

CHAPTER 17.

STREETS AND SIDEWALKS

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Article I. In General.

Sec. 17-1. Obstructions—Generally.

It shall be unlawful for any person to cause, create, or maintain any obstruction of any street, alley, sidewalk or other public way, except as may be specifically authorized by law or ordinance or by the Director of Public Works. (Code 1959, §148)

Sec. 17-2. Same—Drains.

It shall be unlawful to obstruct any drain in any public street or alley. (Code 1959, §153)

Sec. 17-3. Encroachments.

It shall be unlawful to erect or maintain any building or structure which encroaches upon any public street or property. (Code 1959, §152)

Sec. 17-4. Injury to Pavement.

It shall be unlawful to walk upon, drive any vehicle or animal upon or injure any newly laid street or alley pavement while the same is guarded by a warning sign or barricade, or to knowingly injure any street, sidewalk or alley pavement. (Code 1959, §145)

Sec. 17-5. Use for Display of Goods for Sale; Writing or Marking on Pavement.

It shall be unlawful for any person to use any street, sidewalk or other public place as space for the display of goods or merchandise for sale, or to write or mark any signs or advertisements on any such pavements. (Code 1959, §151)

Sec. 17-6. Construction and Maintenance of Barbed Wire or Electric Fences.

(A) Definitions.

(1) **High hazard uses** means electrical transformers, substations, transmission towers,

sanitary sewerage treatment facilities and such other uses determined by the corporate authorities of the Village to be capable of posing an unreasonable risk to the health and safety of the public.

- (2) **Fire Protection District** means the Addison Fire Protection District.
- (B) It shall be unlawful to maintain or construct any fence composed in whole or in part of barbed wire, or with any similar materials designed to cause injury to person, or any wire charged with electrical current anywhere within the Village except where an exemption has been obtained as hereinafter provided.
- (C) The following standards and procedures shall apply for obtaining exemption from the prohibition against barbed wire fences:
- (1) The applicant will submit a written request for an exemption to the Director of Community Development, together with a one hundred dollar (\$100.00) non-refundable fee and evidence demonstrating that the erection of a barbed wire fence is necessary in order to protect the health and safety of the public from a high hazard use.
 - (2) The applicant will also provide, at the time of application, a certification by the Fire Protection District that the use is in fact a high hazard use. No certification shall be required if the use is specifically identified in the definition of "high hazard use" herein.
 - (3) The Commercial and Industrial Commission shall conduct a hearing on the application and make a recommendation to the Public Health, Safety and Judicial Committee of the Village Board as to whether the exemption should be granted or denied.
 - (4) The Committee shall review all the pertinent information with respect to the application, and the corporate authorities shall determine whether an exemption is warranted. The decision of the corporate authorities shall be final.
 - (5) The exemption shall only apply to the particular use and the property identified in the application.
- (D) Any person who has obtained an exemption under Subsection (C) and who subsequently changes the use of the property for which the exemption was granted shall, within ten (10) days of the change in use, apply for a new exemption. In the event that the new application is not made on a timely basis or in the event that the new application is denied, the previous exemption shall immediately be rendered null and void. In addition, the Director of Community Development, or his designee, as part of the business license renewal process, shall determine whether the particular use, for which an exemption has been granted, remains the same.
- (E) Any person who has obtained a barbed wire fence exemption prior to December 16, 1991,

shall be considered to have complied with the requirements of Subsection (C), and said exemption shall continue in force and effect subject to the remaining provisions of this Section.

- (F) No exemption may be granted or continue in effect if the barbed wire portion of a fence is located within six feet (6') of ground level. (Ord. 80-05; 81-39; 91-89)

Sec. 17-7. Throwing, etc., Glass, Nails, etc., on Street; Removal of Material Dropped on Streets Generally.

- (A) No person shall throw or deposit upon any street any glass bottle, glass, nails, tacks, wire, cans, or any other substance likely to injure any person, animal, or vehicle upon any street.
- (B) Any person who drops, or permits to be thrown, upon any street, any destructive or injurious material shall immediately remove the same or cause it to be removed.
- (C) Any person removing a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.
- (D) It shall be unlawful for any person to plow by motorized vehicle the snow from his property or from the Village right of way into the street, causing a hazard. (Ord. 62-58; 78-12)

Sec. 17-8. Permit Required for Constructing, Repairing, etc., Pavement.

It shall be unlawful to construct or lay any pavement on any public street, sidewalk, alley, or other public way or to repair the same without having first secured a permit therefor. Applications for such permits shall be made to the Building Commissioner and shall state the location of the intended pavement or repair, the extent thereof, and the person who is to do the actual construction work. (Code No. 1959, §142)

Sec. 17-9. Barricades and Lights; Required.

Any person laying or repairing any pavement on a street, sidewalk, or other public place or making an excavation in the same shall maintain suitable barricades to prevent injury of any person or vehicle by reason of the work. Such barricades shall be protected by suitable lights at night.

Any defect in any such pavement shall be barricaded to prevent injury, and any person properly maintaining any opening or excavation in any such place shall guard such opening or excavation while the same remains open by the use of proper barricades and lights. (Code 1959, §149)

Sec. 17-10. Same—Disturbing or Interfering With.

It shall be unlawful to disturb or interfere with any barricade or lights lawfully placed to protect or mark any new pavement or excavation or opening in any public street, alley or sidewalk. (Code 1959, §150)

Sec. 17-10.1. Damage to Public Improvements or Property.

- (A) It shall be unlawful for any person to damage any public improvement or property, including, but not limited to, any public street, sidewalk, parkway, right of way or tunnel.
- (B) Any person who damages any public improvement or property shall promptly repair the same to the satisfaction of the Director of Community Development. In the event that said person fails or refuses to perform the necessary repairs promptly, the Village may, at its election, perform the necessary repairs and the person causing the damage shall be responsible for all costs and fees incurred by the Village in performing such repairs. Whether or not the Village elects to perform the repairs, the person causing the damage shall be fully responsible for the costs and fees to complete said repairs. (Ord. 24-24)

Section 17-10.2. Maintenance of Village Parkways and Right of Ways

- (A) Notwithstanding Section 17-10.1 above, every owner or occupant of real estate located adjacent to a Village parkway or right of way shall be responsible to maintain said parkway or right of way. Such maintenance shall include but not be limited to:
 - (1) Mowing of grass or ground cover;
 - (2) Keeping parkway or right of way free of rubbish and debris; and
 - (3) Care and restoration of damage to grass, ground cover, and trees. (Ord. 24-43)

Article II. Excavations.

Sec. 17-11. Policy of Village.

It is the policy of the Village to discourage open cuts in pavement and to encourage augering under the pavement. However, it is realized that at times it may be necessary to open cut pavements and, hence, the need for a policy for street openings.

Sec. 17-12. Permit Required.

The contractor or owner desiring to open cut any pavement in the Village shall obtain a permit from the Building Department prior to beginning work.

Sec. 17-13. Bond Required of Applicant.

The application for the permit required by the preceding Section shall be reviewed by the Building Department. If approved, the contractor or owner shall then post a bond in the minimum amount of three hundred dollars (\$300.00), the exact amount of such bond to be determined by the extent of the pavement opening.

Sec. 17-14. Notice to be Given.

Upon approval of the permit and posting of bond, the contractor shall give the engineering department a minimum of four (4) hours' notice of its intention to open or cut the pavement.

Sec. 17-15. Setting of Signs, Barricades, etc.

The contractor shall, after giving the notice required by the preceding Section, set all necessary barricades, signs, etc., for the protection of passing pedestrians and motorists after which he may begin work.

Sec. 17-16. Work Standards.

The work engaged in pursuant to this Article shall be done in accordance with the following specifications:

- (A) The cut shall be made and all excavated material removed from the street as soon as possible, but no later than 4:00 p.m.
- (B) The utility shall then be inspected by the Engineering Department, after which the contractor shall begin his backfilling operations.
- (C) The backfill shall consist of grade 8 crushed stone which shall be placed in maximum nine inch (9") lifts, and compacted with a mechanical compactor to ninety-five percent (95%) density. This backfill shall be brought to the level of the subgrade.
- (D) Where the cut is made in a residential street, the base course shall consist of eight inches (8") of bituminous concrete binder course. In an industrial or commercial street, the base course shall consist of eleven inches (11") of bituminous concrete binder course. This base course shall be brought to within one and one-half inches (1-1/2") of the surface of the adjoining pavement. The base shall be installed in two (2) lifts and compacted with a mechanical compactor.
- (E) After a minimum of one (1) week, but not later than one (1) month, the contractor shall complete the patch. He shall first notify the Engineering Department, after which he shall sawcut the limits of the pavement cut in a straight line, clean the surface of the base, prime if necessary and then place and compact the bituminous concrete surface course so that it will be flush with the adjoining pavement. All excess material shall be removed from the site and the pavement swept clean.

Sec. 17-16.1. Closing of Streets.

For the safety and welfare of the Village, the Village Manager may close any street to vehicular traffic when this becomes necessary because of construction of such street. Signs designating the closing of the street shall be constructed at either end of the street.

Sec. 17-17. Final Approval of Patch.

After the patch has been completed, the Engineering Department shall make a final inspection and, if approved, the bond shall then be released.

Article III. Trees and Shrubs.

Sec. 17-18. Planting.

It shall be unlawful to plant any tree or shrub in any public street or parkway or other public place without having first secured a permit therefor. Applications for such permits shall be made to the Director of Public Works. All trees and shrubs so planted shall be placed subject to the directions and approval of the Director of Public Works. (Code 1959, §164)

Sec. 17-19. Removing, Cutting, etc.

It shall be unlawful to remove or cut down any tree or shrub in any street, parkway or other public place without having first secured a permit therefor. Applications for such permits shall be made to the Director of Public Works. (Code 1959, §165)

Sec. 17-20. Duty to Remove Certain Overhanging, etc., Trees.

Any tree or shrub which overhangs any sidewalk, street, or other public place in the Village in such a way as to impede or interfere with traffic or travel on such public place shall be trimmed by the owner of the abutting premises on which such tree or shrub grows, so that the obstruction shall cease.

Any limb of a tree which has become likely to fall on or across any public way or place shall be removed by the owner of the premises on which such tree grows or stands. (Code 1959, §168)

Article IV. House Numbering.

Sec. 17-21. Preparation of Map; Assignment of Numbers, Delivery of Certificates, etc.; Compliance with Assigned Numbers.

For the purpose of facilitating the correct enumeration of Village houses and lots, a plat of all the streets, avenues and public highways within the Village, showing the proper number of all lots or houses fronting thereon, shall be prepared at the direction of the Village Board and shall be filed with the Village Clerk. It shall be the duty of the Village Clerk to assign to each house its proper number and deliver free of charge to the owner or occupant a certificate designating each number and to adjust all mistakes and errors in numbering. No numbers shall be placed on any premises, except those contained in the certificate of the Clerk. (Code 1959, §130)

Sec. 17-22. Design and Placement of Numbers.

Each of the figures of every number assigned according to the provisions of this Article shall not be less than three inches (3") in height and proportionate width, and of such color and affixed in

such place as to easily and distinctly read in plain view from the street. Such numbers shall be placed on the building either on, above or immediately to the side of the door, or at some other and more conspicuous place on the front of such building. (Code 1959, §131)

Sec. 17-23. Changing or Altering Numbers.

