3.5.84.4.3. The User submitted notices as required under section 3.5.84.3.
- 3.5.84.5 The Village may approve an anticipated User Bypass, after considering its adverse effects, if the Village determines that it will meet the three conditions listed in section 3.5.84.4.
- 3.5.85 Pretreatment Charges and Fees
- The Village may adopt reasonable fees for reimbursement of costs of setting up and operating the Village of Gilberts Pretreatment Program which may include:

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- 3.5.85.1 Fees for wastewater discharge permit applications including the cost of processing such applications;
- 3.5.85.2 Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports submitted by Users;
- 3.5.85.3 Fees for reviewing and responding to accidental discharge procedures and construction;
- 3.5.85.4 Fees for filing appeals; and
- 3.5.85.5 Other fees as the Village may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this **Section 3.5** and are separate from all other fees, fines, and penalties collectable by the Village.
- 3.5.85.6 Fees for sampling and testing as described in **Section 3.5** are as follows:

Sample Collection	\$13.00/sampling
Heavy Metal Analysis	\$10.00/test
Acid Digestion	\$10.00/sample
Biological Oxygen Demand	\$ 6.00/sample
Fats, oils, and grease	\$ 6.00/sample
Fluoride	\$ 6.00/sample
Total Dissolved Solids	\$ 6.00/sample
pH	\$ 2.00/sample
Nitrogen, ammonia	\$10.00/sample
Nitrogen, ammonia distillation	\$10.00/sample
Chemical Oxygen demand	\$10.00/sample
Total Suspended Solids	\$ 6.00/sample

Bills for monitoring services shall be sent out monthly for all customers and shall be due and payable thirty days from the billing date. An additional charge of ten percent shall be made on all bills which have not been paid when due, except that one late payment shall be allowed within each calendar year at no increase in cost.

3.5.86 Surcharge to Industrial Users for Discharge of Compatible Pollutants

- 3.5.86.1 All Users shall comply with the limits imposed upon the discharge of Compatible Pollutants. Upon written request by a User, the Village may, in his or her sole discretion, approve the discharge of such pollutants in excess of the stated concentration limits, provided that such User shall pay a surcharge calculated in accordance with this **Section 3.5.86**. Approval of such discharge and the surcharge requirement shall be set forth in the User's wastewater discharge permit.

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- 3.5.86.2 Users permitted to discharge Compatible Pollutants in excess of the stated limits, either singly or collectively, shall pay a surcharge according to the following schedule:
- \$0.32 for every pound of BOD discharged above the stated limits
 - \$0.24 for every pound of TSS discharged above the stated limits
 - \$0.11 for every pound of FOG discharged above the stated limits

The following formula shall be used for calculating the pounds of excess in the User's discharge:

$$(\text{actual concentration } \{\text{mg/L}\} - \text{Code limit } \{\text{mg/L}\}) \times (8.34 \text{ lbs./gal.}) \times (\text{Volume of discharge})$$

- 3.5.86.3 All measurements, tests, and analysis of the characteristics of the wastewater to determine the User surcharge shall be conducted as under **Sections 3.5.56 and 3.5.61**.
- 3.5.86.4 All Industrial Users shall be charged for sample collection and laboratory analysis in accordance with **Section 3.5.85**.
- 3.5.86.5 Environmental Remediation
Surcharge: \$0.10 per gallon of discharge
- 3.5.87 Water – Sanitary Sewer Charges
Water – Sanitary Sewer charges shall be in accordance with the provisions of Section 7 and/or 14, as amended from time to time.
- 3.5.88 Monitoring program by Village.
The Village shall maintain a program of monitoring Industrial User discharges; provided, that any Significant Industrial User shall be monitored no less than twelve times annually and any Industrial User that has a population equivalent, as determined by **Section 3.5.86**, equal to or greater than one hundred shall be monitored no less than once annually. All other Industrial Users shall be monitored at such frequency as deemed necessary by the Village. Monitoring shall consist of the taking and testing of grab samples or twenty-four hour composite samples as deemed reasonably necessary by the Village for determination of the population equivalent of the industrial User. The monitoring data collected shall be used to determine the population equivalent in accordance with **Section 3.5.86**. A control manhole shall be provided within five feet of the outside wall of each building discharging to the POTW. Industrial Users shall be subject to fees for sampling and testing of their discharge as it pertains to the Village's monitoring program. Where required by the Village, additional control manholes or sampling chambers shall be provided at the end of each industrial process within an Industrial User's facility suitable for the determination of compliance with pretreatment standards.
- 3.5.89 Right of Entry: Inspection and Sampling

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The Village or his/her authorized designee shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this **Section 3.5** and any wastewater discharge permit or order issued hereunder. Users shall allow the Village or designee ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- 3.5.89.1 Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Village or designee will be permitted to enter without delay for the purposes of performing specific responsibilities.
 - 3.5.89.2 The Village or his/her authorized designee shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
 - 3.5.89.3 The industrial User may request that the representative of the Village state the purpose of any inspection, and further, may request that such representative abide by reasonable safety and hygiene requirements.
 - 3.5.89.4 The Village may require the User to install monitoring equipment as necessary in accordance with **Section 3.5.56(?)**. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated bi-annually to ensure their accuracy.
 - 3.5.89.5 Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Village and shall not be replaced. The costs of clearing such access shall be born by the User.
 - 3.5.89.6 Nothing herein shall be construed to limit or restrict any User from exercising any right it may have to object to the nature and extent of any inspection access request or to object to any inspection access request as not necessary to carry out the purposes of the Village pursuant to this **Section 3.5**.
 - 3.5.89.7 Unreasonable delays in allowing the Village or his/her authorized designee access to the User's premises shall be a violation of this **Section 3.5**.
- 3.5.90 Search Warrants

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If the Village or his/her authorized designee has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this **Section 3.5**, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Village designed to verify compliance with this **Section 3.5** or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Village or his/her authorized designee may seek issuance of a search warrant from the Circuit Court.

- 3.5.91 Control manhole device and sampling requirements: Location, construction, maintenance and facility monitoring
- 3.5.91.1 When required by the Village, the owner and/or occupant of any property served by a building sanitary sewer carrying industrial waste shall install a suitable control manhole in the building sanitary sewer to facilitate observation, sampling and measurement of the wastes. Such manhole, when required, shall include but not be limited to being accessible, safely located, and provide for 110 volt hookup and shall be constructed in accordance with plans approved by the Village. The manhole shall be installed by the owner and/or occupant at his expense, and shall be maintained by him so as to be safe and accessible to the Village at all times.
 - 3.5.91.2 When in the judgment of the Village there exists sufficient volumes and/or quantities of contaminants that may interfere with the performance of the Village sewage system, the Village may require the owner and/or occupant of any property and/or an Industrial User served by a building sanitary sewer carrying industrial wastes to install composite sampling equipment and/or flow measurement equipment. Said composite sampling and flow measurement equipment shall be installed by the property owner and/or occupant at its expense and shall be maintained by it as to be functional at all times, safe and accessible to the Village.
 - 3.5.91.3 The owner and/or occupant shall be responsible for monitoring its effluent to insure that its discharge meets the Village Code and regulations, state and federal law. It is also responsible for having knowledge of the contaminants in its wastewater and the specific limitations relative to its discharge. Records shall be kept by the owner and/or occupant of the results of all sampling and/or flow measurements. Such documentation shall be available to appropriate Village personnel at all reasonable times. Records shall be kept by the owner and/or occupant no less than three years or longer if required by state or federal laws prior to discard or if an enforcement action is pending.
 - 3.5.91.4 Where composite sampling equipment is available, the Village shall utilize such composite samples for purposes of calculating

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surcharges pursuant to **Section 3.5**. The average of all composite samples during the monitoring period shall be used to determine the multiplier. Should the composite sampling equipment malfunction or if it does not exist, the Village shall use composited grab samples of not less than four aliquots in a 24 hour period, unless the User agrees to less than four grab samples in a 24 hour period, to determine surcharges as set forth in **Section 3.5**. The average of all grab samples taken by the Village during the billing period shall be used for the multiplier. Where nonfunctional composite equipment exists and at such time that a grab sample exceeds the limitations specified in **Section 3.5** hereof for total suspended solids, C.B.O.D., ammonia, phosphorous or grease, the Village and waste generator shall split grab samples no less than five samples per week until the composite sampler is once again functional. Should the composite sampler become functional prior to the end of the billing period, composite samples shall be taken no less than five per week for the remainder of the billing period for computing the average of the grab and composite samples to determine the billing multiplier. The Village shall decide the time when split sampling will be taken. Should there be a significant discrepancy between the owner's and/or occupant's test results and the Village's test results on split samples, the owner and/or occupant may request billing to be based upon testing results from an independent testing laboratory. Upon investigation by the Village as to the reasons for the discrepancy in sample results, the Village shall take appropriate corrective actions and/or authorize in writing the terms of using a certified independent testing laboratory. The choice of independent laboratory shall be at the discretion of the Village. All expenses incurred for monitoring by an independent certified laboratory shall be at the expense of the owner and/or occupant.

- 3.5.91.5 In the event that no special manhole is available, the control manhole shall be considered to be the downstream manhole in the public sewer nearest to the point at which the building sanitary sewer is connected.
- 3.5.91.6 If the Villages find violations of standards set forth in this **Section 3.5**, the Village may require the owner and/or occupant to provide access for the use of laboratory testing equipment or to contract for laboratory testing services and provide the Village with a copy of the test results of the constituent(s) monitored. Upon review of the products and by products of the owner and/or occupant operation and the type of wastewater that is indigenous to the operation, the Village shall also stipulate what constituents are to be monitored to insure proper performance by the Village sewerage system in compliance with this **Section 3.5**, state and federal law.

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3.5.91.7 Where nonfunctional or malfunctioning flow measurement equipment exists, the waste generator and/or Industrial User shall notify the Village within twenty-four hours of his or her knowledge of the malfunction so appropriate interim measurement arrangements can be made.

3.5.92 Severability

If any provision of this **Section 3.5** is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SECTION 4. STORMWATER MANAGEMENT ORDINANCE

4.1. PURPOSE:

The village has a duty to promote the health, safety and general welfare of the present and future residents of the village and downstream drainage areas by providing for the protection, preservation, proper maintenance and use of the village watercourses, lakes, ponds, floodplains and wetland areas. It is the intent of this section to:

- 4.1.1 Prevent flood damage by preserving storm and floodwater storage capacity;
- 4.1.2 Maintain the normal hydrologic balance of streams, ponds, wetlands and ground water by storing and providing for infiltration of storm water runoff in floodplains and wetlands, and releasing it slowly to maintain steady in stream flow;
- 4.1.3 To improve water quality, both by filtering and storing sediments and attached pollutants, nutrients and organic compounds before they drain into streams and wetlands and by maintaining the natural pollutant assimilating capabilities of streams, floodplains and wetlands;
- 4.1.4 To protect wildlife habitat;
- 4.1.5 To preserve areas of special recreational, scenic or scientific interest, including natural areas and habitats of endangered species;
- 4.1.6 To maintain and enhance the aesthetic qualities of developing areas;
- 4.1.7 To encourage the continued economic growth and high quality of life in the village which depends in part on an adequate quality of water, a pleasing natural environment and recreational opportunities in proximity to the village.

4.2. KANE COUNTY STORM WATER ORDINANCE ADOPTED:

The village hereby adopts the Kane County Stormwater Management Ordinance as Amended by reference. (Ord. 01-44, 11-20-2001)

4.3. PROHIBITION OF DEVELOPMENT:

Any property, parcels, tracts, lots or lands contained within a floodplain or wetland shall not be developed except as otherwise provided herein. Floodplain shall include floodway and flood fringe.

4.4. VARIANCE:

- 4.4.1 Application: An owner of any such property may apply for a variance to said prohibition which process shall be in accordance with the most recently adopted floodplain ordinances of the village as promulgated by the federal emergency management agency.

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- 4.4.2 Protection Of Natural Resources: No variance shall be granted unless the village finds that the development will not detrimentally affect or destroy natural features such as ponds, streams, wetlands and forested areas, or impair their natural functions, but will preserve and incorporate such features into the development's site.
- 4.4.3 Floodplain; Wetlands Restricted: No variance shall be granted for construction of any structures in a floodplain or wetland which are designed or intended to be occupied by people. Any such variance request shall be limited to the allowance of construction of parking areas, water retention areas, walkways, bike paths, parks and other open space type uses.

4.5. DRAINAGE INTO WETLANDS:

Wetlands shall be protected from damaging modifications and adverse changes in runoff quality and quantity associated with land developments. In addition to the other requirements of this title, the following requirements shall be met for a development or subdivisions whose drainage flows into wetlands:

- 4.5.1 Modification Of Existing Wetlands: Existing wetlands shall not be modified for the purposes of storm water detention unless it is demonstrated that the wetland is low in quality and the proposed modifications will maintain or improve its habitat and ability to perform beneficial functions. Existing depressional storage in wetlands shall be maintained and the volume of detention storage provided to meet the requirements of the Kane County Stormwater Management Ordinance as Amended shall be in addition to the existing storage.
- 4.5.2 Protection During Construction: The existing wetland shall be protected during construction by appropriate soil erosion and sediment control measures to meet the requirements of the Kane County Stormwater Management Ordinance as Amended and shall not be filled.
- 4.5.3 Site Drainage Patterns: Site drainage patterns shall not be altered to substantially decrease or increase the existing area tributary to the wetland.
- 4.5.4 Runoff: All runoff from the development shall be routed through a preliminary detention/sedimentation basin designed to capture the two (2) year, twenty four (24) hour rainfall event and hold it for at least twenty four (24) hours before being discharged to the wetland. This basin shall be constructed before property grading begins.
- 4.5.5 Buffer Strip: A buffer strip of at least twenty five feet (25') in width, preferably vegetated with native plant species, shall be maintained or restored around the periphery of the wetland, stream, lake or pond. The buffer strip shall extend landward from the ordinary high water mark of surface water or from the edge of a wetland.

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- 4.5.6 within 50 feet of the ordinary high water mark (OHWM) of lakes, ponds, and wetlands and 100 feet from natural streams and waterways.
- 4.5.7 Development Within Minimum Setback:
- 4.5.7.1 Absolutely no development activity (except as provided herein) may occur within the "minimum setback", which is defined as fifty feet (50') from the ordinary high water mark of lakes, ponds, the edge of wetlands or within a designated depressional area.
- 4.5.7.2 Development Within Minimum Setback: Absolutely no development activity (except as provided herein) may occur within the "minimum setback", which is defined as fifty feet (50') from the ordinary high water mark of natural streams and waterways.
- 4.5.7.3 The following development activities may be permitted subject to issuance of a special use permit:
- 4.5.7.3.1. Minor Improvements: Minor improvements such as walkways, benches, comfort stations, foot bridges and docks;
- 4.5.7.3.2. Maintenance: The maintenance or replacement of existing highways and bridges, utility poles and towers;
- 4.5.7.3.3. Parks And Recreation Areas: The establishment and development of public and private parks and recreation areas.

4.6. COMPENSATORY STORAGE:

Whenever any portion of a floodplain is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the 100-year frequency flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the 100-year frequency flood elevation. The excavation volume shall be at least equal to one and one-half (1 1/2) times the volume of storage lost due to fill or the structure. In the case of streams and watercourses, such excavation shall be made opposite or adjacent to the areas so filled or occupied. All floodplain storage lost below the existing 10-year flood elevation shall be replaced below the proposed 10-year flood elevation. All floodplain storage lost above the existing 10-year flood elevation shall be replaced above the proposed 10-year flood elevation. All such excavation shall be constructed to drain freely and openly to the watercourse.

SECTION 5. BUILDING AND CONSTRUCTION

5.1. ADOPTION OF CODES

The Village hereby adopts the following codes and standards as the Building Code of the Village:

- 5.1.1 The International Building Code/2003
- 5.1.2 The International Mechanical Code/2003
- 5.1.3 The International Fuel Gas Code/2003
- 5.1.4 The National Electrical Code 2002 NFPA 70.
- 5.1.5 The International Residential Code / 2003
- 5.1.6 The Illinois State Plumbing Code of 2004.
- 5.1.7 The International Fire Code / 2003
- 5.1.8 The International Property Maintenance Code / 2003
- 5.1.9 The International Urban – Wildland Interface Code / 2003

5.2. AMENDMENTS TO INTERNATIONAL BUILDING CODE:

The following specific sections of the International Building Code are hereby amended, added and/or deleted, as applicable, as follows:

- 5.2.1 In Section 101.1 of the International Building Code delete “[NAME OF JURISDICTION]” and replace with: “Village of Gilberts, Illinois”.
- 5.2.2 Add the following as Section 102.7 of the International Building Code: “Where more restrictive in any respect, the limitations or requirements of the Village of Gilberts Code, or any other Code of the Village or any Village ordinance shall take precedence over the regulations of this code.”
- 5.2.3 Add the following as Section 105.8 of the International Building Code: “Any applicant for a building permit for construction of a building which requires the extension of the water or sewer system or the installation of a well or septic shall submit detailed plans for said construction.”
- 5.2.4 Add the following as Section: 105.9 of the International Building Code: “Foundations: The plan submitted shall indicate that the top of the foundation is a minimum of two (2) feet above the crown of the pavement (as measured at the lowest point of the crown of the pavement between the ends of the property lines) of the street on which a building abuts or the building and lot shall comply with the current Village Grading Code.
- 5.2.5 Add the following as Section: 105.10 of the International Building Code: “Compliance with Village Grading Code: The owner /developer/ permittee shall submit a grading plan as specified in the Village Grading Code.”

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- 5.2.6 Add the following as Section: 105.11 of the International Building Code:
“Culvert and Site Access:
Before any construction, site work, or grading excavation may be commenced on any property, lot or tract, there shall be first installed, inspected and approved by the Village Engineer a culvert and gravel based access to each such property, lot or tract.”
- 5.2.7 Add the following as Section: 105.12 of the International Building Code:
“Permit Requirements:
(1) The permit requirements of this code shall apply to all buildings, structures and construction.
(2) A permit application shall be denied if the plans submitted do not conform to all the requirements and provisions of the Village Code and all other Village ordinances. Any such denial shall be stated in writing and shall state the reason for said denial.
(3) The Village Building Department shall, with the issuance of a building permit, furnish the permittee with a placard which must be conspicuously posted on the job site at all times and which may not be removed until issuance of an occupancy permit.
(4) All building permits issued for the purpose of correcting a violation of any code or ordinance of the Village and all building permits issued for work estimated to have a cost of \$5,000 or less shall expire thirty (30) days from issuance of the permit unless extended by the corporate authorities.
(5) All other building permits shall expire six (6) months from issuance if construction equal to at least fifty percent (50%) of the entire construction for which the permit was issued has not been completed within such six (6) months and shall in all cases expire eighteen (18) months from issuance, at which time all construction must cease until a permit extension is obtained. All work required to be done in accordance with the submitted plans and specifications shall be completed within the term of the permit.
(6) Demolition permits shall expire ninety (90) days after issuance.
(7) No fees shall be refunded on lapsed permits.
(8) A final occupancy certificate shall be secured before any building is occupied, which certificate may not be issued until all work covered by the permit is completed in compliance with the provisions of the codes and ordinances of the Village, the permit, and submitted plans and specifications.
- 5.2.8 In Section 108.2 Insert the following: “The Village Fee Schedule specified in Section 14 of the Village Code.”

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5.2.9 Add the following as Section 108.2.1 of the International Building Code: “Gross Floor Area: For the purpose of calculating various fees in the Village Fee Schedule, gross floor area is defined as the sum of the gross horizontal area of all floors of a building measured from the exterior face of the exterior walls or from the center-line of the walls separating two (2) buildings. The gross floor area of a building shall also include but is not limited to:

- (1) elevator shafts and the stairwells;
- (2) mechanical equipment (unless located on the roof) either open or enclosed;
- (3) attic space having headroom conforming to the definition of habitable;
- (4) interior balconies or mezzanines;
- (5) enclosed porches;
- (6) interior off street parking or loading areas;
- (7) outdoor display areas;
- (8) basements; garages; and crawl spaces.

5.2.10 Add the following to Section 109.3 of the International Building Code: “A. Inspections: The permit applicant, owner, or contractor shall contact the Village Building Inspector to request each of the following required inspections:

- (1) Site Preparation and/or Culvert - An inspection to ensure the adequate provision of all required soil erosion control and tree protection prior to grading, footing excavation, or any other work on the property.
- (2) Footing Excavation - An inspection before concrete is poured and after excavation and forming have been completed.
- (3) Foundation Forms - An inspection after the foundation wall forms are set and before concrete is poured
- (4) Foundation Wall - An inspection before backfilling and after footing drantile has been placed and dampproofing completed.
- (5) Driveway – An Inspection after placing of forms or otherwise establishing the border of a driveway and prior to installation of asphalt, concrete pavers, or other hard surface material, to ensure that the driveway complies with the approved site plan, maximum and minimum width requirements, and setback requirements. Placement of driveway forms and the driveway inspection can be conducted at any time during the construction process.
- (6) Electric Service - An inspection after electric panel, meter enclosure, and temporary ground have been installed.

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- (7) Underground Plumbing - An inspection before concrete is poured in a basement or floor slab and after underground plumbing work has been completed.
- (8) Rough Framing - An inspection before any insulation and vapor barrier is installed and after the rough framing, rough plumbing and rough electrical work are completed.
- (9) Rough Plumbing - An inspection before any insulation and vapor barrier is installed and after the rough plumbing work is complete.
- (10) Rough Electric - An inspection before any insulation and vapor barrier is installed or any underground electrical work is covered by concrete and after the rough electrical work is complete.
- (11) Insulation and Vapor Barrier - An inspection before any interior wall finish is applied and after the insulation and vapor barrier are installed.
- (12) Septic System - If a private sanitary sewer system is used and has been approved by Kane County, a final inspection and approval by Kane County is required. Written proof that final inspection and approval by Kane County has been obtained must be provided to the Village Building Inspector before issuance of a Building Certificate of Occupancy for a structure.
- (13) Final - Final inspection by the Village before issuance of a Building Certificate of Occupancy for a structure. The final inspection shall ensure that the building and site comply with all Village codes, ordinances and regulations including, but not limited to, the Village Code, Zoning Code, and engineering requirements.

The final inspection shall include inspections for the following: building, mechanical, electrical, plumbing, site engineering, landscaping, and fire protection. All fire protection systems shall be approved by the Village Building Inspector after inspection by the local fire protection district.
- (14) Bond Release - An inspection prior to the release of any outstanding bonds to ensure compliance with all required Village codes, ordinances and regulations including landscaping improvements.
- (15) Other – Other additional inspections may be required because of complex or different building systems or because of construction sequencing caused by the contractor. The fees for these additional inspections will be added to the permit fee. These additional inspections may be required at the discretion of the Village Building Inspector.
- (16) General Provisions:

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- (a) Before any work above the foundation starts on a structure, the owner, architect, or other agent or representative of the owner shall submit to the Village Building Inspector a topographical survey showing the location of the building on the lot and foundation elevation consistent with the approved grading plan.
 - (b) Foundation Elevation - Immediately after the foundation has been poured but prior to framing, the owner or contractor shall submit to the Building Inspector two (2) copies of an on-site location of the structure showing the top of foundation elevations in USGS Datum, prepared by a registered land surveyor. This elevation survey shall be approved by the Village Engineer. In no case shall a final inspection for Certificate of Occupancy be made until such information is provided.
 - (c) All re-inspections required, as a result of builder error shall be performed at an additional fee as specified in Code Section 14, which fee will be subtracted from the applicable posted bond.
 - (d) Proper and safe ladders for access to any basement or attic are the responsibility of the contractors. There will be no inspections performed if adequate ladders are not provided.
 - (e) All materials required for testing are the responsibility of the contractor.
 - (f) All job sites shall have an approved sign indicating the applicable address and permit number. The sign shall have provisions for the placing of inspection forms when there is no property representative on site. The provisions shall keep the inspection form dry and from blowing away.
 - (g) The sign shall be a minimum of twenty-four (24) inches by twenty-four (24) inches and no greater than thirty-six (36) inches by thirty-six (36) inches. The contractor shall store an approved set of plans at the location of the sign and shall ensure that such plans are impervious to weather conditions.
 - (h) The plans and inspection forms will be placed in a location approved by the Village Building Inspector. Such location shall be visible from the street or right of way and not be located in the right of way.
 - (i) The aforementioned copy of the approved plans shall be on the job site at all times.
- 5.2.11 In Section 113.4 of the International Building Code, add the following see “The Village Fee Schedule specified in Section 14 of the Village Code.”
- 5.2.12 In Section 114.3 of the International Building Code, add the following see “The Village Fee Schedule specified in Section 14 of the Village Code.”

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5.2.13 In Section 110.3 of the – International Building Code, Add the following language regarding Temporary Occupancy as Section 110.3:

(1) Definitions

- (a) Temporary Occupancy Permit: That permit issued by the Village Building Department allowing occupancy of a building or structure intended for occupancy prior to final inspection and issuance of an occupancy permit.
- (b) Escrow: The sequestered amount approved by the Building Department and/or the Village Engineer and created by an applicant for a temporary occupancy permit running in favor of the said applicant and the Village to guarantee completion of the building, structure or construction.
- (c) Building Department: The Building Department of the Village of Gilberts as administered by the Village Building Inspector or, if none, the Village President and Board of Trustees.

(2) Provisions

- (a) A Temporary Occupancy Permit for a single family home may be issued by the Building Department upon such other terms as may be contained herein where the items to be completed are limited to driveways, landscaping and site work if weather does not allow the work to be completed.
- (b) A Temporary Certificate of Occupancy Permit may be otherwise issued at the sole discretion of the Village Board allowing occupancy of a building or structure intended for occupancy prior to final inspection by the Village Building Department and issuance of a final occupancy permit.
- (c) A Temporary Occupancy Permit may be issued upon the following conditions:
 - (i) Approval by the Building Inspector of all then-completed items;
 - (ii) Proper provisions for health and safety;
 - (iii) Ascertainment by the Village Building Inspector or Village Engineer of all uncompleted items of construction within the building or on the site and the estimated date of completion thereof;
 - (iv) Written agreement by the applicant for the Temporary Occupancy Permit in which such applicant shall agree to complete those items whose completion and in which such applicant shall agree to a set completion date for such items; and
 - (v) Posting of Escrow monies in an amount no less than 125% of the cost of completion of all uncompleted

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items as determined by the Building Department or Village Engineer.

- (d) Upon issuance of a Temporary Occupancy Permit, there shall be affixed to the building or structure a notice to the effect that occupancy has been permitted under a Temporary Occupancy Permit and that a final inspection and occupancy permit are still required. Said notice may not be removed except by the Village Building Department. Other removal of said notice shall constitute an offense under this Building Code punishable by penalty as provided in this Building Code. Each day said notice is not posted shall constitute a separate offense. It is the joint and several responsibility of the owner and occupant of subject building or structure to cause said notice to be posted and not removed.
- (e) The Temporary Occupancy Permit shall expire one hundred eighty (180) days after its date of issuance, unless otherwise extended on the conditions specified by and in the discretion of the Building Department.
- (f) Occupancy of a building without a valid occupancy permit or failure to obtain a final occupancy permit after expiration of a Temporary Occupancy Permit shall constitute an offense under this Building Code. The amount of fine imposed by the Village pursuant to this Building Code for a violation of this section may be deducted from the Escrow monies as defined in this section.”

5.2.14 Section 112.0 “Means of Appeal” of the International Building Code is hereby deleted and is replaced with the following new section 112.0:

“Section 112.0 Means of Appeal

112.1 Application for appeal: Any person shall have the right to appeal a decision of the code official to the Board of Appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent form of construction is to be used.

112.2 Membership of Board: The Board of Appeals shall be comprised of the Village President and the Village Board of Trustees.

112.3 Open hearing: All hearings before the Board of Appeals shall be open to the public and in compliance with the provisions of the Illinois Open Meetings Act. The appellant, the appellant’s representative, the code official and any person whose interests are affected shall be given an opportunity to be heard.

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112.4 Board decision: The Board of Appeals shall modify or reverse the decision of the code official by a concurring vote of a majority of its members.

Section 112.5 Court review: Any person, whether or not a previous party to the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.”

5.2.15 Add the following new section 701.2:

“There shall be a minimum of a two-hour fire separation (walls, floor ceiling) surrounding any dwelling of Use Groups R-2 (Apartments), R-3 (Townhouses) or assemblies separating the tenants in any use group.”

5.2.16 Fire Detection and Suppression and Central Monitoring.

5.2.16.1 Change 907.2 as follows: Except as otherwise herein provided, all non-residential buildings which are constructed after June 30, 2001 or which are hereafter remodeled at a cost of fifty percent (50%) or more of the value prior to remodeling of the building or of a portion of the building which is used by tenant, tenant space prior to remodeling, as determined by the then latest edition of “Robert Snow Means Company or McGraw-Hill Cost Information Systems” or which incur a change of use of the building, shall have a fire alarm and detection system that has a connection to a central monitoring station facility and shall have a Knox Rapid Entry System installed externally near the main entrance to the building.

5.2.16.2 All multi-family dwelling buildings constructed after June 30, 2001 containing four (4) or more residential living units where there is access provided to the common areas or to the mechanical rooms or to the electrical rooms, shall have a Knox Rapid Entry System installed externally near the main entrance.

5.2.16.3 After installation, all of the systems referred to in this Section 5.7.3 shall be maintained in accordance with the International Fire Code (2003 Edition).

5.2.17 Add section 1101.3 When there is a conflict between the Illinois Accessibility and this Chapter, the stricter shall apply.

5.2.18 The last sentence of the section 2701.1 is changed as follows: The provisions of the 2002 edition of the “National Electric Code”, as hereinbefore amended, are hereby incorporated herein by reference and adopted as the standard. All installations shall conform to the provisions of the “National Electric Code”. Any conflicts concerning the provisions of these codes shall be resolved in favor of the strictest standard contained in the provisions.

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- 5.2.19 Sections 2901 and 2902 are deleted and the following inserted: “The provisions of the current “Illinois Plumbing Code Law” (225 ILCS 320/1 et seq.), as hereinbefore amended, is hereby incorporated herein by reference and adopted as the standard. Any conflicts concerning the provisions of these codes shall be resolved in favor of the strictest standard.
- 5.2.19.1 Amendments to the State of Illinois Plumbing Code.
- 5.2.19.1.1. There shall be installed an accessible full size cleanout assembly in line with the building drain and sewer at the exterior; with five (5') feet of the building foundation at or above the finish grade as well as the full size clean out within five (5') feet of the interior of the building foundation.
- 5.2.19.1.2. The minimum diameter of the exterior clean out shall be six (6") inches. ([Ordinance No. 05-16 passed 6/21/05](#))
- 5.2.20 In Section 3109.2 of the International Building Code, the reference to water depth found in the definition of “Private swimming pool” is hereby changed from “24 inches” to “18 inches”.
- 5.2.21 In Section 3410.2 of the International Building Code, delete: “[DATE TO BE INSERTED BY THE JURISDICTION. NOTE: IT IS RECOMMENDED THAT THIS DATE COINCIDE WITH THE EFFECTIVE DATE OF BUILDING CODES WITHIN THE JURIDICITION]” and replace with the following: “December 5, 1989”.
- 5.2.22 Chapter 35 ICC Codes delete the references to the International Plumbing Code and insert the Illinois Plumbing Code – 2004

5.3. AMENDMENTS TO MECHANICAL CODE

The International Mechanical Code - 2003 Edition (the “IMC”) is hereby amended as follows:

- 5.3.1 In Section 101.1 of the IMC, delete: “[NAME OF JURISDICTION]”; and replace with “Village of Gilberts, Illinois”.
- 5.3.2 In Section 106.5.2 of the IMC, delete: “[JURISDICTION TO INSERT APPROPRIATE SCHEDULE]”; and replace deleted language with the following: “The Village Fee Schedule specified in Section 14 of the Village Code”.
- 5.3.3 In Section 106.5.3 of the IMC, delete the following from subsection 2 therein: “[SPECIFY PERCENTAGE]”; and replace the deleted language with the following: “seventy percent (70%)”. Also in Section 106.5.3 of the IMC, delete the following from subsection 3 therein: “[SPECIFY PERCENTAGE]”; and replace the deleted language with the following: “forty percent (40%)”.
- 5.3.4 In Section 108.4 of the IMC:

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- (a) Delete: “[SPECIFIC OFFENSE]”; and replace the deleted language with “violation”;
 - (b) Delete: “[AMOUNT]”; and replace the deleted language with “five hundred (500)”; and
 - (c) Delete: “[NUMBER OF DAYS]”; and replace the deleted language with “one hundred eighty (180) days”.
- 5.3.5 In Section 108.5 of the IMC: (a) delete: the first “[AMOUNT]”; and replace the deleted language with: “fifty (50)”; and (b) delete; the second “[AMOUNT]”; and replace the deleted language with: “five hundred (500)”.
- 5.3.6 In Section 109 of the IMC, delete the entire Section and replace the deleted language with the following new Section 109:

“Section 109.0 Means of Appeal

109.1 Application for appeal: Any person shall have the right to appeal a decision of the code official to the Board of Appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent form of construction is to be used.

109.2 Membership of Board: The Board of Appeals shall be comprised of the Village President and the Village Board of Trustees.

109.3 Open hearing: All hearings before the Board of Appeals shall be open to the public and in compliance with the provisions of the Illinois Open Meetings Act. The appellant, the appellant’s representative, the code official and any person whose interests are affected shall be given an opportunity to be heard.

109.4 Board decision: The Board of Appeals shall modify or reverse the decision of the code official by a concurring vote of a majority of its members.

109.5 Court review: Any person, whether or not a previous party to the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.”

- 5.3.7 The following new section 309 is hereby added to the IMC:

“Section 309.0 Lead Materials Prohibited

309.1 Lead Materials: The use of lead pipe, lead fittings and/or lead solder is hereby prohibited.”

5.4. AMENDMENTS TO FUEL GAS CODE

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The International Fuel Gas Code - 2003 Edition (the “IFGC”) is hereby amended as follows:

- 5.4.1 In Section 101.1 of the IFGC, delete: “[NAME OF JURISDICTION]”; and replace with “Village of Gilberts, Illinois”.
- 5.4.2 In Section 106.5.2 of the IFGC, delete: “[JURISDICTION TO INSERT APPROPRIATE SCHEDULE]”; and replace deleted language with the following: “The Village Fee Schedule specified in Section 14 of the Village Code”.
- 5.4.3 In Section 106.5.3 of the IFGC, delete the following from subsection 2 therein: “[SPECIFY PERCENTAGE]”; and replace the deleted language with the following: “seventy percent (70%)”. Also in Section 106.5.3 of the IFGC, delete the following from subsection 3 therein: “[SPECIFY PERCENTAGE]”; and replace the deleted language with the following: “forty percent (40%)”.
- 5.4.4 In Section 108.4 of the IFGC:
- (a) Delete: “[SPECIFIC OFFENSE]”; and replace the deleted language with “violation”;
 - (b) Delete: “[AMOUNT]”; and replace the deleted language with “five hundred (500)”; and
 - (c) Delete: “[NUMBER OF DAYS]”; and replace the deleted language with “one hundred eighty (180) days”.
- 5.4.5 In Section 108.5 of the IFGC: (a) delete: the first “[AMOUNT]”; and replace the deleted language with: “fifty (50)”; and (b) delete; the second “[AMOUNT]”; and replace the deleted language with: “five hundred (500)”.
- 5.4.6 In Section 109 of the IFGC, delete the entire Section and replace the deleted language with the following new Section 109:
- “Section 109.0 Means of Appeal
- 109.1 Application for appeal: Any person shall have the right to appeal a decision of the code official to the Board of Appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent form of construction is to be used.
- 109.2 Membership of Board: The Board of Appeals shall be comprised of the Village President and the Village Board of Trustees.
- 109.3 Open hearing: All hearings before the Board of Appeals shall be open to the public and in compliance with the provisions of the Illinois Open Meetings Act. The appellant, the appellant’s representative, the code official and any person whose interests are affected shall be given an opportunity to be heard.

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109.4 Board decision: The Board of Appeals shall modify or reverse the decision of the code official by a concurring vote of a majority of its members.

109.5 Court review: Any person, whether or not a previous party to the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer.”

5.5. AMENDMENTS TO ELECTRICAL CODE

The National Electrical Code - 2002 Edition - NFPA 70 (“NEC”) is hereby amended as follows:

5.5.1 The following language is hereby added to Article 110 of the NEC as new Section 110-23: “Limitations on Conduit Materials. Except for “tap conductors” the use of armored cable, flexible metal conduit and rigid non-metallic conduit shall be prohibited in all new construction and remodeling. Flexible metal conduit shall be limited to uses requiring 6 feet or less. The use of rigid metallic conduit, intermediate conduit and electrical metallic conduit shall be permitted.”

5.5.2 Section E3502.1 shall be changed as follows:

E3502.1 Rating of ungrounded conductors. Ungrounded conductors shall have the ampacity of not less than the load served. Single family homes and townhomes shall have a minimum service size of 200 amps with a minimum of 3/0 copper service entrance conductor. The service entrance conduit shall be sized per the code. Single family homes and townhomes with a service calculation requiring a larger service will require a minimum service based on the load calculation.

5.6. AMENDMENTS TO THE INTERNATIONAL RESIDENTIAL CODE

The International Residential Code - 2003 Edition (the “Dwelling Code”) is hereby amended as follows:

5.6.1 In Section R101.1 of the Dwelling Code, delete: “[NAME OF JURISDICTION]”; and replace deleted language with the following: “Village of Gilberts, Illinois”.

5.6.2 The following new Section R106.5 hereby added to the Dwelling Code: “Section: R106.5 No plans shall be approved for permit unless such plans are signed and sealed either by an architect, structural engineer or like professional licensed by the State of Illinois, provided that the person who signs and seals such plans shall be permitted to do so within the limitations of the particular act under which he or she is licensed to practice; such licensed professional shall sign and seal those portions of the plan for which he or she is responsible with the following exceptions:

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(1) Minor alterations to one and two family properties, which do not involve structural changes.

(2) Residential accessory buildings not over 660 square feet in area or 16 feet in height measured from the finished floor to the top of the ridge.

(3) Residential decks that are not roofed over or designed with a structure overhead.”

5.6.3 Section R202 of the Dwelling Code is hereby amended to include the following definitions: “Garage. A garage shall be defined as an enclosed structure composed of a concrete floor, roof, a maximum of three exposed walls, plus a door large enough to provide entrance and exit of two motor vehicles from or onto a driveway.”

5.6.4 Table R301.2(1) of the Dwelling Code is hereby amended to include the following:

Ground Snow Load	25 psf
Wind Pressure	90 mph
Seismic Condition	A
Subject to Damage from Weathering	SEVERE
Frost Line Depth	Yes; 42 inches
Termite	MODERATE to HEAVY
Decay	SLIGHT to MODERATE
Winter Design Temperature	-4° F
Ice Shield	Yes
Flood Hazard	See Vill. Ordinance
Air Freezing Index	1700
Mean Annual Temp	50° F

5.6.5 The following new Section R301.9 is hereby added to the Dwelling Code: R301.9 Garage Requirements: All attached garages shall have walls and ceilings covered in 5/8th in type X drywall. All attached or detached single family dwelling units shall include an attached two-car garage measuring no less than 22 feet deep and 20 feet wide. The garage shall be completed prior to occupancy of the dwelling unit and shall be constructed of the exterior materials equal to that applied to the face of the dwelling unit. All garages shall be attached on at least one side to the single family dwelling unit.

5.6.6 The following new Section R309.7 is hereby added to the Dwelling Code: Section R309.7 Curb: A four (4) inch high concrete curb shall be provided between the garage and residence.

5.6.7 Section R403 and R404 of the Dwelling Code all references to wood footings and foundation are deleted. The use of wood foundations or footings is not allowed.

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- 5.6.8 The following chapters of the Dwelling Code are hereby deleted: Chapters 25, 26, 27, 28, 29, 30, 31 and 32. These deleted Chapters are hereby replaced the State of Illinois Department of Public Health Plumbing Code of 2004.
- 5.6.9 Adopt Appendices A, B, C, E, F, G, H, J, K
- 5.6.10 AG102 Change 24 inches to 18 inches

5.7. AMENDMENTS TO FIRE PREVENTION CODE

The International Fire Code - 2003 Edition (the “FC”) is hereby amended as follows:

- 5.7.1 In Section 101.1 of the FPC, delete: “[NAME OF JURISDICTION]”; and replace with: “the Village of Gilberts, Illinois”.
- 5.7.2 Section 105.0 (Sections 105.1 through 105.7.12 inclusive) is hereby deleted in its entirety.
- 5.7.3 Fire Detection and Suppression and Central Monitoring.
 - 5.7.3.1 Change 907.2 as follows: Except as otherwise herein provided, all non-residential buildings which are constructed after June 30, 2001 or which are hereafter remodeled at a cost of fifty percent (50%) or more of the value prior to remodeling of the building or of a portion of the building which is used by tenant, tenant space prior to remodeling, as determined by the then latest edition of “Robert Snow Means Company or McGraw-Hill Cost Information Systems” or which incur a change of use of the building, shall have a fire alarm and detection system that has a connection to a central monitoring station facility and shall have a Knox Rapid Entry System installed externally near the main entrance to the building.
 - 5.7.3.2 All multi-family dwelling buildings constructed after June 30, 2001 containing four (4) or more residential living units where there is access provided to the common areas or to the mechanical rooms or to the electrical rooms, shall have a Knox Rapid Entry System installed externally near the main entrance.
 - 5.7.3.3 After installation, all of the systems referred to in this Section 5.6.3 shall be maintained in accordance with the International Fire Code (2003 Edition).

5.8. AMENDMENTS TO PROPERTY MAINTENANCE CODE

The International Property Maintenance Code - 2003 Edition (the “IPMC”) is hereby amended as follows:

- 5.8.1 In Section 101.1 of the IPMC, the following language is hereby deleted: “[NAME OF JURISDICTION]”; and the deleted language is hereby replaced with the following: “the Village of Gilberts, Illinois.”

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- 5.8.2 In Section 103.6 of the IPMC, the following language is hereby deleted: [JURISDICTION TO INSERT APPROPRIATE SCHEDULE]; and the deleted language is hereby replaced with the following: “the Village Fee Schedule as specified in Village Code Section 14.”
- 5.8.3 Section 106.4 of the IPMC is hereby deleted in its entirety and is hereby replaced with the following new section 106.4:
- “106.4 Violation Penalties. Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof shall be guilty of a violation, punishable by a fine of not more than five hundred dollars (\$500) or by imprisonment not exceeding one hundred eighty (180) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.”
- 5.8.4 Section 111 of the IPMC, is hereby deleted in its entirety and is hereby replaced with the following new Section 111:
- “Section 111.0 Means of Appeal
- 111.1 Application for appeal: Any person shall have the right to appeal a decision of the code official to the Board of Appeals. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or an equivalent form of construction is to be used.
- 111.2 Membership of Board: The Board of Appeals shall be comprised of the Village President and the Village Board of Trustees.
- 111.3 Open hearing: All hearings before the Board of Appeals shall be open to the public and in compliance with the provisions of the Illinois Open Meetings Act. The appellant, the appellant’s representative, the code official and any person whose interests are affected shall be given an opportunity to be heard.
- 111.4 Board decision: The Board of Appeals shall modify or reverse the decision of the code official by a concurring vote of a majority of its members.
- 111.5 Court review: Any person, whether or not a previous party to the appeal, shall have the right to apply to the appropriate court for a writ of certiorari to correct errors of law. Application for review shall be made in the manner and time required by law following the filing of the decision in the office of the chief administrative officer
- 5.8.5 Section 302.4 Weeds of the IPMC is hereby deleted and is replaced with the following language: “Section 302.4 Weeds. See Section 3 of the Village Code.

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- 5.8.6 In Section 304.15 of the IPMC, delete the following language: “[DATE] to [DATE]; and replace the deleted language with the following: “May 1st to October 15th”.
- 5.8.7 In Section 602.3 of the IPMC, delete the following language: “[DATE] to [DATE]; and replace the deleted language with the following: “September 15th to June 1st”.
- 5.8.8 In Section 602.4 of the IPMC, delete the following language: “[DATE] to [DATE]; and replace the deleted language with the following: “September 15th to June 1st”.
- 5.8.9 In Chapter 8 of the IPMC, all references to the ICC International Plumbing Code are hereby deleted and are hereby replaced with the following: The Illinois State Plumbing Code of 2004.

5.9. GENERAL CONSTRUCTION AND CARPENTRY

- 5.9.1 It shall be unlawful to operate any and all construction equipment, power and manual equipment and machinery including, but not limited to, staplers hammers, saws, compressors, generators, heavy equipment, paving or moving equipment, within 300 yards of any residence, care facility or hospital between the following hours and times:
- | | |
|--------------------------------|--|
| Monday through Friday | - 9:00 PM to 7:00 AM |
| Saturday | - 9:00 PM Friday Through 8:00 AM Saturday |
| Sunday and National Holidays - | - 9:00 PM Saturday or the day preceding the holiday through 10:00 AM Sunday or the holiday |
- 5.9.2 Construction activity for emergencies may be allowed during the restricted time periods stated in Code Section 5.9.1 only upon issuance of a permit by the Village Building Department.

5.10. FENCES

- 5.10.1 The Village Zoning Code shall be consulted for additional requirements beyond those contained in this Section 5.10.
- 5.10.2 Barbed Wire Fences – No person shall erect any fence along a street, alley or public place within this Village in which barbed wire or any other sharp, pointed or dangerous material form a part, without prior approval of the Village Board.
- 5.10.3 Fence Limitations - No fence shall be erected on any property which shall extend beyond the front property line. All fences must be constructed within the confines of the property for which the permit is sought and no fence shall exceed five feet in height except as provided in the Village of Gilberts Zoning Code which Zoning Code shall control as to the minimum an maximum height. In addition, this Section 5.10.3 shall not apply to limit

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the height of solid fences, screens or wall around patios as set forth below.

- 5.10.4 Patio Fences, Screens or Walls – In residential areas, a solid fence, screen or wall may be erected around the immediate boundaries of any patio for the purpose of securing privacy, provided that such fence, screen or wall does not exceed seven (7) feet in height and is located not less than three (3) feet from the property line.
- 5.10.5 Fence Permits – No person shall erect any fence, screen or wall on any property without first securing a permit for same from the Village Building Department.

5.11. DRIVEWAYS, PARKING AREAS, LOADING AREAS, STORAGE AREAS, BUILDING APPROACHES AND SIDEWALKS

Except as otherwise provided in Code Section 5.11, all driveways, parking areas, loading areas, storage areas, building approaches and sidewalks shall conform to the following specifications:

- 5.11.1 Subgrade: The subgrade shall be properly graded, undisturbed, inorganic earth. Construction on peat or other organic material is strictly prohibited.
- 5.11.2 Base: The base shall be of a coarse aggregate conforming to IDOT Gradation CA-6 specifications; and shall be a minimum of four (4) inches thick after compaction for residential zoned property, and a minimum of ten (10) inches thick after compaction for industrial and commercial zoned property
- 5.11.3 Surface: Such areas shall be surfaced with either:
- (a) Bituminous concrete that is a minimum of two (2) inches thick after proper compaction for residential zoned property or two and one half (2-1/2) inches thick after proper compaction for industrial and commercial zoned property; or
 - (b) Portland cement concrete that is a minimum of four (4) inches thick reinforced with welded wire fabric that is no less than six inches by six inches (6" x 6") and number six (6) gauge wire, except such wire fabric reinforcement shall not be required for sidewalk installations.
 - (c) For residential driveways only: brick pavers complying with ASTM C936-96 set in a minimum of six (6) inch compacted aggregate base or treated wooden planks not less than one and one-half (1 ½) inches thick set on a minimum of eight (8) inch base covered with a minimum one (1) inch of compacted sand; provided that each specific installation of brick pavers or wooden planks must meet such specifications as reasonably required by the Village Engineers.

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- 5.11.4 Alternative Surfaces: For residential zoned property, an alternative surface may be used for parking, loading or storage areas if such alternative surfacing:
- a) is impervious to vegetation;
 - b) has a vegetation barrier installed;
 - c) has a definitive edging;
 - d) is a minimum of four (4) inches thickness; and
 - e) does not extend beyond the front line of the residential structure.

No alternative surface is permitted for driveways.

- 5.11.5 All such driveways, parking areas, loading areas, storage areas, and building approaches shall be kept in a state of good repair.
- 5.11.6 The surface of any outside storage area on any property that is zoned residential shall extend a minimum of six (6) inches past the edge of any vehicle, trailer, boat car or other storage material located in the storage area.
- 5.11.7 All requests for permits for surfacing shall be accompanied by a lot plan depicting the location of the surfaced area on the lot and showing distance to lines and structures on the lot.
- 5.11.8 All driveways shall conform to the following specifications:
- (a) Residential: Minimum width: 16 feet; Maximum width: 24 feet.
 - (b) Commercial or Industrial: Minimum width: 40 feet; Maximum width: 50 feet.
- 5.11.9 Asphalt Installation

General. When weather conditions are suitable, the leveling binder, binder and surface course mixtures shall be placed on a dry base. In the event of sudden rain, the loading of additional trucks shall stop immediately, whether loading occurs at a plant or storage bins. Material in transit will be permitted to be laid at the contractor's risk providing the pavement is free of standing water and the proper temperature of the asphaltic mix is maintained. Approval to unload the trucks in transit shall in no way relax the requirements of quality, density, or smoothness of the bituminous mixture being placed.

The leveling binder and binder course shall be placed only when the temperatures in the shade is at least 5 degrees C (40 degrees F) and the forecast is for rising temperatures. The surface course shall be placed only when the air temperature in the shade is at least 8 degrees C (45 degrees F) and the forecast is for rising temperatures. In the event of any

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issues as to temperature and forecast, the determination of the Village Engineer shall be final.

In connection with an asphalt installation, the contractor or developer shall provide to the Village a warranty for a period of no less than one (1) year after the date of installation.

5.11.9.1 Temporary Installation

Temporary paving may be installed after the asphalt plants have closed. A binder course may be installed. During marginal paving conditions encountered in the early and latter part of the construction season, a binder course may be installed. At the time weather permits the installation of the final surface course and prior to the installation of the final surface course, the Village Engineer shall inspect the binder course for any cracked, rutted or severely raveling binder or binder which is too thick to allow the nominal thickness of the final surface course. In the event the Village Engineer determines the binder course is deficient, an inspection form will be submitted to the paving contractor and developer directing that all deficient binder must be removed prior to paving the final surface course. ([Ordinance No. 05-12 passed 4/5/05](#))

5.12. DRIVEWAY CONNECTIONS TO PUBLIC STREETS

- 5.12.1 Permits required: No person shall construct a driveway or driveway approach within the public right-of-way without having first obtained a permit from the Village Building Department.
- 5.12.2 Residential Driveway Approaches: Single-family residential property shall be limited to one curb opening of twenty-four (24) feet in width per lot except for circular drives as specifically approved by the Building Department. Two family residential property (duplex) may be allowed two driveway openings which shall be a maximum of sixteen feet each, if under the facts and circumstances, it is deemed necessary, at the discretion of the Building Department.
- 5.12.3 Commercial and Industrial Driveway Approaches:
 - 5.12.3.1 Entrances. All driveway entrances to properties or lots used for commercial or industrial purposes shall be of a minimum paved width of 40 feet and no more than a maximum of 50 feet wide as measured above any culvert and at the intersection of such driveway or entrance with the street to which it connects and the culvert under the driveway approach, if any. If there is no culvert, the maximum and minimum widths mentioned in the preceding sentence shall be maintained.
 - 5.12.3.2 Intersections; At an intersection, a curb length of not less than ten feet shall be left undisturbed between the property line extended and the near edge of the driveway approach. A curb island with a minimum length of six feet measured along both the curblines and the property line shall be placed between each driveway approach. A curb length of not less than three feet shall be left undisturbed adjacent to each property line to serve as an island area between adjoining parcels.
 - 5.12.3.3 Number of Driveways; The number of driveways to serve a single parcel of commercial or industrial property shall be as approved by the Village Building Department. In all instances, the space allocated for driveway width shall be the minimum necessary to service adequately the property involved, considering the location and the nature of the use, as determined by the Village Building Department. A lot which fronts on two different streets shall be permitted access to or from such street (of the two streets) which has the lower traffic volume.
- 5.12.4 Fees: Unless otherwise stated therein to the contrary, the fee shall be as specified in Code Section 14 per driveway approach, payable upon issuance of a Building Permit.

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- 5.12.5 Surface elevations: Driveway approaches shall be constructed so as to eliminate stepdowns in a sidewalk. A sidewalk should follow a straight line grade through or across driveways. It is unlawful to have the surface finish of any new driveway approach constructed so as to render it slippery, hazardous to pedestrians, or unsightly.
- 5.12.6 Materials: Any new driveway across a sidewalk and any driveway approach adjacent to improved streets and within the public right-of-way shall be constructed of Portland cement concrete. If the street is unimproved, a two-inch thick bituminous concrete surface on a stone base six inches thick shall be permitted.
- 5.12.7 Repair: It shall be the responsibility of a property owner who has a driveway on his property to keep the driveway approach in good repair. The Village Building Inspector or his designee shall determine whether repairs to an existing driveway approach may be made or whether complete replacement of the driveway approach is required. Complete replacement of driveway approaches shall be made with Portland cement concrete, except where the approach is on an unimproved street. Existing driveway approaches may be resurfaced with a minimum of one and one-half inches thick of bituminous material, provided, as determined by the Village Engineer or Building Department, that the existing approach will make a satisfactory base.
- 5.12.8 Specifications:
- 5.12.8.1 All work performed under permits issued in accordance with this Section 5.12 shall be done in conformity with specifications stated herein.
- 5.12.8.2 In addition, the work shall meet the following requirements:
- 5.12.8.2.1. The operation will not interfere unreasonably with vehicular or pedestrian traffic, the demand and necessity for parking spaces, or the means of ingress or egress from the property affected and adjacent properties. If pedestrian traffic must be detoured, temporary sidewalks shall be constructed or provided which shall be safe for travel and convenient for users.
- 5.12.8.2.2. The property owner at issue is responsible for contacting the private utility companies regarding any existing utility locations.
- 5.12.8.2.3. The health, welfare and safety of the public will not be impaired by the work.
- 5.12.9 Supervision: The Building Department shall enforce the provisions of this Section 5.12 and shall from time to time cause inspections to be made of work under permits to ensure that provisions of this Section 5.12 and specifications are being followed. Notice shall be given to the Building

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Department by the permittee forty-eight (48) hours in advance of commencement of work under a permit relating to this Section 5.12.

- 5.12.10 Permit revocation: The Building Department may revoke any permit relating to this Section 5.11 and stop work upon finding that work is not being done in accordance with this Section 5.12 or any other applicable specifications. Where no work commences under a permit relating to this Section 5.12 within six months of date of issuance of the permit, such permit shall become null and void and a new application and fee must be submitted for the work. Lack of required notification by permittee to the Building Department prior to expiration dates will be prima facie evidence to cause nullification of permits.
- 5.12.11 Non-Conforming Use: This Section 5.12 shall not apply to any existing access within the public right-of-way for which residential and commercial structures exist as of August 16, 1994.
- 5.12.12 Violation: Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any of the provisions of this Section 5.12, or who refuses to remedy a violation of any such provision or to remedy a hazard of fire, explosion, collapse, or contagion found to exist and duly ordered eliminated, shall be subject to penalties provided for in Section 10.2 for each offense.

5.13. CULVERTS

- 5.13.1 Culverts in commercial or industrial areas. Any culvert required to be installed upon any property or lots used for commercial or industrial purposes shall be constructed of smooth bore concrete. Said culvert shall contain flared ends and shall otherwise conform to Illinois Department of Transportation standards for Roads and Bridges, specification 511.03 Type I, with moist fine aggregate bedding and granular trench back fill with a design pipe strength no less than AASHTO standard M170 CL. IV
- 5.13.2 Culverts in residential areas. Any culvert installed to serve any property or lot used or zoned for residential purposes shall be constructed of such material and size as determined by the Village Engineer, or, at the option of the property owners, of better quality material. Initial installations shall be at the sole cost of the lot/property owner. With respect to replacement culverts, the Village will pay for the necessary materials and the lot/property owner will pay for the cost of installation.

5.14. RIGHT OF WAY EXCAVATION

- 5.14.1 Permit Required: It shall be unlawful for any person to tunnel under or to make any excavation, improvement or alteration in any street, alley, public right of way or on any other public property in the Village without having first obtained a permit as is herein required, or without complying with the provisions of this Section 5.14; or to violate the terms of any such permit.

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- 5.14.2 Applications: Applications for such permits shall be made to the Village Clerk which application shall include: description of the work location; plans and specifications of the intended excavation or tunnel; its size and purpose; name of the contractors doing the actual excavating work; name of the person for whom the work is being done; and shall contain an agreement that the applicant will comply with all codes, ordinances and laws relating to the work to be done.
- 5.14.3 Right of Way: Nothing herein shall obligate the Village to permit excavation in any street, alley, right of way or other public property in the Village.
- 5.14.4 Application: The application shall be referred to the Village Board who shall grant or deny such application.
- 5.14.5 Time: All fees and deposits must be paid and work commenced within 30 days from, and completed within 60 days of permit approval. Extensions of time for commencement or completion of work require a separate application, fee and permit.
- 5.14.6 Fees. The fee for such permit shall be:
- 5.14.6.1 A basic fee as specified in Code Section 14; and
 - 5.14.6.2 A fee per lineal foot trenching as specified in Code Section 14; and
 - 5.14.6.3 A fee per pavement and/or curb cut, if applicable, as specified in Code Section 14.
 - 5.14.6.4 The permit fees may be waived upon application to and approval by the Village Board.
- 5.14.7 Bond. Upon permit approval, the applicant must file with the Village Clerk a bond in the sum specified in Code Section 14 to indemnify the Village for any loss, liability or damage that may result or accrue from or because of the making, existence or manner of grading or constructing any such tunnel or excavation. Such bond shall have as surety a corporation licensed to do business in Illinois as a surety company and shall continue for a term of one year from completion of the excavation.
- 5.14.8 Cash Performance Bond. In lieu of or in addition to the aforementioned surety bond the Village may require the applicant to deposit with the Village Clerk a cash performance bond in an amount determined by the Village Board to insure the proper restoration of the ground and repair of any pavement or right of way. From this deposit shall be deducted the expense to the Village of restoring the surface of the ground or pavement and of making the repair, whether done by the Village or merely at the Village's expense, and the balance shall be returned to the applicant without interest after the tunnel excavation or right of-way work is completely finished and pavement or right of way is restored.

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- 5.14.9 Manner of excavating It shall be unlawful to make any such excavation, tunnel or work in any way contrary to or at variance with the terms of the permit. Proper bracing shall be maintained to prevent the collapse of adjoining ground.
- 5.14.10 Underground. No damage or injury shall be done or threatened to any pipes, cables or conduits in the making of such excavations or tunnels.
- 5.14.11 Trees. No damage or injury shall be done to any tree or shrub or the roots thereof in the making of such excavations or tunnels.
- 5.14.12 Sidewalks. If any sidewalk is blocked by any such work, a temporary sidewalk shall be constructed or provided which shall be safe for travel and convenient for users.
- 5.14.13 Temporary Sidewalks. The temporary sidewalk is subject to inspection and shall not be open for use until approved by the Village Building Department.
- 5.14.14 Restoring surface. Any person making any excavation or tunnel in or under any public street, alley, or any work within the Village right of way, or other public place in the Village, shall restore the surface to its original condition.
- 5.14.15 Supervision. The Building Department shall from time to time inspect or cause to be inspected, all excavations, right of way work, and tunnels, to insure the enforcement of the provisions of this article. Written notice shall be given to the Village by the permittee at least 48 hours before the work of refilling any such tunnel or excavation commences.
- 5.14.16 Protective measures and routing of traffic. Whenever a permit is granted pursuant to this Section 5.14, it shall be the permittee's duty to place and maintain barriers and warning devices necessary for the safety of the general public.
- 5.14.17 Traffic. The permittee hereunder shall take appropriate measures to assure that during the performance of the excavation or right of way work, traffic conditions as near normal as possible are maintained so as to minimize inconvenience to the occupants of any adjoining property and to the general public.
- 5.14.18 Warnings. Warning signs shall be placed in advance of any construction operation hereunder, in order to alert traffic of same.
- 5.14.19 Relocation and protection of utilities. The permittee shall not interfere with any existing utility property without the written consent of the Village and the owner of the utility property. The cost of moving privately owned utility property shall be borne by the permittee. The permittee shall support and protect all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work. It is the intent of this code that a permittee shall assume all liability for damage to utility property and any resulting damage or injury to anyone because of such damage and such

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assumption of liability is a contractual obligation of the permittee. The permittee shall inform itself as to the existence and location of all underground utility property and protect the same against damage and first obtain relocation permission from each such utility franchisee.

- 5.14.20 Protection of adjoining property. The permittee shall at all times and at his or its own expense preserve and protect from damage and injury any adjoining property by providing proper foundations and taking other measures suitable or required. If it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall first obtain consent from the owner of such private property for such purpose. The permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the work and shall be responsible for all damage to public or private property or highways resulting from its failure to protect such property in performing said work.
- 5.14.21 Placement of excavated material. All material excavated from trenches shall be piled immediately adjacent to the trench and shall be piled and maintained in such manner as to not endanger those working in the trench, pedestrians or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, the permittee shall haul the excavated material to a storage site. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all required storage and disposal sites.
- 5.14.22 Storage. Except as therein provided in this Section 5.14, all material excavated shall be laid compactly along the side of the trench or as specified by the Village Building Department.
- 5.14.23 Clean up. As the right of way or excavation work progresses, all streets shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the Village Building Department. From time to time, as may be ordered by the Village Building Department and in any event immediately after completion of said work, the permittee shall, at his or its own expense, clean up and remove all refuse and unused materials of any kind resulting from said work.
- 5.14.24 Trench length. The length of open trench permissible at any time shall be no more than 150 feet.
- 5.14.25 Prompt completion of work. After an excavation or any right of way work is commenced, the permittee shall prosecute with diligence and expedition all such work covered by the permit and shall promptly complete such work and restore the site to its condition prior to entry, or better.

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- 5.14.26 Emergency action. Nothing in this Section 5.14 shall be construed to prevent the making of such excavations or work without a permit, as may be necessary for the preservation of life or property or for the location of trouble in conduit or pipe, provided that the person making such excavation shall apply to the Village and pay the required fees for such a permit on the first business day after such work is commenced.
- 5.14.27 Location records. Every entity which constructs underground facilities in the Village shall maintain records showing the location of all of its underground facilities.
- 5.14.28 Penalty. Any person violating any of the provisions of this Section 5.14 shall be penalized pursuant to the provisions of Code Section 10.2.
- 5.14.29 Public Utilities. The Village Board may waive the requirements of paragraphs 3, 4 and 5 of this Section 5.14 in the case of Illinois Commerce Commission regulated public utilities.

5.15. CASH PERFORMANCE BOND AND TRASH DISPOSAL

- 5.15.1 There shall be posted with the Village a cash performance bond for any and all building projects for which the reasonable fair market value of all labor and material involved therein exceeds the applicable sum specified in Code Section 14, which bond shall be in the applicable amount specified in Code Section 14 but in no event shall such bond exceed the reasonable fair market value of such building project exclusive of all other cash or surety bonds which may be required to be posted with the Village. Such bond shall be deposited with the Village prior to the issuance of a Building Permit.
- 5.15.2 For those building projects where the reasonable fair market value of labor and materials is less than the applicable sum specified in Code Section 14, said cash bond requirement may be waived by the Village President or his designee.
- 5.15.3 Said cash bond shall not be refunded until the final inspection has been performed by the Building Department and disbursal approved by the Village Board, and, in the case of new construction, until a permanent occupancy permit has been issued by the Building Department.
- 5.15.4 After the inspection by the Building Department of the foundation of any new building, and before any other construction or remodeling is commenced, there shall be situated upon each building site a trash disposal container of no less than 5 cubic yards in size. This requirement may be waived only upon application to the Building Department and granted on such terms and conditions as may be imposed to insure that all trash and debris which may be generated in such building project shall be disposed of in a prompt, clean, professional and efficient manner.

5.16. STORAGE SHED, PLAYHOUSE, AND DOGHOUSE REQUIREMENTS

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5.16.1 REQUIREMENTS

- 5.16.1.1 No storage shed shall be erected except in conformity with this Section 5.16.
- 5.16.1.2 No storage shed shall be permitted to become dilapidated or in a state of disrepair else same shall be considered a nuisance.
- 5.16.1.3 A building permit shall first be obtained before construction of a storage shed, all in accordance with this Section 5 and any other building ordinances of the Village.
- 5.16.1.4 No item deemed hazardous by the Illinois Environmental Protection Act shall be stored in any storage shed excepting the safe storage of no more than 5 gallons of gasoline in a proper container.
- 5.16.1.5 Lot coverage, placement, screening and landscaping provisions of the Village Zoning Code shall apply to the construction of any storage shed.
- 5.16.1.6 A building permit fee as specified in Village Code Section 14 shall be paid to the Village with such building permit application.
- 5.16.1.7 A current spotted plat of survey noting the proposed location of the storage shed shall be included with the building permit application.
- 5.16.1.8 All sheds shall be kept locked when not attended.

5.16.2 MINIMUM STANDARDS

All storage sheds shall conform to the following minimum standards:

- 5.16.2.1 Architectural design and material shall conform to harmonize with the principal building to which it relates and shall be the same color as said principal building.
- 5.16.2.2 All storage sheds shall be of wood construction.
- 5.16.2.3 No outside storage shed shall be less than 64 square feet in floor area or exceed 168 square feet in floor area or exceed 12 feet in height from the floor to the highest point of such shed and no permit shall be issued for a storage shed where such storage shed is prohibited by the covenants and restrictions applicable to the property for which a building permit for such storage shed is requested.
- 5.16.2.4 All wall studs and roof rafters must be constructed using a minimum 2" x 4" construction 24" on center.
- 5.16.2.5 The minimum floor construction standard shall be of no less than 3/4" plywood set upon pressure treated 4"x 4" base runners 24" on center with a vapor barrier.
- 5.16.2.6 Roofs shall be of 1/2" plywood covered with wood, asphalt or fiberglass shingles.

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5.16.2.7 No electrical or plumbing service shall be installed or used in any storage shed.

5.16.3 No playhouse shall exceed 32 square feet in floor area and no side shall exceed 4 feet in height; and

5.16.4 No doghouse shall exceed 12 square feet in floor area or exceed 4 feet in height from floor to the highest point of said doghouse.

5.17. COMMON WALL/PARTITION CONSTRUCTION

5.17.1 The provisions of this Section 5.17 shall apply to all buildings other than detached single family structures:

5.17.1.1 The fire resistance rating for all types of common wall, tenant separation or party wall construction shall be a minimum of two hour fire resistance rated construction as determined elsewhere in this Section 5. A common wall, tenant separation or party wall shall include, but is not limited to, any walls, floors, ceilings or occupant partition from another occupant within the same structure.

5.17.1.2 In all cases, construction of any and all vertical walls required in this Section 5.17, must extend to the roof line and shall have fire stops installed in accordance with this Section 5.

5.17.2 Any person who violates any of the provisions of this Section 5.17 shall be subject to the penalty provisions of the Village Code Section 10.2.

5.18. DANGEROUS AND UNSAFE STRUCTURES

5.18.1 Definitions: The term “dangerous and unsafe structure” is hereby defined to mean and include:

5.18.1.1 Any building, shed, fence or other man-made structure which is dangerous to the public health because of its construction or condition, or which may cause or aid in the spread of disease, or provide habitat for rodents or other vermin, or contribute to the proliferation of same, or cause injury to the health of the occupants of it or of neighboring structures;

5.18.1.2 Any building, shed, fence or other man-made structure which, because of faulty construction, age, lack of proper repair or any other cause, is especially liable to fire, and constitutes or creates a fire hazard;

5.18.1.3 Any building, shed, fence or other man-made structure which by reason of faulty construction, age, lack of proper repair or any cause, is liable to cause injury or damage by collapsing or by a collapse or fall of any part of such structure;

5.18.1.4 Any building, shed, fence or other man-made structure which, because of its condition or because of lack of doors or windows is

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available to and frequented by malefactors or disorderly persons who are not lawful occupants of such structure.

