

CHAPTER 38

UTILITIES

ARTICLE I - DEPARTMENT ESTABLISHED

38-1-1 DEPARTMENT ESTABLISHED. There shall be an executive department of the Village known as the Water and Sewer Department. It shall include the Committee(s) on Water and Sewer, appointed by the Mayor, and its employees. The designated office shall be the Village Hall.

38-1-2 COMMITTEE(S) ON WATER AND SEWER. The Committee(s) on Water and Sewer shall exercise a general supervision over the affairs of the waterworks system and sewerage system. They shall ascertain the condition and needs thereof; shall, from time to time, report the same to the Mayor and Village Board so that a full understanding thereof shall be had; and generally, shall do all acts necessary to promote the efficiency of the Water and Sewer Department.

38-1-3 SUPERINTENDENT OF WATER AND SEWER. The Superintendent of Water and Sewer shall be subject to the supervision of the Committee(s) on Water and Sewer. He shall be appointed by the Mayor, by and with the consent of the Village Board and shall hold his office until his successor shall be appointed and qualified. He shall receive such salary as may be provided by the annual appropriation ordinance of the Village.

38-1-4 DUTIES OF THE SUPERINTENDENT. The duties of the Superintendent of the Water and Sewer Department shall be as follows:

(A) He shall, subject to the direction of the Village Board, have the general direction and control of the Water and Sewer Department, and shall see that the object and purpose thereof are carried out, and that the waterworks system and sewerage system is conducted on an economical, business-like basis.

(B) He shall set up and maintain a proper system of accounts showing the amount of revenue received from both the waterworks and sewerage system and the application of this revenue. At least once each year, his accounts shall be properly audited by a Certified Public Accountant and a report of this audit shall be open to the public for inspection at all reasonable times.

(C) He shall prepare each month a report of all claims and expenses incurred by the Department in the discharge of its duties and submit the same to the Village Board. The claims and expenses shall be paid only upon vouchers drawn against the "Waterworks and Sewerage Fund" in accordance with the order of the Village Board.

Revised Code

(D) He shall inspect all connections to the waterworks and sewerage systems at the time they are made and report to the Comptroller the date when the sewerage connection is completed or the water is turned on.

(E) He shall shut off the water supply of any delinquent user or violator of the provisions of this Code.

(F) He shall issue permits for connections to the waterworks and sewerage systems whenever an application for the same has been made as provided herein, and to tap the mains of the water and sewer systems wherever connections are to be made.

(G) He shall determine the size of each connection to be made.

(H) He shall supervise the setting, taking off, and repairing of all water meters.

(I) He shall make all repairs occasioned by leaks or breaks in the mains of the waterworks and sewerage systems, and shall shut off the water from all premises where leaks are permitted to go unrepaired.

(J) He shall examine and test, at least annually, all fire hydrants and street valves and if they are found to be in an unsatisfactory condition, he is to repair the same.

ARTICLE II

RATES AND REGULATIONS

38-2-1 CONTRACT FOR UTILITIES SERVICES.

(A) Customer Accepts Service. The rates, rules, and regulations contained in this Chapter shall constitute and be considered a part of the contract with every person, company, or corporation who is supplied with Water and Sewer Services from the Water and Sewer Systems and every person, company or corporation hereinafter called a "customer" who accepts and uses Village Water and Sewer Services shall be held to have consented to be bound thereby.

(B) Not Liable for Interrupted Service. The Department will endeavor at all times to provide a regular and uninterrupted supply of service, but in case the supply of service shall be interrupted or irregular, or defective, or fail from causes beyond its control, or through ordinary negligence of employees, servants, or agents, the Department shall not be liable therefor.

(C) Using Services Without Paying. Any person using utility services from the Village without paying therefor, or who shall be found guilty of breaking the seal of any meter or appurtenances, or by-pass any meter, shall be guilty of violating this Code, and upon conviction, shall be fined a sum as provided in Chapter 1, Article I of this Code.

(D) Destroying Property. Any person found guilty of defacing, tampering, injuring or destroying, or in any manner limiting the use or availability of any meter or any property of the Water and Sewer System, or erecting signs on the property of the Department without permission shall, upon conviction for such act, be fined as provided in Chapter 1, Article I of this Code.

(E) Service Obtained by Fraud. All contracts for water and sewer services must be made in the name of the head of the household, firm or corporation using the established spelling of that person's or firm's name. Attempts to obtain service by the use of other names, different spellings or by substituting other persons or firms will be considered a subterfuge and service will be denied. If service had been discontinued because of non-payment of bills, or any unpaid obligation, and service again has been obtained through subterfuge, misrepresentation or fraud, that service will be promptly disconnected and the whole or such part of the advanced payment, as may be necessary to satisfy the unpaid obligation shall be retained by the Village and credited to the appropriate account.

(F) Failure to Receive Bill. Failure to receive a bill shall not excuse a customer from his obligation to pay within the time specified. Should the Department be unable to bill a customer for services used during any month, the following billing shall include the charges for services used during the unbilled month. A month shall be considered as that period of approximately 30 days.

(G) Request to Discontinue Service. Services shall have been deemed to have been supplied to any property connected to the Water and Sewer Systems during a month unless the customer notifies the Village prior to the first day of the new billing month in which the services are to be discontinued.

(H) Billing; Utility Shut-off; Hearing.

(1) All bills for service shall be rendered as of the first day of the month succeeding the period for which the service is billed and shall be payable not later than the close of business on the fifteenth day of the same month. A penalty of ten percent (10%) shall be added to all bills not paid within fifteen days of the date of billing. When the fifteenth day of any month is a Sunday or a legal holiday, then such bills for service shall be payable on the next succeeding secular day without any additional penalty.

(2) In the event a consumer's charges for services are not paid within twenty-five days after rendition of the bill for such services, the Village Clerk shall

Revised Code

cause to be affixed to that consumer's next billing statement notice of the past due amount.

- (3) In the event a consumer's charges for services are not paid by the fifth (5th) day of the second month succeeding the period for which the service is billed, such charges shall be deemed and are declared to be delinquent, and thereafter such delinquencies shall constitute liens upon the real estate for which such service is supplied. When the fifth (5th) day of said month is a Sunday or legal holiday, then such bills for services shall not be deemed delinquent until the next succeeding secular day.
- (4) Immediately upon a utility bill being deemed delinquent, the Village clerk shall inform such consumer by causing to be hand-delivered to any occupant of the affected premises, or by causing to be attached to said premises, or by sending by certified mail, return receipt requested, a notice which states that the utility bill is delinquent and that the utility service is to be terminated ten (10) days after the day the notice is delivered, posted or mailed as the case may be. The consumer will be charged a ten dollar (\$10.00) fee for service of this notification. Said notice shall also specifically inform such consumer that:
 - (a) The consumer may contact the Village clerk to request a hearing on the delinquent utility bill;
 - (b) Said request for hearing must be in writing and delivered to the Village Clerk within three (3) working days of receipt of said delinquency and termination notice;
 - (c) If said request is made, a hearing will be held within five (5) working days of the request for hearing;
 - (d) The service will be discontinued within ten (10) days of the delivery, posting or mailing of said delinquency and termination notice if no request for a hearing is made; and
 - (e) If a request for hearing is made and the consumer fails to appear at said hearing, there shall be a twenty-five dollar (\$25.00) service charge added to the delinquent utility bill.
- (5) If the owner of the premises is known by the Village Clerk to be someone other than the consumer of utility services whose bill is unpaid, the Village Clerk shall in addition to the above requirements, notify, by first class mail the owner of said real estate of the delinquency and pending utility termination.
- (6) In the event a consumer makes a timely request for a hearing for nonpayment of a delinquent utility bill, the Village clerk shall, at the time said request is made, advise such person:

- (a) of the amount of his/her bill;
- (b) the time, place and date for the hearing;
- (c) that the consumer has a right to be heard and to present evidence in his/her behalf if he/she does not agree with the bill; and
- (d) that if the consumer fails to appear at said hearing, a twenty-five (\$25.00) dollar service charge will be added to his/her utility bill.

The hearing shall be conducted by a hearing officer; said hearing officer to be the Mayor or a responsible person appointed by the Mayor. The hearing officer shall examine evidence submitted by the consumer and by the Village utility department and on the basis thereof make findings as to the status of the consumer's account.

- (7) In the event a consumer requests a hearing on a delinquent utility bill and fails to appear at said hearing there shall be added to the delinquent utility bill a twenty-five (\$25.00) dollar service charge.
- (8) The consumer shall be notified in writing within two working days of the decision rendered by the hearing officer. If the service is to be discontinued, the date and time on which said service to the consumer will be discontinued shall be set out in said notice of decision.
- (9) If the hearing officer decides in favor of the Village, the Village shall have the right to discontinue the consumer's utility services. Should the consumer fail to appear at the hearing, or should the delinquency and termination notice be returned non-accepted, then the Village shall also have the right to terminate the consumer's utility services without further proceedings.
- (10) At the time that the utility service is to be discontinued, the Village employee disconnecting the utility service to the premises shall deliver to any occupant of the premises present, or attach to the premises, a written notice stating that the utility service to the premises has been discontinued for the nonpayment of a delinquent utility bill, the time and date that the service was discontinued and that the utility service will not be reconnected until the delinquent bill and any presently due utility bill is paid, together with a reconnection charge of twenty-five (\$25.00) dollars.
- (11) In the event utility service has been disconnected due to nonpayment of bills, it shall not be reestablished until said delinquent bill and any presently due utility bill is paid in full, together with a reconnection charge of twenty-five (\$25.00) dollars. For a second or subsequent disconnection

Revised Code

For utility services in any one calendar year, the reconnection fee shall be fifty (\$50.00) dollars, plus expenses incurred in the reconnecting of utility services. For the third shut-off of services in any one calendar year, a minimum deposit of the largest monthly bill shall be required before services are resumed.