Whenever any premises have been numbered as provided in this Article, it shall be unlawful for any person to change or alter such number. (Code 1959, §132)

Sec. 17-24. Violations.

Any owner or occupant of any building in the Village who shall number such building without having first obtained from the Village Clerk a certificate designating the proper number, or who shall change or alter any such number or place any other number thereon except that contained in the certificate of the Village Clerk, or who shall violate any of the provisions of this Article, shall be deemed guilty of a misdemeanor. (Code 1959, §134)

Article V. Snow Removal.

Sec. 17-25. No Parking after Snowfall; Designated Snow Routes and Other Arterial Streets.

It shall be unlawful for any vehicle to be parked along any arterial street or designated snow route of the Village at any time when the snowfall shall reach a depth of two inches (2"). The designated snow routes shall be those streets as are determined by resolution of the board. These streets will be posted with the proper signing as snow routes. This prohibition against parking shall remain in effect until snow removal procedures are completed. (Ord. 79-74)

Sec. 17-26. No Parking after Four Inches of Snowfall; Emergency Snow Removal Plan.

It shall be unlawful for any vehicle to be parked along and upon any street within the Village at any time when the snowfall shall reach a depth of four inches (4"). This prohibition against parking shall remain in effect until the snow removal procedures are completed. (Ord. 79-74)

Sec. 17-27. Determination by Director of Public Works; Duties.

The Director of Public Works shall determine when the snowfall has reached the two inch (2") depth for the prohibition of parking on snow routes and the four inch (4") depth for the implementation of the emergency snow removal plan which prohibits all vehicles from being parked on any street. The Director, or his representative, shall immediately notify the Police Department and media when he determines the snowfall has reached the depth to require the implementation of snow removal procedures. The Director shall make or cause to be made a record of each time, date, and snow depth when any determination is made in accordance with this Section. (Ord. 79-74)

Sec. 17-28. Removal of Vehicles.

The Police Department and all members thereof are hereby authorized to remove and tow

away or to have removed and towed away by commercial towing service or by Village-operated vehicles, any car or other vehicle illegally parked which prevents and obstructs snow removal from public streets. Any vehicle which is stalled or is in any other way creating a traffic hazard because of its position in relation to the roadway is also subject to immediate removal. When such a vehicle is removed, the owner of the vehicle will be responsible for all towing charges. (Ord. 79-74)

Sec. 17-29. Evidence with Respect to Prosecutions.

In any prosecution under this Article, proof that a particular vehicle described in the complaint was parked in violation of this Article, together with proof that the defendant named in the complaint was at the time the registered owner of such vehicle shall constitute prima facie evidence that the defendant was the person who parked in violation of this Article. (Ord. 79-74)

Sec. 17-30. Depositing of Snow and Ice Restricted.

No person, partnership, corporation or other business entity shall deposit or cause to be deposited any snow or ice on or against a fire hydrant, regulatory sign, sidewalk or street within the Village.

It shall be unlawful to pile or otherwise windrow snow along driveways to such a height as to obstruct the vision of drivers seeking access to and from any Village street. (Ord. 79-74)

Sec. 17-31. Penalty.

Any person, firm, corporation or other business entity violating the provisions of Sections 17-25 to 17-30 shall be fined not less than twenty-five dollars (\$25.00) for each offense nor more than one hundred dollars (\$100.00).

Sec. 17-32. Multi-dwelling Parking Lots.

Every owner of an apartment or any other multi-family dwelling house consisting of three (3) or more units shall clear the driveway, driveway approach, and off-street parking spaces and parking lots within twelve (12) hours after the Director of Public Works has determined that the snowfall has reached a depth of four inches (4"). (Ord. 79-74; 08-19; 10-26)

Sec. 17-33. Penalty.

Any owner who violates the provisions of Section 17-32 shall be subject to a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00) for each offense. (Ord. 79-74)

Sec. 17-34 through Sec.17-600 reserved for future use.

Article VI. Construction of Utility Facilities in the Public Rights-of-Way.
(Established by Ord. 99-2; Amended in its Entirety by Ord. 07-117; Ord. 17-13)

Sec. 17-601. Purpose and Scope.

- (A) Purpose. The purpose of this Article is to establish policies and procedures for constructing facilities on rights-of-way within the Village's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the Village rights-of-way and the Village as a whole.
- (C) Facilities Subject to This Article. This Article applies to all facilities on, over, above, along, upon, under, across, or within the public rights-of-way within the jurisdiction of the Village, except as may be otherwise provided in any applicable franchise, license or similar agreement.
- (D) Franchises, Licenses, or Similar Agreements. The Village, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the Village rights-of-way. In such an agreement, the Village may provide for terms and conditions inconsistent with this Article. Utilities that are not required by law to enter into such an agreement may request that the Village enter into such an agreement.
- (E) Effect of Franchises, Licenses, or Similar Agreements.
- (1) Utilities Other Than Telecommunications Providers. In the event that a utility other than a telecommunications provider has a franchise, license or similar agreement with the Village, such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.
- (2) Telecommunications Providers. In the event of any conflict with, or inconsistency between, the provisions of this Article and the provisions of any franchise, license or similar agreement between the Village and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the during the term of such agreement and any lawful renewal or extension thereof. Application of the Village's "Master License Agreement for Wireless and Pole Mounted Telecommunications Facilities Located within the Village Ways of the Village of Addison" per Ordinance No. _____ to a telecommunications provider shall only require review and approval by the Director of Public Works. Any other proposed license agreement which differs from the Master License Agreement shall require separate approval by the Village Board of Trustees by ordinance.
- (F) Conflicts with Other Articles. This Article supersedes all policies, resolutions, ordinances, or parts thereof adopted prior hereto that are in conflict herewith, to the extent of such conflict.
- (G) Conflicts with State and Federal Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Article, the utility shall comply with the requirements of this Article to the maximum extent possible without violating federal or State laws or regulations.

- (H) Sound Engineering Judgment. The Village shall use sound engineering judgment when administering this Article and may vary the standards, conditions, and requirements expressed in this Article when the Village so determines. Nothing herein shall be construed to limit the ability of the Village to regulate its rights-of-way for the protection of the public health, safety and welfare.

Sec. 17-602. Definitions.

For purposes of this Article, unless the context clearly requires otherwise, the words and terms listed shall have the meanings ascribed to them in this Section. Any term not defined in this Section shall have the meaning ascribed to it in 92 Ill. Adm. Code §530.30, unless the context clearly requires otherwise.

AASHTO means American Association of State Highway and Transportation Officials.

Above Ground Service Facility shall mean an/any above ground structure, used by an Entity to provide Service to the public, which has an above ground volume greater than twenty-four (24) cubic feet, but excluding buildings, towers, utility poles, water towers and standpipes.

ANSI means American National Standards Institute.

Applicant means a person applying for a permit under this Article.

ASTM means American Society for Testing and Materials.

Backfill means the methods or materials for replacing excavated material in a trench or pit.

Bore or **boring** means to excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

Cable operator is that term as defined in 47 U.S.C. 522(5).

Cable service is that term as defined in 47 U.S.C. 522(6).

Cable system is that term as defined in 47 U.S.C. 522(7).

Carrier pipe means the pipe enclosing the liquid, gas or slurry to be transported.

Casing means a structural protective enclosure for transmittal devices such as carrier pipes, electrical conductors, and fiber optic devices.

Clear zone means the total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area shall consist of a shoulder, a recoverable slope, a nonrecoverable slope, and a clear run-out area. The desired width is dependent upon the traffic

volumes and speeds, and on the roadside geometry. Distances are specified in the AASHTO Roadside Design Guide.

Coating means protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

Code means the codified ordinances of the Village of Addison.

Conductor means wire carrying electrical current.

Conduit means a casing or encasement for wires or cables.

Construction or **construct** means the installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

Cover means the depth of earth or backfill over buried utility pipe or conductor.

Crossing facility means a facility that crosses one or more right-of-way lines of a right-of-way.

Director of Public Works means the Village Director of Public Works or his or her designee.

Disrupt the right-of-way, for the purposes of this Article, means any work that obstructs the right-of-way or causes a material adverse effect on the use of the right-of-way for its intended use. Such work may include, without limitation, the following: excavating or other cutting; placement (whether temporary or permanent) of materials, equipment, devices, or structures; damage to vegetation; and compaction or loosening of the soil, and shall not include the parking of vehicles or equipment in a manner that does not materially obstruct the flow of traffic on a highway.

Emergency means any immediate maintenance to the facility required for the safety of the public using or in the vicinity of the right-of-way or immediate maintenance required for the health and safety of the general public served by the utility.

Encasement means provision of a protective casing.

Entity or **person** means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, state government, federal government, a unit of local government, or a receiver, trustee, guardian or other representative appointed by order of court, or any other legally recognized organization, whether for-profit or not-for-profit. The Village shall not be considered a “Person” or “Entity.”

Equipment means materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

Excavation means the making of a hole or cavity by removing material or laying bare by digging.

Extra heavy pipe means pipe meeting ASTM standards for this pipe designation.

Facility means all structures, devices, objects, and materials (including track and rails, wires, ducts, fiber optic cable, communications and video cables and wires, poles, conduits, grates, covers, pipes, cables, personal wireless facilities and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Article, except those owned by the Village.

Freestanding facility means a ground-mounted facility over twenty-five (25) cubic feet in size that is not a crossing facility, an overhead facility or a parallel facility, such as an antenna, transformer, pump, equipment enclosure, cabinet, or meter station.

Frontage road means roadway providing access to land adjacent to the highway where it is precluded by control of access on highway.

Hazardous material means any substance or material which, due to its quantity, form, concentration, location, or other characteristic, is determined by the Director of Public Works to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or State law, statute or regulation.

Highway Code means the Illinois Highway Code, 605 ILCS 5/1-101 *et seq.*, as amended from time to time.

Highway means a right-of-way used for vehicular traffic, including rural or urban roads or streets, whether classified as arterial, collector, minor or local. Highway includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, signs, guardrails, protective structures and appurtenances necessary or convenient for vehicle traffic.

Holder means a person or entity that has received authorization to offer or provide cable or video service from the ICC pursuant to the Illinois Cable and Video Competition Law, 220 ILCS 5/21-401.

IDOT means Illinois Department of Transportation.

ILCC means Illinois Commerce Commission.

Jacking means pushing a pipe horizontally under a roadway by mechanical means with or without boring.

Jetting means pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

Joint use means the use of pole lines, trenches or other facilities by two or more utilities.

J.U.L.I.E. means the Joint Utility Locating Information for Excavators utility notification program.

Light Standard means a raised source of electric light adjacent to a street or sidewalk.

Major intersection means the intersection of two (2) or more arterial highways.

Occupancy means the presence of facilities on, over or under right-of-way.

Overhead facility means a facility that is mounted on a pole.

Parallel facility means a facility that is generally parallel or longitudinal to the centerline of a right-of-way.

Parkway means any portion of the right-of-way not improved by street or sidewalk.

Pavement cut means the removal of an area of pavement for access to facility or for the construction of a facility.

Permittee means that entity to which a permit has been issued pursuant to Sections 17-604 and 17-605 of this Article.

Personal Wireless Services means any technologies defined in 47 U.S.C. 332(c)(7) including commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services, provided to personal mobile communication devices through wireless Facilities or any fixed mobile wireless services provided using personal wireless Facilities.