- 5.18.1.5 Construction debris remaining from the erection, addition or remodeling of any structure.
- 5.18.2 Authorized Action: The Village Board may demolish, repair or cause the demolition, or repair of any dangerous and unsafe structure within the territory of the Village.
- 5.18.3 Procedure: The Village Board shall apply to the Circuit Court for an order authorizing the action described above in Section 5.18.2 with respect to any such dangerous and unsafe structure if the owner or owners thereof, including the lien holders of record, after at least fifteen (15) days written notice by mail to do so, have failed to commence proceedings to put such building in a safe condition or to demolish it. It is not a defense to such cause of action that the structure is boarded up or otherwise enclosed. Where, upon diligent search, the identity or whereabouts of the owner or owners of any such structure, including the lien holders of record, are not ascertainable, notice mailed to the person or persons in whose name such real estate was last assessed for taxes, as shown by the county collector's books, and the posting of such notice upon the premises sought to be demolished or repaired constitute sufficient notice under this article.
- 5.18.4 Costs and lien: The cost of demolition or repair incurred by the Village pursuant to the provisions of this code is recoverable with interest at the judgment rate from the owner of such real estate and is a lien thereon, which lien is superior to all prior existing liens and encumbrances, except taxes; provided that within one hundred eighty (180) days after such repair or demolition the Village Board shall file notice of lien of such costs and expense incurred in the office of the County Recorder of Deeds as amended. The notice must consist of a sworn statement setting out:
- 5.18.4.1 A description of the real estate sufficient for identification thereof;
- 5.18.4.2 The amount of money representing the cost expense incurred; and
- 5.18.4.3 The date or dates when the cost and expense was incurred by the Village.

Upon payment of the cost and expense by the owner or other person(s) interested in the property after notice of lien has been filed, the lien shall be released by the Village and the release may be filed of record as in the case of filing notice of lien. The lien may be enforced by proceedings to foreclose as in case of mortgages or mechanics liens. Suit to foreclose this lien must be commenced within three (3) years after the date of filing notice of lien.

- 5.18.5 Injunction: If the Village Building Inspector determines, upon due investigation, that any building or structure fails to conform to the minimum standards of health or safety as set forth in this Section 5 or that any

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building or structure has been damaged by fire, decay or other cause to the extent of at least fifty (50) percent of its value, as appears on the books of the Kane County Assessor at the time of enforcement proceedings, and the owner or owners of such buildings or structure fail to cause such property so to conform, the Village may make application to the Circuit Court for an injunction requiring compliance with such provisions of this Section 5 or for such other order as the Court may deem necessary or appropriate to secure such compliance.

- 5.18.6 Violations: Any person violating any provision of this article, or permitting any dangerous condition violating any provision of this article, or permitting any dangerous building, or any building or structure to remain in a dangerous condition, or to remain after it has been damaged to the extent of at least fifty (50) percent of its value, as appears on the books of the Kane County Assessor at the time of enforcement proceedings, shall be subject to the penalties provided for in Village Code Section 10.2.

5.19. SIDEWALK REPAIR

- 5.19.1 The Village of Gilberts shall pay for the concrete that shall be used in the repair of sidewalks along curbs and streets of the original streets of the Village of Gilberts. For purposes of this Section 5.19, the original streets of the Village of Gilberts are as follows:

Mill Street, Railroad Street, Union Street, Wiley Street, Matteson Street, Jackson Street, Turner Street, Elgin Avenue (Rte. 72), & Galligan Road.

5.20. LANDFILLS

- 5.20.1 Landfills Containing Decomposable Material A “landfill” is hereby defined as any filled area of land which contains any decomposable material. No building permit shall be issued for any building or structure over a landfill or within one thousand (1,000) feet of a landfill, if the landfill contains any decomposable material, unless the landfill is isolated by natural or man-made protective systems designed according to the recommendations contained in a report prepared by a licensed Civil Engineer. Such report shall contain a description of the investigation, study and recommendations to minimize the possible intrusion, and to prevent the accumulation of explosive concentrations of decomposition gases, around or under enclosed portions of such building or structure. At the time of the final inspection, the Civil Engineer shall furnish a signed statement stating whether the building and the protective systems have been constructed in accordance with his recommendations to protect against gases from decomposable matter. Buildings or structures shall not be constructed on any landfill containing rubbish or other decomposable material unless provision is made to prevent damage to structure, floors, underground piping and utilities due to uneven settlement of the fill.

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- 5.20.2 Tests Required No excavation or construction shall be done or started on any site within one thousand (1000) feet of, or on, a landfill unless the following criteria are met:
- 5.20.2.1 Flammable gas testing shall be conducted at the proposed site in order to determine if flammable gas is present. Any concentration of five percent (5%) or more by volume of flammable gas is explosive.
 - 5.20.2.2 All new construction shall be designed by a registered professional engineer to exclude and protect against build-up of over one percent (1%) of flammable gas in the building.
 - 5.20.2.3 The following steps shall be taken during construction activity:
 - 5.20.2.3.1. A flammable gas indicator shall be utilized at all times during trenching, excavating, drilling or when working within ten (10) feet of an open excavation.
 - 5.20.2.3.2. When trenching, excavating or drilling deeper than two (2) feet into the fill or in the presence of detectable concentrations of one percent (1%) or more of flammable gas, the soil shall be wetted and the operating equipment shall be provided with spark-proof exhaust.
 - 5.20.2.3.3. A dry chemical fire extinguisher shall be provided on all equipment used in the landfill.
 - 5.20.2.3.4. Personnel within or near an open trench or drill hole shall be fully clothed, wear shoes with non-metallic soles, wear a hard hat and wear safety goggles or glasses.
 - 5.20.2.3.5. Exhaust blowers shall be used in instances where trenches may show a build up of flammable gas of one percent (1%) or more, or less than eighteen percent (18%) of oxygen.
 - 5.20.2.3.6. Smoking shall not be permitted in any area within one hundred (100) feet of the excavation.
 - 5.20.2.3.7. Personnel shall be kept up wind at any open trench unless the trench is continuously monitored.
 - 5.20.2.3.8. Before personnel are permitted to enter an open trench, the air in the trench shall be monitored for flammable gas and oxygen concentration. When in the excavation, each work party shall be working no more than five (5) feet from a continuous flammable gas and oxygen monitor. No person shall work in any location with air having one percent (1%) or more flammable gas, or less than eighteen percent (18%) oxygen.
 - 5.20.2.4 The applicant shall have a registered professional engineer submit an affidavit stating as follows:

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- 5.20.2.4.1. That all new construction design is in compliance with these regulations, that all testing and monitoring have been done pursuant to these regulations; and the result of such testing and monitoring shall be submitted to the Village Building Inspector.
- 5.20.2.4.2. All construction or excavation sites shall be subject to inspection by the Rutland/Dundee Fire Department.
- 5.20.3 Construction The following safety precautions will be taken during construction:
- 5.20.3.1 The area under construction shall be checked with a flammable gas indicator before excavation in order to determine if flammable gas is in the area.
- 5.20.3.2 Any excavation shall be monitored for the presence of flammable gas reading of one percent (1%) or more and oxygen volume reading less than eighteen percent (18%). This shall be carried out continuously unless there is no presence of flammable gas in the area.
- 5.20.3.3 Should flammable gas of one percent (1%) or more or oxygen of less than eighteen percent (18%) occur, all the precautions applicable to excavating the landfill as outlined in the preceding subsections of this Section 5.20 shall apply.
- 5.20.3.4 The applicant shall submit an affidavit by a registered professional engineer stating that all testing and monitoring as required by these regulations has been conducted and stating the results of the testing and monitoring.

5.21. WATERWORKS CONSTRUCTION

Prior to performing any repair, improvement, connection, disconnection or alteration of any part of the waterworks system, all contractors, developers and other entities shall first make written application to the Village for permission to perform such work and pay any applicable fees. Such application must receive written approval from the Village and work may not be performed without a Village Inspector present throughout all such work.

5.22. BUILDING AND STRUCTURE NUMBERING

All lots, buildings, and structures in the Village shall be numbered as provided herein:

- 5.22.1 Grid Description. All premises fronting or abutting on any street, alley or public place shall bear the respective numbers as herein provided. The center line of Higgins road (Rt. 72) shall be taken as the starting point for such numbers on all north south streets. A section line between section 23 and 24 running north and south shall be taken as the starting point for

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such numbers on all east west streets. The odd numbers shall be on the south and east sides of each street and the even numbers shall be on the opposite (north and west) sides of the each street. There shall be one number for each ten (10) feet of frontage. The specific street number should be located as near the center of the lot as practicable. The term “east and west streets” as used in this Code Section 5.22 means all streets which run easterly and westerly, and the term “north and south streets”, means those streets which run northerly and southerly.

5.22.2 Multiple Units. If a building is divided into more than one occupiable unit per address, the then each unit shall be numbered so as to describe its location.

Example: “101” – first unit on the first floor; “201” first unit on the second floor.

5.22.2.1 Apartments. An “apartment” shall contain its specific unit number in its address. (Example “348 N. Railroad St., Apt 206”)

5.22.2.2 Business Addresses. If a unit is used as a business office, then it shall be called a “Suite” and shall contain its unit number in its address. (Example “154 S. Center St., Suite 105”)

5.22.3 Numbering Specifications.

5.22.3.1 Type. The digits of each number shall be numerical characters, alphabetic characters are not permitted

5.22.3.2 Size. The numbers shall be a minimum height size of six (6) inches.

5.22.3.3 Color. The numbers shall be of such color which contrasts with the background and affixed in such a place as to be easily and distinctively read from the street.

5.22.3.4 Placement. Each building number shall be placed on the front door of the building to which it belongs such that it lies between the plane of the front door and a vertical plane parallel to, and within eighteen (18) inches of, the plane of the front door.

5.22.4 Numbering Responsibilities.

5.22.4.1 It shall be the duty of every owner or occupant of any premises in the Village to cause the building or structure thereon to be numbered in accordance with the requirements of this Code Section 5.22. Said owner or occupant shall apply to the Village Building Inspector for the number of said premises, and it shall be his duty to deliver to said owner or occupant a certificate of the number of said premises. The owner or occupant of every new building constructed after January 1st 1986 shall, prior to the issue of the final occupancy permit, number such building as herein required. No number shall be placed on any premises except that

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contained in the certificate provided by the Village Building Inspector.

5.22.4.2 Whenever any premises has been numbered or renumbered as herein provided, it shall be unlawful for any person or corporation to change or alter such number, or to place any other number thereon except that contained in the certificate provided by the Village Building Inspector.

5.22.4.3 It shall be the duty of the Village Building Department to maintain a complete map of all such street numbers in the Village, and to adjust all mistakes and errors in numbering.

5.23. EXTERIOR OF BUILDINGS IN NON-RESIDENTIAL AREAS

5.23.1 No exterior wall facing any road or street of any building in the Village located in the C-1, General Commercial Zoning District, in the Office/Research Zoning District or in the I-1 General Industrial Zoning District constructed pursuant to a building permit issued on or after August 24, 1998, shall be constructed using any of the following materials:

5.23.1.1 Wrinkled aluminum, flat concrete masonry, masonry cinder block, wood, vinyl, or plastic or similar materials.

5.23.2 Not more than 65% of the square foot area of any side of the exterior wall of a building in the Village located in the C-1, General Commercial Zoning District, in the Office/Research Zoning District or in the I-1 General Industrial Zoning District, other than an exterior wall facing a road or street, shall be constructed of the following materials:

5.23.2.1 Wrinkled aluminum, flat concrete masonry, masonry cinder block, wood, vinyl, or plastic or similar materials.

5.24. CONFLICTING CODES AND ORDINANCES

If any provision or requirement of this Section 5 is found to be in conflict with any provision or requirement of this Section 5, this Code or any applicable law, ordinance, resolution, rule or other governmental regulation of any kind, the regulation which establishes the more restrictive rule or regulation which imposes the higher standards shall govern.

5.25. ENFORCEMENT

Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of any provision of Village Code Sections 5.9 through 5.23 inclusive, or who refuses to remedy a violation of any such provision or to remedy a hazard of fire, explosion, collapse, or contagion found to exist and duly ordered eliminated, shall be subject to the penalties provided for in Village Code Section 10.2.

SECTION 6. SANITARY SEWERS

6.1. GENERAL PROVISIONS

6.1.1 Enactment

These regulations are pursuant to the requirements of Title 11 of the Federal Water Pollution Control Act, also know as the Clean Water Act as amended 33 United States Code, Section 1251, et. seq. and regulations promulgated thereunder, the Illinois Environmental Protection Act of 1970, as amended (415 ILCS 5/1 et. seq.) and regulations promulgated thereunder, and in accordance with Illinois Municipal Code.

6.1.2 Purpose and Policy

These regulations set forth uniform requirements for users of the Publicly Owned Treatment Works for the Village of Gilberts. It is the intention of these regulations to insure the Village of Gilberts complies with all applicable State and Federal laws, including the Clean Water Act and the General Pretreatment Regulations (40 Code of Federal Regulations, Part 403). The objectives of these regulations are:

- 6.1.2.1 To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- 6.1.2.2 To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- 6.1.2.3 To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- 6.1.2.4 To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- 6.1.2.5 To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- 6.1.2.6 To enable the Village to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

These regulations shall apply to all users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and

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provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

6.1.3 Administration

Subject to direction of the Corporate Authorities of the Village from time to time and except as otherwise provided herein, the Pretreatment Coordinator shall administer, implement, and enforce the provisions of these regulations. Any powers granted to or duties imposed upon the Pretreatment Coordinator may be delegated by the Corporate Authorities to other persons from time to time, whether or not Village employees and to the extent not so delegated by the Corporate Authorities, may be delegated by the Pretreatment Coordinator to other Village personnel.

6.1.4 Jurisdiction

These Regulations shall apply to the Village of Gilberts and to persons outside the Village who are, by contract or agreement with the Village, users of the Village Publicly Owned Treatment Works.

6.1.5 Abbreviations

The following abbreviations, when used in these regulations, shall have the designated meanings:

BOD	-	Biochemical Oxygen Demand
CFR	-	Code of Federal Regulations
COD	-	Chemical Oxygen Demand
EPA	-	U.S. Environmental Protection Agency
gpd	-	gallons per day
mg/l	-	milligrams per liter
NPDES	-	National Pollutant Discharge Elimination System
POTW-		Publicly Owned Treatment Works
RCRA-		Resource Conservation and Recovery Act
SIC	-	Standard Industrial Classification
TSS	-	Total Suspended Solids
U.S.C.-		United States Code
Village	-	Village of Gilberts

6.1.6 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in these regulations, shall have the meanings hereinafter designated.

A as in "Cyanide-A"	Amenable to alkaline chlorination
ACT OR "THE ACT"	The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.
AUTHORIZED	1 If the user is a corporation:

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REPRESENTATIVE
OF THE USER

- 1a The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- 1b The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- 2 If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- 3 If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- 4 The individuals described in paragraphs 1 through 3, above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Village of Gilberts.

BIOCHEMICAL
OXYGEN DEMAND
OR BOD

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20' centigrade, usually expressed as a concentration (e.g., mg/1).

BYPASS:

The intentional diversion of waste streams from any

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	portion of an industrial user's treatment facility.
CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD:	Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users with Categorical Pretreatment Standard Deadline.
CHEMICAL OXYGEN DEMAND (COD):	oxidant (standard potassium dichromate solution) under standard laboratory procedures as described in standard methods.
COMBINED WASTE STREAM FORMULA:	The formula set forth in 40 CFR section 403.6(e).
COMPATIBLE POLLUTANT:	Biochemical oxygen demand, chemical oxygen demand, FOG, suspended solids, ph and fecal coliform bacteria.
COMPOSITE SAMPLE:	A sample of wastewater based on a flow proportional or time proportional method.
CONSISTENT POTW TREATMENT WORKS REMOVAL, POLLUTION REMOVAL OR REMOVAL:	Reduction in the amount of pollutant or alteration of the nature of concentration of a pollutant in the influent of the POTW to a less incompatible or concentrated state in the effluent. Consistent Village removal efficiency shall be the difference between the average concentration of the pollutant in the influent of the treatment plant and the average concentration of the pollutant in the effluent of the treatment plant divided by the average concentration of the pollutant in the influent.
COOLING WATER:	The water discharged from any use such as air conditioning, cooling or refrigeration, to which the only pollutant added is heat.
EXISTING SOURCE:	Any building, structure, facility or installation from which there is or may be a discharge, which is not a new source.
FATS, OIL, OR GREASE (FOG):	Any hydrocarbons, fatty acids, soaps, fats, waxes, oils and any other material that is extracted by trichlorotrifluoroethane solvent or other method approved by the USEPA.

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FECAL COLIFORM:	Any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.
FLOW:	Volume of wastewater per unit of time.
GARBAGE:	Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the commercial handling, storage and sale of produce.
GRAB SAMPLE:	A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.
INCOMPATIBLE POLLUTANT:	All pollutants other than compatible pollutants, as defined in this Chapter.
INDIRECT DISCHARGE OR DISCHARGE:	The introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b),(c) or (d) of the Act.
INDUSTRIAL USER:	A source of indirect discharge, including but not limited to, a manufacturing or processing facility, or other facility engaged in the purchase or sale of goods, transaction of business or rendering of services to the public.
INTERFERENCE:	A discharge by any industrial user which alone or in conjunction with discharges by other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use of disposal and which is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage or sludge use or disposal by the POTW in accordance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act [RCRA] and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D or SWDA) the Clean Air Act,

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	the Toxic Substance Control Act, and the Marine Protection Research and Sanctuaries Act.
MAY/SHALL	"May" is permissive; "shall" is mandatory.
NATIONAL CATEGORICAL PRETREATMENT STANDARD:	Any regulation containing pollutant discharge limits promulgated by the USEPA in accordance with section 307(b) and (c) of the Act (33 USC 1347) that applies to a specific category of industrial users.
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT (NPDES PERMIT):	A permit issued under the national pollutant discharge of elimination system for discharge of wastewaters to the navigable waters of the United States pursuant to the Act.
NEW SOURCE:	Any building, structure, facility, remodeling (if that remodeling could result in the assigning by the Village of the new standard industrial classification code) or installation from which there is or may be a discharge. The construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section.
PASS THROUGH:	The discharge of pollutants through the POTW into navigable waters in quantities or concentrations, which alone or in conjunction with discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
PERMITTED WASTEWATER HAULER VEHICLE:	A vehicle used for hauling wastewater, which has been granted a permit under the requirements of these Regulations.
PERSON:	Any individual, firm, company, association, society, corporation, group, limited liability company, partnership or municipality.
pH:	The acidity or basicity of a solution, calculated by taking the logarithm of the reciprocal of the hydrogen ion concentration.

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POLLUTANT:	Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage, sludge, munitions, chemical waste, biological materials, radioactive materials, heat, (wrecked or discharged equipment), rock, sand, cellar dirt or industrial, Municipal, or agricultural waste contained in or discharged into water.
POTW TREATMENT PLANT:	The Village facilities designed to provide treatment to wastewater.
PRETREATMENT:	The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW.
PRETREATMENT COORDINATOR Also sometimes referred to as "Coordinator":	Subject to the provisions of Section 6.1.3 of this Section 6 (reserving powers and the power to delegate in the Corporate Authorities), the person, company or firm designated by the Village President, with the concurrence of the Village Board. From time to time the Pretreatment Coordinator may be assisted by, or his/her duties may be assigned by the Corporate Authorities to, other personnel, including Village personnel and/or consultants, and independent testing laboratories.
PRETREATMENT REQUIREMENTS:	Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.
PRETREATMENT STANDARDS:	For any specified pollutant, Village prohibitive discharge standards as set forth in section 300.105, Village specific limitations on discharge as set forth in section 300.110, State of Illinois Pretreatment Standards, or the National Categorical Pretreatment Standards, whichever standard is most stringent.
PUBLICLY-OWNED TREATMENT WORKS (POTW):	The "treatment works", as defined by section 212 of the Act, owned by the Village and any devices and systems used in the conveyance, storage, treatment, recycling or reclamation of Municipal sewage or industrial wastes of a liquid nature that are connected to the Gilberts POTW regardless of ownership, but does not include sewers, pipes, and

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other conveyances not connected to the Village POTW treatment plant.

REGIONAL USEPA
ADMINISTRATOR:

The Regional Administrator for Region V.

SANITARY SEWER:

A sewer which is designed to carry sanitary and industrial wastewater, and to which storm, surface and ground water are not intentionally admitted.

SHALL/MAY:

Shall is mandatory; may is permissive.

SIGNIFICANT
NONCOMPLIANCE
(SNC):

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six (6) month period exceed (by the magnitude) the daily maximum limit or the average limit for the same pollutant parameter.
- B. Technical review criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC-1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).
- C. Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Village determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).
- D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge.

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- E. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
- F. Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- G. Failure to report noncompliance accurately.
- H. Any other violation or group of violations which the Village determines will adversely affect the operation or implementation of the local pretreatment program.

SIGNIFICANT USER:

Any industrial user of the POTW who:

- A. Is subject to any national categorical pretreatment standard.
- B. Has an average process wastewater discharge flow of twenty-five thousand (25,000) gallons (excluding sanitary, non-contact cooling and boiler blow down wastewater) or more per work day; or
- C. Has a discharge flow of process wastewater greater than five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
- D. Is designated as such by the Village, as defined in 40CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8 (f) (6)).

SLUDGE:

The settleable solids separated from the liquids during the wastewater treatment processes.

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SLUG:	Any discharge of water or wastewater which is non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.
T AS IN CYANIDE-T:	Total.
TOTAL METALS:	The sum of the concentration of metals in Section 6.2.3.
TOTAL SOLIDS:	The sum of suspended and dissolved solids.
TOTAL SUSPENDED SOLIDS (TSS):	Total suspended matter, expressed in milligrams per liter, that either floats on the surface of, or is in suspension in water, wastewater or other liquids and is removable by laboratory filtration, as prescribed by standard methods.
TOTAL TOXIC ORGANICS:	The summation of all quantified values greater than 0.001 milligrams per liter for the toxic organics specified in the application regulation.
UNPOLLUTED WATER:	Water of quality equal to or better than the effluent criteria set forth in 35 Illinois Administrative Code part 304 or water that would not cause violation of receiving water quality standards benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
UPSET:	An exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
USER:	Any person who contributes, causes or permits the contribution of wastewater into the POTW.
VILLAGE:	The Village of Gilberts.

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- WASTEWATER: The combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions including polluted cooling water.
- A. Sanitary wastewater means the combination of liquid and water carried wastes discharged from toilets and other sanitary plumbing facilities.
- B. Industrial wastewater means a combination of liquid and water carried wastes discharged from any industrial user, including the wastewater from pretreatment facilities and polluted cooling water.
- WASTEWATER DISCHARGE PERMIT: The document or documents issued to a user by the Village pursuant to Section 6.6.5 of these regulations.
- WASTEWATER HAULER: Any person engaged in transporting sanitary wastewater as a commercial venture.
- WATERS OF THE STATE OF ILLINOIS: All streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State of Illinois or any portion thereof.

6.2. GENERAL SEWER USE REQUIREMENTS

6.2.1 Prohibited Discharge Standards

It shall be unlawful to discharge or intend to discharge to any facility served by the Village, without having first complied with the terms of these regulations.

Requirements and limitations of Federal pretreatment standards as established by 40 CFR Chapter N, Subpart 1, State standards or Individual Industrial User Discharge Permits which are more stringent than the limitations as set forth in these regulations must be met by all dischargers at all times. Said dischargers shall provide the necessary wastewater treatment to achieve compliance with all National Categorical Pretreatment standards within the time limitations as specified by the Federal Pretreatment Regulations, and with any other pretreatment standards including local limits, by applicable deadlines.

No discharger shall contribute or cause to be contributed, directly or indirectly to the District sewage works, any pollutant or wastewater contaminant which will pass through, cause interference with, inhibition of, or upset to the operation of the POTW.

No discharger shall contribute, or cause to be discharged, either directly or indirectly, any of the following described substances into the wastewater collection and treatment system, or otherwise to the facilities of the Village.

6.2.1.1 No dischargers shall increase the use of potable or process water in any way, nor mix separate wastestreams for the sole purpose of diluting a discharge as a partial or complete substitute for adequate treatment, in order to achieve compliance with standards as set forth in these regulations.

6.2.1.2 Any unpolluted water including, but not limited to, uncontaminated non-contact cooling water, stormwater, surface and groundwaters, roof run-off, spill contaminant area run-off, footing drains or construction drainage except as specifically permitted by the Pretreatment Coordinator.

6.2.1.3 Any solids, solid wastes, liquids or gases which by reason of their nature or quantity, are or may be sufficient, either alone or by interaction, to cause safety hazards, fire or explosion or be injurious in any other way to the facilities or personnel of the Village, or to the operation of Village facilities.

Materials considered in this regard include, but are not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides and any wastestreams with a

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- closed cup flashpoint of less than 140° F. or 60° C. using the test methods specified in 40 CFR 261.21.
- 6.2.1.4 Any solid, solid waste or viscous substance which shall or may cause obstruction to the flow in a sewer, or other interference to the operation of the wastewater system. Prohibited materials include but are not limited to: grease, grease trap wastes, garbage with particles greater than one-half inch (1/2") in any direction, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains or hops, paper, wood, plastics, residues from gas, tar or asphalt, residues from refining or processing of fuel or lubricating oils, mud or glass grinding or polishing waste, fatty acids or esters of fatty acids, or any material which can be disposed of as trash.
- 6.2.1.5 Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through.
- 6.2.1.6 Any wastewater containing noxious or malodorous solids, liquids, or gases, which either singly or by their interaction are capable of creating a public nuisance or hazardous to life, or are in sufficient quantities to interfere with, inhibit or upset any operation of Village facilities, including but not limited to, prevention of entry into sewers for their maintenance and repair.
- 6.2.1.7 Pollutants which result in the presence of toxic gases, vapors, or fumes within the Village facilities in a quantity that may cause acute worker health and safety problems or which necessitates the Village taking special measures to counteract and/or alleviate the impact of the pollutant(s).
- 6.2.1.8 Any wastewater having a temperature which shall inhibit biological activity in the Village's facilities, but in no case heat in such a quantity that the influent temperature at the sewage treatment plant to which the user discharges will exceed 40° C. (104° F.).
- 6.2.1.9 Any substance or combination of substances which shall cause the Village facilities to be in violation of its NPDES and/or other disposal systems permits, or to cause the Village's facilities to violate receiving stream water quality and/or general effluent discharge standards.
- 6.2.1.10 Any substance with objectionable color which is not removed in the treatment processes, such as, but not limited to: dye waste, ink waste and vegetable tanning solutions.
- 6.2.1.11 Any wastewater having a pH less than 5.0 or higher than 10.0 or having any other corrosive property capable of causing damage or

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- hazard to structures, equipment or personnel in the system. The pH limits shall be met at all times, and are not subject to averaging.
- 6.2.1.12 Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction, to injure, interfere with or upset any wastewater treatment processes or facilities, constitute a hazard to humans or animals, or to exceed limitation as set forth in the existing Act, or the Act as it may be amended.
- 6.2.1.13 Any substance which may cause the Village's treatment facilities effluents or sludges, to be unsuitable for reclamation and re-use, or interfere with the reclamation processes. In no case shall a substance discharged to the Village's facilities cause the Village to be in noncompliance with any sludge use or disposal regulations developed under Section 4.05 of the Act; or any regulations affecting sludge use or disposal developed pursuant to the Resource Conservation and Recovery Act, Solids Waste Disposal Act, Toxic Substance Control Act, or any State or local standards applicable to any sludge management methods either being used, or considered by the Village.
- 6.2.1.14 Any pollutant, including oxygen demanding pollutants, release in a discharge at a flow rate and/or concentration (including any slug load), which may interfere with, inhibit, or upset Village operations.
- 6.2.1.15 Any wastewater containing any radioactive wastes or isotopes, except in accordance with Village, State and Federal rules governing such discharges.
- 6.2.1.16 Any wastewater containing any organism, including viruses, considered pathogenic and/or detrimental to process organisms other than by direct excrement and any other wastes defined as medical waste.
- 6.2.1.17 Any leachate, groundwater remediation or waste material, originating within the Village service area, which does not meet discharge limitations as set forth in these regulations or determined by these regulations. Such waste shall be evaluated by the Village and limits determined if the pollutant contained in the waste does not have discharge limits specified in these regulations.
- 6.2.1.18 All trucked or hauled wastes except at the Village designated discharge points. All such wastes are to be individually approved and permitted by the Village as set forth in these regulations prior to discharge.
- 6.2.1.19 Any sludges, screenings or other residues from the pretreatment of non-residential wastes.
- 6.2.1.20 Any wastewater causing the treatment plant's effluent to fail a toxicity test.

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6.2.1.21 Any wastes containing detergents, surface active agents or other substances which may cause excessive foaming in the POTW.

Wastes prohibited in this section shall not be processed or stored in such a manner as to facilitate discharge to the Village sewer system.

6.2.2 National Categorical Pretreatment Standards

The pretreatment requirement shall apply to all non-residential discharges subject to National Categorical Pretreatment Standards, promulgated by the EPA in accordance with Section 307(b) and (c) of the Act, currently discharging or scheduled to discharge to the Village. The National Categorical Pretreatment Standards, found in 40 CFR Chapter 1, Subchapter N, Parts 405 – 471 are hereby incorporated into these regulations.

Compliance with National Categorical Pretreatment Standards is mandatory. However, the non-residential discharger may request a net gross adjustment to a categorical pretreatment standard in accordance with 40 CFR 403.15. Said discharger may also request a variance from EPA based on fundamentally different factors. The request must comply with the procedural and substantive provisions in 40 CFR 403.13.

The non-residential discharger shall comply with the State of Illinois or Village requirements and standards, or both in the event that such requirements and standards are more stringent than the categorical standard. All non-residential dischargers that are subject to National Categorical Pretreatment Standards are required to file reports as required in these regulations, signed by an Authorized Representative. These reports shall include all information that the Village deems necessary to make compliance determinations.

6.2.3 Local Limits

No person shall discharge any wastewater concentrations greater than the limitations as set forth below into any sewers that connect either directly or indirectly with any Village facility.

Parameter Maximum Discharge Concentration

Arsenic	0.20 mg/L
Barium	2.0 mg/L
Cadmium	0.10 mg/L
Chromium, Total	2.50 mg/L
Chromium, Hexavalent	0.50 mg/L
Copper	0.50 mg/L
Cyanide, Total	0.10 mg/L
Fats, oils, grease	100 mg/L
Iron, Total	10.0 mg/L
Lead	0.10 mg/L
Manganese	55 mg/L

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Mercury	0.0005 mg/L
Nickel	0.20 mg/L
Silver	0.3 mg/L
Total Toxic Organics	3.0 mg/L
Zinc	0.8 mg/L
Ammonia as N	150 mg/L
TDS	3000 mg/L
COD*	3000 mg/L
BOD*	2000 mg/L
TSS*	1000 mg/L

* see Surcharge Regulations

6.2.4 Right of Revision

The Village reserves the right to establish by Code amendment more stringent limitations or requirements on discharges to the POTW.

6.2.5 Sampling Facilities

All commercial and industrial users are required to install a monitoring manhole in accordance with the plans and specifications approved by the Village.

When required by a wastewater discharge permit, a significant user shall install a large manhole or sampling chamber for each separate discharge in the building sewer in accordance with plans and specifications approved by the Village.

Such facilities will be installed and maintained at all times at the user's expense. The manhole or chamber shall be readily accessible to authorized representatives of the Village twenty-four (24) hours per day, seven (7) days per week and shall be located in dedicated easements.

6.2.5.1 Each sampling chamber shall contain a Palmer-Bowlus or Parshall flume or equivalent unless a weir or similar device is approved by the Village with a recording and totalizing register. Metered water supply may be used by the Village to determine wastewater flow if it is substantial and the Village determines that the metered water supply and waste quantities are approximately the same, or where an adjustment agreed to by the Village is made in the metered water supply to determine wastewater flow.

6.2.5.2 Sampling shall be performed as required by significant user's wastewater discharge permits. All significant users must sample their effluent and report the results to the POTW at least twice yearly as specified in the IU's Permit. In addition, the Village shall have the right to perform its own sampling at any time.

6.2.5.3 The sampling chamber, metering device, and documentation of the frequency of sampling, sampling methods and analysis of samples

shall be subject, at any reasonable time, to inspection by the Village.

6.3. PRETREATMENT OF WASTEWATER

6.3.1 Pretreatment Facilities

Each user shall provide wastewater treatment as necessary to comply with these regulations and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 6.2.2 of these regulations within the time limitations specified by EPA, the State, or the Pretreatment Coordinator, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Pretreatment Coordinator for review, and shall be acceptable to the Pretreatment Coordinator before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user for the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Village under the provisions of these regulations.

6.3.2 Additional Pretreatment Measures

Whenever deemed necessary, the Pretreatment Coordinator may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of these regulations.

6.3.2.1 The Pretreatment Coordinator may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be required and issued solely for flow equalization.

6.3.2.2 Grease, oil, and sand interceptors shall be provided when, in the opinion of the Pretreatment Coordinator, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Pretreatment Coordinator and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the users at their expense.

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6.3.2.3 Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

6.3.3 Spill Prevention Contaminant and Counter Measures Plan/Slug Control

At least once every two (2) years the Pretreatment Coordinator shall evaluate whether each significant industrial user needs a spill prevention contaminant and counter measures plan/slug control plan. The Pretreatment Coordinator may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Pretreatment Coordinator may develop such a plan for any user. A spill prevention contaminant and counter measures plan/slug control plan shall address, at a minimum, the following:

6.3.3.1 Description of discharge practices, including nonroutine batch discharges;

6.3.3.2 Description of stored chemicals;

6.3.3.3 Procedures for immediately notifying the Pretreatment Coordinator of any accidental or slug discharge, as required by Section 6.6.6 of these regulations; and

6.3.3.4 Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

6.3.4 Hauled Wastewater

6.3.4.1 Septic tank waste shall not be introduced into the POTW except as established by the Pretreatment Coordinator. Such waste shall not violate Section 6.6.2 of these regulations or any other requirements established by the Village. The Pretreatment Coordinator shall require septic tank waste haulers to obtain wastewater discharge permits.

6.3.4.2 The Pretreatment Coordinator shall require haulers of industrial waste to obtain wastewater discharge permits. The Pretreatment Coordinator may require generators of hauled industrial waste to obtain wastewater discharge permits. The Pretreatment Coordinator also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of these regulations.

6.3.4.3 Industrial waste haulers may discharge loads only at locations designated by the Pretreatment Coordinator. No load may be

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discharged without prior consent of the Pretreatment Coordinator. The Pretreatment Coordinator may collect samples of each hauled load to ensure compliance with applicable standards. The Pretreatment Coordinator may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

- 6.3.4.4 Industrial waste haulers must provide a waste-tracking form for every load containing such information as required by the Pretreatment Coordinator. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
- 6.3.4.5 Each wastewater hauling vehicle shall meet the following conditions before permits will be issued under subsection B of this Section:
 - 6.3.4.5.1. Until the Village provides scales for weighing wastewater hauling vehicles, each truck tank shall have a sight glass calibrated in one hundred (100) gallon increments.
 - 6.3.4.5.2. Each vehicle shall be equipped to use the truck to disconnect couplers at the wastewater hauler dumping station.

6.4. WASTEWATER DISCHARGE PERMIT APPLICATION

6.4.1 Wastewater Analysis

When requested by the Pretreatment Coordinator, a user shall submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Pretreatment Coordinator is authorized to prepare a form for this purpose and may periodically require users to update this information.

6.4.2 Wastewater Discharge Permit Requirement

- 6.4.2.1 No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Pretreatment Coordinator except that a significant industrial user that has filed a timely application pursuant to these regulations may continue to discharge for the time period specified therein.
- 6.4.2.2 The Pretreatment Coordinator may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of these regulations.
- 6.4.2.3 Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of these regulations and subject the wastewater discharge permittee to the sanctions

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set out in Section 6.6.10 of these regulations. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

6.4.3 Wastewater Discharge Permitting: Existing Connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of these regulations and who wishes to continue such discharges in the future, shall, within forty five (45) days after said date, apply to the Pretreatment Coordinator for a wastewater discharge permit in accordance with Section 6.4.3 of these regulations, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of these regulations except in accordance with a wastewater discharge permit by the Pretreatment Coordinator.

6.4.4 Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 6.4.5 of these regulations, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

6.4.5 Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit a permit application. The Pretreatment Coordinator may require all users to submit as part of an application the following information:

- 6.4.5.1 All information required by Section 6.6.1 of these regulations;
- 6.4.5.2 Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- 6.4.5.3 Number and type of employees, hours of operation, and proposed or actual hours of operation;
- 6.4.5.4 Each product produced by type, amount, process or processes, and rate of production;
- 6.4.5.5 Type and amount of raw materials processed (average and maximum per day);
- 6.4.5.6 Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location and elevation, and all points of discharge;

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- 6.4.5.7 Time and duration of discharges; and
- 6.4.5.8 Any other information as may be deemed necessary by the Pretreatment Coordinator to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

6.4.6 Application Signatories and Certification

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations".

6.4.7 Wastewater Discharge Permit Decisions

The Pretreatment Coordinator will evaluate the data furnished by the user and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the Pretreatment Coordinator will determine whether or not to issue a wastewater discharge permit. The Pretreatment Coordinator may deny any application for a wastewater discharge permit for cause.

6.5. WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

6.5.1 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed two (2) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than two (2) years, at the discretion of the Pretreatment Coordinator. Each wastewater discharge permit will indicate a specific date upon which it will expire.

6.5.2 Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Pretreatment Coordinator to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

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- 6.5.2.1 Wastewater discharge permits must contain:
- 6.5.2.1.1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed two (2) years;
 - 6.5.2.1.2. A statement that the wastewater discharge permit is nontransferable without prior approval of to the Village in accordance with Section 6.5.5 of these regulations, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
 - 6.5.2.1.3. Effluent limits based on applicable pretreatment standards;
 - 6.5.2.1.4. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
 - 6.5.2.1.5. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that provided for by applicable Federal, State, or local law.
- 6.5.2.2 Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- 6.5.2.2.1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - 6.5.2.2.2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - 6.5.2.2.3. Requirements for the development and implementation of spill prevention contaminant and counter measures plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
 - 6.5.2.2.4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - 6.5.2.2.5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - 6.5.2.2.6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

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- 6.5.2.2.7. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- 6.5.2.2.8. Other conditions as deemed appropriate by the Pretreatment Coordinator to ensure compliance with these regulations, and State and Federal laws, rules, and regulations.

6.5.3 Wastewater Discharge Permit Appeals

The Pretreatment Coordinator shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Pretreatment Coordinator to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance.

- 6.5.3.1 Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- 6.5.3.2 In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- 6.5.3.3 The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- 6.5.3.4 If the Pretreatment Coordinator fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- 6.5.3.5 Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Circuit Court for Kane County within sixty (60) days.

6.5.4 Wastewater Discharge Permit Modification

The Pretreatment Coordinator may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- 6.5.4.1 To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- 6.5.4.2 To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

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- 6.5.4.3 A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - 6.5.4.4 Receipt of information which the Pretreatment Coordinator deems credible indicating that the permitted discharge poses a threat to the Village's POTW, Village personnel, or the receiving waters;
 - 6.5.4.5 Violation of any terms or condition of the wastewater discharge permit;
 - 6.5.4.6 Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - 6.5.4.7 Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
 - 6.5.4.8 To correct typographical or other errors in the wastewater discharge permit; or
- 6.5.5 Wastewater Discharge Permit Transfer
- Wastewater discharge permits shall not be transferred, assigned, or sold to a new owner or new user in different premises or to a new or different operation in the same or different premises without the approval of the Village. If the premises are sold or otherwise transferred by the permittee to a new owner who will maintain the operation in the same premises, then the permit held by the seller shall be reissued by the Village to the new owner as a temporary permit; provided that the new owner shall immediately apply for a new permit in accordance with this Article; and further provided that the temporary permit shall only be effective for ninety (90) days after the date of sale or transfer. The Village shall have the same remedies for violation of temporary permits as it has for violation of other discharge permits.
- 6.5.6 Wastewater Discharge Permit Revocation
- The Pretreatment Coordinator may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- 6.5.6.1 Failure to notify the Pretreatment Coordinator of significant changes to the wastewater prior to the changed discharge;
 - 6.5.6.2 Failure to provide prior notification to the Pretreatment Coordinator of changed conditions pursuant to Section 6.6.5 of these regulations;
 - 6.5.6.3 Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 - 6.5.6.4 Falsifying self-monitoring reports;
 - 6.5.6.5 Tampering with monitoring equipment;

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- 6.5.6.6 Refusing to allow the Pretreatment Coordinator timely access to the facility premises and records;
- 6.5.6.7 Failure to meet effluent limitations;
- 6.5.6.8 Failure to pay fines;
- 6.5.6.9 Failure to pay sewer charges;
- 6.5.6.10 Failure to meet compliance schedules;
- 6.5.6.11 Failure to complete a wastewater survey or the wastewater discharge permit application;
- 6.5.6.12 Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- 6.5.6.13 Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or these regulations.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

6.5.7 Wastewater Discharge Permit Reissuance

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 6.5.2 of these regulations, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

6.5.8 Regulation of Waste Received from Other Jurisdictions

- 6.5.8.1 If another municipality or user located within another municipality desires to contribute wastewater to the POTW, the Village Board first shall enter into an Intergovernmental Agreement with the contributing municipality.
- 6.5.8.2 Prior to the Village entering into an agreement required by paragraph 1, above, the Pretreatment Coordinator shall secure the following information from the contributing municipality:
 - 6.5.8.2.1. A description of the quality and volume of wastewater discharge to the POTW by the contributing municipality;
 - 6.5.8.2.2. An inventory of all users located within the contributing municipality that are discharging to the POTW; and
 - 6.5.8.2.3. Such other information as the Pretreatment Coordinator may deem necessary.
- 6.5.8.3 An Intergovernmental Agreement, as required by paragraph 1, above, shall contain the following conditions:

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- 6.5.8.3.1. A requirement that the contributing municipality adopt a sewer use ordinance which is at least as stringent as these regulations and local limits which are at least as stringent as those set out in Section 6.2.5 of these regulations. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to this Village's regulations or local limits.
- 6.5.8.3.2. A requirement that the contributing municipality submit a revised user inventory on at least an annual basis;
- 6.5.8.3.3. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the Pretreatment Coordinator; and which of these activities will be conducted jointly by the contributing municipality and the Pretreatment Coordinator;
- 6.5.8.3.4. A requirement that the contributing municipality provide the Pretreatment Coordinator with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- 6.5.8.3.5. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- 6.5.8.3.6. Requirements for monitoring the contributing municipality's discharge;
- 6.5.8.3.7. A provision ensuring the Pretreatment Coordinator access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Pretreatment Coordinator; and
- 6.5.8.3.8. A provision specifying remedies available for breach of the terms of the Intergovernmental Agreement.

6.6. REPORTING REQUIREMENTS

6.6.1 Baseline Monitoring Reports

- 6.6.1.1 Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Pretreatment Coordinator a report which contains the information listed in paragraph 2, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that

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become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Pretreatment Coordinator a report which contains the information listed in paragraph 2, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

- 6.6.1.2 Users described above shall submit the information set forth below.
- 6.6.1.2.1 Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - 6.6.1.2.2 Environmental Permits. A list of any environmental control permits held by or for the facility.
 - 6.6.1.2.3 Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - 6.6.1.2.4 Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
 - 6.6.1.2.5 Measurements of Pollutants.

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- 6.6.1.2.5.1. The categorical pretreatment standards applicable to each regulated process.
 - 6.6.1.2.5.2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Pretreatment Coordinator, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.6.10 of these regulations.
 - 6.6.1.2.5.3. Sampling must be performed in accordance with procedures set out in Section 6.6.11 of these regulations.
 - 6.6.1.2.6. Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or pretreatment is required to meet the pretreatment standards and requirements.
 - 6.6.1.2.7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 6.6.2 of these regulations.
 - 6.6.1.2.8. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 6.4.6 of these regulations.
- 6.6.2 Compliance Schedule Progress Reports
- The following condition shall apply to the compliance schedule required by Section 6.6.1 of these regulations:
- 6.6.2.1 The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
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- 6.6.2.2 No increment referred to above shall exceed nine (9) months;
- 6.6.2.3 The user shall submit a progress report to the Pretreatment Coordinator no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- 6.6.2.4 In no event shall more than nine (9) months elapse between such progress reports to the Pretreatment Coordinator.
- 6.6.3 Reports On Compliance With Categorical Pretreatment Standard Deadline
Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Pretreatment Coordinator a report containing the information described in Section 6.6.1 of these regulations. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 6.4.6 of these regulations.
- 6.6.4 Periodic Compliance Reports / Self Monitoring Reports
- 6.6.4.1 All significant industrial users shall, at a frequency determined by the Pretreatment Coordinator but in no case less than twice per year (in July and January), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 6.4.6 of these regulations.
- 6.6.4.2 All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- 6.6.4.3 If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by The
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Pretreatment Coordinator, using the procedures prescribed in 6.11 of these regulations, the results of this monitoring shall be included in the report.

6.6.5 Reports of Changed Conditions

Each user must notify the Pretreatment Coordinator of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

6.6.5.1 The Pretreatment Coordinator may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under 4.5 of these regulations.

6.6.5.2 The Pretreatment Coordinator may issue a wastewater discharge permit under 4.7 of these regulations or modify an existing wastewater discharge permit under 5.4 of these regulations in response to changed conditions or anticipated changed conditions.

6.6.5.3 For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

6.6.6 Reports of Potential Problems

6.6.6.1 In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify The Pretreatment Coordinator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

6.6.6.2 Within five (5) days following such discharge, the user shall, unless waived by the Pretreatment Coordinator, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to these regulations.

6.6.6.3 A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge

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to occur, or will become of such a discharge are advised of the emergency notification procedure.

6.6.7 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Pretreatment Coordinator as the Pretreatment Coordinator may require.

6.6.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the Pretreatment Coordinator within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Pretreatment Coordinator within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Pretreatment Coordinator monitors at the user's facility at least once a month, or if the Pretreatment Coordinator samples between the user's initial sampling and when the user receives the results of this sampling.

6.6.9 Notification of the Discharge of Hazardous Waste

- 6.6.9.1 Pursuant to 40 CFR 40 3.12 (P) any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.6.5 of these regulations. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Sections 6.6.1, 6.6.3, and 6.6.4 of these regulations.

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- 6.6.9.2 Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- 6.6.9.3 In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Pretreatment Coordinator, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- 6.6.9.4 In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- 6.6.9.5 This provision does not create a right to discharge any substance not otherwise permitted to be discharged by these regulations, a permit issued thereunder, or any applicable Federal or State law.

6.6.10 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

6.6.11 Sample Collection

- 6.6.11.1 Except as indicated in Section B, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Pretreatment Coordinator may authorize the use of time proportional sampling collecting at least 96 aliquots during the 24-hour work day; or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. A proportional number of samples shall be collected for wastewater discharges less than 24 hours. In

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addition, grab samples may be required to show compliance with instantaneous discharge limits.

- 6.6.11.2 Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

6.6.12 Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

6.6.13 Record Keeping

Users subject to the reporting requirements of these regulations shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by these regulations and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements.. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Village, or where the user has been specifically notified of a longer retention period by the Pretreatment Coordinator.

6.7. COMPLIANCE MONITORING

6.7.1 Right of Entry: Inspection and Sampling

The Pretreatment Coordinator or designee shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of these regulations and any wastewater discharge permit or order issued hereunder. Users shall allow the Pretreatment Coordinator or designee ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- 6.7.1.1 Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Pretreatment Coordinator or designee will be permitted to enter without delay for the purposes of performing specific responsibilities.

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- 6.7.1.2 The Village shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- 6.7.1.3 The Pretreatment Coordinator may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated twice yearly (at six month intervals) to ensure their accuracy.
- 6.7.1.4 Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Pretreatment Coordinator and shall not be replaced. The costs of clearing such access shall be born by the user.
- 6.7.1.5 Unreasonable delays in allowing the Pretreatment Coordinator access to the user's premises shall be a violation of these regulations.

6.7.2 Search Warrants

If the Pretreatment Coordinator has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of these regulations, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Villages designed to verify compliance with these regulations or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Pretreatment Coordinator may seek issuance of a search warrant from the Circuit Court of Kane County.

6.8. CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and the Pretreatment Coordinator inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Pretreatment Coordinator, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State or Federal law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings

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involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR will not be recognized as confidential information and will be available to the public without restriction.

6.9. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Pretreatment Coordinator shall publish annually, in a newspaper of general circulation within the Village, published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- 6.9.1 Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six- (6-) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- 6.9.2 Technical Review Criteria (TRC) violations, defined here as those in which thirty- three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- 6.9.3 Any other discharge violation that the Pretreatment Coordinator believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- 6.9.4 Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Pretreatment Coordinator exercise of its emergency authority to halt or prevent such a discharge;
- 6.9.5 Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- 6.9.6 Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- 6.9.7 Failure to accurately report noncompliance; or
- 6.9.8 Any other violation(s) which the Pretreatment Coordinator determines will adversely affect the operation or implementation of the local pretreatment program.

6.10. ADMINISTRATIVE ENFORCEMENT REMEDIES

6.10.1 Notification of Violation

When the Pretreatment Coordinator finds that a user has violated, or continues to violate, any provision of these regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Pretreatment Coordinator may serve upon that user a written Notice of Violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Pretreatment Coordinator. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Pretreatment Coordinator to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

6.10.2 Consent Orders

The Pretreatment Coordinator may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 6.10.4 and 6.10.5 of these regulations and shall be judicially enforceable.

6.10.3 Show Cause Order

The Pretreatment Coordinator may order a user which has violated, or continues to violate, any provision of these regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the representatives of the Village and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

6.10.4 Compliance Orders

When the Pretreatment Coordinator finds that a user has violated, or continues to violate, any provision of these regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment

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standard or requirement, the Pretreatment Coordinator may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

6.10.5 Cease and Desist Orders

When the Pretreatment Coordinator finds that a user has violated, or continues to violate, any provision of these regulations, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Pretreatment Coordinator may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- 6.10.5.1 Immediately comply with all requirements; and
- 6.10.5.2 Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

6.10.6 Emergency Suspensions

The Pretreatment Coordinator may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Pretreatment Coordinator may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- 6.10.6.1 Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Pretreatment Coordinator may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Pretreatment Coordinator

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may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Pretreatment Coordinator that the period of endangerment has passed, unless the termination proceedings in Section 6.10.8 of these regulations are initiated against the user.

- 6.10.6.2 A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Pretreatment Coordinator prior to the date of any show cause or termination hearing under Sections 6.10.3 or 6.10.8 of these regulations.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

6.10.7 Termination of Discharge

In addition to the provisions in Section 6.5.6 of these regulations, any user who violates the following conditions is subject to discharge termination:

- 6.10.7.1 Violation of wastewater discharge permit conditions;
- 6.10.7.2 Failure to accurately report the wastewater constituents and characteristics of its discharge;
- 6.10.7.3 Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- 6.10.7.4 Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- 6.10.7.5 Violation of the pretreatment standards in Section 6.6.2 of these regulations.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 6.10.3 of these regulations why the proposed action should not be taken. Exercise of this option by the Pretreatment Coordinator shall not be a bar to, or a prerequisite for, taking any other action against the user.

6.11. JUDICIAL ENFORCEMENT REMEDIES

6.11.1 Injunctive Relief

When the Pretreatment Coordinator finds that a user has violated, or continues to violate, any provision of these regulations, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Pretreatment Coordinator may petition the Circuit Court of Kane County through the Village's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge

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permit, order, or other requirement imposed by these regulations on activities of the user. the Pretreatment Coordinator may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

6.11.2 Civil Penalties

- 6.11.2.1 A user who has violated, or continues to violate, any provision of these regulations, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Village for a maximum civil penalty per violation, per day and penalties shall accrue for each day during the period of the violation.
- 6.11.2.2 The Pretreatment Coordinator may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Village.
- 6.11.2.3 In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- 6.11.2.4 A user who willfully or negligently violates any provision of these regulations, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall pay a fine of not more than seven hundred and fifty dollars (\$750.00) per violation, per day, or imprisonment for not more than six (6) months, or both.
- 6.11.2.5 A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least seven hundred and fifty dollars (\$750.00). This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- 6.11.2.6 A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to these regulations, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these regulations shall, upon conviction, be punished by a fine of not more than seven hundred and fifty dollars (\$750.00) per

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violation, per day, or imprisonment for not more than six (6) months, or both.

6.11.2.7 Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

6.11.3 Remedies Nonexclusive

The remedies provided for in these regulations are not exclusive. The Pretreatment Coordinator may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Village's enforcement response plan. However, the Pretreatment Coordinator may take other action against any user when the circumstances warrant. Further, the Pretreatment Coordinator is empowered to take more than one enforcement action against any noncompliant user.

6.12. SUPPLEMENTAL ENFORCEMENT ACTION

6.12.1 Performance Bonds

The Pretreatment Coordinator may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of these regulations, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the Village, in a sum not to exceed a value determined by the Pretreatment Coordinator to be necessary to achieve consistent compliance.

6.12.2 Liability Insurance

The Pretreatment Coordinator may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of these regulations, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

6.12.3 Water Supply Severance

Whenever a user has violated or continues to violate any provision of these regulations, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

6.12.4 Public Nuisances

A violation of any provision of these regulations, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or

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requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Pretreatment Coordinator. Any person(s) creating a public nuisance shall be subject to the provisions governing such nuisances, including reimbursing the Village for any costs incurred in removing, abating, or remedying said nuisance.

6.12.5 Contractor Listing

Users which have not achieved compliance with applicable pretreatment standards and requirements hereby declared to be non-responsible user's and therefore are not eligible to receive a contractual award for the sale of goods or services to the Village. Existing contracts for the sale of goods or services to the Village held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the Pretreatment Coordinator.

6.13. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

6.13.1 Upset

6.13.1.1 For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

6.13.1.2 An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (C), below, are met.

6.13.1.3 A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

6.13.1.3.1. An upset occurred and the user can identify the cause(s) of the upset;

6.13.1.3.2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

6.13.1.3.3. The user has submitted the following information to the Pretreatment Coordinator within twenty-four (24) hours of becoming aware of the upset **(if this information is provided orally, a written report must be provided within five (5) days):**

6.13.1.3.3.1. A description of the indirect discharge and cause of noncompliance;

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- 6.13.1.3.3.2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - 6.13.1.3.3.3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
 - 6.13.1.3.4. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
 - 6.13.1.3.5. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
 - 6.13.1.3.6. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.
- 6.13.2 Bypass
- 6.13.2.1 For the purposes of this section,
 - 6.13.2.1.1. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - 6.13.2.1.2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
 - 6.13.2.2 A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of sections 6.13.2.3 and 6.13.2.4 of this section.
 - 6.13.2.3 Planned bypass
 - 6.13.2.3.1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Pretreatment Coordinator, at least ten (10) days before the date of the bypass, if possible.
 - 6.13.2.3.2. A user shall submit oral notice to the Pretreatment Coordinator of an unanticipated bypass that exceeds

applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Pretreatment Coordinator may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

- 6.13.2.4 Bypass is prohibited, and the Pretreatment Coordinator may take an enforcement action against a user for a bypass, unless
 - 6.13.2.4.1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - 6.13.2.4.2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - 6.13.2.4.3. The user submitted notices as required under paragraph 6.13.2.3 of this section.

The Pretreatment Coordinator may approve an anticipated bypass, after considering its adverse effects, if the Pretreatment Coordinator determines that it will meet the three conditions listed in section 6.13.2.4.

6.14. MISCELLANEOUS PROVISIONS

6.14.1 Pretreatment Charges and Fees

The Village may hereafter as Rider A to this Section 6.14.1 adopt reasonable fees for reimbursement of costs of setting up and operating the Village’s Pretreatment Program which may include:

- 6.14.1.1 Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- 6.14.1.2 Fees for reviewing and responding to accidental discharge procedures and construction;
- 6.14.1.3 Fees for filing appeals; and

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- 6.14.1.4 Other fees as the Village may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by these regulations and are separate from all other fees, fines, and penalties chargeable by the Village.
- 6.14.2 The Village may hereafter, as Rider B to this Section 6.14.2 adopt reasonable surcharges for those Commercial and Industrial users of the Wastewater Treatment System who do not meet the wastewater quality standards set forth in Rider B.
- 6.14.3 Severability
- If any provision of these regulations is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

SECTION 7. WATERWORKS AND SANITARY SEWER CONNECTIONS

7.1. GENERAL PROVISIONS

7.1.1 Definitions Unless specifically indicated otherwise, the meaning of terms used in this Code Section 7 shall be as follows:

- 7.1.1.1 “CUSTOMER” shall mean any person who uses and/or receives service from the Municipal Waterworks.
- 7.1.1.2 “LIVING UNIT” shall have the meaning set forth in the Zoning Code for the occupancy of one (1) family.
- 7.1.1.3 “LOT” shall mean any parcel of land as set forth in the Zoning Code.
- 7.1.1.4 “MAJOR WATER MAINS” shall mean water mains of not less than eight inches (8”) in diameter and looped at intervals of approximately every one-half (1/2) mile, conveying water from wells or storage reservoirs to the various sections of the water distribution system.
- 7.1.1.5 “MUNICIPAL WATER SERVICE CHARGES” shall mean amounts charged for making the Municipal Waterworks ready to serve particular lots, tracts, or parcels of land, and for establishing connection thereto.
- 7.1.1.6 “MUNICIPAL WATERWORKS” shall mean a waterworks system which is owned, installed or operated by the Village.
- 7.1.1.7 “OWNER” shall mean any person having legal title to a lot, tract, or parcel of land for which usage, or service from the Municipal Waterworks is provided and/or proposed.
- 7.1.1.8 “PRIVATE WATERWORKS” shall mean a waterworks system, which is owned, installed or operated by any person other than the Village.
- 7.1.1.9 “SECONDARY WATER MAINS” shall mean a grid of water mains not less than six inches (6”), but less than eight inches (8”), in diameter connected to the major water mains to deliver the fire flow and domestic supply to the various properties and customers along their routes.
- 7.1.1.10 “SUPERINTENDENT” shall mean the Superintendent of Waterworks of the Village of Gilberts, or. his authorized deputy, agent, or representative.
- 7.1.1.11 “WATER DISTRIBUTION SYSTEM” shall mean the grid of water mains which convey water from the source of supply to the point of use.

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- 7.1.1.12 “WATER SERVICE CHARGES” shall mean charges to an owner by the Village for preparing the Municipal Waterworks to serve owner’s particular lot, tract or parcel.
- 7.1.1.13 “WATER STORAGE” shall mean a tank or tanks for storing water for common supply, fire protection and equalization of demands.
- 7.1.1.14 “WATER USAGE RATES” shall mean amounts charged for the use of Municipal Waterworks.
- 7.1.1.15 “WATERWORKS” shall mean and include a water supply and distribution system in its entirety or any integral part thereof including but not limited to mains, hydrants, meters, valves, standpipes, storage tanks, pump tanks, intakes, wells, impounding reservoirs, pumps, machinery, purification plants, softening apparatus and all other elements useful in connection with such system intended to serve more than one dwelling, structure or building.
- 7.1.2 Application: An application for any services or usage of the Municipal Waterworks shall be made in writing to the Village. Every application shall contain an agreement by the applicant to abide by all of the provisions of this Section 7 and to pay when due to the Village Collector all applicable Municipal Water Service Charges and Water Usage Rates.
- 7.1.3 Repair or Connection: Repair of or connection to the Municipal Waterworks shall only be performed by a person authorized by the Waterworks Superintendent. The service applicant shall notify the Village in writing of any person proposing to perform work on any part of the Municipal Waterworks.
- 7.1.4 Resale. No water supplied by the Municipal Waterworks shall be resold or redistributed.
- 7.1.5 Service Interruptions. The Village shall not be responsible for any customer damages resulting from any failure or interruptions of Municipal Waterworks water service.
- 7.1.6 Right of Turning Off. The Village shall have the right to discontinue its water service to any customer on due notice, whenever the payments for services or usage are in arrears, or in case the customer fails to comply with, or perform any of the conditions or obligations hereof. Prior to such discontinuance of water service, the affected customer shall, upon written request to the Village Clerk, have the right to contest the discontinuance at a hearing before the Village Board, which hearing shall be scheduled within thirty (30) days of the Village Clerk’s receipt of the written request.
- 7.1.7 Protection from Damage. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenances, or equipment which is a part of the Municipal Waterworks.

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- 7.1.8 Powers and Authority of Inspectors. The Superintendent and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter upon all properties for the purpose of inspection, observation, measurement, sampling and testing the water supply or any part of the Municipal Waterworks.
- 7.1.9 Protection of Potable Water. It shall be unlawful to make direct connections to any part of the Municipal Waterworks with any lines, equipment, or vessels containing raw or contaminating chemicals, or sewage or nonpotable water. No connection shall be made between the Municipal Waterworks and a Private Waterworks or between the Municipal Waterworks and an individual well.
- 7.1.10 Water Supply Mandatory. Every structure within the geographic area described as Village Special Service Area No. One by Village Ordinance No. 90-30 in which plumbing fixtures are installed and which are for human use, occupancy, or habitation shall be connected to the Municipal Waterworks.
- 7.1.11 Contractor Performing Work on the Waterworks. The service applicant shall notify the Village in writing of any person, corporation proposing to perform work on any part of the Waterworks System.
- 7.1.12 Deposit for Service. The Village may require a security deposit for Municipal Water Service in an amount specified in Code Section 14.

7.2. WATERWORKS STANDARDS REGULATIONS AND REQUIREMENTS

7.2.1 WATER DEMANDS AND FIRE FLOWS.

- 7.2.1.1 Average daily water demand shall be computed on the basis of 100 gallons per capita per day for residential development or for non-residential water demands, in accordance with Table 1, Quantities of Sewage Flows, set forth in the "Private Sewage Disposal Licensing Act and Code", Department of Public Health, State of Illinois, as herein amended.
- 7.2.1.2 Maximum daily water demand shall be computed on the basis of two (2) times the average daily water demand.
- 7.2.1.3 Maximum hourly water demand shall be computed on the basis of three (3) times the average daily water consumption.
- 7.2.1.4 Fire demand shall be computed for a two (2) hour duration for fire flows up to 2500 gpm and three (3) hours duration for fire flows of 3000 gpm and 3500 gpm. Any required duration greater than three (3) hours or fire flow above 3500 gpm is beyond the capability of the Village water supply and therefore should be provided by the property owner. The aforescribed fire flows assume the following demands:

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1	Single family detached residential	1000 gpm
2	Town/row or cluster housing	1500 gpm
3	Apartment type construction	2000 gpm
4	Industrial and storage	3000 gpm
5	Research & development laboratories	3000 gpm
6	Business and commercial areas	3000 gpm
7	Mercantile centers	3500 gpm
8	Assembly and educational	3500 gpm
9	Health care and institutional	3500 gpm

7.2.1.5 All water main and appurtenances shall extend to the furthest limits of the tract as directed by the Village Engineer in a manner consistent with sound engineering practices.

7.2.2 SIZE AND LOCATION.

7.2.2.1 Distribution main size shall be determined by the occupancy of the properties along the line and by the average daily water consumption of each property, plus fire demand. The main shall be of sufficient size to deliver the flow at a residual pressure of not less than 20 pounds per square inch. The main size shall in no case be less than as hereinafter specified.

7.2.2.1.1. The grid of secondary distribution mains supplying residential districts shall have a minimum pipe size of six (6) inches in diameter, and be arranged so that the lengths between intersecting mains do not exceed 600 feet. Where longer lengths of six (6) inch mains are necessary, eight (8) inch or larger intersecting mains shall be used. Minimum pipe size supplying commercial and industrial areas shall be eight (8) inches but may be required to be longer in specific cases upon recommendation of the Village Engineer.

7.2.2.1.2. At least two points of connection to the existing water system shall be installed to allow continued water service with one main out of service.

7.2.2.1.3. Water mains serving cul-de-sacs or permanent dead-end streets shall be a minimum of six (6) inches in diameter and shall be looped in the street right-of-way or through an easement or other right-of-way to another main in the grid.

7.2.2.1.4. No “dead-end” water main will be permitted.

7.2.2.1.5. Water mains shall generally be located in the parkway between street and sidewalk and shall have a minimum cover of 5-1/2 feet.

7.2.2.1.6. Minimum separation of water main and storm sewer, sanitary sewer or drain pipeline shall be in accordance with IEPA regulations.

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7.2.2.2 Gate valves shall be located so that service can be maintained with the least disruption to the system in the case of a break or other emergency and shall be of the same nominal size as the water main pipe. In no case shall valves be located more than 600 feet apart on secondary distribution mains or 1500 feet apart on primary feeder mains. Valves six (6) inches in diameter or greater shall be located in a valve vault with a minimum of four (4) feet inside diameter. Gate valves shall be of a make common to the Village. Valves shall have a standard operating nut and shall open in a counter-clockwise direction. Gate valves shall be in accordance with AWWA C500 or AWWA C509, or the latest edition thereto. Lettering on cast iron lid shall indicate "WATER".

7.2.2.3 Fire hydrants shall be installed throughout the entire waterworks system and shall normally be located at street intersections. All hydrants shall be located a minimum of five (5) feet from the curb line. In no case shall the interval between hydrants exceed 400 feet in single family residential districts and 300 feet in multiple-housing, commercial, or industrial developments. Fire hydrants shall be manufactured by Waterous or by such manufacturer as may be specified by the Village Board from time to time after receiving recommendations from the Village Engineer. Hydrants shall have a minimum barrel diameter of five (5) inches, with one (1) four-1/2 inch pumper connection, and two (2) 2-1/2 inch hose connections. Pumper connection shall face the street and shall be positioned between eighteen (18) inches and twenty-four (24) inches above finished grade.

7.2.3 MATERIALS.

7.2.3.1 Water mains shall be constructed of ductile cast iron conforming to the following specifications, or the latest editions thereto:

7.2.3.1.1. Ductile cast iron pipe manufactured in accordance with AWWA C151, Class 52,

7.2.3.1.2. Push on joints for joining lengths of pipe in accordance with AWWA C110 and C111.

7.2.3.1.3. Mechanical joints and fittings for joining lengths of pipe and appurtenant fittings in accordance with AWWA C110 or C153 and with AWWA C111.

7.2.3.2 All water main pipe and fittings shall be interior lined with cement mortar lining in accordance with AWWA C104.

7.2.3.3 All water main pipe and fittings shall be installed with polyethylene encasement in accordance with AWWA C105. If the subdivider conducts soil survey tests in accordance with Appendix "A" of AWWA C105 by the Ductile Iron Pipe Research Association or qualified soil testing firm, the Village will evaluate the testing report

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- and identify portions of the water main that may be excluded from polyethylene encasement.
- 7.2.3.4 Gate valve materials shall be in accordance with AWWA C500 or AWWA C509 for resilient seated gate valve, or the latest edition thereto.
- 7.2.3.5 Fire hydrant materials shall be in accordance with Section 4 of AWWA C502, or the latest edition thereto.
- 7.2.3.6 Copper tubing shall be Type “K”, soft temper for underground service, conforming to standards of the American Society for Testing and Materials (ASTM) B-88 and B251, or the latest edition thereto.
- 7.2.4 APPLICATIONS FOR IEPA CONSTRUCTION PERMIT. At least five (5) sets of the completed Illinois Environmental Protection Agency (IEPA) application for water main extensions shall be submitted to the Village at the same time as submittal of the final engineering plans and specifications of the subdivision improvements.
- 7.2.5 HOUSE SERVICES.
- 7.2.5.1 House water and sewer services shall be constructed to connect with the utility service mains constructed within any street or thoroughfare, to serve each adjoining lot, tract or building site; such house services shall extend from the main to a point at least 2 feet beyond the property line of the property to be served. Water services shall be a minimum 1 inch diameter type “K” copper tubing and shall include Mueller H-15000 corporation stop, Mueller H-15150 curb stop-coupling, and Mueller H-10300 service box.
- 7.2.5.2 All such house services connected with utility mains constructed within any street or thoroughfare, shall be located at the approximate center line of each lot. All services boxes shall be adjusted to finished grade prior to acceptance by the Village.
- 7.2.5.3 Upon completion of the in-place construction of all such house service connections with utility mains, ten copies of an accurate map or maps showing the exact locations of all such mains, together with manholes, water valves, B-boxes, and other similar facilities being a part thereof, by distances in feet from street lines, and of all such house connections in distances in feet from the side lot lines, approved by the Engineer for the Village, shall be filed in the office of the Village Clerk.
- 7.2.5.3.1 All water mains and appurtenances thereto shall be sterilized before they are put into service. The installer shall be responsible for sterilizing the mains and shall, under the supervision of a representative of the Village, take samples which are to be submitted to the State Sanitary Engineering

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Laboratory or other approved testing laboratory for bacteriological analysis. Acceptable bacteriological tests shall be required before the water mains will be permitted to be put into service. Water mains shall be disinfected in general accordance with A.W.W.A. C601 Standard latest edition thereto

7.2.5.3.2. Connections for extending existing water mains shall be made with a tapping tee and valve unless otherwise permitted by the Village. Work shall be so scheduled and timed as to cause the least possible interference with the operation of the existing water distribution system. Water shall not be allowed to flow from the new mains into the existing mains until the new mains have been thoroughly flushed and sterilized. Care should be taken so as not to cause turbulence in the existing mains.