- (12) Utility service to any consumer shall not be disconnected for nonpayment of bills on a Friday or the day before a holiday.
- (13) Reconnection of utility services, disconnected for nonpayment, shall be done during regular business hours of the Public Works Department. Consumer may request after hours reconnection for an additional fee of \$50.00. This fee is in addition to the fees described in Section 38-2-1 (H)(11)(12) and (13).

(I) Lien Notice The Village Clerk is authorized and directed to file from time to time, as directed by the Village council, sworn, detailed statements showing such delinquencies in the office of the recorder of deeds of Clinton County, and the filing of such statements shall be deemed notice of the lien for payment of the service rendered.

The failure of the Village Clerk to record such lien or to mail the delinquency and termination notice to the consumer and/or owner as above required, or the failure of the consumer and/or owner to receive such notice shall not affect the right to foreclose the lien for unpaid utility bills as mentioned herein.

(J) Foreclosure of Lien. Property subject to a lien for unpaid utility charges shall be sold for non-payment of the same, and the proceeds of such sale shall be applied to pay the charges after deducting costs as is the case in the foreclosure of the statutory liens. Such foreclosure shall be by bill-in-equity in the name of the Village.

The Village Attorney is hereby authorized to institute such proceedings in the name of the Village in any court having jurisdiction over such matters, against any property for which the bill for utility services has remained unpaid 60 days after it has been rendered.

38-2-2 CONSUMER LISTS. It is hereby made the duty of the Village Clerk to prepare or cause to be prepared a complete and accurate list of all premises and properties receiving utility services, showing the name and address of the occupant and the owner of the same. The list shall be kept up-to-date and shall be corrected from time to time to allow changes in the occupancy or ownership of any such property or premises. It shall be presented at the regular monthly meeting, if requested.

Revised Code

38-2-3 LIABILITY FOR CHARGES. The owner of any lot, parcel of land or premises receiving utility services, the occupant of such premises and the use of the services shall be jointly and severally liable for the payment of the services to such lot, parcel of land, or premises and all services are rendered to the premises by the Village only on the condition that such owner, occupant and user shall be jointly and severally liable therefore to the Village.

38-2-4 ESTIMATED CHARGE. Whenever any meter, by reason of its being out of repair, or from any cause, fails to properly register the utilities passing through the same, the consumer shall be charged the average charge of the previous 3 months' usage. If no record of the previous three months exists, then it shall be the duty of the Clerk to estimate the amount of utilities consumed during the time the meter fails to operate, and the consumer shall be charged with such estimated amount. Bills may be estimated whenever it is impossible to read the meters during inclement weather.

38-2-5 NO FREE UTILITY SERVICE. No free utility service shall be furnished to any person, public or private, and all rates and charges shall be non-discriminatory, provided that the Mayor and Village Board reserve the right to impose special rates and charges in cases where particular circumstances render the regular rates inadequate or unjust.

38-2-6 UTILITY DEPOSITS – RENTORS.

A) Residential. When any application is made for utility services in accordance with the provisions of this Chapter, all applicants of rented or leased property for which the service is requested shall deposit with the application the following amounts:

	<u>Inside Village</u>	<u>Outside Village</u>
Water	\$100.00	\$100.00

Where the amount of the deposit provided above is not sufficient to adequately protect the Utilities Department, a greater amount than stated above may be required, based on the consumer's estimated bill for a customary billing period.

B) Security for Payment – No Interest. The deposits made under the provisions of this Chapter shall be held by the Village as security for the payment of utility services used by the applicant upon the premises to which his/her application pertains, and may be so applied when any default is made in the payment in the utilities bill in accordance with this Chapter. The depositor shall earn no interest.

Revised Code

ARTICLE III - WATER SYSTEM

DIVISION I - GENERALLY

38-3-1 APPLICATION FOR TAPS AND SERVICE CONNECTIONS TO WATERWORKS SYSTEM. An applicant desiring a water tap or service connection with the Waterworks System of the Village shall file a written application at the Village Hall, signed by the owner of the property for which the tap or service connection is desired, or by the duly authorized agent of such owner. The application shall be accompanied by payment of the fee hereinafter prescribed to cover the cost of such service connection. In the event the application is made by an agent for the owner, then the application shall also be accompanied by the written authority of the owner to the agent for the making of the application.
(See Appendix "6")

38-3-2 ALL SERVICE TO BE BY METER. All water service, whether for domestic, commercial or industrial use shall be metered. All meters shall be so placed and installed as to render the same accessible at all times for the purpose of reading or repairing and so as to be free from danger of freezing. Meters outside of a building shall be set in a suitable meter box approved by the standing committees governing water and sewer of the Village. Water will not be turned on for new connections until the meter has been installed and all other requirements of this chapter on the part of the property owner have been fully complied with.

38-3-3 INSPECTION.

(A) Access to Premises. The Village shall have access to all portions of the premises of the consumer at any reasonable time for inspection of the use of water and the consumer's pipe, fixtures, plumbing, and any other apparatus, in any manner connected to the water system of the Village. The Village shall have the right and option to demand change or stopping of use or to require any repair, change, removal or improvement of any pipe, fixture, plumbing or other apparatus that would, in any manner, affect the water supply or system of the Village, or the supply or fixtures of other consumers.

(B) Meters Open to Inspection. All water meters and water fixtures, connections and appurtenances on private property connected with the Waterworks System of the Village shall be open to the inspection of the proper officers and employees of the Village at all reasonable hours.

Revised Code

38-3-4 METER DAMAGED. Whenever a meter is found to have been damaged by hot water being forced back into it from the consumer's hot water or heating apparatus, or for any other cause within control of the consumer, the consumer shall pay the Village for the actual cost of the removal, repairing and replacing of the damaged meter and all previous water bills shall be corrected on an estimated basis to cover such period as it appears that the meter was out of order for such damage.

38-3-5 RESALE. No water shall be resold or distributed by the recipient or consumer thereof from the Village supply to any premises other than that for which application has been made and the meter installed, except in case of emergency.

38-3-6 CROSS-CONNECTION.

(A) That all plumbing installed within Village of Germantown shall be installed in accordance with the Illinois Plumbing Code, 77 Ill. Adm. Code 890. That, if in accordance with the Illinois Plumbing Code or in the judgment of the Village Superintendent, an approved backflow prevention device is necessary for the safety of the public water supply system, the Village Superintendent will give notice to the water customer to install such an approved device immediately. The water customer shall, at his own expense, install such an approved device at a location and in a manner in accordance with the Illinois Plumbing Code and all applicable local regulations, and shall have inspections and tests made of such approved devices upon installation and as required by the Illinois Plumbing Code and local regulations.

(B) That no person, firm or corporation shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of the Village of Germantown enter the supply or distribution system of said municipality, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Village Superintendent and the Illinois Environmental Protection Agency.

(C) That it shall be the duty of the Village Superintendent to cause surveys and investigations to be made of industrial and other properties served by the public water supply to determine whether actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated at least every two years, or as often as the Village Superintendent shall deem necessary. Records of such surveys shall be maintained and available for review for a period of at least five years.

(D) That the approved cross-connection control device inspector shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of Village of Germantown for the purpose of verifying the presence or absence of cross-connections, and that the Village Superintendent or his authorized agent shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of the Village of Germantown

Revised Code

for the purpose of verifying information submitted by the customer regarding the required cross-connection control inspection. On demand, the owner, lessees or occupants of any property so served shall furnish to the Village Superintendent any information which he may request regarding the piping systems or water use on such property. The refusal of such information, when demanded, shall, within the discretion of the Village Superintendent, be deemed evidence of the presence of improper connections as provided in this ordinance.

(E) That the Village Superintendent of the Village of Germantown is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this ordinance is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions have been eliminated or corrected in compliance with the provisions of this ordinance, and until a reconnection fee of \$100.00 is paid to the Village of Germantown. Immediate disconnection with verbal notice can be effected when the Village Superintendent is assured that imminent danger of harmful contamination of the public water supply system exists. Such action shall be followed by written notification of the cause is disconnection. Immediate disconnection without notice to any party can be effected to prevent actual or anticipated contamination or pollution of the public water supply, provided that, in the reasonable opinion of the Village Superintendent or the Illinois Environmental Protection Agency, such action is required to prevent actual or potential contamination or pollution of the public water supply. Neither the Public Water Supply, the Village Superintendent, or its agents or assigns shall be liable to any customer for any injury damages or lost revenues which may result from termination of said customer's water supply in accordance with the terms of this ordinance, whether or not said termination was with or without notice.