Personal Wireless Service Facilities means equipment at a fixed location that enables Personal Wireless Service between user equipment and a communications network, including but not limited to: (a) equipment associated with Personal Wireless Services such as private, broadcast and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul; and (b) Transmission Tower, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies and comparable equipment, regardless of technological configuration.

Practicable means that which is performable, feasible or possible, rather than that which is simply convenient.

Pressure means the internal force acting radially against the walls of a carrier pipe expressed in pounds per square inch gauge (psig).

Petroleum products pipelines means pipelines carrying crude or refined liquid petroleum products including, but not limited to, gasoline, distillates, propane, butane, or coal-slurry.

Prompt means that which is done within a period of time specified by the Village. If no time period is specified, the period shall be thirty (30) days.

Public entity means a legal entity that constitutes or is part of the government, whether at local, state or federal level.

Restoration means the repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility to its original condition.

Right-of-way means any street, alley, other land or waterway, dedicated or commonly used for utility purposes, including utility easements in which the Village has the right and authority to authorize, regulate or permit the location of facilities other than those of the Village. Right-of-way shall not include any real or personal Village property that is not specifically described in the previous two sentences and shall not include Village buildings, fixtures, and other structures or improvements, regardless of whether they are situated in the right-of-way.

Roadway means that part of the highway that includes the pavement and shoulders.

Sale of telecommunications at retail means the transmitting, supplying, or furnishing of telecommunications and all services rendered in connection therewith for a consideration, other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries, when the gross charge made by one such corporation to another such corporation is not greater than the gross charge paid to the retailer for their use or consumption and not for sale.

Security fund means that amount of security required pursuant to Section 17-610.

Shoulder means a width of roadway, adjacent to the pavement, providing lateral support to the pavement edge and providing an area for emergency vehicular stops and storage of snow removed from the pavement.

Sound engineering judgment means a decision(s) consistent with generally accepted engineering principles, practices and experience.

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 service, private line services, mobile radio services, cellular mobile telecommunications services, personal wireless services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities "Private line" means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of such channels, from one or more specified locations to one or more other specified locations. "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code and protocol of the information for purposes other than transmission.

"Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

Telecommunications provider means any person that installs, owns, operates or controls facilities in the public right-of-way used or designed to be used to transmit telecommunications in any form.

Telecommunications retailer means and includes every person engaged in making sales of telecommunications at retail as defined herein.

Trench means a relatively narrow open excavation for the installation of an underground facility.

Utility means any person or entity owning or operating any facility, as defined in this Article.

Vent means a pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

Video service is that term as defined in Section 21-201(v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

Village means the Village of Addison.

Village standards means any codes, ordinances or regulations of the Village which are applicable to construction of utility facilities in Village rights-of-way.

Water lines means pipelines carrying raw or potable water.

Wet boring means boring using water under pressure at the cutting auger to soften the earth and to provide a sluice for the excavated material.

Sec. 17-603. Annual Registration Required.

Every utility that occupies right-of-way within the Village shall register on January 1 of each year with the Director of Public Works, providing the utility's name, address and regular business telephone and telecopy numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right-of-way and a 24-hour telephone number for each such person and evidence of insurance as required in Section 17-608 of this Article, in the form of a certificate of insurance.

Sec. 17-604. Permit Required; Applications and Fees.

- (A) Permit Required. No person shall construct (as defined in this Article) any facility on, over, above, along, upon, under, across, or within any Village right-of-way which (1) changes the location of the facility, (2) adds a new facility, (3) disrupts the right-of-way (as defined in this Article), or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under across or within the right-of-way, without first filing an application with the Director of Public Works and obtaining a permit from the Village therefor, except as otherwise provided in this Article. No permit shall be required for installation and maintenance of service connections to customers' premises where there will be no disruption of the right-of-way.
- (B) Permit Application. All applications for permits pursuant to this Article shall be filed on a form provided by the Village and shall be filed in such number of duplicate copies as the Village may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as proprietary or confidential by clearly marking each page of such materials accordingly.
- (C) Minimum General Application Requirements. The application shall be made by the utility or its duly authorized representative and shall contain, at a minimum, the following:
- (1) The utility's name and address and telephone and telecopy numbers;
 - (2) The applicant's name and address, if different than the utility, its telephone, telecopy numbers, e-mail address, and its interest in the work;
 - (3) The names, addresses and telephone and telecopy numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application;
 - (4) A description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, as determined by the Director of Public Works, with special emphasis on those matters likely to be affected or impacted by the work proposed;
 - (5) Evidence that the utility has placed on file with the Village:
 - (a) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the *Illinois Manual on Uniform Traffic Control Devices*, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
 - (b) An emergency contingency plan which shall specify the nature of potential emergencies, including, without limitation, construction and hazardous materials emergencies, and the intended response by the applicant. The intended response shall include notification to the Village and shall promote

protection of the safety and convenience of the public. Compliance with ILCC regulations for emergency contingency plans constitutes compliance with this Section unless the Village finds that additional information or assurances are needed;

- (6) Drawings, plans and specifications showing the work proposed, including the certification of an engineer that such drawings, plans, and specifications comply with applicable codes, rules, and regulations;
 - (7) Evidence of insurance as required in Section 17-608 of this Article;
 - (8) Evidence of posting of the security fund as required in Section 17-610 of this Article;
 - (9) Any request for a variance from one or more provisions of this Article (see, Section 17-621); and
 - (10) Such additional information as may be reasonably required by the Village.
- (D) Supplemental Application Requirements for Specific Types of Utilities. In addition to the requirements of Subsection (C) of this Section, the permit application shall include the following items as applicable to the specific utility that is the subject of the permit application:
- (1) In the case of the installation of new electric power, communications or natural gas distribution system installation, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected to obtain, has been issued by the ICC or other jurisdictional authority;
 - (2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;
 - (3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;
 - (4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control and the Metropolitan Water Reclamation District and other local or state entities with jurisdiction, have been satisfied; or
 - (5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

- (E) Applicant's Duty to Update Information. Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application shall be submitted by the utility in writing to the Village within thirty (30) days after the change necessitating the amendment.
- (F) Application Fees. Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Article shall be accompanied by a fee in the amount of two hundred fifty dollars (\$250.00). No application fee is required to be paid by any electric or telecommunications utility that is paying the municipal infrastructure maintenance fee pursuant to the Telecommunications Infrastructure Maintenance Fee Act. (35 ILCS 635/1 *et seq.*) or the Electricity Infrastructure Maintenance Fee Act 35 ILCS 645/1 *et seq.*)
- (G) Permit prohibitions.
- (1) No portion or part of any Above Ground Service Facility shall be installed over a potable water line, sanitary sewer line, storm water sewer line, underground natural gas line, or underground electrical conduit unless engineering means are approved by the Village Engineer and installed to provide adequate access to the lines for inspection, repairs or emergency access. Any applicant for a permit for an Above Ground Service Facility will use reasonable engineering methods to design the location of the Above Ground Service Facility not less than five feet (5') from any existing underground potable waterline, sanitary sewer line, storm water sewer line, underground gas line or underground electrical conduit and so as to minimize the probability that the Above Ground Service Facility will subside or cause soils in the area of the line to collapse if the ground is operated to access the line. Distances of less than five feet (5') may be authorized by the Village Engineer where he determines that the Above Ground Service Facility has been engineered so as to not create an unreasonable risk of harm to the underground lines.
 - (2) No Facility shall be installed underground where there is inadequate space to permit access maintenance and replacement of existing underground utilities or Facilities or where the placement of an above ground Facility threatens the pedestrian or vehicular safety.
 - (3) No Transmission Tower used to support Personal Wireless Service Facilities shall be permitted in any Public Way.
 - (4) Personal Wireless Service Facilities may be located on an existing Utility Pole or Light Standard that is within the Public Way. Personal Wireless Service Facilities shall comply with Above Ground Service Facilities requirements as set forth herein and subject to the following:
 - (i) The addition of said Personal Wireless Service Facilities does not exceed more than seven feet (7') above the height of the existing Utility Pole to which it is attached.

- (ii) No guy or other support wires shall be used in connection with such Personal Wireless Service Facilities.
- (iii) Personal Wireless Service Facilities antenna and related equipment shall not exceed four (4) square feet in antenna surface area or four feet (4') in any dimension.
- (iv) Replacement Utility Poles can be placed at the same height as the existing Utility Pole to accommodate Personal Wireless Service Facilities.
- (v) Personal Wireless Service Facilities, including antenna and related equipment shall be a color that blends with the surroundings of the existing Utility Pole on which it is mounted. Any wiring on the Utility Pole must be covered with an appropriate cover or cable shield.
- (vi) Not more than one Personal Wireless Service Facility may be located on an existing single Utility Pole.
- (vii) No Personal Wireless Facility shall be installed within five hundred feet (500') of an existing Personal Wireless Facility.
- (viii) Facilities mounted on an existing Utility Pole of a current franchisee or licensee with the written permission of the franchisee or licensee, regardless of the terms and conditions of any existing franchise or license agreement between the Village and, a franchisee or a licensee are permitted so long as the owner of the Facilities has entered into a Master License Agreement as required by this Article and secured a site specific permit under the terms and conditions of the Master License Agreement, and shall submit its written agreement with the franchisee or licensee, which owns the existing Utility Pole as part of its specific permit application.

Sec. 17-605. Action on Permit Applications.

- (A) Village Review of Permit Applications. Completed permit applications, containing all required documentation, shall be examined by the Director of Public Works within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the Director of Public Works shall reject such application in writing, stating the reasons therefor. If the Director of Public Works is satisfied that the proposed work conforms to the requirements of this Article and all applicable ordinances, codes, laws, rules, and regulations, the Director of Public Works shall issue a permit therefor as soon as practicable. In all instances, it shall be the duty of the applicant to demonstrate, to the satisfaction of the Village Director of Public Works that the construction proposed under the application shall be in full compliance with the requirements of this Article.
- (B) Additional Village Review of Applications of Telecommunications Retailers.
 - (1) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer shall notify the Village that it intends to commence work governed by this Article for facilities for the provision of telecommunications services. Such notice shall consist of plans, specifications, and other documentation

sufficient to demonstrate the purpose and intent of the facilities and shall be provided by the telecommunications retailer to the Village not less than ten (10) days prior to the commencement of work requiring no excavation and not less than thirty (30) days prior to the commencement of work requiring excavation. The Director of Public Works shall specify the portion of the right-of-way upon which the facility may be placed, used and constructed.

- (2) In the event that the Director of Public Works fails to provide such specification of location to the telecommunications retailer within either (a) ten (10) days after service of notice to the Village by the telecommunications retailer in the case of work not involving excavation for new construction or (b) twenty-five (25) days after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, the telecommunications retailer may commence work without obtaining a permit under this Article.
 - (3) Upon the provision of such specification by the Village, where a permit is required for work pursuant to Section 17-604 of this Article, the telecommunications retailer shall submit to the Village an application for a permit and any and all plans, specifications and documentation available regarding the facility to be constructed. Such application shall be subject to the requirements of Subsection (A) of this Section.
- (C) Additional Village Review of Applications of Holders of State Authorization under the Cable and Video Completion Law of 2007. Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 shall be deemed granted forty-five (45) days after submission to the Village, unless otherwise acted upon by the Village, provided the holder has complied with applicable Village codes, ordinances, and regulations.

Sec. 17-606. Effect of Permit.