7.2.6 Water Meters

Shall be installed on all water services as required for the particular services for connection to Village or Private Waterworks Systems. The size of water meter shall be established upon the probable demand load. The demand load shall be based upon the number and kind of fixtures or connections installed and on the probable simultaneous use of these fixtures or connections as provided in Section 7.2.5.

Probable Demand Load	Fixture Units Installed	Size of Meter
G.P.M	Totals	Minimum
20	0 to 20	¾ Inches
30	15 to 30	1 Inch
50	20 to 60	1,5 Inches
75	60 to 180	2 Inches
150	180 to 500	3 Inches
200	500 to 900	4 Inches
300	900 to 1,500	5 Inches
500	By Approval of the Village only	6 Inches

All meters shall be furnished by the Village and maintained by the user. All meters furnished by the Village will include a remote reading head. The meter will be furnished at the time of application and upon payment of all applicable service charges.

Water meter and remote reading head shall be installed by a qualified contractor employed by the user. The water meter shall be located in the

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basement or utility room or an accessible location where meter can be removed without the removal of any part of the building structure. The meter shall not be installed in the following locations; crawl spaces, under kitchen cabinets or sinks, living rooms, under enclosed stairways, locations where meters are subject to flooding or freezing; coal bins, ventilation shafts, and electrical panels or cabinets. The location of the meter shall be not more than twenty-five feet (25') from the exterior remote reading head. The remote reading head shall be installed on the outside of the building in a location so that said meter can be read without obstruction or entering the building or enclosure.

The metering facilities shall be installed in such a manner as to be plumb and to insure permanent attachment to a rigid, vibration free wall or structure.

Where metering equipment is installed in multiple-occupancy building, the meters and reading heads shall be labeled, tagged, or stenciled showing the location of customer served,

7.2.7 Building Service Pipe

A separate and independent water service shall be provided for each building or structure except where one (1) building is at the rear of another or an interior lot.

All costs and expenses of installation and maintenance of the building service pipe from the street shut-off box to the building shall be borne by the owner.

Whenever a leak or break occurs in the building service line between the buffalo box and the building, The water service will be turned off until repairs are made by the owner at the discretion of the Village.

7.2.8 Fire Service Connection

Fire service connection for fire hose connections, sprinkler system, or fire hydrants to each building up to one hundred thousand square feet (100,000) in area shall be provided with a separate connection to the water distribution system. Minimum size fire service line shall include a valve and vault so that said service can be shut-off for maintenance and repair. The location of the valve and vault shall be within sixty feet (60') of the water main.

No cross connection shall be allowed between a water service for fire protection system and a water service for domestic or process water system within any structure.

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No meter will be required on separate fire connection service unless said service is planned to provide domestic or process water service. When common domestic and fire service is installed to any building or area compound meter shall be installed in a meter vault or the size and capacity as determined by the Village.

7.2.9 Demand Weight of Fixtures The demand weight of fixture units (a) is hereby established as follows:

Fixture or Group	Occupancy Control	Type of Supply Fixture	Weight in Units
Water Closet	Public	Flush Valve	10
Water Closet	Public	Flush Valve	5
Pedestal Urinal	Public	Flush Valve	10
Stall or Wall Urinal	Public	Flush Valve	5
Stall or Wall Urinal	Public	Flush Valve	3
Lavatory	Public	Faucet	2
Bathtub	Public	Faucet	4
Shower Head	Public	Mixing Valve	4
Service Sink	Office, Etc.	Faucet	3
Kitchen Sink	Hotel or Restaurant	Faucet	4
Water Closet	Private	Flush Valve	6
Water Closet	Private	Flush Valve	3
Lavatory	Private	Faucet	1
Bathtub	Private	Faucet	2
Shower Head	Private	Mixing Valve	2
Bathroom Group	Private	Flush Valve for Closet	8
Bathroom Group	Private	Flush Tank for Closet	6
Separate Shower	Private	Mixing Valve	2
Kitchen Sink	Private	Faucet	2
Laundry Trays (1-3)	Private	Faucet	3
Combination Fixture	Private	Faucet	3

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- 7.2.9.1 For supply outlets likely to impose continuous demands, estimate continuous supply separately and add to total demand for fixtures.
- 7.2.9.2 For fixtures not listed, weights may be assumed by comparing the fixture to a listed one using water in similar quantities and at similar rates.
- 7.2.9.3 The given weights are for total demand. For fixtures with both hot and cold water supplies, the weights for maximum separate demands may be taken as three-fourths (3/4) the listed demand for supply.
- 7.2.10 Repairs - No trespass shall occur to the Village Waterworks or any other municipal property for the repairs or installation of any water supply system without first obtaining written approval and permission of the Village Board.

7.3. WATER SUPPLY CONNECTIONS AND SERVICE AREA

- 7.3.1 Water Supply. At such time when the Water Distribution System is adjacent to any lot containing an existing residential or commercial, office or industrial building, the owner thereof shall be required to connect to such water supply and thereafter abandon use of any private water well except that a private water well may be maintained for non-potable outdoor use only.
- 7.3.2 Use of Water During Construction.
 - 7.3.2.1 During the construction of any building, development, subdivision or part thereof, or other improvement the person constructing the same may be permitted to utilize the municipal water supply prior to installation of the standard water meter upon compliance with the following:

An application shall be filed at the Village Hall.
 - 7.3.2.1.1. If the Village Engineer shall determine it is feasible to require the connection of a water meter, the meter shall be provided by the Village and the Village water usage charges shall apply, as provided in this Code.
 - 7.3.2.1.2. If the Village Engineer shall determine that the installation of a water meter is not feasible, the Village Engineer shall estimate the amount of water to be used by the applicant and such applicant shall pay the estimated amount in advance to the Village based upon the Village water usage charges as provided in this Code. If the Village Engineer thereafter determines that the actual usage significantly varied from the estimate of usage, the applicant will pay for any additional water estimated to have been used or shall be

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entitled to a refund if the water estimated to have been used is significantly less than the originally estimated.

- 7.3.2.2 The applicant for water usage shall install such devices and equipment, including valves and anti-backflow devices as the Village Engineer shall require.
- 7.3.2.3 Any person, firm, corporation or other entity utilizing the municipal water supply without the permit required by this Code, or otherwise violating this Section 7.3.2 shall be fined \$500 for each violation and each violation shall be a separate offense.
- 7.3.3 Connection. All such connections are subject to the specifications of the Village and approval of the Village Engineer.
- 7.3.4 Subdivision
 - 7.3.4.1 Where an approved public water supply is within Fifteen Hundred Feet (1500') of any portion of any tract sought to be subdivided the developer shall cause connection to be made thereto for such development.
 - 7.3.4.2 The subdivider of land required to be connected to the municipal water supply shall in addition to all other costs and fees, pay to the Village an impact fee as specified in Code Section 14 per lot prior to plat approval by the Village to defray costs of existing facilities, maintenance and improvement thereof.
 - 7.3.4.3 Where connection to an approved public water supply is so required a subdivider shall connect with such water supply and make it available for each lot within the subdivided area. All such construction must conform to the specifications of the Village and must be approved by the Village Engineer. Fire hydrants shall also be installed in the number and places as required by the Village.
 - 7.3.4.4 The water distribution system shall be designed to be compatible with the overall distribution network of the Village. Dead-end mains shall not be permitted.
 - 7.3.4.5 Where a water system is required by the Village Engineer with a capacity which is greater than that necessary to serve the proposed development, the Village shall pay the cost of over sizing for the additional capacity.
 - 7.3.4.6 The minimum size of required water distribution mains to be installed by the developer shall be six inches within single-family developments and eight inches within multifamily, manufacturing, commercial, and industrial developments.
 - 7.3.4.7 Water taps shall be made bringing the water service to the property line of each lot or each potential building location to serve all

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- properties within the development, all prior to the completion of street surfacing.
- 7.3.4.8 One-inch water taps shall be provided for all one-family and two-family zoned developments.
- 7.3.4.9 The size of water taps within multifamily, manufacturing, industrial and commercial developments shall be determined by the Village Engineer.
- 7.3.5 Service may be extended to other properties on the following conditions:
- 7.3.5.1 Design regard for future extensions of service
- 7.3.5.2 Ability of Waterworks to supply proposed increase use
- 7.3.5.3 Conditions as may be reasonably imposed by the Board of Trustees or the Village Engineer
- 7.3.6 No private waterworks system intended to serve more than one dwelling, building or structure shall be employed within 1000 yards of any parcel or tract served by the Village Waterworks System.

7.4. WATER USAGE RATES

- 7.4.1 Usage Charges - There shall be and there are hereby established charges for the use of the Municipal Waterworks and Sewage Disposal System based on the amount of water consumed, as measured by water meters at the rate as specified in Code Section 14 per thousand gallons.
- 7.4.2 Whenever, for any cause, a meter fails to operate or no measurement of the flow is available, or a meter was not or could not be read during normal route of reader, an estimate may be made by the Superintendent or his designee of the amount of water supplied since the immediately pervious reading and the user shall pay usage charges based on the estimated amount of water supplied.
- 7.4.3 A minimum monthly charge as specified in Code Section 14 shall be charged on each meter but this minimum charge shall not be in addition to the user charges otherwise assessed.
- 7.4.4 Whenever water service or water main is leaking and no measurement of flow is available, the Village reserves the right to install a master meter on the pipe or main at the connection with the Municipal Waterworks and Sewage Disposal System and to prorate all water lost among all subject users.

7.5. MUNICIPAL WATER SERVICE CHARGES

- 7.5.1 General: Water and Sanitary Sewer Service Charges The water and sanitary sewer service charges are for the Villages provision of water and sanitary sewer services and for furnishing an adequate capacity of water supply, storage, major distribution, and materials for extending,

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connecting, expanding, or replacing of the Municipal Waterworks and Sewage Disposal System in order to serve the applicant's lot, parcel or tract of land.

- 7.5.2 Turn-On and Shut-Off Service Charge For the service of turning on and shutting off any water service, which is delinquent, change, enlargement, decreasing, or discontinuation of service, a charge shall be paid. as specified in Code Section 14
- 7.5.3 Meter Charges All meters and remote reading heads installed in municipal or private systems shall be furnished by the Village, upon application to the Village Clerk and upon the payment of the greater of 125% of the cost of such item or Basic Meter Cost as specified in Code Section 14.
- 7.5.4 Installation Charges All cost of installing piping, valves, boxes, meters and remote reading heads and the like shall be at the sole expense of the customer.
- 7.5.5 Waterworks Connection Charge - For the privilege of connecting to the Municipal Waterworks and Sewage Disposal System, a fee shall be paid to the Village prior to the connection of each building service pipe. as specified in Code Section 14
- 7.5.6 Inspection All installations and connections shall be inspected by the Village and an inspection fee per connection shall be paid before water service is provided or permitted as specified in Code Section 14

7.6. GENERAL BILLING AND ACCOUNTING PROVISIONS

- 7.6.1 Bills will be rendered on a bi-monthly basis.
- 7.6.2 The owner of the premises, the occupant thereof, and the user of the service shall be jointly and severally liable to pay for the water and sanitary sewer service furnished to the premises.
- 7.6.3 All water/sanitary sewage bills are due and payable twenty (20) days after the billing date.
- 7.6.4 Late Charge – Shall be added to all bills paid (20) days or more after the billing date for each month said bill, or any part thereof, is not fully paid. as specified in Code Section 14
- 7.6.5 Delinquent Bills If the charges for such water and sanitary sewer services are not paid within forty-five (45) days from the billing date, such services may be discontinued without further notice and shall not be reinstated until all claims are settled.
- 7.6.6 Lien Notice of Delinquency - Whenever a bill for water and sanitary sewer service remains unpaid for forty-five (45) days after its due date, the Village Collector may file with the County Recorder of Deeds a Statement of Lien Claim. This Statement shall contain the legal description of the

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premises served, the amount of the unpaid bill, and a notice that the Village claims a lien for this amount as well as for all charges subsequent to the period covered by the bill.

- 7.6.7 Foreclosure of Lien -Property subject to a lien for unpaid charges shall be sold for non-payment of the same in accordance with state law. Proceeds of the sale shall be applied to pay the charges, after deducting costs, and attorney fees incurred by the Village.
- 7.6.8 Revenues All revenues and moneys derived from or incident to the operation of the Municipal Waterworks and Sewage Disposal System shall be paid and held by the Village Collector separate and apart from all other funds of the Village.
- 7.6.9 Accounts The Village Collector shall establish a proper system of accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the Municipal Waterworks and Sewage Disposal System, and each fiscal year the Water Fund shall be audited by an independent Certified Public Accountant

7.7. SUPERINTENDENT

- 7.7.1 Appointment The Superintendent shall be appointed by the Village President with the consent of the Village Board and may be removed by the Village President.
- 7.7.2 Qualifications The superintendent shall possess the following minimum qualifications:
- 7.7.2.1 A Class C operator's license.
 - 7.7.2.2 Two years experience in this trade.
 - 7.7.2.3 High School diploma or recognized equivalent.
- 7.7.3 Compensation - Compensation for the Superintendent shall be set by resolution from time to time made by the Village Board, but in no event shall this sum be less than that provided by any contract between the Village and the Superintendent.
- 7.7.4 Bond The Superintendent shall post with the Village an approved indemnity in a sum no less than Three Hundred Thousand Dollars \$300,000.00.
- 7.7.5 Contract The Superintendent shall be employed as an independent contractor bound by a written contract executed by the Village and him, as prepared by the Village Attorney.
- 7.7.6 Duties The duties of the Superintendent shall be specified by the contract referred in Section 7.7.5.

7.8. PENALTIES

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- 7.8.1 Any person who violates any provision of this Code Section 7, other than for non-payment of water and sanitary sewer service, shall be subject to penalty provisions of Code Section 10.2.

7.9. PRIVATE WATERWORKS SYSTEMS COMPLIANCE

- 7.9.1 Private waterworks systems shall comply with and be subject to the terms of this Code Section 7 it relates to design standards, requirements, improvements, repairs, penalties, inspections and service area and all amendments pertaining thereto.
- 7.9.2 Permit All private waterworks systems shall, prior to installation, obtain a construction permit, the fee for which shall be as specified in Code Section 14, plus additional fees as specified in Code Section 14 for each user connection, in addition to the inspection fee provided for in Section 7.5.6 hereof.
- 7.9.3 Final Inspection No private waterworks system shall be employed until same has been inspected by the Village for its conformity with this Code Section 7.
- 7.9.4 Potable Water Each water supply system shall conform to the standards of health and clean water as may from time to time be determined by the Village and the Illinois Department of Public Health.

7.10. SPRINKLER AND WATER USE

- 7.10.1 Water conservation and rationing of water supply from the Village Waterworks will be in effect whenever the Village President or Designee declares by proclamation posted at the Village Hall that the water supply or capacity of the Municipal Waterworks to deliver potable water is limited or in jeopardy of being unable to meet ordinary and usual supply demands.
- 7.10.2 There shall be three levels of water use, conservation and rationing.
- 7.10.2.1 The level (the "green level") shall allow water usage outside without restriction.
- 7.10.2.2 The next lowest level (the "yellow level") shall prohibit any person from using water to sprinkle a lawn or to water grass, gardens, trees or shrubs, fill swimming pools, spas, or wash vehicles, provided that from 5:01 P.M. to 7:59 A.M. on even numbered calendar days any person on a property with an EVEN numbered address shall be permitted to so use water and any person on a property with an ODD numbered address shall be permitted to so use water on ODD number calendar days.
- 7.10.2.3 The highest level (the "red level") of water conservation and rationing shall prohibit all outside water usage.

7.11. BACKFLOW DEVICE REQUIREMENTS

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- 7.11.1 Purpose - To provide an effective means for protecting the public water supply system from contamination due to backflow of contamination through the customer water connection into the public water system.
- 7.11.2 If in accordance with the Illinois Plumbing Code or in the judgment of the Water Operator, an approved backflow prevention device is necessary for the safety of the public water supply system, the Village President and/or his designee will give notice to water customers other than the R-1 to R-4 Districts, to install such an approved device immediately. The water customer shall, at his own expense, install such an approved device at a location and in a manner in accordance with the Illinois Plumbing Code and all applicable local regulations, and shall have inspections and tests made of such approved devices as required by the Illinois Plumbing Code and local regulations.
- 7.11.3 No person shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of the Village enters the Municipal Waterworks, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Village President and/or his designee and the Illinois Environmental Protection Agency.
- 7.11.4 It shall be the duty of the Superintendent or his designee to cause surveys and investigations to be made of industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and with a copy provided to the Village of Gilberts and shall be repeated at least every two years, or as often as the Superintendent or his designee shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least five years.
- 7.11.5 The approved cross-connection control device inspector shall have the right to enter at any reasonable time and property served by a connection to the public water supply distribution system of the Village of Gilberts for the purpose of verifying the presence or absence of cross-connections, and the Village President and/or his designee shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of the Village of Gilberts for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand the owner, lessee or occupant of such property shall provide the Superintendent with any information which he may request regarding the piping system or systems or water use on such property. The refusal to provide such information, when demanded, shall, within the discretion of the Superintendent, be deemed evidence of the presence of improper connections on such property.

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- 7.11.6 The Superintendent and/or his designee is hereby authorized and directed to discontinue, after reasonable notice to the applicable customer thereof, the water service to any property wherein any connection in violation of the provisions of this Code Section 7.11. is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this Code Section 7.11., and until a reconnection fee as specified in Code Section 14 is paid the Village. Immediate disconnection without notice can be effected when the Superintendent reasonably believes that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification to the customer of reason for the disconnection.
- 7.11.7 The consumer is deemed responsible for backsiphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or any improperly installed, maintained or repaired device, or a device which has been bypassed, and in such event the customer must bear the cost of clean-up of the potable water supply system.

7.12. GILBERTS GLEN CONNECTIONS

- 7.12.1 Whenever any existing residence, other than any residence in Gilberts Glen Subdivision, is on a lot or parcel which is within 100 feet of a public sanitary sewer, the owner of such residential property shall be required to connect to such sanitary sewer and thereafter abandon the use of any private septic system or other means of sanitary sewer disposal within ninety (90) days after such public sanitary sewer service is so available. All such connections are subject to the specifications of the Village and the approval of the Village Engineer.

SECTION 8. PERMITS, LICENSES AND OTHER BUSINESS REGULATIONS

8.1. UNLAWFUL PERMITS, LICENSES OR PRIVILEGES

No permit or license shall be issued or renewed by the Village if the use thereof, if permitted, would be in violation of any federal or state law or regulation, this Code or any other ordinance of the Village.

8.2. COIN OPERATED DEVICES

8.2.1 Definition

As used in this Section 8.2, the term “Coin-Operated Device” shall mean a device operated or operable by insertion of coins, bills, tokens, chips or similar objects and displayed for use by, or used or operated by the public within the Village.

8.2.2 License Required

Any person owning or leasing or otherwise acquiring any Coin Operated Device and engaging in any business or activity whereby any such device is to be used or operated by the public within the jurisdiction of the Village shall obtain a license from the Village for each such device.

8.2.2.1 In the event a Coin Operated Device is leased, all owners/lessors and all lessees of the device shall sign the license application.

8.2.2.2 If a Coin Operated Device is used or operated by the public on one or more zoning lots, as that term is defined in the Village Zoning Code, then a separate license shall be required for each device for each such zoning lot.

8.2.3 Licenses not to be issued

No license shall be issued to:

8.2.3.1 Any person convicted of any violation of this Section 8.2.

8.2.3.2 Any person less than eighteen (18) years of age.

8.2.3.3 Any person owing fine for a violation of any provision of this Code or any other Village ordinance or any person currently in violation of any provision of this Code or any other Village ordinance.

8.2.4 Required information

On an application form which shall be furnished by the Village, each applicant for a license under this Section 8.2 shall annually verify to the Village the following:

8.2.4.1 The name and address of each applicant.

8.2.4.2 The tax parcel number of the premises where the Coin Operated Devices is or will be located.

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- 8.2.4.3 A description of the Coin Operated Device and the address where said device is or will be offered for use or operation by the public.
- 8.2.4.4 The name and address of the owner of the Device.
- 8.2.4.5 The name and address of any lessee of the Device.
- 8.2.4.6 Such other relevant data as the Village of Gilberts may require.

8.2.5 Fee

License application fee as specified in Code Section 14 shall be paid in connection with any license application made under this Section 8.2. Such application fee shall be paid to the Village and deposited into the Village's general corporate fund.

The Village will issue a nontransferable, serially numbered decal sticker for each Coin Operated Device pursuant to issuance of a license or license renewal under this Section 8.2. A current sticker must be securely affixed to each Coin Operated Device in a prominent place in plain view for inspection at all times.

The license period for all licenses issued under this Section 8.2 shall be for one year from January first to December thirty-first. No refund or rebate shall be made to any applicant whenever any license is denied, suspended, revoked, or surrendered for any reason. No license shall be prorated for any portion of the year.

The fee for license renewal shall be as specified in Code Section 14 per device.

8.2.6 Investigation of applicant

The Board of Trustees shall have the authority to question under oath any license applicant and other witnesses that the Board may require regarding any matters relevant to the issuance or renewal of such license.

8.2.7 License renewal

Application forms for renewal for a license issued pursuant to this Section 8.2 shall be in all respects identical to the original application except that a renewal application shall indicate by writing thereon that the application is a renewal application. Application forms for renewal of a license shall be filed with the Village not less than fifteen (15) days prior to the expiration of the license being renewed.

8.2.8 Restrictions

- 8.2.8.1 No licensee shall permit any person under the age of eighteen (18) years to operate any Coin Operated Device during the hours school is in session the school district wherein the devices are located.
- 8.2.8.2 No licensee shall permit any person under the age of twenty-one (21) years to operate any Coin Operated Device at any time in a premises where alcoholic beverages are served.

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8.2.9 Enforcement-Inspection

The Village and its duly authorized agents reserve the right to inspect any and all Coin Operated Devices without notice to the licensee, owner or possessor of said device.

8.2.10 Seizure of devices

Any authorized employee of the Village may, without a search warrant or other notice, seize any Coin Operated Device which is being displayed in his presence in a manner that violates any provision of this Section 8.2. Such a Coin Operated Device when seized shall be subject to confiscation and forfeiture as hereinafter provided.

8.2.11 Confiscation and forfeitures; hearing; sale

8.2.11.1 Generally

After seizing any Coin Operated Device pursuant to the terms of this Section 8.2, the Village Board shall hold a hearing and shall determine whether such device was being displayed in a manner which violates any provision of this Section 8.2.

8.2.11.2 Notice of hearing

8.2.11.2.1. The Village shall give not less than seven (7) days notice of the time and place of such hearing to the owner of such device, if he is known, and also to the person in whose possession the device was when so taken, if such a person is known and if such person then in possession is not the owner of said device.

8.2.11.2.2. If neither the owner nor the person in possession of such device is known, the Village shall cause publication of the time and place of such hearing to be made at least once a week for three (3) weeks successively in a newspaper of general circulation in Kane County.

8.2.11.2.3. Upon a finding by the Village Board of valid seizure, such device shall be sold at public auction and the proceeds of sale deposited into the Village's General Corporate Fund.

8.2.12 Penalty

Any person who violates any of the provisions of this Section 8.2 shall be subject to the penalty provisions of Code Section 10.2.

Any licensee who violates this Section 8.2 is subject to license suspension, revocation and/or device seizure. Such a seizure shall be subject to the confiscation and forfeiture provisions of this Section 8.2.

A license issued hereunder to any person who violates the provisions of this Section 8.2 may be suspended or revoked by the Village Board or duly authorized committee thereof after notice and hearing to the licensee.

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8.3. RACE TRACKS

8.3.1 Application

The provisions of this Section 8.3 shall apply to all race tracks and raceways established or installed for the purpose of motorized vehicle racing whether competitive, recreational or demonstration racing.

8.3.2 Definitions

8.3.2.1 The term race track shall include such areas established as a raceway for competitive racing by and between motorized vehicles.

8.3.2.2 The term motorized vehicles shall include any and all types of motor propelled vehicles, including a racing vehicle community known as a “Go Cart”.

8.3.3 Licenses

Prior to establishing or operating a race track, a person shall first obtain a license for same from the Village. To apply for a license, a person must file a license application with the Corporate Authorities for review by the Corporate Authorities on an application form approved by the President and Board of Trustees. If granted, the license shall be valid for a period of one year and must be renewed by a new application prior to the termination of each licensed year.

8.3.3.1 Fees

The application fee for such license shall be as specified in Code Section 14.

8.3.3.2 Conduct

A licensee shall at all times maintain an orderly race track and place of business and shall so operate same as not to unduly disturb or molest residents of the Village and the public at large.

8.3.3.3 Penalty

Any person violating any of the provision of this Section 8.3 shall be subject to the penalties provided for in Code Section 10.2.

8.4. SALVAGE YARD REGULATIONS

8.4.1 Purpose: This Section 8.4 is for the purpose of promotion of the public safety, health, welfare, to protect, preserve and enhance the scenic beauty and value of lands and property within the jurisdiction of the Village of Gilberts. It is declared to be in the public interest to regulate and restrict the establishment, operation and maintenance of Salvage Yards in all areas within the jurisdictional boundaries of the Village of Gilberts. Salvage yards which do not conform to the requirements of this Section 8.4 are declared to be public nuisances.

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- 8.4.2 Definitions: The following terms when used herein have the following meanings:
- 8.4.2.1 **JUNKYARD:** An establishment or place of business which is maintained, operated or used for storing, keeping, buying or selling junk, including, but not limited to an automobile graveyard.
 - 8.4.2.2 **JUNK:** Old scrap or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, waste or junked, dismantled or wrecked automobiles, or parts thereof, iron, steel and other old or scrap ferrous or nonferrous material.
 - 8.4.2.3 **AUTOMOBILE GRAVEYARD:** Any establishment or place of business which is maintained, used or operated for storing, keeping, buying or selling wrecked, scrapped, ruined or dismantled motor vehicles or motor vehicle parts.
 - 8.4.2.4 **SCRAP PROCESSING FACILITY:** Any establishment or place of business having facilities for processing iron, steel, nonferrous scrap, mineral waste or slag, and whose principal produce is scrap iron, steel or nonferrous scrap for sale for remelting or recycling purposes only.
 - 8.4.2.5 **SALVAGE YARD:** Any and all of the establishments or places of business defined in Sections 8.4.2.1, 8.4.2.3, & 8.4.2.4 above.
 - 8.4.2.6 **D.O.T.:** The Illinois Department of Transportation.
 - 8.4.2.7 **ESTABLISH:** To create or bring into being.
 - 8.4.2.8 **ILLEGAL SALVAGE YARD:** Any salvage yard which is or was established after January 1, 1982 in violation of the provisions this Section 8.4.
 - 8.4.2.9 **CONFORMING SALVAGE YARD:** A salvage yard that is in compliance with this Section 8.4.
 - 8.4.2.10 **NONCONFORMING SALVAGE YARD:** A salvage yard which was in existence prior to January 1, 1982, but is not located within an industrial zoned area.
 - 8.4.2.11 **SCREENING:** The use of any vegetative planting, fencing, ornamental wall of masonry or other architectural material, earthen embankment or any combination thereof.
 - 8.4.2.12 **DISCONTINUED, DESTROYED or ABANDONED SALVAGE YARD:** A salvage yard in which no one claims an interest in the material deposited thereon.
 - 8.4.2.13 **ZONED INDUSTRIAL AREA:** Any area zoned industrial by the Village of Gilberts, or within its accepted land use plan.
 - 8.4.2.14 **ISO:** Insurance Services Office.

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8.4.2.15 **BUSINESS:** Business is an inclusive term but also specifically designates the activities of those engaged in the purchase or sale of commodities or in related financial transactions, including transactions taken in anticipation of future benefits, or for a profit.

In addition, a business shall include activities licensed by the Secretary of State pursuant to Chapter 95.5, paragraph 5-100, or bearing a Retail Occupations Tax Number from the Department of Revenue pursuant to Chapter 120, paragraph 440 of the Illinois Revised Statutes.

8.4.3 NEW SALVAGE YARDS

After January 1, 1982, no one shall establish a salvage yard facility within the Village unless it is located within an industrial zoning area and has been granted a special or conditional use permit from the Gilberts Zoning Board of Appeals and the Gilberts Village Board.

8.4.4 PERMITS

8.4.4.1 After January 1, 1982, no one shall maintain a salvage yard in the Village without a permit.

8.4.4.2 Annual salvage yard permits must be renewed by January 1st of each year subsequent to their initial issuance. Each yard may be inspected prior to renewal of the permit, and if it is found to be no longer be in compliance with this Section 8.4. the existing permit will become void and a renewal withheld until such compliance.

8.4.4.3 Permits are not transferable between salvage yards or operators.

8.4.4.4 The Village of Gilberts shall charge the amount specified in Code Section 14 for each annual permit and each renewal permit. The applicable fee is to be paid with the applicable application.

8.4.4.5 The application for a permit for all salvage yards shall include the following:

8.4.4.5.1. Name: The name and address of the possessor, operator and owners of the salvage yard. The name and address of the owner of the real estate is also to be furnished if different than the operators of the business.

8.4.4.5.2. Location Map: A location map drawn to scale, showing the location of the yard. Such location map shall indicate the direction of north and shall show the dimensions of the tract of land locating all improvements thereon, and shall show all surrounding zoning and existing uses.

8.4.5 ACCEPTABLE SCREENING MATERIAL

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Subject to the approval of an authorized Village enforcement official under this Section 8.4, all salvage yards shall be screened from public view through the use of any of the following screening materials

8.4.5.1 Fencing: Acceptable fencing shall include fences of steel or other metals, durable woods such as tide water cypress, or redwood, or other wood treated with a preservative, or walls of masonry. The following types are presumed acceptable:

8.4.5.1.1. Chain link type with aluminum, steel, plastic or wooden slat inserts.

8.4.5.1.2. Wooden types with basket weave, palisade, louver or other suitable design.

8.4.5.1.3. Walls of masonry including plain or ornamental concrete block, brick, stone or other suitable masonry material.

8.4.5.2 The minimum height of the fence or screening shall be eight (8) feet.

8.4.5.3 Plant Materials: Plant material shall be used to complement artificial screening, except where it is not feasible to do so as reasonably determined by any authorized Village enforcement official under this Section 8.4. Unless the plants chosen can effectively screen the yard on a year-round basis, as reasonably determined by any authorized Village enforcement official under this Section 8.4, such plants shall not be used as the sole fencing material.

8.4.6 MAINTENANCE

8.4.6.1 The owner of any salvage yard shall maintain in an acceptable condition the screening for his yard, performing such painting and repairs as is required to keep any fences, walls or other structural material in good condition and appearance. Plant material shall be watered, cultivated, and/or mulched and given any required maintenance, including spraying for insect control, to keep the planting in good healthy condition. Dead plant material shall be removed and replaced.

8.4.6.2 Failure to maintain the screening in an acceptable condition shall result in the revocation or non-renewal of the permit.

8.4.7 BURNING

No burning shall be allowed at any salvage yard. All refuse will be stored in approved ISO containers which will be removed from the premises to an approved landfill.

8.4.8 VIOLATION

Any person who violates any provision of this Section 8.4 shall be subject to the penalty provisions of Code Section 10.2.

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8.5. TRANSFER OF PERMITS

No permit or license issued by the Village shall be valid if transferred or assigned by or from the entity to whom it was issued without the express written consent of the Village.

8.6. BUSINESS LICENSES AND REGISTRATION

8.6.1 Regulation:

All enterprises conducted for the purpose of profit located within the Village, including but not limited to sole proprietorships, partnerships and corporations, shall be required to register such enterprise with and obtain an annual business license and annual registration permit from the Village.

8.6.2 Exemptions:

In addition to all professions licensed or regulated by the State of Illinois, the following enterprises are exempt from the provisions of this Section 8.6:

Architectural Practices, Athletic Trainers, Barbers and Cosmetologists, Business and Vocational Schools, Certified Shorthand Reporters, Dental Practices, Detection of Deception Examiners, Detective and Detective Agencies, Insurance Brokers, Land Surveyors, Medical Practices, Nursing, Nursing Home Administrators, Optometric Practices, Podiatry Practices, Professional Engineering, Psychologists, Public Accounting, Real Estate Brokers and Salesman, Security Alarm Contractors, Security Guards and Watchmen, Social Workers, Structural Engineers, Veterinarians, Waterwell and Pump Installation Contractors.

8.6.3 Term:

Each enterprise not exempt from the provisions of this Section 8.6 shall register with and obtain an annual license and permit from the Village within 60 days of commencing business in the Village. Such annual licenses and permits shall expire on May 31 of each year and must be renewed prior to their expiration.

8.6.4 Fee:

Each such regulated enterprise shall pay to the Village the sum specified in Code Section 14 per annual registration permit, and the additional sum specified in Code Section 14 per annual license.

8.6.4.1 Application:

The form for the permit and license application shall be supplied by the Village. Such application shall disclose the name and address of each owner and partner of unincorporated associations. The identity of each shareholder owning ten percent (10%) or more of the common stock of any corporation must also be disclosed. Such

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application shall further detail the nature and extent of the subject enterprise, its location(s), identity of persons to contact in case of emergency and other like data as specified by the Village.

8.6.5 Duplicate Enterprises:

Each separate enterprise must apply for and obtain a registration permit and license. Separate enterprises for purposes of this Section 8.6 shall be considered those which have distinct and different Federal Identification Numbers.

8.6.6 Penalty:

Any enterprise which violates any provision of this Section 8.6 shall be subject to the penalties provided for in Code Section 10.2.

8.7. REFUSE COLLECTION AND DISPOSAL

8.7.1 There shall be one (1) License issued by the Village of Gilberts for refuse collection and disposal service, recyclable collection and landscape waste collection within the Village.

8.7.2 Any person or entity seeking to provide refuse collection and disposal service, recyclable collection and landscape waste collection within the Village shall secure an exclusive contract with the Village.

8.7.3 For a fee as specified in Code Section 14 , a License shall be issued by the Village pursuant to the award of an exclusive contract.

8.8. WASHROOM REQUIRED IN ALL AUTOMOBILE SERVICE STATIONS.

8.8.1 All automobile service stations in the Village shall provide a minimum of one public washroom which shall be available to the public during all hours when the service station is open for business. All such washrooms shall be maintained in a clean, sanitary and orderly manner and shall be provided with adequate supplies of toilet paper, soap and paper towels or other means for drying hands.

8.9. RETAIL BUSINESSES TO BE CLOSED BETWEEN 2 AM AND 5 AM.

It shall be unlawful for any retail business to be open between the hours of 2:00 AM and 5:00 AM on any day of the year.

8.10. SOLICITORS

SECTION:

- 8.10.1: Definitions
- 8.10.2: Certificate of Registration
- 8.10.3: Application for Certificate
- 8.10.4: Issuance and Revocation of Certificate
- 8.10.5: Notice Regulating Solicitors
- 8.10.6: Duty of Solicitors

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- 8.10.7: Uninvited Soliciting Prohibited
- 8.10.8: Time Limit
- 8.10.9: Severability
- 8.10.10: Penalties
- 8.10.11: Compliance with Constitution

8.10.1 DEFINITIONS: For the purposes of this Chapter the following words as used herein shall be construed to have the meaning herein ascribed thereto, to-wit:

- 8.10.1.1 ITINERANT VENDOR. Any person who transports tangible personal property for retail sale within this Village who does not maintain in this State an established office, distribution house, sales house, warehouse, service center or residence from which such business is conducted, provided, however, this term shall not include any person who delivers tangible personal property within this Village who is fulfilling an order for such property which was solicited or placed by mail or other means. It shall be prime facie evidence that a person is an itinerant vendor if the person does not transact business from a fixed location or if the person does not own, or lease for a term of at least six (6) months, the property from which business is conducted.
- 8.10.1.2 PEDDLING. Selling or offering for sale, barrier or exchange at retail any goods, wares, merchandise or services of any kind whatsoever by traveling from place to place along the streets of the Village or from residence to residence therein, but shall not include solicitation or canvassing for future delivery. *Peddling may, in some instances, include the activities of an “itinerant vendor” or “transient merchant”, as defined herein. If a peddler is also an itinerant vendor or transient merchant as defined herein, then those provisions shall also be applicable. To the extent that the provisions of this Chapter relative to peddling are inconsistent with those relating to itinerant vendors and/or transient merchants, the more restrictive provisions shall apply.
- 8.10.1.3 PEDDLER. A person engaged in Peddling.
- 8.10.1.4 REGISTERED SOLICITOR and REGISTERED PEDDLED. Shall mean and include any person who has obtained a valid Certificate of Registration as hereinafter provided, where such Certificate is in the possession of, and on the person of, the one soliciting or peddling during all soliciting or peddling.
- 8.10.1.5 RESIDENCE. Shall mean and include every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.
- 8.10.1.6 REGISTERED TRANSIENT MERCHANT AND REGISTERED ITINERANT VENDOR. Any person who is a transient merchant or

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itinerant vendor as defined above and who has obtained and has in his possession a valid certificate of registration as hereinafter.

8.10.1.7 SOLICITING. Shall mean and include any one or more of the following activities:

8.10.1.7.1. Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs, insurance, services of any kind, character or description whatever, for any kind of consideration whatever, all for future delivery, provided, however, that seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication shall not be deemed to be soliciting and such activities are not regulated by this Chapter.

8.10.1.7.2. Seeking to obtain gifts or contributions of money, clothing or any other valuable thing for the support of benefit of any charitable or nonprofit association, organization, corporation, or profit.

8.10.1.8 SOLICITOR: A person engaged in Soliciting.

8.10.1.9 TRANSIENT MERCHANT. Any person who is engaged temporarily in the retail sale of goods, wares or merchandise in this Village and who, for the purpose of conducting such business, occupies any building, room, vehicle, structure or any kind, or vacant lot provided, however, this term does not include any person selling goods, wares or merchandise which are raised, produced or manufactured by him, to any person selling vegetables, fruit or perishable farm products at an established Village market, to any person operating a store or refreshment stand at a resort, or to any person operating a stand or booth or an adjacent to property owned by him or upon which he resides. it shall be prima facie evidence that a person is a transient merchant if the person does not transact business from a fixed location or if the person does not own or lease for a term of at least six (6) months, the property from which business is conducted.

8.10.2 CERTIFICATE OF REGISTRATION: A written application for a Certificate of Registration as hereinafter provided shall be secured by every person desiring to engage in soliciting or peddling as herein defined from persons in residences within this Village and, in addition, by every person desiring to engage in soliciting from any business, office or manufacturing facility within this Village, for gifts or contributions of money, clothing or other valuable thing for the support or benefit of any charitable or nonprofit association, organization, corporation or project; provided that no Certificate of Registration shall be required by members or agents of any not for profit charitable organization who reside within three miles from the intersection of Route 72 and Railroad Street in the Village of Gilberts.

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8.10.3 APPLICATION FOR CERTIFICATE: Application for a Certificate of Registration shall be made upon a form provided by and filed under the Village Clerk of this municipality. The applicant shall state, under oath, such information requested on the application form as is required by the provision of this Chapter 2 and such other relevant information as determined by the Village Clerk:

A fee shall be paid at the time of filing the application, as follows:

- \$ 5.00 if the Certificate is requested for one day
- \$25.00 if the Certificate is requested for more than one day and not more than one week
- \$50.00: if the Certificate is requested for more than one week

The Village President may waive such fee in his or her discretion but all fee waivers shall be reported to the Village Board.

The Village Clerk shall require every applicant to submit to identification photographing conducted by the Village Clerk and such identification photograph shall be affixed to the Certificate of Registration.

Each applicant shall also apply to the office of the Sheriff of Kane County for a certified copy of his or her personal criminal history and such applicant shall provide such information and fees to the Sheriff as required by the Sheriff to obtain such certified copy, and the applicant shall further request that the Sheriff also directly provide to the Village for review by the Village President a certified copy of the applicant's personal criminal history prior to the approval of such certificate for such applicant.

The Village Clerk shall cause to be kept in his or her office an accurate record of every application received and acted upon together with all other information and data pertaining thereto and of all Certificates of Registration issued under the provision of this Chapter, and of the denial of applications. Applications for Certificates shall be numbered in consecutive order as filed, and every Certificate issued, and any renewal thereof, shall be identified with the duplicate number of the application upon which it was issued.

No Certificate of Registration shall be issued: (1) to anyone seeking to solicit for a charitable or nonprofit association, organization, corporation or project unless such charity or nonprofit group is specifically approved in advance by the Board of Trustees which may waive requirement of individual registration and fees if a list of names and addresses of individuals to be involved are supplied to the Village Clerk; or (2) to any person who has been convicted of the commission of a felony under the laws of the State of Illinois or any other State of Federal law of the United States, within five (5) years of the date of the application; or (3) to any person who has been convicted of a violation of any of the provisions of this Chapter or to any person whose Certificate of Registration issued

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hereunder has previously been revoked as herein provided unless specifically approved by the Board of Trustees.

- 8.10.4 ISSUANCE AND REVOCATION OF CERTIFICATE. The Village President, after consideration of the application and all information obtained relative thereto, shall deny the application if the applicant does not possess the qualifications for such Certificate as herein required. Endorsement shall be made by the Village President upon the application of the denial of the application. When the applicant is found to be fully qualified, the Certificate of Registration shall be issued by the Village President or his or her designees. All applications shall be acted upon by the Village President within seven (7) days after receipt of a completed application.

Any Certificate of Registration issued hereunder may be revoked by the Village President if the holder of the Certificate is convicted of a violation of any of the provisions of this Chapter, or has made a false material statement in the application, or otherwise becomes disqualified for the issuance of a Certificate of Registration under the terms of this Chapter, immediately upon such revocation, written notice thereof shall be given by the Village President to the holder of the Certificate in person or by certified U.S. mail addressed to his or her address set forth in the application. Immediately upon the giving of such notice of revocation, the Certificate of Registration shall become null and void.

Each Certificate of Registration shall state the expiration date thereof.

- 8.10.5 NOTICE REGULATING SOLICITORS: The owner or occupant of any residence who desires to forbid trespasses by solicitors or peddlers, or unlicensed solicitors and peddlers, may attach or exhibit upon or near the main front door, and the main rear or side door (if any and if to be protected), a card or plaque stating such of the following as may be appropriate, in letters at least one-third (1/3) inch in height:

“SOLICITORS AND PEDDLERS NOT INVITED”

or

“SOLICITORS AND PEDDLERS NOT INVITED UNLESS REGISTERED
WITH THE VILLAGE”

For the convenience of residents of the municipality and for purposes of uniformity, cards or plaques containing the foregoing legend shall be made available by the Village.

The form of card or plaque provided for in this Section shall not be deemed to be an exclusive form of notice. Such card or plaque so exhibited shall constitute sufficient notice to any solicitor of the determination by the occupant of the residence of the information contained thereon.

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- 8.10.6 **DUTY OF SOLICITORS:** It shall be unlawful for any person to enter upon any property of another in this municipality after receiving, immediately prior to such entry, notice from the owner or occupant that such entry is forbidden, or to remain upon the property of another after receiving notice from the owner or occupant to depart.

A person shall be deemed to have received notice from the owner or occupant within the meaning of this Chapter if he has been notified personally, either orally or in writing, or if a printed or written notice forbidding such entry has been conspicuously posted at the main entrance to said property or the forbidden part thereof.

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

- 8.10.7 **UNINVITED SOLICITING PROHIBITED:** Any person soliciting or peddling who is forbidden entry by notice given in compliance with this Chapter shall be deemed guilty of remaining on the property after receiving notice to depart if he shall remain on the property, or if he shall ring the doorbell or knock or create any sound calculated to attract the attention of the occupant.

Notices exhibited pursuant to this Chapter shall not be deemed applicable to and shall not prevent access to residential property by a solicitor or peddler who has received prior invitation, written or oral, from the owner or occupant thereof.

- 8.10.8 **TIME LIMIT:** It is hereby declared to be unlawful and shall constitute a nuisance for any person, whether registered under this Chapter or not, to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any other manner calculated to attract the attention of the occupant of such residence, for the purpose of securing an audience with the occupant thereof and engage in soliciting as herein defined, prior to 9:00 o'clock A.M. or after 7:00 o'clock P.M.

- 8.10.9 **SEVERABILITY:** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect or invalidate any other portions of this Chapter, or any part thereof.

The Board of Trustees hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, invalid or ineffective.

- 8.10.10 **PENALTIES:** Any person, firm or corporation who shall be found guilty by a court of competent jurisdiction of violating any provision of this Chapter

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or of failing to comply with any requirement thereof, or of violating any permit, any approval, or any directive issued under the provisions of this Chapter shall be guilty of a petty offense, punishable by a fine of not less than Fifty Dollars (\$50.00) and of not more than Five Hundred Dollars and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

Any person, firm or corporation who shall be found guilty by a court of competent jurisdiction of violating a provision of this Chapter or of failing to comply with any requirement thereof, or of violating any permit, any approval, or any directive issued under the provisions of this Chapter shall, in addition to the fines provided, be obligated to reimburse the Village for its attorneys fees, court costs, court reporter costs, and expert witness fees, and all other out-of-pocket costs incurred by the Village in the prosecution of the said violation or violations.

The Village may make application to the Circuit Court for an injunction requiring conformance with this Chapter make such other order as the Court deems necessary to secure compliance with this Chapter.

- 8.10.11 **COMPLIANCE WITH CONSTITUTION:** Nothing in this Chapter shall be interpreted or enforced to deprive any person of any rights guaranteed under the Constitutions of the State of Illinois or the United States.

8.11. GARAGE SALES (INCLUDING LAWN, ATTIC AND RUMMAGE SALES AND FLEA MARKETS)

- 8.11.1 **PERMITS AND FEES:** It shall be unlawful for any person to conduct a garage sale in the Village without first filing with the Village Hall the information hereinafter specified and obtaining from the Village a license to do so, to be known as a Garage Sales License. Once each calendar year residents who plan to have garage or rummage sales must obtain a Garage Sale Permit from the Village Hall. The fee for such a license shall be \$5.00 for each mailing address within the Village of Gilberts.
- 8.11.2 **LICENSING:** Each mailing address within the Village of Gilberts will be allowed three (3) garage sales, excluding the Village of Gilberts annual Village Wide Garage Sale associated with Gilberts Fest. Licensing must take place within the calendar year, not to exceed three (3) consecutive days, or four (4) consecutive days on holiday weekends. After obtaining the permit, residents should call Village Hall to inform them of the dates of their sale. These dates will be recorded on the Village's copy of the Garage Sale Permit. The resident's copy of the permit must be on display at the premise of the sale in clear view.
- 8.11.3 **SIGNS:** Signs advertising the sales location and time of sale shall be limited to four (4) in number. These signs shall be free standing and not

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exceed 4 square ft. A sign must have its own support or post to be affixed in the ground. Under no circumstances shall a sign be attached to a telephone pole, tree or a federal, state or local sign or signal. All signs must be removed by the party holding the sale within 24 hours of the last day of the sale.

8.11.4 **INFORMATION TO BE FILED:** The information to be filed with the license application shall be as follows:

1. Name of owner of the property on which said sale is to be conducted if applicant is other than the owner.
2. Name of person or group sponsoring the sale, if any;
3. Location at which sale is to be conducted.
4. Dates of sales.
5. Sworn statement or affirmation by the person signing that the information therein given is full and true and known to him or her to be so.

8.11.5 **PERSONS AND SALES EXCEPTED:** The provisions of this Section _____ shall not apply to or affect the following persons or sales:

1. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
2. Persons acting in accordance with their powers and duties as public officials
3. Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number.
4. Not-for-profit bonafide service, religious, charitable, labor, fraternal, education or veteran organizations that operate without profit to their members provided they file with the Village Administrator a request for exception containing the information specified in Section 8 herein together with the name of the organization, proof of the purpose of the sale.

8.11.6 **DAYS AND HOURS OF SALE:** It shall be unlawful for any person to conduct or allow the conducting of a garage sale for more than three (3) consecutive days or prior to 9:00 a.m. or after 6:00 p.m. of any day.

8.11.7 **PENALTY:** Any person, association or corporation conducting any such sale without being properly licensed therefore, or who shall violate any of the other terms and regulations of this Section 8 shall, upon conviction, be

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fined not less than \$25.00 nor more than \$750.00 for each violation.
([Ordinance No. 05-27 passed 7/19/05](#)).

SECTION 9. ANIMALS

9.1. CANINE/FELINE CONTROL

9.1.1 Provisions

- 9.1.1.1 All dogs kept in the Village shall be registered as to sex, breed, name of dog and name and address of owner. At the time of such registration, the owner shall obtain a license for the dog and a dog tag, and shall pay an annual license fee as specified in Code Section 14.
- 9.1.1.2 Each canine situated within the Village shall be licensed as of June 1st of each year. Licenses shall expire on May 31st of each succeeding year. Each canine which is brought into the Village after June 1, shall be so licensed within thirty (30) days after becoming situated within the Village.
- 9.1.1.3 The license fee shall be paid to the Village Clerk, who shall keep a registry of licensed dogs and deliver a license and tag to such owner; expressly provided, however, that prior to the issuing of a license for any such dog, the Village Clerk shall require the owner to exhibit a certificate in the form approved by the Department of Agriculture of the State of Illinois, indicating that such dog was inoculated for rabies not more than one year prior to the date of the application for such license. It shall be the duty of such owner of said dog to cause the license tag to be securely attached around the dog's neck.
- 9.1.1.4 For any license purchased after June 1st for an animal previously situated within the Village prior to that particular June 1st, there shall be added to such license costs the sum of one-half of the original license fee as and for a late fee.
- 9.1.1.5 Canines possessed by persons over 62 years old shall be exempt from payment of the license fee if such license is procured on or before the time such license fee was otherwise required to be paid.
- 9.1.1.6 No dog or cat shall be permitted to be kept in the Village unless properly inoculated for rabies as required by law. It shall be the duty of the owner to cause the tag issued to the owner evidencing rabies inoculation to be securely attached around the inoculated animal's neck and kept there during the effective period of rabies inoculation.

9.2. PROHIBITED ACTS

9.2.1 Livestock at Large

No person shall cause or allow any livestock, including cows, horses, pigs, goats or other domesticated animals kept for use on a farm, other than

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dogs and cats, to run loose at any place within the Village other than on the property of such person. Any livestock running loose within the Village and not upon the owner's property shall be deemed at large and a public nuisance. All livestock found being at large shall be promptly impounded.

9.2.2 Dogs At Large

No person shall cause or allow any dog owned or kept by him/her to run loose at any place within the Village, other than on the property of such person. Any dog not upon the owner's property which is not fastened and restrained by a leash shall be deemed at large. All dogs found being at large, whether currently licensed or not, shall be promptly impounded.

9.2.3 When Dog Declared a Nuisance

A dog shall be considered a nuisance, and its owner held in violation of this Section 9.2, when (i) such dog shall commit on at least three occasions the following: barking, howling, crying, whining or otherwise emitting loud noises excessively for an extended amount of time not less than fifteen minutes, day or night, so as to disturb the peace and quiet of any place or neighborhood or family in the Village while said dog is not within the confines of the owner's residence or other enclosed buildings on the owner's property; (ii) such dog is found at large pursuant to Section 9.2.2 above on at least three occasions; (iii) on at least two separate occasions such dog bites or scratches or otherwise injures any person, or if such dog bites or scratches or otherwise injures two or more people on any one occasion, so as to cause an abrasion and/or puncturing of the given person's skin; or (iv) such dog is defined as a dangerous dog pursuant to Section 9.2.4 below and is found at large under Section 9.2.4 or has bitten any person on at least one occasion.

9.2.4 Dangerous Dogs

9.2.4.1 A "dangerous dog" is defined as a dog which causes annoyance or reasonable fear of bodily injury to any person by attacking or threatening to attack such person. Any such dog shall be kept contained in a secure enclosure or restrained on a leash and muzzled, so that such dog is rendered incapable of biting, and kept under control at all times.

9.2.4.2 Any such dangerous dog not so contained or restrained shall be considered at large and shall be promptly impounded.

9.2.5 Damage to Property

No person shall without the consent of the owner of the property concerned, permit or allow any livestock, dog or cat in his custody or control to enter upon the property of another person within the Village, or permit or allow any livestock, dog or cat in his/her custody to injure or carry away any vegetable, plant, fruit, refuse, shrub, tree, flower, or any other thing which may be on said property or which may be planted there.

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The person having custody of such livestock, dog or cat shall be liable for the damage incurred thereby.

9.2.6 Limitation on the Number of Dogs to be Kept

9.2.6.1 Except in the A-1, Agricultural Zoning District, no person shall permit more than three dogs to be kept in or about any single-family residence or more than two dogs in any single-family unit of any multiple-family housing building within the Village.

9.2.6.2 This Section 9.2.6 shall apply only to dogs over three months of age.

9.2.6.3 When circumstances dictate removal of any dog(s) to assure compliance with this section, a duly authorized police officer shall notify the county circuit court of the violation and apply for an order of removal.

9.2.6.4 This Section 9.2.6 shall not be held applicable to residences having more than the designated number of animals, as of October 21, 1997, with respect to animals in existence on October 21, 1997.

9.2.7 Animal Bites-Owner's Duties

9.2.7.1 It is unlawful for the owner or keeper of any dog, cat or other animal within the Village when notified that such animal has bitten or scratched any person or has otherwise injured any person so as to cause an abrasion and/ or puncturing of any person's skin, to sell or give away such dog, cat or other animal or allow such dog, cat or other animal to be taken away beyond the limits of the Village without first complying with the provisions of this Section 9.2.7. It shall be the duty of such owner, upon receiving notice of the incident aforesaid to immediately place or cause to be delivered such dog, cat or animal in a duly licensed veterinary hospital where such dog, cat or other animal shall be confined for a period of at least ten days for observation. Notice of the name and location of such hospital shall be immediately furnished to the investigating police officer by the owner of such dog, cat or other animal. Upon receipt of such dog, cat or other animal, a veterinary doctor at the veterinary hospital shall examine the animal and shall submit to the investigating police officer a document stating whether such dog, cat or other animal shows symptoms of rabies or not. If the animal shows no initial rabies symptoms in the opinion of the examining veterinary doctor and if, at the expiration of the ten days of confinement in such veterinary hospital, the examining veterinary doctor submits to the officer a second document stating that the dog, cat or other animal does not have rabies, the dog, cat or other animal may then be released to the owner.

9.2.7.2 If, however, evidence is presented to the investigating police officer that such dog, cat or other animal has been inoculated against

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rabies within the time prescribed by law prior to the biting, such dog, cat or other animal shall be confined in the house of its owner or in a manner that will prohibit such dog, cat or other animal from biting any person for a period of ten days, unless in the judgment of the investigating officer, rabies inspector, or a licensed veterinarian, circumstances are such that the dog, cat or other animal should be confined at a veterinary hospital. Such dog, cat or other animal so confined shall be examined by a licensed veterinarian on the first, fifth and tenth day during confinement. If at the expiration of the ten days of confinement the veterinarian submits a certificate stating that the dog, cat or other animal may be released from confinement.

9.2.7.3 The owner of any dog, cat or other animal suspected to have been involved in a biting incident may be required to surrender the dog, cat or other animal to the investigating police officer upon demand.

9.2.7.4 When a duly authorized police officer reasonably believes that a dog, cat or other animal may present a danger to the public by its propensity to bite or otherwise injured person, such officer shall notify the appropriate circuit court of the situation and apply for an order of removal or destruction of the animal pursuant to state law.

9.2.8 Impoundment-Redemption-Fees

9.2.8.1 Any livestock or dog which has been impounded or taken up for being at large or for any violation of law may be redeemed by the owner of such animal upon payment to the Village of a redemption fee, as provided for in Code Section 14, for the cost of taking up and impounding such animal. The owner must also pay the cost of keeping the animal during the impoundment.

9.2.8.2 Payment of such redemption fee shall not release the owner from other complaints being brought or fines being levied under this Code.

9.2.9 Nuisance Declaration-Removal or Destruction of Dog

Subject to the provisions of Section 9.2.7, a dog declared to be a public nuisance under the provisions of Section 9.2.3 will be required to be removed from the Village by the owner of such dog. If such dog is not removed, it will be impounded by duly authorized police personnel, and such police officer shall notify the applicable county circuit court of the situation and apply for an order of removal or destruction of the animal pursuant to state law.

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9.2.10 Dangerous or Wild Animals

- 9.2.10.1 It is unlawful to keep or harbor in the Village any animal which is defined as “wild” under state law. It is unlawful to own any animal which would be dangerous to the public as a result of its propensity to injure persons.
- 9.2.10.2 The members of the Police Department, or any other person in the Village, are authorized to kill any dangerous animals of any kind when it is necessary for the protection of any person or property.

9.2.11 Cruelty to Animals

- 9.2.11.1 It shall be unlawful for any person to willfully or maliciously strike, beat, abuse, or intentionally run down with a vehicle any animal, or otherwise engage in any act to cause or inflict unnecessary pain, injury, suffering or death to such animal; except that reasonable force may be used to drive away vicious or trespassing animals.
- 9.2.11.2 No person, except a licensed veterinarian for humanitarian purposes, shall administer poison to any animal, or knowingly leave any poisonous substance of any kind or ground glass in any place with the intent to injure any animal. The provisions of this Section 9.2.11.2 are not applicable to licensed exterminators using poisons as part of a pest control program or the use of commercial insecticides and rodent baits used to control insects and wild rodents.

9.2.12 Caring for Animals and Sanitation

- 9.2.12.1 It shall be unlawful for the owner or custodian of any animal to refuse or fail to provide such animal with sufficient wholesome and nutritious food, potable water, veterinary care when needed to prevent suffering, humane care and treatment, or to unnecessarily expose any such animal in hot, stormy, cold or otherwise inclement weather.
- 9.2.12.2 No owner or custodian of any animal shall willfully abandon such animal on any street, road, highway or public place, or on private property when not in the care of another person.
- 9.2.12.3 No owner or custodian of any animal shall cause or allow such animal to soil defile or defecate on any public property or upon any street, sidewalk, public way, play area or common grounds owned jointly by the members of a homeowners or condominium association, or upon private property other than that of the owner, unless such owner or custodian immediately removes and disposes of all feces deposited by such animal.
- 9.2.12.4 No person owning, harboring or keeping an animal within the Village shall permit any waste matter from the animal to collect and remain on the property of the owner or custodian, or on the

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property of other so as to cause or create an unhealthy, unsanitary, dangerous or offensive living condition on the owner's or custodian's property, or to abutting property of others.

9.2.12.5 No person owning, harboring or keeping or in charge of any animal shall subject such animal to unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities for any animal at such location.

9.2.13 Penalty

9.2.13.1 Any person violating any of the provisions of this Section 9 shall be subject to the penalties provided for in Code Section 10.2.

SECTION 10. PENALTIES, OFFENSES AND MISCELLANEOUS PROVISIONS

10.1. GENERAL COMPLIANCE

- 10.1.1 No person shall be entitled to any privilege, license, permit, right, property rezoning or variance from the Village unless and until all fines, fees and any other amounts of any kind then owed the Village by such person are paid in full, and unless and until such person is in complete compliance with the provisions of this Code, all other Village ordinances and resolutions, and all state and federal laws, rules, regulations and orders which relate to the Village.
- 10.1.2 Any person denied any privilege, license, permit, right, property rezoning or variance under the terms of this Section 10.1 may petition the Village Board for a hearing before the Board on the legitimacy of such denial and any fines, fees or other amounts of any kind then owed the Village by such person. Said petition shall be in writing and addressed to the Village Clerk and shall identify the nature of the denial, fine, fee or other amount owed and the applicable Code Section, other Village ordinance, or state or federal law, rule regulation or order which such person has allegedly violated. The petitioner shall also specify in the petition all arguments and factual grounds to be advanced by the petitioner at the hearing. If, in the reasonable discretion of the Village Clerk, the petition satisfies the above requirements of form, the petitioner shall be entitled to a hearing before the Village Board and the Village Clerk shall schedule the matter to appear on the Board agenda within thirty (30) days from the date the petition is received by the Village Clerk and shall notify petitioner of the hearing date. If the petition does not satisfy the above requirements of form, the Village Clerk shall return the petition to the petitioner by mail and shall explain, in writing, why the petition did not satisfy such requirements.

10.2. PENALTY PROVISIONS

- 10.2.1 Applicability: This Section 10.2 shall apply to any Sections of this Code and any Village ordinances which specifically state that this Section 10.2 applies thereto. Nothing herein shall be construed to limit the means or method of enforcement of Sections of this Code or other Village ordinances as otherwise available in law or equity.
- 10.2.2 Authorized Village Enforcement Officials. The following Village enforcement officials, and, in addition, such other persons or departments of the Village as may be designated by the Village President or the Corporate Authorities, are hereby authorized to enforce the provisions of the following Code Sections to which this Section 10.2 applies:

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Code Section	Description	Authorized Village Enforcement Officials
3.1.1.2	Public Health	Public Health Officer and his designees
3.2	Grass/Weed Control	Corporate Authorities and their designees
3.3	Private Sewage System	Building Inspector and his designees and/or the County of Kane
5	Building Code	Building Inspector and his designees
7	Water	Public Works Department
8.2	Coin Operated Devices	Police Department and other Village Staff
8.3	Race Tracks	Police Department and other Village Staff
8.4	Salvage Yard	Police Department and other Village Staff
8.6	Business Licenses	Police Department and other Village Staff
9	Animal Control	Police Department
10.1	Storm Drain Connection	Public Works Department and Building Inspector and his designees.
10.11	Right of Way	Police Department
10.13	Nuisances	Police Department and other Village Staff
10.14	Discharge of Firearms	Police Department
10.15	Hunting	Police Department
10.16	Crimes	Police Department
10.17	Litter	Police Department
10.18	Public Property Damage	Police Department
10.19	Park/Rec. Area Rules	Public Works Department and Police Department
10.2	Vehicle License Fees	Village Clerk and his designees
10.21	Auctions	Police Department
10.22	Concession Stands	Police Department
10.3	Inoperable Vehicles	Police Department
10.4	Noise	Police Department
10.5	Recyclable Trash	Police Department
10.7	Trash Collection	Police Department
11.7	Parking	Police Department
11.8	Snow Parking	Police Department
12.1	Utility Tax	Village Clerk and his designees
15	Liquor	Liquor Commissioner and his designees
16	Signs	Building Inspector and his designees
17	Telecommunications Fee	Village Clerk and his designees
18	Telecommunications Personal Wireless Service	Village Clerk and his designees
19	Facilities	Village Clerk and his designees

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The “Description” column in the above table is intended to merely be an easy reference guide to the Code Sections cited above. Each description in the “Description” column shall not be deemed or taken to be the title of the Code Section to which it refers or a part thereof and shall not limit the authority of the applicable Village enforcement official to enforce any violation to which such Code Section relates.

10.2.3 Written Warning Notice. Unless specifically provided otherwise in another Code Section or other Village ordinance and except for certain instances specified below, whenever an authorized Village enforcement official witnesses a violation of any provision of any of the Code Sections or other Village ordinances to which this Section 10.2 applies, the enforcement official shall deliver in person, or if applicable, post upon the premises or property in question, or send by regular mail, a written warning notice informing the offender that the observed violation must be cured within ten (10) days of the date of the notice or a citation will be issued to the offender. No written warning notice shall be given and a citation shall be immediately issued pursuant to Section 10.2.4 below if the applicable enforcement official witnesses a violation of the parking provisions of either Code Section 11.7 or Code Section 11.8 or unless specifically provided otherwise in another Code Section or other Village ordinance, if the applicable enforcement official reasonably determines that the circumstances involved with a particular violation require immediate corrective action. Further, the applicable enforcement official may issue a written warning notice which specifies a grace period of more or less than ten (10) days to cure the violation before the issuance of a citation if the enforcement official reasonably determines that such an adjustment of the grace period is appropriate given the particular circumstances.

10.2.4 Citation and Fine. Subject to the provisions of Section 10.2.3 above, in the event of a violation of any provision of any of the Code Sections or other Village ordinances to which this Section 10.2 applies, the applicable authorized Village enforcement official as specified in Section 10.2.2 above shall have the authority to immediately issue a citation to be offender which shall provide for a fine of not less than ten dollars (\$10) nor more than seven hundred fifty dollars (\$750). However, any citation for a violation of the parking provisions of Code Section 11.7 or Code Section 11.8 shall provide for a fine of ten dollars (\$10).

A citation issued pursuant to this Section 10.2 may be delivered in person, posted upon the premises or vehicle in question, or sent by regular mail by the applicable authorized Village enforcement official depending on the circumstances associated with the particular violation. All such citations shall contain language specifying which Code Section or Village ordinance has been violated, shall direct the offender to pay the applicable fine and shall inform the offender that, upon failure to make timely payment of the applicable fine, a late payment fee will be assessed and that continued

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failure to make payment will result in the Village filing a complaint regarding the offense against the offender in Kane County Circuit Court.

- 10.2.5 Separate Offense. Unless specifically provided otherwise, or the context thereof so dictates, each day during or on which any violation of any provision of any Code Section, other Village ordinance or state or federal law or regulation enforceable in the Village occurs or continues shall constitute a separate offense, except that more than one offense may occur per day if a posted Village parking sign establishes a time span shorter than a day for a particular violation. In such an instance, each expiration of the given time period shall constitute a separate offense.
- 10.2.6 Acts Punishable Under Different Sections. In all cases where the same offense is made punishable or is created by different clauses or Sections of this Village Code or other ordinances of the Village or state or federal law or regulation, the Village may seek enforcement under each.
- 10.2.7 Cumulative Remedies. The remedies and means of enforcement available to the Village for the enforcement of this Code, other Village ordinances and state and federal laws and regulations enforceable by the Village shall be cumulative and not exclusive. Nothing contained in this Section 10.2 shall limit the authority of Village police officers to arrest any violator of any provision of this Code, any other Village ordinance or any state or federal law or regulation, nor shall this Section 10.2 limit the use of any other remedy, enforcement procedures or penalty provision contained in this Code, any other Village ordinance or applicable state or federal law or regulation.
- 10.2.8 Injunction. Whenever conduct or threatened conduct in violation of this Code, other ordinances of the Village or state or federal law or regulation enforceable by the Village is of a repetitive or continuing nature, enforcement of this Code, such ordinance or state or federal law or regulation may be had through injunctive relief which shall be in addition to any fine or other means of enforcement.
- 10.2.9 Late Payment Fee. In the event that payment for a fine levied pursuant to this Section 10.2 is not received by the Village within ten days of the issuance date of the given citation, an additional fee in the amount of double the original fine shall be due from the offender. Notice of this additional fee shall be sent to the offender by mail. The notice shall inform the offender that if both the original fine and the late payment fee are not paid within ten days of the issuance date of the notice, the Village will file a complaint against the offender in the Kane County Circuit Court concerning the citation and the unpaid fine and late payment fee.
- 10.2.10 Nonpayment Procedure. If a person who has been issued a citation pursuant to this Section 10.2 fails to pay all applicable fines and fees within ten days after the date of the notice given pursuant to Section 10.2.5, then the Village shall cause a Notice to Appear to be served upon said person and shall file a complaint and prosecute the same in the Kane

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County Circuit Court. Once notice has been served and a complaint has been filed, payment of all applicable fines, fees and costs shall be in such amounts as determined and established by the Kane County Circuit Court.

10.2.11 Fees and Costs. In the event of enforcement of this Code or other Village ordinance or state or federal law or regulation enforceable by the Village by means of injunction, there shall be added to any such judgment attorney's fees and other costs incurred by the Village in such proceeding.

10.2.12 Payments to Village. All payments received by the Village pursuant to this Section 10.2 shall be promptly remitted to the Village's General Corporate Fund.

10.2.13 Hearing. Any person who receives a citation pursuant to this Section 10.2 may, by following the instructions on such citation, petition the Village Board for a hearing before the Board on the legitimacy of the citation and any fine or penalty resulting therefrom. If the petitioner's petition complies with the instructions on the given citation and is received by the Village Clerk within ten (10) days of the issuance date of the citation, the petitioner shall be entitled to said hearing and the Village Clerk shall schedule the matter to appear on the Village Board agenda within fifteen (15) days from the date the petition is received by the Clerk and shall notify petitioner by mail of the hearing date. A person waives his right to a hearing under this Section 10.2.13 if the Village Clerk does not receive a petition from such person which complies with the instructions on the given citation within ten (10) days of the issuance date of the citation.

If a person successfully petitions for a hearing under this Section 10.2.13 but the Board upholds the citation at the hearing, then (i) the fine associated with such citation shall be due within ten (10) days of the date of the hearing; (ii) the Village may impose a Late Payment Fee pursuant to Code Section 10.2.9 on such person in connection with the disputed citation if the applicable fine is not received by the Village within ten days after the hearing; and (iii) the Village may initiate the proceedings described in Code Section 10.2.10 if the person fails to pay all applicable fines and fees within ten days after the issuance date of the Late Payment Fee notice described in Code Section 10.2.5.