(F) That the consumer responsible for backsiphoned material or contamination through backflow, if contamination of the potable water supply system occurs through an illegal cross-connection or an improperly installed, maintained or repaired device, or a device which has been bypassed, must bear the cost of clean-up of the potable water supply system.

38-3-7 DANGEROUS USAGE. The Village shall have the right to refuse water service or to discontinue water service without notice at any time to any consumer if the Village finds any apparatus or appliances, the operation of which will be detrimental to the water system of the Village, or to any or all of its consumers. Standpipes, hydrants, gate valves and any other apparatus that causes water hammer or any danger to the water system or other customers' plumbing shall be immediately repaired or removed upon notice from the Village, or at its option, the Village may immediately discontinue the service, without notice and without any liability for direct or resulting damages therefrom.

38-3-8 ELECTRIC GROUND WIRES. All persons are strictly forbidden to attach any electric ground wire to any plumbing or water piping which is or may be

Revised Code

connected to any water service pipe, water meter or water main to the Village. The Village will hold the owner of the premises responsible and liable for any damage to the property or injury to the employees of the Village caused by such ground wire. All owners and consumers shall remove any existing ground wires immediately upon written notice from the Village. If not so disconnected after 5 days' written notice, the Village, through its officials, may enter the property and remove such ground wires and the consumer shall pay all costs.

38-3-9 **SHORTAGE AND PURITY OF SUPPLY.** The Village shall not be held responsible for or, in any manner, liable to any person, company, consumer, or public body for any claim or damage, either direct or resultant because of any shortage of water supply, any shut-off of water supply for any reason, any bursting or leakage of either the consumer's or Village's mains, pipes and fixtures, any pollution or impurity in water supply, or any fire or water damage.

38-3-10 **LAWN WATERING.** The right is reserved to suspend the use of lawn fountains and hose for sprinkling lawns and gardens whenever, in the opinion of the Village Board, public exigencies require it.

38-3-11 **NON-COMPLIANCE WITH RULES.** If any consumer fails to comply fully with any of the rules and regulations in force, the Village shall notify the consumer of such failure. If the consumer does not remedy the same as the rules provide and within a reasonable time, the Village shall have the right to discontinue service. Except in cases of non-payment, emergency, necessity, or as otherwise provided, the Village will not discontinue service for violation of any rules until 5 days after notice has been given and violation has not been remedied.

38-3-12 **FIRE HYDRANTS.** All hydrants shall be owned, maintained and used only by the Village. Use of water from fire hydrants by contractors and others shall be only upon permission by the Village after approved application to the Village.

The Village shall not be held liable and will not assume any responsibility for the condition of any fire hydrant inside or outside the Village limits or the pressure or amount of water obtainable therefrom, or any damages, either direct or resultant because of the condition, pressure, or amount of water available from any fire hydrant.

All public fire hydrants outside of any Village limits owned by the Village will be maintained in as good order as reasonably possible, but the Village will not undertake or assume any responsibility or liability for their condition, use or abuse. Such public fire hydrants shall be used only for the purpose of extinguishing fire, except when the Village may issue a special permit for their use to contractors who shall then be responsible for the hydrants and the use of water from them.

38-3-13 **RULES TO BECOME PART OF CONTRACT.** All of the rules and regulations concerning the use of the facilities of the water system and the consumption of water shall be adopted and the same shall become a part of the contract with every water consumer and every water consumer shall be considered to take water from the Village, subject thereto and bound thereby.

ARTICLE IV – UTILITY RATES

DIVISION I – WATER RATES

38-4-1 **BUILDING UNIT DEFINED.**

A) Upon any division of a single lot (as defined in the Clinton County Zoning Ordinance) into more than one dwelling place, be it an apartment or home converted into more than one dwelling place, the owners of the property within the Village may apply to the Village Board for the division of water service into multiple water service connections and/or upgrade of the size of the service connection by filing a petition. The filing of any such petition shall not make it mandatory upon the Board to proceed with the construction of such connections or upgrade thereof.

B) All persons or families residing in a building under one roof, be it an apartment or home converted into more than one dwelling place, each family or individual resident residing therein shall be deemed an individual customer and such homes or apartments or dwellings shall be billed for at least one minimum water and/or sewer account, according to the number of families or individual residents residing therein.

38-4-2 **TEMPORARY SUSPENSION OF WATER SERVICE.** Water service may be shut off at the request of the owner or user if the premises is unoccupied or otherwise unused for the duration of the suspension. Upon shut-off of water service, the owner or user will not be charged the monthly minimum fee for water or sewer service. If water is reconnected at the request of the owner or user, a reconnection charge equal to twice the current applicable minimum monthly charge for water and sewer services shall be made to reconnect such service. Service shall not be reinstated if there are any outstanding obligations to the Village. If the premises is occupied or used during the term of the suspension, or if there is a shut off that is not within the parameters of this section, the owner or user will be required to continue payment of the minimum monthly bill and be required to pay a service connection charge pursuant to Section 38-4-3 of this Division to reconnect owner or user's water service.

38-4-3 **SERVICE CONNECTION CHARGE.** The Village will furnish all labor and materials necessary to construct a water tap-in or connection from the water main to the applicant's property line or a distance of 50 feet, whichever is less, as follows pursuant to the fees described in Appendix No. 7.

Revised Code

Requests for service connections larger than ¾-inch will be considered on an individual basis; exceptions will be made in the case of annexation agreements. Provided, however, that for all premises located outside the Village, the Village shall furnish only the water meter. All materials and labor shall be at the expense of the applicant or owner, payable in advance.

38-4-4 WATER SERVICE RATES.

(A) Inside Village Limits per Month.

First 2,000 gallons or less per month.....	\$14.00 MINIMUM
Next 8,000 gallons per month	\$5.10 per 1,000 gallons
Next 10,000 gallons per month.....	\$4.70 per 1,000 gallons
Next 20,000 gallons per month.....	\$4.38 per 1,000 gallons
Next 40,000 gallons per month	\$4.12 per 1,000 gallons
Next 80,000 gallons per month	\$3.92 per 1,000 gallons
Next 160,000 gallons per month.....	\$3.77 per 1,000 gallons
Over 320,000 gallons per month	\$3.66 per 1,000 gallons

(B) Outside Village Limits per Month.

First 2,000 gallons or less per month.....	\$17.00 MINIMUM
Next 8,000 gallons per month	\$6.12 per 1,000 gallons
Next 10,000 gallons per month.....	\$5.64 per 1,000 gallons
Next 20,000 gallons per month.....	\$5.25 per 1,000 gallons
Next 40,000 gallons per month	\$4.94 per 1,000 gallons
Next 80,000 gallons per month	\$4.70 per 1,000 gallons
Next 160,000 gallons per month.....	\$4.52 per 1,000 gallons
Over 320,000 gallons per month	\$4.39 per 1,000 gallons

(C) High Volume Customers per Month.

(High Volume Customers are defined as those that use a minimum monthly average of 320,000 gallons per month averaged over a calendar year.)

First 500,000 gallons or less per month.....	\$5.27 per 1,000 gallons
Next 500,001 to 1,000,000 gallons per month	\$5.05 per 1,000 gallons
Next 1,000,001 to 1,500,000 gallons per month.....	\$4.82 per 1,000 gallons
Next 1,500,001 to 2,000,000 gallons per month.....	\$4.61 per 1,000 gallons
Next 2,000,001 to 2,500,000 gallons per month	\$4.37 per 1,000 gallons
Next 2,500,001 to 3,000,000 gallons per month	\$4.16 per 1,000 gallons
Next 3,000,001 to 3,500,000 gallons per month.....	\$3.88 per 1,000 gallons
Next 3,500,001 to 4,000,000 gallons per month	\$3.63 per 1,000 gallons

38-4-5 - 38-4-9 RESERVED.

DIVISION II - WASTEWATER SERVICE CHARGES

38-4-10 BASIS FOR WASTEWATER SERVICE CHARGES. The wastewater service charge for the use of and for service supplied by the wastewater facilities of the Village shall consist of a basic user charge for operation and maintenance plus replacement and depreciation and a surcharge, if applicable.

38-4-11 BASIC USER CHARGE. The basic user charge shall be based on water usage as recorded by water meters and/or sewage meters for wastes having the following normal domestic concentrations:

(A) A 5-day, 20 degree centigrade biochemical oxygen demand (BOD) of 204 mg/l.

(B) A suspended solids (SS) content of 220 mg/l.

The basic user charge shall consist of operation and maintenance costs plus replacement, depreciation and debt retirement, and shall be computed as follows:

(C) Estimate the projected annual revenue required to operate and maintain the wastewater facilities including replacement, depreciation, and debt retirement fund for the year, for all works categories.

(D) Proportion the estimated costs to wastewater facility categories by Volume, Suspended Solids and BOD, if possible.

(E) Estimate wastewater volume, pounds of SS and pounds of BOD to be treated.

(F) Proportion the estimated costs to non-industrial and industrial users by volume, suspended solids and BOD.