- (A) Authority Granted, No Property Right or Other Interest Created. A permit from the Village authorizes a permittee to undertake only certain activities in accordance with this Article on Village rights-of-way and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the public rights-of-way.
- (B) Duration. No permit issued under this Article shall be valid for a period longer than six (6) months unless construction is actually begun within that period and is thereafter diligently pursued to completion.
- (C) Preconstruction meeting required. No construction shall begin pursuant to a permit issued under this Article prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a preconstruction meeting. The preconstruction meeting shall be held at a date, time and place designated by the Village, with such Village representatives in attendance as the Village deems necessary. The meeting

shall be for the purpose of reviewing the work under the permit, and reviewing special considerations necessary in the areas where work will occur, including, without limitation, presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.

- (D) Compliance with All Laws Required. The issuance of a permit by the Village does not excuse the permittee from complying with other requirements of the Village Code and all applicable statutes, laws, ordinances, rules, regulations, including but not limited to, the Addison Zoning Ordinance, as now existing or hereafter amended.

Sec. 17-607. Revised Permit Drawings.

In the event the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the Village within ninety (90) days after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Article, it shall be treated as a request for variance in accordance with Section 17-621 of this Article. If the Village denies the request for a variance, then the permittee shall either remove the facility from the right-of-way or modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

Sec. 17-608. Insurance.

- (A) Required Coverages and Limits. Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way shall secure and maintain the following liability insurance policies insuring the utility as named insured and naming the Village and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in paragraphs (1) and (2) below.
- (1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as "X," "C," and "U" coverages) and products-completed operations coverage with limits not less than:
- (a) Five million dollars (\$5,000,000) for bodily injury or death to each person;
 - (b) Five million dollars (\$5,000,000) for property damage resulting from any one accident; and
 - (c) Five million dollars (\$5,000,000) for all other types of liability;

- (2) Automobile liability for owned, non-owned and hired vehicles with a combined single limit of one million dollars (\$1,000,000) for personal injury and property damage for each accident;
- (3) Worker's compensation with statutory limits; and
- (4) Employer's liability insurance with limits of not less than one million dollars (\$1,000,000) per employee and per accident.

If the utility is not providing such insurance to protect the contractors and subcontractors performing the work, then such contractors and subcontractors shall comply with this Section.

- (B) Excess or Umbrella Policies. The coverages required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis such that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover such loss.
- (C) Copies Required. The utility shall provide copies of any of the policies required by this Section to the Village within ten (10) days following receipt of a written request therefor from the Village.
- (D) Maintenance and Renewal of Required Coverages. The insurance policies required by this Section shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until thirty (30) days after receipt by the Village, by registered mail or certified mail, return receipt requested, of a written notice addressed to the Village Manager of such intent to cancel or not to renew."

Within ten (10) days after receipt by the Village of said notice, and in no event later than ten (10) days prior to said cancellation, the utility shall obtain and furnish to the Village evidence of replacement insurance policies meeting the requirements of this Section.

- (E) Self-Insurance. A utility may self-insure all or a portion of the insurance coverage and limit requirements required by Subsection (A) of this Section. A utility that self-insures is not required, to the extent of such self-insurance, to comply with the requirement for the naming of additional insureds under Subsection (A) or the requirements of Subsections (B), (C) and (D) of this Section. A utility that elects to self-insure shall provide to the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under Subsection (A) of this Section, such as evidence that the utility is a "private self insurer" under the Workers Compensation Act. Self-insurance shall be primary, and any Village policies of insurance shall be deemed secondary.

- (F) Effect of Insurance and Self-Insurance on Utility's Liability. The legal liability of the utility to the Village and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section shall not be limited by such insurance policies or self-insurance or by the recovery of any amounts thereunder.
- (G) Insurance Companies. All insurance provided pursuant to this Section shall be affected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois. All insurance carriers and surplus line carriers shall be rated "A-" or better and of a class size "X" or higher by A.M. Best Company.

Sec. 17-609. Indemnification.

By occupying or constructing facilities in the right-of-way, a utility shall be deemed to agree to defend, indemnify and hold the Village and its elected and appointed officials and officers, employees, agents and representatives harmless from and against any and all injuries, claims, demands, judgments, damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the utility or its affiliates, officers, employees, agents, contractors or subcontractors in the construction of facilities or occupancy of the rights-of-way, and in providing or offering service over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this Article or by a franchise, license, or similar agreement; provided, however, that the utility's indemnity obligations hereunder shall not apply to any injuries, claims, demands, judgments, damages, losses or expenses arising out of or resulting from the negligence, misconduct or breach of this Article by the Village, its officials, officers, employees, agents or representatives.

17-610. Security.

- (A) Purpose. The permittee shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve as security for:
 - (1) The faithful performance by the permittee of all the requirements of this Article;
 - (2) Any expenditure, damage, or loss incurred by the Village occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the Village issued pursuant to this Article; and
 - (3) The payment by permittee of all liens and all damages, claims, costs,, or expenses that the Village may pay or incur by reason of any action or nonperformance by permittee in violation of this Article including, without limitation, any damage to public property or restoration work the permittee is required by this Article to perform that the Village must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the Village from the permittee pursuant to this Article or any other applicable law.

- (B) Form. The permittee shall provide the Security Fund to the Village in the form, at the permittee's election, of cash, a surety bond in a form acceptable to the Village, or an unconditional letter of credit in a form acceptable to the Village. Any surety bond or letter of credit provided pursuant to this Subsection shall, at a minimum:
- (1) Provide that it will not be canceled without prior notice to the Village and the permittee.
 - (2) Not require the consent of the permittee prior to the collection by the Village of any amounts covered by it; and
 - (3) Provide a location convenient to the Village and within the State of Illinois at which it can be drawn.
- (C) Amount. The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Director of Public Works, and may also include reasonable, directly related costs that the Village estimates are likely to be incurred if the permittee fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the Village, with each phase consisting of construction of facilities in one location or a related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Director of Public Works may, in the exercise of sound discretion, allow the permittee to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this Subsection (C) for any single phase.
- (D) Withdrawals. The Village, upon fourteen (14) days' advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this Subsection, may withdraw an amount from the Security Fund if the fund is a Cash Security Fund, provided that the permittee has not reimbursed the Village for such amount within the fourteen (14) day notice period. Withdrawals may be made if the permittee:
1. Fails to make any payment required to be made by the permittee hereunder;
 2. Fails to pay any liens relating to the facilities that are due and unpaid;
 3. Fails to reimburse the Village for any damages, claims, costs or expenses which the Village has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
 4. Fails to comply with any provision of this Article that the Village determines can be remedied by an expenditure of an amount in the Security Fund.

- (E) Replenishment. Within fourteen (14) days after receipt of written notice from the Village that any amount has been withdrawn from the Cash Security Fund, the permittee shall restore the Cash Security Fund to the amount specified in Subsection (C) of this Section.
- (F) Interest. The permittee may request that any and all interest accrued on the amount in the Cash Security Fund be returned to the permittee by the Village, upon written request for said withdrawal to the Village, provided that any such withdrawal does not reduce the Cash Security Fund below the minimum balance required in Subsection (C) of this Section.
- (G) Closing and Return of Security Fund. Upon completion of the work authorized under the permit, the permittee shall be entitled to the return of the Cash Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the Village for failure by the permittee to comply with any provisions of this Article or other applicable law. In the event of any revocation of the permit, the Cash Security Fund, and any and all accrued interest therein, shall become the property of the Village to the extent necessary to cover any reasonable costs, loss or damage incurred by the Village as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.
- (H) Rights Not Limited. The rights reserved to the Village with respect to the Security Fund are in addition to all other rights of the Village, whether reserved by this Article or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the Village may have. Notwithstanding the foregoing, the Village shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.

Sec. 17-611. Permit Suspension and Revocation.

- (A) Village Right to Revoke Permit. The Village may revoke or suspend a permit issued pursuant to this Article for one or more of the following reasons:
 - (1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
 - (2) Non-compliance with this Article;
 - (3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the public rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
 - (4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

- (B) Notice of Revocation or Suspension. The Village shall send written notice of its intent to revoke or suspend a permit issued pursuant to this Article stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this Section 17-611.
- (C) Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension. Upon receipt of a written notice of revocation or suspension from the Village, the permittee shall have the following options:
- (1) Immediately provide the Village with evidence that no cause exists for the revocation or suspension;
 - (2) Immediately correct, to the satisfaction of the Village, the deficiencies stated in the written notice, providing written proof of such correction to the Village within five (5) working days after receipt of the written notice of revocation; or
 - (3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the public rights-of-way and restore the rights-of-way to the satisfaction of the Village providing written proof of such removal to the Village within ten (10) days after receipt of the written notice of revocation.

The Village may, in its discretion, for good cause shown, extend the time periods provided in this Subsection.

- (D) Stop Work Order. In addition to the issuance of a notice of revocation or suspension, the Village may issue a stop work order immediately upon discovery of any of the reasons for revocation set forth within Subsection (A) of this Section.
- (E) Failure or Refusal of the Permittee to Comply. If the permittee fails to comply with the provisions of Subsection (C) of this Section, the Village or a contractor designated by the Village may, at the option of the Village: (1) correct the deficiencies; (2) upon not less than twenty (20) days' notice to the permittee, remove the subject facilities or equipment; or (3) after not less than thirty (30) days' notice to the permittee of failure to cure the non-compliance, deem them abandoned and property of the Village. The permittee shall be liable in all events to the Village for all costs of removal.

Sec. 17-612. Change of Ownership or Owner's Identity or Legal Status.

- (A) Notification of Change. A utility shall notify the Village no less than thirty (30) days prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility shall have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Article, with respect to the work and facilities in the right-of-way. If the utility is operating under a Master License Agreement, the transfer of ownership shall not be effective until a new Master License Agreement has

been executed by the new owner and has been approved in the manner provided in this Article.

- (B) Amended Permit. A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the Village's right-of-way.
- (C) Insurance and Bonding. All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

Sec. 17-613. General Construction Standards.

- (A) Standards and Principles. All construction in the right-of-way shall be consistent with applicable ordinances, codes, laws rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications, as amended from time to time:
 - (1) Standard Specifications for Road and Bridge Construction;
 - (2) Supplemental Specifications and Recurring Special Provisions;
 - (3) Highway Design Manual;
 - (4) Highway Standards Manual;
 - (5) Standard Specifications for Traffic Control Items;
 - (6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code §545);
 - (7) Flagger's Handbook; and
 - (8) Work Site Protection Manual for Daylight Maintenance Operations.
- (B) Interpretation of Village Standards and Principles. If a discrepancy exists between or among differing principles and standards required by this Article, the Director of Public Works shall determine, in the exercise of sound engineering judgment, which principles apply, and such decision shall be final. If requested, the Director of Public Works shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

Sec. 17-614. Traffic Control.

- (A) Minimum Requirements. The Village's minimum requirements for traffic protection are contained in IDOT's *Illinois Manual on Uniform Traffic Control Devices* and this Code.
- (B) Warning Signs, Protective Devices, and Flaggers. The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.
- (C) Interference with Traffic. All work shall be phased so that there is minimum interference with pedestrian and vehicular traffic.
- (D) Notice When Access Is Blocked. At least forty-eight (48) hours prior to beginning work that will partially or completely block access to any residence, business or institution, the utility shall notify the resident, business or institution of the approximate beginning time and duration of such work; provided, however, that in cases involving emergency repairs pursuant to Section 17-620 of this Article, the utility shall provide such notice as is practicable under the circumstances.
- (E) Compliance. The utility shall take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the Village.