If a person successfully petitions for a hearing under this Section 10.2.13 and the Board voids the citation at issue, all fines and fees connected with the voided citation shall also be void.

10.2.14 No person shall be eligible to obtain any Village privilege, permit, license, property rezoning, or zoning variance unless and until all fines, fees and penalties owed by such person to the Village are paid in full and unless or until such person is in compliance with all Sections of this Code, all other Village ordinances and Illinois statutes.

10.2.15 Any person denied any Village privilege, permit, license, property rezoning, or zoning variance pursuant to the terms of this Section 10.2

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may petition the Village board and upon such petition shall be entitled to a hearing before the Village Board on the propriety of said denial. Said petition shall be in writing and addressed to the Village Clerk, who shall schedule the matter to appear on the Board agenda within thirty (30) days from the date the petition is received by the Village Clerk. The petition shall specify the Village privilege, permit, license, property rezoning, or zoning variance at issue and shall identify the Village's grounds for its denial of same. In addition, the petitioner shall specify in the petition all arguments to be advanced by the petitioner at the hearing.

10.3. INOPERABLE MOTOR VEHICLES

10.3.1 Declaration: Pursuant to the provisions of 65 ILCS 5/11-40-3, all inoperable motor vehicles or parts thereof in view of the general public, whether on public or private property, are hereby declared to be a nuisance.

10.3.2 Provisions:

10.3.2.1 It is unlawful for any person to permit or maintain an inoperable motor vehicle or parts thereof in view of the general public upon public property or private property owned or controlled by such person. This provision shall apply to the owner and possessor of such vehicle or parts and the owners and occupants of all such private property

10.3.2.2 The provisions of this Section 10.3 shall not apply to an inoperable motor vehicle or part thereof kept in a building when not in use kept on the premises of a place of business properly engaged full time in the repair, wrecking or junking of motor vehicles so long as such business is licensed as provided by this Code and applicable statutes of the State of Illinois and operated upon property zoned for such purposes

10.3.2.3 Definitions: As used in this Section 10.3, inoperable motor vehicle means any motor vehicle from which, for a period of at least ten (10) days, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is reasonably or lawfully incapable of being driven under its own motor power. Inoperable motor vehicle shall not include a motor vehicle which has been rendered temporarily incapable of being driven under its own motor power in order to perform ordinary service or repair operations. For the purposes of this Section 10.3 "temporarily" shall mean a period of not more than ten (10) days

10.3.2.4 Penalty

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Any person who violates any provision of this Section 10.13 shall be subject to the penalty provisions of Code Section 10.2. A separate offense shall be deemed committed on each day during or on which a violation occurs or continues and a separate offense shall also be deemed committed for each inoperable motor vehicle or part thereof

10.3.3 Removal:

10.3.3.1 If after expiration of the ten (10) day grace period following a written warning notice, the offending inoperable motor vehicle or part thereof has not been moved from the general view of the public, the Village Chief of Police may cause such vehicle or party thereof to be towed or otherwise removed from such property and held until all applicable towing costs and fines are paid in full in addition to any amounts owed pursuant to section 10.2 the vehicle owner shall pay to the village 125% of the towing costs.

10.3.3.2 Whenever an inoperable vehicle or parts thereof are removed by the Chief of Police or his designee pursuant to this Section 10.3.3, notice of such removal shall be sent to the registered owner of said vehicle or parts thereof and the owner shall have a right to a hearing in accordance with state law. Any vehicle not redeemed or claimed without payment of all applicable fines towing costs, within 30 days of removal shall be considered abandoned and may be destroyed or otherwise disposed of by the Village.

10.4. NOISE ABATEMENT AND CONTROL

10.4.1 **Prohibition.** It shall be unlawful for any person to make, or cause to be made, create or maintain loud, unnecessary, unnatural or unusual noises which are prolonged in their time, place and use, and which affect and are a detriment to public health, comfort, convenience, safety welfare and prosperity of the residents of the Village, or which annoys, disturbs, injures or endangers the comfort, repose, health, peace of safety of others, within the limits of the Village.

10.4.2 **Violations.** The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely:

10.4.2.1 **Horns, Signaling Devices, Etc.** The sounding of any horn or signaling devise on any automobile, motorcycle, or other vehicle on any street or public place of the Village, except as a danger warning; the creation of any unreasonably loud or harsh sound; and the sounding of any such devices for an unnecessary and unreasonable period of time. The use of any signaling devise except one operated by hand or electricity; the use of any horn,

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whistle or other device operated by engine exhaust; and the use of any such device when traffic is for any reason held up.

- 10.4.2.2 **Radios, Compact Disc Player, Etc.** The using, operating, or permitting to be played, used or operated and radio receiving set, musical instrument, compact disc player, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, compact disc player, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in such a manner as to be plainly audible at a distance of 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.
- 10.4.2.3 **Loud Speakers, Amplifiers for Advertising.** The using, operating or permitting to be played, used, or operated of any radio receiving set, instrument, phonograph, loudspeaker, sound amplifier, or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public to any building or structure.
- 10.4.2.4 **Yelling, Shouting, Etc.** Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m. or at any time or place so as to annoy or disturb the quiet, comfort, or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any person in the vicinity.
- 10.4.2.5 **Exhausts.** The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor boat, or motor vehicle except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- 10.4.2.6 **Defect in Vehicle or Load.** The use of any automobile, motorcycle, or vehicle so out of repair, so loaded or in such a manner as to create loud and unnecessary grating, grinding, rattling or other noise.
- 10.4.2.7 **Construction or Repairing of Buildings.** The erection (including excavating), demolition, alteration or repair of any building other than between the hours of 7:00 a.m. and 6:00 p.m. seven days a week, except in case of urgent necessity in the interest of public health and safety, and then only with written permission of the Building Inspector. If the Building Inspector should determine that the public health and safety will not be impaired by the erection,

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demolition, alteration or repair of any building or the excavation of the streets and highways within the hours of 6:00 p.m. and 7:00 a.m. and if he shall further determine that loss of inconvenience would result to any part in interest, he may grant permission for such work to be done within the hours of 6:00 p.m. and 7:00 a.m. upon application being made at the time for work is awarded or during the progress of the work.

- 10.4.2.8 **Schools, Courts, Churches, Hospitals.** The creation of any excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the working of such institutions, or which disturbs or unduly annoys patients in the hospital, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- 10.4.2.9 **Pile Drivers, Hammers, Etc.** The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise.
- 10.4.2.10 **Blowers.** The operation of any noise-creating blower or blower fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device sufficient to deaden such noise.
- 10.4.2.11 **Accelerating Too Rapidly.** No person shall operate a motor vehicle within the Village limits in such a manner as to disturb the peace through accelerating too rapidly from a standing or rolling stop, and any noise or disturbance created by tires, throwing of stones, or other means which are mainly occasioned by accelerating too quickly, shall be deemed a violation of this section.

10.5. THEFT OF RECYCLABLE TRASH

- 10.5.1 It shall be unlawful for any person to collect, obtain, possess or pick up any trash item intended for recycling placed for collection in front of a residence pursuant to the Village's Recycling Program or from any container on Village property, unless said person has been granted a license or other permission from the Village for the collection of such recyclable materials.
- 10.5.2 Any person found to be in violation of this Section 10.5 shall be subject to the penalties provided for in Code Section 10.2 for each offense.

10.6. INTENTIONALLY OMITTED

10.7. TRASH COLLECTION

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- 10.7.1 No trash, garbage, disposables or debris of any nature shall be placed within any street right-of-way in the Village sooner than 6:00 p.m. of the day prior to the day that such materials are scheduled or intended to be picked up for commercial disposal
- 10.7.2 All garbage cans and refuse containers shall be removed from the right-of-way no later than 10:00 p.m. of the day same have been or were to become emptied.
- 10.7.3 It shall be the responsibility of each resident of the subject dwelling or business concern to comply with the terms hereof. Any person found to be in violation hereof shall be subject to a fine subject to the penalty provisions of Code Section 10.2.

10.8. POLICE RESPONSE REIMBURSEMENT

- 10.8.1 Pursuant to the provisions of Public Act 86-581, the Village shall be reimbursed and restitution shall be made by any individual convicted under 625 ILCS 5/11-501 (DUI) for all costs and expenses incurred by the Village and its police department assisting in any emergency response whose motor vehicle proximately caused an incident resulting in an emergency response under said Section 11-501. Said expense is hereby determined to be in an amount no less than the applicable minimum amount specified in Code Section 14. In no event shall the cost of such restitution and reimbursement exceed the applicable maximum amount specified in Code Section 14 per response.

10.9. STORM DRAIN CONNECTION

- 10.9.1 It shall be unlawful for any person to connect or cause to be connected to any storm water drainage system: (i) any drain carrying, or designed to carry waste from any toilet, sink, basement, septic tank or cesspool or industrial waste from any facility; or (ii) any fixture or device discharging any pollutant, as defined in 415 ILCS 100/2(b) as hereinbefore amended.
- 10.9.2 Any person who violates the provisions of this Section 10.10 shall be subject to the penalty provisions of Code Section 10.2.

10.10. RIGHT OF WAY ENCROACHMENT

- 10.10.1 Without the prior written consent of the Village Board, it shall be unlawful for any person to erect or cause to be erected, to retain or cause to be retained, any encroachment within the limits of the public right of way, provided that decorative stones, gardens and decorative fences less than eighteen (18) inches in height may be maintained if more than six (6) feet from the edge of the pavement of the street or other type of public road in question.
- 10.10.2 Any person who violates the provisions of this Section 10.11 shall be subject to the penalty provisions of Code Section 10.2.

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10.11. NUISANCES

10.11.1 Definitions:

10.11.1.1 As used in this Section 10.13 the terms “junk, trash or refuse” shall include, but are is not limited to, any and all waste matter, whether reusable or not, which is offensive to the public health or safety or to the aesthetics of the neighborhood, and including, but not be limited to, worn out, wrecked and/or abandoned automobiles, trucks, tractors, trailers, machinery of any kind, any parts thereof, used appliances, drums or other containers, garbage, unused building materials, refuse, debris, broken concrete, and dilapidated, demolished or destroyed structures.

10.11.2 Nuisance declared:

10.11.2.1 The storing of junk, trash and refuse on private property within the Village where such storage is not permitted under the provisions of the Village Zoning Code, as amended from time to time, and in any manner not permitted by other Sections of this Code or other Village ordinances or permitted by the laws of this state is hereby declared a nuisance.

10.11.2.2 The keeping of dilapidated signs, all those other acts specified or declared by state law as nuisances, acts injurious or threatening to the public health and safety, vibration or noise in excess of levels set forth in the Zoning Code or the Illinois Environmental Act and its Rules and Regulations, the keeping of stagnant water upon any property, and interference with traffic or drainage, are also hereby declared a nuisance.

10.11.2.3 This Section 10.11 shall further apply to those activities and items declared to be a nuisance by any other Code Section or other Village ordinance heretofore or hereafter adopted.

10.11.3 Violation: Any person who permits or causes a nuisance within the Village shall be subject to the penalty provisions of Code Section 10.2.

10.12. DISCHARGE OF FIREARMS

10.12.1 No firearm shall be discharged, by blanks or otherwise, within the limits of the Village except that a Village police officer may, when engaged in Village police duties, discharge any firearm issued to him by the Village Police Department.

10.12.2 Violation. Any person who violates this Section 10.12 shall be subject to the penalty provisions of Code Section 10.2.

10.13. HUNTING PROHIBITED

10.13.1 Subject to the provisions of Code Section 9, it shall be unlawful for any person to hunt game or any animal within the limits of the Village.

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10.13.2 Any person who violates this Section 10.13 shall be subject to the penalty provisions of code Section 10.2.

10.14. ADOPTION OF MISCELLANEOUS STATE CRIMINAL STATUTES

10.14.1 The following provisions and sections of 720 ILCS 5 are hereby adopted by reference as ordinances of the Village. Said provisions are amended to substitute the Village of Gilberts in place of references to the State of Illinois in terms of pronoun, jurisdiction and as otherwise required on their face.

The following are the specific sections of 720 ILCS 5 adopted herein by reference:

A. CRIMINAL ACT AND MENTAL STATE

1. 5/4-1 Voluntary act
2. 5/4-2 Possession as voluntary act
3. 5/4-3 Mental state
4. 5/4-4 Intent
5. 5/4-5 Knowledge
6. 5/4-6 Recklessness
7. 5/4-7 Negligence
8. 5/4-8 Ignorance or mistake

B. BODILY HARM

1. 5/12-1 Assault
2. 5/12-2 Aggravated assault
3. 5/12-3 Battery
4. 5/12-3.1 Battery of an unborn child
5. 5/12-4 Aggravated battery
6. 5/12-4.1 Heinous battery
7. 5/12-4.5 Tampering with food drugs or cosmetics
8. 5/12.5 Reckless conduct
9. 5/12-5.1 Criminal housing management
10. 5/12-6 Intimidation
11. 5/12-9 Threatening public officials
12. 5/12-11 Home invasion
13. 5/12-12 Definitions
14. 5/12-30 Violation of order of protection

C. THEFT AND RELATED OFFENSES

1. 5/16-1 Theft
2. 5/16-1.1 Prima facie evidence - theft by lessee
3. 5/16-1.2 Prima facie evidence of intent
4. 5/16-2 Theft of lost or mislaid property
5. 5/16-3 Theft of labor or services or use of property
6. 5/16-3.1 False report of theft and other loses

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7. 5/16-4 Offender's interest in the property
8. 5/16-5 Theft from coin-operated machines
9. 5/16-6 Coin-operated machines – possession of a key or device
10. 5/16-10 Cable television service offenses – penalty
11. 5/16-11 Unauthorized use of television interception or decoding device – prima facie evidence – penalty
12. 5/16-12 Contributing to unauthorized use of television interception or decoding device - prima facie evidence – penalty
13. 5/16-13 Treble and punitive damages – costs and fees – injunction
14. 5/16-14 Unlawful interference with public utility services
15. 5/16-15 Unlawful use of theft detection shielding device

D. DAMAGE AND TRESPASS TO PROPERTY

1. 5/21-1 Criminal damage to property
2. 5/21-1.1 Criminal damage of fire fighting apparatus, hydrants or equipment
3. 5/21-1.2 Institutional vandalism
4. 5/21-2 Criminal trespass to vehicles
5. 5/21-3 Criminal trespass to real property
6. 5/21-6 Unauthorized possession or storage of weapons

E. DEADLY WEAPONS

1. 5/24-1 Unlawful use of weapons

F. DISORDERLY CONDUCT

1. 5/26-1 Elements of the offense
2. 5/26-2 Interference with emergency communication

G. INTERFERENCE WITH PUBLIC OFFICERS

1. 5/31-1 Resisting or obstructing a peace officer
2. 5/31-1a Disarming a peace officer
3. 5/31-3 Obstructing service of process
4. 5/31-4 Obstructing justice
5. 5/31-8 Refusing to aid an officer

10.14.2 When citing violations of these statutes, one may refer to the specific Illinois Compiled Statutes or the applicable Section of this Code.

10.15. LITTER

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10.15.1 The following provisions of 415 ILCS 105 (Litter Control Act) are hereby adopted by reference herein. Said provisions are amended to substitute the Village of Gilberts in place of references to the State of Illinois in terms of pronouns, jurisdiction and as otherwise required on their face. The following are the specific sections of 415 ILCS 105 adopted hereby:

1. 105/1 Short title
2. 105/2 Legislative findings and determination
3. 105/3 Definitions
4. 105/4 Dumping, deposit, etc. of litter prohibited; exemptions
5. 105/5 Dumping, deposit, etc. from motor vehicle prohibited; deposit of garbage or refuse in receptacles along public highways
6. 105/6 Accumulation of litter prohibited
7. 105/7 Abandonment of motor vehicle; presumption
8. 105/9 Presumption of violation by operator - Throwing, deposit, etc., of litter from motor vehicle

10.16. DAMAGE TO PUBLIC PROPERTY

10.16.1 Damage to Public Property: It shall be unlawful to injure, deface or interfere with any real or personal property belonging to the Village, including but not limited to easements, rights of way or roads.

10.16.2 Penalty: Any person who violates this Section 10.16 shall be subject to the penalty provisions in Section 10.2. There shall be added to any fine or fee levied on the offender under Section 10.2 the cost incurred by the Village in restoring its property as a result of such violation.

10.16.3 Injunction: Nothing herein shall be construed to prohibit the Village from seeking injunctive action to coerce restoration of any damage done to Village property.

10.17. PARK AND RECREATION AREA RULES AND REGULATIONS

10.17.1 Purpose

The purpose of this Section 10.17 is to provide rules and regulations for the use of and conduct in the parks and recreation areas of the Village.

10.17.2 Structures, Plants, Trees, Earth, and Rubbish

It shall be unlawful for any person in a public park or recreation area in the Village to:

10.17.2.1 Mark, deface, disfigure, injure, tamper with, displace or remove any structure or equipment, facilities, park property or appurtenances whatsoever, either real or personal.

10.17.2.2 Dig or remove any soil, rock, sand, stones, trees, shrubs, plants, wood or materials.

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10.17.2.3 Damage, cut, carve, mark, transplant or remove any plant, injure the bark, or pick flowers or seed of any tree or plant, dig in or otherwise disturb grass areas, or in any other way injure the natural beauty or usefulness of any area.

10.17.2.4 Dispose of any rubbish, refuse or garbage in any park other than such rubbish, refuse or garbage generated at the park or recreation area and deposited in receptacles so provided. Where receptacles are not provided, all such rubbish or waste shall be carried away from the park and properly disposed of elsewhere.

10.17.3 Vehicles.

It shall be unlawful for any person in a public park or recreation area in the Village to:

10.17.3.1 Operate any snowmobile or off-road vehicle, except along designated trails, if any.

10.17.3.2 Drive any other vehicle on any area except on roads and parking areas.

10.17.3.3 Park a vehicle anywhere except in a designated parking area.

10.17.3.4 Drive a vehicle at a speed greater than 10 miles per hour.

10.17.4 Firearms, Weapons, and Tools

It shall be unlawful for any person to bring into or have in his possession in any park or recreation area in the Village any rifle, shotgun, BB gun, air gun, spring gun, slingshot, bow, or other weapon in which the propelling force is gunpowder, a spring or air.

10.17.5 Ignitable and Combustible Materials

No person shall kindle, build, maintain, or use a fire in any Village park or recreation area except in places provided for such purpose and in only proper receptacles or grills. Any fire shall be continuously under the care and direction of a competent adult from the time it is kindled until extinguished. No person shall throw away or discard any lighted match, cigar, cigarette, tobacco, paper or other material in a Village park or recreation area except into a designated receptacle.

10.17.6 Miscellaneous Offenses

It shall be unlawful for any person in any public park or recreation area in the Village to:

10.17.6.1 Swim or wade.

10.17.6.2 Skate, sled, toboggan, ski, or slide except in designated areas.

10.17.6.3 Fly any form of aircraft, including hot air balloons.

10.17.6.4 Throw, cast or shoot stones, arrows or other missiles except in designated areas.

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10.17.6.5 Utilize any motorized or other watercraft.

10.17.6.6 Cause or permit any animal to run loose; all pets within a Village park or recreation area shall be leashed and no leash shall be longer than six feet; pet excrement shall be recovered and placed in trash receptacles by the possessor of such pet.

10.17.6.7 Hunt, harm, trap, pursue, or shoot wildlife.

10.17.7 Penalty

Any person violating any provision of this Section 10.17 shall be subject to the penalty provisions of Section 10.2.

All Code Sections, Village ordinances, rules and regulations pertaining to park and recreation areas may be enforced by the Village Public Works Department as well as other Village law enforcement officers.

10.18. VEHICLE LICENSE FEES

10.18.1 Any person who is a resident of the Village or a business or other entity located in the Village and who owns a motor vehicle which is required by state law to be licensed and/or registered with the Illinois Secretary of State shall be required to register such vehicle with the Village and to pay an annual Village vehicle license fee in the amount provided for in Code Section 14 according to the following classifications:

Class 1 - motor bicycles, motor driven cycles and other vehicles under 150 cc

Class 2 - Passenger vehicles and motor driven cycles 150 cc and above.

Class 3 - Motor vehicles (other than passenger vehicles) of 8,000 lbs. gross vehicle weight or less.

Class 4 - Motor vehicles 8,000 lbs. and over gross vehicle weight.

Class 5 – Recreational Vehicles.

10.18.2 All motor vehicles subject to this Section 10.18 shall display an annual Village of Gilberts vehicle registration decal in the lower right corner (passenger side) of the front windshield, except cycles and bicycles shall display such tag on their front fork.

10.18.3 Annual license fees shall be paid not later than the 1st day of June of each year and the then current annual decal shall be displayed from June 1st of the then current year until the following June 1st.

10.18.4 In the event a vehicle is not registered with the Village and the fee not paid timely, the fee shall increase according to the schedule provided for Code Section 14.

10.18.5 All vehicles new to the Village and vehicles of new residents of the Village shall register each subject vehicle within 45 days of acquisition or residency. The basic annual fee detailed in Code Section 14 shall be

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reduced one-half after November 1 in such cases, unless the basic annual fee was due prior to November 1 and not timely paid.

- 10.18.6 Persons over the age of 62 years as of June 1 may timely register one vehicle at one-half the applicable rate. ([Ordinance No. 05-09 passed 4/5/05](#))
- 10.18.7 Persons receiving permanent full disability from the Social Security Administration shall be permitted to timely register one passenger vehicle at the annual rate schedule provided for in Code Section 14.
- 10.18.8 All vehicle registrations expire on May 31 of each year.
- 10.18.9 Registrations may be transferred to a newly acquired vehicle upon proof of registration transfer with the Secretary of State for the applicable fee specified in Code Section 14.
- 10.18.10 Government owned vehicles are excluded from compliance with this Section 10.18.
- 10.18.11 Any person who fails to timely register a vehicle pursuant to this Section 10.18 shall be subject to the penalty provisions of Code Section 10.2 in addition to the applicable registration fee schedule under Code Section 14 and shall be required to pay the prosecution expense specified in Section 14.
- 10.18.12 When registering a vehicle one must supply all data pertaining to the vehicle and it's ownership requested in the form provided by the Village.

10.19. AUCTIONS AND AUCTIONEERS

10.19.1 License Required

It shall be unlawful for any person to hold, sponsor, or cause to be held an auction in the Village without first obtaining an auction license as provided for herein.

10.19.2 Obtaining License and Regulations

- 10.19.2.1 Application must be made to the Village Clerk by either the sponsor of the auction or the auctioneer at least ten days prior to the auction. The license fee specified in Code Section 14 shall be paid at the time of application.
- 10.19.2.2 The Village President or Village Clerk may request a background check by the Village Police Department before issuing an auction license.
- 10.19.2.3 Each license is valid for 48 hours at one location.
- 10.19.2.4 All activities associated with an auction must take place solely on private property or on duly rented public property. Any encroachment onto public ways shall be forbidden unless prior written permission is granted by the Village.

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10.19.2.5 The Village may deny the auction license on grounds of failure to pay taxes, failure to cooperate with authorities, failure to apply within the required time, previous suspension or revocation of permits or other similar just cause.

10.19.2.6 Said license shall be posted in a conspicuous location at said auction throughout the duration of the auction.

10.19.3 Violation

Any person who violates any provision of this Section 10.19 shall be subject to the penalty provisions of Code Section 10.2.

10.20. MOBILE FOOD AND/OR BEVERAGE CONCESSION STAND VENDING

10.20.1 LICENSE REQUIRED

It shall be unlawful for any person to operate a mobile food and/or beverage concession stand without first obtaining a license as provided for herein.

10.20.2 OBTAINING LICENSE AND REGULATIONS

10.20.2.1 Any person requesting a mobile food and/or vending concession stand (“Concession Stand”) license under this Section 10.22 must show that his mobile food and/or beverage Concession Stand sales will be offered as part of and at the location specified for a duly licensed fair, festival, flea market, auction or sporting event. Concession Stand licenses may be issued to non-profit organizations not affiliated with the event, provided that the Concession Stand activity is confined to private property, does not limit public parking and does not impede pedestrian or traffic movement.

10.20.2.2 In the case of flea markets, fairs or festivals, application must be made to the Village Clerk at least ten days prior to the date of the given event.

10.20.2.3 The Village Clerk or President may request a background check of the applicant by the Police Department before issuing a Concession Stand license.

10.20.2.4 The fee for a Concession Stand license is provided for in Code Section 14 and shall be paid at the time of application. The license is valid for one event only and at most for three days.

10.20.2.5 The Village may deny a Concession Stand license based on grounds of: failure to pay any applicable municipal taxes, failure to apply within the required time frame, previous suspension or revocation of permits, non-compliance with any provision of this Code or other Village ordinances or other similar and reasonable cause.

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10.20.3 LICENSE MUST BE CONSPICUOUSLY POSTED

Said license shall be posted in a conspicuous location at the Concession Stand throughout the duration of the event for which the license was obtained.

10.20.4 VIOLATION

Any person who violates any provision of this Section 10.20 shall be subject to the penalty provisions of Code Section 10.2.

10.21. SALE AND POSSESSION OF TOBACCO BY MINORS

10.21.1 Purchase by Minors. It shall be unlawful for persons under 18 years of age to buy any cigar, cigarette, smokeless tobacco or tobacco in any of its forms.

10.21.2 Possession by Minors. It shall be unlawful for any person under 18 years of age to be in possession of any cigar, cigarette, smokeless tobacco or tobacco in any of its forms.

10.21.3 Sale to Minors. No person shall sell, buy for, distribute samples of or otherwise furnish any cigar, cigarette, smokeless tobacco or tobacco in any of its forms to a person under 18 years of age.

10.21.4 Definition of Smokeless Tobacco. For the purpose of this subsection 21, "smokeless tobacco" means any tobacco products that are suitable for dipping or chewing.

10.21.5 Enforcement and Penalty. Any person convicted of a violation of this subsection 21 shall be guilty of a petty offense and shall be fined not less than \$25.00 nor more than \$750.00 for each offense.

10.22. PARKING OF VEHICLES ON PRIVATE PROPERTY OR RIGHT-OF-WAY WHILE BEING OFFERED FOR SALE

It shall be unlawful for any person to park a motor vehicle with a sign or other designation that the vehicle is for sale:

10.22.1 within the right of way of any private or public street for more than 72 consecutive hours in any six month period; provided, however, that the provisions of any other Section of the Village Code or any other Ordinance or Resolution prohibiting or otherwise limiting the length of time during which a vehicle may be parked on a public street are not repealed or amended by reason of this Section but shall remain in full force and effect and provided further that this provision shall not apply to vehicles owned by a resident of property adjacent to the portion of the right of way where parked; or

10.22.2 in the area of any private property zoned residential unless parked on a hard surface pursuant to the standards of Section 5.10 of this Code and unless owned by a resident of such private property.

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10.23. CURFEW FOR MINORS

10.23.1 Imposes.

It is hereby made unlawful for a person less than eighteen (18) years of age to be present at or upon any public assembly, building, place, street, alley or highway within the Village of Gilberts, at the following times, unless accompanied and supervised by a parent, legal guardian or other responsible companion at least twenty-one (21) years of age, approved by a parent or legal guardian, or unless engaged in a business or occupation which the laws of the state authorizes a person less than eighteen (18) years of age to perform, or unless said minor has been in attendance at a regularly scheduled church, school, or public sponsored function or activity.

10.23.1.1 On Sunday curfew for all persons under eighteen years of age is 11:00 p.m.

10.23.1.2 On Mondays through Thursday, inclusive, curfew for all persons under eighteen years or age is 10:00 p.m.

10.23.1.3 On Fridays curfew for all persons under eighteen years of age is 11:00 p.m.

10.23.1.4 On Saturday curfew for all persons under eighteen years of age is 11:00 p.m.

10.23.2 Parental responsibility.

It is unlawful for any parent or legal guardian or other person to knowingly permit a person in his or her custody or control to violate this section.

10.23.3 Penalty.

Any person convicted of violating the provisions of this section shall be fined not less than \$10.00 nor more than \$200.00 for each offense.

SECTION 11. TRAFFIC AND MOTOR VEHICLES

11.1. GENERAL PROVISIONS

- 11.1.1 Definitions: The definitions contained in 625 ILCS 5/1-101 through 5/1-224 inclusive, as hereinbefore amended, are adopted herein by reference.
- 11.1.2 Traffic Signs, Signals and Markings: The regulations of 625 ILCS 5/11-301 through 5/11-313 inclusive, as hereinbefore amended, are adopted as the regulations for traffic signs, signals and markings.
- 11.1.3 Accidents: The regulations of 625 ILCS 5/11-401 through 5/11-416 inclusive, as hereinbefore amended, are adopted as the regulations governing automobile accidents.
- 11.1.4 Speed Laws: The regulations of 625 ILCS 5/11-601 through 5/11-611 inclusive, as hereinbefore amended, are adopted as the speed regulations of the Village.

The state traffic laws regulating the speed of vehicles shall be applicable upon all streets within this Village, except as this Section 11, as authorized by state law, declares and determines upon the basis of engineering and traffic investigation that certain speed regulations shall be applicable upon specified streets or in certain areas, in which event it shall be unlawful for any person to drive a vehicle at a speed in excess of any speed so declared in this Section 11 when signs are in place giving notice thereof.
- 11.1.5 Driving on Right Side of Road Overtaking and Passing: The regulations of 625 ILCS 5/11-701 through 5/11-711 inclusive, as hereinbefore amended, are adopted as the regulations for lane usage and the overtaking and passing of vehicles.
- 11.1.6 Turning and Starting and Signals on Stopping and Turning: The regulations of 625 ILCS 5/11-801 through 5/11-806 inclusive, as hereinbefore amended, are adopted as the regulations for turning and starting and signals on stopping and turning of vehicles.
- 11.1.7 Right of Way: The regulations of 625 ILCS 5/11-901 through 5/11-908 inclusive, as hereinbefore amended, are adopted as the regulations for the right of way of vehicles.
- 11.1.8 Pedestrians: The regulations of 625 ILCS 5/11-1001 through 5/11-1011 inclusive, as hereinbefore amended, are adopted as the regulations for pedestrians rights and duties.
- 11.1.9 Special Stops and Miscellaneous: The regulations of 625 ILCS 5/11-1201 through 5/11-1205 inclusive, and 625 ILCS 5/11-1401 through 5/11-1426 inclusive, all as hereinbefore amended, are adopted as the regulations requiring special stops and miscellaneous rules of the road:

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- 11.1.10 Vehicle Equipment, Size, Weight and Load: The definitions and regulations of 625 ILCS 5/12-100 through 5/11-902 inclusive, as hereinbefore amended, and 625 ILCS 5/15-100 through 5/15-203 inclusive, are adopted as the regulations for the equipment, size, weight and load of vehicles.
- 11.1.11 Arrest Procedure: Village police officers may institute proceedings for the prosecution of persons violating the provisions of this Section 11:
- 11.1.11.1 By preparing a traffic citation slip and serving the same either by securely affixing same to the vehicle at the place where the offense was committed, or by delivering such arrest notice or summons slip to the person in charge of the vehicle; provided, however, that the provisions of this subsection shall not apply to any person arrested and charged with an offense contributing to an accident resulting in injury or death to any person, or to a person charged with reckless driving, or to any person charged with driving while under the influence of intoxicating liquor or narcotic drugs, or to any person whom the arresting officer shall have reasonable cause to believe has committed any felony, or to any person whom the arresting officer has reasonable cause to believe will not appear pursuant to the arrest notice at the time and place specified, or to any person who is a nonresident of the state, and, in either one or more of such events, the arresting officer shall take such person or persons before the nearest and most accessible court having jurisdiction of such offenses; or
 - 11.1.11.1.1. By taking the operator of the vehicle or such other person who has violated any provision of this title into custody at the time of committing the offense and taking the offender before the court having jurisdiction of the offense and making written complaint before such court.
 - 11.1.11.2 Release on Bail: Every person arrested for a violation of this title shall be released upon bail being furnished in proper amount and according to procedure prescribed by the statutes of this state.
 - 11.1.11.3 Charging of Violations of Adopted State Traffic Regulations: When charging violations of any of the state traffic regulations adopted by the Village such violations shall be identified by the chapter and section as provided in the Illinois Compiled Statutes, with the "Municipal Code" box on the uniform citation being circled or otherwise denoted. All other traffic related offenses not having a state law equivalent shall be written as local ordinance violations as specified by the Village Code.
 - 11.1.11.4 Penalty for Violation generally: Except in cases where the provisions of this Section 11 of this Code or any other Village ordinance or state law provide for a different penalty, any person who violates any provision of this Section 11, including those

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provisions of the Illinois Motor Vehicle Code adopted herein, shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars.

- 11.1.11.5 Tickets: The tickets issued under this Section 11 shall be as a courtesy in lieu of arrest. If the operator does not settle the claim, a warrant or notice to appear will issue for violating the ordinance codified herein, and such person shall be subject to fines and penalties set forth in hereof.

11.2. DRIVING WHILE INTOXICATED, TRANSPORTING ALCOHOLIC LIQUOR, RECKLESS DRIVING, DRAG RACING, SQUEALING AND SCREECHING

- 11.2.1 The regulations of 625 ILCS 5/11-500 through 5/11-505 inclusive, as amended- are hereby adopted as regulations of the Village of Gilberts.
- 11.2.2 In the event of conviction of a violation of any provision of this Section 11.2, said violator shall be subject to the same fine and penalties as provided in those regulations and statutes hereby adopted by reference.
- 11.2.3 In the event of conviction for a violation of this Article, said violator shall also be subject to the penalties prescribed for a Class A misdemeanor under 730 ILCS 5/5-5-1 et seq.

11.3. GENERAL SPEED LIMIT (ORDINANCE NO. 01-02)

- 11.3.1 The speed limit on the following streets within the Village of Gilberts shall be a maximum of 20 miles per hour:

Alpine Court	Alpine Drive	Andra Court
Arrow Head	Aspen Circle	Beckenridge Court
Beckenridge Drive	Boulder Court	
Boulder Drive	Center Drive	Copper Mountain Drive
Deborah Street	Durango Court	Dillon Court
Durango Drive	East End Drive	Evergreen Lane
Gregory M. Sears Dr.	Gunnison Court	Hennessy Court
Industrial Drive	Jackson Street	Jean Street
Joan Court	John M. Boor Drive	Kathleen Street
Kerry Court	Kildare Street	Kilkenny Court
Leadville Lane	Loveland Court	Mattson Street
Mason Road (West of Tyrrell)		Mill Street
Pamela Court	Park Street	Pauline Court
Pierce Street	Powder Horn Court	Railroad Street
Red Hawk Path	Running Deer Lane	Shining Moon Path
Sleeping Bear Trail	Steamboat Drive	Summit Drive
Suzanne Court	Telluride Court	Telluride Drive
Timber Trails Blvd. North of Gregory	Timber Trails Court	Tipperary Street

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Sears Dr.		
Tollview Court	Tollview Terrace	Tower Hill Road
Towne Street	Turner Street	Tyler Creek Street
Union Street	Vail Court	Welch Street
West End Drive	White Feather Lane	Willey Street
Windmill Street	Woodland Park Circle	

11.3.2 The speed limit on the following streets shall be 30 miles per hour:

Galligan Road (old Town) beginning at Higgins Road (Route 72) to a point 385 feet North of Willey Street

Timber Trails Boulevard

Timber Trails Boulevard between Big Timber Road and Gregory Sears Drive

11.3.3 The speed limit on the following streets shall be 40 miles per hour:

Higgins Road (Route 72) beginning at a point 2,365 feet West of Tyrrell Road and continuing to a point 520 feet East of Park Street

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- 11.3.4 The speed limit on the following street shall be 45 miles per hour:
- Freeman Road
 - Mason Road beginning at a point 1,395 feet (east of Tyrrell)
 - Tyrrell Road between I-90 and Higgins Road (Route 72)
- 11.3.5 The speed limit on the following streets shall be 55 miles per hour:
- Galligan Road beginning at a point 1,310 feet North of Willey Street to the northerly limits of the Village
 - Higgins Road (Route 72) beginning at a point 3,300 feet West of Tyrrell Road easterly to the eastern limits of the Village
 - McCornack Road
 - Tyrrell Road South of I-90
- 11.3.6 In the event that the State of Illinois or the County of Kane establishes limits other than as set forth in any subsection of this Section 11.3 on any State highway or County Road, such designation by the State or County shall supercede the provisions of this Section 11.3 as to such highway or road.

11.4. INTENTIONALLY OMITTED

11.5. SEASONAL AND PERMANENT VEHICLE MAXIMUM WEIGHT LIMITS

11.5.1 Weight Limits.

11.5.1.1 Permanent Weight Limits

Weight limits applicable to all highways within the Village of Gilberts are established by 625 Illinois Compiled Statutes, Section 5/15-111, which is hereby adopted by reference.

For the purpose of Section 11 of the Village of Gilberts Code a highway is defined as the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

11.5.1.2 Temporary Gross Weight Limits

The Village Board may by resolution place temporary seasonal gross weight operating limitations upon designated highways in the Village based upon foundation, base, materials, type of construction, seasonal weather conditions, seasonal frost levels, ground water tables and general ground conditions, and other factors involved in the construction and maintenance of streets and roadways.

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- 11.5.2 Filing: The Village Board shall file with the Village Clerk a schedule of the temporary seasonal and permanent safe gross weight limitations for each street and roadway as may be determined.
- 11.5.3 Signage: The Village shall cause said seasonal and permanent gross weight limitations to be posted in prominent places along the streets and roadways of the Village. Each so designated street and roadway in the Village shall be restricted to vehicular traffic, including passenger cars, motor trucks, and all other types of vehicles, which shall have a gross weight not exceeding the applicable seasonal or permanent maximum safe gross weight limit for such designated street or roadway and posted along the street or roadway, as hereinbefore set forth.
- 11.5.4 Provision: It shall be unlawful for any vehicle, whether passenger car or motor truck or any other type of vehicle, having a gross weight of more than the applicable seasonal or permanent maximum safe gross weight limit for any designated street or roadway in the Village as hereinbefore determined, to come upon, traverse, or travel over or upon any such designated street or roadway in the Village.
- 11.5.5 Entry: Every separate entry upon any designated street or roadway by the driver of a vehicle having a gross weight in excess of the maximum temporary seasonal or permanent gross weight limit permitted upon such street or roadway shall be deemed to be a separate offense by such driver.
- 11.5.6 Weighing: Any police officer having reason to believe that the weight of a vehicle and load is unlawful shall require the driver to stop and submit to a weighing of the vehicle. The vehicle shall be driven to the nearest convenient State of Illinois certified public or private scale.
- 11.5.7 Penalty: Any driver of any vehicle which is of a gross weight in excess of the applicable seasonal or permanent maximum safe gross weight limit permitted upon any street and roadway, who shall drive the vehicle over and upon or shall cause such vehicle to come upon, traverse, or travel over or upon any such street and roadway in the Village shall be, upon conviction subject to a fine of no less than \$100.00 nor more than \$500.00 plus the costs of prosecution, including, but not limited to, fees of Village counsel.
- 11.5.8 Exception: The terms of this Section 11.5 do not apply to Industrial West End, Sola, Center and East End Drives nor to the following vehicles when engaged and being used in the ordinary course of business:
- 11.5.8.1 Residential furniture moving vehicles.
 - 11.5.8.2 Non-construction residential delivery vehicles.
 - 11.5.8.3 Government owned vehicles.
 - 11.5.8.4 Emergency vehicles.

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11.5.8.5 Refuse removal vehicles.

11.5.9 Any vehicle being used for farming purposes and displaying a farm class license plate, and all municipal or fire district vehicles and refuse collection trucks are exempt from compliance with this Section 11.5.

11.5.10 The Village may upon application to the Chief of Police on forms provided by the Village and on good cause being shown therefore, issue a special permit authorizing the applicant to operate or move a vehicle or combination of vehicles of weight or load exceeding the maximum specified in this Section 11.5.10.

11.5.10.1 The applicant shall furnish the following information in the special permit application:

11.5.10.1.1. The name and address of the owner or lessee of the vehicle.

11.5.10.1.2. Applicant's name.

11.5.10.1.3. Type of permit request; whether it be for a single trip, round trip, or multiple routing.

11.5.10.1.4. The description and registration of the power unit.

11.5.10.1.5. Description of the object or vehicle to be moved.

11.5.10.1.6. The number of axles of the vehicle or combination of vehicles.

11.5.10.1.7. The axle weights of all single, tandem or series axles.

11.5.10.1.8. Gross weight of the vehicle.

11.5.10.1.9. The width, length and height of the vehicle and load.

11.5.10.1.10. The specific origin of the load (whether within or without of the State of Illinois); copies of all county and/or state permits must be attached to the application prior to approval and issuance of a Village special permit.

11.5.10.1.11. Requested routing over Village streets and to specific location.

11.5.10.2 The owner or owner's agent shall submit an application fee of fifty (\$50.00) dollars for a single routing which shall be valid for seven (7) calendar days, eighty (\$80.00)-dollars for a round trip valid for fourteen (14) calendar days and one hundred fifty (\$150.00)-dollars for a multiple routing valid for a period not to exceed one hundred twenty (120) calendar days. Permits are valid only for the dates specified on the permit and for the specific vehicle, load and routing as established by the Chief of Police. No substitution of vehicle, load or routing is permitted without express written permission by the Chief of Police and carried in the vehicle to which the permit applies.

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- 11.5.10.3 The Chief of Police is authorized to approve the application for approved routes. Upon approval and payment of all required fees, the Chief of Police shall issue a permit allowing passage of the overweight vehicles over Village streets. The permit shall be specific and contain:
- 11.5.10.3.1. Permit number.
 - 11.5.10.3.2. The dates the permit is valid.
 - 11.5.10.3.3. Whether the permit is for single, round trip or multiple routing.
 - 11.5.10.3.4. The description of the object or vehicle to be moved.
 - 11.5.10.3.5. Authorized gross weight, axle weights, width, length and height.
 - 11.5.10.3.6. The authorized routing over Village streets including the origin and termination point within the Village.
 - 11.5.10.3.7. The fee paid.
 - 11.5.10.3.8. The date and signature of the Chief of Police.
 - 11.5.10.3.9. In addition, the permit will specify general conditions that the permittee must comply with that are consistent and reasonable for the protection of the general public and Village streets.
- 11.5.10.4 It is the duty of the permittee to read and be familiar with the permit provisions. Undertaking of the move authorized by the permit is deemed to constitute acceptance of the provisions of the permit and that:
- 11.5.10.4.1. The permittee is in compliance with all operation requirements;
 - 11.5.10.4.2. All weight limitations specified in the permit shall not be exceeded;
 - 11.5.10.4.3. All operation, registration and license requirements have been complied with;
 - 11.5.10.4.4. All financial responsibilities, obligations and other legal requirements have been met; and
 - 11.5.10.4.5. The permittee assumes all responsibility for injury or damage to persons or to the public or private property, including his or her own, or to the object being transported, caused directly or indirectly by the transportation or movement of vehicles and objects authorized under the permit. The permittee agrees to hold the Village harmless from all suits, claims, damages, or proceedings of any kind and to

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indemnify the Village for any claim it may be required to pay arising from the movement.

- 11.5.10.4.6. The permit shall be carried in the vehicle to which the permit applies at all times while operating on streets within the Village and shall be exhibited upon demand to any enforcement officer, police officer or other authorized official of the Village.

11.6. STREET DIRECTIONAL FLOW

- 11.6.1 It shall be unlawful to operate or to permit any vehicle to operate on any street or alley in the Village designated from time to time by the Village Board as a one-way street or alley in any direction other than that so designated.
- 11.6.2 The Chief of Police or any other person designated by the Village President shall post or cause to be posted suitable signs for all such one-way streets or alleys as may be required.
- 11.6.3 The flow of traffic that portion of Mason Road lying east of Tyrrell Road shall move only in a westerly direction.
- 11.6.4 Upon conviction of violating this Section 11.6 such violator shall be fined no less than \$50.00 nor more than \$250.00 for each such offense. Repeated offenses shall be subject to injunctive restraint.

11.7. PARKING

11.7.1 Definitions:

- 11.7.1.1 Official time standard. Whenever certain hours are named herein, they shall mean standard time or daylight-saving time as may be in current use in the State of Illinois.
- 11.7.1.2 Park or parking. "Park or parking" means the standing of a vehicle, whether occupied or not, other than temporarily for the purpose of and while actually engaged in loading or unloading property or passenger(s).
- 11.7.1.3 Semitrailer. "Semitrailer" means every vehicle without motive power designated for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.
- 11.7.1.4 Stand or standing. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, other than for the purpose of and while actually engaged in receiving or discharging or loading or unloading property or passenger(s).
- 11.7.1.5 Street, highway and roadway. Street, highway or roadway means the entire width between the boundary lines of every way publicly

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maintained when any part thereof is open to the use of the public for purposes of vehicular travel including but not limited to the road shoulder and entire dedicated right of way.

11.7.2 Signs. Whenever by this Section 11.7, or any subsequent ordinance of this Village, any parking time limit is imposed or parking is prohibited on designated streets, it shall be the duty of the Board of Trustees to erect appropriate signs giving notice thereof and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense.

11.7.3 Applications:

11.7.3.1 The provisions of this Section 11.7 regulating the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except when it is necessary to stop a vehicle to avoid conflict with other traffic in compliance with the directions of a police officer or official traffic control.

11.7.3.2 The provisions of this Section 11.7 imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

11.7.3.3 The regulations set forth in this Section 11.7 apply to the operator, the person in charge of, and the owner of a vehicle stopped, standing or parked in violation of the provisions of this Section 11.7.

11.7.4 Stopping Standing or Parking: Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control, no person shall permit or:

11.7.4.1 Stop, stand or park a vehicle:

11.7.4.1.1. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

11.7.4.1.2. On a sidewalk;

11.7.4.1.3. Within an intersection;

11.7.4.1.4. On a crosswalk;

11.7.4.1.5. Between a safety zone and the adjacent curb or within twenty feet of points on the curb immediately opposite the ends of a safety zone, unless the traffic authority indicates a different length by signs or markings;

11.7.4.1.6. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

11.7.4.1.7. Upon any bridge or other elevated structure upon a highway;

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- 11.7.4.1.8. On any railroad tracks;
- 11.7.4.1.9. At any place where official signs prohibit stopping.
- 11.7.4.1.10. In any lane of traffic.
- 11.7.4.2 Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
 - 11.7.4.2.1. In front of a public or private driveway;
 - 11.7.4.2.2. Within fifteen feet of a fire hydrant;
 - 11.7.4.2.3. Within twenty feet of a crosswalk at an intersection;
 - 11.7.4.2.4. Within thirty feet upon the approach to any flashing signal, stop sign or traffic-control signal located at the side of a roadway;
 - 11.7.4.2.5. Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of said entrance;
 - 11.7.4.2.6. At any place where official signs prohibit standing.
 - 11.7.4.2.7. In any lane of traffic.
- 11.7.5 Prohibited Parking:
 - 11.7.5.1 It shall be unlawful and in violation of this ordinance to park any vehicle at any time along or upon Illinois Route 72 within the Village limits.
 - 11.7.5.2 In any residential zoned area of the Village:
 - 11.7.5.2.1. No vehicle with three or more axles, no vehicle having license plates designated “F” or higher letter and no motorized construction equipment shall be parked on any street or on private property unless located within a building so as to not be visible from outside the building or during such period when engaged in bona fide construction activities except for a maximum of two (2) hours during any day between the hours of 10:00 a.m. to dusk.
 - 11.7.5.2.2. No recreational vehicles or trailers shall be parked unless located within a building so as to be not visible from outside the building except that one (1) recreational vehicle licensed “RV” or “RT” with a current Village of Gilberts vehicle sticker, and one (1) trailer, provided that two (2) trailers are permitted if there is no recreational vehicle which is parked outside a building.
 - 11.7.5.2.3. Repair of motorized vehicles that have current license plates and Village of Gilberts vehicle stickers parked outside a

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building on blocks or jacks stands will be permitted for a period not to exceed seventy-two (72) consecutive hours.

11.7.5.2.4. All vehicles, including trailers must be parked on a hard surface in compliance with Section 5.10 of this Code.

11.7.5.3 No semitrailer shall be permitted to be parked within a residence district for longer than 2 hours in any 24 hour period.

The terms of this provision shall have the same definition as those provided in the Illinois Vehicle Code.

11.7.5.4 No person shall park a vehicle upon any roadway for the principal purpose of:

11.7.5.4.1. Displaying such vehicle for sale; or

11.7.5.4.2. Washing, greasing or repairing such vehicle except repairs necessitated by emergency.

11.7.5.5 Parking is prohibited in the following specific instances:

11.7.5.5.1. Within the west side of the right of way of Galligan Road for a distance of 200 feet north of the centerline of Illinois Route 72 and on its east side for a distance of 460 feet north of the centerline of Illinois Route 72.

11.7.5.5.2. Within the right of way of the east side of Railroad Street.

11.7.5.5.3. Within one side of the right of way as designated by posted signs, of the following streets located in Timber Glen Subdivision, Timber Glen Drive, Glenbrook Circle, Glenbrook Court, Boulder Drive and Timber Court. ([Ordinance No. 05-15 passed 5/17/05](#))

11.7.6 Overnight Parking Prohibition

11.7.6.1 It shall be unlawful and in violation of this ordinance to park any vehicle or semitrailer upon any Village street from and between the hours of 2:00 a.m. and 6:00 a.m.

11.7.6.2 The Village Board may, by Resolution from time to time adopted, designate Village streets or portions thereof permitting overnight parking.

11.7.7 Enforcement and Penalties

11.7.7.1 Any vehicle parked in violation of this Section 11.7 is declared a nuisance and a hazard to public safety and any police officer of the Village is authorized to cause the removal of such vehicle to a place of storage at the expense of the owner of said vehicle not to be released until the actual charges and costs of towing and storage are paid in full. In absence of other charges and costs for such storage there shall be assessed a storage fine of \$20.00 per

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day and towing charge of \$75.00 in addition to any and all other fines and penalties herein provided.

- 11.7.7.2 In addition to the penalty and enforcement detailed in Section 11.7.7.1 above, the owner of a vehicle parked in violation of any provision of this Section 11.7 shall also be subject to the penalty provisions of Code Section 10.2.

11.8. SNOW PARKING BAN

- 11.8.1 It shall be unlawful for any person to park any vehicle or trailer on any village street following the accumulation of two or more inches of falling snow until removal. The Village through its police officers and/or other authorized village officials in their sole discretion shall reasonably determine snow accumulation.
- 11.8.2 The Village shall erect appropriate signs giving notice of the parking ban herein enacted.
- 11.8.3 Any vehicle, or trailer parked in violation of this Section 11.8 is declared a nuisance and a hazard to public safety and any Village police officer or other authorized Village official is empowered to direct the removal of such vehicle or trailer to a place of storage at the expense of the owner of said vehicle to be held until all charges and fines are paid in full.
- 11.8.4 The regulation set forth in this Section 11.8 shall apply to the operator, the person in charge of, and the owner of a vehicle or trailer parked in violation of this Section 11.8
- 11.8.5 Violations of this Section 11.8 shall be punishable in accordance with the provisions of Code Section 10.2.

11.9. STOP INTERSECTIONS

- 11.9.1 The driver of any vehicle shall stop in obedience to a stop sign and shall proceed cautiously yielding to the vehicles not so obligated to stop which are within the intersection or approaching so close as to constitute a hazard. Stop signs shall be erected pursuant to this Section 11.9 at the following locations:

- 11.9.1.1 On the following streets and roads at their respective intersection with Tyrrell Road:

Westbound Mason Road
Eastbound Mason Road
Westbound Welch Street
Eastbound Welch Street
Westbound Kildare Street
Northbound Pierce Street
Northbound Illinois Route 72
Westbound Arrowhead Road

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- 11.9.1.2 On the following streets, roads and drives at their respective intersection- with Illinois Route 72
- Northbound Tyrrell Road
 - Southbound Union Street
 - Southbound Railroad Street
 - Southbound Windmill Drive
 - Northbound Center Drive
 - Northbound East-End Drive
- 11.9.1.3 On the following streets at their respective intersection with Union Street:
- Eastbound Turner Street
 - Eastbound Jackson Street
 - Eastbound Matteson Street
- 11.9.1.4 On the following streets at their respective intersection with Railroad Street:
- Westbound Wiley Street
 - Westbound Turner Street
 - Westbound Jackson Street
 - Westbound Matteson Street
- 11.9.1.5 On the following streets and roads at their respective intersection with Galligan Road
- Eastbound Wiley Street
 - Westbound Binnie Road
 - Eastbound Freeman Street
- 11.9.1.6 At the intersection of the private driveway from the Intra Sports Club with Mason Road, located approximately one quarter mile east Tyrrell Road.
- 11.9.1.7 At the intersection of Timber Trails Boulevard with Gregory Sears Drive and at the intersection of Gregory Sears Drive with Timber Trails Boulevard (four way stop).

11.10. MUFFLERS

- 11.10.1 No motor vehicle shall be operated on any street within the Village unless it is equipped with a muffler in good working order and in operation to prevent excessive or unusual noise or smoke. No muffler cut-out, by-pass or similar device shall be used within the jurisdiction of the Village.

11.11. GAS & SMOKE

- 11.11.1 It shall be unlawful to operate any vehicle which emits a dense smoke or such amount of smoke or fumes as may be hazardous to the public health.

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11.12. SPILLING OF LOADS

- 11.12.1 No vehicle shall be so loaded that any part of its load spills or drops upon any street or right-of-way within the Village.

11.13. LITTER UPON PAVEMENT

- 11.13.1 It shall be unlawful for any person to deposit any litter upon any street or right-of-way of the Village. The term “litter” shall include but is not limited to trash, debris, dirt, construction materials, gravel, or the like.

11.14. PROPERTY DAMAGE

- 11.14.1 It shall be unlawful for any person to operate a motor vehicle in a manner so as to negligently or willfully injure, deface, destroy or damage property belonging to the Village, whether real or personal.

11.15. UNAUTHORIZED VEHICLES

- 11.15.1 Except as provided in this Section, it shall be unlawful to operate on any street within the Village:

11.15.1.1 A farm tractor, unless the tractor is being used as an implement of husbandry in connection with farming operations;

11.15.1.2 An all-terrain vehicle, off-highway motorcycle and snowmobile except such an all-terrain vehicle, off-highway motorcycle and snowmobile may make a direct crossing provided:

11.15.1.2.1. The crossing is made at an angle of approximately 90 degrees to the direction of the street, road or highway and at a place where no obstruction prevents a quick and safe crossing; and

11.15.1.2.2. The all-terrain vehicle, off-highway motorcycle or snowmobile is brought to a complete stop before attempting a crossing; and

11.15.1.2.3. The operator of the all-terrain vehicle, off-highway motorcycle and snowmobile yields the right of way to all pedestrian and vehicular traffic which constitutes a hazard.

11.15.1.3 A snowmobile operated by a resident of the Village may travel within the right of way of any Village street from the residence of such resident by the most direct route to the nearest snowmobile trail within the Village, provided that the operator shall yield the right of way to all pedestrian and vehicular traffic which constitutes a hazard.

11.15.1.4 A mini-bike, go-kart, golf cart, or any vehicle with metal tires or metal cleats or other tires or surfaces which contact a roadway which are not rubber, plastic or similar substance which will not harm the pavement;

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- 11.15.1.5 Any other motor vehicle which would not be eligible for licensing by the State of Illinois.

11.16. HAZARDOUS SUBSTANCE CONTROL AND HAZARDOUS MATERIAL INCIDENT EXPENSE RECOVERY

11.16.1 DEFINITIONS:

- 11.16.1.1 HAZARDOUS MATERIALS INCIDENT: An incident which threatens public health or safety involving the actual or potential release of hazardous substance or hazardous material.

- 11.16.1.2 HAZARDOUS SUBSTANCE OR HAZARDOUS MATERIAL: Any substance, material or mixture of substances which is toxic, corrosive, an irritant, strong sensitizer, radioactive, flammable, combustible, or which generates pressure through decomposition, heat or other means and which may cause injury or illness to humans, domestic livestock or wildlife, or as defined by the Illinois Environmental Protection Act or any Federal law.

- 11.16.1.3 PERSON: Any individual, partnership, corporation, trust, firm, company, estate, association or other legal entity.

- 11.16.2 It shall be unlawful for any person to use, store, deliver or transport hazardous substances or hazardous materials or cause the use, storage, delivery or transporting of hazardous substances or hazardous materials in any manner inconsistent with the requirements of the Village Code or any other applicable Village ordinance, State law or Federal law.

- 11.16.3 It shall be unlawful for any motor vehicle carrying, transporting or containing a hazardous substance or hazardous material to park or stand, other than temporarily for the purpose of and while actually engaging in loading or unloading, on private or public property without the knowledge and express consent of the person who is in charge of the property and who is aware of the nature of the hazardous substance or hazardous material the motor vehicle contains.

- 11.16.4 It shall be unlawful of any motor vehicle carrying, transporting or containing a hazardous substance or hazardous material to fail to comply with all applicable provisions of Section 11 of this Code relating to traffic.

- 11.16.5 It shall be unlawful for any person using, storing, manufacturing, producing, disposing, treating, transporting or causing the use, storage, manufacture, production, disposal, treatment or transportation of any

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hazardous substance or hazardous material in any manner which results in a hazardous materials incident.

- 11.16.6 Any person causing or permitting a hazardous material incident shall be liable for all of the following:
- 11.16.6.1 Reimbursement in full for any and all costs incurred by the Village in connection with the operation, maintenance and staffing required to respond to such hazardous materials incident at the rate of one hundred dollars (\$100.00) per hour per vehicle (or any fraction of an hour) and the hourly rate of pay, including overhead costs, for each employee who participates in such response to a hazardous materials incident
 - 11.16.6.2 Reimbursement in full for any and all costs incurred by the Village for equipment and materials used, damaged, lost, spent, destroyed or rendered irreparable in connection with a hazardous materials incident.
 - 11.16.6.3 Costs attendant with any cleanup or removal resulting from a hazardous materials incident, including, but not limited to, any independent contractor fees and costs necessitated by such hazardous materials incident, attorney fees and costs, medical liability or damages resulting in the Village's response to a hazardous materials incident.
- 11.16.7 The Village shall prepare and forward to the person or persons causing or permitting a hazardous materials incident a bill for the total costs and expense incurred for which such person or persons are responsible pursuant to this Chapter, provided, however, any cost in connection with an independent cleanup contractor shall be billed directly by such contractor. Payment of the total bill shall be made within thirty (30) days of receipt. Any bill or portion of a bill remaining unpaid after thirty (30) days of receipt shall accrue interest on the unpaid balance at a rate of one and one-half percent (1-1/2%) per month, or fraction of a month.
- 11.16.8 The Village, its officers, agents or employees shall not incur any liability for any claim, injury or damage of any kind resulting from a hazardous materials incident to which the Village or any of its departments, officers, agents or employees respond. [\(Ordinance No. 05-10 passed 4/5/05\)](#)

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SECTION 12. REVENUE AND FINANCE

12.1. UTILITY TAX

12.1.1 Definitions: Those terms enumerated and defined in 65 ILCS 5/8-11-2(d) shall have the same meaning for the purposes hereof.

12.1.2 Provisions: A tax is hereby imposed on all persons and entities engaged in the following occupations or privileges.

12.1.2.1 Persons engaged in the business of transmitting messages by means of electricity, at the rate of 5% of the monthly gross receipts from such business originating within the corporate limits of the Village of Gilberts;

12.1.2.2 Persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the Village of Gilberts, and not for resale, at the rate of 5% of the monthly gross receipts therefrom

12.1.2.3 The privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the municipality at the following rates, calculated on a monthly basis for each purchaser:

Amount of Electricity used or consumed	Price per kilowatt-hour
For the first 2,00 kilowatt-hours:	0.588 cents
For the next 48,000 kilowatt-hours:	0.385 cents
For the next 50,000 kilowatt-hours:	0.347 cents
For the next 400,000 kilowatt-hours:	0.337 cents
For the next 500,000 kilowatt-hours:	0.327 cents
For the next 2,000,000 kilowatt-hours:	0.308 cents
For the next 2,000,000 kilowatt-hours:	0.303 cents
For the next 5,000,000 kilowatt-hours:	0.299 cents
For the next 10,000,000 kilowatt-hours:	0.294 cents
Electricity in excess of 20,000,00 kilowatt-hours	0.289 cents

12.1.2.3.1. The tax rates set forth in the preceding table will be used at least through December 31, 2008, are proportional to the rates enumerated in 65 ILCS S 5/8-11-2 (as modified by Public Act 90-561), and do not exceed the revenue that could have been collected during 1997 using the rates enumerated in 65 ILCS 5/8-11-2 (as modified by Public Act 90-561).

12.1.2.3.2. Pursuant to 65 ILCS 5/8-11-2, the rates set forth in subsection 12-1-2-3 above shall be effective:

- On September 1, 1998 for residential customers.

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- On the earlier of for non-residential customers:
 - The first bill issued on or after January 1, 2001
 - The date of the first bill issued pursuant to 220 ILCS 5/16-104.
- 12.1.2.3.3. The tax authorized by this Section 12.1.2.3 of this Section 12 shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Code and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to 3% of the tax to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the municipality upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the municipality in the manner prescribed by the municipality. Persons delivering electricity who file returns pursuant to this paragraph shall, at the time of filing such return, pay the municipality the amount of the tax collected pursuant to this Code.
- 12.1.2.3.4. The tax imposed by Section 12.1.2.3 of Section 12 shall not apply with respect to gross receipts pertaining to bills for distribution, supply, furnishing or sale of electricity where the use or consumption of the electricity is subject to the tax imposed by Section 12.1.2.3.
- 12.1.2.4 Persons engaged in the business of distributing, supplying, furnishing or operating a community antenna television system for consumption or use within the corporate limits of the Village of Gilberts; and not for resale, at the rate of 5% of the monthly gross receipts therefrom as provided in 65 ILCS 5/11-42-11.
- 12.1.3 Exemptions: Any activity exempt from the assessment of any tax pursuant to 65 ILCS 5/8-11-2 shall also be exempt from the assessment of the taxes herein enumerated and provided

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- 12.1.4 Addition to Franchise Fees: Such tax provided for in this Section 12.1 shall be in addition to the payment of money, or value of products or services furnished to this municipality by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business.
- 12.1.5 Monthly Tax: The tax provided for herein shall be based on the monthly gross receipts, as defined, actually paid to the taxpayer for services billed on or after the first day of the given calendar month up to and including the last day of the given calendar month.
- 12.1.6 Return
- 12.1.6.1 On or before the last day of every calendar month each taxpayer shall make a return to the Village Treasurer for the prior month period stating:
- His name;
 - His principal place of business;
 - His gross receipts during the month upon which the tax is imposed;
 - The amount of tax payable pursuant to the terms of this Section 12.1;
 - Such other reasonable and related information as the corporate authorities may require.
- 12.1.6.2 The taxpayer making the return required herein shall, at the time of making such return, pay to the Village Treasurer the amount of tax herein imposed; provided that in connection with any return the taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts
- 12.1.7 Limitations: If it shall appear that an amount of tax has been paid which was not due under the provisions of this Section 12.1 , whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Section 12.1 from the taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefore shall be so credited.

No action to recover any amount of tax due under the provisions of this Section 12.1 shall be commenced more than three (3) years after the due date of such amount.

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- 12.1.8 Penalty: Any person who fails to make a timely return, or who makes a fraudulent return, or who willfully violates any other provisions of this Section 12.1 is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Two Hundred Dollars (\$200.00) and in addition, shall be liable in a civil action for the amount of tax due. (See 65 ILCS 5/8-11-2).
- 12.1.9 Notice: The Village Clerk may send a copy of this Section 12.1 to all prospective taxpayers transacting business in the municipality.
- 12.1.10 Authorization: None of the taxes authorized by this Section 12.1 may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this state or any political sub-division thereof; nor shall any persons engaged in the business of transmitting messages, or using or consuming electricity acquired in a purchase at retail, be subject to taxation under the provisions of this Code for those transactions that are or may become subject to taxation under the provision of the “Retailers Occupation Tax Act”; nor shall any tax authorized by this Code be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the municipality, whether privately or municipally owned or operated, or exercising the same privilege with the municipality.

Such tax shall be in addition to other taxes levied upon the taxpayer or its business.

12.2. RETAILERS AND SERVICE OCCUPATION TAX

- 12.2.1 A tax is hereby imposed on all persons engaged, in the Village, in the business of selling tangible personal property at retail, at the rate of one percent of the gross receipts from such sales made in the course of such business, in accordance with the Illinois Retailers Occupation Tax Act, 35 ILCS 120/1 et seq.
- 12.2.2 A Village supplementary service occupation tax is hereby imposed upon all persons engaged in the business of making sales of service within the Village of Gilberts, at a rate of one percent of the cost price of all tangible personal property transferred by such servicepersons either in the form of tangible personal property or in the form of real estate as an incident to a sale of service in accordance with the Illinois Service Occupation Tax Act, 35 ILCS 115/1 et seq

12.3. USE TAX

- 12.3.1 A tax is hereby imposed upon the privilege of using in the Village any item of tangible personal property which is purchased outside of the State of Illinois at retail from a retailer, and which is titled or registered with any

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agency of this state's government, at the rate of one percent of the selling price of such tangible personal property, as "selling price" is defined in the Illinois Use Tax Act, 35 ILCS 105/1 et seq. Such tax shall be imposed on such tangible personal property sited within the Village and upon such tangible personal property whenever the Village of Gilberts is given as the property owner's address for titling and registration purposes.

12.4. PROFESSIONAL FEE REIMBURSEMENT

- 12.4.1 Review. Whenever a person is required by this Code, an ordinance of the Village, or state or federal law, to submit any plans, specifications or other documents to the Village to be reviewed, and in connection therewith it shall be necessary or desirable for the Village to retain professional services of an engineer, attorney, planning consultant and/or other professional, the person submitting the same shall be fully responsible for all fees charged by said professionals in reviewing the matter

For the purposes of this Section 12.4, the requirement to pay for professional fees incurred by the Village shall apply to, but not be limited to, applications for rezoning, applications for variations, applications for planned unit developments, applications for subdivision, applications for special use, applications for annexations and applications for building permits. Neither preliminary approval nor final approval shall be given for any subdivision, zoning change amendment, variation, planned unit development, special use, annexation or building permit unless and until the Village Clerk certifies that all professional fees incurred by the Village have been paid in full.

- 12.4.2 Reimbursement. It is further the purpose of this Section 12.4 to require the deposit of the necessary funds by applicants prior to professional fees being incurred by the Village in those instances in which the Village requires that the applicant reimburse the Village for any professional fees incurred by the Village in connection with the applicant's request or matter

- 12.4.3 Administration of Escrow. The Village Clerk shall be responsible for the administration of escrow of funds in all those instances in which the Village Code requires an applicant or other individual to reimburse the Village for any professional fees it may incur in processing that applicant's request or matter. This Section 12.4.3 shall apply to all instances in which the Village Code requires that an applicant or other individual reimburse the Village for its professional expenses incurred or to be incurred, and it shall apply to those Village Code provisions presently in effect or hereafter adopted which require an applicant or other individual to reimburse the Village for its professional fees incurred or to be incurred.

- 12.4.4 Estimate

- 12.4.4.1 The Village Clerk shall, upon receipt of a matter which may or will require professional services to be rendered to the Village, obtain an estimate of the amount of the cost of expected services based

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on the nature of the matter, its complexity, the relative need for professional advice, and the expected duration of processing of the matter. The Village Clerk shall so notify the individual applicant in writing with his estimate of the necessary funds to defray all professional costs the Village might incur in the course of reviewing the matter submitted by the applicant or other individual. The Village Clerk shall also include in this communication a request that the individual applicant deposit with the village within fourteen (14) days said sum to be held in escrow. The application or matter shall not thereafter be reviewed or acted upon by the Village unless and until said sum is received by the Village Clerk. Upon receipt of said sum, the Village Clerk shall deposit the same in a separate escrow account.

- 12.4.4.2 Simultaneously with the sending of notice to the applicant or other individual, the Village Clerk shall also notify the professionals whom the Village expects to utilize to review the matter and request that those professionals bill no less frequently than monthly on said matter, and otherwise keep the Village apprised of time and cost expended in reviewing this matter.
- 12.4.5 Disbursements. The escrow funds as deposited shall be utilized to pay for professional review and any and all disbursements therefrom shall be approved by the Village Clerk or the Village Board, and a copy of each disbursement shall be transmitted by the Village Clerk to the individual applicant who has deposited the funds.
- 12.4.6 Replenishment. The Village Clerk shall periodically review the escrow funds on deposit to ensure that adequate funds are available to satisfy all professional statements relating to said matter. In the event that the Village Clerk determines that sufficient funds are not available, the Village Clerk shall so notify the applicant or other individual and request a further amount to defray the anticipated additional costs in accordance with the standards set forth in Section 12.4.4 hereof. The professionals previously engaged shall be advised not to do any further work until said sum has been received, and the individual applicant shall be given fourteen (14) days to deposit said additional funds. In the event that said funds are not deposited, the Village shall take no further action on the matter and shall so advise the applicant or other individual.
- 12.4.7 Final Disbursement. At the conclusion of the matter and after all outstanding professional fees incurred by the Village in review of the matter have been satisfied in full, the Village Clerk shall remit the balance, if any, to the applicant or other individual.