(G) Compute costs per 1,000 gallons for normal sewage strength.

(H) Compute surcharge costs per mg/l in excess of normal sewage strength for BOD and SS.

38-4-12 SURCHARGE.

(A) A surcharge will be levied to all users whose BOD and SS exceed 204 mg/l and 220 mg/l, respectively. The surcharge will be based on water usage as recorded by water meters and/or sewage meters for all wastes which exceed the 204 mg/l and 220 mg/l concentration for BOD and SS, respectively. (See Section 38-4-17 for the specific procedure to compute a surcharge.)

(B) The adequacy of the wastewater service charge shall be reviewed annually by Certified Public Accountants for the Village in their annual audit report. The wastewater service charge shall be revised periodically to reflect a change in debt service or a change in operation and maintenance costs, including replacement costs.

38-4-13 MEASUREMENT OF FLOW. The volume of flow used for

Revised Code

computing basic user charges and surcharges shall be the metered water consumption read to the lowest even increments of 1,000 gallons.

(A) If the person discharging wastes into the public sewers procures any part or all, of his water from sources other than the Waterworks System of the Village, all or a part of which is discharged into the public sewers, the person shall install and maintain, at his expense, water meters of a type approved by the Village for the purpose of determining the volume of water obtained from these other sources.

(B) Devices for measuring the volume of waste discharged may be required by the Village if these volumes cannot otherwise be determined from the metered water consumption records.

(C) Metering devices for determining the volume of waste shall be installed, owned, and maintained by the person. Following approval and installation, such meters may not be removed, unless service is canceled, without the consent of the Village.

38-4-14 BASIC USER RATE.

(A) There shall be and there is hereby established a minimum charge and a basic user rate for the use of and for service supplied by the Wastewater Facilities of the Village.

(B) A Minimum Charge of \$14.00 per month shall be applied to all users whose water consumption does not exceed 2,000 gallons per month.

(C) In addition to the minimum charge, there shall be a basic user rate of \$7.00 per 1,000 gallons applied to all users for water consumption in excess of 2,000 gallons per month.

38-4-15 SURCHARGE RATE. The rates of surcharges for BOD₅ and SS shall be as follows:

$$\begin{aligned} SC_{BOD_i} &= \$0.31 (BOD_i - 204) \times Q_i \times 8.34 \\ SC_{SSI} &= \$0.13 (SS_i - 220) \times Q_i \times 8.34 \\ SC_i &= SC_{BOD_i} + SC_{SSI} \end{aligned}$$

Where Q_i = total monthly flow volume expressed in million gallons.
 BOD_i = Biochemical Oxygen Demand Concentration (5-day, 20 degrees Centigrade) of waste expressed in milligrams per liter.
 SS_i = Suspended Solids Concentration of waste expressed in milligrams per liter.
 SC_{BOD_i} = Monthly surcharge in dollars for Biochemical Oxygen Demand for waste concentration greater than 204 mg/l.
 SC_{SSI} = Monthly surcharge in dollars for Suspended Solids for waste concentrations greater than 220 mg/l.
 SC_i = Total monthly surcharge in dollars.

38-4-16 COMPUTATION OF SURCHARGE: The concentration of wastes used for computing surcharges shall be established by flow measurement and waste sampling. Waste sampling and flow measurement shall be performed as often as may be deemed necessary by the Village and shall be binding as a basis for surcharges.

Revised Code

38-4-17 COMPUTATION OF WASTEWATER SERVICE CHARGE. The wastewater service charge shall be computed by the following formula:

$$CW = CM + (Vu - X)CU + SC_i$$

Where CW = Amount of wastewater service charge (\$) per billing period. (Monthly)

CM = Minimum Charge for Operation, Maintenance, Replacement, Depreciation and Debt Reduction (Section 38-4-14). (\$4.00)

Vu = Wastewater Volume for the billing period. (Gallons)

X = Allowable consumption in gallons for the minimum charge (Section 38-4-14). (2,000 Gallons)

CU = Basic User Rate for Operation, Maintenance, Depreciation, Replacement and Debt Reduction (Section 38-4-14). (\$2.00 per 1,000 Gallons)

SC_i = Amount of Surcharge. (Section 38-4-15)

38-4-18 - 38-4-19 RESERVED.

DIVISION III

INDUSTRIAL COST RECOVERY

38-4-20 INDUSTRIAL COST RECOVERY REQUIRED. Each industrial user shall pay that portion of any State Grant which has been obtained by the Village for the financing of the construction of wastewater treatment works allocable to the treatment of the wastewater from such user. Such users share shall not include an interest component.

38-4-21 DETERMINATION OF INDUSTRIAL POPULATION EQUIVALENT. An industrial user's portion of any State Grant shall be based on the population equivalents attributable to wastewater of such user tributary to the wastewater treatment works of the Village.

The population equivalents shall be determined as follows:

Revised Code

(A) Volume Population Equivalent. This population equivalent equals the average daily rate of water consumption as determined by the consumption records of the past year divided by 100 gallons per day (the average domestic water consumption) or, where water consumption does not reflect the actual quantity of wastewater tributary to the treatment works from such user, then the average daily flow as recorded in the control manhole required by this Chapter, divided by 100 gallons per day (the average domestic water consumption).

(B) BOD Population Equivalent. This population equivalent equals the average daily pounds of BOD in the wastewater as determined by the Village in accordance with this Chapter, divided by 0.17 pounds of BOD per day (the average per capita BOD of non-industrial discharges).

(C) SS Population Equivalent. This population equivalent equals the average daily pounds of suspended solids in the wastewater from such user as determined by the Village in accordance with this Chapter, divided by 0.20 pounds of Suspended Solids per day (the average per capita SS of non-industrial discharges).

38-4-22 COST PER CAPITA. The dollar cost per capita shall be determined as follows:

$ICR_{Qi}/P.E.$ = Industrial Cost Recovery per capita (Population Equivalent-P.E.) attributed to flow.

	(Capital Cost of	
	(Treatment Facility	(% attributed
	(attributable to	(to
	(Industry	(flow
$ICR_{Qi}/P.E.$ =	<hr/> Design P.E., Grant Project	

$ICR_{Qi}/P.E.$ = $\frac{(\$621,316.) (0.47) \times .75}{1,350 P.E.}$

$ICR_{Qi}/P.E.$ = \$162.23/Capita

$ICR_{BODi}/P.E.$ = Industrial Cost Recovery per capita (Population Equivalent-P.E.) attributed to BOD.

	(Capital Cost of	
	(Treatment Facility	(% attributed
	(attributable to	(to
	(Industry	(BOD
$ICR_{BODi} P.E.$ =	<hr/> Design P.E., Grant Project	

Revised Code

$$ICR_{BODi}/P.E. = \frac{(\$621,316.) (0.35) \times .75}{1,350 \text{ P.E.}}$$

$$ICR_{BODi}/P.E. = \$120.13/\text{Capita}$$

$$ICR_{SSi}/P.E. = \text{Industrial Cost Recovery per capita (Population Equivalent-P.E.) attributed to Suspended Solids (SS).}$$

$$ICR_{SSi}/P.E. = \frac{\begin{array}{l} \text{(Capital Cost of} \\ \text{(Treatment Facility} \\ \text{(attributable to} \\ \text{(Industry} \end{array} \quad \begin{array}{l} \text{(\% attributed} \\ \text{to} \\ \text{SS} \end{array})}{\text{Design P.E., Grant Project}}$$

$$ICR_{SSi}/P.E. = \frac{(\$621,316) (0.18) \times .75}{1,350 \text{ P.E.}}$$

$$ICR_{SSi}/P.E. = \$62.13/\text{Capita}$$

38-4-23 COST FOR INDUSTRIAL USER. The cost to be recovered from an industrial user (CI) shall be determined as follows:

$$AICR_{Qi} = \frac{\begin{array}{l} \text{Average Daily Flow Gallons} \\ 100 \end{array} \quad (\$162.23)}{\text{Useful Life (Treatment Works)}}$$

$$AICR_{BODi} = \frac{\begin{array}{l} \text{Average Daily BOD, Pounds} \\ 0.17 \end{array} \quad (120.81)}{\text{Useful Life (Treatment Works)}}$$

$$AICR_{SSi} = \frac{\begin{array}{l} \text{Average Daily SS, Pounds} \\ 0.20 \end{array} \quad (\$ 62.13)}{\text{Useful Life (Treatment Works)}}$$

$$CI = AICR_{Qi} + AICR_{BODi} + AICR_{SSi}$$

Where:

$$AICR_{Qi} = \text{Annual Industrial Cost Recovery payment attributable to flow.}$$

$$AICR_{BODi} = \text{Annual Industrial Cost Recovery payment attributable to BOD.}$$

$$AICR_{SSi} = \text{Annual Industrial Cost Recovery payment attributable to Suspended Solids.}$$

$$CI = \text{Total Annual Industrial Cost Recovery Payment.}$$

Revised Code

38-4-24 CHARGE FOR INDUSTRIAL COST RECOVERY. Each year during the industrial cost recovery period, each industrial user of the treatment works shall pay the cost recovery amount determined by this Chapter for such industry, divided by the recovery period. Where an industry is connected to a public sewer after the start-up of the facilities constructed under a State Grant, such industry shall only pay its portion of the State Grant for each month remaining in the recovery period. Such industry will not be required to pay for those months of the recovery period prior to connection to a public sewer.