Sec. 17-615. Location of Facilities.

- (A) General Requirements. In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, shall be subject to the general location requirements of the Addison Zoning Ordinance and this Subsection:
 - (1) No Interference with Village Facilities. No utility facilities shall be placed in any location if the Director of Public Works determines that the proposed location will require the relocation or displacement of any of the Village's utility facilities or will otherwise interfere with the operation or maintenance of any of the Village's utility facilities.
 - (2) Minimum Interference and Impact. The proposed location shall cause only the minimum possible interference with the use of the right-of-way and shall cause only the minimum possible impact upon, and interference with the rights and reasonable convenience of property owners who adjoin said right-of-way.
 - (3) No Interference with Travel. No utility facility shall be placed in any location that interferes with the usual travel on such right-of-way.
 - (4) No Limitations on Visibility. No utility facility shall be placed in any location so as to limit visibility of or by users of the right-of-way.

- (5) **Size of Utility Facilities.** The proposed installation shall use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.

B. Parallel Facilities Located Within Highways.

- (1) **Overhead Parallel Facilities.** An overhead parallel facility may be located within the right-of-way lines of a highway only if:
 - (a) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;
 - (b) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of two feet (0.6 m) behind the face of the curb, where available;
 - (c) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of four feet (1.2 m) outside the outer shoulder line of the roadway and are not within the clear zone;
 - (d) No pole is located in the ditch line of a highway; and
 - (e) Any ground mounted appurtenance is located within one foot (0.3 m) of the right-of-way line or as near as possible to the right-of-way line.
- (2) **Underground Parallel Facilities.** An underground parallel facility may be located within the right-of-way lines of a highway only if:
 - (a) The facility is located as near the right-of-way line as practicable and not more than eight (8) feet (2.4 m) from and parallel to the right-of-way line;
 - (b) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
 - (c) In the case of an underground power or communications line, the facility shall be located as near the right-of-way line as practicable and not more than five (5) feet (1.5 m) from the right-of-way line, and any aboveground appurtenance shall be located within one foot (0.3 m) of the right-of-way line or as near as practicable.

(C) Facilities Crossing Highways.

- (1) **No Future Disruption.** The construction and design of crossing facilities installed between the ditch lines or curb lines of Village highways may require the

incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.

- (2) Culverts or Drainage Facilities. Crossing Facilities shall not be located in culverts or drainage facilities.
 - (3) 90 Degree Crossing Required. Crossing facilities shall cross at or as near to a ninety (90) degree angle to the centerline as practicable.
 - (4) Overhead Power or Communication Facility. If a variance has been granted, an overhead power or communication facility may cross a highway only if:
 - (a) It has a minimum vertical line clearance as required by ILCC's rules entitled, "Construction of Electric Power and Communication Lines" (83 Ill.Adm.Code 305);
 - (b) Poles are located within one foot (0.3 m) of the right-of-way line of the highway and outside of the clear zone; and
 - (c) Overhead crossings at major intersections are avoided.
 - (5) Underground Power or Communication Facility. An underground power or communication facility may cross a highway only if:
 - (a) The design materials and construction methods will provide maximum maintenance-free service life; and
 - (b) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
 - (6) Markers. The Village may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker shall identify the type of facility, the utility, and an emergency phone number. Markers may also be eliminated as provided in current Federal regulations. (49 C.F.R. §192.707 (1989)).
- (D) Facilities to Be Located Within Particular Rights-of-Way. The Village may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.
- (E) Freestanding Facilities.
- (1) Immediately upon filing a permit application which includes a freestanding facility, the utility shall meet with the Director of Public Works and schedule an on-site

review. In accordance with the standards and purposes of this Article, the Village may restrict the location and size of any freestanding facility located within a right-of-way, as appropriate to mitigate the impact upon the right-of-way and adjoining property.

- (2) The Village may require any freestanding facility located within a right-of-way to be screened from view.
- (F) Facilities Installed Above Ground. Above ground facilities, including freestanding facilities, may be installed only if:
- (1) No other existing facilities in the area are located underground;
 - (2) New underground installation is not technically feasible; and
 - (3) The proposed installation will be made at a location and will employ suitable design and materials to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include but are not limited to self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards shall be used wherever practicable; the installation of additional utility poles is strongly discouraged.
- (G) Facility Attachments to Bridges or Roadway Structures.
- (1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the facility are not practicable. Other means shall include, but are not limited to, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and such installations are not permitted.
 - (2) A utility shall include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
 - (a) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
 - (b) The type, length value, and relative importance of the highway structure in the transportation system;

- (c) The alternative routings available to the utility and their comparative practicability;
 - (d) The proposed method of attachment;
 - (e) The ability of the structure to bear the increased load of the proposed facility;
 - (f) The degree of interference with bridge maintenance and painting;
 - (g) The effect on the visual quality of the structure; and
 - (h) The public benefit expected from the utility service as compared to the risk involved.
- (H) Appearance Standards.
- (1) The Village may prohibit the installation of facilities in particular locations in order to preserve visual quality.
 - (2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the highway user or impair the aesthetic quality of the lands being traversed.

Sec. 17-616. Construction Methods and Materials.

(A) Standards and Requirements for Particular Types of Construction Methods.

(1) Boring or Jacking.

- (a) Pits and Shoring. Boring or jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Director of Public Works from the edge of the pavement. Pits for boring or jacking shall be excavated no more than forty-eight (48) hours in advance of boring or jacking operations and backfilled within forty-eight (48) hours after boring or jacking operations are completed. While pits are open, they shall be clearly marked and protected by barricades. Shoring shall be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
- (b) Wet Boring or Jetting. Wet boring or jetting shall not be permitted under the roadway.
- (c) Borings with Diameters Greater than 6 Inches. Borings over six inches (0.15 m) in diameter shall be accomplished with an auger and following pipe, and

the diameter of the auger shall not exceed the outside diameter of the following pipe by more than one inch (25 mm).

- (d) Borings with Diameters 6 Inches or Less. Borings of six inches (6") or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
 - (e) Tree Preservation. Any facility located within the drip line of any tree designated by the Village to be preserved shall be bored under or around the root system.
- (2) Trenching. Trenching for facility installation, repair, or maintenance on rights-of-way shall be done in accord with the applicable portions of Section 603 of IDOT's "Standard Specifications for Road and Bridge Construction" or with Village standards, whichever standards are more restrictive.
- (a) Length. The length of open trench shall be kept to the practicable minimum consistent with requirements for pipeline testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Director of Public Works.
 - (b) Open Trench and Excavated Material. Open trench and windrowed excavated material shall be protected as required by Chapter 6 of the *Illinois Manual on Uniform Traffic Control Devices*. Where practicable, the excavated material shall be deposited between the roadway and the trench as added protection. Excavated material shall not be allowed to remain on the paved portion of the roadway. Where right-of-way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material shall be hauled to an off-road location.
 - (c) Drip Line of Trees. The utility shall not trench within the drip line of any tree designated by the Village to be preserved.
- (3) Backfilling.
- (a) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its full width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction" or with Village standards, whichever standards are more restrictive. When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill as determined by the Director of Public Works shall be used.
 - (b) For a period of three (3) years from the date construction of a facility is completed, the utility shall be responsible to remove and restore any

backfilled area that has settled due to construction-of the facility. If so ordered by the Director of Public Works, the utility, at its expense, shall remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the Director of Public Works.

- (4) Pavement Cuts. All proposed pavement cut applications shall require the prior review and approval of the Director of Community Development and shall include a completion schedule. Upon completion of the pavement cut and restoration of the pavement, there shall be a final inspection by the Village. The utility's failure to complete the pavement cut or to restore the pavement in a timely manner to the reasonable satisfaction of the Village shall be deemed a violation of this Article by the utility. Pavement cuts for facility installation or repair shall be permitted on a highway only if that portion of the highway is closed to traffic. If a variance to the limitations set forth in this paragraph (4) is permitted under Section 17-621, the following requirements shall apply:
- (a) Any excavation under pavements shall be backfilled as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Director of Public Works.
 - (b) Restoration of pavement, in kind, shall be accomplished as soon as practicable, and temporary repair with bituminous mixture shall be provided immediately. Any subsequent failure of either the temporary repair or the restoration shall be rebuilt upon notification by the Village.
 - (c) All saw cuts shall be full depth.
 - (d) For all rights-of-way which have been reconstructed with a concrete surface/base in the last seven (7) years, or resurfaced in the last three (3) years, permits shall not be issued unless such work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a J.U.L.I.E. locate.
- (5) Encasement.
- (a) Casing pipe shall be designed to withstand the load of the highway and any other superimposed loads. The casing shall be continuous either by one-piece fabrication or by welding or jointed installation approved by the Village.

- (b) The venting, if any, of any encasement shall extend within one foot (0.3 m) of the right-of-way line. No above-ground vent pipes shall be located in the area established as clear zone for that particular section of the highway.
- (c) In the case of water main or service crossing, encasement shall be furnished between bore pits unless continuous pipe or Village approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or mechanical joints are of a type approved by the Village. Bell and spigot type pipe shall be encased regardless of installation method.
- (d) In the case of gas pipelines of sixty (60) psig or less, encasement may be eliminated.
- (e) In the case of gas pipelines or petroleum products pipelines with installations of more than sixty (60) psig, encasement may be eliminated only if (1) extra heavy pipe is used that precludes future maintenance or repair and (2) cathodic protection of the pipe is provided.
- (f) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.
- (g) Minimum Cover of Underground Facilities. Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

<u>TYPE OF FACILITY</u>	<u>MINIMUM COVER</u>
Electric Lines	30 inches (0.8 m)
Communication, Cable or Video Service Lines	18 to 24 inches (0.6 m, as determined by the Village)
Gas or Petroleum Products	30 inches (0.8 m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, or Drainage Line	Sufficient Cover to Provide Freeze Protection

(B) Standards and Requirements for Particular Types of Facilities.

- (1) Electric Power or Communication Lines.

- (a) Code Compliance. Electric power or communications facilities within Village rights-of-way shall be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 305 (formerly General Order 160 of the Illinois Commerce Commission) entitled "Rules for Construction of Electric Power and Communications Lines," and the National Electrical Safety Code. In addition, installation of an electrical service shall require the review and approval of the Director of Community Development and shall include a completion schedule. Upon completion of the installation and restoration, there shall be a final inspection by the Village. The utility's failure to complete the installation and restoration in a timely manner to the reasonable satisfaction of the Village shall be deemed a violation of this Article by the Utility.
 - (b) Overhead Facilities. If overhead facilities have been permitted by the Village under Section 17-615, the overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.
 - (c) Underground Facilities. (1) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads. (2) If a crossing is installed by boring or jacking, encasement shall be provided between jacking or bore pits. Encasement may be eliminated only if (a) the crossing is installed by the use of "moles," "whip augers," or other approved method which compress the earth to make the opening for cable installation or (b) the installation is by the open trench method which is only permitted prior to roadway construction. (3) Cable shall be grounded in accordance with the National Electrical Safety Code.
 - (d) Burial of Drops. All temporary service drops placed between November 1 of the prior year and March 15 of the current year, also known as snowdrops, shall be buried by May 31 of the current year, weather permitting, unless otherwise permitted by the Village. Weather permitting, utilities shall bury all temporary drops, excluding snowdrops, within ten (10) business days after placement.
- (2) Underground Facilities Other than Electric Power or Communication Lines. Underground facilities other than electric power or communication lines may be installed by:
- (a) The use of "moles," "whip augers," or other approved methods which compress the earth to move the opening for the pipe;

- (b) Jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
 - (c) Open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
 - (d) Tunneling with vented encasement, but only if installation is not possible by other means.
- (3) Gas Transmission, Distribution and Service. Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a Village approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR 192), IDOT's "Standard Specifications for Road and Bridge Construction," and all other applicable laws, rules, and regulations.
- (4) Petroleum Products Pipelines. Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
- (5) Water Lines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines. Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois" and Village standards.
- (6) Ground Mounted Appurtenances. Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way by variance, shall be provided with a vegetation-free area extending one foot (305 mm) in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Director of Public Works. With the approval of the Director of Public Works, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances shall be painted a neutral color to blend with the surroundings.
- (C) Materials.
- (1) General Standards. The materials used in constructing facilities within rights-of-way shall be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's "Standards Specifications for Road and Bridge Construction" and Village standards, the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.