SECTION 13. MISC. DEVELOPMENT FEES

DEDICATION OF SCHOOL SITES, PARK, FIRE/RESCUE, POLICE/PUBLIC SAFETY, VILLAGE ADMINISTRATION FACILITIES AND LIBRARY LANDS (TO BE APPLICABLE IF A LIBRARY DISTRICT IS CREATED OR LIBRARY FACILITIES ARE PROVIDED BY THE VILLAGE) OR CASH CONTRIBUTIONS IN LIEU THEREOF

13.1. LEGISLATIVE INTENT:

As a condition of approval of a final plat of subdivision or of a final plat of a planned development, each subdivider or developer shall be required to dedicate land for library (to be applicable if a Library District is created or Library facilities are provided by the Village), Village park, recreational, fire/rescue, police/public safety, Village Administration facilities and school purposes to serve the immediate and future needs of the residents of the development, or shall be required to make a cash contribution in lieu of actual land dedication, or a combination of both, at the option of the Village with the concurrence of the affected district or districts, which concurrence shall be obtained in writing. However, the Village shall have the final decision making power in this regard. Land dedication sites may be made to the Village or to the applicable district at the discretion of the Village Board. The dedications and cash contributions required hereunder shall be made in accordance with the criteria and formulas herein as to property now within the Corporate limits of the Village; property which hereafter is annexed to the Village shall be subject to such dedications and cash contributions as may be negotiated from time to time and included in an Annexation Agreement; the provisions of this Ordinance may provide a guide for such negotiations but there may be increases or decreases in the dedications and cash contributions herein provided for based on the overall circumstances which are applicable.

13.2. SCHOOL SITE DEDICATIONS

CRITERIA FOR REQUIRING SCHOOL SITE DEDICATIONS:

- 13.2.1 Requirement and Population Ratio: The ultimate number of students to be generated by a subdivision or planned development shall bear directly on the amount of land required to be dedicated for school sites. The land dedication requirement shall be determined by obtaining the ratio of (a) estimated children to be served in each such school classification over the (b) maximum recommended number of students to be served in each such school classification as stated herein, and then applying such ratio to (c) the appropriate number of acres for a school site of each such school classification as stated herein. The product thereof shall be the acres of land deemed needed to have sufficient land for school sites to serve the estimated increase in number of students for each such school classification.

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13.2.2 School Classifications and Size of School Site: These requirements for acreage are based upon a review of available data studies and literature on the subject, including but not limited to, information provided by the State Superintendent of Education and the unique characteristics of the Village, including its general rural character and open spaces, and the desire of the residents to maintain this character and open space in future school sites. These requirements for acreage shall be presumed as the appropriate acreage requirements and shall be used in calculating any cash in lieu of land dedication herein unless timely objected to as provided herein. Objections to these acreage requirements for any particular development shall be made in accordance with Section 13.18 herein to the Plan Commission. Failure to timely object to these acreage requirements in accordance with Section 13.18 herein shall thereafter waive any right to raise an objection at a later time.

School classifications and size of school sites within the Village shall be determined in accordance with the following criteria:

LOCAL SCHOOL DISTRICT CRITERIA		
School Classification by Grades	Maximum Number of Students for Each Such School Classification	Appropriate Number of Acres of Land for Each School Site of Such Classification
Elementary Schools, Grades kindergarten through 5 th or 6 th	670 students	15 acres
Junior high schools, grades 6 th through 8 th or 7 th and 8 th	850 students	25 acres
High schools, grades 9 th through 12 th	1500 students	70 acres

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13.2.3 Location: The Comprehensive School Plan and/or the standards adopted by the affected School District shall be used as a guideline in locating sites. School sites shall be located in the Village in accordance with plans heretofore or hereafter adopted by the school district. If the school district has not planned a school site within the Village or the proposed subdivision or planned development, or in the neighborhood in which such subdivision or planned development is located, the school site shall be so located as to be readily accessible to the greatest number of children projected for such neighborhood.

13.2.4 **TABLE OF ESTIMATED POPULATION PER DWELLING UNIT.** The following table shall be used in connection with the provisions of this Section 13:

Type of Unit	Pre-School 0-4 Years	Elementary Grades K-6 5-11 Years	Jr. High Grades 7-8 12-13 Years	Total Grades K-8 5-13 Years	Sr. High Grades 9-12 14-17 Years	Adults 18-Up)	Total Per Unit
Detached Single Family:							
2 Bedroom	0.113	0.136	0.048	0.184	0.020	1.700	2.017
3 Bedroom	0.292	0.369	0.173	0.542	0.184	1.881	2.899
4 Bedroom	0.418	0.530	0.298	0.828	0.360	2.158	3.764
5 Bedroom	0.283	0.345	0.248	0.593	0.300	2.594	3.770
Attached Single Family:							
1 Bedroom	-0-	-0-	-0-	-0-	-0-	1.193	1.193
2 Bedroom	0.064	0.088	0.048	0.136	0.038	1.752	1.990
3 Bedroom	0.212	0.234	0.058	0.292	0.059	1.829	2.392
4 Bedroom	0.323	0.322	0.154	0.476	0.173	2.173	3.145
Apartments:							
Efficiency	-0-	-0-	-0-	-0-	-0-	1.294	1.294
1 Bedroom	-0-	-0-	0.001	0.003	0.001	1.754	1.758
2 Bedroom	0.047	0.086	0.042	0.128	0.046	1.693	1.914
3 Bedroom	0.052	0.234	0.123	0.357	0.118	2.526	3.053

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13.4. PARK AND RECREATIONAL LAND DEDICATIONS

CRITERIA FOR REQUIRING PARK AND RECREATIONAL LAND DEDICATIONS:

- 13.4.1 **Suitability**: The land for park and recreational dedications shall be suitable for the purpose for which it is intended. Land set aside by developers for parks, recreation and conservation purposes shall not be what has been "left over" after residential, commercial and industrial development.
- 13.4.2 **Requirement and Population Ratio**: The ultimate density of a proposed development shall bear directly on the amount of land required for dedication for park and recreational purposes. The total requirement shall

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be 15 acres of land per 1,000 of ultimate population and may be allocated by the Village Board at its discretion based upon the following criteria:

Type of Recreation Area	Minimum Size
Play Lot	8,000 square feet
Neighborhood Park	3 acres
Village-Wide Park for Active Sports	10 acres
Village-Wide Community Park	15 acres

These requirements for acreage are based upon the Comprehensive Plan of the Village, a review of available data studies and literature on the subject, including but not limited to, the National Recreation and Park Association's *Recreation, Park and Open Space Standards and Guidelines, 1990*. These requirements shall be presumed as the appropriate acreage requirements and shall be used in calculating any cash in lieu of land dedication herein unless timely objected to as provided herein. Objections to these acreage requirements for any particular development shall be made in accordance with Section 13.21 herein to the Plan Commission. Failure to timely object to these acreage requirements in accordance with Section 13.21 herein shall thereafter waive any right to raise an objection at a later time.

- 13.4.3 Location: The park and recreation plans as adopted by the Village's Comprehensive Plan shall be used as a guideline in locating sites. A central location that will serve equally the entire development or a location that is adjacent to existing park and recreational land is most desirable. In large developments, these sites can be located throughout the development according to established standards for park area distances.

13.5. FIRE/RESCUE CONTRIBUTIONS

FIRE/RESCUE CAPITAL FACILITIES CONTRIBUTIONS AND SITE DEDICATION:

- 13.5.1 Requirement and Population Ratio: The development of new subdivisions and planned developments increases the demands upon the existing fire/rescue protection service provided by the Village in a proportionate and ascertainable manner and create the need for additional fire/rescue, firehouse and training sites. Studies reveal the need to develop additional fire/rescue protection services. Therefore, as a condition of approval of a final plat of subdivision or of a final plat of a planned development, each developer or subdivider shall be required to dedicate land for fire/rescue facilities to serve the immediate and future needs of the residents of the development or shall be required to make a cash contribution in lieu of actual land dedication.

The ultimate density of a proposed development shall bear directly on the amount of land required for a fire/rescue site dedication. The Village

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hereby finds that the total requirement shall be 3 acres of land per 10,000 of ultimate population. This requirement is based upon a review of available data as well as the respective Fire Protection Districts' own internal examination of fire/rescue utilization and needs.

The ultimate density of a proposed development shall bear directly on the amount of land required for a fire/rescue site dedication. The Village hereby finds that the total requirement shall be 3 acres of land per 10,000 of ultimate population. This requirement is based upon a review of available data as well as the respective Fire Protection Districts' own internal examination of fire/rescue utilization and needs.

This contribution and/or dedication is based upon a review of available data, studies and literature, including, but not limited to, the requirements of surrounding communities. They shall be presumed to be correct and accurate and shall be used in calculating cash contributions herein unless timely objected to as provided herein. Objections to this section 13.5 shall be made in accordance with Section 13.21 herein. Failure to timely object to these acreage requirements in accordance with Section 13.21 herein shall thereafter waive any right to raise an objection at a later time.

The Fire/Rescue Capital Facilities Contribution shall be held in trust by the applicable Fire Protection District and shall be used for the purpose of assisting in providing additional facilities for such Fire Protection District purposes.

- 13.5.2 Location: The location of any new fire/rescue facility and/or training site shall be determined by the appropriate Fire Protection District in consultation with the Village.

13.6. LIBRARY SITE DEDICATION

CRITERIA FOR REQUIRING LIBRARY SITE DEDICATION:

- 13.6.1 Dedication to the applicable Library District if one is created or, to the Village Library Fund if Library facilities are provided by the Village:

Requirement and Population Ratio: The ultimate density of a proposed development shall bear directly on the amount of land required for dedication. New development and increased population create greater demands for adequate and efficient library services to meet the educational, cultural and recreational needs of the citizenry. They create the need for additional library facilities. The Village hereby finds that the total requirement shall be 2.5 acres of land per 10,000 of ultimate population.

These requirements are based upon a review of available data, studies and literature on the subject, as well as the Library District's own internal examination of library utilization and needs. They shall be presumed as the appropriate acreage requirements and shall be used in calculating any cash in lieu of land contribution herein unless timely objected to as

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provided herein. Objections to these acreage requirements for any particular development shall be made in accordance with Section 13.21 herein. Failure to timely object to these acreage requirements in accordance with Section 13.21 herein shall thereafter waive any right to raise an objection at a later time.

- 13.6.2 Location: The location of any new library facility shall be determined by the Library District, if in existence, after consultation with the Village; otherwise by the Village if the Village is providing Library facilities.

13.7. POLICE/PUBLIC SAFETY CONTRIBUTIONS

POLICE/PUBLIC SAFETY FACILITIES CONTRIBUTIONS AND SITE DEDICATION

- 13.7.1 Requirement and Population Ratio: The development of new subdivisions and planned developments increases the demands upon the existing police/public safety facilities provided by the Village in a proportionate and ascertainable manner and create the need for additional police/public safety facilities. Studies reveal the need to develop additional police/public safety facilities. Therefore, as a condition of approval of a final plat of subdivision or of a final plat of a planned development, each developer or subdivider shall be required to dedicate land for police/public safety facilities to serve the immediate and future needs of the residents of the development or shall be required to make a cash contribution in lieu of actual land dedication.

The ultimate density of a proposed development shall bear directly on the amount of land required for a police/public safety facilities site dedication. The Village hereby finds that the total requirement shall be 3 acres of land per 10,000 of ultimate population. This requirement is based upon a review of available data as well as the respective police/public safety facilities' own internal examination of police/public safety utilization and needs.

This contribution and/or dedication is based upon a review of available data, studies and literature, including, but not limited to, the requirements of surrounding communities. They shall be presumed to be correct and accurate and shall be used in calculating cash contributions herein unless timely objected to as provided herein. Objections to this Section 13.7 shall be made in accordance with Section 13.21 herein. Failure to timely object to these requirements in strict accordance with Section 13.21 herein shall thereafter waive any right to raise an objection at a later time.

The Police/Public Safety Facilities Contribution shall be held in trust by the Village and shall be used for the purpose of assisting in providing additional facilities for such Police/Public Safety purposes.

- 13.7.2 Location: The location of any new police/public safety facility and/or training site shall be determined by Village.

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13.8. VILLAGE ADMINISTRATION CONTRIBUTIONS

VILLAGE ADMINISTRATION FACILITIES CONTRIBUTIONS AND SITE DEDICATION

- 13.8.1 Requirement and Population Ratio: The development of new subdivisions and planned developments increases the demands upon the existing Village Administration facilities provided by the Village in a proportionate and ascertainable manner and create the need for additional police/public safety facilities. Studies reveal the need to develop additional Village Administration facilities. Therefore, as a condition of approval of a final plat of subdivision or of a final plat of a planned development, each developer or subdivider shall be required to dedicate land for Village Administration facilities to serve the immediate and future needs of the residents of the development or shall be required to make a cash contribution in lieu of actual land dedication.

The ultimate density of a proposed development shall bear directly on the amount of land required for a Village Administration facilities site dedication. The Village hereby finds that the total requirement shall be 3 acres of land per 10,000 of ultimate population. This requirement is based upon a review of available data as well as the respective police/public safety facilities own internal examination of police/public safety utilization and needs.

This contribution and/or dedication is based upon a review of available data, studies and literature, including, but not limited to, the requirements of surrounding communities. They shall be presumed to be correct and accurate and shall be used in calculating cash contributions herein unless timely objected to as provided herein. Objections to this Section 13.8 shall be made in accordance with Section 13.21 herein. Failure to timely object to these requirements in strict accordance with Section 13.21 herein shall thereafter waive any right to raise an objection at a later time.

The Village Administration Facilities Contribution shall be held in trust by the Village and shall be used for the purpose of assisting in providing additional facilities for such Village Administration purposes.

- 13.8.2 Location: The location of any new Village Administration site shall be determined by the Village.

13.9. CRITERIA FOR CASH CONTRIBUTION

CRITERIA FOR REQUIRING A CASH CONTRIBUTION IN LIEU OF DEDICATION OF SCHOOL, PARK, LIBRARY, FIRE/RESCUE, POLICE/PUBLIC SAFETY AND MUNICIPAL SITES:

- 13.9.1 When the development is small and the resulting site is too small to be practical, or when the available land is inappropriate for park and recreational purposes or school, fire/rescue or library sites or is in conflict with the approved Comprehensive School Plan, the Village, with the

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- concurrence of the affected district, shall require the subdivider or developer to pay a cash contribution in lieu of the land dedication.
- 13.9.2 13.9.2 The cash contribution in lieu of dedication of school sites shall be held in trust by the applicable School District or other public body designated by the benefiting School District and shall be used solely for the acquisition of land for school sites to serve the immediate or future needs of children from that subdivision or development or for the expansion of any existing school site that already serves such needs, but not for the construction of school buildings or additions thereto unless agreed to otherwise by the subdivider or developer at the time of platting.
- 13.9.3 The cash contribution in lieu of park and recreation land dedication shall be held in trust by the Village and shall be used solely for the acquisition of park and recreation land as classified above, which will be available to serve the immediate or future needs of the residents of that subdivision or development or for the expansion of other existing local park and recreation lands that already serve such needs or for any other lawful park purpose or for any park purpose agreed to by the subdivider or developer at the time of platting.
- 13.9.4 The cash contribution in lieu of a library site dedication shall be held in trust by the applicable Library District or other public body as designated by the Library District (if such District is then in existence). If no Library District is then in existence such cash contribution shall be held in trust by the Village and shall be used for the acquisition of library land as required herein, which will be available to serve the immediate or future needs of the residents of that subdivision or development or for the expansion of existing or proposed library facilities that already serve or will serve such needs or for any other lawful purpose agreed to by the subdivider or developer at the time of platting.
- 13.9.5 The cash contribution in lieu of a fire/rescue sites shall be held in trust by the applicable Fire Protection District or other public body as designated by the Fire Protection District and shall be used for the acquisition of land for fire/rescue facilities or training sites to serve the immediate and future needs of the residents of that subdivision or development or for the expansion of any other existing fire station or training site that already serves such needs or for any other lawful fire/rescue purpose agreed to by the subdivider or developer at the time of platting.
- 13.9.6 The cash contribution in lieu of police/public safety sites shall be held in trust by the Village and shall be used for the acquisition of land for police/public safety facilities sites to serve the immediate and future needs of the residents of that subdivision or development or for the expansion of any other existing police/public safety site that already serves such needs or for any other lawful police/public safety purpose agreed to by the subdivider or developer at the time of platting.

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- 13.9.7 The cash contribution in lieu of municipal sites shall be held in trust by the Village and shall be used for the acquisition of land for municipal facilities to serve the immediate and future needs of the residents of that subdivision or development or for the expansion of the existing municipal site that already serves such needs or for any other municipal purpose agreed to by the subdivider or developer at the time of platting.
- 13.9.8 13.9.8 If any portion of a cash contribution in lieu of park and recreation or fire/rescue land dedication or dedication of library and/or school sites or police/public safety or municipal sites is not expended for the purposes set forth herein within 13 years from the date of receipt, it shall be refunded by the entity holding the contribution to the record owner of the subdivided land at the time of the refund. If there is more than one record owner of the subdivided land or of the land that comprises the planned development, as applicable, such record owners shall share in the refund pro-rata based on the cash contributions originally paid by each property.
- 13.9.9 Fair Market Value: The cash contributions in lieu of land shall be based on the "fair market value" of the acres of land in the area that otherwise would have been dedicated as park and recreation, library, fire rescue and school sites. The fair market value, on a per acre basis, shall assume, unless determined otherwise pursuant to this Section 13 that the land is zoned in a one-family dwelling residential zoning district subdivided with appropriate frontage on a dedicated street or road, has all appropriate utilities available, is improved as set forth in herein, and is otherwise property capable of being used for residential development. Based upon a study of comparable real estate transactions, it has been determined that the present "fair market value" of such improved land in and surrounding the Village is, as of December 1, 2003, as provided in Village Code Section 14.15, and thereafter shall be adjusted as provided in Section 13.11, below.
- The above Fair Market Value as provided in Section 14.15 shall be adjusted from time to time after appropriate study and documentation. The "fair market value" as defined above shall be used in calculating any cash in lieu of land dedication herein unless timely objected to as provided in Section 13.21 herein. Objections to the fair market value as defined above shall be made in accordance with Section 13.21 to the Plan Commission. Failure to timely object to the "fair market value" as defined above in accordance with Section 13.21 herein shall thereafter waive any right to raise an objection at a later time.
- 13.9.10 Criteria for Requiring Dedication and a Contribution: There will be situations in subdivisions or planned developments when a combination of land dedication and a cash contribution in lieu of land are both necessary. These occasions will arise when (a) only a portion of the land to be developed is proposed as the location for a library, park, fire/rescue, police/public safety, municipal or school site (that portion of the land within

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the subdivision falling within the library, park, fire/rescue, police/public safety, municipal or school location shall be dedicated as a site as stated above, and a cash contribution in lieu thereof shall be required for any additional land that would have been required to be dedicated); or (b) a major part of the local library, park, fire/rescue, police/public safety, municipal or school site has already been acquired by the particular district or Village and only a small portion of land is needed from the development to complete the site (the remaining portion shall be required by dedication, and a cash contribution in lieu thereof for the rest of the required land shall be required).

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13.11. CONSUMER PRICE INDEX.

The fair market value identified in Section 13.9 above shall be subject to a "CPI Adjustment" which shall be calculated as of January 1, 2005 and as of the first day of January in each year thereafter. Annually, the fixed charge shall be adjusted to an amount equal to the fixed charge multiplied by a fraction, the numerator of which is the "All Items" Consumer Price Index for Urban Consumers (1982-84 = 100) for Chicago, Illinois, published by the United States Department of Labor's Bureau of Labor Statistics ("CPI") for the month of December preceding the year of adjustment and the denominator of which is the CPI for the month of December preceding the month of adjustment. If any index is calculated from a base different from the base period 1982-84 = 100, such index shall be converted to a base period of 1982-84 = 100 by use of a conversion factor supplied by said Bureau of Labor Statistics. If the CPI is discontinued or replaced, such other governmental Cost of Living Index or computation which replaces the CPI shall be used in order to obtain substantially the same result as would be obtained if the CPI had not been discontinued or replaced.

13.12. DENSITY FORMULA:

- 13.12.1 The *Table of Estimated Ultimate Population Per Dwelling Unit*, prepared by Illinois School Consulting Service/Associated Municipal Consultants, Inc., Naperville, Illinois, and as updated from time to time by the consulting firm contained in Section 13.2.4 herein, constitutes projections of anticipated population density and is generally indicative of current and short-range projected trends in family size for new construction and shall be used in calculating the amount of required dedication of acres of land or the cash contributions in lieu thereof unless a written objection is filed thereto by the subdivider or developer pursuant to Section 13.21 herein.
- 13.12.2 A bedroom as used in this Section 13.12 shall mean any room, regardless of its designation by the Owner or permit Applicant, which is suitable to be used regularly as a room for sleeping, including but not limited to dens, studies, bonus rooms, libraries, television rooms, sewing rooms and

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similar rooms (all of which are hereafter referred to as “Extra Rooms”) whether finished or unfinished, located on the bedroom level of a multi-story residence.

Extra rooms located on the non-bedroom level of a multi-story residence shall be considered bedrooms if there is a bath on that level containing a shower or tub. Extra rooms in a single story residence shall always be considered bedrooms. All such extra rooms shall be considered as potential bedrooms and included as bedrooms for the purposes of determining the required size of a septic seepage field of a residence.

13.12.3 The most recent version of the *Table of Estimated Ultimate Population Per Dwelling Unit* shall be used in calculating any cash in lieu of land dedication herein unless objected to as provided in Section 13.21 herein. Objections to the *Table of Estimated Ultimate Population Per Dwelling Unit* shall be made in accordance with Section 13.21 to the Plan Commission. Failure to object to the *Table of Estimated Ultimate Population Per Dwelling Unit* in accordance with Section 13.21 shall thereafter waive any right to raise an objection at a later time.

13.12.4 In the event a subdivider or developer files a written objection to the *Table of Estimated Ultimate Population Per Dwelling Unit* listed above, he shall submit his own demographic study showing the estimated additional population to be generated from the subdivision or planned development, and in that event final determination of the density formula shall be made in accordance with Section 13.21 herein.

13.13. RESERVATION OF ADDITIONAL LAND:

When the Comprehensive Plan or the standards of the Village call for a larger amount of park and recreational land or library or school sites in a particular subdivision or planned development than the developer is required to dedicate pursuant to this Section 13 , the land needed beyond the developer's dedication shall be set aside and reserved by the developer for subsequent purchase by the Village or applicable governmental unit (at a price determined at the time of reservation) or other public body designated by the Village, provided that such acquisition is made within five years from the date of approval of the final plat.

13.13.1 COMBINING WITH ADJOINING DEVELOPMENTS:

Where appropriate, a public open space or a school site that is to be dedicated should, if possible, be combined with dedications from adjoining developments in order to produce usable recreation areas and/or school sites without undue hardship on a particular developer.

13.14. TOPOGRAPHY AND GRADING:

13.14.1 The slope, topography and geology of the dedicated site as well as its surroundings must be suitable for its intended purpose. Wetlands and

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flood plains may be accepted for Village ownership and maintenance, but shall not serve as a credit toward the required park site dedication. Storm water detention areas shall not be accepted for Village ownership and maintenance, and the portion of a detention area designed to function primarily as a component of the Storm water control system shall not serve as a credit toward the required park site dedication. A park site shall be not less than one acre in area. The Village Board reserves the right, however, in its sole discretion, to accept in whole or in part, certain areas such as, but not limited to, tree massings, prairie remnants, high quality or unique wetlands, or other natural features as all or part of the required park site dedication in furtherance of open space preservation that may be unique to a given parcel or development. Wetlands, flood plains, detention areas, retention areas and areas of steep slope shall not be accepted as school, park, fire/rescue or library sites and shall not serve as a credit toward the required school, park, fire/rescue or library site cash contribution in lieu of land dedication.

13.14.2 In addition, the following site conditions and preparation standards shall be met:

13.14.2.1 Slope:

13.14.2.1.1. Should not vary greatly in appearance from existing and adjacent slopes;

13.14.2.1.2. Optimum slopes range from two percent minimum to five percent maximum. No less than two percent slope is acceptable under any circumstances;

13.14.2.1.3. Maximum allowable slope is 10 percent, except under special conditions where greater slopes are desirable to enhance the use of the site; and

13.14.2.1.4. On-site drainage patterns shall be designated and constructed to:

13.14.2.1.4.1. Ensure flow toward swales; and

13.14.2.1.4.2. Ensure drainage away from active areas.

13.14.2.2 Grading:

13.14.2.2.1. Rough grading shall be completed at time of rough grading of adjacent contiguous area;

13.14.2.2.2. Grading shall comply with Village approved plans;

13.14.2.2.3. Subgrade shall be graded and compacted so it will parallel finished grade;

13.14.2.2.4. Subgrade material shall be loosened and fine graded to a depth of two to four inches. All stones over four inches in

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size, sticks, debris, rubbish and other foreign substances shall be removed; and

- 13.14.2.2.5. Finished grades shall be uniform in slope between points for which elevations have been established.

13.14.2.3 Soils:

- 13.14.2.3.1. Soils shall not differ from those naturally occurring;

- 13.14.2.3.2. Soils shall not offer any restriction to the ultimate use of the property;

- 13.14.2.3.3. Topsoil shall be spread evenly and lightly compacted to a minimum depth of six inches over the entire site;

- 13.14.2.3.4. Topsoil must be good, friable soils with good tillage and shall be without any admixture of subsoil, clay, gravel, stones, debris, refuse, sand or other subsurface elements;

- 13.14.2.3.5. Topsoil shall not be placed in a muddy or frozen condition;

- 13.14.2.3.6. Topsoil shall contain no toxic substances which may be harmful to plant growth; and

- 13.14.2.3.7. Topsoil shall be spread no later than the placement of topsoil on the first lot adjacent to the site.

13.14.2.4 Seeding:

- 13.14.2.4.1. All proposed library, park and recreational and school sites shall be seeded and an acceptable stand of grass or vegetation established prior to dedication of the area to the Village;

- 13.14.2.4.2. Village-approved ground covers and grasses shall be used for all park and recreational areas suitable for the nature of the activity planned to occur thereon;

- 13.14.2.4.3. Seeding shall be completed during the fall or spring planting times, depending upon the recommended seed planting specifications;

- 13.14.2.4.4. Seeding shall be on moderately dry soil on a seed bed which will easily accept and nurture germination of seeds;

- 13.14.2.4.5. Seeding shall be watered sufficiently so that the vegetation becomes reasonably established; and

- 13.14.2.4.6. The developer shall be responsible for making necessary reparations to the site caused by erosion or other damage. Reparations shall be completed prior to acceptance of the site.

13.15. IMPROVED SITES:

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All sites shall be dedicated in a condition ready for full service of electricity, natural gas, telephone and cable television, and streets (including enclosed drainage and curb and gutter, where applicable), as applicable to the location of the site, and shall otherwise comply with the requirements of the Village ordinances and codes. The landscaping normally included within the definition of "improved" sites under said ordinances and codes may be deleted due to the delay time between dedication of any such school site and the construction of school facilities thereon, except for groundcover as required in herein. The site shall have direct access to a fully improved street across at least 20 percent of the distance of its perimeter. School and park sites should ideally be accessible by a bicycle/pedestrian trail, and any such access route onto the property shall be at least 25 feet wide. Such access routes should normally be dedications and not easements, depending on which entity of government is to be responsible for said routes. Any vehicular access route leading to or on the site shall be of sufficient size and good geometry to properly accommodate vehicles that will access and traverse the site, including but not limited to good principles of traffic circulation, accommodation of one-way and/or two-way drives for school buses, separation of bus traffic from passenger automobile traffic, bus drop-off areas separate from publicly-dedicated streets, guest and employee parking areas, and the like. Such off-street access routes, drives, drop-offs and parking areas will not be dedicated rights-of-way and shall be the responsibility of the owner of the site to maintain.

13.16. ENVIRONMENTAL RISK AUDIT:

- 13.16.1 Prior to the conveyance of any land to the Village, library district, fire protection district or school district, the intended grantee shall be furnished with an environmental risk audit prepared by an environmental professional meeting the minimum requirements of 415 Illinois Compiled Statutes 5/22.2(j)(6)(E)(iii), certified to and acceptable to the grantee, assuring the grantee that there are no hazardous substance(s) (as defined hereinafter) on, under, to or from the land. Said environmental audit shall be what is commonly referred to as a Phase I Environmental Audit, which shall meet the minimum requirements for a pre-acquisition audit as set for in 415 Illinois Compiled Statutes 5/22.2(j)(6)(E)(iii)(v).
- 13.16.2 In the event the Phase I Environmental Audit does not conclude there is no presence or likely presence of a release of substantial threat of a release of hazardous substance(s) or pesticide on, under, to or from the land, the grantee shall furnish a Phase II Environmental Audit as set forth in 415 ILCS 5/22.2(j)(6)(E)(iii)(vi), including a soil toxicity analysis and recommendation from said environmental professional, meeting the minimum requirements of 415 ILCS 5/22.2(j)(6)(E)(iii), which concludes that there is no presence or likely presence of a release or substantial threat of a release of hazardous substance(s) on, under, to or from the land, and certifying that, in the judgment of said environmental professional, there is no reasonable probability that the land contains any

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hazardous substance(s) in violation of any federal or state environmental standards.

- 13.16.3 In the event said Phase II Environmental Audit and/or soil toxicity analysis discloses the presence or likely presence of a release or a substantial threat of a release of any hazardous substance(s) at, on, under, to or from the land to the conveyed, the grantor shall first cause all such hazardous substance(s) to be removed at its sole cost and expense in accordance with all federal, state and local environmental laws, rules and regulations and furnish the intended grantee with a "No Further Remediation Letter" from the governmental agencies having jurisdiction over the clean up prior to conveyance of any of the land to the intended grantee.
- 13.16.4 Prior to the conveyance of the land, the subdivider or developer, as the case may be, and the owner of the land to be conveyed, shall execute and deliver to the intended grantee an Environmental Indemnification Agreement, which form has been approved by the Village Attorney, agreeing to defend, indemnify and hold the Village, its corporate authorities, officers, officials, employees, agents, successors and assigns, and the school district, as the case may be, and its respective officers, officials, employees, agents, successors and assigns, harmless from and against any and all liability, claims, damages, causes of action and expenses arising out of the presence of any hazardous substance(s) in, under or upon said land to be conveyed prior to the date of conveyance.
- 13.16.5 Hazardous substance(s) includes without limitation:
- 13.16.5.1 Those substances included in the definitions of hazardous substances, extremely hazardous substances, hazardous materials, toxic substances, toxic chemicals, toxic wastes, hazardous chemicals, hazardous wastes, solid waste and pesticides in CERLA, SARA, RCRA, HSWA, TSCA, OSHA, FWPCE, Illinois Pesticides Act (415 ILCS 60/1 et seq.), Illinois Responsible Property Transfer Act (765 ILCS 90/1 et seq.) and the Illinois Hazardous Materials Transportation Act (430 ILCS 30/1 et seq.), 49 U.S.C. Section 1801 et seq., as amended, and as they may be amended in the future, and in the regulations promulgated pursuant to said laws.
- 13.16.5.2 Those substances defined in Section 1003 of the Illinois Environmental Protection Act and in the regulations promulgated pursuant to said act or other Illinois laws pertaining thereto.
- 13.16.5.3 Those substances listed in the U.S. Department of Transportation Table (49 CFR 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and amendments thereto).

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- 13.16.5.4 Such other substances, materials and wastes which are to become regulated under applicable local, state or federal law, or which are classified as hazardous or toxic under federal, state or local laws, ordinances or regulations.
- 13.16.5.5 Any material waste or substance which is (a) asbestos, (b) polychlorinated biphenols, (c) designated as a hazardous substance pursuant to Section 311 of the Clean Water Act, 33 U.S.C. Section 1251 et seq. (33 U.S.C. Sec. 1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Sec. 1317, (d) explosives, or (e) radioactive materials.
- 13.16.5.6 For purposes of this Section 13.17, hazardous substances shall include petroleum or its byproducts as regulated under RCRA and any applicable state law or regulations.

13.17. SUITABILITY OF SOILS AT SITE:

The subdivider or developer, at its own cost or expense, shall provide to the Village, library district, fire protection district or school district soil boring data, soil compaction test results and such other engineering studies, data and information pertaining to the proposed school, library, fire/rescue or park and recreational site, which the Village, library district, fire protection district or school district may request to enable it to determine the suitability of the proposed land dedication for library, fire/rescue or school sites or park and recreation purposes. The Village, library district, fire protection district or school district shall have the right to reject any site which the Village, library district, fire protection district or school district determines, in accordance with sound engineering practices, is not suitable for library site, fire/rescue site, park and recreational site or school site purposes.

13.18. TITLE INSURANCE, SURVEY, ASSESSMENT PLATS:

- 13.18.1 Each deed or other instrument conveying land to the Village, library district, fire protection district or school district shall be accompanied by:
- 13.18.1.1 A written commitment issued by a title insurer licensed to do business in the state to insure the grantee's title to such real estate in an amount equal to the value computed pursuant to Section 11-7-6 herein, with extended coverage over the general exceptions to title and subject only to:
- 13.18.1.1.1. real estate taxes not yet due and payable,
- 13.18.1.1.2. covenants, conditions and restrictions which do not prohibit the use of the subject property for library, school or park and recreational use,
- 13.18.1.1.3. utility easements located within 20 feet of the boundary lines of the subject real estate (except where approved on the final engineering plans approved by the Village Engineer),

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- 13.18.1.1.4. drainage ditches, feeders and laterals.
 - 13.18.1.1.5. underground pipe or other conduit, and
 - 13.18.1.1.6. acts done or suffered by or judgments against the grantees.
- 13.18.1.2 A current ALTA boundary line survey, certified to the grantee by a licensed Illinois Land Surveyor to be in compliance with the American Land Survey Standards, showing no encroachments; and
- 13.18.1.3 Except in instances where the real estate is to be conveyed is a lot in a recorded subdivision, an assessment plat and tax division petition in a form acceptable to the appropriate Village authorities so the land to be conveyed can be assigned its own permanent real estate index number (PIN) for exemption purposes.
- 13.18.2 In addition, monuments must be established and the land staked immediately prior to dedication of the property. The subdivider or developer shall pay for the cost of the owner's title insurance in said amount, the ALTA survey, the assessment plat and any and all costs in connection with the tax division.

13.19. REAL ESTATE TAX ESCROW:

The developer shall pay the general real estate taxes on the land not yet due and payable as of the date of transfer, and shall deposit a sum of money in escrow with the intended grantee's attorney or a title company licensed to do business in the State of Illinois, which is prorated as of the date of transfer on the basis of 110 percent of the tax assessor's latest assessed valuation, the latest known equalization factors and the latest known tax rate on the land. In the event the previous tax information or the previous tax bill includes other property, then the amount to be deposited in escrow shall be adjusted ratably based on the net acreage of the land compared to the net acreage of the other parcels covered by said tax bills. After the land has been divided for real estate tax purposes and has been conveyed to the intended grantee, the grantee shall proceed with due diligence to apply for a real estate tax exemption on the land.

13.20. THERE IS NO SECTION 13.20

13.21. OBJECTIONS:

- 13.21.1 All objections relating to acreage requirements, presumptions as to fair market value, the *Table of Estimated Ultimate Population Per Dwelling Unit* or any other application of this Section 13.21 to a particular subdivision or planned development, shall first be referred to the Plan Commission for a hearing. An objection must be made, if at all, prior to the approval of the final plat of subdivision by the Village. A failure to object by such time shall constitute a waiver of the right to object to the provisions of this Section 13.21. The procedure for a hearing before the Plan Commission shall be

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as follows:

- 13.21.1.1 Duties of the Plan Commission: The Plan Commission shall serve in an advisory capacity and shall have the following duties:
- 13.21.1.1.1. Advise and assist the Village in resolving objections regarding the *Table of Estimated Ultimate Population Per Dwelling Unit* in Section 13.2.4, the size of the school, park, fire/rescue and library, sites the fair market value of the land used to calculate the cash contribution or any other application of this Section 13.21 to a particular subdivision or planned development.
 - 13.21.1.1.2. The Village shall adopt procedural rules to be used by the Plan Commission in carrying out the duties imposed by this Section 13.21.
- 13.21.1.2 Information and Services to be Used: The Village shall make available to the Plan Commission all professional reports relating to the *Table of Estimated Ultimate Population Per Dwelling Unit*, the size of the library, fire/rescue, park and school sites and the fair market value of land used in calculating these cash contributions. The Plan Commission may also retain the services of professionals (attorneys, appraisers, statisticians, etc.) to assist in its review of issues raised by any objection.
- 13.21.1.3 Procedure for Resolving an Objection.
- 13.21.1.3.1. Upon receipt of an objection, the Village Clerk shall place the same on the next regular meeting agenda of the Village Board. Thereafter the Village Board shall refer the objection to the Plan Commission which shall establish a hearing date.
 - 13.21.1.3.2. The Plan Commission shall provide public notice of the hearing date to consider the objection and shall notify the Village Board and the affected library, fire protection and school district by certified mail, return receipt requested, of the filing of the objection and of any hearing regarding same.
 - 13.21.1.3.3. The Objector shall publish notice of the hearing date once each week for three consecutive weeks, at least 30 days before but no more than 60 days before the scheduled date of the hearing. Notice shall be published in a newspaper of general circulation within the corporate limits of the Village. The notice of public hearing shall not appear in the part of the paper where legal notices or classified ads appear. The notice shall not be smaller than one-quarter page of a standard size or tabloid-size newspaper. The objector shall send a copy of said notice to any person who has requested said notice by certified mail (stamped at a U.S. Postal

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Service facility showing the date of mailing) at least 30 days prior to the hearing date.

- 13.21.1.3.4. The notice shall contain all of the following information:
 - 13.21.1.3.4.1. The heading shall read: "NOTICE OF PUBLIC HEARING ON OBJECTION TO APPLICATION OF ORDINANCE REQUIRING THE DEDICATION OF PARK LANDS, LIBRARY SITES, FIRE/RESCUE SITES OR SCHOOL SITES OR PAYMENT OF THE CASH CONTRIBUTIONS IN LIEU THEREOF".
 - 13.21.1.3.4.2. The date, time and location of the public hearing.
 - 13.21.1.3.4.3. A statement that the purpose of the hearing is to consider the objection to a component of the application of the ordinance requiring the dedication of park lands, library sites, school sites, or fire/rescue sites, or calculation of cash in lieu thereof.
 - 13.21.1.3.4.4. A general description of the parcel(s), service area or areas within the Village that are the subject of the hearing.
 - 13.21.1.3.4.5. A statement that the Village shall make available to the public, upon request, an easily understandable and detailed map of the parcel(s), service area or areas to which the ordinance applies, and any other available information about the objection.
 - 13.21.1.3.4.6. A statement that any member of the public affected by the ordinance or the parcel(s) or service area shall have the right to appear at the public hearing and present testimony and/or evidence in support of or against the objection.
- 13.21.1.3.5. A public hearing shall be held for the consideration of the objection. In addition to the Village, any affected library district, school district, and fire/rescue provider shall be allowed to participate in such hearing as a party thereto to present evidence, cross-examine witnesses and make arguments to the Plan Commission regarding the issues raised in the objection. The Plan Commission shall make a recommendation to adopt, reject in whole or in part, or modify the objection presented at the hearing, by written report to the Village, within 60 days after the hearing. The Village shall then have at least 60 but not more than 120 days to approve, disapprove or modify, by ordinance or resolution, the findings in this ordinance as it pertains to the development in question.

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13.21.1.4 Costs and Fees: The objector shall bear all costs of the hearing before the Plan Commission, including, but not limited to attendance fees paid the Plan Commission members, publication costs, professional consultants and any other expenses of the Village. Before a hearing date is set the objector shall deposit with the Village a \$10,000 escrow to cover these costs which shall be replenished when the balance reaches \$2,000 or no less than monthly, by the Objector after payment of any outstanding expenses incurred by the Village. Failure to promptly replenish the escrow shall be cause to stay or defer any hearings, meetings or actions by the Village.

13.22. CONDITION TO ANNEXATION:

The dedications of land or cash contributions in lieu thereof required by this Section 13 shall also be required as a condition to the annexation of any land to the Village, and provisions therefore shall at a minimum be incorporated in any annexation or pre-annexation agreement governing such land. However, in the event of annexation, the Village reserves the right to negotiate dedications of land or cash contributions in lieu of land or a combination thereof greater than those set forth herein.

13.23. INDEMNIFICATION:

As a condition to the Village distributing land dedications and/or cash contributions in lieu thereof, the appropriate district shall execute an indemnification agreement in the form set forth in Exhibit A of this Section 13.23.

13.24. DISTRIBUTION:

13.24.1 The cash contribution in lieu of land dedication imposed by this ordinance shall be collected by the village and distributed to the benefiting district to be used for the purposes set forth in this ordinance as determined by the Village on a quarterly basis providing the criteria in Section 13.24.2 has been met.

13.24.2 As a condition of distribution of these land dedications and/or cash contributions in lieu of land dedications, the Village shall require that the school district, library district, police/public safety, municipal or fire/rescue provider benefiting from such land dedications and/or cash contributions conduct a needs assessment and adopt a plan for acquisition of land and capital facilities needed to accommodate growth.

13.25. NEEDS ASSESSMENT

NEEDS ASSESSMENT; LAND AND CAPITAL FACILITIES ACQUISITION PLAN:

13.25.1 A needs assessment shall contain the following information for each benefiting district:

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- 13.25.1.1 A description of the nature and location of existing park, library, fire/rescue and school lands and existing park, school, library, fire/rescue, police/public safety, municipal facility and capital facilities within each district.
- 13.25.1.2 An identification of the capacity of each school building, fire/rescue, police/public safety, municipal facility, library facility or park site within the particular district and of the number of students then enrolled in each school building.
- 13.25.1.3 A projection of the character and location of new development that is expected to occur within each district or Village during the succeeding 10-year period. The district or Village may obtain the information necessary to make this projection from sources such as but not limited to: municipalities, other units of government, agencies and consultants.
- 13.25.1.4 An identification of the amount of lands that will be necessary within each district and Village in order to accommodate the demands of such projected new development, and an estimate of the public grounds acquisition costs that will be incurred or have been incurred by each district in acquiring such lands.
- 13.25.1.5 A general description of each classification of capital facilities (including construction, expansion or enhancement of any public facilities and the land improvement, design, engineering and professional costs related thereto) that will be necessary within each district in order to provide adequate capacity for the projected new development, and an estimate of the capital facilities costs that will be incurred by each district in constructing such capital facilities.
- 13.25.2 Based upon the needs assessment, the school district, fire/rescue district, Village or library district shall provide the Village an acquisition plan for lands and capital facilities. This acquisition plan shall:
- 13.25.2.1 Project for a planning period of at least five years, the need for lands and capital facilities within the district or Village;
- 13.25.2.2 Set forth a schedule for the acquisition of such lands and facilities to meet the projected need (which schedule may be conditioned upon the availability of financing);
- 13.25.2.3 Indicate the size and general location of the needed lands and facilities;
- 13.25.2.4 Identify the estimated or incurred costs of acquiring such needed lands and facilities;
- 13.25.2.5 Set forth the anticipated funding sources for the acquisition of such needed lands and facilities;

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- 13.25.2.6 Determine the feasibility of acquiring the needed land and facilities based upon the district's current financial condition;
 - 13.25.2.7 Determine the feasibility of acquiring the needed land and facilities based upon the district's or Village's estimate of the revenues (including, without limitation, cash in lieu of land dedication required by this Section 13.25) pursuant to the plan.
 - 13.25.2.8 The impact on property taxes in the Village assuming the plan is implemented.
- 13.25.3 If the Village deems it necessary, it may require an updated needs assessment and plan for acquisition of land and capital facilities from the district annually. The failure to require said assessment update shall not invalidate the requirements of this Section 13.25.

13.26. TIME OF PAYMENT:

- 13.26.1 All land dedications and cash contributions imposed by this Section 13 shall be due and payable upon final plat approval. However, the Village may agree that the payment of the cash contributions may be made at the time of building permit issuance in consideration of which the subdivider or developer shall execute an **agreement with the village**, agreeing that the cash contributions payable will be adjusted in accordance with the requirements herein and further agreeing that the cash contributions may be expended for the purposes described in said agreement.
- 13.26.2 In calculating the fee at the time of platting, the Village will assume the maximum density permitted under the zoning classification approved pursuant to the table provided in 13.2.4. For example, if the subdivision in question is zoned single family, the Village will assume for purposes of calculating fees payable, pursuant to this Section 13, that all houses will have five bedrooms. The Village will then hold sufficient funds pending issuance of the building permit to enable it to refund any overpayments resulting from the fact that houses with less than five bedrooms are constructed. Refunds shall be made at time of issuance of the building permit.
- 13.26.3

13.27. MISCELLANEOUS:

- 13.27.1 In calculating any cash contributions in lieu of land dedication payable at time of issuance of building permit as provided in this Section 13, herein, the Village shall use the fair market value as set forth in Section 13.7.7 or any amendment thereto and in effect at the time of the contribution and building permit issuance.
- 13.27.2 The Village recognizes the fact that developments may differ in their impact upon a community. Consequently, the Village reserves the right to negotiate dedications that are different from those contained in this

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Ordinance when annexing property to the Village pursuant to an annexation agreement.

SECTION 14. VILLAGE FEE SCHEDULE

14.1. BUILDINGS AND MISCELLANEOUS CONSTRUCTION

14.1.1 Single Family and Duplex Dwelling Permit Fees:

Building Permit Application Deposit:	\$ 250.00
Basic Fee:	\$ 42.00
Plus: Rate per 100 sq. ft. of gross floor area or portion thereof:	\$ 14.00
Re-inspection Fees not included in permit, each	\$ 50.00
Plan Review	\$ 250.00

14.1.1.1 Performance Bond

14.1.1.1.1. Bond Amount - A refundable surety bond is to be posted in the form of cash in the amount of five percent (5%) of the estimated cost of labor and materials of the project, to insure that permit holder will comply with all obligations under this Code any applicable Village ordinances or adopted regulations. The required Bond amount shall not exceed One Thousand Dollars (\$1,000).

14.1.1.1.2. Bond Applicability - Any project in which the cost of labor or materials does not exceed Three Thousand Dollars (\$3,000) the performance bond may be waived in accordance with Code Section 5.15.2.

14.1.1.2 Slab on Grade Fees

Slab on grade permits are required for the installation of the following: new or replacement sidewalks, new or replacement driveways, driveway expansions, new or replacement patios and any other new hard surfaced areas. Where no review or inspection by the Village Engineer is required, the permit fee is \$97.50 which includes Village plan review and two inspections. Bonds are required as otherwise provided for in this Code.

14.1.1.3 Additional engineering fees for plan review and inspection by the Village Engineer are required for all new driveways which require the street to be cut, new culverts installed or culverts to be replaced and for any other slab on grade when it is determined by the Village Building Inspector that the new slabs on grade may interfere with the lot drainage or drainage from other lots.

14.1.1.4 When an outside consultant is used there will be a \$100.00 per house clerical administrative fee added.

14.1.1.5 When an outside consultant is used for plan review or inspections there will be a 10% administrative fee added to all permits.

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14.1.2 COMMERCIAL, INDUSTRIAL AND MULTIPLE DWELLING BUILDINGS

Non refundable Building Permit Application Deposit:	\$2000.00
Basic Fee:	\$ 42.00
Plus: Rate per 100 sq. ft. of gross floor area or portion thereof:	\$ 17.00
Inspections (each) per square foot when an outside inspection agency is used.	\$ 0.29
Re-inspection Fees not included in permit, each	\$ 50.00
Plan Review	\$ 250.00

14.1.2.1 Performance Bond – Same requirements as described in Code Section 14.1.1.1 above.

14.1.2.2 Plan reviews are outlined in the building consultants Fee Schedule.

Notes:

A Site Plan Review is required before a Building Permit can be issued.

When an outside consultant is used for plan review or inspections there will be a 10% administrative fee added to all permits.

14.1.3 GARAGES

Basic Fee:	\$ 37.50
Plus: Rate per 100 sq. ft. of gross floor area or portion thereof:	\$ 10.50
Inspections (minimum of 2 required), \$22.50 each	\$ 5.00
Re-inspection Fees not included in permit, each	\$ 50.00
Additional inspection required if closed wall construction:	\$ 22.50

Notes:

A Plat of Survey is required before a Building Permit can be issued.

14.1.4 DEMOLITION

Under 100 sq. ft. of gross floor area (GFA):	\$ 52.50
100 sq. ft. but under 500 sq. ft. GFA:	\$ 55.50
500 sq. ft. but under 1,000 sq. ft. GFA:	\$ 64.50
Over 1,000 sq. ft. GFA:	\$ 82.50

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14.1.5 SWIMMING POOLS

Basic Fee:	\$ 37.50
Fence, electrical & plumbing inspection fees as required in this schedule, each:	\$ 22.50

14.1.6 RE-ROOF

Residential:	
Basic Fee:	\$ 37.50
Inspections, as required by Bldg. Dept., each:	\$ 22.50
Commercial and Industrial:	
Basic Fee:	\$ 37.50
Plus: Rate per 100 sq. ft. roof area:	\$ 3.00
Inspections, as required by Bldg. Dept., each:	\$ 22.50

14.1.7 RE-SIDING

Basic Fee:	\$ 15.00
Inspections, as required by Bldg. Dept., each:	\$ 22.50

14.1.8 CUTTING OF CURB AND/OR SETTING OF CULVERT

Basic Fee:	\$ 400.00
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14.1.9 FENCE

Residential:	
Basic Fee:	\$ 37.50
Inspections, as required by Bldg. Dept., each (Minimum 1 required):	\$ 22.50
Commercial and Industrial:	
Basic Fee:	
Rate per 100 linear ft. or portion thereof:	\$ 17.00
Minimum Fee:	\$ 42.00
Inspections, as required by Bldg. Dept., each (Minimum 1 required):	\$ 22.50

Notes:

A Plat of Survey is required before a Building Permit can be issued.

See swimming pool fencing if applicable.

14.1.10 SIGNS & BILLBOARDS

Basic Fee:	\$ 37.50
Plus: per sq. ft. of sign area (min. \$15):	\$ 1.50
Plus electrical fees if applicable. Inspections, each:	\$ 22.50
Bi-Annual Permit Renewal Fee (Paid every 2 years)	
Non- Illuminated Signs:	\$ 30.00
Illuminated Signs:	\$ 60.00
Temporary Political Signs Deposit:	\$ 50.00

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Deposit returned when sign removal completed.	
Petition of Appeal to Sign variation Committee	\$ 50.00
Petition of Variance to Sign variation Committee	\$ 100.00

14.1.11 DECKS

Basic Fee:	\$ 37.50
Inspections, as required by Bldg. Dept., \$22.50 each (Minimum 2 required):	\$ 45.00

14.1.12 ADMINISTRATION

In addition to all other fees and charges, there shall be added thereto the following:

- 14.1.12.1 Time extension of all permits: \$20.00
- 14.1.12.2 Re-inspection fees not included in permit fee, each: \$50.00
- 14.1.12.3 Re-inspection Cash Bond for building permits with construction costs estimated at \$3,000 or less: \$ 135.00
- 14.1.12.4 Plan Review: All plan review fees are as reasonably outlined and charged by the building consultant.
- 14.1.12.5 Penalties at 100% of permit fee shall be added if work started without a permit.
- 14.1.12.6 Senior Citizens: Fee abated for anyone over sixty-five (65) years of age doing repairs, remodeling additions, except inspection fees.
- 14.1.12.7 Processing period after submitting drawings and application for new construction.
 - Single Family Resident: not to exceed 2 weeks.
 - Industrial/Commercial: not to exceed 4 weeks.
- 14.1.12.8 Refunds: No fee shall be refunded where permit has lapsed. Where a permit is revoked at the request of the applicant prior to lapsing due to time limits, and no work has been done under the permit, all but basic fees may be refundable
- 14.1.12.9 Where unusual plan review is required and deemed necessary by the Building Department such plan review will be performed and billed at the stated hourly rate.
- 14.1.12.10 Abatement of fees: No church, charitable, eleemosynary or other not for profit organization shall be required to pay the scheduled construction, moving, reconstruction or demolition permit fees provided in this Section 14, but will pay \$22.50 for each required inspection.

Site Plan Review: Site Plan Review is required for commercial and industrial districts before any permits can be issued.

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14.1.12.11 When an outside consultant is used for plan review or inspections, there will be a 10% administrative fee added to all permits.

14.1.13 ELECTRICAL FEE SCHEDULE

14.1.13.1 No permit or fee shall be required for work less than \$150, total, parts and mechanic cost, expressly providing, however, that this provision shall not be applicable to the electrical installation of signs or temporary electrical service.

Basic Fee:	\$42.00
Plus: 1 circuit:	\$7.00
2-10 circuits (each):	\$5.00
11-20 circuits (each):	\$3.50
over 20 circuits (each):	\$2.50

14.1.13.2 REVISION (RESIDENTIAL)

Basic Fee:	\$42.00
Plus: 1 meter:	\$23.00
2 meters:	\$28.00
each additional meter over 2:	\$21.50
Inspections, each:	\$22.50

14.1.13.3 Fixture & Outlets:

Basic Fee: (1-100)	\$20.00
Each additional 50 fixtures & outlets or fraction thereof:	\$10.00
Inspection, each:	\$22.50

14.1.13.4 ELECTRICAL HEAT

Basic Fee:	\$42.00
Plus: 1 through 4 units:	\$30.00
Over 4 units; (each additional unit)	\$10.00
Inspections, each:	\$22.50

14.1.13.5 ELECTRICAL OTHER THAN RESIDENTIAL

Basic Fee required on all permits: (new or revision)	\$42.00
Plus: 400 amp or less:	\$70.00
401 - 600 amp:	\$79.00
601 - 800 amp:	\$89.00
801 - 1000 amp:	\$100.00
Over 1000 amp:	\$157.50
Plus: Wiring and circuiting (as below):	\$20.00
Plan review as reasonably outlined and charged by building consultant	

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14.1.13.6	WIRING AND CIRCUITING OTHER THAN SERVICES OR MOTORS	
	Basic Fee:	\$42.00
	Plus: 1,000 sq. ft. or less:	\$60.00
	Each additional 1,000 sq. ft. or fraction thereof:	\$30.00
	Inspections, each:	\$22.50
14.1.13.7	MOTORS AND GENERATORS	
	Basic Fee:	\$42.00
	Plus: 10 h.p. or less:	\$20.00
	each additional h.p. over 10:	\$2.00
	Inspections, each:	\$22.50
14.1.13.8	ELECTRIC SIGNS	
	Basic Fee:	\$42.00
	Plus: Small, using 2 circuits or less:	\$20.00
	Large, using 3 circuits or more:	\$35.00
	Inspections, each:	\$22.50
14.1.13.9	TEMPORARY ELECTRIC SERVICE	
	Basic Fee:	\$42.00
	Plus Inspection:	\$22.50
14.1.13.10	ELEVATOR (ELECTRICAL HOOK-UP)	
	Basic Fee:	\$42.00
	Plus: Total h.p. fee as provided in Code Section 14.1.13.7.	
	Inspections, each:	\$22.50
14.1.13.11	MISCELLANEOUS LIGHTING. (PARKING LOTS, SECURITY, PASSAGEWAYS, ETC.)	
	Basic Fee:	\$42.00
	Plus: 1500 watts or less per unit or cluster:	\$10.00
	Over 1500 watts per unit or cluster:	\$12.00
	Inspections, each:	\$22.50
14.1.13.12	TEMPORARY INSTALLATIONS	
	Inspections of temporary installations, underground or overhead wires and apparatus, change over, and all other inspections not specifically provided for herein shall be charged for at the following rates:	
	Basic Fee:	\$15.00
	Plus: per hour or fraction thereof inspections, each:	\$22.50

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14.1.13.13 ADMINISTRATION

All permit extensions of time:	\$20.00
Re-inspection fees not included in permit fee:	\$45.00
Penalties of 100% of permit fee shall be added if work is started without permit.	
Plan review as reasonably outlined and charged by the building consultant.	

14.1.13.14 When an outside consultant is used for plan review or inspections, there will be a 10% administrative fee added to all permits.

Refunds: No fee shall be refunded where permit has lapsed as specified elsewhere. Where permit is revoked at the request of the applicant prior to lapsing due to time limits and no work has been done under the permit, all but the basic fee may be refundable.

14.1.14 PLUMBING FEE SCHEDULE

The following fees shall be paid in addition to the fees set forth above in this Code Section 14.

14.1.14.1 NEW CONSTRUCTION

Basic Fee:	\$42.00
Plus:	
per fixture opening:	\$ 7.00
per gas opening:	\$ 7.00
per water heater:	\$ 8.50
under slab inspection (prior to pouring)	\$ 8.50
rough inspection:	\$22.50
final inspection:	\$22.50
plan review - per hour:	\$15.00

14.1.14.2 FIXTURE REPLACEMENT

Basic Fee:	\$42.00
Plus: per fixture:	\$ 7.00
Inspections, each:	\$22.50

14.1.14.3 WATER HEATER REPLACEMENT

Basic Fee:	\$42.00
Inspections, each:	\$22.50

14.1.14.4 PIPING ALTERATIONS

Basic Fee:	\$42.00
Plus:	
per fixture opening:	\$ 7.00
per gas opening:	\$ 7.00
per water heater:	\$ 8.50
under slab inspection (prior to pouring):	\$ 8.50

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Plan review as reasonably outlined and charged by the building consultant.

- 14.1.14.5 PRIVATE SEWER SYSTEM (a sanitary sewer not owned by the Village)
- | | |
|--|---------|
| Basic Fee: | \$42.00 |
| Plus: Inspection per dwelling unit: | \$25.00 |
| (a) excavation, piped, bedding & backfill per 100 linear feet: | \$12.00 |
| (b) connection of service pipes to main sewer per connection: | \$25.00 |
- 14.1.14.6 PRIVATE WATER SUPPLY SYSTEM
- | | |
|---|---------|
| Basic Fee: | \$42.00 |
| Plus: Inspection per 100 depth lin. ft. or portion thereof: | \$12.00 |
- 14.1.14.7 PRIVATE STORM WATER SYSTEM
- | | |
|---|---------|
| Basic Fee: per dwelling unit: | \$42.00 |
| Plus: Inspection per 100 lin. ft. or portion thereof: | \$12.00 |
- 14.1.14.8 LAWN SPRINKLER SYSTEM
- | | |
|--------------------------|---------|
| Basic Fee: | \$42.00 |
| Plus: Inspections, each: | \$22.50 |
- 14.1.14.9 SPRINKLER SYSTEM - FIRE CONTROL
- | | |
|--|---------|
| Basic Fee: | \$42.00 |
| Plus: | |
| 0-100 heads (each): | \$0.90 |
| 101-300 heads (each): | \$0.70 |
| Over 300 heads, per hundred or fraction: | \$0.50 |
| Stand Pipes, per floor: | \$33.00 |
| Inspections, each: | \$22.50 |
- Plan Review as reasonably outlined and charged by the building consultant or Fire District
- 14.1.14.10 ADMINISTRATION
- | | |
|--|---------|
| All permit extensions: | \$20.00 |
| Re-inspection fees not included in permit fee: | \$45.00 |
- Plan Review as reasonably outlined and charged by the building consultant.
- Penalties of 100% of permit fee shall be added if work started without permit.
- 14.1.14.11 When an outside consultant is used for plan review or inspections there will be a 10% administrative fee added to all permits.

Refunds: No fee shall be refunded where permit has lapsed as specified elsewhere. Where permit is revoked at the request of the applicant prior

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to lapsing due to time limits and no work has been done under the permit, all but the basic fee may be refundable.

14.1.15 WARM AIR AND WET HEATING FEES

14.1.15.1 Residential and Commercial

Basic Fee:	\$42.00
Plus: Gas opening (each):	\$ 7.00
Replacement or conversion:	\$ 8.50

New installation:

Input Fees: (Per heating unit)

0-75,000 BTU:	\$ 8.50
75,001-150,000 BTU:	\$10.00
150,001-250,000 BTU:	\$15.00
250,001-350,000 BTU:	\$20.00
350,001-500,000 BTU:	\$25.00
Over 500,000 per 100,000 BTU or fraction:	\$10.00

Plan review as reasonably outlined and charged by the building consultant

14.1.15.2 When an outside consultant is used for plan review or inspections, there will be a 10% administrative fee added to all permits.

14.1.16 CASH PERFORMANCE BOND AND TRASH DISPOSAL

Labor and material >\$3,000.00:	5.0% of est. cost Not to exceed \$1,000.00
Labor and material <\$3,000.00:	5.0% of est. cost May be waived by Village

14.1.17 DRIVEWAY CULVERT FEE

Culvert Fee: \$400.00

When an outside consultant is used for plan review or inspections, there will be a 10% administrative fee added to all permits.

14.2. GRADING PERMIT FEES.

Subdivisions and Planned Unit Developments: Owner or Developer shall reimburse Village for all review costs by Village consultants.

14.2.1 Single-Family Lots or Parcels located in subdivisions or planned unit developments with an approved overall grading plan:

Standard Parcels:	\$250.00
Critical Parcels:	\$500.00

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14.2.2 Single-Family Lots or Parcels located within subdivisions or planned unit developments that do not have an approved overall grading plan or located in other than a subdivision or planned unit development.

Standard Parcels: \$400.00

Critical Parcels: \$700.00

14.2.3 Other than Single Family Parcels:

For all parcels other than single-family parcels, the fee for a grading permit shall be one hundred dollars (\$100.00) plus the costs for all services rendered by the Village's consultants pertaining the parcel for which an application for a grading permit and the issuance of a grading permit is being considered. Escrow amount to be determined pursuant to the terms of Code Section 12.4.

14.2.4 When an outside consultant is used for plan review or inspections, there will be a 10% administrative fee added to all permits.

14.3. SOIL EROSION AND SEDIMENT CONTROL FEES

14.3.1 Filing fees for site development permits and services shall be as follows:

Less than one acre of disturbance: \$100.00

One to five acres of disturbance: \$150.00

Disturbed areas of more than five acres: \$200.00

14.3.2 Re-examination fees shall be as follows:

14.3.2.1 Less than one (1) acre - where the first site development plan is rejected due to inadequate or unacceptable design, an additional fee of fifty dollars (\$50.00) shall be paid before a second review is made. Where a site development plan is rejected a second time due to inadequate or unacceptable design, an additional fee of seventy-five dollars (\$75.00) shall be paid before the third review or each succeeding review is made.

14.3.2.2 One (1) to five (5) acres - where the first site development plan is rejected due to inadequate or unacceptable design, an additional fee of seventy-five dollars (\$75.00) shall be paid before a second review is made. Where a site development plan is rejected a second time due to inadequate or unacceptable design, an additional fee of one hundred dollars (\$100.00) shall be paid before the third review or each succeeding review is made.

14.3.2.3 Areas of more than five (5) acres - where the first site development plan is rejected due to inadequate or unacceptable design, an additional fee of one hundred dollars (\$100.00) shall be paid before a second review is made. Where a site development plan is rejected a second time due to inadequate or unacceptable design,

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and additional fee of one hundred twenty-five dollars (\$125.00) shall be paid before the third review or each succeeding review is made.

14.4. PUBLIC WATER SUPPLY FEE SCHEDULE:

14.4.1 WATER CONNECTION FEE

14.4.1.1 Residential Connection Fee \$1,500.00

14.4.1.2 Connection Fee for property used for Commercial, Office and Research or Industrial purposes, based on the size of the service pipe being connected to, as follows:

Smaller than a 4.0”(inch) pipe	\$4,000.00
Larger than 4.0” and smaller than 4.5”	\$4,500.00
Larger than 4.5” and smaller than 5.0”	\$5,000.00
Larger than 5.0” and smaller than 5.5”	\$5,500.00
Larger than 5.5” and smaller than 6.0”	\$6,000.00
Larger than 6.0” and smaller than 6.5”	\$6,500.00
Larger than 6.5” and smaller than 7.0”	\$7,000.00
Larger than 7.0” and smaller than 7.5”	\$7,500.00
Larger than 7.5” and smaller than 8.0”	\$8,000.00
Larger than 8.0”	Determined By Village Board

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14.4.2 BASIC METER COST

Residential:	
5/8" Service	\$ 154.96
1.0" Service	\$ 237.71
1.5" Service	\$ 394.30
2.0" Service	\$ 413.34

14.4.3 TURN ON FEE

Fee to turn water on: \$30.00
Plus: meter rental: \$3/day

14.4.4 WATER AND SANITARY SEWAGE RATES WITHIN THE CORPORATE LIMITS

Residential: Water only per 1,000 gallons: \$ 3.60
Commercial : Water only per 1,000 gallons \$ 3.60
Industrial: Water only per 1,000 gallons \$ 3.91
Residential: Water and Sanitary Sewage, per 1,000 gallons of water used \$ 5.78
Commercial: Water and Sanitary Sewage, per 1,000 gallons of water used \$ 5.78
Industrial: Water and Sanitary Sewage, per 1,000 gallons of water used \$ 6.31
Minimum billing per month: \$10.00
Late Payment Fee (added per month) \$ 10.00

14.4.5 DISCONNECTION FOR NON-PAYMENT

Fee to turn back on: \$30.00
Plus: settlement of delinquent account.

14.4.6 WATER CONNECTION DEPOSIT:

14.4.6.1 Residential Service

There shall be no water connection deposit required for any residential service and all persons who have heretofore made deposits shall receive a full refund of the amount of such deposit, without interest, if at the time of application for such refund all water charges then due have been paid.

14.4.6.2 Non-Residential Service

At the time of connection of any non-residential property to the water system of the Village, the owner or occupant who shall be receiving the water bill from the Village shall pay a deposit in an

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amount determined in each instance by the Village Engineer based upon the estimated water usage for the property.

14.4.6.3 Use of Water Connection Deposit to Satisfy Payment of Bills and Financial Obligations.

In addition to all other remedies available to the Village for non-payment of bills and for other financial obligations due to the Village related to water service for the depositor, the water connection deposit, or so much as is necessary, may be utilized by the Village to satisfy all or part of any such unpaid bills or other financial obligations after not less than fourteen (14) days written notice to the depositor or present owner or occupant of the premises. Water service, if disconnected, shall not be restored until the required deposit has been re-established with the Village.

14.4.7 WATER CONNECTION INSPECTION FEE: \$22.50

14.4.8 SUBDIVISION WATER IMPACT FEE: \$1,000.00/lot

\$1,000.00 per platted lot. Payment due prior to Final Plat Approval

14.4.9 Systems Agreement

All fees and charges pursuant to this Section 14.4 are superceded, to the extent applicable, by the Village of Gilberts Systems Agreement which was approved by the Village on June 20, 2000 by Ordinance No. 00-19A.

14.5. RIGHT OF WAY EXCAVATION FEES

14.5.1 Fees

Basic fee	\$500.00
Plus (per linear foot):	\$ 2.50
Pavement and/or curb cut if applicable:	\$500.00

The permit fee may be waived upon application to and approval by the Village Board.

14.5.2 Bond

Bond Amount	\$10,000
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14.5.3 Cash Performance Bond

In lieu of or in addition to the aforementioned surety bond the Village may require the applicant to deposit with the Village Clerk a cash performance bond in an amount determined by the Village Board.

14.6. ACCESSORY, OUTBUILDINGS AND STORAGE SHEDS

The following fees shall accompany a building permit Application for a storage shed, accessory or outbuilding:

Basic fee: \$37.50

Inspection, each: \$22.50

A spotted plat of survey shall be submitted with each such building permit application.

14.7. SATELLITE DISH BUILDING FEE

Parabolic antennae, satellite dishes, ground mounted transmission and receiving antennae:

Basic Fee: \$37.50

Plus: Each inspection: \$22.50

Spotted plat of survey required with application.

14.8. REMODELING AND ADDITIONS INSPECTIONS

Basic Fee: \$37.50

For improvements with a valuation of \$0 to \$1,000, add: \$ 0.00

Plus rate per each additional \$1,000 of valuation or portion thereof: \$15.00

Inspections as may be required by the building department, each: \$22.50

14.9. MOBILE HOME BUILDING INSPECTION FEES

14.9.1 The inspection and building fees for installation of water, sanitary and storm sewer piping as provided in the building fee schedule of the Village heretofore or hereafter in force shall apply to the construction about any mobile home park, development or site. The fees and ordinances regarding administration, review, processing, extensions, lapse, refund, penalties and revocation of building permits heretofore or hereafter in force shall apply to the construction about any mobile home park, development or site.