38-4-25 LENGTH OF INDUSTRIAL COST RECOVERY PERIOD. The industrial cost recovery period shall be equal to the useful life of the treatment works which shall be 30 years from 1979.

38-4-26 PAYMENTS AND BILLING PERIODS FOR INDUSTRIAL COST RECOVERY.

(A) All industrial users of the Village shall pay the cost as determined by this Chapter for industrial cost recovery and such payments shall be made monthly on the 15th day of the month immediately following the expiration of the month for which service has been supplied. Such charge shall be payable within 15 days after rendition thereof, and in the event such bills are not paid within such time as stated herein, a service charge of 10 percent shall be added thereto.

(B) An industrial user may wish to fulfill its industrial cost recovery obligation by making lump sum payment for its entire share of the cost of construction of the treatment works. In this event, such payments may be accepted by the Village and either processed as a normal Industrial Cost Recovery Payment, or set aside in a separate account to be drawn on annually for the remainder of the industrial cost recovery period. Lump sum payments by an industry will not relieve an industrial user from the obligation of making additional future payments should its wastewater flow or load increase.

(C) Discounts from the total industrial cost recovery requirement will not be given to industrial users making advance or lump sum Industrial Cost Recovery Payments.

(D) No interest component shall be included in the cost component charged to an industrial user, regardless of the lump sum or monthly payment method selected by the industrial user. Any interest earned by the Village on Industrial Cost Recovery payments set aside will be recoverable in the same manner as if the payments were made as due (40 CFR 35.928-2a).

Revised Code

38-4-27 DELINQUENCY AND TERMINATION OF SERVICE. If the delinquency in the payment of the recovery cost continues for a period of more than 15 days, the sewer service shall be discontinued. In the event the charges for industrial cost recovery are not paid within 30 days after the rendition of that bill, then such service charges shall be deemed and are hereby declared to be delinquent. Thereafter, such delinquent charges shall constitute a lien upon the real estate for which such sewer services were supplied.

The Village Clerk is hereby authorized and directed each month to file sworn statements showing such delinquencies in the office of the County Recorder of Deeds, and the filing of such statements shall be deemed notice of a lien for the payment of such charges for sewer service.

38-4-28 TIME OF FIRST PAYMENT. The initial payment made by an industrial user which is connected to a public sewer after the start-up of the treatment works constructed with a State Grant shall be made by the next scheduled due date as defined in this Chapter and shall be equal to one-twelfth of the amount determined in Section 38-4-24, times the number of months of service in that calendar year.

38-4-29 ADJUSTMENT OF CHARGE DUE TO STRENGTH OR VOLUME CHANGES. If there is a change in the strength and/or volume introduced into the treatment works by an industrial user as determined by the records of the previous year, the Village shall adjust the users' portion of any State Grant accordingly.

38-4-30 ADJUSTMENT OF CHANGE DUE TO PLANT IMPROVEMENT UTILIZING STATE GRANT FUNDS. If there is an expansion or upgrading of the treatment works utilizing a State Grant, each existing industrial user's share shall be adjusted accordingly.

38-4-31 NO CHARGE FOR UNUSED OR UNRESERVED CAPACITY. An industrial user's portion of any State Grant shall not include any portion of the grant amount allocable to unused or reserved capacity.

38-4-32 COMMITMENT FOR INCREASED USE. An industrial user's portion of any State Grant shall include allowance for the cost of any firm commitment to the Village for any increased use by such user.

38-4-33 PAYMENT TO STATE OF ILLINOIS REQUIRED. The Village shall retain 50% of the amounts recovered from industrial users. The remainder, together with any interest thereon, shall be returned to the State of Illinois Anti-Pollution Fund on an annual basis.

Revised Code

38-4-34 DISPOSITION OF RETAINED AMOUNTS. Together with interest earned thereon, 80% of the retained amounts shall be used solely for the eligible costs of the expansion or reconstruction of treatment works associated with the project and necessary to meet the requirements of the Federal Act and the State of Illinois. Prior to commitment of the retained amounts, the Village shall obtain written approval of the Illinois Environmental Protection Agency for any expansion or reconstruction. The remainder of the retained amounts may be used for such expenditures as the Village deems appropriate.

38-4-35 INVESTMENT OF RETAINED AMOUNTS REQUIRED. Pending use, the grantee shall invest the retained amounts for reconstruction and expansion in:

- (A) Obligations of the U.S. government; or
- (B) Obligations guaranteed as to principal and interest by the U.S. Government or any agency thereof; or
- (C) Shall deposit such amounts in accounts fully collateralized by obligations of the U.S. Government or by obligations fully guaranteed as to principal and interest by the U.S. Government or any agency thereof.

38-4-36 VILLAGE CLERK'S RESPONSIBILITY. The Village Clerk shall maintain the necessary records for determination of user share of the cost and shall provide the billing and collection services as required by this Chapter.

38-4-37 VILLAGE TREASURER'S RESPONSIBILITY. The Village Treasurer shall be responsible for the investment and expenditure of all moneys collected for industrial cost recovery in accordance with this Chapter.

38-4-38 MONITORING REQUIRED. The Village shall maintain a program of monitoring industrial user discharges as the Village deems necessary, provided that any major contributing industry shall be monitored no less than 12 times annually and any industrial user that has a population equivalent as determined by this Chapter greater than or equal to 50 shall be monitored no less than once annually. All other industrial users shall be monitored at such frequency as deemed necessary by the Village for determination of the population equivalent of the industrial user. The monitoring data collected shall be used to determine the population equivalent in accordance with this Chapter.

Revised Code38-4-39 APPEAL AND ARBITRATION.

(A) The Village shall establish industrial cost recovery charges as set forth herein, and in accordance with applicable State and Federal guidelines and requirements, and shall notify any industry which requests a permit to discharge into the public sewerage system of the industrial cost recovery charges to be levied. The notification from the Village to the industry shall be in writing, and shall be submitted to the industry within 30 days after the industry has made application for a connection/discharge permit, and has provided complete and satisfactory information regarding the volume and character of the waste, and has submitted plans for a control manhole with appurtenances, and has received a permit from the Environmental Protection Agency. The Village may provide preliminary information regarding industrial cost recovery charges to be levied, but actual charges to be levied shall not be determined until after the above and other stipulations of the ordinance have been complied with by the industrial user to the satisfaction and approval of the Village. (See Appendix No. 2)

(B) In the event that the industrial user or other persons affected by the industrial cost recovery system and charges, wishes to have a hearing regarding the reasonableness of the industrial cost recovery charges imposed by the Village in accordance with State and Federal regulations, the industry or person shall duly notify the Village in writing and request an administrative hearing before the Village Board within 30 days after the industry has been informed of the actual charges to be levied by the Village. Actual discharge of industrial waste to the Village system shall not commence until the industry has issued to the Village written concurrence with the industrial cost recovery charges.

The Village shall conduct the administrative hearing within 30 days after receipt of written request for the hearing and the Village shall duly notify the industrial user or person, and other interested parties in writing at least 15 days prior to the hearing date and identify the time, date, and location of the administrative hearing. The Mayor shall serve as the hearing officer and all testimony received (including written documents) shall be entered into the records of the Village, as an official meeting of the Village Board.

The notice of the administrative hearing shall be published in the legal notice section of a newspaper of local distribution at least 15 days prior to the date of the hearing. The legal notice shall state the purpose of the hearing, time, date, and place of the hearing. All interested parties shall be given ample opportunity to enter testimony into the record of the administrative hearing.

(C) In the event the Village and industrial user cannot agree to the reasonableness of charges, and the compliance of the charges with regulations set forth by the State and Federal EPA,

Revised Code

the industry may request a hearing before representatives of IEPA within 10 days after the Village administrative hearing has been conducted. The Village and the industrial user, or the person shall abide by the decision of IEPA regarding the reasonableness of the industrial cost recovery charges to be levied by the Village. In all cases, the Industrial Cost Recovery System and charges shall be in accordance with applicable State and Federal regulations.

38-4-40 DISCONTINUANCE OF USE BY INDUSTRIAL USERS.

(A) If an industrial user discontinues use of the treatment works (including termination of any agreement for use of reserve capacity), its payment for industrial cost recovery will cease. There shall be no requirement for other industrial users using the treatment works at that time to assume the portion of the Industrial Cost Recovery System payment which is unrecovered due to the departure or discontinuance of service by an industrial user.

(B) If the Village chooses to require an industrial user to pay termination of services charges allocable to costs associated with the Industrial Cost Recovery System, payment to the Village for such charges shall be in accordance with an agreement stipulating such conditions at the time the Village and industrial user mutually agree to conditions of service. Such an agreement shall be in writing, and cannot contain an interest component. Funds recovered in such a manner may become the property of the Village, unless otherwise stipulated by applicable State or Federal regulations.

38-4-41 RESERVE CAPACITY.