- (2) Material Storage on Right-of-Way. All pipe, conduit, wire, poles, cross arms, or other materials shall be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the Village. No materials may be stored in the floodway or floodplain.
 - (3) Hazardous Materials. The plans submitted by the utility to the Village shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.
- (D) Operational Restrictions.
- (1) Construction operations on rights-of-way may, at the discretion of the Village, be required to be discontinued when such operations would create hazards to traffic or the public health safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.
 - (2) These restrictions may be waived by the Director of Public Works when emergency work is required to restore vital utility services.
 - (3) Unless otherwise permitted by the Village, the hours of construction shall be between 7:00 a.m. and 7:00 p.m.
- (E) Location of Existing Facilities. Any utility proposing to construct Facilities in the Village shall contact J.U.L.I.E. and ascertain the presence and location of existing aboveground and underground Facilities within the Public Ways to be occupied by its proposed Facilities. The Village will make its permit records available to an Entity for the purpose of assisting in the identification of possible Facilities. The permit records information shall not be considered a warranty of the accuracy of the information provided. When notified of an excavation or when requested by the Village or by J.U.L.I.E., an Entity shall locate and physically mark its underground Facilities within forty-eight (48) hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

Sec. 17-617. Vegetation Control.

- (A) Electric Utilities. Compliance with State Laws and Regulations. An electric utility shall conduct all tree-trimming and vegetation control activities in the right-of-way in accordance with applicable Illinois laws and regulations and, additionally, with such local franchise or other agreement with the Village as permitted by law.
- (B) Other Utilities - Tree Trimming Permit Required. Tree trimming that is done by any other utility with facilities in the right-of-way and that is not performed pursuant to applicable

Illinois laws and regulations specifically governing same shall not be considered a normal maintenance operation, but shall require the application for, and the issuance of, a permit, in addition to any other permit required under this Article.

- (1) Application for Tree Trimming Permit. Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.
 - (2) Damage to Trees. Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The Village will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The Village may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.
- (C) Specimen Trees or Trees of Special Significance. The Village may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.
- (D) Chemical Use.
- (1) Except as provided in the following paragraph, no utility shall spray, inject or pour any chemicals on or near any trees, shrubs or vegetation in the Village for any purpose, including the control of growth, insects or disease.
 - (2) Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Director of Public Works that such spraying is the only practicable method of vegetation control.

Sec. 17-618. Removal, Relocation, or Modifications of Utility Facilities.

- (A) Notice. Within ninety (90) days following written notice from the Village, a utility shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that such removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any Village improvement in or upon, or the operations of the Village in or upon, the rights-of-way.
- (B) Removal of Unauthorized Facilities. Within thirty (30) days following written notice from the Village, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the public rights-of-way shall, at its own expense, remove all or any

part of such facilities or appurtenances from the public rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:

- (1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
 - (2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;
 - (3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Article; or
 - (4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.
- (C) Emergency Removal or Relocation of Facilities. The Village retains the right and privilege to cut or move any facilities located within the rights-of-way of the Village, as the Village may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the Village shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.
- (D) Abandonment of Facilities. Upon abandonment of a facility within the public rights-of-way of the Village, the utility shall notify the Village within ninety (90) days. Following receipt of such notice the Village may direct the utility to remove all or any portion of the facility if the Director of Public Works determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the Village does not direct the utility that the abandoned facility be removed, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person at the Village's sole discretion.

Sec. 17-619. Cleanup and Restoration.

Upon completion of all construction or maintenance of facilities, the utility shall remove all excess material and restore all turf and terrain in a timely manner and to the satisfaction of the Village. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Director of Public Works. Such cleanup and repair may be required to consist of backfilling, regrading, reseeding, resodding, or any other requirement to restore the right-of-way to a condition substantially equivalent to that which existed prior to the commencement of the project and as per Village standards.

Sec. 17-620. Maintenance and Emergency Maintenance.

- (A) General. Facilities on, over, above, along, upon, under, across, or within rights-of-way are to be maintained by or for the utility in a manner satisfactory to the Village and at the utility's expense.

- (B) Emergency Maintenance Procedures. Emergencies may justify noncompliance with normal procedures for securing a permit:
- (1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility shall take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled way but the nature of the emergency is such as to require the parking on the shoulder of equipment required in repair operations, adequate signs and lights shall be provided. Parking on the shoulder in such an emergency will only be permitted when no other means of access to the facility is available.
 - (2) In an emergency, the utility shall, as soon as possible, notify the Director of Public Works or his or her duly authorized agent of the emergency, informing him or her as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the nature of the emergency is such as to interfere with the free movement of traffic, the Village police shall be notified immediately.
 - (3) In an emergency, the utility shall use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.
- (C) Emergency Repairs. The utility must file in writing with the Village of a description of the repairs undertaken in the right-of-way within forty-eight (48) hours after an emergency repair.
- (D) Landscape Maintenance. All landscaping installed pursuant to this Article shall be maintained by the person or Entity owning, controlling or maintaining the adjacent Facility in good and reasonable condition. Any person or Entity failing to maintain any such landscaping after receiving written notice from the Village Engineer that the landscaping is in need of maintenance shall not be issued any permits for the installation of new Facilities until the deficient landscaping has been restored to good and reasonable condition.

Sec. 17-621. Variances.

- (A) Request for Variance. A utility requesting a variance from one or more of the provisions of this Article must do so in writing to the Director of Public Works as a part of the permit application. The request shall identify each provision of this Article from which a variance is requested and the reasons why a variance should be granted.
- (B) Authority to Grant Variances. The Director of Public Works shall decide whether a variance is authorized for each provision of this Article identified in the variance request on an individual basis.

- (C) Conditions for Granting of Variance. The Director of Public Works may authorize a variance only if the utility requesting the variance has demonstrated that:
- (1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
 - (2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.
- (D) Additional Conditions for Granting of a Variance. As a condition for authorizing a variance, the Director of Public Works may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Article but which carry out the purposes of this Article.
- (E) Right to Appeal. Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Director of Public Works under the provisions of this Article shall have the right to appeal to the Board of Trustees, or such other board or commission as it may designate. The application for appeal shall be submitted in writing to the Village Clerk within thirty (30) days after the date of such order, requirement, decision or determination. The Board of Trustees shall commence its consideration of the appeal at its next regularly scheduled meeting occurring at least seven (7) days after the filing of the appeal. The Board of Trustees shall timely decide the appeal.

Sec. 17-622. Penalties.

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Article shall be subject to a fine of not less than two hundred fifty dollars (\$250.00) nor more than seven hundred fifty dollars (\$750.00) for each offense, and a separate offense shall be deemed committed for each and every day during which a violation continues or exists. There may be times when the Village will incur delay or other costs, including third party claims, because the utility will not or cannot perform its duties under its permit and this Article. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the Village's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the Village. Sanctions may be imposed upon a utility who does not pay the costs apportioned to it.

Sec. 17-623. Enforcement.

Nothing in this Article shall be construed as limiting any additional or further remedies that the Village may have for enforcement of this Article.

Sec. 17-624. Severability.

If any section, subsection, sentence, clause, phrase or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Article VII: Small Wireless Facilities in Rights-of-Way.

Section 17-701. Purpose and Scope.

- a) Purpose. The purpose of this Ordinance is to establish regulations, standards, regulations and procedures for the siting and collocation of small wireless facilities on rights-of-way within the Village’s jurisdiction, or outside the rights-of-way on property zoned by the Village exclusively for commercial or industrial use, in a manner that is consistent the Small Wireless Facilities Deployment Act, Public Act 100-0585. This Ordinance only applies to small wireless facilities for which an application for collocation is filed on or after June 1, 2018.
- b) Conflicts with Other Ordinances. This Ordinance supersedes all Ordinances or parts of Ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict, but only with respect to small wireless facilities for which an application is filed on or after June 1, 2018.
- c) Conflicts with State and Federal Laws. In the event that applicable federal or State laws or regulations conflict with the requirements of this Ordinance, the wireless provider shall comply with the requirements of this Ordinance to the maximum extent possible without violating federal or State laws or regulations.

Section 17-702. Definitions.

For the purposes of this Ordinance, the following terms shall have the following meanings:

Antenna – communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

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

Applicant – any person who submits an application and is a wireless provider.

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

Authority – a unit of local government that has jurisdiction and control for use of public rights-of-way as provided by the Illinois Highway Code for placements within public rights-of-way or has zoning or land use control for placements not within public rights-of-way, including the Village of Addison.

Authority utility pole – a utility pole owned or operated by an authority in public rights-of-way.

Collocate or **collocation** – to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole.

Communications service – cable service, as defined in 47 U.S.C. 522(6), as amended; information service, as defined in 47 U.S.C. 153(24), as amended; telecommunications service, as defined in 47 U.S.C. 153(53), as amended; mobile service, as defined in 47 U.S.C. 153(53), as amended; or wireless service other than mobile service.

Communications service provider – a cable operator, as defined in 47 U.S.C. 522(5), as amended; a provider of information service, as defined in 47 U.S.C. 153(24), as amended; a telecommunications carrier, as defined in 47 U.S.C. 153(51), as amended; or a wireless provider.

FCC – the Federal Communications Commission of the United States.

Fee – a one-time charge.

Historic district or **historic landmark** – a building, property, or site, or group of buildings, properties, or sites that are either (i) listed in the National Register of Historic Places or formally determined eligible for listing by the Keeper of the National Register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the National Register, in accordance with Section VI.D.1.a.i through Section VI.D.1.a.v of the Nationwide Programmatic Agreement codified at 47 CFR Part 1, Appendix C; or (ii) designated as a locally landmarked building, property, site, or historic district by an ordinance adopted by the authority pursuant to a preservation program that meets the requirements of the Certified Local Government Program of the Illinois State Historic Preservation Office or where such certification of the preservation program by the Illinois State Historic Preservation Office is pending.

Law – a federal or State statute, common law, code, rule, regulation, order, or local ordinance or resolution.

Micro wireless facility – a small wireless facility that is not larger in dimension than twenty-four inches (24”) in length, fifteen inches (15”) in width, and twelve inches (12”) in height and that has an exterior antenna, if any, no longer than eleven inches (11”).

Permit – a written authorization required by an authority to perform an action or initiate, continue, or complete a project.