14.9.2 For each supply connection to a mobile home, the following fees shall be applicable, per unit:

Water:

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Basic Fee	\$15.00
Inspection Fee	\$22.50
Total	\$37.50

Sanitary Sewer:	
Basic Fee	\$15.00
Inspection Fee	\$22.50
Total	\$37.50

Storm Sewer:	
Basic Fee	\$15.00
Inspection Fee	\$22.50
Total	\$37.50

Electrical:	
Basic Fee	\$15.00
Inspection Fee	\$22.50
Total	\$37.50

Gas:	
Basic Fee	\$15.00
Inspection Fee	\$22.50
Total	\$37.50

14.9.3 Each of the above inspection fees cited in this Code Section 14.9 includes one on-site inspection visit. Upon failure to pass inspection a re-inspection fee of \$22.50 per additional on-site inspection visit shall be paid by the owner.

14.9.4 Building inspections of any well, sewage treatment facility, water storage or tower shall be conducted by qualified individuals which may be employed by the Village, the charges for which shall be promptly reimbursed to the Village by the owner, which construction shall comply with all applicable ordinances and State of Illinois statutes, rules and regulations pertaining thereto and shall also comply with then existing construction standards, customs and practices in this industry.

14.10. ZONING FEE SCHEDULE

14.10.1	Site Plan Reviews	\$5,000.00
14.10.2	Appeals to Zoning Board	\$25.00
14.10.3	Petitions to Plan Commission	\$50.00
14.10.4	Zoning Map Amendments Plus \$20.00 per acre	\$100.00
14.10.5	Planned Unit Developments Plus \$20.00 per acre	\$100.00
14.10.6	Special Use Permits:	

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- 14.10.6.1 Home Occupations \$25.00
- 14.10.6.2 All Others \$150.00
- 14.10.7 Variations:
 - 14.10.7.1 Single Family Parcels \$50.00
 - 14.10.7.2 All Others \$150.00
- 14.10.8 Continued, postponed and multiple meetings, \$50.00 per meeting
- 14.10.9 In addition to the filing fee set out in this Section 14.10, each petitioner shall reimburse the Village for the fees and costs incurred by it for publication, consultant, legal, engineer, planning and architect fees incurred in relation to such petition or review.
- 14.10.10 The site plan review fee, above specified shall be considered a deposit towards the hourly fees incurred by the Village in such review as otherwise stated in this Section 14.10.

14.11. VEHICLE LICENSE FEES (ORDINANCE NO. 01-29)

All motor vehicle license stickers must be paid and displayed from and after the 1st day of June of each year. All vehicle registrations expire on June 1 of each year.

14.11.1 Vehicle License Fee Schedule (See also Section 10.18.1)

Class 1 - Motor bicycles, motor driven cycles and other vehicles under 150 cc	\$ 7.50
Class 2 - Passenger vehicles and motor driven cycles 150 cc and above	\$ 10.00
Class 3 - Motor vehicles (other than passenger vehicles) of 8,000 lbs. gross vehicle weight or less	\$ 15.00
Class 4 - Motor vehicles (other than passenger vehicles) of gross vehicle weight greater than 8,000 lbs.	\$ 30.00
Class 5 – Recreational Vehicles	\$ 10.00

14.11.2 Late Payment Schedule

Purchase Date	Class 1	Class 2	Class 3	Class 4	Class 5
June 2 – May 31	32.50	35.00	40.00	55.00	35.00

14.11.3 Special Conditions

- 14.11.3.1 Persons receiving permanent full disability from the Social Security Administration
 - Timely registration of one passenger vehicle \$4.00
- 14.11.3.2 Registration transfers \$1.00
- 14.11.3.3 Prosecution expense

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In addition to all applicable fees and penalties under both this Code Section 14 and Code Section 10.2, any person who fails to timely register a vehicle pursuant to Code Section 10.18 and against whom a court citation is issued shall also pay the Village \$75.00 in prosecution expenses.

14.12. DOG LICENSES

License Fee (Per Dog):	\$ 5.00
Late Fee (If purchased after May 31 st): (Added to License Fee per dog)	\$ 2.50
Ordinance No.. 05-09 Passed 4/5/05	
Animal Impound Fee (Plus any cost of keeping the animal.)	\$50.00

14.13. SPECIAL MEETING FEES

14.13.1 Definitions: For purposes of this Section 14.13, a Special Meeting is one requested or made necessary to consider the business of an entity at a time when the particular board or commission is not otherwise regularly scheduled to convene or meet.

14.13.2 Provisions: When and in the event a Special Meeting of the Board of Trustees, Plan Commission or Zoning Board of Appeals is requested or required for the benefit of transacting business directly or indirectly for the sole benefit of a private or individual interest, such entity shall first agree in writing to be liable for reimbursement to the Village for its out-of-pocket costs for publication, board member compensation, legal, professional, and engineering expenses plus a fee of \$100.00.

Where a special meeting considers the interests of two or more private or individual entities, the publication, compensation and professional fee costs may be apportioned in the discretion of the Board.

14.14. SUBDIVISIONS

14.14.1 Application Fees: Each application for subdivision shall be accompanied with a nonrefundable fee in the sum of \$700.00.

14.14.2 Miscellaneous Costs: The applicant shall reimburse the Village for all its out of pocket costs and fees incurred by reason of public notices, consultants, special meetings and the like in the subdivision approval and review process.

14.14.3 Final Plat Fees: Each final plat of subdivision shall be accompanied with a fee of \$100.00 per lot but in no event shall this fee be less than \$700.00. For each Planned Unit Development zoning lot, the fee shall be \$200.00 per acre or part thereof. The fee hereby assessed shall be reduced by the Application Fee.

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- 14.14.4 Professional Fees: A subdivider shall be responsible to reimburse the Village for all of its out of pocket expenses incurred in the subdivision review and approval process including but not limited to engineering, legal and planner fees. By the application for subdivision one agrees to become so liable. Such charges will be billed as they are incurred by the Village for which it shall be reimbursed within thirty (30) days thereafter.

- 14.14.5 Deposit: The application fee must accompany applications for consideration. The subdivider shall also deposit with The Village Clerk a sum deemed sufficient by the Village, or no less than \$1500.00, to ensure payment of costs and fees incurred or to be incurred by the Village in review and approval of each subdivision. Such deposit amount may be increased from time to time by the Village Board. Such deposit shall be returned to the subdivider within sixty(60) days after execution of the final subdivision plat or the last plat in the case of subdivision by units.

- 14.14.6 Unit Fees: In the event a total subdivision tract is platted or to be platted, recorded and developed by units rather than as a whole tract, then in that event all platting fees and costs due the Village for the whole tract must be paid prior to execution and final approval of the first unit.

- 14.14.7 Small Subdivisions: In the event that the proposed subdivision is comprised of 5 acres or less to be divided into no more than three lots, the Board of Trustees shall have the discretion, upon petition, to reduce the fees and deposits due the Village for subdividing such small tract.

14.15. MISC. DEVELOPMENT FEES

Required Land Dedications and Donations. The provisions for required land donations and impact fees where cash contributions are to be made in lieu of land are provided for in Sections 13 of the Village Code.

Development Contributions							
(Details provided in Section 13 of this Code)							
Land Value Appraised at \$112,900 per Acre							
	Fire	Library	Police	Admin	Schools	Parks	Total
Detached Single Family:							
2 Bedroom	68.32	56.93	68.32	68.32	608.52	3415.79	4286.18
3 Bedroom	98.19	81.82	98.19	98.19	2476.59	4909.46	7762.43
4 Bedroom	127.49	106.24	127.49	127.49	4225.89	6374.33	11088.92
5 Bedroom	127.69	106.41	127.69	127.69	3276.13	6384.50	10150.10
Attached Single Family:							
1 Bedroom	40.41	33.67	40.41	40.41	0.00	2020.35	2175.24
2 Bedroom	67.40	56.17	67.40	67.40	582.03	3370.07	4210.46
3 Bedroom	81.02	67.51	81.02	81.02	1094.91	4050.85	5456.32
4 Bedroom	106.52	88.77	106.52	106.52	2262.02	5326.06	7996.41
Apartments:							
Efficiency	43.83	36.52	43.83	43.83	0.00	2191.39	2359.40

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1 Bedroom	59.54	49.62	59.54	59.54	13.64	2977.17	3219.07
2 Bedroom	64.83	54.02	64.83	64.83	599.20	3241.36	4089.06
3 Bedroom	103.41	96.17	103.41	103.41	1621.60	5170.26	7188.24

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14.16. LIQUOR LICENSES

14.16.1 The fees for liquor licenses shall be as follows:

CLASS A	\$1,800.00
CLASS B	\$1,200.00
CLASS C	\$1,200.00
CLASS D	\$1,200.00

14.16.2 The fee for a Class C license may be waived, upon petition and approved by the Village Board.

14.16.3 Surety bond for Liquor licenses shall be in the amount of Five Thousand Dollars \$5000.00.

14.17. COIN OPERATED DEVICES

Application Fee: \$15.00

Annual Renewal Fee: \$15.00

14.18. BUSINESS LICENSE AND REGISTRATION

Business Registration Fee: \$25.00

If the registration fee is not paid within one month after the due date the fee becomes \$50.00 and if not paid within four months after the due date the fee becomes \$75.00.

14.19. RACE TRACK APPLICATION FEE

Application Fee: \$200.00

14.20. SALVAGE YARD FEES

Application Fee: \$500.00

Annual Renewal Fee: \$500.00

14.21. POLICE RESPONSE REIMBURSEMENT

Minimum Reimbursement Cost: \$200.00

Maximum Reimbursement Cost: \$500.00

14.22. TELECOMMUNICATION FEES:

Registration Fee: \$25.00

Application Fee: \$250.00

Application Withdraw or Denial Fee: \$50.00

Construction Fee: The greater of \$250.00 or 0.5% of the estimated cost of constructing the telecommunication facilities

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Annual License Fee: \$250.00

14.23. STREAM & WETLAND EXCAVATION FEES

Special Use Permit Fees (per acre): \$250.00

14.24. AUCTION LICENSE

Auctions conducted on a residential zoning lot (per event): \$50.00

Auctions conducted in all other areas of the Village (per event): \$200.00

14.25. REFUSE COLLECTION LICENSE

One license issued upon award of contract: \$25.00

14.26. MOBILE FOOD AND BEVERAGE VENDING LICENSE

License Fee -per event, valid for three days: \$15.00

14.27. BAD CHECK SERVICE CHARGE

Any person who pays any bill, fine, charge, fee or penalty due the Village with any check which is subsequently returned unpaid to the Village because of insufficient funds, account closed, no account, or because of a stop order on such check, shall be liable to the Village for a bad check service charge of \$25.00 for each and every check so returned. Such service charge shall be in addition to any bill, fine, charge, fee or penalty owed to the Village.

14.28. STORMWATER MANAGEMENT FEE:

SEE ORDINANCE NO. 01-19 PASSED 5/22/01

14.28.1 Application for Permit: To be adopted by separate ordinance.

14.28.2 Application for Variance: To be adopted by separate ordinance.

14.29. FEE IN LIEU OF SITE RUNOFF STORAGE:

SEE ORDINANCE NO. 01-19 PASSED 5/22/01

In accordance with the requirements of Section 1300: (a)of the Kane County Stormwater Management Ordinance, and the Village Stormwater Management Ordinance, a fee in lieu of providing for site runoff storage may be paid. The scheduled fees per each acre/foot of storage required under these regulations shall be adopted by separate ordinance.

SECTION 15. LIQUOR

15.1. GENERAL

15.1.1 State law adopted.

The provisions of Illinois Compiled Statutes, Chapter 235, “Liquor “, and the rules and regulations promulgated thereunder, as hereinafter amended, are hereby adopted by reference, such statute and rules and regulations being referred to in this Section 15 as the “Act”. In the event of any conflict with the terms of said statute and the terms hereof, the statute shall govern.

15.1.2 Administration.

15.1.2.1 The Village President shall be the Local Liquor Control Commissioner (the “Liquor Commissioner”).

15.1.2.2 The members of the Village Board, if any, appointed by the Liquor Commissioner to assist him in the execution of his duties, shall be known as members of the Local Liquor Control Commission.

15.1.3 Records. The Liquor Commissioner shall keep a record of all the proceedings, transactions, communications and official acts performed by him and any persons appointed by him. Said records shall be kept and maintained in the Village Hall.

15.2. LICENSES

15.2.1 Applications.

15.2.1.1 All applications for a liquor license shall be filed in the office of the Liquor Commissioner and shall be accompanied by the applicable fee, surety bond and copy of lease as specified in this Section 15. If any information on a current license application changes or becomes obsolete, or if further information becomes necessary to answer the questions in full, the applicant or licensee must so advise the Liquor Commissioner in writing within twenty-one (21) days of the change and must provide all relevant additional information. All those items and qualifications for a license pursuant to the “Act” must also be made part of the annual application.

15.2.1.2 To be eligible for a license, the licensee must be, and remain, in compliance with all provisions of this Code and other Village ordinances, and the premises for which a license is sought must be, and remain, in compliance with the Village zoning and building codes. Such premises shall not be located in a residential district except for existing non conforming uses not otherwise amortized

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- 15.2.1.3 The Liquor Commissioner shall approve or deny an application for a license within ninety (90) days of the filing of same
- 15.2.2 Persons ineligible
 - 15.2.2.1 To be eligible for a license, one must meet the requirements of the “Act”. No person under twenty-one (21) years of age may receive a liquor license. In addition, no corporate or other entity shall be eligible for a license if said corporation or other entity is controlled by, directly or indirectly, any person or persons under the age of twenty-one (21).
 - 15.2.2.2 An individual may not receive a Class B license.
- 15.2.3 Surety bond.
 - 15.2.3.1 Except Class B licenses, each applicant must submit a bond executed by the applicant, and by good and sufficient corporate surety, in the amount specified in Section 14 of this Code and conditioned that the licensee shall faithfully observe and conform to the “Act” and to all of the provisions of these rules, and any and all amendments hereafter passed during the period of said license; and conditioned further for the payment of any and all fines or penalties levied or assessed against such licensee for the violation of any of the terms and conditions of these rules and of any amendments hereto, or of the “Act”.
 - 15.2.3.2 Such bond shall be further conditioned that the licensee will pay all the necessary costs and charges incurred by reason of any complaint filed for the revocation of his license herein by the Liquor Commissioner or by any one person entitled to file such complaints before the Liquor Commissioner where same is occasioned by any violation of the terms and provisions of these rules or of the “Act” by the licensee.
 - 15.2.3.3 Such bond must have a coverage period equal to or longer than the duration of the applicant’s liquor license.
 - 15.2.3.4 The Liquor Commissioner may require a similar bond from a Class B licensee.
- 15.2.4 Lease of Premises.
 - 15.2.4.1 Each applicant for a license must submit a copy of a fully executed lease of premises whenever the applicant is not the property owner of the premises for which a license is sought.
 - 15.2.4.2 Such lease must have a coverage period equal to, or longer than, the duration of the applicant’s liquor license.
- 15.2.5 License year.

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The license year commences on January first and ends on December thirty-first of each calendar year.

15.2.6 Maximum number of licenses.

15.2.6.1 The Liquor Commissioner shall be authorized to issue the following number of licenses to be outstanding at any one time:

CLASS A	3
CLASS B	1
CLASS C	1
CLASS D	2

15.2.6.1.1. Any Class AA and Class E licenses outstanding as of April 1, 1999 shall remain in effect for the rest of the current license year and upon renewal shall be renewed as Class A and Class B licenses respectively.

15.2.6.1.2. The number of further allowable licenses shall be set by Ordinance of the Village Board as an amendment to the Village of Gilberts Code.

15.2.6.2 Classifications.

The classifications of licenses authorized to be issued shall be as follows:

15.2.6.2.1. CLASS A: A Class A license shall entitle the licensee to sell alcoholic liquor, at retail, for consumption on the premises by the drink, and/or alcoholic liquor, at retail for consumption off the premises where sold in the original package.

15.2.6.2.2. CLASS B: A Class B license shall entitle the licensee to sell beer and wine only, at retail, by the drink for consumption only on the premises where sold.

15.2.6.2.3. CLASS C: A Class C license shall be issued at the discretion of the Liquor Commissioner for temporary community related events entitling the licensee to sell alcoholic liquor at retail by the drink for consumption only on the premises where sold and shall be valid for no longer than seventy-two (72) hours and is not renewable. Dram liability insurance shall be procured by the licensee prior to the issuance of the license in an amount determined by the Liquor Commissioner. No license application fee shall be required for a Class C license.

15.2.6.2.4. CLASS D: A Class D license shall entitle the licensee to sell alcoholic liquor at retail for consumption off premises where sold in the original package.

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15.2.6.3 Fees.

- 15.2.6.3.1. The annual license fee for each class of license shall be fixed pursuant to Section 14 of this code.
- 15.2.6.3.2. If an application is made and a license granted during the first six (6) months of each license year, the license fee for such period shall be the entire fee required for the annual license year. Where application is made and license granted during the last six (6) months of each license year, the license fee shall be one-half of the entire fee required for the annual license year, provided that the proration provided for in this section shall not be allowed to any person who has been a licensee for the annual license year or part thereof preceding his application for a license.
- 15.2.6.3.3. The required fee shall be deposited with the Liquor Commissioner at the time of application for the license by certified check, cashiers check or money order made payable to the Liquor Control Commission. Such fee shall be returned to such applicant if his application is denied.

15.2.6.4 License transfers.

The licensee may not without approval of the Liquor Commissioner, transfer his license to another party and said license is valid only for the location disclosed on the application.

15.3. OPERATIONAL RULES AND REGULATIONS

15.3.1 Prohibited hours of sale.

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

- 15.3.1.1 Except on January first, between the hours of 1:00 a.m. and 6:00 a.m. on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays.
- 15.3.1.2 Except on January first, between the hours of 2:00 a.m. and 6:00 a.m. on Saturdays; and between the hours of 2:00 a.m. and 12:00 noon on Sundays.
- 15.3.1.3 On January first, between the hours of 2:00 a.m. and 6:00 a.m. unless January first is a Sunday, and then between the hours of 2:00 a.m. and 12:00 noon.

15.3.2 Employment of minors.

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No licensee shall, with or without compensation, or in any direct or indirect way, use or employ the services of a person under the age of eighteen (18) years to serve, dispense or sell alcoholic beverages.

15.3.3 Sound amplification.

It shall be unlawful for any licensee to permit or allow any noise or sound to be amplified upon or from licensed premises which may be heard outside the bounds of the premises of the license if a residence is within five hundred (500) feet of the premises.

15.3.4 Gambling, prostitutes, and lewd acts, etc.

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

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- 15.3.4.1 The following kinds of conduct are prohibited in or about the licensed premises:
- 15.3.4.1.1. The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts.
 - 15.3.4.1.2. The actual or simulated touching, caressing or fondling on the breast, buttocks, anus, or genitals.
 - 15.3.4.1.3. The actual or simulated displaying of the breasts, buttocks, pubic hair, anus, vulva, or genitals.
 - 15.3.4.1.4. The permitting, by a licensee, of any person to remain in or upon the licensed premises who exposes to public view his or her entire breasts or buttocks; or any portion of his or her genitals, vulva or anus.
 - 15.3.4.1.5. The displaying of moving pictures or photographic slide presentations depicting acts or simulated acts of sexual-intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual act.
- 15.3.5 Free dispensing
- 15.3.6 Free dispensing of alcoholic liquor by any licensee is prohibited.
- 15.3.7 Resale
- 15.3.8 It shall be unlawful for any licensee to sell at retail, alcoholic liquor for resale.
- 15.3.9 Sale or termination of business.
- 15.3.10 Whenever any licensee hereunder shall sell in part or whole or otherwise dispose of the business conducted on the licensed premises or cease to do business thereon, said licensee shall, within five days prior thereto, cause a notice in writing of such fact to be delivered to the local liquor control commissioner. Such statement shall contain full information concerning the same, including the date of such sale or disposal of said business and the name of the purchaser, if any.
- 15.3.11 Occupancy of Premises After Closing Hours.
- It shall be unlawful for any licensee to allow any patron of any licensed premises to be present at the premises or at the parking lot serving the premises for longer than 15 minutes after the end of permitted hours of sale of alcoholic liquor as set forth in Section 15.3.1 of this Village Code and it shall be further unlawful for any patron to remain at the licensed premises or at any parking lot serving the licensed premises for longer than 15 minutes after the end of permitted hours of sale of alcoholic liquor as set forth in Subsection 15.3.1 of this Village Code. The building shall be locked to patrons except during such permitted hours of sale.
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15.4. MISCELLANEOUS

15.4.1 Plain view.

The Liquor Commissioner shall not grant a license for any premises upon which alcoholic liquors for consumption on the premises are sold, unless a full view of the entire premises may be had from the street. Obstruction of the view shall be grounds for revocation of such license. The Liquor Commissioner may require scaled building plans, drawings and photographs to be filed with the application for license.

15.4.2 Minors.

No minors shall sit at or be behind the bar in any dram establishment. No minors shall be allowed in any dram establishment unless accompanied by a parent or legal guardian.

15.4.3 Animals.

No live animals or birds shall be allowed in any dram establishment.

15.4.4 Outdoor consumption.

It shall be unlawful for any person to consume any alcoholic liquor outside any licensed premises unless such premises has been specifically licensed for outdoor operation.

15.5. PENALTIES

Failure to comply with any provision of this Section 15 or the “Act” shall subject the licensee to suspension or revocation of license by the Local Liquor Control Commission and/or other prosecution as provided by law in addition to other fines or penalties provided by law or ordinance.

In addition, any person who violates any of the provisions of this Section 15 shall be subject to the penalty provisions of Code Section 10.2.

SECTION 16. SIGN CODE

16.1. INTENT AND PURPOSE

16.1.1 Intent and Purpose - Regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities in the Village of Gilberts without difficulty and confusion, to encourage the general attractiveness of the community, and to protect property values therein. Accordingly, it is the intention of this Section 16 to establish regulations governing the display of signs that will:

16.1.1.1 Promote and protect the public health, safety, comfort, morals and convenience

16.1.1.2 Enhance the economy and the business and industry of the Village by promoting the reasonable, orderly, and effective display of signs, and thereby encourage increased communication with the public;

16.1.1.3 Restrict signs and lights which overload the public's capacity to receive information or which increase the probability of traffic congestion and accidents by distracting attention or obstructing vision;

16.1.1.4 Promote signs which are compatible with their surroundings are appropriate to the type of activity to which they pertain, and are expressive of the identity of proprietors and other persons displaying signs.

16.1.2 Interpretation - In their interpretation and application, the provisions of this Section 16 shall be held to be the minimum requirements necessary for the promotion and protection of the public health, safety, comfort, morals and convenience.

16.1.3 Conflicting Law - If any provision or requirement of this Section 16 is found to be in conflict with any other provision or requirement of this Code or of any other applicable governmental law, ordinance resolution, rule, or other governmental regulation of any kind, the regulation which establishes the more restrictive rule or higher standard shall govern.

16.1.4 Existing Agreements - This Section 16 shall not abrogate any private agreement, provided that where the regulations of this Section 16 are more restrictive or impose higher standards than such private agreements, the provisions and requirements of this Section 16 shall govern.

16.1.5 Separability - In accordance with the following, it is hereby declared that the several provisions of this Section 16 are separable:

16.1.5.1 If any court of competent jurisdiction determines any provision of this Section 16 to be invalid, such determination shall not affect any other provision of this Section 16 not specifically included in the courts judgment order.

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- 16.1.5.2 If any court of competent jurisdiction determines any provision of this Section 16 to be invalid as applied to any particular sign, such determination shall not affect the application of such provision to any other sign not specifically included in the courts judgment order.

16.2. DEFINITIONS

In the construction of this Section 16 and any subsequent amendment, the rules and definitions contained in this Section 16.2 shall be observed and applied except when the context clearly indicates otherwise:

16.2.1 Rules

- 16.2.1.1 Words used in the present tense shall include the future tense.
- 16.2.1.2 Words used in the singular number shall include the plural number, and the plural number shall include the singular number.
- 16.2.1.3 The word "shall" and "will" are mandatory and are not discretionary.
- 16.2.1.4 The word "may" is permissive.
- 16.2.1.5 The word "lot" shall include the words "place" and "parcel".
- 16.2.1.6 The word "building" shall include the word "structure" and shall include all improvements of every kind, regardless of similarity to buildings.
- 16.2.1.7 The phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for", and "occupied for".
- 16.2.1.8 The word "person" shall include the words "individual", "corporation", "governmental agency", "trust", "estate", "partnership", "association", "ventures", "joint venture", or any other legal entity or activity.
- 16.2.1.9 The masculine gender includes the feminine and neuter.

16.2.2 Definitions

- 16.2.2.1 Awning - A structure made of cloth, metal, or other material affixed to a building in such a manner that the structure may be raised or retracted to a position against the building.
- 16.2.2.2 Banner - A sign intended to be hung either with or without a frame, possessing characters, letters, illustrations, or ornamentation's applied to paper, plastic, or fabric of any kind excluding flags, emblems, and insignia or political, professional, religious, education, or corporate organizations providing that such flags, emblems and insignia are displayed for non-commercial purposes.
- 16.2.2.3 Building Inspector - The Building Inspector of the Village of Gilberts, Illinois.

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- 16.2.2.4 Business Sign - A sign which directs attention to a business, profession, activity, commodity, service, or entertainment conducted, sold, or offered upon the premises where such sign is located, or within the building to which such sign is affixed.
- 16.2.2.5 Canopy - A structure other than an awning made of cloth, metal, or other material with frames affixed to a building and carried by a frame, which is supported by the ground.
- 16.2.2.6 Construction Sign - A sign identifying individuals or companies involved in design, construction, wrecking, financing, or development when placed upon the premises where work is under construction, but only for the duration of construction or wrecking.
- 16.2.2.7 Curb Level - The level of the established curb in the front of a building or other structure measured at the center of such front. Where no curb elevation has been established, the mean elevation of the centerline of the street fronting the building or structure shall be considered curb level.
- 16.2.2.8 Directional Sign - A sign providing no advertising of any kind which provides direction or instruction to guide persons to facilities intended to serve the public, including, but not specifically limited to, those signs identifying restrooms, public telephones, public walkways, parking areas, and other similar facilities.
- 16.2.2.9 Directory Sign - A sign which indicates the name and/or address of the occupant, the address of the premises, and/or identification of any legal business or occupation which may exist at the premises.
- 16.2.2.10 Existing Permanent Sign - A permanent sign displayed in the Village on and after the effective date of this Code.
- 16.2.2.11 External Illumination - Illumination of a sign which is affected by an artificial source of light which is not contained within the sign itself.
- 16.2.2.12 Flashing Sign - An illuminated sign on which the artificial source of light is not maintained stationary or constant in intensity and color at all times when such sign is illuminated. For the purpose of this Section 16, any moving illuminated sign affected by intermittent lighting shall be deemed to be a flashing sign.
- 16.2.2.13 Grade - The average level of the finished surface of the ground adjacent to a sign or the exterior wall of the building to which a sign is affixed.
- 16.2.2.14 Gross Surface Area - The entire area within a single continuous perimeter composed of a single rectangle enclosing the extreme limits of characters, lettering, illustrations, ornamentation's, or other figures, together with any material, or color forming an integral part of the display or to differentiate the sign from the background to which it is placed. Structural supports bearing no sign copy shall

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- not be included in gross surface area; however, if any portion of the required structural supports become enclosed for decorative or architectural purposes, that portion will be included in the total gross surface area of the sign.
- 16.2.2.15 Ground Sign - A sign supported by structures or supports or upon the ground and not attached or dependent for support from any building.
- 16.2.2.16 Illuminated Sign - A sign in which an artificial source of light is used in connection with the display of such sign.
- 16.2.2.17 Instructional Sign - A sign, providing no advertising of any kind, which provides direction or instruction to guide persons to facilities intended to serve the public, including but not specifically limited to those signs identifying restrooms, public telephones, public walkway, parking areas, and other similar facilities.
- 16.2.2.18 Internal Illumination - Illumination of a sign which is affected by an artificial source of light, which is contained within the sign itself.
- 16.2.2.19 Item of Information - A word, an abbreviation, a number, a symbol, or a geometric shape contained in a sign. A sign which combines several different geometric shapes, or shapes of unusual configuration, is assessed one (1) item of information for each non-continuous plane.
- 16.2.2.20 Marquee - A permanent roof-like structure extending from part of the wall of a building but not supported by the ground, and constructed of durable material such as metal or glass.
- 16.2.2.21 Monument Sign – A sign with a base larger or equal to the size of the sign. The base of the sign is masonry construction. The sign is directly attached to the masonry base.
- 16.2.2.22 Moving Sign - A sign which revolves, rotates, swings, undulates, or otherwise attracts attention through the movement of parts or through the impression of movement, including automatic electronically controlled copy changes, but not including flags, banners or pennants.
- 16.2.2.23 Neon or Other Gas Tube Illumination - Illumination affected by a light source consisting of a neon or other gas tube which is bent to form letters, symbols or other shapes.
- 16.2.2.24 Non-Conforming Sign - A sign which does not adhere to one (1) or more of the provisions contained in this Section 16.
- 16.2.2.25 Off-Premise Sign - A sign which directs attention to a business, profession, activity, commodity, service, or entertainment other than one conducted, sold, or offered upon the premises where such sign is located, or within the building to which such sign is affixed.

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- 16.2.2.26 Open Sign - A sign in which the area exposed to wind is less than seventy (70) percent of such signs aggregate gross surface area.
- 16.2.2.27 Plaque – A sign directly attached or affixed to the exterior wall of a building. May also be referred to as a nameplate or memorial sign.
- 16.2.2.28 Political Sign - A temporary sign identifying a political candidate, issue, or party.
- 16.2.2.29 Portable Sign - A sign not permanently affixed to the ground, a building, or other structure, which may be moved from place to place.
- 16.2.2.30 Principal Building - The main or principal building located upon a single zoning lot; the building in which the principal use of the premises is conducted.
- 16.2.2.31 Projecting Sign - A sign which is affixed to a building or wall and extends beyond the one of such building or wall or beyond the surface of that portion of the building or wall to which it is affixed by more than sixteen (16) inches.
- 16.2.2.32 Projected Illumination Sign - A sign in which the light source is projected onto the wall of a building or other surface.
- 16.2.2.33 Real Estate Sign - A sign which is used to offer for sale, lease, or rent the premises upon which such sign is placed.
- 16.2.2.34 Roof Sign - A sign erected or maintained in whole or in part upon, against, or directly above the roof or parapet line of a building.
- 16.2.2.35 Shopping Center - A commercial development under unified control consisting of four (4) or more separate commercial establishments sharing a common building, entranceway, or parking area.
- 16.2.2.36 Sign - Any identification, description, illustration, or device illuminated or non-illuminated which is visible to the general public and directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situated merchandise; or any emblem, painting, flag, banner, pennant, or placard design to advertise, identify, or convey information.
- 16.2.2.37 Sign Variation Committee - The Zoning Board of Appeals is designated as the Sign Variation Committee.
- 16.2.2.38 Solid Sign - A sign in which the area exposed to wind is seventy (70) percent or more of such signs aggregate gross surface area.
- 16.2.2.39 Temporary Sign - A non-permanent sign erected, affixed, or maintained on a premises for a short, usually fixed, period of time. The fixed period of time is 30 days with one extension per year with a maximum allowable duration of 60 days in any calendar year.

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- 16.2.2.40 Village - The Village of Gilberts, Illinois.
- 16.2.2.41 Village Board - The Village Board of Trustees of the Village of Gilberts, Illinois.
- 16.2.2.42 Wall Sign - A sign attached directly to an exterior wall of a building or dependent upon a building for support with the exposed face of the sign located in a place substantially parallel to such exterior building wall to which the sign is attached or supported by.
- 16.2.2.43 Warning Sign - A sign, containing no advertising material, warning the public of the existence of danger.
- 16.2.2.44 Window Sign - A sign attached to, placed upon, or painted on the interior of a window or door of building which is intended for viewing from the exterior of such building.
- 16.2.2.45 Zoning Lot - A designated, parcel, tract, or area of land established by plat, subdivision or otherwise permitted by law to be used, developed or built upon as a single unit under single ownership or control.
- 16.2.2.46 Zoning Code - The Zoning Code of the Village of Gilberts, Illinois.

16.3. GENERAL PROVISIONS

16.3.1 Basis of which Signs are regulated.

The display of signs in the Village is hereby regulated on the basis of the following factors:

- 16.3.1.1 The type of activity displaying the sign; and
- 16.3.1.2 The following four (4) design features:
 - 16.3.1.2.1. The type of sign;
 - 16.3.1.2.2. The area of the sign;
 - 16.3.1.2.3. The height of the sign; and
 - 16.3.1.2.4. The location of the sign.

In addition, certain signs and certain activities are regulated on the basis of additional factors, as set forth in this Section 16.

16.3.2 Items of Information Allowed

- 16.3.2.1 General Rules - Subject to the requirement of all other provisions of this Section 16, each exposed face of a sign shall contain no more than eight (8) items of information. However, if the name of the occupant of the premises on which the sign is to be affixed contains more than eight (8) items of information, the name may be displayed on each exposed face of a sign, provided no other information is displayed on such sign.

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16.3.2.2 Certain Information Not Counted-In calculating items of information, the following shall be excluded:

16.3.2.2.1. Letters nineteen (19) inches or less in height which are carved into, or securely attached to, a building in such a way that they are an architectural detail of the building; provided that the letters are not illuminated apart from the building, are not made of a reflective material, do not contrast sharply in color with the building, and do not exceed a thickness of one (1) inch; or

16.4. ILLUMINATION

All signs permitted by this Section 16 may be illuminated provided that the provisions of this Section 16.4 are strictly complied with.

16.4.1 Electrical Permit

In addition to complying with the provisions of this Section 16, all signs in which electrical wiring and connections are to be used shall be subject to the applicable provisions of the Village Electrical Code.

16.4.2 Illumination of Buildings, Structures and Areas

16.4.2.1 The use of unshielded lighting, including incandescent light bulbs hung or strung on poles, wires, or any other type of support, to illuminate buildings, structures, outdoor sales areas, or outdoor storage areas is prohibited except:

16.4.2.1.1. During the month of December for areas in which Christmas trees are offered for sale;

16.4.2.1.2. On a temporary basis for areas in which carnivals, fairs, or other similar activities are held; and

16.4.2.1.3. On a temporary basis as otherwise determined appropriate by the Village Board of Trustees.

16.4.2.2 A building or other structure may be illuminated, but all lighting used for this purpose must be designed, located, shielded, and directed in such a manner that the light source is fixed and not directly visible from any adjacent publicly dedicated roadway and surrounding property.

16.4.3 Brightness limitations - In no instance shall the lighting intensity of any sign, whether resulting from internal illumination or external illumination exceed seventy-five (75) foot candles when measured with a standard light meter perpendicular to the face of the sign from a distance equal to the narrowest dimension of the sign.

16.4.4 Glare - All signs shall be so designed, located, shielded, and directed so as to prevent the casting of glare or direct light from artificial illumination upon adjacent publicly dedicated roadways and surrounding property.

- 16.4.5 External illumination – All illumination on a sign shall be from an internal source. The use of projectors or other equipment to externally illuminate other structures.

16.5. CONSTRUCTION SPECIFICATIONS

All permanent signs permitted by this Section 16 shall be constructed in accordance with the provisions of this Section 16.5.

- 16.5.1 Compliance with Applicable Codes - In addition to complying with the provisions of this Section 16, all signs shall be constructed in accordance with the applicable provisions of the Village Building Code and Electrical Code.
- 16.5.2 Intentionally Left Blank
- 16.5.3 Auxiliary Specifications - All signs permitted by this Section 16 shall be constructed in accordance with the following provisions:
 - 16.5.3.1 Obstruction to Exits - No sign shall be erected, constructed, or maintained so as to obstruct any fire escape, required exit, window, door opening, or wall opening intended as a means of ingress or egress.
 - 16.5.3.2 Obstruction to Ventilation - No sign shall be erected, constructed, or maintained so as to interfere with any opening required for ventilation.
 - 16.5.3.3 Clearance from Electrical Power Lines and Communication Lines - All signs shall be located in such a way that they maintain horizontal and vertical clearance of all electrical power lines and communication lines in accordance with the applicable provisions of the Village Electrical Code. However, in no instance shall a sign be erected or constructed within eight (8) feet of any electrical power line, conductor, or service drop or any communication line conductor, or service drop.
 - 16.5.3.4 Clearance from Surface and Underground Facilities - All signs and their supporting structures shall maintain clearance and noninterference with all surface and underground facilities and conduits for water, sewage, gas, electricity, or communications equipment or lines. In addition, the placement of all signs and their supporting structures shall not interfere with natural or artificial drainage or surface or underground water.
 - 16.5.3.5 No Obstruction to Any Existing or Instructional Sign - No sign shall be erected, constructed, or maintained so as to interfere with any existing warning or instructional sign.
- 16.5.4 Wind Loads

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All signs, except those attached flat against the wall of a building shall be constructed to withstand minimum wind loads as follows:

- 16.5.4.1 Solid Signs - Thirty (30) pounds per square foot per face of the sign.
- 16.5.4.2 Open Signs - Thirty-six (36) pounds per square foot of the total face area of the letters and other sign surfaces, or ten (10) pounds per square foot of the gross surface area of the sign, whichever is greater.

16.6. PROHIBITED SIGNS

The following signs are hereby expressly prohibited for erection, construction, repair alteration, or relocation within the Village, except as otherwise permitted in this Section 16:

- 16.6.1 "A" Frame or Sandwich Board Signs - "A" frame or sandwich board and sidewalk, or, curb signs, except as a temporary sign, as provided for in Section 16.8.
- 16.6.2 Banners and Pennants - Banners, pennants, streamers, balloons, and other gas-filled figures, except as a temporary sign, as provided for in Section 16.8.
- 16.6.3 Billboards and Other Off-Premise Signs - Billboards and other off-premise signs, except as a temporary sign, as provided for in Section 16.8.
- 16.6.4 Moving and Flashing Signs - Signs which flash, revolve, rotate, swing, undulate, or otherwise attract attention through the movement or flashing of parts, including automatic electronically controlled copy changes, or through the impression of movement or flashing except for:
 - 16.6.4.1 That portion of those signs indicating the time and/or temperature and signs fully located within an enclosed building and are not observable from the exterior of such buildings, and
 - 16.6.4.2 Except as a temporary sign, as provided for in Section 16.8
- 16.6.5 Portable and Wheeled Signs - Portable and wheeled signs, except as a temporary sign, as provided for in Section 16.8.
- 16.6.6 Projecting Signs - Signs which are attached or otherwise affixed to a building and project more than sixteen (16) inches beyond the wall surface of such building to which the sign is attached or otherwise affixed thereto.
- 16.6.7 Pylon Signs – Signs which are mounted on top of a single or multiple poles.
- 16.6.8 Roof Signs
- 16.6.9 Signs on Parked Vehicles - Signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property, or private property so as to be visible from a public right-of-way where the

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apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property. However, this is not in any way intended to prohibit signs placed on or affixed to vehicles and trailers, such as lettering on motor vehicles, where the sign is incidental to the primary use of the vehicle or trailer.

- 16.6.10 Signs on Trees - Signs which are attached or otherwise affixed to trees or other living vegetation.
- 16.6.11 Signs Painted on Walls - Signs painted on an exterior wall, fascia, parapet, or a chimney of a building or on a fence.
- 16.6.12 Signs which contain Untruthful or Misleading Information
- 16.6.13 Signs which Imitate Traffic Control Devices - Signs which imitate, interfere with, obstruct the view of, or can be confused with any authorized traffic control sign, signal, or other device.

16.7. EXEMPT SIGNS

The following signs are hereby exempt from the provisions of this Section 16, excepting for such instances where any sign listed herein is found to be unsafe or unlawful as provided for in Section 16.15:

- 16.7.1 Accessory Signs on Vehicles, and Trailers - Signs affixed to vehicles and trailers where the sign is incidental and accessory to the primary use of the vehicle or trailer.
- 16.7.2 Awning, Canopy, and Marquee Signs - Signs, not exceeding an aggregate gross surface area of two (2) square feet, indicating only the name of the activity conducted on the premises on which the sign is to be located and/or a brief generic description of the business being conducted by the activity. Advertising material of any kind is strictly prohibited on signs affixed to awnings, canopies, and marquees. Awning, canopy, and marquee signs exceeding four (4) square feet in aggregate gross surface area shall be allowed only as specified in Section 16.10 and 16.11.
- 16.7.3 Directional or Instructional Signs - Signs, not exceeding two (2) feet in aggregate gross surface area, which provide direction or instruction to guide persons to facilities intended to serve the public, providing that such signs contain no advertising of any kind with a maximum of two directional or instructional signs per building or per tenant space. Such signs include those identifying restrooms, public telephones, public walkways, affiliation with motor clubs, acceptance of designated credit cards, and other similar signs providing direction or instruction to persons using a facility but not including those signs accessory to parking areas. Advertising material of any kind is strictly prohibited on directional and instructional signs.
- 16.7.4 Flags - Flags, emblems, and insignia of political, professional, religious, educational, or corporate organizations providing that such flags, emblems, and insignia are displayed for non-commercial purposes.

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- 16.7.5 Governmental Signs - Governmental signs for control of traffic and other regulatory purposes, street signs, warnings signs, railroad crossing signs, and signs of public service companies indicating danger and aids to service or safety which are erected by, or at the order of a public officer or employee in the performance of the officers or employees duties.
- 16.7.6 Holiday Decorations - Signs or other materials temporarily displayed on recognized civic, patriotic, or religious holidays displayed no more than thirty (30) days after the holiday.
- 16.7.7 Interior Signs - Signs which are fully located within the interior of any building or stadium, or within an enclosed lobby or court of any building, and signs located within the inner or outer lobby, court, or entrance of any theatre which are intended solely for information relating to the interior operation of the building in which they are located.
- 16.7.8 Memorial Signs - Memorial plaques or tablets, grave markers, statutory, or other remembrances of persons or events that are non-commercial in nature.
- 16.7.9 Name and Address Plates - Signs, not exceeding two (2) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of four (4) square feet indicating the name of the occupant, the address of the premises, and identification of any legal business or operation which may exist at the premises.
- 16.7.10 No Trespassing, No Dumping, No Parking, Towing, and Other Similar Signs - No trespassing, no dumping, no parking, towing and other similar signs (as set forth by the current regulations of the Illinois Commerce Commission) not exceeding two (2) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of four (4) square feet and not exceeding two (2) in number per zoning lot in residential areas, not exceeding four (4) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of eight (8) square feet and not exceeding four (4) in number per zoning lot in nonresidential areas. However, under proven special circumstances, the Building Inspector may permit additional such signs if determined to be warranted.
- 16.7.11 Parking Lot Directional and Instructional Signs
- 16.7.11.1 Directional Signs - Signs designating parking area entrances and exits limited to one (1) sign for each entrance and/or exit and not exceeding four (4) square feet in gross surface area for each exposed face. Parking lot directional signs shall not project higher than five (5) feet in height, as measured from the established grade of the parking area to which such signs are accessory.
- 16.7.11.2 Instructional Signs - Signs designating the conditions of use or identity of parking areas and exceeding nine (9) square feet in gross surface area for each exposed face nor exceeding an

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aggregate gross surface area of sixteen (16) feet. Parking lot instructional signs shall not project higher than ten (10) feet for wall signs and seven (7) feet for ground signs, as measured from the established grade of the parking areas(s) to which such signs are accessory.

Parking lot signage shall not obstruct the line of view for vehicles entering and exiting a parking lot or area.

- 16.7.12 Plaques - Plaques, nameplates, or memorial signs, directly attached or affixed to the exterior wall of a building, not exceeding four (4) square feet in aggregate gross surface area.
- 16.7.13 Public Notices - Official notices posted by public officers or employees in the performance of the officers or employees duties.
- 16.7.14 Public Signs - Signs required by governmental bodies or specifically authorized for a public purpose by any law, statute, or ordinance. Such public signs may be of any type, number, area, height, location, or illumination as required by law, statute, or ordinance.
- 16.7.15 Signs on Vehicles - Signs placed on or affixed to vehicles and/or trailers where the sign is incidental to the primary use of the vehicle or trailer. However, this is not in any way intended to permit signs placed on or affixed to vehicles and/or trailers which are parked on a public right-of-way, public property, or private property as to be visible from a public right-of-way where the apparent purpose is to advertise a product or direct people to a business or activity located on the same or nearby property.
- 16.7.16 Symbols or Insignia - Religious symbols, commemorative plaques or recognized historical agencies, or identification emblems of religious orders or historical agencies not exceeding two (2) square feet in gross surface area for each exposed face nor exceeding four (4) square feet in aggregate gross surface area.
- 16.7.17 Vending Machine Signs - Permanent, non-flashing signs on vending machines, gasoline pumps, ice or milk containers, or other similar machines indicating only the contents of such devices, the pricing of the contents contained within, directional or instructional information as to use, and other similar information not exceeding four (4) square feet in gross surface area for each exposed face nor exceeding an aggregate gross surface area of eight (8) square feet.
- 16.7.18 Warning Signs - Signs warning the public of the existence of danger but containing no advertising material; to be removed within three (3) days upon the subsidence of danger. Such warning signs may be of any type, number, area, height, location, or illumination as deemed necessary to warn the public of the existence of danger.

16.8. TEMPORARY SIGNS

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Temporary signs may be erected and maintained in the Village only in accordance with the provisions contained in this Section 16.8.

16.8.1 General Conditions

- 16.8.1.1 Permit Required - No person shall erect, construct, repair, alter, or relocate within the Village any temporary sign, except temporary, political, real estate, and other so identified signs, without first obtaining a permit from the Building Inspector as provided for in Section 16.12.
- 16.8.1.2 Materials and Methods - The Building Inspector shall impose as a condition of the issuance of a permit for temporary signs such requirements as to the material, manner of construction, and method of erection of a sign as are reasonably necessary to assure the health, safety, welfare, and convenience of the public.
- 16.8.1.3 Illumination - Temporary signs may be illuminated in compliance with the requirements of this ordinance.
- 16.8.1.4 Sign Types - Temporary signs shall be limited to non-projecting wall signs, attached ground signs, or portable and wheeled signs as defined herein.
- 16.8.1.5 Shopping Centers - Temporary signs shall not be permitted in shopping centers.

16.8.2 Temporary Business Signs

Temporary business signs identifying a special, unique, or limited activity, service, product, or sale of limited duration shall be subject to the following:

- 16.8.2.1 Number - There shall not be more than two (2) permits for temporary business signs issued for the same premises within one (1) calendar year.
- 16.8.2.2 Area
 - 16.8.2.2.1 Residential Areas - In residential areas, temporary business signs shall not exceed four (4) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of eight (8) square feet.
 - 16.8.2.2.2 Non-Residential Areas - In non-residential areas, temporary business signs shall not exceed thirty-two (32) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of sixty-four (64) square feet.
- 16.8.2.3 Location - Temporary business signs shall be located only upon the zoning lot upon which the special, unique, or limited activity, service product, or sale is to occur. Such signs shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a

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zoning lot to a public roadway. Temporary signs shall not obstruct the line of sight for any vehicle.

16.8.2.4 Height

16.8.2.4.1. Residential Areas - In residential areas, temporary business signs shall not project higher than seven (7) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

16.8.2.4.2. Non-Residential Areas - In non-residential areas, temporary business signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

16.8.2.5 Special Conditions

16.8.2.5.1. Timing - Temporary business signs shall be erected and maintained for a period not to exceed thirty (30) days, and shall be removed within three (3) days of the termination of the activity, service, project, or sale.

16.8.2.5.2. Limit on Number of Permits - No more than two (2) permits for temporary business signs shall be issued for the same premises within one (1) calendar year.

16.8.3 Temporary Construction Signs

Temporary construction signs identifying the parties involved in the construction to occur or occurring on the premises on which the sign is placed shall be subject to the following:

16.8.3.1 Number - There shall not be more than one (1) temporary construction sign for each project or development, except that where a project or development abuts two (2) or more streets additional such signs, one (1) oriented to each abutting street, shall be permitted.

16.8.3.2 Area

16.8.3.2.1. Residential Area - In residential areas, temporary construction signs shall not exceed fifty (50) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of one hundred (100) square feet.

16.8.3.2.2. Non-Residential Areas - In non-residential areas, temporary construction signs shall not exceed seventy-five (75) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of one hundred fifty (150) square feet.

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- 16.8.3.3 Location - Temporary construction signs shall be located only upon the premises upon which construction either is about to occur or is occurring. Such signs shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
- 16.8.3.4 Height - Temporary construction signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.
- 16.8.3.5 Special Conditions - Temporary construction signs shall be permitted only as accessory to an approved building permit for a project or development. Temporary construction signs may be erected and maintained for a period not to exceed sixty (60) days prior to the commencement of construction and shall be removed within fourteen (14) days of the termination of construction of the project or development.

16.8.4 Temporary Event Signs

Temporary event signs announcing a campaign, drive, activity, or event of a civic, philanthropic, educational, or religious organization for non-commercial purposes shall be subject to the following:

16.8.4.1 Number, Area, Height, and Location

- 16.8.4.1.1. The permitted number, area, height, location, and construction of temporary event signs shall be determined by the Building Inspector with consideration given to the public safety and the signage reasonably necessary and appropriate for the intended purpose.
- 16.8.4.1.2. Any temporary event sign which is permitted by the Building Inspector to extend over or onto a public right-of-way shall be erected and maintained in such a manner as to not interfere or obstruct access, activity, or vision along any such public right-of-way.

16.8.4.2 Special Conditions

- 16.8.4.2.1. Timing - Temporary event signs may be erected and maintained for a period not to exceed thirty (30) days prior to the date of which the campaign, drive, activity, or event advertised is schedule to occur and shall be removed within three (3) days of the termination of such campaign, drive, activity or event.
- 16.8.4.2.2. Limit on Number of Permits - No more than two (2) permits for temporary event signs shall be issued for the same premises within one (1) calendar year.

16.8.5 Temporary Political Signs

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Temporary political signs announcing political candidates seeking public office political parties, and/or political and public issues contained on a ballot shall be subject to the following:

16.8.5.1 Number

- 16.8.5.1.1. Private Property - There shall not be more than one (1) of each properly registered temporary political sign for each zoning lot.
- 16.8.5.1.2. Public Right-of-Way - There shall be no limit on the permitted number of temporary political signs displayed.

16.8.5.2 Area

- 16.8.5.2.1. Private Property - On private property, temporary political signs shall not exceed an aggregate gross surface area of thirty two (32) square feet.
- 16.8.5.2.2. Public Right-of-Way - In the public right-of-way, each temporary political sign shall not exceed an aggregate gross surface area of four (4) square feet.

16.8.5.3 Location

- 16.8.5.3.1. Private Property - On private property, temporary political signs may be located in any required yard.
- 16.8.5.3.2. Public Right-of-Way - Subject to the determination of the Building Inspector in accordance with public safety requirements, temporary political signs may be located in public rights-of-way but not across, over, or extending onto the paved portion of any public roadway. Temporary political signs located in a public right-of-way shall not be located closer than three hundred (300) feet apart. Temporary political signs located in a public right-of-way shall be erected or installed in such a manner so as to not interfere with or obstruct access, activity, or vision along any such public right-of-way. Further, such signs shall not be attached to or placed on traffic signals, utility poles, trees, and other similar vegetation.

16.8.5.4 Height - Temporary political signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

16.8.5.5 Special Conditions

- 16.8.5.5.1. Timing - Temporary political signs may be erected or maintained for a period not to exceed forty five (45) days prior to the date of the election to which such signs are applicable is scheduled to occur and shall be removed within seven (7) days following the such election.

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16.8.5.6 Deposit - While no permit fee shall be required for temporary political signs, the permittee of such signs to be located in the public right-of-way shall deposit with the Village Clerk the applicable sum as specified in Code Section 14. Along with this deposit, a signed agreement stating that, in the event that such temporary, political signs are not removed within seven (7) days following the date of the election to which the signs are applicable, the monies so deposited shall be used to reimburse the Village for the cost incurred by it in removing the Signs.

16.8.6 Temporary Real Estate Signs

Temporary real estate signs advertising the sale, lease, or rent of the premises upon which such sign is located shall be subject to the following:

16.8.6.1 Number - There shall not be more than one (1) temporary real estate sign for each zoning lot except that where a lot abuts two (2) or more streets, additional signs, one (1) oriented to each abutting street, shall be permitted.

16.8.6.2 Area

16.8.6.2.1. Residential Areas - In all residential areas, temporary real estate signs shall not exceed four (4) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of eight (8) square feet.

16.8.6.2.2. Non-Residential Areas - In non-residential areas, temporary real estate signs shall not exceed seventy-five (75) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of one hundred fifty (150) square feet.

16.8.6.3 Location - Temporary real estate signs shall be located only upon the premises for sale, lease, or rent. Such signs may be located in any required yard but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.

16.8.6.4 Height - Temporary real estate signs shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

16.8.6.5 Special Conditions - Temporary real estate signs shall be removed within seven (7) days of the sale or lease of the premises upon which the sign is located.

16.9. RESIDENTIAL USES

For all residential uses, only the following signs are hereby permitted and then only if accessory and incidental to a permitted or special use:

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- 16.9.1 Building Name and Address Signs - Name and address signs of buildings containing six (6) or more residential units indicating only the name of the building, the name of the development in which it is located, the management thereof, and/or address of the premises shall be subject to the following:
- 16.9.1.1 Type – All building name and address signs will be monument signs.
 - 16.9.1.2 Number - There shall not be more than one (1) name and address sign for each building except that where a building abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.
 - 16.9.1.3 Area - Building name and address signs shall not exceed six (6) square feet in gross surface area for each exposed face nor exceed an aggregate gross surface area of twelve (12) feet.
 - 16.9.1.4 Location - Building name and address signs shall not be located closer than one-half (1/2), the minimum setback required for the Zoning District in which the sign is to be erected or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway. The location and arrangement of all building name and address signs shall be subject to the review and approval of the Building Inspector.
 - 16.9.1.5 Height - Building name and address signs shall not project higher than seven (7) feet as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.
- 16.9.2 Residential Development Signs - Residential development signs indicating only the name of the development, the management or developer thereof, and/or the address or location of the development shall be subject to the following:
- 16.9.2.1 Type - All residential development signs shall be monument signs.
 - 16.9.2.2 Number - There shall not be more than two (2) residential development signs for each point of vehicular access to a development.
 - 16.9.2.3 Area - Residential development signs shall not exceed fifty (50) feet in gross surface area for each exposed face nor exceed an aggregate gross surface of one hundred (100) square feet.
 - 16.9.2.4 Location - Residential development signs shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway. The location and arrangement of all residential development signs shall be subject to the review and approval of the Building Inspector.

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16.9.2.5 Height - Residential development signs shall not project higher than seven (7) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

16.9.3 Exempt Signs - Exempt signs as specified in Section 16.7.

16.9.4 Temporary Signs - Temporary signs as specified in Section 16.8.

16.10. COMMERCIAL USES

For all commercial uses, only the following signs are hereby permitted and then only accessory and incidental to a permitted or special use:

16.10.1 Commercial Use Signs Commercial use signs shall be subject to the following:

16.10.1.1 Wall Signs

16.10.1.1.1. Number - There shall be not more than one (1) wall sign for each tenant except that where the building abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.

16.10.1.1.2. Area - The gross surface area of a wall sign shall be less than three (3) times the linear square footage of the tenant space on which the sign is installed or the following maximum surface area which ever is less:

16.10.1.1.2.1. Eighty (80) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than one hundred feet (100’):

16.10.1.1.2.2. One hundred twenty (120) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than one hundred feet (100’) or more but less than two hundred feet (200’):

16.10.1.1.2.3. Two hundred forty (240) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than two hundred feet (200’) or more but less than four hundred feet (400’):

16.10.1.1.2.4. Four hundred forty (400) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than four hundred feet (400’) or more.):

16.10.1.1.3. Consists only of individual, outlined alphabetic, numeric, and/or symbolic characters without background except that

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provided by the building surface to which the sign is to be affixed; and

16.10.1.1.4. If illuminated, such illumination is achieved through shielded illumination, shielded silhouette lighting, or shielded spot lighting but not any lighting where the light source is visible or exposed on the face or sides of the characters.

16.10.1.1.5. Location - A wall sign may be located on the outermost wall of any principal building but shall not project more than sixteen (16) inches from the wall to which the sign is to be affixed. The location and arrangement of all wall sign shall be subject to the review and approval of the Building Inspector.

16.10.1.1.6. Height - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or twenty (20) feet, as measured from the base of the building wall to which the sign is to be affixed, whichever is lower.

16.10.1.2 Monument Signs

16.10.1.2.1. Type – The only type of sign allowed is a monument sign.

16.10.1.2.2. Number - There shall not be more than one (1) monument sign for each principal building.

16.10.1.2.3. Construction the base of all monument signs shall be a two feet in height and constructed of brick to match the building.

16.10.1.2.4. Location - A monument sign shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.

16.10.1.2.5. Height - A monument sign shall not project higher than eight (8) feet, as measured from base of sign or grade of the nearest adjacent roadway or the average grade within thirty (30) feet , whichever is lower.

16.10.1.2.6. Length – The maximum length of a monument sign shall be ten (10) feet.

16.10.1.3 Awning, Canopy, and Marquee Signs

This sign is not allowed if there is a wall sign as outlined in section 16.10.1.1.

16.10.1.3.1. Number - There shall not be more than one (1) awning, canopy, or marquee sign exceeding an aggregate gross surface area of four (4) square feet for each principal building. Awning, canopy, and marquee signs which are four (4) square feet or less in aggregate gross surface area are

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exempt from the provisions of this Section 16 as specified in Section 16.7.

16.10.1.3.2. Area - The gross surface area of an awning, canopy or marquee, sign shall not exceed fifty (50) percent of the gross surface area of the smallest face of the awning, canopy, or marquee to which such sign is to be affixed.

16.10.1.3.3. Location - A sign may be affixed to or located upon any awning, canopy, or marquee. The location and arrangement of all such signs shall be subject to the review and approval of the Building Inspector.

16.10.1.3.4. Height - An awning, canopy, or marquee sign shall not project higher than the top of the awning, canopy, or marquee to which such sign is to be affixed.

16.10.1.4 Window Signs

16.10.1.4.1. Window signs which are on the interior of the window shall not cover more than fifty percent (50%) of the window surface.

16.10.2 Shopping Center Signs

Shopping Center signs shall be subject to the following:

16.10.2.1 Wall Signs

16.10.2.1.1. Number - There shall not be more than one (1) wall sign for each tenant or use contained in a shopping center except that where a tenant or use abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street shall be permitted.

16.10.2.1.2. Area - The gross surface area of a wall sign shall not exceed three (3) times the linear square footage of the tenant space on which the sign is installed nor the following maximum surface area which ever is less:

16.10.2.1.2.1. Eighty (80) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than one hundred feet (100’):

16.10.2.1.2.2. One hundred twenty (120) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than one hundred feet (100’) or more but less than two hundred feet (200’):

16.10.2.1.2.3. Two hundred forty (240) square feet where the building setback from the closest perpendicular street

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approximately perpendicular street is less than two hundred feet (200') or more but less than four hundred feet (400'):

- 16.10.2.1.2.4. Four hundred forty (400) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than four hundred feet (400') or more.):
 - 16.10.2.1.3. If such wall sign consists only of individual, outlined alphabetic, numeric, and/or symbolic characters without background except that provided by the building surface to which the sign is to be affixed; and if illuminated, such illumination is achieved through shielded illumination, shielded silhouette lighting, or shielded spot lighting but not any lighting where the light source is visible or exposed on the face or sides of the characters; or
 - 16.10.2.1.4. When all wall signs located in the shopping center utilize lettering and background uniform in style and coloring.
 - 16.10.2.1.5. Location - A wall sign may be located on the outermost wall of any principal building but shall not project more than sixteen (16) inches from the wall to which the sign is to be affixed. The location and arrangement of all wall sign shall be subject to the review and approval of the Building Inspector.
 - 16.10.2.1.6. Height - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or twenty (20) feet, as measured from the base of the building wall to which the sign is to be affixed, whichever is lower.
- 16.10.2.2 Monument Signs
- 16.10.2.2.1. Type – The only type of ground sign allowed is a monument sign.
 - 16.10.2.2.2. Number - There shall not be more than one (1) monument sign for each principal building.
 - 16.10.2.2.3. Construction the base of all monument signs shall be a two feet in height and constructed of brick to match the building.
 - 16.10.2.2.4. Location - A monument sign shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
 - 16.10.2.2.5. Height - A monument sign shall not project higher than eight (8) feet, as measured from base of sign or grade of the nearest adjacent roadway or the average grade within thirty (30) feet , whichever is lower.

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16.10.2.2.6. Directory Signs - Each shopping center monument sign may include affixed directly to it a directory indicating only the names of the tenants of the shopping center in which the sign is to be located. The gross surface area of the directory sign shall not exceed sixty (60) square feet for each exposed face nor exceed an aggregate gross surface area of twenty (20) square feet for each tenant located in the shopping center in which the sign is to be located. The information displayed by a shopping center directory sign, which is in compliance with the foregoing requirements, shall not be treated as items of information as otherwise specified in Section 16.3.

16.10.2.3 Awning, Canopy, and Marquee Signs

This sign is not allowed if there is a wall sign as outlines as outlined in section 16.10.2.1.

16.10.2.3.1. Number - There shall not be more than one (1) awning, canopy, or marquee sign exceeding an aggregate gross surface area of four (4) square feet for each principal building. Awning, canopy, and marquee signs which are four (4) square feet or less in aggregate gross surface area are exempt from the provisions of this Section 16 as specified in Section 16.7.

16.10.2.3.2. Area - The gross surface area of an awning, canopy, or marquee sign shall not exceed fifty (50) percent of the gross surface area of the smallest face of the awning, canopy, or marquee to which such sign is to be affixed.

16.10.2.3.3. Location - A sign may be affixed to or located upon any awning, canopy or marquee. The location and arrangement of all such signs shall be subject to the review and approval of the Building Inspector.

16.10.2.3.4. Height - An awning, canopy, or marquee sign shall not project higher than the top of the awning, canopy, or marquee to which such sign is to be affixed.

16.10.3 Automobile Dealership Signs

Automobile dealership signs shall comply with the requirements for shopping centers.

16.10.4 Automobile Service Station Signs

Automobile service station signs shall be subject to the following:

16.10.4.1 Wall Signs

16.10.4.1.1. Number - There shall be not more than one (1) wall sign for each tenant except that where the building abuts two (2) or

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more streets, additional such signs, one (1) oriented to each abutting street, shall be permitted.

- 16.10.4.1.2. Area - The gross surface area of a wall sign shall not exceed three (3) times the linear square footage of the tenant space on which the sign is installed nor the following maximum surface area which ever is less:
- 16.10.4.1.2.1. Eighty (80) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than one hundred feet (100’):
 - 16.10.4.1.2.2. One hundred twenty (120) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than one hundred feet (100’) or more but less than two hundred feet (200’):
 - 16.10.4.1.2.3. Two hundred forty (240) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than two hundred feet (200’) or more but less than four hundred feet (400’):
 - 16.10.4.1.2.4. Four hundred forty (400) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than four hundred feet (400’) or more.):
- 16.10.4.1.3. Consists only of individual, outlined alphabetic, numeric, and/or symbolic characters without background except that provided by the building surface to which the sign is to be affixed; and
- 16.10.4.1.4. If illuminated, such illumination is achieved through shielded illumination, shielded silhouette lighting, or shielded spot lighting, but not any lighting where the light source is visible or exposed on the face or sides of the characters.
- 16.10.4.1.5. Location - A wall sign may be located on the outermost wall of any principal building but shall not project more than sixteen (16) inches from the wall to which the sign is to be affixed. The location and arrangement of all wall signs shall be subject to the review and approval of the Building Inspector.
- 16.10.4.1.6. 16.10.4.1.4. Height - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or twenty (20) feet, as measured from the base of the

building wall to which the sign is to be affixed, whichever is lower.

16.10.4.2 Ground Signs

- 16.10.4.2.1. Type – The only type of ground sign allowed is a monument sign.
- 16.10.4.2.2. Number - There shall not be more than one (1) monument sign for each principal building.
- 16.10.4.2.3. Construction the base of all monument signs shall be a two feet in height and constructed of brick to match the building.
- 16.10.4.2.4. Location - A monument sign shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
- 16.10.4.2.5. Height - A monument sign shall not project higher than eight (8) feet, as measured from base of sign or grade of the nearest adjacent roadway or the average grade within thirty (30) feet , whichever is lower.

16.10.4.3 Awning, Canopy, and Marquee Signs

This sign is not allowed if there is a wall sign as outlined in section 16.10.4.1

- 16.10.4.3.1. Number - There shall not be more than one (1) awning, canopy, or marquee sign exceeding an aggregate gross surface area of four (4) square feet for each principal building. Awning, canopy, and marquee signs which are four (4) square feet or less in aggregate gross surface area are exempt from the provisions of this Section 16 as specified in Section 16.7.
- 16.10.4.3.2. Area - The gross surface area of an awning, canopy or marquee sign shall not exceed fifty (50) percent of the gross surface area of the smallest face of the awning, canopy, or marquee to which such sign is to be affixed.
- 16.10.4.3.3. Location - A sign may be affixed to or located upon any awning, canopy, or marquee. The location and arrangement of all such signs shall be subject to the review and approval of the Building Inspector.
- 16.10.4.3.4. Height - An awning, canopy, or marquee sign shall not project higher than the top of the awning, canopy, or marquee to which such sign is to be affixed.

16.10.4.4 Service Bay Identification Signs

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Service bay identification signs providing direction or instruction to persons using the facility and containing no advertising material of any kind shall be subject to the following:

- 16.10.4.4.1. Type - All service bay identification signs shall be wall signs.
 - 16.10.4.4.2. Number - There shall not be more than one (1) service bay identification sign for each service bay located on the premises.
 - 16.10.4.4.3. Area - The gross surface area of a service bay identification sign shall not exceed ten (10) square feet.
 - 16.10.4.4.4. Location - A service bay identification sign may be located on the outer most wall of any principal building adjacent to a service bay entrance but shall not project more than sixteen (16) inches from the wall to which the sign is to be affixed. The location and arrangement of all service bay identification signs shall be subject to the review and approval of the Building Inspector.
 - 16.10.4.4.5. Height - A service bay identification sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or twenty (20) feet, as measured from the base of the building to which the sign is to be affixed, whichever is lower.
 - 16.10.4.4.6. Special Conditions - The information displayed by a service bay identification sign which is in compliance with the foregoing requirements shall not be treated as items of information as otherwise specified in Section 16.3.2.
- 16.10.4.5 Service Island Identification Signs

Service island identification signs indicating the type of service offered, the price of gasoline, and other relevant information or direction to persons using the facility but containing no advertising material of any kind shall be subject to the following:

- 16.10.4.5.1. Type - All service island identification signs may be either wall signs or ground signs.
- 16.10.4.5.2. Number - There shall not be more than one (1) service island identification sign for each service or pump island located on the premises.
- 16.10.4.5.3. Area - The gross surface area of a service island identification sign shall not exceed six (6) square feet for each exposed face nor exceed an aggregate gross surface area of twelve (12) square feet.
- 16.10.4.5.4. Location - Service island identification signs may be located on the outermost wall of any principal building or in any

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required yard. The location and arrangement of all service island identification signs shall be subject to the review and approval of the Building Inspector.

16.10.4.5.5. Height - A service island identification sign shall not project higher than fifteen (15) feet, as measured from base of the sign or building to which the sign is to be affixed or the grade of the nearest adjacent roadway, whichever is lower.

16.10.4.5.6. Special Conditions - The information displayed by a service island identification sign which is in compliance with the foregoing requirements shall not be treated as items of information as otherwise specified in Section 16.3.2

16.10.5 Exempt Signs - Exempt signs as specified in Section 16.7.

16.10.6 Temporary Signs - Temporary signs as specified in Section 16.8.

16.11. OFFICE, INDUSTRIAL, AND INSTITUTIONAL USES

For all office, industrial and institutional uses, only the following signs are hereby permitted and then only if accessory and incidental to a permitted or special use:

16.11.1 Office, Industrial, and Institutional Use Signs

Office, industrial and institutional use signs shall be subject to the following:

16.11.1.1 Wall Signs

16.11.1.1.1. Type – The only type of sign allowed is a monument sign.

16.11.1.1.2. Number - There shall be not more than one (1) wall sign for each tenant except that where the building abuts two (2) or more streets, additional such signs, one (1) oriented to each abutting street, shall be-permitted.