(A) The Village may choose to permit industrial users to reserve capacity in the treatment works. Such capacity shall be reserved through a formal, written agreement, which shall be subject to requirements of the Industrial Cost Recovery System contained herein and in State and Federal regulations.

(B) If the Village agrees to allow an industrial user to reserve capacity in the treatment works, the industrial user shall be required to pay the full amount of the industrial cost recovery charges calculated on the full reserved capacity, plus additional industrial cost recovery charges for use above the limits of the reserved capacity or any element thereof.

(C) In the event the treatment works are expanded or upgraded in the future with State or Federal grant assistance, an industrial user that has executed a reserve capacity agreement and has made industrial cost recovery payments based upon full reserved capacity, will not incur additional industrial cost recovery charges associated with the cost of expansion of capacity of existing unit processes associated with treatment, until the industrial user's actual use of the treatment works exceeds its agreed upon reserved capacity.

Revised Code

(D) Industrial users without reserved capacity contracts will be required to pay any additional industrial cost recovery charges associated with the cost of expanding or upgrading the treatment works.

38-4-42 - 38-4-43 RESERVED

DIVISION IV - REVENUES AND ACCOUNTS

38-4-44 REVENUES.

(A) All revenues and moneys derived from the operation of the sewerage system shall be deposited in the Combined Water and Sewage Fund. All such revenues and moneys shall be held by the Village Treasurer separate and apart from his private funds and separate and apart from all other funds of the Village. All of said sum, without any deductions whatsoever, shall be delivered to the Village Treasurer not more than 10 days after receipt of the same, or at such more frequent intervals as may, from time to time, be directed by the Village Board.

(B) The Village Treasurer shall receive all such revenues from the sewerage system and all other funds and moneys incident to the operation of such system as the same may be delivered to him and deposit the same in the account of the fund designated as the "Water and Sewerage Fund of the Village".

The Mayor and Village Board shall administer such fund in every respect in the manner provided by statute of the "Revised Cities and Villages Act," effective January, 1942.

38-4-45 ACCOUNTS.

(A) The Village Clerk shall establish a proper system of accounts and shall keep proper books, records, and accounts in which complete and correct entries shall be made of all transactions relative to the sewerage system. At regular annual intervals, he shall cause to be made an audit by an independent auditing concern of the books to show the receipts and disbursements of the sewerage system.

(B) In addition to the customary operating statements, the annual audit report shall also reflect the revenues and operating expenses of the wastewater facilities, including a re-

Revised Code

placement cost, to indicate that sewer service charges under the waste cost recovery system and capital amounts required to be recovered under the industrial cost recovery system do, in fact, meet these regulations. In this regard, the financial information to be shown in the audit report shall include the following:

- (1) Flow data showing total gallons received at the wastewater plant for the current fiscal year.
- (2) Billing data to show total number of gallons billed.
- (3) Debt service for the next succeeding fiscal year.
- (4) Number of users connected to the system.
- (5) Number of non-metered users.
- (6) A list of users discharging non-domestic wastes (industrial users) and volume of waste discharged.

Revised Code

ARTICLE V - SEWER SYSTEM

DIVISION I - DEFINITIONS

38-5-1 DEFINITIONS ENUMERATED. Unless the context specifically indicates otherwise, the meaning of terms used in this Chapter shall be as ascribed in the following sections.

38-5-2 FEDERAL GOVERNMENT. "Federal Act" means the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.) as amended by the Federal Water Pollution Control Act of Amendment of 1972 (Pub. L. 92-500) and (Pub. L. 93-243).

"ADMINISTRATOR" means the Administrator of the U.S. Environmental Protection Agency.

"FEDERAL GRANT" shall mean the U.S. government participation in the financing of the construction of treatment works as provided for by Title II-Grants for Construction of Treatment Works of the Act and implementing regulations.

38-5-2.1 STATE GOVERNMENT.

"STATE ACT" means the Illinois Anti-Pollution Bond Act of 1970.

"DIRECTOR" means the Director of Illinois Environmental Protection Agency.

"STATE GRANT" shall mean the State of Illinois participation in the financing of the construction of treatment works as provided for by the Illinois Anti-Pollution Bond Act and for making such grants as filed with the Secretary of State of the State of Illinois.

38-5-3 LOCAL GOVERNMENT.

"APPROVING AUTHORITY" means the Superintendent of the Department of Public Works.

"CHAPTER" means this Chapter.

"NPDES PERMIT" means any permit or equivalent document or requirement issued by the Administrator or, where appropriated by the Director, after enactment of the Federal Water Pollution Control Amendments of 1972, to regulate the discharge of pollutants pursuant to Section 402 of the Federal Act.

"PERSON" shall mean any and all persons, natural or artificial including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency or other entity.

Revised Code38-5-4 WASTEWATER AND ITS CHARACTERISTICS.

"BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures in 5 days at 20° Centigrade, expressed in milligrams per liter.

"EFFLUENT CRITERIA" are defined in any applicable "NPDES Permit."

"FLOATABLE OIL" is oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pre-treatment facility. A wastewater shall be considered free of floatable fat if it is properly pre-treated and the wastewater does not interfere with the collection system.

"GARBAGE" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

"INDUSTRIAL WASTE" shall mean any solid, liquid or gaseous substance discharged, permitted to flow or escaping from any industrial, manufacturing, commercial or business establishment or process or from the development, recovery or processing of any natural resource as distinct from sanitary sewage.

"MAJOR CONTRIBUTING INDUSTRY" shall mean an industrial user of the publicly owned treatment works that:

(A) Has a flow of 50,000 gallons or more per average work day; or

(B) Has a flow greater than 10% of the flow carried by the municipal system receiving the waste; or

(C) Has in its waste, a toxic pollutant in toxic amounts as defined in standards issued under Section 307(a) of the Federal Act; or

(D) Is found by the permit issuance authority, in connection with the issuance of the NPDES permit to the publicly owned treatment works receiving the waste, to have significant impact, either singly or in combination with other contributing industries on that treatment works or upon the quality of effluent from that treatment works.

"MILLIGRAMS PER LITER" shall mean a unit of the concentration of water or wastewater constituent in 1,000 ml of water. It has replaced the unit formerly used commonly, parts per million, to which it is approximately equivalent in reporting the results of water and wastewater analysis.

"pH" shall mean the logarithm (base 10) of the reciprocal of the hydrogen-ion concentration expressed by one of the procedures outlined in "Standard Methods."

"ppm" shall mean parts per million by weight.

"POPULATION EQUIVALENT" is a term used to evaluate the impact of industrial or other waste on a treatment works or stream. One population equivalent to 100 gallons of sewage per day, containing 0.17 pounds of BOD and 0.20 pounds of suspended solids.

"PROPERLY SHREDDED GARBAGE" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely

Revised Code

under the flow conditions normally prevailing in public sewers, with no particle greater than one-half ($\frac{1}{2}$) inch [1.27 centimeters] in any dimension.

"SEWAGE" is used interchangeably with "Wastewater."

"SLUG" shall mean any discharge of water, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than 5 times the average 24 hour concentration of flows during normal operation.

"STANDARD METHODS" shall mean the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water and Wastewater" published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

"SUSPENDED SOLIDS" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or industrial waste, and which are removable by a laboratory filtration device. Quantitative determination of suspended solids shall be made in accordance with procedures set forth in "Standard Methods."

"UNPOLLUTED WATER" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

"WASTEWATER" shall mean the spent water of a community. From this standpoint, of course, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and storm water that may be present.

"WATER QUALITY STANDARDS" are defined in the Water Pollution Regulations of Illinois.

38-5-5 SEWER TYPES AND APPURTENANCES.

"BUILDING DRAIN" shall mean that part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer or other approved point of discharge, beginning 5 feet [1.5 meters] outside the inner face of the building wall.

"BUILDING SEWER" shall mean the extension from the building drain to the public sewer or other place of disposal.

"COMBINED SEWER" shall mean a sewer which is designed and intended to receive wastewater, storm, surface, and groundwater drainage.

"EASEMENT" shall mean an acquired legal right for the specific use of land owned by others.

"PUBLIC SEWER" shall mean a sewer provided by or subject to the jurisdiction of the Village. It shall also include sewers within or outside the village boundaries that serve one or more

Revised Code

persons and ultimately discharge into the Village sanitary (or combined sewer system), even though those sewers may not have been constructed with Village funds.

"SANITARY SEWER" shall mean a sewer that conveys sewage or industrial wastes or a combination of both, and into which storm, surface, and groundwaters or unpolluted industrial wastes are not intentionally admitted.

"SEWER" shall mean a pipe or conduit for conveying sewage or any other waste liquids, including storm, surface and groundwater drainage.

"SEWERAGE" shall mean the system of sewers and appurtenances for the collection, transportation and pumping of sewage.

"STORM SEWER" shall mean a sewer that carries storm, surface and groundwater drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

"STORMWATER RUNOFF" shall mean that portion of the precipitation that is drained into the sewers.

38-5-6 TREATMENT.

"PRE-TREATMENT" shall mean the treatment of wastewaters from sources before introduction into the wastewater treatment works.

"WASTEWATER FACILITIES" shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and transport effluent to a watercourse.