Person – an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including an authority.

Public safety agency – the functional division of the federal government, the State, a unit of local government, or a special purpose district located in whole or in part within this State, that provides or has authority to provide firefighting, police, ambulance, medical, or other emergency services to respond to and manage emergency incidents.

Rate – a recurring charge.

Right-of-way – the area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement dedicated for compatible use. Right-of-way does not include authority-owned aerial lines.

Small wireless facility – a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six (6) cubic feet; and (ii) all other wireless equipment attached directly to a utility pole associated with the facility is cumulatively no more than twenty-five (25) cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, ground-based enclosures, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.

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

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

Wireless infrastructure provider – any person authorized to provide telecommunications service in the State that builds or installs wireless communication transmission equipment, wireless facilities, wireless support structures, or utility poles and that is not a wireless services provider but is acting as an agent or a contractor for a wireless services provider for the application submitted to the authority.

Wireless provider – a wireless infrastructure provider or a wireless services provider. This does not include and expressly excludes any person who is providing service to or for a private niche market.

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

Wireless services provider – a person who provides wireless services.

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

Section 17-703. Regulation of Small Wireless Facilities.

Permitted Use. Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in paragraph (4) of Section 17-704 regarding height exceptions or variances, but not subject to zoning review or approval if they are collocated (i) in rights-of-way in any zone, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

Section 17-704. Permit Required.

An applicant shall obtain one or more permits from the Village to collocate a small wireless facility. An application received and processed, and permits issued shall be subject to the following conditions and requirements:

- (1) Public Safety Space Reservation. The Village Manager or his designee, after review and consultation with the Public Works Department, Police Department, and other Public Safety Agencies, shall reserve space on Village owned utility poles for future public safety uses. Such reservation may preclude collocation of small wireless facilities if the Village reasonably determines that any such reserved utility poles cannot accommodate both uses.
- (2) Application Requirements. A wireless provider shall provide the following information to the Village as a material condition of any permit application to collocate small wireless facilities on a utility pole or wireless support structure:
 - a. Site specific structural integrity and, for an authority utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989;
 - b. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate

surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed;

- c. Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed;
- d. The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility;
- e. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved;
- f. Certification that the collocation complies with paragraph (5), Requirements, to the best of the applicant's knowledge; and
- g. In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the Village, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.
- h. A line-of-sight analysis to ensure that wireless telecommunications equipment, either pole or ground mounted, does not obscure the safe visibility of/by motorists, bicyclists or pedestrians.

- (3) Alternate Placements. With respect to an application for the collocation of a small wireless facility associated with a new utility pole, the Village may propose that the small wireless facility be collocated on an existing utility pole or existing wireless support structure within one hundred feet (100') of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

If the applicant refuses a co-location proposed by the Village it shall provide written certification describing the property rights, technical limits or material cost reasons the alternate location does not satisfy the criteria in this paragraph. It shall be the burden of the applicant, by presentation of legally competent evidence, to establish that the Village's alternative proposed co-location imposes technical limits or additional material costs that render the alternative co-location unreasonable.

- (4) Height Limitations.

- a. The maximum height of a small wireless facility shall be no more than ten feet (10') above the utility pole or wireless support structure on which the small wireless facility is collocated.
- b. Unless a variation is approved in conformance with the procedures, terms and conditions of Section IX.C. of the Addison Zoning Ordinance, the height of new or replacement utility poles or wireless support structures on which small wireless facilities are collocated shall be limited to the higher of: (i) ten feet (10') in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the authority, that is located within three hundred feet (300') of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the authority, provided the authority may designate which intersecting right-of-way within three hundred feet (300') of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or (ii) forty-five feet (45') above ground level.

(5) Requirements.

- a. The wireless provider's operation of the small wireless facilities shall not interfere with the frequencies used by a public safety agency for public safety communications.

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

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

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

The Village may terminate a permit for a small wireless facility based on such interference if the wireless provider is not complying with the Code of Federal Regulations cited above. The burden to establish the good faith effort shall be on the wireless provider which shall timely deliver to the Village all

information necessary to determine its efforts to resolve the interference consistent with the sections of the Codes of Federal Regulations cited above.

Failure to remedy the problem as required herein shall constitute a public nuisance and violation of this Section subjecting the wireless provider to injunctive relief and fines consistent with the Village Code.

- b. The wireless provider shall comply with requirements that are imposed by a contract between the Village and a private property owner that concern design or construction standards applicable to utility poles and ground mounted equipment located in the right of way.
- c. The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground mounted equipment located in the right of way which requirements include a waiver, zoning or other process that addresses wireless provider requests for exception or variance and do not prohibit granting of such exceptions or variances.
- d. The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right of way without prior approval which requirements include a waiver, zoning, or other process that addresses requests to install such new utility poles or modify such existing utility poles and do not prohibit the replacement of utility poles.
- e. The wireless provider shall comply with generally applicable standards that are consistent with PA 100-0585 and adopted by an authority for construction and public safety in the rights of way.
- f. The wireless provider shall not collocate small wireless facilities on Village utility poles that are part of an electric distribution or transmission system within the communication worker safety zone of the pole or the electric supply zone of the pole.

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

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

The wireless provider shall be required to accept maintenance responsibility of the Village's traffic signal or street lighting equipment for the duration or the installation activity. The transfer of maintenance shall be to a qualified contractor that is prequalified by IDOT in the Electrical category. All traffic signal maintenance activity must be completed by personnel certified by IMSA as a Level II Traffic Signal Technician. Any subsequent routine maintenance and/or medication to the wireless telecommunications facility may require a maintenance transfer of the Village's traffic signal or lighting equipment at the discretion of the Village Manager or his duly authorized designee.

- g. The wireless provider shall comply with the applicable codes and local code provisions or regulations that concern public safety.
- h. The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment, and aesthetic requirements that are identified by the Village in an ordinance, written policy adopted by the governing board of the authority, a comprehensive plan, or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.
- i. Subject to the subsection titled Permitted Use, and except for facilities excluded from evaluation for effects on historic properties under 47 CFR 1.1307(a)(4), the Village requires reasonable, technically feasible and non-discriminatory design or concealment measures in a historic district or historic landmark.
- j. Identification signage shall be affixed onto each wireless telecommunication facility identifying the wireless services provider, contact phone number and unique identifier. Installation of other signs on a wireless telecommunication facility shall be prohibited, unless they are for warning labels or otherwise are required by law or regulations.
- k. The base of the equipment, antenna or appurtenances of a wireless telecommunication facility collocated on a structure shall be located no lower than ten feet (10') above grade and at a location and height that meets the requirements of the American Disabilities Act (ADA) and the clearances set forth in the Public Rights-of-Way Accessibility Guidelines (PROWAG) or the subsequent regulations on accessibility in public rights-of-way. Collocation on Village-owned infrastructure shall also not interfere with or obscure existing traffic control devices including signal heads and signage. For traffic signals or street lights, no elements of a wireless telecommunication facility shall be mounted onto the signal mast arm or lighting luminaire arm.

- l. Wires and cables connecting the antenna to the remainder of the facility shall be installed in accordance with the version of the National Electric Code and National Electrical Safety Code in effect at the time of application. In no event shall wiring and cabling installed by a cable television or video service operator, electric utility or telephone utility. The applicant shall be required to provide written sign-off by each owner/operator that a proposed collocation will not adversely impact their existing facilities. Said sign-offs must be provided at the time of application submittal.
- m. The wireless telecommunication facility shall be grounded in accordance with the requirements of the most current edition of the National Electrical Code currently in effect.
- n. No guy or other support wires shall be used in connection with a wireless telecommunication facility unless the facility is proposed to be attached to an existing structure that incorporated guy wires prior to the date that an applicant has applied for a permit.
- o. The wireless telecommunication facility, including the antenna, pole extension and all related equipment shall be designed to withstand wind forces and ice loads in accordance with applicable standards established in Chapter 25 of the National Electric Safety Code for structures, Rule 250-B and 250-C standards governing wind, ice, and loading forces on structures, in the American National Standards Institute (ANSI) in TIA/EIA Section 222-G established by the Telecommunications Industry Association (TIA) and the Electronics Industry Association (EIA) for steel structures and the applicable industry standard for other existing structures. The applicant shall provide the Village with a structural evaluation of each specific location affirming that the proposed installation passes the standards described above. The evaluation shall be prepared by a professional structural engineer licensed in the State of Illinois.
- p. The wireless telecommunication facility shall include an electrical service disconnect switch to allow Village personnel and agents to shut off power in the event of an incident or other abnormal conditions. The switch shall be located a minimum of ten feet (10') from the wireless telecommunication facility and accessible to Village and emergency response personnel without restriction.
- q. Other related improvements including, but not limited to, buried electrical service, and buried fiber optic or cable connections that are needed to service the wireless telecommunication facility and are installed within Village rights-of-way beyond the physical pole or structure require additional and separate permits. These types of connections shall be applied for

concurrently by the respective utility provider providing that service or connection.

- r. The wireless service provider shall be responsible for making adjustments, relocations and/or removal of its facilities within the Village rights-of-way due to highway construction, reconstruction or maintenance work within ninety (90) calendar days of receipt of written notification as directed by the Village Director of Public Works or the duly authorized designee. If such facility is not removed or relocated as directed within ninety (90) days of such notice, the Village may remove or cause the removal of such facility through whatever actions are provided by law for removal and cost recovery.
 - s. If the structure or attached wireless telecommunications facility is damaged, the wireless telecommunications facility operator shall make the equipment safe or clear the equipment from the right-of-way within one (1) hour of notification to the wireless services provider designee. Notwithstanding the foregoing, in the event that the damage to the structure or wireless facility results in a traffic hazard or threat to public safety, as reasonably determined by the Village, the Village may take immediate measures to clear the damaged equipment or structure from the right-of-way.
 - t. The wireless services provider shall be financially responsible for any damage to Village infrastructure or property caused by the installation, maintenance, or operation of wireless telecommunication facilities.
 - u. Upon completion of the work authorized by permit under this Ordinance, all disturbed or damaged areas of the right-of-way shall be promptly restored to their original condition or better. Said restoration shall include, but is not limited to, repairs to shoulders, ditches, parkways, curbs, and pavements and/or any special landscaping, hardscaping, or enhanced areas that existed in the rights-of-way prior to the commencement of the permitted work. The Village shall bear no responsibility for costs associated with such restoration work.
 - v. The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Ordinance. The wireless provider shall ensure that its employees, agents or contracts that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with the applicable industry and governmental standards and regulations.
- (6) Completeness of Application. Within thirty (30) days after receiving an application, the Village must determine whether the application is complete and notify the applicant. If an application is incomplete, the Village must specifically identify the

missing information. An application shall be deemed complete if the Village fails to provide notification to the applicant within thirty (30) days after when all documents, information, and fees specifically enumerated in the Village's permit application form are submitted by the applicant to the Village.

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

(7) Application Process. The Village shall process applications as follows:

- a. Multiple applications by different applicants for colocation on the same utility or wireless support structure shall be processed based on a first fully complete application first served basis.
- b. An application to collocate a small wireless facility on an existing utility pole or wireless support structure shall be processed on a nondiscriminatory basis and deemed approved if the Village fails to approve or deny the application within ninety (90) days.

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

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

- c. An application to collocate a small wireless facility that includes the installation of a new utility pole shall be processed on a nondiscriminatory basis and deemed approved if the Village fails to approve or deny the application within one hundred twenty (120) days.