16.11.1.1.3. Area - The gross surface area of a wall sign shall not three (3) times the linear square footage of the tenant space on which the sign is installed nor the following maximum surface area which ever is less:

16.11.1.1.3.1. Eighty (80) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than one hundred feet (100’):

16.11.1.1.3.2. One hundred twenty (120) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than one hundred feet (100’) or more but less than two hundred feet (200’):

16.11.1.1.3.3. Two hundred forty (240) square feet where the building setback from the closest perpendicular street

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approximately perpendicular street is less than two hundred feet (200') or more but less than four hundred feet (400'):

- 16.11.1.1.3.4. Four hundred forty (400) square feet where the building setback from the closest perpendicular street approximately perpendicular street is less than four hundred feet (400') or more.):
 - 16.11.1.1.4. Consists only of individual, outlined alphabetic, numeric, and/or symbolic characters without background except that provided by the building surface to which the sign is to be affixed; and
 - 16.11.1.1.5. If illuminated, such illumination is achieved through shielded illumination, shielded silhouette lighting, or shielded spot lighting, but not any lighting where the light source is visible or exposed on the face or sides of the characters.
 - 16.11.1.1.6. Location - A wall sign may be located on the outermost wall of any principal building but shall not project more than sixteen (16) inches from the wall to which the sign is to be affixed. The location and arrangement of all wall signs shall be subject to the review and approval of the Building Inspector.
 - 16.11.1.1.7. Height - A wall sign shall not project higher than the parapet line of the wall to which the sign is to be affixed or twenty (20) feet, as measured from the base of the building wall to which the sign is to be affixed, which ever is lower.
 - 16.11.1.1.8. Special Conditions -Where a principal building is devoted to two (2) or more permitted uses, the operator of each such use may install a wall sign upon his/her proportionate share of the building wall to affixed. The maximum gross surface area of determined by calculating the proportionate building wall, including doors and windows, affixed and applying such proportion to the aggregate gross surface area for the building.
- 16.11.1.2 Monument Signs
- 16.11.1.2.1. Number - There shall not be more than one (1) monument sign for each principal building.
 - 16.11.1.2.2. Type – The only type of ground sign allowed is a monument sign.
 - 16.11.1.2.3. Number - There shall not be more than one (1) monument sign for each principal building.

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- 16.11.1.2.4. Construction the base of all monument signs shall be a two feet in height and constructed of brick to match the building.
- 16.11.1.2.5. Location - A monument sign shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
- 16.11.1.2.6. Height - A monument sign shall not project higher than eight (8) feet, as measured from base of sign or grade of the nearest adjacent roadway or the average grade within thirty (30) feet , whichever is lower.

16.11.1.3 Awning, Canopy, and Marquee Signs

This sign is not allowed if there is a wall sign as outlined in section 16.11.1.1

- 16.11.1.3.1. Number - There shall not be more than one (1) awning, canopy, or marquee sign exceeding an aggregate gross surface area of four (4) square feet for each principal building. Awning, canopy, and marquee signs which are four (4) square feet or less in aggregate gross surface area are exempt from the provisions of this Section 16 as specified in Section 16.7.
- 16.11.1.3.2. Area - The gross surface area of an awning, canopy or marquee sign shall not exceed fifty (50) percent of the gross surface area of the smallest face of the awning, canopy, or marquee to which such sign is to be affixed.
- 16.11.1.3.3. Location - A sign may be affixed to or located upon any awning, canopy, or marquee. The location and arrangement of all such signs shall be subject to the review and approval of the Building Inspector.
- 16.11.1.3.4. Height - An awning, canopy, or marquee sign shall not project higher than the top of the awning, canopy, or marquee to which such sign is to be affixed.

16.11.2 Office and Industrial Park Signs

Office and industrial park signs indicating only the name of the park, the management of the developer thereof, and/or the address or location of the park shall be subject to the following:

- 16.11.2.1 Type - All office and industrial park signs shall be monument signs.
 - 16.11.2.1.1. Type – The only type of ground sign allowed is a monument sign.
 - 16.11.2.1.2. Number - There shall not be more than one (1) monument sign for each principal building.

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- 16.11.2.1.3. Construction the base of all monument signs shall be a two feet in height and constructed of brick to match the building.
- 16.11.2.1.4. Location - A monument sign shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
- 16.11.2.1.5. Height - A monument sign shall not project higher than eight (8) feet, as measured from base of sign or grade of the nearest adjacent roadway or the average grade within thirty (30) feet, whichever is lower.

16.11.3 Directory Signs

Directory signs indicating only the names of the occupants of the premises on which the sign is to be located but containing no advertising material of any kind shall be subject to the following:

- 16.11.3.1 Type - Directory signs may be either wall signs or ground signs.
- 16.11.3.2 Number - There shall not be more than one (1) directory sign for each office, industrial, and institutional building or complex under unified control consisting of two (2) or more occupants. Directory signs shall not be permitted for single occupant office, industrial, and institutional buildings and complexes.
- 16.11.3.3 Area - The aggregate gross surface area of a directory sign shall not exceed five (5) square feet for each occupant located in the building or complex.
- 16.11.3.4 Location - A directory sign may be located in any required yard but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from a zoning lot to a public roadway.
- 16.11.3.5 Height - A directory sign shall not project higher than ten (10) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is lower.

16.11.4 Institutional Attraction Boards

Attraction boards displayed by civic, philanthropic, educational, and religious organizations identifying activities, events, and services involving the organization occupying the premises on which the attraction board is to be erected and containing no commercial advertising material of any kind shall be subject to the following:

- 16.11.4.1 Type - Institutional attraction boards may be either ground signs or wall signs.
- 16.11.4.2 Number - There shall not be more than one (1) institutional attraction board for each principal building.
- 16.11.4.3 Area - The gross surface area of an institutional attraction board shall not exceed fifty (50) square feet for each exposed face nor

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exceed an aggregate gross surface area of one hundred (100) square feet.

16.11.4.4 Location - An institutional attraction board may be located in any required yard but shall not extend over any lot line or within fifteen (15) feet of any point of vehicular access from any zoning lot to a public roadway.

16.11.4.5 Height - An institutional attraction board shall not project higher than fifteen (15) feet, as measured from base of sign or grade of the nearest adjacent roadway, whichever is higher.

16.11.4.6 Items of Information - The information displayed by an institutional attraction board which is in compliance with the foregoing requirements shall not be treated as items of information as in Section 16.3.2.

16.11.5 Exempt Signs - Exempt signs as specified in Section 16.7.

16.11.6 Temporary Signs - Temporary signs as specified in Section 16.8.

16.12. PERMITS

16.12.1 Permit Required

Except for the following, no person may erect, alter, or relocate within the Village any sign without first obtaining a sign permit from the Building Inspector and paying the required fee as specified in Section 14:

16.12.1.1 Exempt signs as specified in Section 16.7.

16.12.1.2 Temporary political, real estate, and other so identified signs as specified in Section 16.8.

16.12.1.3 Routine maintenance or changing of the parts or copy of a sign, provided that the maintenance or change of parts or copy does not alter the surface area, height, number of items of information displayed, or otherwise render the sign non-conforming.

16.12.2 Permit Applications

Applications for sign permits shall be submitted to the Building Inspector and shall contain or have attached thereto the following information:

16.12.2.1 The names, addresses, and telephone numbers of the applicant, the owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the person to be erecting or affixing the sign.

16.12.2.2 The location of the building, structure, or zoning lot on which the sign is to be erected or affixed.

16.12.2.3 A site plan of the property involved, showing accurate placement thereon of the proposed sign.

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- 16.12.2.4 Two (2) blueprints or ink drawings of the plans and specifications of the sign to be erected or affixed and method of construction and attachment to the building or in the ground. Such plans and specifications shall include details of dimensions, materials, color, and weight.
- 16.12.2.5 If required by the Building Inspector, a copy of stress sheets and calculations prepared by or approved by a registered structural engineer licensed by the State of Illinois showing that the sign is designed for dead load and wind pressure in any direction in the amount required by this and all other applicable Code Sections and ordinances of the Village.
- 16.12.2.6 The written consent of the owner of the building, structure, or property on which the sign is to be erected or affixed.
- 16.12.2.7 16.12.2.7 Such other information as the Building Inspector may require to determine full compliance with this Village Code and other applicable ordinances of the Village.

16.12.3 Issuance of Permits

Upon the filing of an application for a sign permit, the Building Inspector shall examine the plans, specifications, and other submitted data, and the premises upon which the sign is proposed to be erected or affixed. If it appears that the proposed sign is in compliance with all the requirements of this Section 16 and other applicable Code Sections and in conformance with the Zoning Code and other ordinances of the Village and if the appropriate permit fee has been paid, the Building Inspector shall issue a permit for the proposed sign. If the work authorized under a sign permit has not been completed within ninety (90) days after the date of issuance, the permit shall become null and void unless otherwise extended by the Building Inspector for a single additional ninety (90) day period.

16.12.4 Permit Fees

Permit Fees for signs regulated by this Section 16 shall be those as specified in Code Section 14.

16.12.5 Penalty Fee

If an annual sign permit renewal fee is paid later than sixty (60) days of the subject anniversary date else the renewal fee shall increase by fifty (50) percent of the otherwise scheduled fee.

16.12.6 Revocation of Permit

All rights and privileges acquired under the provisions of this Ordinance are mere licenses and, as such, are at any time revocable for just cause by the Village Board. All permits issued pursuant to this Section 16.12 are hereby subject to this provision.

16.12.7 Permit Term

Each permit for a regulated non-temporary sign shall expire twenty-four (24) months after issuance. A compliance inspection shall be conducted with the issuance and renewal of each permit.

16.13. REVIEW OF EXISTING PERMANENT SIGNS

16.13.1 Sign Inspection

The Village shall conduct a compliance inspection of each regulated sign within its jurisdiction no less than every two years.

16.13.2 Requests for Inspection

Any person may file a written request with the Village Building Inspector requesting an inspection of one (1) or more existing permanent signs as identified in the request. In each such instance, the Village Building Inspector or his designee shall promptly inspect such sign(s) to determine compliance with the provisions of this Section 16. However, no existing permanent sign need be inspected more than two (2) times annually. The Village Building Inspector or his designee shall make a written report indicating the findings of the inspection to both the owner of the inspected sign and to the person filing the request for inspection.

16.13.3 Notices of Violation

The Village Building Inspector or his designee shall notify in writing each owner of an existing permanent sign found to be in violation of any provision of this Section 16 pursuant to inspections made under Sections 16.13.1 and 16.13.2. The notice shall specifically refer to each section of this Section 16 under which a violation has been found to exist and thereupon describe the features of the inspected sign found to be deficient.

16.13.4 Effect of Notice

Each existing permanent sign which is the subject of a notice of violation as specified in Section 16.13.3 shall thereupon be classified as a non-conforming sign as specified in Section 16.14 unless the sign is deemed unsafe or insecure as determined by the Village Building Inspector or his designee in which case such sign shall be subject to repair or removal pursuant to Section 16.15.

16.13.5 Appeals

The owner of an existing permanent sign which has been the subject of a notice of violation as specified in Section 16.13.3 may appeal the notice by filing an appeal pursuant to Section 16.16 not later than thirty (30) days after receipt of such notice of violation.

16.14. NON-CONFORMING SIGNS

16.14.1 Legal Non-Conforming Signs

Any sign lawfully existing or under construction which does not conform to one (1) or more of the provisions of this Code may be continued in operation and maintained indefinitely as a legal non-conforming sign subject to compliance with the requirements of Section 16.14.2.

16.14.2 Maintenance and Repair of Legal Non-Conforming Signs

Normal maintenance of legal non-conforming signs, including changing of copy, necessary non-structural repairs, and incidental alterations which do not extend or intensify the nonconforming features of the sign, shall be permitted. However, no structural alteration, enlargement, or extension shall be made to a legal nonconforming sign unless the alteration, enlargement, or extension will result in the elimination of the non-conforming features of the sign. If a legal non-conforming sign is damaged, or destroyed by any means to the extent of fifty (50) percent or more of its replacement value at that time, the sign may not be rebuilt or used thereafter unless it conforms to all of the provisions of this Section 16. In the event the damage or destruction of the non-conforming sign is less than fifty (50) percent of its replacement value at that time, the sign may be rebuilt to its original condition and may continue to be displayed.

16.15. REMOVAL OF CERTAIN SIGNS

16.15.1 Non-Conforming Signs

If the Village Administrator shall find that any non-conforming sign, except for those legal nonconforming signs as specified in Section 16.14.1, is displayed he/she shall give written notice to the owners, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Removal of the sign shall be effected within ten (10) days after receipt of the notice from the Village Building Inspector or his designee. If such sign is not removed after the conclusion of such ten (10) day period, the Village Building Inspector or his designee is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.

16.15.2 Obsolete Signs

Any sign, whether existing on or erected after the effective date of this Section 16, which advertises a business no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is located, shall be removed within ninety (90) days upon the cessation of such business or sale of such product by the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.

If the Village Building Inspector or his designee shall find that any such sign advertising a business no longer being conducted or a product no longer being offered for sale in or from the premises on which the sign is

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located has not been removed within the ninety (90) days upon the cessation of such business or sale of such product, he/she shall give written notice to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Removal of the sign shall be effected within ten (10) days after receipt of the notice from the Village Building Inspector or his designee. If such sign is not removed after the conclusion of such ten (10) day period, the Village Building Inspector or his designee is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located.

16.15.3 Unsafe Signs

If the Village Building Inspector or his designee shall find that any sign is unsafe or insecure, or is a menace to the public, he/she shall give written notice to the owner, agent, or person having the beneficial interest in the building or the premises on which such sign is located. Correction of the condition which caused the Village Building Inspector or his designee to give such notice shall be effected within ten (10) days after receipt of the notice. If such condition is not corrected, after the conclusion of such ten (10) day period, the Village Administrator is hereby authorized to cause the sign to be removed forthwith at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located. Notwithstanding the foregoing provision, the Village Administrator is authorized to cause any sign to be removed summarily and without notice, at the expense of the owner, agent, or person having the beneficial interest in the building or premises on which such sign is located, wherever he/she determines that such sign is an immediate peril to persons or property.

16.16. ADMINISTRATION AND ENFORCEMENT

16.16.1 Enforcement Officer

The Village Building Inspector or his designee is hereby designated as the enforcement officer for this Section 16. In furtherance of his/her authority as such enforcement officer, the Village Building Inspector or his designee shall have the following duties and powers:

- 16.16.1.1 Review and Issue Permits - Review all applications for sign permits, issuing permits for those signs found to be in compliance with the provisions of this Section 16.
- 16.16.1.2 Conduct Inspections - Conduct an annual or more frequent inspection of all permanent signs displayed in the Village to ensure compliance with the provisions of this Section 16.
- 16.16.1.3 Issue Notice of Violation - Issue notices of violation to any owner, agent, or person having the beneficial interest in the building or the

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premises which a sign is located which is found to be in non-compliance with one (1) or more of the provisions of this Section 16.

- 16.16.1.4 Cause Removal of Certain Signs - After due notice, cause the removal of certain signs which are found to be in noncompliance with one (1) or more of the provisions of the Section 16.
- 16.16.1.5 Administrative Interpretations - Render, when called to do so, administrative interpretations regarding the provisions of this Section 16 and their effect on the display of any sign located or to be located in the Village.
- 16.16.1.6 Maintenance of Records - Maintain all records necessary to the appropriate administration and enforcement of this Section 16, including applications for variations and appeals.
- 16.16.1.7 Public Information - Provide and maintain a source of public information relative to all matters-arising out of this Section 16.

16.16.2 Sign Variation Committee

The Zoning Board of Appeals is hereby designated as the "Sign Variation Committee" to hear, decide, and make recommendations to the Village Board regarding appeals to and variations from the provisions of this Section 16

16.16.2.1 Meetings and Rules

- 16.16.2.1.1. Hearings and Meetings - All hearings and meetings of the Zoning Board of Appeals shall be open to the public.
- 16.16.2.1.2. Call and Quorum - Meetings of the Zoning Board of Appeals shall be on the call of the Chairperson, or in his/her absence the Vice Chairperson, at such times and places within the Village as the Committee may determine. A majority of the members shall be necessary for a quorum at each meeting.
- 16.16.2.1.3. Testimony - All testimony by witnesses at any public hearing provided for in this Section 16 shall be public record.
- 16.16.2.1.4. Minutes and Records - The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The minutes of all hearing and meetings and all recommendations, orders, requirements, decisions, and determinations of the Zoning Board of Appeals shall be filed with the Village Clerk and shall be public record.
- 16.16.2.1.5. Rules and Procedure - Unless otherwise specified in this Section 16 or the Village of Gilberts, Roberts Rules of Order

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as hereinbefore amended, shall act as the rules of procedure for the meetings of the Zoning Board of Appeals.

16.16.2.2 Jurisdiction

The Zoning Board of Appeals is hereby vested with the following jurisdiction and authority:

- 16.16.2.2.1. Appeals - Hear all appeals from any order, requirement, decision, determination, or interpretation of the Village Building Inspector or his designee or other Village Official acting within the authority vested from this Section 16 and make written recommendations for the disposition of such appeals to the Board of Trustees.
- 16.16.2.2.2. Variations - Hear all requests for variations from the provisions of this Section 16 and make written recommendations for the granting or denial of such requests to the Village Board.

16.16.3 Appeals

An appeal may be taken to the Zoning Board of Appeals by any person aggrieved by an order, requirement, decision, determination, or interpretation of the Village Building Inspector or his designee acting within the authority of this Section 16.

16.16.3.1 Petition for Appeal

- 16.16.3.1.1. Standing - An appeal shall be filed within thirty (30) days after the alleged erroneous order, requirement, decision, determination, or interpretation.
- 16.16.3.1.2. Filing - An appeal shall be filed in writing with the Village Clerk and shall be accompanied by such documents and information as the Zoning Board of Appeals may by rule require.
- 16.16.3.1.3. Fees - Each appeal to the Zoning Board of Appeals shall be accompanied by a fee as specified by Code Section 14 to be paid at the time of filing of the appeal.

16.16.3.2 Transmittal of Record - The Village Clerk shall, at the time of filing an appeal, forthwith transmit to the Zoning Board of Appeals all of the documents constituting a record upon which the action appealed from was taken.

16.16.3.3 Effect of Appeal - An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Village Clerk certifies to the Zoning Board of Appeals, after the appeal has been filed with the Village Clerk, that, by reason of the facts stated in the application, a stay would in his/her opinion cause imminent peril to life or property. In such case, the proceeding shall not be stayed

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unless a restraining order is issued by the Village Board or by a court of record, and then only if due cause can be conclusively shown.

16.16.3.4 Zoning Board of Appeals Public Hearing

16.16.3.4.1. Timing - The Zoning Board of Appeals shall hold a public hearing on an appeal within sixty (60) days of its completed written filing.

16.16.3.4.2. Attendance - The petitioner and Village Clerk and/or their authorized representatives shall attend those meetings of the Zoning Board of Appeals at which an appeal is to be heard.

16.16.3.5 Zoning Board of Appeals Recommendation - Within thirty (30) days after the close of the required public hearing of an appeal, the Zoning Board of Appeals shall prepare and submit written findings of fact and recommendations to grant, deny, wholly or in part, or modify said appeal to the Village Board for final determination.

16.16.3.6 Village Board Determination - Within thirty (30) days after receipt of the Zoning Board of Appeals written findings of fact and recommendations concerning an appeal, the Village Board, upon the majority vote of its entire membership, shall grant, deny, wholly or in part, or modify said appeal as it determines appropriate and to that end shall have all the powers of the offices from which the appeal was taken.

16.16.3.7 Effect of Village Board Denial - No appeal which has been denied, wholly or in part, by the Village Board, in accordance with the provisions established herein, may be resubmitted for a period of one (1) year from the date of said denial, except on grounds of new evidence or proof of changed conditions found to be valid by the Village Board.

16.16.4 Variations

It is the intent of this Section 16 to use variations only to modify the application of Section 16 to achieve a parity among signs similarly located and classified. Specifically, variations are to be used to overcome some exceptional condition which poses practical difficulty or particular hardship in such a way as to prevent an owner from displaying his/her sign as intended by this Section 16. Such practical difficulty must be clearly exhibited and must be a result of an external influence; it may not be self-imposed.

16.16.4.1 Petition for Variation

16.16.4.1.1. Standing - A petition for a variation from any provisions of this Section 16 may be made by any person having a

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proprietary interest in the sign for which such variation is requested.

16.16.4.1.2. Filing

A variation request shall be addresses to the Zoning Board of Appeals shall be filed in writing with the Village Clerk and shall include the following information:

- 16.16.4.1.2.1. The names, addresses, and telephone number of the petitioner, the owner of the property on which the sign is to be erected or affixed, the owner of the sign, and the person to be erecting or affixing the sign.
- 16.16.4.1.2.2. A description of the requested variation.
- 16.16.4.1.2.3. Justification of the requested variation.
- 16.16.4.1.2.4. The location of the building, structure, or zoning lot on which the sign is to be erected or affixed.
- 16.16.4.1.2.5. A site plan of the property involved, showing accurate placement thereon of the proposed sign.
- 16.16.4.1.2.6. A blueprint or ink drawing of the plans and specifications of the sign to be erected or affixed and method of construction and attachment to the building or in the ground. Such plans and specifications shall include details of dimensions, materials, color, and weight.
- 16.16.4.1.2.7. The written consent of the owner of the building, structure, or property on which the sign is to be erected or affixed.
- 16.16.4.1.2.8. Such other information as the Sign Variation Committee may require to determine full compliance with this Code and other applicable ordinances of the Village.

- 16.16.4.1.3. Fees - Each variation request to the Zoning Board of Appeals shall be accompanied by the applicable fee as specified in Code Section 14 to be paid at the time of filing of the variation request.

16.16.4.2 Public Hearing

- 16.16.4.2.1. Timing - The Zoning Board of Appeals shall hold a public hearing on a variation request within sixty (60) days of its completed written filing.
- 16.16.4.2.2. Attendance - The petitioner and Village Clerk and/or their authorized representatives shall attend those meetings of

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the Zoning Board of Appeals at which a variation is to be heard.

- 16.16.4.2.3. Standards for Variations - The Zoning Board of Appeals may recommend to the Village Board that a variation be granted when it shall be determined from evidence presented to the Zoning Board of Appeals that the variation will not merely serve as a convenience to the petitioner but is necessary to alleviate some demonstrable hardship or unusual practical difficulty and that the granting of the variation will not in any way be inconsistent with the intent, purpose, and objectives of this Section 16.

16.16.4.3 Zoning Board of Appeals Recommendation

Within thirty (30) days after the close of the required public hearing of a requested variation from one (1) or more of the provisions of this Section 16, the Zoning Board of Appeals shall prepare and submit written findings of fact and recommendations to grant, deny, wholly or in part, or modify said variation request to the Village Board for final determination.

16.16.4.4 Village Board Determination

Within thirty (30) days after the receipt of the Zoning Board of Appeals written findings of fact and recommendations concerning an appeal, the Village Board, upon the majority vote of its entire membership, shall grant, deny, wholly or in part, or modify said variation request as it determines appropriate and to that end shall have all the powers of the offices from which the requested variation was taken.

16.16.4.5 Effect of Village Board Denial

No requested variation which has been denied wholly or in part by the Village Board in accordance with the provisions established herein, may be resubmitted for a period of one (1) year from the date of said denial, except on grounds of new evidence or proof of changed conditions found to be valid by the Village Board.

16.16.4.6 Village Board Revocation

In any case where a variation has been granted, and where no work pertinent thereto has been initiated within one (1) calendar year from the date of Village Board approval of the requested variation, then without further action by either the Sign Variation Committee or the Village Board, said variation shall become null and void.

16.16.4.7 Maintenance of Records

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The Village Clerk shall maintain complete records of all findings of fact and recommendations of the Zoning Board of Appeals and all determinations of the Village Board relative to a requested variation. All such records shall be open to the public for inspection.

16.17. PENALTIES FOR VIOLATIONS

16.17.1 Failure to Obtain or Renew Sign Permit

Any person who fails to obtain or renew a sign permit as required by any provision of this section 16 shall be subject to the penalty provisions of Code Section 10.2.

16.17.2 Display of Illegal Non-Conforming Signs

Any person who displays a sign in the Village found to be in violation of one (1) or more of the provisions of this Section 16, except for those legal non-conforming signs as specified in Section 16.14, after receipt of written notice of such violation(s), shall be subject to the penalty provisions of Code Section 10.2.

16.17.3 Other Remedies

In addition to all other remedies, the Village may institute any appropriate action or proceeding to prevent, restrain, correct, or abate any violation of this Section 16.

16.18. SPECIAL DISTRICT SIGN REGULATIONS

16.18.1 Establishment of Regulations

The Village Board may from time to time establish sign regulations separate from the provisions of this Section 16 for a designated area of the Village. Such districts shall be contiguous, of substantial size, and possess certain unique characteristics, as determined by the Village Board, to warrant sign regulations which differ from one (1) or more of the provisions of this Section 16. A map defining the district and special regulations, which may modify certain defined provisions of this Section 16 will, upon approval by the Village Board be made an attachment to this Section 16. If, and to the extent that, special district regulations are approved by the Village Board, such regulations shall be observed by the persons affected in lieu of compliance with the affected provisions of this Section 16. However, those provisions of this Section 16 which are not affected by the special district sign regulations shall continue to apply in the designated special district. Nothing in this Section 16.18 or elsewhere in this Section 16 shall prevent the establishment of special district sign regulations which are more stringent than those set forth in this Section 16.

16.18.2 Conditions for Approval

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No special district sign regulations shall be approved by the Village Board unless the regulations are binding upon all persons and property located in the designated area to which the regulations are intended to apply.

SECTION 17. TELECOMMUNICATIONS

17.1. GENERAL

17.1.1 **Purpose:** The purpose and intent of this Section 17 is to:

- 17.1.1.1 establish a local policy concerning telecommunications providers and services;
- 17.1.1.2 establish clear local guidelines, standards and time frames for the exercise of local authority with respect to the regulation of telecommunications providers and services;
- 17.1.1.3 promote competition in telecommunications;
- 17.1.1.4 minimize unnecessary local regulation of telecommunications providers and services;
- 17.1.1.5 encourage the provision of advanced and competitive telecommunications services on the widest possible basis to the businesses, institutions and residents of the Village;
- 17.1.1.6 permit and manage reasonable access to the public ways of the Village for telecommunications purposes on a competitively neutral basis;
- 17.1.1.7 conserve the limited physical capacity of the public ways held in public trust by the Village;
- 17.1.1.8 assure that the Village's current and ongoing costs of granting and regulating private access to and use of the public ways are fully paid by the persons seeking such access and causing such costs;
- 17.1.1.9 secure fair and reasonable compensation to the Village and the residents of the Village for permitting private use of the public ways;
- 17.1.1.10 assure that all telecommunications carriers providing facilities or services within the Village comply with the ordinances, rules and regulations of the Village;
- 17.1.1.11 assure that the Village can continue to fairly and responsibly protect the public health, safety and welfare;
- 17.1.1.12 enable the Village to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development.

17.1.2 **Definitions:** For the purpose of this Section 17, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

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“Affiliate” means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.

“Annual gross revenue” ... reserved.

“Cable Act” shall mean the Cable Communications Policy Act of 1984, 47 U.S.C. 532, et seq., as hereinbefore amended.

“Cable operator” means a telecommunications carrier providing or offering to provide “cable service” within the Village as that term is defined in the Cable Act.

“Cable service” for the purpose of this Section 17 shall have the same meaning provided by the Cable Act.

“Corporate Authorities” means the President and Board of Trustees of the Village.

“Excess capacity” means the volume or capacity in any existing or future duct, conduit, manhole, handhole or other utility facility within the public way that is or will be available for use for additional telecommunications facilities.

“FCC” or “Federal Communications Commission” means the Federal administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

“ICC” or “Illinois Commerce Commission” means the State administrative agency, or lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers in the State of Illinois.

“Other ways” means the highways, streets, alleys, utility easements or other rights-of-way within the Village, but under the jurisdiction and control of a governmental entity other than the Village.

“Overhead facilities” means utility poles, utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

“Person” means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability

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companies and individuals and includes their lessors, trustees and receivers.

“Public street” means any highway, street, alley or other public right of way for motor vehicle travel under the jurisdiction and control of the Village which has been acquired, established, dedicated or devoted to highway purposes not inconsistent with telecommunications facilities.

“Public way” means and includes all public streets and utility easements, as those terms are defined herein, now or hereafter owned by the Village, but only to the extent of the Village's right, title, interest or authority to grant a license or franchise to occupy and use such streets and easements for telecommunications facilities.

“State” means the State of Illinois.

“Surplus space” means that portion of the usable space on a utility pole which has the necessary clearance from other pole users, as required by the orders and regulations of the Illinois Commerce Commission, to allow its use by a telecommunications carrier for a pole attachment.

“Telecommunications carrier” means and includes every person that directly or indirectly owns, controls, operates or manages plant, equipment or property within the Village, used or to be used for the purpose of offering telecommunications service.

“Telecommunications facilities” means the plant, equipment and property, including but not limited to, cables, wires, conduits, ducts, pedestals, antennae, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer telecommunications services.

“Telecommunications provider” means and includes every person who provides telecommunications service over telecommunications facilities without any ownership or management control of the facilities.

“Telecommunications service” means the providing or offering for rent, sale or lease, or in exchange for other value received, of the transmittal of voice, data, image, graphic and video programming information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium.

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“Telecommunications system” See “Telecommunications facilities”.

“Underground facilities” means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for Overhead Facilities.

“Usable space” means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the Illinois Commerce Commission.

“Utility easement” means any easement owned by the Village and acquired, established, dedicated or devoted for public utility purposes not inconsistent with telecommunications facilities.

“Utility facilities” means the plant, equipment and property, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within the public ways of the Village and used or to be used for the purpose of providing utility or telecommunications services.

“Village” means the Village of Gilberts.

“Village property” means and includes all real property owned by the Village, other than public streets and utility easements as those terms are defined herein, and all property held in a proprietary capacity by the Village, which are not subject to right-of-way licensing and franchising as provided in this Section 17.

17.1.3 **Registration:** Except as otherwise provided herein, all telecommunications carriers and providers engaged in the business of transmitting, supplying or furnishing of telecommunications originating or terminating in the Village shall register with the Village pursuant to Code Section 17.2.

17.1.4 **Telecommunications License:** Except as otherwise provided therein, any telecommunications carriers who desire to construct, install, operate, maintain, or otherwise locate telecommunications facilities in, under, over or across any public way of the Village for the sole purpose of providing telecommunications service to persons and areas outside the Village shall first obtain a license granting the use of such public ways from the Village pursuant to Code Section 17.3.

17.1.5 **Telecommunications Franchise:** Except as otherwise provided herein, any telecommunications carriers who desire to construct, install, operate, maintain or otherwise locate telecommunications facilities in, under, over or across any public way of the Village, and to also provide

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telecommunications service to persons or areas in the Village, shall first obtain a franchise granting the use of such public ways from the Village pursuant to Code Section 17.4.

- 17.1.6 **Cable Television Franchise:** Except as otherwise provided herein, any telecommunications carrier who desires to construct, install, operate, maintain or locate telecommunications facilities in any public way of the Village for the purpose of providing cable service to persons in the Village shall first obtain a cable franchise from the Village as provided in Code Section 17.5.
- 17.1.7 **Application to Existing Franchise Ordinances and Agreements:** This Section 17 shall have no effect on any existing franchise ordinance or franchise agreement until:
- 17.1.7.1 the expiration of said franchise ordinance or agreement;
 - 17.1.7.2 an amendment to an unexpired franchise ordinance or franchise agreement, unless both parties agree to defer full compliance to a specific date not later than the present expiration date.
- 17.1.8 **Penalties:** Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Section 17 shall be subject to the penalties provided for in Code Section 10.2 for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.
- 17.1.9 **Other Remedies:** Nothing in this Section 17 shall be construed as limiting any judicial remedies that the Village may have, at law or in equity, for enforcement of this Section 17.
- 17.1.10 **Severability:** If any section, subsection, sentence, clause, phrase, or other portion of this Section 17, or its application to any person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

17.2. REGISTRATION OF TELECOMMUNICATIONS CARRIERS AND PROVIDERS

- 17.2.1 **Registration Required:** All telecommunications carriers and providers that offer or provide any telecommunications service for a fee directly to the public, either within the Village, or outside the corporate limits from telecommunications facilities within the Village, shall register with the Village pursuant to this Section 17 on forms to be provided by the Village Clerk, which shall include the following:
- 17.2.1.1 The identity and legal status of the registrant, including any affiliates.
 - 17.2.1.2 The name, address and telephone number of the officer, agent or employee responsible for the accuracy of the registration statement.

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- 17.2.1.3 A description of registrant's existing or proposed telecommunications facilities within the Village.
- 17.2.1.4 A description of the telecommunications service that the registrant intends to offer or provide, or is currently offering or providing, to persons, firms, businesses or institutions within the Village.
- 17.2.1.5 Information sufficient to determine whether the registrant is subject to public way licensing or franchising under this Section 17.
- 17.2.1.6 Information sufficient to determine whether the transmission, origination or receipt of the telecommunications services provided or to be provided by the registrant constitutes an occupation or privilege subject to any municipal telecommunications tax, utility message tax or other occupation tax imposed by the Village.
- 17.2.1.7 Information sufficient to determine that the applicant has applied for and received any certificate of authority required by the Illinois Commerce Commission to provide telecommunications services or facilities within the Village.
- 17.2.1.8 Information sufficient to determine that the applicant has applied for and received any construction permit, operating license or other approvals required by the Federal Communications Commission to provide telecommunications services or facilities within the Village.
- 17.2.1.9 Such other information as the Village Clerk may reasonably require.
- 17.2.2 **Registration Fee:** Each application for registration as a telecommunications carrier or provider shall be accompanied by a fee as specified in Code Section 14.
- 17.2.3 **Purpose of Registration:** The purpose of registration under this Section 17.2 is to:
 - 17.2.3.1 provide the Village with accurate and current information concerning the telecommunications carriers and providers who offer or provide telecommunications services within the Village, or that own or operate telecommunication facilities within the Village;
 - 17.2.3.2 assist the Village in enforcement of this Section 17;
 - 17.2.3.3 assist the Village in the collection and enforcement of any municipal taxes, franchise fees, license fees or charges that may be due the Village; and
 - 17.2.3.4 assist the Village in monitoring compliance with local, state and federal laws.

17.3. TELECOMMUNICATIONS LICENSE

- 17.3.1 **Telecommunications License:** A telecommunications license shall be required of any telecommunications carrier who desires to occupy specific

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public ways of the Village for the sole purpose of providing telecommunications services to persons or areas outside the Village.

17.3.2 License Application: Any person that desires a telecommunications license pursuant to this Section 17.3 shall file an application with the Village which application shall include the following information:

- 17.3.2.1 The identity of the license applicant, including all affiliates of the applicant.
- 17.3.2.2 A description of the telecommunications services that are or will be offered or provided by licensee over its telecommunications facilities.
- 17.3.2.3 A description of the transmission medium that will be used by the licensee to offer or provide such telecommunications services.
- 17.3.2.4 Preliminary engineering plans, specifications and a network map of the facilities to be located within the Village, all in sufficient detail to identify:
 - 17.3.2.4.1. the location and route requested for applicant's proposed telecommunications facilities.
 - 17.3.2.4.2. the location of all overhead and underground public utility, telecommunication, cable, water, sewer drainage and other facilities in the public way along the proposed route.
 - 17.3.2.4.3. the location(s), if any, for interconnection with the telecommunications facilities of other telecommunications carriers.
 - 17.3.2.4.4. the specific trees, structures, improvements, facilities and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate.
- 17.3.2.5 If applicant is proposing to install overhead facilities, evidence that surplus space is available for locating its telecommunications facilities on existing utility poles along the proposed route.
- 17.3.2.6 If applicant is proposing an underground installation in existing ducts or conduits within the public ways, information in sufficient detail to identify:
 - 17.3.2.6.1. the excess capacity currently available in such ducts or conduits before installation of applicant's telecommunications facilities;
 - 17.3.2.6.2. the excess capacity, if any, that will exist in such ducts or conduits after installation of applicant's telecommunications facilities.
- 17.3.2.7 If applicant is proposing an underground installation within new ducts or conduits to be constructed within the public ways:

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- 17.3.2.7.1. the location proposed for the new ducts or conduits;
 - 17.3.2.7.2. the excess capacity that will exist in such ducts or conduits after installation of applicant's telecommunications facilities.
 - 17.3.2.8 A preliminary construction schedule and completion date.
 - 17.3.2.9 A preliminary traffic control plan in accordance with the IDOT Manual on Uniform Traffic Control Devices.
 - 17.3.2.10 Financial statements prepared in accordance with generally accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the facilities.
 - 17.3.2.11 Information in sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding the telecommunications facilities and services described in the application.
 - 17.3.2.12 Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the telecommunications services.
 - 17.3.2.13 All fees, deposits or charges required pursuant to Code Section 17.6.
 - 17.3.2.14 Such other and further information as may be required by the Village President.
 - 17.3.3 **Determination by the Village:** Within 120 days after receiving a complete application under Section 17.3.2 hereof, the Village Corporate authorities shall issue a written determination granting or denying the application in whole or in part, applying the following standards. If the application is denied, the written determination shall include the reasons for denial. In receiving such an application, the Corporate Authorities shall consider the following factors:
 - 17.3.3.1 The financial and technical ability of the applicant.
 - 17.3.3.2 The legal ability of the applicant.
 - 17.3.3.3 The capacity of the public ways to accommodate the applicant's proposed facilities.
 - 17.3.3.4 The capacity of the public ways to accommodate additional utility and telecommunications facilities if the license is granted.
 - 17.3.3.5 The damage or disruption, if any, of public or private facilities, improvements, service, travel or landscaping if the license is granted.
 - 17.3.3.6 The public interest in minimizing the cost and disruption of construction within the public ways.

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- 17.3.3.7 The service that applicant will provide to the community and region.
 - 17.3.3.8 The effect, if any, on public health, safety and welfare if the license is granted.
 - 17.3.3.9 The availability of alternate routes and/or locations for the proposed facilities.
 - 17.3.3.10 Applicable federal, state and local telecommunications laws, codes, ordinances, regulations and policies.
 - 17.3.3.11 Such other factors as may demonstrate that the grant to use the public ways will serve the community interest.
 - 17.3.4 **Agreement:** No license granted hereunder shall be effective until the applicant and the Village have executed a written agreement setting forth the particular terms and provisions under which the license to occupy and use public ways of the Village will be granted.
 - 17.3.5 **Nonexclusive Grant:** No license granted under this Section 17 shall confer any exclusive right, privilege, license or franchise to occupy or use the public ways of the Village for delivery of telecommunications services or any other purposes.
 - 17.3.6 **Rights Granted:** No license granted under this Section 17 shall convey any right, title or interest in the public ways, but shall be deemed a license only to use and occupy the public ways for the limited purposes and term stated in the grant. Further, no license shall be construed as any warranty of title.
 - 17.3.7 **Term of Grant:** Unless otherwise specified in a license agreement, a telecommunications license granted hereunder shall be in effect for a term of five (5) years.
 - 17.3.8 **License Route:** A telecommunications license granted under this Section 17 shall be limited to a grant of specific public ways and defined portions thereof.
 - 17.3.9 **Location of Facilities:** Unless otherwise specified in a license agreement, all facilities shall be constructed, installed and located in accordance with the following terms and conditions:
 - 17.3.9.1 Telecommunications facilities shall be installed within an existing underground duct or conduit whenever excess capacity exists within such utility facility.
 - 17.3.9.2 A licensee with permission to install overhead facilities shall install its telecommunications facilities on pole attachments to existing utility poles only, and then only if surplus space is available.
 - 17.3.9.3 Whenever any existing electric utilities, cable facilities or telecommunications facilities are located underground within a public way of the Village, a licensee with permission to occupy the
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- same public way must also locate its telecommunications facilities underground.
- 17.3.9.4 Whenever any new or existing electric utilities, cable facilities or telecommunications facilities are located or relocated underground within a public way of the Village, a grantee that currently occupies the same public way shall relocate its facilities underground within a reasonable period of time, which shall not be later than the end of the grant term. Absent extraordinary circumstances or undue hardship as determined by the Village Engineer, such relocation shall be made concurrently to minimize the disruption of the public ways.
- 17.3.9.5 Whenever new telecommunications facilities will exhaust the capacity of a public street or utility easement to reasonably accommodate future telecommunications carriers or facilities, the grantee shall provide additional ducts, conduits, manholes and other facilities for nondiscriminatory access to future telecommunications carriers.
- 17.3.10 **Construction Permits:** All licensees are required to obtain construction permits for telecommunications facilities as required in Code Section 17.7 provided, however, that nothing in this Section 17 shall prohibit the Village and a licensee from agreeing to alternative plan review, permit and construction procedures in a license agreement, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.
- 17.3.11 **Compensation to Village:** Each license granted under this Section 17 is subject to the Village's right, which is expressly reserved, to annually fix a fair and reasonable compensation to be paid for the property rights granted to the licensee; provided, nothing in this Section 17 shall prohibit the Village and a licensee from agreeing to the compensation to be paid.
- 17.3.12 **Service to Village Users:** A licensee may be permitted to offer or provide telecommunications services to persons or areas within the Village upon submitting an application for approval pursuant to Code Section 17.4.
- 17.3.13 Amendment of Grant:
- 17.3.13.1 A new license application and grant shall be required of any telecommunications carrier that desires to extend or locate its telecommunications facilities in public ways of the Village which are not included in a license previously granted under this Section 17.
- 17.3.13.2 If ordered by the Village to locate or relocate its telecommunications facilities in public ways not included in a previously granted license, the Village shall grant a license amendment without further application.

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- 17.3.14 **Renewal Applications:** A grantee that desires to renew its license under this Section 17 shall, not more than 180 days nor less than 90 days before expiration of the current license, file an application with the Village for renewal of its license which shall include the following information:
- 17.3.14.1 The information required pursuant to Code Section 17.3.2.
 - 17.3.14.2 Any information required pursuant to the license agreement between the Village and the grantee.
- 17.3.15 **Renewal Determinations:** Within 90 days after receiving a complete application under Code Section 17.3.14 hereof, the Corporate Authorities shall issue a written determination granting or denying the renewal application in whole or in part, applying the following standards. If the renewal application is denied, the written determination shall include the reasons for non-renewal. In making this determination, the corporate Authorities shall consider:
- 17.3.15.1 The financial and technical ability of the applicant.
 - 17.3.15.2 The legal ability of the applicant.
 - 17.3.15.3 The continuing capacity of the public ways to accommodate the applicant's existing facilities.
 - 17.3.15.4 The applicant's compliance with the requirements of this Section 17 and the license agreement.
 - 17.3.15.5 Applicable federal, state and local telecommunications laws, rules and policies.
 - 17.3.15.6 Such other factors as may demonstrate that the continued grant to use the public ways will serve the community interest.
- 17.3.16 **Obligation to Cure As a Condition of Renewal:** No license shall be renewed until any ongoing violations or defaults in the licensee's performance of the license agreement, or of the requirements of this Section 17, have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the Village.

17.4. TELECOMMUNICATIONS FRANCHISE

- 17.4.1 **Telecommunications Franchise:** A telecommunications franchise shall be required of any telecommunications carrier who desires to occupy public ways of the Village and to provide telecommunications services to any person or area in the Village.
- 17.4.2 **Franchise Application:** Any person that desires a telecommunications franchise pursuant to this Section 17.4 shall file an application with the Village which shall include the following information:
- 17.4.2.1 The identity of the franchise applicant, including all affiliates of the applicant.

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- 17.4.2.2 A description of the telecommunications services that are or will be offered or provided by the franchise applicant over its existing or proposed facilities.
 - 17.4.2.3 A description of the transmission medium that will be used by the franchisee to offer or provide such telecommunications services.
 - 17.4.2.4 Preliminary engineering plans, specifications and a network map of the facilities to be located within the Village, all in sufficient detail to identify:
 - 17.4.2.4.1. the location and route requested for applicant's proposed telecommunications facilities.
 - 17.4.2.4.2. the location of all overhead and underground public utility, telecommunication, cable, water, sewer drainage and other facilities in the public way along the proposed route.
 - 17.4.2.4.3. the location(s), if any, for interconnection with the telecommunications facilities of other telecommunications carriers.
 - 17.4.2.4.4. the specific trees, structures, improvements, facilities and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate.
 - 17.4.2.5 If applicant is proposing to install overhead facilities, evidence that surplus space is available for locating its telecommunications facilities on existing utility poles along the proposed route.
 - 17.4.2.6 If applicant is proposing an underground installation in existing ducts or conduits within the public ways, information in sufficient detail to identify:
 - 17.4.2.6.1. the excess capacity currently available in such ducts or conduits before installation of applicant's telecommunications facilities;
 - 17.4.2.6.2. the excess capacity, if any, that will exist in such ducts or conduits after installation of applicant's telecommunications facilities.
 - 17.4.2.7 If applicant is proposing an underground installation within new ducts or conduits to be constructed within the public ways:
 - 17.4.2.7.1. the location proposed for the new ducts or conduits;
 - 17.4.2.7.2. the excess capacity that will exist in such ducts or conduits after installation of applicant's telecommunications facilities.
 - 17.4.2.8 A preliminary construction schedule and completion dates.
 - 17.4.2.9 A preliminary traffic control plan in accordance with the IDOT Manual on Uniform Traffic Control Devices.
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- 17.4.2.10 Financial statements prepared in accordance with generally accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the facilities.
 - 17.4.2.11 Information in sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding the telecommunications facilities and services described in the application.
 - 17.4.2.12 Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the telecommunications services.
 - 17.4.2.13 Whether the applicant intends to provide cable service, video dialtone service or other video programming service, and sufficient information to determine whether such service is subject to cable franchising.
 - 17.4.2.14 An accurate map showing the location of any existing telecommunications facilities in the Village that applicant intends to use or lease.
 - 17.4.2.15 A description of the services or facilities that the applicant will offer or make available to the Village and other public, educational and governmental institutions.
 - 17.4.2.16 A description of applicant's access and line extension policies.
 - 17.4.2.17 The area or areas of the Village the applicant desires to serve and a schedule for build-out to the entire franchise area.
 - 17.4.2.18 All fees, deposits or charges required pursuant to Code Section 17.6.
 - 17.4.2.19 Such other and further information as may be requested by the Village President.
- 17.4.3 **Determination by the Village:** Within 150 days after receiving a complete application under Section 17.3.2 hereof, the Corporate Authorities shall issue a written determination granting or denying the application in whole or in part, applying the following standards. If the application is denied, the written determination shall include the reasons for denial. In making such determination, the Corporate Authorities shall consider the following factors:
- 17.4.3.1 The financial and technical ability of the applicant.
 - 17.4.3.2 The legal ability of the applicant.
 - 17.4.3.3 The capacity of the public ways to accommodate the applicant's proposed facilities.

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- 17.4.3.4 The capacity of the public ways to accommodate additional utility and telecommunications facilities if the franchise is granted.
- 17.4.3.5 The damage or disruption, if any, of public or private facilities, improvements, service, travel or landscaping if the franchise is granted.
- 17.4.3.6 The public interest in minimizing the cost and disruption of construction within the public ways.
- 17.4.3.7 The service that applicant will provide to the community and region.
- 17.4.3.8 The effect, if any, on public health, safety and welfare if the franchise requested is granted.
- 17.4.3.9 The availability of alternate routes and/or locations for the proposed facilities.
- 17.4.3.10 Applicable federal, state and local telecommunications laws, regulations, codes, ordinances and policies.
- 17.4.3.11 Such other factors as may demonstrate that the grant to use the public ways will serve the community interest.
- 17.4.4 **Agreement:** No franchise shall be granted hereunder unless the applicant and the Village have executed a written agreement setting forth the particular terms and provisions under which the franchise to occupy and use public ways of the Village will be granted.
- 17.4.5 **Nonexclusive Grant:** No franchise granted hereunder shall confer any exclusive right, privilege, license or franchise to occupy or use the public ways of the Village for delivery of telecommunications services or any other purposes.
- 17.4.6 **Term of Grant:** Unless otherwise specified in a franchise agreement, a telecommunications franchise granted hereunder shall be valid for a term of ten (10) years.
- 17.4.7 **Rights Granted:** No franchise granted hereunder shall convey any right, title or interest in the public ways, but shall be deemed a franchise only to use and occupy the public ways for the limited purposes and term stated in the grant. Further, no franchise shall be construed as any warranty of title.
- 17.4.8 **Franchise Territory:** A telecommunications franchise granted under this Section 17 shall be limited to the specific geographic area of the Village to be served by the franchise grantee, and the specific public ways necessary to serve such areas.
- 17.4.9 **Location of Facilities:** Unless otherwise specified in a franchise agreement, all facilities shall be constructed, installed and located in accordance with the following terms and conditions:

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- 17.4.9.1 Telecommunications facilities shall be installed within an existing underground duct or conduit whenever excess capacity exists within such utility facility.
- 17.4.9.2 A franchisee with permission to install overhead facilities shall install its telecommunications facilities on pole attachments to existing utility poles only, and then only if surplus space is available.
- 17.4.9.3 Whenever any existing electric utilities, cable facilities or telecommunications facilities are located underground within a public way of the Village, a franchisee with permission to occupy the same public way must also locate its telecommunications facilities underground.
- 17.4.9.4 Whenever any new or existing electric utilities, cable facilities or telecommunications facilities are located or relocated underground within a public way of the Village, a grantee that currently occupies the same public way shall relocate its facilities underground within a reasonable period of time, which shall not be later than the end of the grant term. Absent extraordinary circumstances or undue hardship as determined by the Village Engineer, such relocation shall be made concurrently to minimize the disruption of the public ways.
- 17.4.9.5 Whenever new telecommunications facilities will exhaust the capacity of a public street or utility easement to reasonably accommodate future telecommunications carriers or facilities, the grantee shall provide additional ducts, conduits, manholes and other facilities for nondiscriminatory access to future carriers.
- 17.4.10 **Construction Permits:** All franchisees are required to obtain construction permits for telecommunications facilities as required in Code Section 17.7 provided, however, that nothing in this Section 17 shall prohibit the Village and a franchisee from agreeing to alternative plan review, permit and construction procedures in a franchise agreement, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.
- 17.4.11 **Compensation to Village:** Each franchise granted under this Section 17 is subject to the Village's right, which is expressly reserved, to annually fix a fair and reasonable compensation to be paid for the property rights granted to the franchisee; provided, nothing in this Section 17 shall prohibit the Village and a franchisee from agreeing to the compensation to be paid.
- 17.4.12 **Nondiscrimination:** A franchisee shall make its telecommunications services available to any customer within its franchise area who shall request such service, without discrimination as to the terms, conditions, rates or charges for grantee's services; provided, however, that nothing in

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this Section 17 shall prohibit a franchisee from making any reasonable classifications among differently situated customers.

17.4.13 **Service to the Village:** A franchisee shall make its telecommunications services available to the Village at its most favorable rate for similarly situated users, unless otherwise provided in a license or franchise agreement.

17.4.14 Amendment of Grant:

17.4.14.1 A new franchise application and grant shall be required of any telecommunications carrier that desires to extend its franchise territory or to locate its telecommunications facilities in public ways of the Village which are not included in a franchise previously granted under this Section 17.

17.4.14.2 If ordered by the Village to locate or relocate its telecommunications facilities in public ways not included in a previously granted franchise, the Village shall grant a franchise amendment without further application.

17.4.15 **Renewal Applications:** A grantee that desires to renew its franchise under this Section 17 shall, not more than 240 days nor less than 150 days before expiration of the current franchise, file an application with the Village for renewal of its franchise which shall include the following information:

17.4.15.1 The information required pursuant to Section 17.4.2 of this Section.

17.4.15.2 Any information required pursuant to the franchise agreement between the Village and the grantee.

17.4.16 **Renewal Determinations:** Within 150 days after receiving a complete application under Section 17.4.15 hereof, the Corporate Authorities shall issue a written determination granting or denying the renewal application in whole or in part, applying the following standards. If the renewal application is denied, the written determination shall include the reasons for non-renewal. In making such determination the Corporate Authorities shall consider the following factors:

17.4.16.1 The financial and technical ability of the applicant.

17.4.16.2 The legal ability of the applicant.

17.4.16.3 The continuing capacity of the public ways to accommodate the applicant's existing facilities.

17.4.16.4 The applicant's compliance with the requirements of this Section 17 and the franchise agreement.

17.4.16.5 Applicable federal, state and local telecommunications laws, rules, codes, ordinances, regulations and policies.

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17.4.16.6 Such other factors as may demonstrate that the continued grant to use the public ways will serve the community interest.

17.4.17 **Obligation to Cure As a Condition of Renewal:** No franchise shall be renewed until any ongoing violations or defaults in the grantee's performance of the franchise agreement, or of the requirements of this Section 17, have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the Village.

17.5. CABLE FRANCHISE

17.5.1 **General:** In addition to the provisions outlined in Section 17.4 regarding franchise application, grant and authority, Cable Operators are subject to the provisions and requirements outlined in this Section 17.5.

17.5.1.1 Cable Operators are subject to this Section 17 in its entirety and the Cable Act.

17.5.1.2 If a conflict arises between the language in Section 17.5 and the rest of this Section 17, Section 17.5 shall prevail.

17.5.2 **Description of System:** The minimum capacity for a cable system shall be 450 MHz with at least 50 downstream channels. The Cable Operator shall, as part of the acceptance of a franchise, provide the Village with a written description of the cable system within the Village, including technical characteristics, channel capacity, channel carriage, and a strand map. The Cable Operator shall provide the Village with an updated description, upon request or whenever substantial changes in the system are made.

17.5.3 **Channel Allocation:** The Cable Operator shall, to the maximum extent possible, assign as dial locations for local broadcast stations carried on the system numbers available by either a cable ready television or a converter, which correspond to their respective FCC-assigned TV station call numbers unless the station has negotiated a more favorable position in the channel line-up.

17.5.4 **Access Channels:** The Cable Operator shall provide access channels on the subscriber network for the exclusive use of designated institutions.

17.5.4.1 The number and use of said channels will be prescribed in the franchise agreements.

17.5.4.2 The Village shall determine the channel allocations for such designated institutions.

17.5.4.3 Such channels shall be available on the lowest tier of basic service.

17.5.4.4 The Cable Operator shall make every reasonable effort to assign P.E.G. (Public, Educational, Government) channels to the same channels assigned by other providers within each municipality, and in contiguous municipalities.

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- 17.5.4.5 The Cable Operator shall list the specific assigned user on each channel in every channel line-up. A new channel chart shall be issued to subscribers by bill stuffer in the billing to be received prior to any changes.
- 17.5.4.6 P.E.G. channels may not be reassigned without forty-five (45) days notice to the Village. The franchisee shall notify subscribers of any P.E.G. channel reassignments by bill messages or bill stuffer in the billing to be received prior to the change, P.E.G. channels may not be reassigned more than once in any twelve (12) month period.
- 17.5.4.7 The Cable Operator shall be responsible for any established costs incurred by the Village due to a change in channel assignment for any P.E.G. channel which was not requested by the user. These costs may include, stationery, business cards and public notices. The Cable Operator will incur these costs for no more than a one month period. The Cable Operator shall discuss reimbursement of special promotional items, such as T-shirts or other special items, with the affected user on a case by case basis.
- 17.5.5 **Extension of Service:** Following the initial construction of the Cable Operator's telecommunications system, the Cable Operator shall extend its system and make service available as follows:
- 17.5.5.1 Unless otherwise specified in a license or franchise agreement, within forty five (45) days after notification by the Village of an annexation having a minimum density of twenty-five (25) units per street mile, begin construction of its telecommunications system within such annexed area to provide service to each person requesting such service. Weather permitting, construction and activation to the annexed area shall be completed within forty five (45) days.
- 17.5.5.2 The Village shall notify the Cable Operator of the construction of any new development within the Village by delivering to the Cable Operator a final plat of survey, to include final design for all utilities for that development. For developments having a minimum density of twenty five (25) units per street mile, the Cable Operator shall deliver to the Village its construction design plan and have applied for all necessary permits and licenses within thirty days of said notification. Weather permitting, construction shall begin within thirty (30) days after the receipt of all necessary permits and licenses. Construction, including restoration, shall be completed within forty five (45) days.
- 17.5.5.3 Within thirty (30) days after signing a contract and approved design with any multiple dwelling unit for the provision of service, the Cable Operator shall begin construction and installation of its system in such multiple dwelling unit. Construction and installation shall be completed within thirty (30) days.

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- 17.5.5.4 Cable Operator shall provide service to areas not meeting the minimum density of twenty five (25) units per street mile within six months after notification by the Village. If the Cable Operator determines that a line extension is not economically feasible, it may request relief from this provision. Approval of such request shall not be unreasonably withheld.
- 17.5.5.5 Cable Operator further agrees that any litigation instituted by a third party shall not suspend Cable Operator's obligation to construct and install the cable communications system in accordance with the construction time schedule unless otherwise ordered by a court of competent jurisdiction.
- 17.5.6 **Technical Standards:** The distribution of all signals throughout the system, including the combined degradation effects of both upstream and downstream carriage, no matter where the signals originate or are terminated, shall meet the applicable industry standards set for the delivery method being used.
- 17.5.6.1 All applicable regulatory standards shall be observed as if each and every one were stated herein. In the event that enforcement of said regulatory standards is discontinued or the regulatory agency charged with enforcement is dissolved, the standards shall remain in full force and effect until the Village exercises its right hereunder to amend this agreement to require such standards as it shall deem necessary.
- 17.5.6.2 In the areas where standards have not been developed, the system shall operate at the equipment manufacturers specifications until measurable standards have been developed. The Cable Operator shall be obligated to ensure that the signal quality is of the highest practicable level achievable for the components in question. For the first year that newer equipment for which no standards have been developed is in use, the Cable Operator will report monthly on the reliability and performance of said equipment. Thereafter, if the equipment is functioning within the levels anticipated, the Cable Operator may test and report on the same schedule as the rest of the communications system.
- 17.5.7 **Testing:** The Cable Operator shall conduct appropriate monitoring and measurements utilizing appropriate measuring devices, including devices capable of measuring signal leakage in microvolts/meter, to ensure that the system is performing within the applicable standards. When such monitoring or measurements indicate that performance has fallen below these standards, corrective action shall be taken to restore proper performance. All channels on the system shall be monitored daily by a visual inspection of the picture and listening to the audio for general performance and audio level balance.

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- 17.5.7.1 At a minimum, measurements shall be made monthly at the headend, and quarterly at two randomly-selected, longest cascades in each community to ensure that all channels on the system are operating properly. Measurement of all operational parameters shall be made semi-annually at the headend and four geographically divided locations, at the ends of the longest cascades in each community, on all channels.
- 17.5.7.2 If the Village suspects an area is not performing in accordance with the applicable standards, they may order the Cable Operator to test in that location within forty-eight (48) hours notice from the Village.
- 17.5.7.3 Newly constructed sections shall be tested within one week of activation, and results reported to the Village.
- 17.5.7.4 The Cable Operator shall submit copies of its federally required proof-of-performance testing within thirty (30) days of its completion.
- 17.5.8 **Reliability:** The Cable Operator shall employ a professional engineer or equivalent, and a service and repair force of competent technicians, capable of maintaining the system in accordance with the technical performance and service requirements in this agreement.
 - 17.5.8.1 The Cable Operator shall install and maintain a standby power system that provides a minimum of three (3) hours duration throughout the distribution networks.
 - 17.5.8.2 System headends and distribution system as well as standby power will have remote status monitoring.
- 17.5.9 **Maintenance:** The Cable Operator shall perform routine maintenance within the following parameters:
 - 17.5.9.1 The Cable Operator shall interrupt system service after 7:00 a.m. and before 1:00 a.m. only with good cause and for the shortest time possible, and, except in emergency situations, only after cable-casting notice of service interruptions at least twenty four (24) hours in advance.
 - 17.5.9.2 Service may be interrupted between 1:00 a.m. and 7:00 a.m. for routine testing, maintenance and repair with notification to the Village, on any day except Saturday, Sunday, or legal holidays.
 - 17.5.9.3 Routine maintenance may be performed during the daylight hours of 7:00 a.m. to 5:00 p.m. on any day except Saturday, Sunday, or legal holidays, up to twice a year upon notification to the Village.
- 17.5.10 Customer Service Standards, General:
 - 17.5.10.1 The Cable Operator shall initiate prompt corrective action to satisfy unresolved complaints. If a customer is not satisfied with the resolution of a complaint, that customer shall be automatically

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- referred to a management person. Local management will work with the person to resolve the problem within forty-eight (48) hours. In the event that local management does not satisfy the customer complaint, the complaint shall be referred to the district manager.
- 17.5.10.2 Customer service representatives and service technicians, including contracted help, shall identify themselves by name. When performing work in the field, a company identification badge shall be displayed on the outer clothing of the technician or contractor.
- 17.5.10.3 Any vehicle used for the installation, construction, maintenance or repair of the telecommunications system shall bear the identification of the contractor or the Cable Operator in a conspicuous place and manner.
- 17.5.10.4 Customers shall receive a copy of the service report and a phone number to call to resolve any additional problems, at the time service is completed.
- 17.5.10.5 The Cable Operator shall make available to every subscriber the equipment or devices necessary for the receipt of all services for which they wish to subscribe. The lowest tier of basic service which includes all off-air and P.E.G. channels shall be available without a converter.
- 17.5.10.6 Upon request from the subscriber, the Cable Operator shall provide a “parental control” mechanism or device that permits the subscriber to “lock out” audible and visual reception of certain programming.
- 17.5.10.7 All installations shall comply with Chapter 8 of the National Electrical Code, 1999 edition. When an installation is proposed in any structure, other than a single family dwelling, notification shall be made to the Village. The Village reserves the right to inspect the property to ensure that the installation will not compromise fire safety measures required in the Life Safety Code, the Building Code, or the Fire Prevention Code.
- 17.5.11 Customer Service Standards, Telephone Response:
- 17.5.11.1 The Cable Operator shall maintain a local, toll-free or collect call telephone access line which will be available to its subscribers twenty four (24) hours per day, seven (7) days per week. Trained representatives of Cable Operator will be available to respond to customer telephone inquiries, twenty-four hours per day, (7) days per week.
- 17.5.11.2 Calls must be answered within four (4) rings by a representative or mechanical device. Under normal operating conditions, the customer will receive a busy signal less than 3% of the time.

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- 17.5.11.3 Telephone answer time by a customer service representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds.
- 17.5.11.4 The abandonment rate for calls shall be no more than ten percent (10%) of the calls reported incoming during any monthly reporting period.
- 17.5.11.5 The above standards shall be met 95% of the time under normal operating conditions, measured on a monthly basis. The Village shall consider unique or one-time occurrences in the evaluation of the average standards in any one monthly reporting period. The Cable Operator shall submit a monthly report accurately showing the telephone response performance covering all areas listed in this subsection.
- 17.5.12 Customer Service Standards, Outage Response:
- 17.5.12.1 The Cable Operator shall submit a monthly report accurately showing the time, the duration, probable cause, number of homes affected, and action taken on all failures or outages on the main distribution system.
- 17.5.12.2 An outage affecting three (3) customers in the same geographic area, off the same line or feeder, shall be corrected within twenty-four hours.
- 17.5.12.3 In the event of extensive system failure of any trunk or feeder cable causing a service outage to ten (10) or more customers in any geographic area, or the failure of modulator equipment, satellite reception equipment, or other system functions that result in the interruption of service throughout the franchise area, corrective action shall be taken immediately.
- 17.5.12.4 Total outages, with the exception of those caused by the cutting of properly buried and marked cables or the accidental downing of an aerial cable, throughout the Municipality shall not exceed ten (10) hours in any one month.
- 17.5.12.5 The Cable Operator shall notify the Village of all major outages, locations of the outage, and the homes affected at the time of occurrence to aid the Village in handling phone calls regarding the problem.
- 17.5.13 Customer Service Standards, Service Call Response:
- 17.5.13.1 All requests for installation, change of service or disconnection shall be completed within seven (7) days.
- 17.5.13.2 All customer service calls regarding repairs and or service problems which are not outage related shall be completed within

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twenty-four hours unless Cable Operator can sufficiently document why said repairs will take longer as in the case of equipment or cable replacement. At no time should repairs take longer than one week to complete.

17.5.13.3 The appointment window alternatives for any call requiring the subscriber to be at the premise shall be either a specific time, or at a maximum, a four-hour block within extended business hours, including weekends.

17.5.13.4 Cable Operator will not cancel an appointment with a subscriber after the close of business on the business day prior to the scheduled appointment.

17.5.13.5 If the Cable Operator's representative is running late for an appointment with a subscriber and will not be able to keep the appointment as scheduled, the subscriber will be contacted. The appointment will be rescheduled as necessary, at a time which is convenient for the customer.

17.5.14 Customer Service Standards, Billing:

17.5.14.1 All charges to subscribers and users shall be consistent throughout the franchise area with a written schedule of fees for all services offered available upon request. The Cable Operator shall apprise each new subscriber of all applicable fees and charges for providing any cable communications services, in writing.

17.5.14.2 The Cable Operator shall not, in regard to fees, discriminate or grant any preference or advantage to any person; provided, however, that the Cable Operator may establish different rates for different classes of subscribers or users, provided that the Cable Operator not discriminate between any subscribers or users of the same class.

17.5.14.3 Except as may be otherwise provided in this agreement, the Cable Operator may offer service which requires advance payment of periodic service charges for no more than one year in advance subject to the conditions contained in this Section 17.

17.5.14.4 Subscribers shall receive a monthly statement with a payment due date to arrive not less than ten (10) days prior to the due date.

17.5.14.5 Bills will be clear, concise and understandable. Bills must be fully itemized and clearly delineate all activity during the billing period, including, dates of service being billed, optional charges, rebates, and credits.

17.5.14.6 All statements shall clearly denote a postmark or initiated date of bill.

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- 17.5.14.7 A phone number for bill adjustment shall be printed on the statement, along with instructions to call for any billing problems. Adjustments will be made for any verifiable loss of service. Adjustments shall appear on the next available subscriber statement. Any adjustments requested by the subscriber which are not automatic under the terms of this agreement, must be requested within thirty (30) days.
- 17.5.14.8 No bill, or portion thereof, may be considered delinquent or be the basis for termination, if said amount is in dispute resolution.
- 17.5.14.9 Customer requested disconnection's shall be made as soon as practicable and in no case shall billing continue longer than five (5) days following the request. The Cable Operator shall not enter into any agreement with a subscriber which imposes any charge other than past due balances and unreturned equipment charges following disconnection of service, except for the re-connection, applicable deposits, and subsequent monthly or periodic charges, and those charges shall be no greater than charges for new subscribers. This Section 17.5 shall not prevent the Cable Operator from refusing service to any person because the Cable Operator's prior accounts with that person remain due and owing.
- 17.5.14.10 The subscriber shall have the right, at any time, to have their service, or any portion thereof, disconnected with a refund for unused service charges.
- 17.5.14.11 Refund checks will be issued promptly, but no later than, either the customer's next billing cycle following resolution of the request, or thirty (30) days, whichever is earlier, or the return of the equipment supplied by the Cable Operator.
- 17.5.14.12 The Cable Operator may hold promotions or otherwise accept payments for up to one year in advance, provided, however, that the service for which payment has been accepted is not subject to an increase in cost until such payment has been expended.
- 17.5.15 **Customer Service Standards, Rates:** The Village reserves the right to regulate rates as permitted by state and federal law.
- 17.5.16 **Customer Service Standards, Notifications:** The Cable Operator shall at the time service is initiated, either for the first time or by reconnection, and at least annually thereafter, provide the customer with written information covering the following:
- 17.5.16.1 Instructions for using all equipment, including instructions for use in conjunction with customer owned equipment.
- 17.5.16.2 The fact that A/B switches are available.
- 17.5.16.3 The procedures and charges to change service(s).