"WASTEWATER TREATMENT WORKS" shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with "waste treatment plant" or "wastewater treatment plant" or "pollution control plant."

38-5-7 WATERCOURSE AND CONNECTIONS.

"NATURAL OUTLET" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

"WATERCOURSE" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

38-5-8 USER TYPES.

"CONTROL MANHOLE" shall mean a structure located on a site from which industrial wastes are discharged. Where feasible, the manhole shall have an interior drop. The purpose of a "control manhole" is to provide access for the Village representative to sample and/or measure discharges.

"INDUSTRIAL USER" shall mean any nongovernmental user of publicly owned treatment works identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget, as amended and supplemented, under the following divisions:

- (A) Division A -- Agriculture, Forestry, and Fishing.
- (B) Division B -- Mining.
- (C) Division D -- Manufacturing.

Revised Code

(D) Division E -- Transportation, Communications, Electric, Gas and Sanitary Services.

(E) Division I -- Services.

A user in the Divisions listed may be excluded if it is determined by the Superintendent that it will introduce primarily segregated domestic wastes or wastes from sanitary conveniences.

"RESIDENTIAL OR COMMERCIAL" OR "NON-INDUSTRIAL" USER shall mean any user of the treatment works not classified as an industrial user as provided for in this section.

"USER CLASS" shall mean the type of user, either "residential or commercial" (non-industrial) or "industrial" as defined herein.

38-5-9 TYPES OF CHARGES.

"BASIC USER CHARGE" shall mean the basic assessment levied on all users of the public sewer system.

"DEBT SERVICE CHARGE" shall be the amount to be paid each billing period for payment of interest, principal and coverage of (loan, bond, etc.) outstanding and shall be computed by dividing the annual debt service by the number of users connected to the Wastewater Facilities.

"REPLACEMENT" shall mean expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term "operation and maintenance" includes replacement.

"SEWERAGE FUND" is the principal accounting designation for all revenues received in the operation of the sewerage system.

"SURCHARGE" shall mean the assessment in addition to the basic user charge and debt service charge which is levied on those persons whose wastes are greater in strength than the concentration values established elsewhere in this Chapter.

"USEFUL LIFE" shall mean the estimated period during which the collection system and/or treatment works will be operated and shall be 50/20 years from the date of start-up of any wastewater facilities constructed with a State Grant.

"USER CHARGE" shall mean a charge levied on users of treatment works for the cost of operation and maintenance.

"WASTEWATER SERVICE CHARGE" shall be the charge per quarter or month levied on all users of the Wastewater Facilities. The service charge shall be computed as outlined in Article IV, Division II, Wastewater Service Charges, and shall consist of the total or the Basic User Charge, the Debt Service Charge and a Surcharge, if applicable.

38-5-10 RESERVED.

Revised Code

DIVISION II

USE OF PUBLIC SEWERS REQUIRED

38-5-11 DEPOSITS OF OBJECTIONABLE WASTE. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Village, or in any area under the jurisdiction of the Village, any human or animal excrement, garbage, or other objectionable waste.

38-5-12 TREATMENT REQUIRED. It shall be unlawful to discharge to any natural outlet within the Village, or in any area under the jurisdiction of the Village, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Chapter.

38-5-13 PRIVY, SEPTIC TANK, CESSPOOL. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, septic tank, cesspool or other facility intended or used for the disposal of sewage.

38-5-14 ON-SITE WASTE DISPOSAL SYSTEM REQUIRED. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes situated within the Village and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located any public sanitary sewer of the Village, is hereby required, at his expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Chapter, within 90 days after the date of official notice to do so, provided that said public sewer is within 100 feet [30.5 meters] of the property line.

38-5-15 RESERVED.

Revised Code

DIVISION III

PRIVATE SEWAGE DISPOSAL

38-5-16 PRIVATE SEWAGE DISPOSAL SYSTEM. Where a public sanitary sewer is not available under the provisions of Section 38-5-14, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Division.

38-5-17 CONSTRUCTION PERMIT AND INSPECTION FEE. Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the Superintendent of Public Works. The application for such permit shall be made on a form furnished by the Village, (reference Appendix No. 2) which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$5.00 shall be paid to the Village at the time the application is filed.

38-5-18 CONSTRUCTION INSPECTION. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 3 days of the receipt of written notice by the Superintendent.

38-5-19 CODE REQUIREMENTS. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the State of Illinois Private Sewage Disposal Licensing Act and Code and with the State of Illinois Environmental Protection Agency. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 7,200 square feet [648 square meters]. No septic tank shall be permitted to discharge to any natural outlet.

38-5-20 SEWER CONNECTION. At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 38-5-14, a direct connection shall be made to the public sewer in compliance with this Chapter, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

Revised Code

38-5-21 **OPERATION AND MAINTENANCE.** The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, and not at expense to the Village.

38-5-22 **HEALTH OFFICER REQUIREMENTS.** No statement contained in this Chapter shall be construed to interfere with any additional requirements that may be imposed by the Local Health Officer.

38-5-23 **RESERVED.**

DIVISION IV - BUILDING SEWERS AND CONNECTIONS

38-5-24 **PERMIT REQUIRED FOR SEWER CONNECTION.** No unauthorized person shall uncover, make any connections with or opening into; use; alter; or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

38-5-25 **STANDARDS FOR DISCHARGE.** All disposal by any person into the sewer system is unlawful except those discharges in compliance with Federal Standards promulgated pursuant to the Federal Act and more stringent State and local standards.

38-5-26 **CLASSES OF PERMITS AND FEES.** There shall be two classes of building sewer permits:

- (A) For residential and commercial service, and
- (B) For service to establishments producing industrial wastes.

In either case, the owner or his agent shall make application on a special form furnished by the Village. (Reference: Appendix No. 3.) The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Village. Unless specified otherwise in an annexation agreement, a permit and inspection fee shall be paid to the Village at the time the application as described in Appendix No. 7. The fee is not refundable. The industry, as a condition of permit authorization, must provide information describing its wastewater constituents, characteristics, and type of activity.

WATER AND SEWER TAP-IN FEES

Location	Total Charge	Water Only	Sewer Only
Leonard Acres	\$600	\$300	\$300
Pleasant Acres (first 13 lots)	\$600		
Pleasant Acres (all other lots)	\$900		
Hanover Estates	\$1,430		
North Towne	\$1,430		
Kohnen's 2nd Addition	\$1,470		
Kohnen's 3rd Addition	\$1,470		
All Others - where infrastructure is already in place:			
Incorporated Residential	\$1,000	\$500	\$500
Unincorporated Residential	\$1,000	\$500	\$500
Incorporated Commercial	\$2,000	\$1,000	\$1,000
Unincorporated Commercial	\$2,000	\$1,000	\$1,000

Lots located within the respective developments shall be charged the above listed water and/or sewer tap-in charges. Charges are per-lot, and shall be due upon the sale of the lots, except for multi-family dwellings. The per-lot charge applies to the number of lots purchased – thus if someone buys a double lot, two charges are due. If a multi-family dwelling is built on one lot, the charges shall be per dwelling.

For lots that are not located within the above named developments, but directly connected to either or both the water and sewer infrastructure installed for that subdivision, the charges for that subdivision shall apply. Thus, as an example, a single isolated lot that interconnects with the infrastructure installed for Hanover Estates, even though not a part of the development, would be assessed the charges applicable for that development.

For new developments, the developer shall provide water and sewer infrastructure as a part of the subdivision development, and shall be responsible for costs to interconnect the water and sewer infrastructure with the Village's existing infrastructure. This infrastructure shall

include any cross street water or sewer taps. Cost sharing of the water taps shall be negotiated between the Village and the developer. The tap-in charges charged by the Village to the lot owners shall be the normal incorporated or unincorporated fees as applicable.

For existing subdivisions or developments not currently served by water and/or sewer, the property owner(s) shall be responsible for the costs of infrastructure- including costs to interconnect with the Village's current infrastructure. Individual main extensions (such as a lot at the edge of the subdivision) shall be sized to permit further extension to other lots. Unless agreed to by the Village Board, extensions to unserved areas shall be with mains and not service lines.

Revised Code

38-5-27 PERMIT SUBJECT TO SYSTEM CAPACITY. A building sewer permit will only be issued and a sewer connection shall only be allowed if it can be demonstrated that the downstream sewerage facilities, including sewers, pump stations and wastewater treatment facilities have sufficient reserve capacity to adequately and efficiently handle the additional anticipated waste load.

38-5-28 INSTALLATION COSTS. All costs and expense incident to the installation and connection of the building sewer and septic tank shall be borne by the owner. The owner shall indemnify the Village from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

38-5-29 SEPARATE CONNECTION REQUIRED. A separate and independent building sewer and septic tank shall be provided for every building, except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer and septic tank.

38-5-30 EXISTING BUILDING SEWERS. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Superintendent to meet all requirements of this Chapter.

38-5-31 DESIGN AND SPECIFICATIONS. The size, slope, alignment, materials of construction of a building sewer and septic tank, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling in the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Village. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society of Testing Materials, Water Pollution Control Federation Manual of Practice No. 9 and Standard Specifications for Water and Sewer Main Construction in Illinois shall apply.