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

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

- d. The Village shall deny an application not meeting the requirements of this Ordinance.

If the Village determines that applicable codes, ordinances or regulations that concern public safety, or the Requirements of paragraph (5) require that the utility pole or wireless support structure be replaced before the requested collocation, approval shall be conditioned on the replacement of the utility pole or wireless support structure at the cost of the provider.

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

The applicant may cure the deficiencies identified by the Village and resubmit the revised application once within thirty (30) days after notice of denial is sent to the applicant without paying an additional application fee. The Village shall approve or deny the revised application within thirty (30) days after the applicant resubmits the application or it is deemed approved. Failure to resubmit the revised application within thirty (30) days of denial shall require a new application, new full application fee and recommencement of the Village's review period.

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

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

- (8) Tolling. The time period for applications may be further tolled by:
 - a. The express agreement in writing by both the applicant and the Village; or
 - b. A local, State or federal disaster declaration or similar emergency that causes the delay.
- (9) Consolidated Applications. An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to twenty-five (25) small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the

same type of structure. Each consolidated application shall provide all the information required by subparagraph (2) of this Section for each small wireless facility at each location.

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

- (10) Collocation Completion Deadline. Collocation for which a permit is granted shall be completed within one hundred eighty (180) days after issuance of the permit, unless the Village and the wireless provider agree to extend this period or a delay is caused by make-ready work for an authority utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within sixty (60) days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed three hundred sixty (360) days after issuance of the permit. Otherwise, the permit shall be void unless the Village grants an extension in writing to the applicant.
- (11) Duration of Permits. The duration of a permit shall be for a period of not less than five (5) years, and the permit shall be renewed for equivalent durations unless the Village makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable codes or local code provisions or regulations in subparagraphs (5) and (7)c of this Section.

If PA 100-0585 is repealed or found unconstitutional by a court of competent jurisdiction, all permits granted by the Village under this Chapter shall terminate at the end of their current term.

- (12) Means of Submitting Applications. Applicants shall submit applications, supporting information, and notices by personal delivery or as otherwise required by the Village.
- (13) No Implied Warranties. As to Village-owned infrastructure onto which wireless telecommunications facilities are to be considered for installation upon, no implied or expressed warranty is given, granted, inferred, etc. as its capability to accept, support, etc. and/or provide for the needs of the wireless telecommunications facility installation. The complete responsibility for assuring the support element's ability will rest and lie entirely with the permit applicant. In the event the permit applicant's selected Village-owned infrastructure is deemed inadequate by the permit applicant or applicant's consultant, the Village will be under no obligation to augment or create a new element for the installation of the wireless telecommunication facility.

Section 17-705. Application Fees.

Application fees are hereby imposed as follows:

- (1) Applicant shall pay an application fee of sixty hundred fifty dollars (\$650.00) for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure and three hundred fifty dollars (\$350.00) for each small wireless facility addressed in an application to collocate more than one small wireless facility on existing utility poles or wireless support structures.
- (2) Applicant shall pay an application fee of one thousand dollars (\$1,000.00) for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.
- (3) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section shall be accompanied by the required application fee. Application fees shall be non-refundable.
- (4) The Village shall not require an application, approval, or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:
 - a. routine maintenance;
 - b. the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the Village at least ten (10) days prior to the planned replacement and includes equipment specifications for the replacement of equipment consistent with the requirements of (2)a-g under the subsection titled Application Requirements; or
 - c. the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.

Wireless providers shall secure a separate Village permit to work within rights-of-way for activities that affect traffic patterns or require lane closures.

Section 17-706. Exceptions to Applicability.

Nothing in this Ordinance authorizes a person to collocate small wireless facilities on:

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

- (2) property owned, leased, or controlled by a park district, forest preserve district, or conservation district for public park, recreation, or conservation purposes without the consent of the affected district, excluding the placement of facilities on rights-of-way located in an affected district that are under the jurisdiction and control of a different unit of local government as provided by the Illinois Highway Code; or
- (3) property owned by a rail carrier registered under Section 18c-7201 of the Illinois Vehicle Code, Metra Commuter Rail or any other public commuter rail service, or an electric utility as defined in Section 16-102 of the Public Utilities Act, without the consent of the rail carrier, public commuter rail service, or electric utility. The provisions of this Ordinance do not apply to an electric or gas public utility or such utility's wireless facilities if the facilities are being used, developed, and maintained consistent with the provisions of subsection (i) of Section 16-108.5 of the Public Utilities Act.

For the purposes of this Subsection, "public utility" has the meaning given to that term in Section 3-105 of the Public Utilities Act. Nothing in this Ordinance shall be construed to relieve any person from any requirement (a) to obtain a franchise or a State-issued authorization to offer cable service or video service or (b) to obtain any required permission to install, place, maintain, or operate communications facilities, other than small wireless facilities subject to this Ordinance.

Section 17-707. Pre-existing Agreements.

Agreements between the Village and wireless providers that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on authority utility poles, that are in effect on June 1, 2018, remain in effect for all small wireless facilities collocated on the Village's utility poles pursuant to applications submitted to the Village before June 1, 2018, subject only to applicable termination provisions contained therein.

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

Section 17-708. Annual Recurring Rate.

A wireless provider shall pay to the Village an annual recurring rate to collocate a small wireless facility on a Village utility pole located in a right-of-way that equals (i) two hundred dollars (\$200.00) per year, per pole or (ii) the actual, direct, and reasonable costs related to the wireless

provider's use of space on the Village utility pole. If the Village has not billed the licensee actual direct and reasonable costs the fee shall be two hundred dollars (\$200.00) payable on the first day after the first annual anniversary of the issuance of the permit or notice of intent to occupy and on each annual anniversary date thereafter. Late payments shall carry simple interest of six percent (6%) per month, non-prorated.

Section 17-709. Abandonment.

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

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

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

Section 17-710. Dispute Resolution.

The Circuit Court of DuPage County has exclusive jurisdiction to resolve all disputes arising under this Chapter. Pending resolution of a dispute concerning rates for collocation of small wireless facilities on authority utility poles within the right-of-way, the authority shall allow the collocating person to collocate on its poles at annual rates of no more than two hundred dollars (\$200.00) per year per authority utility pole, with rates to be determined upon final resolution of the dispute.

Section 17-711. Indemnification.

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

Section 17-712. Insurance.

The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance: (i) property insurance for its property's replacement cost against all risks; (ii) workers' compensation insurance, as required by law; or (iii) commercial general liability insurance with respect to its activities on the authority improvements or rights-of-way to afford minimum protection limits consistent with its requirements of other users of authority improvements or rights-of-way, including coverage for bodily injury and property damage.

The wireless provider shall include the Village as an additional non-contributory insured on the commercial general liability policy and provide certification and documentation of inclusion of the Village in a commercial general liability policy prior to its co-location of any wireless facility. The wireless provider shall disclose all self-insured retentions.

A wireless provider may self-insure all or a portion of the insurance coverage and limit requirement required by the Village. A wireless provider that self-insures is not required, to the extent of the self-insurance, to comply with the requirement for the name of additional insureds under this Section. A wireless provider that elects to self-insure shall provide to the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage limits required by the Village.

Section 17-713. Security Fund.

- (A) Purpose. The wireless provider shall establish a Security Fund in a form and in an amount as set forth in this Section. The Security Fund shall be continuously maintained in accordance with this Section at the wireless provider's sole cost and expense until the completion of the work authorized under the permit. The Security Fund shall serve as security for:
- (1) The faithful performance by the wireless provider of all the requirements of this Article;
 - (2) Any expenditure, damage, or loss incurred by the Village occasioned by the wireless provider's failure to comply with any codes, rules, regulations, orders, permits and other directives of the Village issued pursuant to this Article; and
 - (3) The payment by wireless provider of all liens and all damages, claims, costs, or expenses that the Village may pay or incur by reason of any action or nonperformance by wireless provider in violation of this Article including, without limitation, any damage to public property or restoration work the wireless provider is required by this Article to perform that the Village must perform itself or have completed as a consequence solely of the wireless provider's failure to perform or complete, and all other payments due the Village from the wireless provider pursuant to this Article or any other applicable law.
- (B) Form. The wireless provider shall provide the Security Fund to the Village in the form, at the wireless provider's election, of cash, a surety bond in a form acceptable to the Village, or an unconditional letter of credit in a form acceptable to the Village. Any surety bond or

letter of credit provided pursuant to this Subsection shall, at a minimum:

- (1) Provide that it will not be canceled without prior notice to the Village and the wireless provider.
 - (2) Not require the consent of the wireless provider prior to the collection by the Village of any amounts covered by it; and
 - (3) Provide a location convenient to the Village and within the State of Illinois at which it can be drawn.
- (C) Amount. The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Director of Public Works, and may also include reasonable, directly related costs that the Village estimates are likely to be incurred if the wireless provider fails to perform such restoration. Where the construction of facilities proposed under the permit will be performed in phases in multiple locations in the Village, with each phase consisting of construction of facilities in one location or a related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Director of Public Works may, in the exercise of sound discretion, allow the wireless provider to post a single amount of security which shall be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction shall be equal to the greatest amount that would have been required under the provisions of this Subsection (C) for any single phase.
- (D) Withdrawals. The Village, upon fourteen (14) days' advance written notice clearly stating the reason for, and its intention to exercise withdrawal rights under this Subsection, may withdraw an amount from the Security Fund if the fund is a Cash Security Fund, provided that the wireless provider has not reimbursed the Village for such amount within the fourteen (14) day notice period. Withdrawals may be made if the wireless provider:
1. Fails to make any payment required to be made by the wireless provider hereunder;
 2. Fails to pay any liens relating to the facilities that are due and unpaid;
 3. Fails to reimburse the Village for any damages, claims, costs or expenses which the Village has been compelled to pay or incur by reason of any action or non-performance by the wireless provider; or
 4. Fails to comply with any provision of this Article that the Village determines can be remedied by an expenditure of an amount in the Security Fund.
- (E) Replenishment. Within fourteen (14) days after receipt of written notice from the Village that any amount has been withdrawn from the Cash Security Fund, the wireless provider

shall restore the Cash Security Fund to the amount specified in Subsection (C) of this Section.

- (F) Interest. The wireless provider may request that any and all interest accrued on the amount in the Cash Security Fund be returned to the wireless provider by the Village, upon written request for said withdrawal to the Village, provided that any such withdrawal does not reduce the Cash Security Fund below the minimum balance required in Subsection (C) of this Section.
- (G) Closing and Return of Security Fund. Upon completion of the work authorized under the permit, the wireless provider shall be entitled to the return of the Cash Security Fund, or such portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the Village for failure by the wireless provider to comply with any provisions of this Article or other applicable law. In the event of any revocation of the permit, the Cash Security Fund, and any and all accrued interest therein, shall become the property of the Village to the extent necessary to cover any reasonable costs, loss or damage incurred by the Village as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the wireless provider.
- (H) Rights Not Limited. The rights reserved to the Village with respect to the Security Fund are in addition to all other rights of the Village, whether reserved by this Article or otherwise authorized by law, and no action, proceeding or exercise of right with respect to said Security Fund shall affect any other right the Village may have. Notwithstanding the foregoing, the Village shall not be entitled to a double monetary recovery with respect to any of its rights which may be infringed or otherwise violated.