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- 17.5.16.4 What to do in case of a problem, trouble shooting, and where to call for service.
 - 17.5.16.5 A channel chart and price list.
 - 17.5.16.6 Billing policy.
 - 17.5.16.7 The fact that customer service representatives and service technicians are to identify themselves by name.
 - 17.5.16.8 The fact that customers have the right to speak to a supervisor.
 - 17.5.16.9 The appropriate regulatory authority with whom to register a complaint and a listed phone number. Members of the Cable Council shall have the Cable Council listed as their representative.
 - 17.5.16.10 A customer may request a copy of the above listed information at any time for no charge.
 - 17.5.17 **Customer Service: Agreements/Promotions:** The Village shall be placed on the mailing list for all local, national and co-op promotions. All promotions must clearly state the cost of service to the subscriber, restrictions of the promotion, and the date the promotion expires.
 - 17.5.18 **Customer Service: Compliance Reports:** The Cable Operator shall provide a monthly report outlining specific performance in the following areas;
 - 17.5.18.1 Telephone response performance in all areas listed in Code Section 17.5.10.
 - 17.5.18.2 An outage report shall include the number of outages, their location, duration, number of homes affected, and cause.
 - 17.5.18.3 A service call report listing the number of service calls for each municipality served.
 - 17.5.18.4 A construction report listing the progress made over the last month, and the status of pending projects.
 - 17.5.18.5 Franchise fee report shall include a statement of revenues by category including, infomercial revenues, leased access, advertising and production.
 - 17.5.18.6 The Cable Operator shall notify the Village of the resolution of all complaints received by the Municipality within ten (10) days of receipt of such complaint. This provision does not nullify other deadlines within this agreement.
 - 17.5.19 **Performance Evaluation:** The Village and the Cable Operator shall hold performance evaluation meetings in the month of February of each calendar year to discuss the performance of the Cable Operator during the previous year.
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- 17.5.19.1 The Municipality may periodically do a more extensive evaluation of the Cable Operator's performance which may include, a financial or technical audit. The Cable Operator shall fully cooperate with the Village during all reviews and evaluations.
- 17.5.19.2 If at any time the Village determines that reasonable evidence exists of inadequate performance, it may require the Cable Operator to perform tests directed toward the suspected inadequacies. The Cable Operator shall prepare results and a report within thirty (30) days after notice.
- 17.5.19.3 Within thirty (30) to thirty six (36) months prior to the expiration of the franchise agreement, the Village shall begin an evaluation of the Cable Operator's performance over the life of the franchise.
- 17.5.19.4 All evaluation meetings shall be open to the public and announced by the Village in a newspaper of general circulation ten (10) days prior to such meeting. Cable Operator shall place an announcement on the highest use origination channel on the system no less than three (3) times during the hours of 7 o'clock p.m. and 10 o'clock p.m. for five (5) consecutive days preceding the meetings.
- 17.5.20 **Renewal:** To the extent applicable, renewal shall be governed by the Cable Act.
- 17.5.21 **Service to the Village:** Applications for franchises shall include proposals for the provision of public, educational and governmental access to the telecommunications system.
- 17.5.22 **Emergency Override:** The Cable Operator shall provide the equipment required to automatically interrupt programming on all channels of the subscriber network by means of an audio message to present emergency information by public and law enforcement officials of the Village. Such equipment shall be accessible through any municipal facility at no charge for the equipment, installation or maintenance.
- 17.5.23 **Books and Records:** The Cable Operator shall maintain books and records of its operation within the Village to show total revenues by service category in sufficient detail, consistent with generally accepted accounting principles.
- 17.5.23.1 Cable Operator shall maintain all books and records required for regulation of rate by the appropriate governmental authority.
- 17.5.23.2 Cable Operator shall maintain such books and records for the Village separate from any other operation, provided, however, that any expenses, expenditures or revenues which apply to both the system in the Village and any other operation shall be reasonably allocated between all such operations.

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17.5.23.3 Cable Operator shall keep appropriate records of all requests for installation of service, service calls, and outages, showing the date completed and any corrective action taken. A summary of the above listed information shall be submitted to the Village prior to the annual performance evaluation meeting.

17.5.23.4 The required books and records shall be made available in the Cable Operator's local office during normal business hours, for inspection and audit by the Village within thirty (30) days after such request has been made.

17.5.24 Duty to Provide Information: The Cable Operator shall submit to the Village copies of all decisions, correspondence and actions by any federal, state and local courts, regulatory agencies and other governmental bodies relating to its telecommunications operations within the Municipality.

17.5.24.1 Copies of the Cable Operator's schedule of charges, contract or application forms, subscriber user services, policies regarding the processing of subscriber complaints, delinquent subscriber disconnect and reconnect procedures and any other terms and conditions adopted as the Cable Operator's policy in connection with subscriber or user services shall be filed with the Village and updated as necessary, and shall be made available for public inspection in the Cable Operator's local office.

17.5.24.2 Copies of all correspondence, petitions, reports, applications and other documents filed by the Cable Operator with federal or state agencies having jurisdiction over telecommunications, or the same received from said agencies, shall be furnished simultaneously to the Village by the Cable Operator.

17.5.24.3 Within ten (10) days of a written request from the Village, each Cable Operator shall furnish the Village with information sufficient to demonstrate:

17.5.24.3.1. That the Cable Operator has complied with all requirements of this Section 17.

17.5.24.3.2. That all municipal sales, message and/or telecommunications taxes or applicable franchise fees due the Village in connection with the telecommunications services and facilities provided by the Cable Operator have been properly collected and paid by the Cable Operator.

17.5.24.3.3. In addition to the annual filing required in this Section 17, all books, records, maps and other documents, maintained by the Cable Operator with respect to its facilities within the public ways shall be made available for inspection by the Village at reasonable times and intervals.

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- 17.5.25 **Subscriber Privacy.** The Cable Operator will not monitor any terminal connected to its system without prior written notice to the Village and written approval of the subscriber and/or the terminal user. Further, the Cable Operator or franchisee will not provide any information, data or statistics regarding specific terminal users or subscribers, other than as allowed by federal law.

17.6. FEES AND COMPENSATION

- 17.6.1 **Purpose:** It is the purpose of this Code Section 17.6 to provide for the payment and recovery of all direct and indirect costs and expenses of the Village related to the enforcement and administration of this Section 17.
- 17.6.2 Application and Review Fee:
- 17.6.2.1 Any applicant for a license or franchise pursuant to Section 17.3 or 17.4 shall pay a fee as specified in Code Section 14.
- 17.6.2.2 The application and review fee shall be deposited with the Village as part of the application filed pursuant to Section 17.3 or Section 17.4.
- 17.6.2.3 An applicant whose license or franchise application has been withdrawn, abandoned or denied, shall, within sixty (60) days of its application and review, file a written request, be refunded the balance of its deposit under this section, less:
- 17.6.2.3.1. The amount as specified in Code Section 14; and
- 17.6.2.3.2. A ascertainable costs and expenses incurred by the Village in connection with the application.
- 17.6.3 **Other Village Costs:** All license or franchise grantees shall, within thirty (30) days after written demand therefore, reimburse the Village for all direct and indirect costs and expenses incurred by the Village in connection with any modification, amendment, renewal or transfer of the license or franchise or any license or franchise agreement.
- 17.6.4 **Reserved Compensation for Public Ways:** The Village reserves its right to annually fix a fair and reasonable compensation to be paid for the property rights granted to a telecommunications license or franchise grantee. Nothing in this Section 17.6 shall prohibit the Village and a grantee from agreeing to the compensation to be paid for the granted property rights.
- 17.6.5 **Compensation for Village Property:** If the right is granted, by lease, license, franchise or other manner, to use and occupy Village Property for the installation of telecommunications facilities, the compensation to be paid shall be fixed by the Village.
- 17.6.6 **Construction Permit Fee:** Prior to issuance of a construction permit, the permittee shall pay a permit fee equal to the greater of the amount as

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specified in Code Section 14 or one-half of one percent (1/2%) of the estimated cost of constructing the telecommunication facilities, as certified by the applicant's engineer and approved by the Village Engineer, whichever is greater.

- 17.6.7 **Annual Fees:** Unless otherwise agreed in a license or franchise grant agreement, each license or franchise grantee shall pay an annual license fee to the Village equal to an amount as specified in Code Section 14 as reimbursement for the Village's costs in connection with reviewing, inspecting and supervising the use and occupancy of the public ways in behalf of the public and existing or future users.
- 17.6.8 **Cable Fees:** Cable television franchisees shall be subject to the franchise fees, payments and costs provided in Code Section 17.5.
- 17.6.9 **Regulatory Fees and Compensation Not a Tax:** The regulatory fees and costs provided for in this Section 17.6, and any compensation charged and paid for the public ways provided for in Code Section 17.6.4, are separate from, and additional to, any and all federal, state, local and Village taxes as may be levied, imposed or due from a telecommunications carrier or provider, its customers or subscribers, or on account of the lease, sale, delivery or transmission of telecommunications services.

17.7. CONDITIONS OF GRANT

- 17.7.1 **Location of Facilities:** All facilities shall be constructed, installed and located in accordance with the following terms and conditions, unless otherwise specified in a license or franchise agreement:
- 17.7.1.1 A grantee shall install its telecommunications facilities within an existing underground duct or conduit whenever excess capacity exists within such utility facility.
- 17.7.1.2 A grantee with permission to install overhead facilities shall install its telecommunications facilities on pole attachments to existing utility poles only, and then only if surplus space is available.
- 17.7.1.3 Whenever any existing electric utilities, cable facilities or telecommunications facilities are located underground within a public way of the Village, a grantee with permission to occupy the same public way must also locate its telecommunications facilities underground.
- 17.7.1.4 Whenever any new or existing electric utilities, cable facilities or telecommunications facilities are located or relocated underground within a public way of the Village, a grantee that currently occupies the same public way shall relocate its facilities underground within a reasonable period of time, which shall not be later than the end of the grant term. Absent extraordinary circumstances or undue hardship as determined by the Village Engineer, such relocation

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shall be made concurrently to minimize the disruption of the public ways.

- 17.7.1.5 Whenever new telecommunications facilities will exhaust the capacity of a public street or utility easement to reasonably accommodate future telecommunications carriers or facilities, the grantee shall provide additional ducts, conduits, manholes and other facilities for nondiscriminatory access to future carriers.
- 17.7.2 **Compliance with J.U.L.I.E.:** All license or franchise grantees shall, before commencing any construction in the public ways, comply with all regulations of J.U.L.I.E.
- 17.7.3 **Construction Permits:** All license or franchise grantees are required to obtain construction permits for telecommunications facilities as required in Code Section 17.8. However, nothing in this Section 17.7 shall prohibit the Village and a grantee from agreeing to alternative plan review, permit and construction procedures in a license or franchise agreement, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.
- 17.7.4 **Interference with the Public Ways:** No license or franchise grantee may locate or maintain its telecommunications facilities so as to unreasonably interfere with the use of the public ways by the Village, by the general public or by other persons authorized to use or be present in or upon the public ways. All such facilities shall be moved by the grantee, temporarily or permanently, as determined by the Village Engineer.
- 17.7.5 **Damage to Property:** No license or franchise grantee nor any person acting on a grantee's behalf shall take any action or permit any action to be done which may impair or damage any Village Property, public ways of the Village, Other Ways or other property located in, on or adjacent thereto.
- 17.7.6 **Notice of Work:** Unless otherwise provided in a license or franchise agreement, no license or franchise grantee, nor any person acting on the grantee's behalf, shall commence any non-emergency work in or about the Public Ways of the Village or Other Ways without ten (10) working days advance notice to the Village.
- 17.7.7 **Repair and Emergency Work:** In the event of an unexpected repair or emergency, a grantee may commence such repair and emergency response work as required under the circumstances, provided the grantee shall notify the Village as promptly as possible, before such repair or emergency work or as soon thereafter as possible if advance notice is not practicable.
- 17.7.8 **Maintenance of Facilities:** Each license or franchise grantee shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state and local requirements.

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- 17.7.9 **Relocation or Removal of Facilities:** Within thirty (30) days following written notice from the Village, a license or franchise grantee shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any telecommunications facilities within the public ways whenever the Corporate Authorities shall have determined that such removal, relocation, change or alteration is reasonably necessary for:
- 17.7.9.1 The construction, repair, maintenance or installation of any Village or other public improvement in or upon the public ways.
 - 17.7.9.2 The operations of the Village or other governmental entity in or upon the public ways.
- 17.7.10 **Removal of Unauthorized Facilities:** Within thirty (30) days following written notice from the Village, any grantee, telecommunications carrier, or other person that owns, controls or maintains any unauthorized telecommunications system, facility or related appurtenances within the public ways of the Village shall, at its own expense, remove such facilities or appurtenances from the public ways of the Village. A telecommunications system or facility is unauthorized and subject to removal in the following circumstances:
- 17.7.10.1 Upon expiration or termination of the grantee's telecommunications license or franchise.
 - 17.7.10.2 Upon abandonment of a facility within the public ways of the Village.
 - 17.7.10.3 If the system or facility was constructed or installed without the prior grant of a telecommunications license or franchise.
 - 17.7.10.4 If the system or facility was constructed or installed without the prior issuance of a required construction permit.
 - 17.7.10.5 If the system or facility was constructed or installed at a location not permitted by the grantee's telecommunications license or franchise.
- 17.7.11 **Emergency Removal or Relocation of Facilities:** The Village retains the right and privilege to cut or move any telecommunications facilities located within the public ways of the Village, as the Village may determine to be necessary, appropriate or useful in response to any public health or safety emergency.
- 17.7.12 **Damage to Grantee's Facilities:** Unless directly and proximately caused by the willful, intentional or malicious acts by the Village, the Village shall not be liable for any damage to or loss of any telecommunications facility within the public ways of the Village as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the public ways by or on behalf of the Village.
- 17.7.13 Restoration of Public Ways, Other Ways and Village Property.

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- 17.7.13.1 When a license or franchise grantee, or any person acting on its behalf, does any work in or affecting any Public Ways, Other Ways or Village Property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to as good a condition as existed before the work was undertaken, unless otherwise directed by the Village.
- 17.7.13.2 If weather or other conditions do not permit the complete restoration required by this Section 17.7, the grantee shall temporarily restore the affected ways or property. Such temporary restoration shall be at the Licensee's sole expense and the Licensee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.
- 17.7.13.3 A grantee or other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property.
- 17.7.14 **Facilities Maps:** Each license or franchise grantee shall provide the Village with an accurate map or maps certifying the location of all telecommunications facilities within the public ways. Each grantee shall provide updated maps annually.
- 17.7.15 **Duty to Provide Information:** Within ten (10) days of a written request from the Village Manager, each license or franchise grantee shall furnish the Village with information sufficient to demonstrate:
- 17.7.15.1 That grantee has complied with all requirements of this Section 17.
- 17.7.15.2 That all municipal sales, message and/or telecommunications taxes due the Village in connection with the telecommunications services and facilities provided by the grantee have been properly collected and paid by the grantee.
- 17.7.15.3 All books, records, maps and other documents, maintained by the grantee with respect to its facilities within the public ways shall be made available for inspection by the Village at reasonable times and intervals.
- 17.7.16 **Leased Capacity:** A license or franchise grantee shall have the right, without prior Village approval, to offer or provide capacity or bandwidth to its customers; provided:
- 17.7.16.1 Grantee shall furnish the Village with a copy of any such lease or agreement.
- 17.7.16.2 The customer or lessee has complied, to the extent applicable, with the requirements of this Section 17.

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- 17.7.17 **Grantee Insurance:** Unless otherwise provided in a license or franchise agreement, each grantee shall, as a condition of the grant, secure and maintain the following liability insurance policies insuring both the grantee and the Village, and its elected and appointed officers, officials, agents and employees as co-insured:
- 17.7.17.1 Comprehensive general liability insurance with limits not less than:
 - 17.7.17.1.1. Five Million Dollars (\$5,000,000) for bodily injury or death to each person;
 - 17.7.17.1.2. Five Million Dollars (\$5,000,000) for property damage resulting from any one accident; and,
 - 17.7.17.1.3. Five Million Dollars (\$5,000,000) for all other types of liability.
 - 17.7.17.2 Automobile liability for owned, non-owned and hired vehicles with a limit of Three Million Dollars (\$3,000,000) for each person and Three Million Dollars (\$3,000,000) for each accident.
 - 17.7.17.3 Worker's compensation within statutory limits and employer's liability insurance with limits of not less than One Million Dollars (\$1,000,000).
 - 17.7.17.4 Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than Three Million Dollars (\$3,000,000).
 - 17.7.17.5 The liability insurance policies required by this Code Section 17.7 shall be maintained by the grantee throughout the term of the telecommunications license or franchise, and such other period of time during which the grantee is operating without a franchise or license hereunder, or is engaged in the removal of its telecommunications facilities. Each such insurance policy shall contain the following endorsement:

“It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the Village, by registered mail, of a written notice addressed to the Village Manager of such intent to cancel or not to renew.”
 - 17.7.17.6 Within sixty (60) days after receipt by the Village of said notice, and in no event later than thirty (30) days prior to said cancellation, the grantee shall obtain and furnish to the Village replacement insurance policies meeting the requirements of this Section 17.7.
- 17.7.18 **General Indemnification:** Each license or franchise agreement shall include, to the extent permitted by law, grantee's express undertaking to defend, indemnify and hold the Village and its officers, employees, agents and representatives harmless from and against any and all damages,

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losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its telecommunications facilities, and in providing or offering telecommunications services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this Section 17 or by a grant agreement made or entered into pursuant to this Section 17.

17.7.19 **Performance and Construction Surety:** Before a license or franchise granted pursuant to this Section 17 is effective, and as necessary thereafter, the grantee shall provide and deposit such monies, bonds, letters of credit or other instruments in form and substance acceptable to the Village as may be required by this Section 17 or by an applicable license or franchise agreement.

17.7.20 **Security Fund:** Each grantee shall establish a permanent security fund with the Village by depositing the amount of Fifty Thousand Dollars (\$50,000) with the Village in cash, an unconditional letter of credit, or other instrument acceptable to the Village, which fund shall be maintained at the sole expense of grantee so long as any of grantee's telecommunications facilities are located within the public ways of the Village.

17.7.20.1 The fund shall serve as security for the full and complete performance of this Section 17, including any costs, expenses, damages or loss the Village pays or incurs because of any failure attributable to the grantee to comply with the codes, ordinances, rules, regulations or permits of the Village.

17.7.20.2 Before any sums are withdrawn from the security fund, the Village shall give written notice to the grantee:

17.7.20.2.1. describing the act, default or failure to be remedied, or the damages, cost or expenses which the Village has incurred by reason of grantee's act or default;

17.7.20.2.2. providing a reasonable opportunity for grantee to first remedy the existing or ongoing default or failure, if applicable;

17.7.20.2.3. providing a reasonable opportunity for grantee to pay any monies due the Village before the Village withdraws the amount thereof from the security fund, if applicable;

17.7.20.2.4. that the grantee will be given an opportunity to review the act, default or failure described in the notice with the Village Manager or his designee.

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- 17.7.20.3 Grantees shall replenish the security fund within fourteen (14) days after written notice from the Village that there is a deficiency in the amount of the fund.
- 17.7.21 **Construction and Completion Bond:** Unless otherwise provided in a license or franchise agreement, a performance bond written by a corporate surety acceptable to the Village equal to at least 100% of the estimated cost of constructing grantee's telecommunications facilities within the public ways of the Village shall be deposited before construction is commenced.
- 17.7.21.1 The construction bond shall remain in force until sixty (60) days after substantial completion of the work, as determined by the Village Engineer, including restoration of public ways and other property affected by the construction.
- 17.7.21.2 The construction bond shall guarantee, to the satisfaction of the Village:
- 17.7.21.2.1. timely completion of construction;
 - 17.7.21.2.2. construction in compliance with applicable plans, permits, technical codes and standards;
 - 17.7.21.2.3. proper location of the facilities as specified by the Village;
 - 17.7.21.2.4. restoration of the public ways and other property affected by the construction;
 - 17.7.21.2.5. the submission of “as-built” drawings after completion of the work as required by this Ordinance.
 - 17.7.21.2.6. timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work.
- 17.7.22 **Coordination of Construction Activities:** All grantees are required to cooperate with the Village and with each other.
- 17.7.22.1 By February 1 of each year, grantees shall provide the Village with a schedule of their proposed construction activities in, around, or that may affect the public ways.
- 17.7.22.2 Each grantee shall meet with the Village, other grantees and users of the public ways annually or as determined by the Village to schedule and coordinate construction in the public ways.
- 17.7.22.3 All construction locations, activities and schedules shall be coordinated, as ordered by the Village Engineer, to minimize public inconvenience, disruption or damages.
- 17.7.23 **Assignments or Transfers of Grant:** Ownership or control of a telecommunications system, license or franchise may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger,

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consolidation or other act of the grantee, by operation of law or otherwise, without the prior consent of the Village, which consent shall not be unreasonably withheld or delayed, as expressed by ordinance and then only on such reasonable conditions as may be prescribed therein.

- 17.7.23.1 No grant shall be assigned or transferred in any manner within twelve (12) months after the initial grant of the license or franchise, unless otherwise provided in a license or franchise agreement.
- 17.7.23.2 Absent extraordinary and unforeseeable circumstances, no grant, system or integral part of a system shall be assigned or transferred before construction of the telecommunications system has been completed.
- 17.7.23.3 Grantee and the proposed assignee or transferee of the grant or system shall provide and certify the following information to the Village not less than one hundred and fifty (150) days prior to the proposed date of transfer:
 - 17.7.23.3.1. Complete information setting forth the nature, terms and conditions of the proposed transfer or assignment;
 - 17.7.23.3.2. All information required of a telecommunications license or franchise applicant pursuant to Code Section 17.3 or 17.4 with respect to the proposed transferee or assignee;
 - 17.7.23.3.3. Any other information reasonably required by the Village.
- 17.7.23.4 No transfer shall be approved unless the assignee or transferee has the legal, technical, financial and other requisite qualifications to own, hold and operate the telecommunications system pursuant to this Section 17.
- 17.7.23.5 Unless otherwise provided in a license or franchise agreement, the grantee shall reimburse the Village for all direct and indirect fees, costs, and expenses reasonably incurred by the Village in considering a request to transfer or assign a telecommunications license or franchise.
- 17.7.23.6 Any transfer or assignment of a telecommunications grant, system or integral part of a system without prior approval of the Village under this Section 17 or pursuant to a license or franchise agreement shall be void and is cause for revocation of the grant.
- 17.7.24 **Transactions Affecting Control of Grant:** Any transactions which singularly or collectively result in a change of ten percent (10%) or more of the ownership or working control of the grantee, of the ownership or working control of a telecommunications license or franchise, of the ownership or working control of affiliated entities having ownership or working control of the grantee or of a telecommunications system, or of control of the capacity or bandwidth of grantee's telecommunication system, facilities or substantial parts thereof, shall be considered an

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assignment or transfer requiring Village approval pursuant to Section 17.7.22 hereof. Transactions between affiliated entities are not exempt from Village approval.

17.7.25 Revocation or Termination of Grant: A license or franchise granted by the Village to use or occupy public ways of the Village may be revoked for the following reasons:

17.7.25.1 Construction or operation in the Village or in the public ways of the Village without a license or franchise grant of authorization.

17.7.25.2 Construction or operation at an unauthorized location.

17.7.25.3 Unauthorized substantial transfer of control of the grantee.

17.7.25.4 Unauthorized assignment of a license or franchise.

17.7.25.5 Unauthorized sale, assignment or transfer of grantee's franchise or license assets, or a substantial interest therein.

17.7.25.6 Misrepresentation or lack of candor by or on behalf of a grantee in any application to the Village.

17.7.25.7 Abandonment of telecommunications facilities in the public ways.

17.7.25.8 Failure to relocate or remove facilities as required in this Section 17.

17.7.25.9 Failure to pay taxes, compensation, fees or costs when and as due the Village.

17.7.25.10 Insolvency or bankruptcy of the grantee.

17.7.25.11 Violation of material provisions of this Section 17.

17.7.25.12 Violation of the material terms of a license or franchise agreement.

17.7.26 Notice and Duty to Cure: In the event that the Village President believes that grounds exist for revocation of a license or franchise, he shall give the grantee written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the grantee a reasonable period of time not exceeding thirty (30) days to furnish evidence:

17.7.26.1 That corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance.

17.7.26.2 That rebuts the alleged violation or noncompliance.

17.7.26.3 That it would be in the public interest to impose some penalty or sanction less than revocation.

17.7.27 Hearing: In the event that a grantee fails to provide evidence reasonably satisfactory to the Village President as provided in Section 17.7.27 hereof, the President shall refer the apparent violation or non-compliance to the Corporate Authorities. The Corporate Authorities shall provide the grantee

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with notice and a reasonable opportunity to be heard concerning the matter.

17.7.28 **Standards for Revocation or Lesser Sanctions:** If persuaded that the grantee has violated or failed to comply with material provisions of this Section 17, or of a franchise or license agreement, the Corporate Authorities shall determine whether to revoke the license or franchise, or to establish some lesser sanction and cure, considering the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

17.7.28.1 Whether the misconduct was egregious.

17.7.28.2 Whether substantial harm resulted.

17.7.28.3 Whether the violation was intentional.

17.7.28.4 Whether there is a history of prior violations of the same or other requirements.

17.7.28.5 Whether there is a history of overall compliance.

17.7.28.6 Whether the violation was voluntarily disclosed, admitted or cured.

17.8. CONSTRUCTION STANDARDS

17.8.1 **General:** No person shall commence or continue with the construction, installation or operation of telecommunications facilities within the Village except as provided in this Section 17.8.

17.8.2 **Construction Codes:** Telecommunications facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including the National Electrical Safety Code.

17.8.3 **Construction Permits:** No person shall construct or install any telecommunications facilities within the Village without first obtaining a construction permit therefore, provided, however:

17.8.3.1 No permit shall be issued for the construction or installation of telecommunications facilities within the Village unless the telecommunications carrier has filed a registration statement with the Village pursuant to Code Section 17.2.

17.8.3.2 No permit shall be issued for the construction or installation of telecommunications facilities in the public ways unless the telecommunications carrier has applied for and received a license or franchise pursuant to Section 17.3, 17.4 or 17.5 of this Section 17.

17.8.3.3 No permit shall be issued for the construction or installation of telecommunications facilities without payment of the construction permit fee established in Code Section 17.6.6.

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- 17.8.4 **Applications:** Applications for permits to construct telecommunications facilities shall be submitted upon forms to be provided by the Village and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:
- 17.8.4.1 That the facilities will be constructed in accordance with all applicable codes, rules and regulations including the Illinois Department of Transportation (IDOT) specifications for land and bridge construction.
 - 17.8.4.2 The location and route of all facilities to be installed on existing utility poles.
 - 17.8.4.3 The location and route of all facilities to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the public ways.
 - 17.8.4.4 The location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are within the public ways along the underground route proposed by the applicant.
 - 17.8.4.5 The location of all other facilities to be constructed within the Village, but not within the public ways.
 - 17.8.4.6 The construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the public ways.
 - 17.8.4.7 The location, dimension and types of all trees within or adjacent to the public ways along the route proposed by the applicant, together with a landscape plan for protecting, trimming, removing, replacing and restoring any trees or areas to be disturbed during construction.
- 17.8.5 **Engineer's Certification:** All permit applications shall be accompanied by the certification of a registered professional engineer that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.
- 17.8.6 **Traffic Control Plan:** All permit applications which involve work on, in, under, across or along any public ways shall be accompanied by a traffic control plan demonstrating the protective measures and devices that will be employed, consistent with Uniform Manual of Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic.
- 17.8.7 **Issuance of Permit:** Within forty-five (45) days after submission of all plans and documents required of the applicant and payment of the permit fees required by this Section 17, the Village Engineer, if satisfied that the applications, plans and documents comply with all requirements of this Section 17, shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the

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time, place and manner of performing the work as he may deem necessary or appropriate.

- 17.8.8 **Construction Schedule:** The permittee shall submit a written construction schedule to the Village Engineer 10 working days before commencing any work in or about the public ways. The permittee shall further notify the Village Engineer not less than 2 working days in advance of any excavation or work in the public ways.
- 17.8.9 **Compliance with Permit:** All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The Village Engineer and his representatives shall be provided access to the work and such further information as he or she may require to ensure compliance with such requirements.
- 17.8.10 **Display of Permit:** The permittee shall maintain a copy of the construction permit and approved plans at the construction site, which shall be displayed and made available for inspection by the Village Engineer or his representatives at all times when construction work is occurring.
- 17.8.11 **Survey of Underground Facilities:** If the construction permit specifies the location of facilities by depth, line, grade, proximity to other facilities or other standard, the permittee shall cause the location of such facilities to be verified by a registered Illinois land surveyor. The permittee shall relocate any facilities which are not located in compliance with permit requirements.
- 17.8.12 **Noncomplying Work:** Upon order of the Village Engineer, all work which does not comply with the permit, the approved plans and specifications for the work, or the requirements of this Section 17, shall be removed.
- 17.8.13 **Completion of Construction:** The permittee shall promptly complete all construction activities so as to minimize disruption of the village ways and other public and private property. All construction work authorized by a permit within Village ways, including restoration, must be completed within one hundred twenty (120) days of the date of issuance.
- 17.8.14 **As-Built Drawings:** Within sixty (60) days after completion of construction, the permittee shall furnish the Village with two (2) complete sets of plans, drawn to scale and certified to the Village as accurately depicting the location of all telecommunications facilities constructed pursuant to the permit.
- 17.8.15 **Restoration of Improvements:** Upon completion of any construction work, the permittee shall promptly repair any and all public and private property improvements, fixtures, structures and facilities in the public ways or otherwise damaged during the course of construction, restoring the same as nearly as practicable to its condition before the start of construction.

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17.8.16 Landscape Restoration:

17.8.16.1 All trees, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation, maintenance, repair or replacement of telecommunications facilities, whether such work is done pursuant to a franchise, license, permit replaced or restored, as nearly as may be practicable, to the condition existing prior to performance of work.

17.8.16.2 All restoration work within the public ways shall be done in accordance with landscape plans approved by the Village Engineer.

17.8.17 **Construction Surety:** Prior to issuance of a construction permit, the permittee shall provide a performance bond, as provided in Code Section 17.7.21.

17.8.18 **Exceptions:** Unless otherwise provided in a license or franchise agreement, all telecommunications carriers are subject to the requirements of this Section 17.8.

17.8.19 **Responsibility of Owner:** The owner of the facilities to be constructed and, if different, the license or franchise grantee, are responsible for performance of and compliance with all provisions of this Section 17.8.

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SECTION 18. Telecommunications Infrastructure Maintenance Fee.

18.1. DEFINITIONS.

As used in this Section 18, the following terms shall have the following meanings:

- 18.1.1 “Gross Charges” means the amount paid to a telecommunications retailer for the act or privilege of originating or receiving telecommunications within the Village, and for all services rendered in connection therewith, valued in money whether paid in money or otherwise, including cash, credits, services, and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs, or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. “Gross charges” for private line service shall include charges imposed at each channel point within the Village, charges for the channel mileage between each channel point within the Village, and charges for that portion of the interstate inter-office channel provided within the Village. However, “gross charges” shall not include:
- 18.1.1.1 any amounts added to a purchaser’s bill because of a charge made under: (i) the fee imposed by this Section 18, (ii) additional charges added to a purchaser’s bill under Section 5/9-221 or 5/9-222 of the Public Utilities Act as hereinbefore amended, (iii) amounts collected under Section 5/8-11-17 of the Illinois Municipal Code, (iv) the tax imposed by the Telecommunications Excise Tax Act as hereinbefore amended, 35ILCS 630/1 et seq. as hereinbefore amended, (v) 911 surcharges as; or (vi) the tax imposed by Section 4251 of the Internal Revenue Code as hereinbefore amended;
 - 18.1.1.2 charges for a sent collect telecommunication received outside the Village;
 - 18.1.1.3 charges for leased time on equipment or charges for the storage of data or information or subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment, or accounting equipment and also includes the usage of computers under a time-sharing agreement;
 - 18.1.1.4 charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;
 - 18.1.1.5 charges to business enterprises certified under Section 9-222.1 of the Public Utilities Act as hereinbefore amended to the extent of

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- such exemption and during the period of time specified by the Village;
- 18.1.1.6 charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit other than a regulatory required profit for the corporation rendering such services;
- 18.1.1.7 bad debts (“bad debt” means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);
- 18.1.1.8 paid by inserting coins in coin-operated telecommunications devices; or
- 18.1.1.9 charges for telecommunications and all services and equipment provided to the Village.
- 18.1.2 “Public Right-of-Way” means any municipal street, alley, water or public right-of-way dedicated or commonly used for utility purposes, including utility easements wherein the Village has acquired the right and authority to locate or permit the location of utilities consistent with telecommunications facilities. “Public Right-of-Way” shall not include any real or personal Village property that is not specifically described in the previous sentence and shall not include Village buildings and other structures or improvements, regardless of whether they are situated in the public right-of-way.
- 18.1.3 “Retailer maintaining a place of business in this State”, or any like term, means and includes any retailer having or maintaining within the State of Illinois, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse, or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.
- 18.1.4 “Sale of telecommunications at retail” means the transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent

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corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

- 18.1.5 “Service address” means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received. If this is not a defined location, as in the case of wireless telecommunications, paging systems, maritime systems, air-to-ground systems, and the like, “service address” shall mean the location of the customer’s primary use of the telecommunications equipment as defined by the location in Illinois where bills are sent.
- 18.1.6 “Telecommunications” includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange services, private line services, specialized mobile radio services, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context clearly requires otherwise, “telecommunications” shall also include wireless telecommunications as hereinafter defined. “Telecommunications” shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. “Telecommunications” shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provision and used as a component of, or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. “Telecommunications” shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as as hereinbefore amended or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as hereinbefore amended.
- 18.1.7 “Telecommunications provider” means (1) any telecommunications retailer; and (2) any person that is not a telecommunications retailer that installs, owns, operates or controls equipment in the public right-of-way that is used or designed to be used to transmit telecommunications in any form.

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- 18.1.8 “Telecommunications retailer” or “retailer” or “carrier” means and includes every person engaged in the business of making sales of telecommunications at retail as defined in this Section 18. The Village may, in its discretion, upon application, authorize the collection of the fee hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Village, furnishes adequate security to ensure collection and payment of the fee. When so authorized, it shall be the duty of such retailer to pay the fee upon all of the gross charges for telecommunications in the same manner and subject to the same requirements as a retailer maintaining a place of business within the Village.
- 18.1.9 “Wireless telecommunications” includes cellular mobile telephone services, personal wireless services as defined in Section 704(C) of the Telecommunications Act of 1996 (Public Law No. 104-104), 42 U.S.C. §332(c)(7), as hereinbefore amended, including all commercial mobile radio services, and paging services.

18.2. REGISTRATION OF TELECOMMUNICATIONS PROVIDERS.

- 18.2.1 Every telecommunications provider as defined by this Section 18 shall register with the Village within thirty(30) days after the effective date of this Section 18 or becoming a telecommunications provider, whichever is later, on a form to be provided by the Village, provided, however, that any telecommunications retailer that has filed a return pursuant to 18.4.3 of this Section 18 shall be deemed to have registered in accordance with this Section 18.
- 18.2.2 Every telecommunications provider who has registered with the Village pursuant to 18.2.1 has an affirmative duty to submit an amended registration form or current return as required by 18.4.3, as the case may be, to the Village within thirty (30) days from the date of the occurrence of any changes in the information provided by the telecommunications provider in the registration form or most recent return on file with the Village.

18.3. INFRASTRUCTURE MAINTENANCE FEE.

MUNICIPAL TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEE.

- 18.3.1 A Village telecommunications infrastructure maintenance fee is hereby imposed upon all telecommunications retailers in the amount of one percent (1.0%) of all gross charges charged by the telecommunications retailer to service addresses within the Village for telecommunications originating or received in the Village.
- 18.3.2 Upon the effective date of the infrastructure maintenance fee authorized in this Section 18, the Village infrastructure maintenance fee authorized hereunder shall be the only fee or compensation for the use of all public

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rights-of-way within the Village by telecommunications retailers. Imposition of the infrastructure maintenance fee provided under this Section 18 does not, however, serve as a limitation on the levying of any taxes or imposition of any fees otherwise authorized by law.

- 18.3.3 The Village telecommunications infrastructure maintenance fee authorized by this Section 18 shall be collected, enforced, and administered as set forth in 18.4 of this Section 18.

18.4. ADMINISTRATION OF TELECOMMUNICATIONS INFRASTRUCTURE MAINTENANCE FEES.

- 18.4.1 A telecommunications retailer shall charge to and collect from each customer an additional charge in an amount equal to the Village infrastructure maintenance fee attributable to that customer's service address.
- 18.4.2 Unless otherwise approved by the Village the infrastructure maintenance fee shall be remitted by the telecommunications retailer to the Village not later than the last day of the month subsequent to the month in which a bill is issued to the customer; provided, however, that the telecommunications retailer may retain an amount not to exceed two percent (2%) of the Village infrastructure maintenance fee collected by it to reimburse itself for expenses incurred in accounting for and remitting the fee.
- 18.4.3 Remittance of the municipal infrastructure fee to the Village shall be accompanied by a return, in a form to be prescribed by the Village Corporate Authorities, which shall contain such information as the Village Corporate Authorities may reasonably require.
- 18.4.4 Any infrastructure maintenance fee required to be collected pursuant to this Section and any such infrastructure maintenance fee collected by such telecommunications retailer shall constitute a debt owed by the telecommunications retailer to the Village. The charge imposed under 18.4.1 by the telecommunications retailer pursuant to this Section shall constitute a debt of the purchaser to the telecommunications retailer who provides such services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such services.
- 18.4.5 If it shall appear that an amount of infrastructure maintenance fee has been paid that was not due under the provisions of this Section 18, whether as a result of a mistake of fact or an error of law, then such amount shall be credited against any infrastructure maintenance fee due, or to become due, under this Section 18, from the telecommunications retailer who made the erroneous payment; provided, however, the Village Corporate Authorities may request, and telecommunications retailer shall provide, written substantiation for such credit. However, no claim for such credit may be made more than three years after the date of the erroneous payment unless, (1) the credit is used only to offset a claim of underpayment made by the Village within the applicable statutory period

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of limitations, and (2) the credit derives from an overpayment made by the same telecommunications retailer during the applicable statutory period of limitations.

- 18.4.6 Amounts paid under this Section 18 by telecommunications retailers shall not be included in the tax base under any of the following acts as described immediately below:
- 18.4.6.1 “gross charges” for purposes of the Telecommunications Excise Tax Act;
 - 18.4.6.2 “gross receipts” for purposes of the municipal utility tax as prescribed in Section 5/8-11-2 of the Illinois Municipal Code as hereinbefore amended;
 - 18.4.6.3 “gross charges” for purposes of the municipal telecommunications tax as prescribed in Section 5/8-11-17 of the Illinois Municipal Code as hereinbefore amended;
 - 18.4.6.4 “gross revenue” for purposes of the tax on annual gross revenue of public utilities prescribed in Section 5/2-202 of the Public Utilities Act as hereinbefore amended.
- 18.4.7 The Village Corporate Authorities or their designee(s) shall have their right, in their discretion, to audit the books and records of all telecommunications retailers subject to this Section 18 to determine whether the telecommunications retailer has properly accounted to the Village for the Village infrastructure maintenance fee. Any underpayment of the amount of the Village infrastructure maintenance fee due to the Village by the telecommunications retailer shall be paid to the Village plus five percent (5%) of the total amount of the underpayment determined in an audit, plus any costs incurred by the Village in conducting the audit, in an amount not to exceed five percent (5%) of the total amount of the underpayment determined in an audit. Said sum shall be paid to the Village within twenty-one (21) days after the date of issuance of an invoice for same.
- 18.4.8 The Village Corporate Authorities, or their designee(s), may promulgate such further or additional regulations concerning the administration and enforcement of this Section 18, consistent with its provisions, as may be required from time to time and shall notify all telecommunications retailers that are registered pursuant to Code Section 18.2.

18.5. COMPLIANCE WITH OTHER LAWS.

Nothing in this Section 18 shall excuse any person or entity from obligations imposed under any law, including but not limited to:

- 18.5.1 generally applicable taxes; and

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- 18.5.2 standards for construction on, over, under, or within, use of or repair of the public rights-of-way, including standards relating to free standing towers and other structures upon the public rights-of-way, as provided; and
- 18.5.3 any liability imposed for the failure to comply with such generally applicable taxes or standards governing construction on, over, under, or within, use of or repair of the public rights-of-way; and
- 18.5.4 compliance with any ordinance or provision of this Village Code concerning uses or structures not located on, over, or within the right-of-way.

18.6. EXISTING FRANCHISES AND LICENSES.

Any franchise, license, or similar agreements between telecommunications retailers and the Village entered into before December 16, 1997 regarding the use of public rights-of-way shall remain valid according to and for their stated terms except for any fees, charges or other compensation to the extent waived.

18.7. PENALTIES.

Any telecommunications provider who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Section 18 shall be subject to the penalty provisions of Code Section 10.2.

18.8. ENFORCEMENT.

Nothing in this Section 18 shall be construed as limiting any additional or further remedies that the Village may have for enforcement of this Section 18.

18.9. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or portion of this Section 18 is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

18.10. CONFLICT.

This Section 18 supersedes all Code Sections, or ordinances or parts of Code Sections or ordinances adopted prior hereto which are in conflict herewith, to the extent of such conflict.

18.11. WAIVER AND FEE IMPLEMENTATION.

- 18.11.1 The Village hereby waives all fees, charges, and other compensation that may accrue, after the effective date of the waiver, to the Village by a telecommunications retailer pursuant to any existing Village franchise, license, or similar agreement with a telecommunications retailer during the time the Village imposes the Telecommunications Infrastructure

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Maintenance Fee. This waiver shall only be effective during the time the Infrastructure Maintenance Fee provided for in this Section 18 is subject to being lawfully imposed on the telecommunications retailer and collected by the telecommunications retailer from the customer.

- 18.11.2 The Village Clerk shall send a notice of the waiver by certified mail/return receipt requested to each telecommunications retailer with whom the Village has a franchise.
- 18.11.3 The Village infrastructure maintenance fee provided for in this Section 18 shall become effective and imposed on the first day of the month not less than ninety (90) days after the Village provides written notice by certified mail to each telecommunications retailer with whom the Village has an existing franchise, license, or similar agreement that the Village waives all compensation under such existing franchise, license, or similar agreement during such time as the fee is subject to being lawfully imposed and collected by the retailer and remitted to the Village. The infrastructure maintenance fee shall apply to gross charges billed on or after the effective date as established in the preceding sentence.

SECTION 19. PERSONAL WIRELESS SERVICE FACILITIES

19.1. PURPOSE AND INTERPRETATION

- 19.1.1 The purpose of this Section 19 is to provide specific regulations for the placement, construction and modification of personal wireless service facilities. The provisions of this Section 19 are not intended to and shall not be interpreted to prohibit or to have the effect of prohibiting the provision of personal wireless services, nor shall the provisions of this Section 19 be applied in such a manner as to unreasonably discriminate between providers of functionally equivalent personal wireless services. To the extent that any provision or provisions of this Section 19 are inconsistent or in conflict with any other provision of the Village Code or any Ordinance of the Village, the provisions of this Section 19 shall be deemed to control.
- 19.1.2 In the course of reviewing any request for any approval required under this Section 19 made by an applicant to provide personal wireless services or to install personal wireless service facilities, the Corporate Authorities shall act within a reasonable period of time after the request is duly filed with the Village, taking into account the nature and scope of the request, and any decision to deny such a request shall be in writing and supported by substantial evidence contained in a written record.

19.2. DEFINITIONS

For the purpose of this Section 19, the following terms shall have the meanings ascribed to them below:

- 19.2.1 **“Antenna”** shall mean any exterior apparatus or apparatuses designed for telephonic, radio, data or Internet communications through the sending and/or receiving of electromagnetic waves including equipment attached to a tower or building for the purpose of providing personal wireless services and its attendant base station.
- 19.2.2 **“Antenna Height”** shall mean the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.
- 19.2.3 **“Antenna Support Structure”** shall mean any pole, telescoping mast, tower, tripod or other structure which supports a device used in the transmitting or receiving of radio frequency signals.
- 19.2.4 **“Cell Site”** shall mean a tract or parcel of land that contains the personal wireless service facilities including any antenna, support structure,

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accessory buildings, and parking, and may include other uses associated with and ancillary to personal wireless services.

- 19.2.5 **“Back Haul Provider”** shall mean the lines that connect a provider’s tower and a provider’s antennas to one or more switching offices and/or long distance providers of the public switching telephone network.
- 19.2.6 **“FAA”** shall mean the Federal Aviation Administration.
- 19.2.7 **“FCC”** shall mean the Federal Communications Commission.
- 19.2.8 **“Governing Authority”** shall mean the governing authority of the Village, namely the Board of Trustees.
- 19.2.9 **“Personal Wireless Services”** and **“Personal Wireless Service Facilities,”** or **“Facilities”** as used in this Section 19, shall be defined in the same manner as in Title 47, United States Code, Section 332(c)(7)(C), and as they may be amended.
- 19.2.10 **“Tower”** shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term encompasses personal wireless service facilities towers, microwave towers, common-carrier towers, cellular telephone towers, personal communications services towers, alternative tower structures, and the like.

19.3. POLICY STATEMENT:

The Corporate Authorities have on numerous occasions and with increasing frequency been confronted with requests to site communications towers and antennas. The purpose of this Section 19 is to establish general guidelines for the siting of towers and antennas. The goals of this Section 19 are to: (i) encourage the location of towers in non-residential areas and to minimize the total number of towers throughout the Village, (ii) encourage strongly the joint use of new and existing tower sites, (iii) encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the Village is minimal, (iv) encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas, and (v) enhance the ability of the providers of personal wireless services to provide such services throughout the Village quickly, effectively, and efficiently. Accordingly, the Board of Trustees finds that the promulgation of this Section 19 is warranted and necessary:

- 19.3.1 To manage the location of towers and antennas in the Village;
- 19.3.2 To encourage tower placement in commercial and industrial zoned areas;
- 19.3.3 To protect residential areas and land uses from potential adverse impacts of towers.
- 19.3.4 To minimize adverse visual impacts of towers through careful design, siting, landscape screening, and innovative camouflaging techniques;

- 19.3.5 To accommodate the growing need for towers;
- 19.3.6 To promote and encourage shared use/colocation of existing and new towers as a primary option rather than construction of additional single-use towers, and to reduce the number of such structures needed in the future.

All towers existing on the date of passage of this Section 19 shall be allowed to continue their usage as they presently exist. Routine maintenance shall be permitted on such existing towers. New construction other than routine maintenance on existing towers shall comply with the provisions set forth in this Section 19.

19.4. INDUSTRY SITE SELECTION CRITERIA:

In siting a new personal wireless service facility, the industry requires a location that is technically compatible with the established network. A general area is to be identified based upon engineering constraints and the desired area of service. Specific locations within that general area will be evaluated using the following criteria which are not listed in order of priority;

- 19.4.1 Topography as it relates to line of sight transmissions.
- 19.4.2 Availability of road access. Access roads must remain capable of supporting all of the emergency response equipment of the Village.
- 19.4.3 Availability of electric power.
- 19.4.4 Availability of land based telephone lines or microwave link capability.
- 19.4.5 Leasable lands; and landlords who want facilities to be located on their properties consistent with zoning regulations.
- 19.4.6 Screening potential of existing vegetation, structures and topographic features.
- 19.4.7 Zoning considerations.
- 19.4.8 Compatibility with adjacent land uses.
- 19.4.9 The least number of sites to cover the desired area.
- 19.4.10 The greatest amount of coverage, consistent with physical requirements.
- 19.4.11 Opportunities to mitigate possible visual impact.
- 19.4.12 Availability of suitable existing structures for antenna mounting.

19.5. VILLAGE SITE SELECTION CRITERIA:

As a fundamental element of this Section 19, the telecommunications company proposing to construct an antenna support structure, or mount an antenna on an existing structure, is required to demonstrate, using technological evidence, that the antenna must go where it is proposed in order to satisfy its function in the company's grid system. Further, the company must demonstrate by

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technological evidence that the height requested is the minimum height necessary to fulfill the cell site's function within the grid system.

Personal wireless service facilities should be located and designed to minimize any adverse effect they may have on residential property values. Sites should be placed in locations where the existing topography, vegetation, buildings or other structures provide the greatest amount of screening. Sites should be located on bare ground without visual mitigation only in industrial districts, based on the design standards articulated in this Section 19. Location and design of sites in all districts should consider the impact of the site on the surrounding neighborhood and the visual impact within the zoning district.

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19.6. PRIORITIES:

The following establishes a general order of priorities for locating new personal wireless service facilities:

- 19.6.1.1 Place antennae towers on Village owned property.
- 19.6.1.2 Place antennas and towers in districts zoned commercial or industrial.
- 19.6.1.3 Place antennas and towers at locations which do not adversely impact residential neighborhoods.
- 19.6.1.4 Place antennas on appropriate existing structures, such as buildings, communications towers and water towers in non-residential areas.
- 19.6.1.5 Place antennas and towers on other non-residential property.
- 19.6.1.6 Place antennas and towers in: (a) residential districts only if locations for which a need has been demonstrated are not available in non-residential districts; with preference given to placement on or in existing buildings (such as churches), utility facilities or other public facilities.

An applicant for a new antenna support structure to be located in a residential zoning district shall demonstrate that a diligent effort has been made to locate the proposed communications facilities on a government structure, a private institutional structure, or other appropriate existing structures within a non-residential zoning district, and that due to valid considerations including physical constraints, and economic or technological feasibility, no other appropriate location is available. The telecommunications company is required to demonstrate that it contacted the owners of tall structures within a one mile radius of the site proposed, asked for permission to install the antenna on those structures, and was denied for reasons other than economic ones. The information submitted by the applicant shall include a map of the area to be served by the tower, its relationship to other antenna sites in the applicant's network, and an evaluation of existing buildings taller than forty-five (45) feet, communications towers and water tanks within one mile of the proposed tower.

19.6.2 Priority of Users

Priority for the use of Village owned land for personal wireless service antennas and towers shall be given to the following entities in descending order:

- 19.6.2.1 The Village;
- 19.6.2.2 Public safety agencies, including law enforcement, fire, and ambulance services, which are not part of the Village and private entities with a public safety agreement with the Village;

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19.6.2.3 Other governmental agencies, for uses which are not related to public safety; and

19.6.2.4 Entities providing personal wireless services including, for example, cellular, personal communication services (“PCS”), data, Internet, paging, and similar services that are marketed to the general public.

19.6.3 Minimum Requirements

The placement of personal wireless service facilities on Village owned property shall comply with the following requirements:

19.6.3.1 The applicant shall negotiate and obtain a lease or other agreement with the Village regarding such placement and shall comply with the terms therein.

19.6.3.2 The antenna or tower will not interfere with the purpose for which the Village owned property is intended;

19.6.3.3 The antenna or tower will have minimal impact on surrounding property;

19.6.3.4 The applicant is willing to obtain adequate liability insurance and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fees shall be established by the Corporate Authorities after considering comparable rates in other communities, potential expenses, risks to the Village, and other appropriate factors;

19.6.3.5 The applicant will submit an irrevocable letter of credit acceptable to the Village to cover the costs of the antenna's or tower's removal upon termination of a lease;

19.6.3.6 The antenna or tower will not interfere with other users who have a higher priority as discussed in Section 19.6.1 above;

19.6.3.7 The applicant must reimburse the Village for any costs which the Village incurs because of the presence of the applicant's antenna or tower; and

19.6.3.8 The user must obtain all other necessary land use approvals.

19.6.4 Special Requirements

The use of certain Village owned property for antennas or towers brings with it special concerns due to the unique nature of those sites. The placement of antennas or towers on certain Village owned sites may be allowed only when the following additional requirements are met:

19.6.4.1 Public Utility Structures or Facilities - The Village's public utility structures and facilities represent a large public investment. Protection of the Village's public utility structures and facilities is of

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prime importance to the Village. For these reasons, the placement of antennas or towers on public utility structures or facilities may be allowed only when the Village is fully satisfied that the following requirements are met:

- 19.6.4.1.1. There is sufficient room on the structure and/or on the grounds to accommodate the applicant's facility;
 - 19.6.4.1.2. The presence of the applicant's facility will not increase the maintenance cost to the Village;
 - 19.6.4.1.3. The presence of the applicant's facility will not be harmful to the safety of Village workers maintaining the public utility structures or facilities nor be harmful to the safety of the applicant's workers.
 - 19.6.4.1.4. The intended use will cause no interference with the primary purpose of the public utility structures or facilities.
 - 19.6.4.1.5. No maintenance, repair or construction work shall be performed on a provider's facilities without Village personnel being present.
- 19.6.4.2 Parks - The presence of certain antennas or towers represents a potential conflict with the purpose of some Village owned parks. Antennas or towers will be considered only in such parks after the recommendation and approval of the Board of Trustees:
- 19.6.4.2.1. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;
 - 19.6.4.2.2. Commercial recreation areas and major play fields; and
 - 19.6.4.2.3. Park maintenance facilities.
- 19.6.4.3 Conservation Areas - In no case shall antennas be allowed in designated conservation areas unless they are located on existing tower facilities.
- 19.6.5 Application
- All applicants who wish to locate an antenna or tower on Village owned property must submit to the Village a completed application that complies with the submittal requirements of this Section 19.
- 19.6.6 Reservation of Right
- Notwithstanding the above, the Board of Trustees reserves the right to deny, for any reason, the use of any or all Village owned property by any one or all applicants.

19.7. COLOCATION ON TOWERS:

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To minimize adverse visual impacts associated with the proliferation of towers, colocation of antennas by more than one provider on existing or new towers shall take precedent over the construction of new single-use towers as follows:

- 19.7.1 Providers may, and are encouraged to, co-locate antennas onto towers. Provided such colocation is accomplished in a manner consistent with the policy, site criteria, landscape/screening and all other provisions contained in this Section 19, then such colocations are permitted by right and new or additional special review approval is not required, except that any other permit, license, lease, or franchise requirements must be satisfied.
- 19.7.2 Unless the Corporate Authorities determine that colocation is infeasible, the site plan shall delineate an area near the base of the tower to be used for the placement of additional equipment or buildings for other users. The site plan for towers in excess of 100 feet must propose space for two or more other users while the site plan for towers under 100 feet must propose space for one other user. To provide further incentive for colocation as a primary option, an existing tower may be modified or reconstructed to accommodate the colocation of an additional antenna, provided that:
 - 19.7.2.1 An existing tower may be modified or rebuilt to a taller height, not to exceed twenty feet over the tower's existing height, to accommodate the colocation of an additional antenna. The height change may occur only once per tower, and the tower as modified must comply with the other provisions of this Section 19.
 - 19.7.2.2 A tower which is being rebuilt to accommodate the colocation of an additional antenna may be moved onsite within 50 feet of its existing location so long as it remains within the same zone and complies with the other provisions of this Section 19. After the tower is rebuilt to accommodate colocation, only one tower may remain on site.

19.8. LOCATION ON OTHER EXISTING STRUCTURES

The special review requirements for an antenna may also be waived in non-residential zones (namely commercial and industrial zones) if the applicant locates the antenna on another existing structure such as a building. The applicant must submit detailed plans to the Corporate Authorities for an administrative review to determine if the special review permit process and public hearing can be waived. No building permit will be issued until approval is granted through the administrative review.

19.9. DESIGN CRITERIA

- 19.9.1 Towers: In order to reduce the number of antenna support structures needed in the Village in the future, any new proposed support structure shall be designed to accommodate antenna for more than one user, unless the applicant demonstrates why such design is not feasible for

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economic, technical or physical reasons. The Village may deny the application to construct a new tower if the applicant has not made a good faith effort to mount the antenna on an existing structure.

- 19.9.1.1 Setback: Tower setbacks shall be measured from the base of the tower to the property line of the parcel on which it is located. Towers shall comply with the minimum setback requirements of the area in which they are located in all zoning districts.
- 19.9.1.2 Lights, Signals and Signs: No signals, lights or signs shall be permitted on towers unless required by the FCC or the FAA.
- 19.9.1.3 Height: Towers shall be no taller than the maximum permitted height for other structures contained within the applicable zoning district.
- 19.9.1.4 Tower Safety: The applicant shall demonstrate that the proposed tower is safe and the surrounding areas will not be negatively affected by support structure failure, falling ice or other debris or interference. All towers shall be fitted with anti-climbing devices, as approved by the manufacturers.
- 19.9.1.5 Standards: To ensure the safe operation of towers, the owner of a tower shall ensure that it is maintained in compliance with all FCC and FAA standards and the applicable standards for towers that are published by the Electronic Industries Association (“EIA”), as amended from time to time. If, upon inspection, the Village concludes that a tower fails to comply with such standards or constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have thirty (30) days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance within said thirty (30) days, the Village may remove such tower at the owner's expense, the costs of which shall constitute a lien against the property.
- 19.9.1.6 Structural Design: Towers shall be constructed to the EIA Standards, which may be amended from time to time, and all applicable construction/building codes. Further, any improvements and/or additions to existing towers shall require submission of site plans sealed and verified by a professional engineer which demonstrate compliance with the EIA Standards and all other good industry practices in effect at the time of said improvement or addition. Said plans shall be submitted and reviewed at the time building permits are requested.
- 19.9.2 Antenna Criteria: Antenna on or above a structure shall be subject to the following:

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- 19.9.2.1 The antenna must be architecturally compatible with the building and wall on which it is mounted and designed and located so as to minimize any adverse aesthetic impact.
- 19.9.2.2 The applicant shall demonstrate that the antenna is the minimum height required to function satisfactorily. No antenna that is taller than this minimum height shall be approved.
- 19.9.2.3 The antenna shall be mounted on a wall of an existing building in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is mounted unless for technical reasons the antenna needs to project above the wall. In no event shall an antenna project more than 10 feet above the height of the building.
- 19.9.2.4 The antenna shall be constructed, painted or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.
- 19.9.2.5 The antenna may be attached to an existing conforming mechanical equipment enclosure which projects above the roof of the building, but may not project any higher than 10 feet above the enclosure.
- 19.9.2.6 If an accessory equipment shelter is present, it must blend with the surrounding buildings in architectural character and color. The structure must be architecturally and visually (color, size, bulk) compatible with surrounding existing buildings, structures and/or uses or those likely to exist under the terms of the underlying zoning. Such facilities will be considered architecturally and visually compatible if they are camouflaged to disguise the facilities.
- 19.9.2.7 If a proposed antenna is located on a building or a lot subject to a special review site plan, written Village approval is required prior to the issuance of a building permit for the antenna.
- 19.9.2.8 No antenna shall be permitted on property designated as an individual landmark or as a part of a historic district or site, unless such antenna has been approved in accordance with this Section 19 and written permission is obtained from the Village.
- 19.9.2.9 On buildings 45 feet or less in height, the antenna may be mounted on the roof if:
- 19.9.2.9.1. The Village finds that it is not technically possible or aesthetically desirable to mount the antenna on a wall.
 - 19.9.2.9.2. No portion of the antenna or base station causes the height of the building to exceed the limitations set forth herein.

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- 19.9.2.9.3. Roof mounted antennas are completely screened from view by materials that are consistent and compatible with the design, color, and materials of the building.
- 19.9.2.9.4. No portion of the antenna may extend more than 10 feet above the height of the existing building.
- 19.9.2.10 No antenna shall cause localized interference with the reception or transmission of any other communications signals including, but not limited to public safety signals, and television and radio broadcast signals.
- 19.9.3 Facilities: Facilities should be architecturally compatible with the surrounding buildings and land uses in the zoning district or otherwise integrated, through location and design, to blend in with the existing characteristics of the site to the extent practical.
- 19.9.4 Color: Towers and antennas shall have a color generally matching the building, surroundings or background that minimizes their visibility, unless a different color is required by the FCC or FAA. Muted colors, earth tones and subdued colors shall be used wherever possible.
- 19.9.5 Equipment Structures: Ground level equipment and buildings and the tower base shall be adequately screened. The standards for the equipment buildings are as follows:
 - 19.9.5.1 The maximum floor area is 400 square feet and the maximum height is 12 feet and the equipment structure shall be designed and constructed so as to facilitate an adjoining equipment structure of another provider abutting the original equipment structure.
 - 19.9.5.2 Ground level buildings shall be screened from adjacent properties by landscape plantings, fencing or other appropriate means, as specified herein or in the Village Code.
 - 19.9.5.3 Equipment mounted on a roof shall have a finish similar to the exterior building walls. Equipment for roof mounted antennas may also be located within the building on which the antennas are mounted, subject to good engineering practices. Antennas and related equipment shall occupy no more than 25% of the total roof area of a building.
- 19.9.6 Federal Requirements: All towers and antennas must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Section 19 shall bring such towers and antennas into compliance with such revised standards and regulations within three (3) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency. Failure to bring

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towers and antennas into compliance with such revised standards and regulations shall constitute grounds for the removal of the tower or antenna at the owner's expense.

- 19.9.7 Fencing: A well constructed wood, stucco, masonry or stone wall in a commercial or industrial zone, not less than six feet in height from finished grade shall be provided around each tower. The type of fencing in other districts shall be subject to review and approval. Security fencing should be colored or should be of a design which blends into the character of the existing environment. Access to the tower shall be through a locked gate.
- 19.9.8 Required Parking: If the cell site is fully automated, adequate parking shall be required for maintenance workers. If the site is not automated, other arrangements for adequate parking shall be made and documentation thereof provided to the Village.
- 19.9.9 Site Location: Site location and development shall preserve the pre-existing character of the site as much as possible. Existing vegetation should be preserved or improved, and disturbance of the existing topography of the site should be minimized, unless such disturbance would result in less visual impact of the site on the surrounding area. The effectiveness of visual mitigation techniques must be evaluated by the Village, in the Village's sole discretion, taking into consideration the site as built.
- 19.9.10 Cooperation: No personal wireless service facility owner or lessee or officer or employee thereof shall act to exclude or attempt to exclude any other personal wireless service provider from using the same building, structure or location. Personal wireless service facility owners or lessees or officers or employees thereof shall cooperate in good faith to achieve colocation of personal wireless service facilities and equipment with other personal wireless service providers. If a dispute arises about the feasibility of accommodating another competitor, the Village may require a third party technical study, at the expense of either or both parties, to resolve the dispute.
- 19.9.11 Wind: The antennas and their support structure shall be designed to withstand a wind force of 100 miles per hour without the use of supporting guy wires. No guy or other support wires shall be used in connection with such antennas or their support structure except when used to anchor the antennas or support structure to an existing building.

19.10. INSPECTION REQUIREMENTS:

Each year after a facility becomes operational, the facility operator shall conduct a safety inspection in accordance with FCC Standards and within sixty (60) days of the inspection, file a report with the Village.

19.11. LANDSCAPING/SCREENING:

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- 19.11.1 **Landscaping.** Landscaping, as described herein, shall be required to screen as much of the support structure as possible. The fence surrounding the support structure and any other ground level features (such as a building), shall be designed to soften the appearance of the cell site. The Village may permit any combination of existing vegetation, berming, topography, walls, decorative fences or other features instead of landscaping, if they achieve the same degree of screening as the required landscaping. If the antenna is mounted flush on an existing building, and other equipment is housed inside an existing structure, landscaping shall not be required, except as otherwise required for the existing use.
- 19.11.2 **Screening.** The visual impacts of a tower shall be mitigated through landscaping or other screening materials at the base of the tower and ancillary structures. The following landscaping and buffering of towers shall be required around the perimeter of the tower and accessory structures. Landscaping shall be installed on the outside of fences. Landscaping and berming shall be equipped with automatic irrigation systems meeting the water conservation standards of the Village. Further, existing vegetation shall be preserved to the maximum extent practicable and may be used as a substitute for or in supplement towards meeting landscaping requirements.
- 19.11.2.1 A row of evergreen trees a minimum of 10 feet tall at planting and a maximum of 6 feet apart shall be planted around the perimeter of the fence;
- 19.11.2.2 A continuous hedge at least 36 inches high at planting capable of growing to at least 48 inches in height within eighteen (18) months shall be planted in front of the tree line referenced above.
- 19.11.2.3 Each owner, operator, lessee, or licensee shall maintain all fencing and landscaping including replacing any landscaping, if necessary. If the Village specifically requests the owner, operator, lessee, or licensee to replace fencing or landscaping the owner, operator, lessee, or licensee shall promptly comply with any such request.

19.12. NON-USE/ABANDONMENT

Abandonment: In the event the use of any tower has been discontinued for a period of sixty (60) consecutive days, the tower shall be deemed to be abandoned. Determination of the date of abandonment shall be made by the Village which shall have the right to request documentation and/or affidavits from the tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have an additional sixty (60) days within which to:

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- 19.12.1 Reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower; or
- 19.12.2 Dismantle and remove the facilities including but not limited to the tower, storage shed, fence, driveway and all other ancillary structures and to restore the property including the landscaping to the extent reasonably possible, to the conditions existing at the time of installation of the facilities. If such tower is not removed within said sixty (60) days, the Village may remove such tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower. Unnecessary sections of the tower shall be removed.

At the earlier of sixty (60) days from the date of abandonment without reactivation or upon completion of dismantling and removal, Village approval for the tower shall automatically expire. In any case, if an abandonment of a tower occurs by all of the permittees, licensees or owner of the tower, the owner of the tower shall remain primarily responsible if the tower ceases to be used for its intended purposes by either it or other permittees or licensees for the transmission or reception of personal wireless services. In the event that the tower ceases to be licensed by the FCC for the transmission of radio energy, the owner of the tower shall maintain the prescribed painting and/or illumination of such tower until it is dismantled. The application for any tower shall be accompanied by a letter of credit in an amount to be determined by the Village which may be drawn upon by the Village as necessary to cover the costs of removal of the tower as discussed above in Section 19.12.

19.13. APPLICATION REQUIREMENTS:

All personal wireless service facilities applicants shall, at the discretion of the Corporate Authorities, be required to submit any combination of site plans, surveys, maps, technical reports or written narratives necessary to convey the following information:

- 19.13.1 A scaled site plan clearly indicating the location, type and height of the proposed tower and antennas, buildings, on-site land uses and zoning, adjacent land uses and zoning, adjacent roadways, proposed means of access, setbacks from property lines, fencing, landscaping/screening and elevation drawings of the proposed tower, and any other proposed structures.
- 19.13.2 A current map or survey showing the location of the proposed tower.
- 19.13.3 Legal description of the parcel.
- 19.13.4 Distance between the proposed tower and the nearest residential unit, platted residentially zoned properties, and unplatted residentially zoned properties.
- 19.13.5 A landscape plan showing specific landscape materials.

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- 19.13.6 Method of fencing, and finished color and, if applicable, the method of camouflage and illumination.
- 19.13.7 A statement under oath signed by the applicant stating the tower and antenna will comply with all applicable federal and state laws and regulations (including specifically FAA and FCC regulations) and this Chapter.
- 19.13.8 A statement by the applicant as to whether construction of the tower will accommodate colocation of additional antenna(s) for future users.
- 19.13.9 Certification that the antenna usage will not interfere with other transmission or reception functions of other communications facilities.
- 19.13.10 Identification of the entities providing the back haul network for the tower/antenna described in the application.
- 19.13.11 The personal wireless services provider must demonstrate that it is licensed by the FCC, if required to be licensed under FCC regulations, for the provision of service within the Village.
- 19.13.12 The applicant, if not the telecommunications service provider, shall submit proof of lease agreements with an FCC licensed telecommunications provider if such telecommunications provider is required to be licensed by the FCC.
- 19.13.13 At the time of site selection, the applicant should demonstrate how the proposed site fits into its overall network within the Village, and if the applicant is able or unable to co-locate on an existing structure. The applicant shall submit information requested by the Corporate Authorities related to the availability of suitable existing towers, other structures or alternative technology. If the applicant believes that co-location is unavailable to the applicant and that no reasonable alternative technology exists to accommodate the applicant's proposed antenna, then the applicant shall submit evidence to demonstrate that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna and said evidence may consist of the following:
- 19.13.13.1 No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- 19.13.13.2 Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- 19.13.13.3 Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- 19.13.13.4 The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.

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- 19.13.13.5 The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- 19.13.13.6 The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- 19.13.13.7 The applicant demonstrates that an alternative technology that does not require the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wire line system, is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

All pending or new applications for the siting of personal wireless service facilities shall comply with the provisions set forth in this Section 19.

19.14. THIRD PARTY REVIEW:

The personal wireless services providers use various methodologies and analysis tools, including geographically based computer software, to determine the specific technical parameters of personal wireless services, such as expected coverage area, antenna configuration and topographic constraints that affect signal paths. In certain instances there may be a need for expert review by a third party of the technical data submitted by the personal wireless services provider. The Village may require such a technical review, to be paid for by the applicant for the personal wireless service facilities. The selection of the third party expert may be by mutual agreement between the applicant and Village or at the discretion of the Village, with a provision for the applicant and interested parties to comment on the proposed expert and review its qualifications. The expert review is intended to be a site-specific review of technical aspects of the personal wireless service facilities and not a subjective review of the site selection. Such a review should address the accuracy and completeness of the technical data, whether the analysis techniques and methodologies are legitimate, the validity of the conclusions and any specific technical issues outlined by the Board of Trustees, Village Staff, or interested parties. Based on the results of the third party review, the Village may require changes to the application for the personal wireless service facilities that comply with the recommendations of the expert.

19.15. REMEDIES:

Any person, firm or corporation violating any of the provisions or terms of this Section 19 upon conviction shall be subject to penalties provided for by Section 10.2 for each day during which the offense continued.

In addition to receiving any monetary remuneration, the Village shall have the right to seek injunctive relief for any and all violations of this Section 19 and all

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other remedies provided at law or in equity. If the Village prevails in any action at law or in equity, the Village shall also be entitled to recover its attorneys' fees, costs and all other expenses incurred in conjunction therewith.