38-5-32 ELEVATIONS. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a means which is approved in accordance with Section 38-5-25 and discharged to the building sewer.

Revised Code

38-5-33 ILLEGAL CONNECTIONS OF ROOF, DOWNSPOUTS, ETC. No person(s) shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain, which, in turn, is connected directly or indirectly to a public sanitary sewer.

38-5-34 CODE REQUIREMENTS FOR CONNECTION TO PUBLIC SEWER. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Village, or the procedures set forth in appropriate specifications of the American Society of Testing Materials, Water Pollution Control Federation Manual of Practice No. 9 and Standard Specifications for Water and Sewer Main Construction in Illinois. All such connections shall be made gas-tight and water-tight. Any such deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

38-5-35 INSPECTION BY SUPERINTENDENT. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or his representative. (See Appendix 3 and 4)

38-5-36 BARRICADES REQUIRED. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Village.

38-5-37 SURETY BOND REQUIRED. Any person making an authorized connection from a building sewer to the sanitary sewer line shall be licensed by the Village to engage in such work and shall be required to deposit with the Village Clerk a surety bond in the amount of \$5,000.00 to indemnify the Village against any loss or damage resulting from the work of the license holder.

DIVISION V

USE OF THE PUBLIC SEWERS

38-5-38 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any storm water, surface water, ground water roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

Revised Code

38-5-39 STORM WATER. Storm water and all other unpolluted drainage shall be discharged to such storm sewers or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent to a storm sewer or natural outlet.

38-5-40 PROHIBITED WATERS AND WASTES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(A) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(B) Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(C) Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(D) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

38-5-41 PROHIBITED SUBSTANCES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and maximum limits established by regulatory agencies. The substances prohibited are:

(A) Any liquid or vapor having a temperature higher than 150° Fahrenheit (65° Centigrade).

(B) Any waters or wastes containing toxic or poisonous materials; or oils, whether emulsified or not, in excess of 100 mg/l or containing substances which may solidify or become viscous

Revised Code

at temperatures between 32° and 150° Fahrenheit (0° and 65° Centigrade).

(C) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

(D) Any waters or wastes containing strong acid, iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(E) Any waters or wastes containing iron, chromium, copper, zinc, or similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works, exceeds the limits established by the Superintendent for such materials.

(F) Any waters or wastes containing phenols or other taste-or-odor-producing substances in such concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet the requirements of the State, Federal or other public agencies of jurisdiction for such discharge to the receiving waters.

(G) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

(H) Any waters or wastes having a pH in excess of 9.5.

(I) Any mercury or any of its compounds in excess of 0.0005 mg/l as Hg at any time, except as permitted by the Superintendent in compliance with applicable State and Federal regulations.

(J) Any cyanide in excess of 0.025 mg/l at any time, except as permitted by the Superintendent in compliance with applicable State and Federal regulations.

(K) Materials which exert or cause:

- (1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate);
- (2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions);
- (3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
- (4) Unusual volume of flow or concentrations of wastes constituting "slugs" as defined herein.

Revised Code

(L) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the Wastewater Treatment Plant effluent cannot meet the requirements of agencies having jurisdiction over discharge to the receiving waters.
(See Appendix "5")

38-5-42 ALTERNATIVES FOR PROHIBITED SUBSTANCES. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 38-5-41, and/or which are in violation of the standards for pre-treatment provided in Chapter 1, E.P.A. Rules and Regulations, subchapter D, Water Programs Part 128 -- Pre-treatment Standards, Federal Register Volume 38, No. 215, Thursday, November 8, 1973, and any amendments thereto, and which, in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- (A) Reject the wastes;
- (B) Require pre-treatment to an acceptable condition for discharge to the public sewers;
- (C) Require control over the quantities and rates of discharge; and/or
- (D) Require payment to cover the added costs of handling and treating the wastes not covered by existing taxes or sewer charges, under the provisions of Section 38-5-47.

If the Superintendent permits the pre-treatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws.

38-5-43 GREASE AND OIL INTERCEPTORS. Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

38-5-44 PRE-TREATMENT AND FLOW EQUALIZING FACILITIES. Where preliminary treatment or flow-equalizing facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the owner, at his expense.

Revised Code

38-5-45 CONTROL MANHOLE FOR INDUSTRY. Each industry shall be required to install a control manhole and, when required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

38-5-46 REQUIREMENTS OF LABORATORY TESTS FOR INDUSTRIAL WASTES. The owner of any property serviced by a building sewer carrying industrial wastes shall provide laboratory measurements, tests, and analyses of water and wastes to illustrate compliance with this Chapter and any special conditions for discharge established by the Village or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of laboratory analyses to be performed by the owner shall be as stipulated by the Village, but no less than once per year, the industry must supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with the Federal, State, and local standards are being met. The owner shall report the results of measurements and laboratory analyses to the Village at such times and in such manner as prescribed by the Village. The owner shall bear the expense of all measurements, analyses, and reporting required by the Village. At such times as deemed necessary, the Village reserves the right to take measurements and samples for analysis by an outside laboratory service.

38-5-47 METHODS OF LABORATORY TESTS AND SAMPLING. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole.

In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. That particular analyses involved will determine whether a 24 hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composites of all outfalls, whereas pH's are determined from periodic grab samples.

Revised Code

38-5-48 SPECIAL CONSIDERATION. No statement contained in this Chapter shall be construed as preventing any special agreement or arrangement between the Village and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Village for treatment, subject to payment therefor, in accordance with Division II of this Chapter by the industrial concern, provided such payments are in accordance with Federal and State guidelines for User Charge System.

38-5-49 RESERVED.

DIVISION VI

PROTECTION OF SEWAGE WORKS FROM DAMAGE

38-5-50 PROTECTION. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

38-5-51 RESERVED.

DIVISION VII

POWERS AND AUTHORITY OF INSPECTORS

38-5-52 AUTHORITY FOR INSPECTION. The Superintendent and other duly authorized employees of the Village, the Illinois Environmental Protection Agency, and the U.S. Environmental Protection Agency, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Chapter. The Superintendent or

Revised Code

his representative shall not have authority to inquire into any processes, including metallurgical, chemical, oil refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterway or facilities for waste treatment.

38-5-53 SAFETY RULES AND LIABILITY. While performing the necessary work on private properties referred to in Section 38-5-52, the Superintendent or duly authorized employees of the Village, the Illinois Environmental Protection Agency and the U.S. Environmental Protection Agency shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the Village employees and the Village shall indemnify the company against loss or damage to its property by Village employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 38-5-45.

38-5-54 PERMIT TO ENTER EASEMENTS. The Superintendent and other duly authorized employees of the Village bearing proper credentials and identification shall be permitted to enter all private properties through which the Village holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

38-5-55 RESERVED.

DIVISION VIII - PENALTIES

38-5-56 NOTICE. Any person found to be violating any provision of this Article, except Division VI, shall be served by the Village with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The Village may revoke any permit for sewage disposal as a result of any violation of any provision of this Article.

Revised Code

38-5-57 PENALTIES. Any person who shall continue any violation beyond the time limit provided for in Section 38-5-56 shall be guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding \$200.00 for each violation.

Each day in which any such violation shall continue shall be deemed a separate offense.

38-5-58 ACCESS TO RECORDS. The Illinois Environmental Protection Agency, or its authorized representative, shall have access to books, documents, papers and records of the Village which are applicable to the Village's system of user charges or industrial cost recovery for the purpose of making audit, examination, excerpts and transcriptions thereof to insure compliance with the terms of the Special and General Conditions to any State Grant.

38-5-59 LIABILITIES. Any person violating any of the provisions of this Chapter shall become liable to the Village by reason of such violation.

[Unless Otherwise Noted, This Chapter; #78-7; 11-01-78]

CHAPTER 38

ARTICLE VI - SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX

DIVISION I - FEES

38-6-1 Definitions. As used in this Article, the following terms shall have the following meanings:

(a) "Amount paid" means the amount charged to the taxpayer's service address in such municipality regardless of where such amount is billed or paid.

(b) "Department" means the Illinois Department of Revenue.

(c) "Gross charge" means the amount paid for the act or privilege of originating or receiving telecommunications in such municipality and for all services and equipment provided in connection therewith by a retailer, valued in money whether paid in money or otherwise, including cash, credits, services and property of every kind or nature, and shall be determined without any deduction on account of the cost of such telecommunications, the cost of the materials used, labor or service costs or any other expense whatsoever. In case credit is extended, the amount thereof shall be included only as and when paid. "Gross charges" for private line service shall include charges imposed at each channel point within this State, charges for the channel mileage between each channel point within this State, and charges for that portion of the interstate inter-office channel provided within Illinois. However, "gross charge" shall not include:

(1) any amounts added to a purchaser's bill because of a charge made pursuant to: (i) the tax imposed by this Ordinance, (ii) the tax imposed by the Telecommunications Excise Tax Act, (iii) the tax imposed by Section 4251 of the Internal Revenue Code, (iv) 911 surcharges, or (v) charges added to customers' bills pursuant to the provisions of Section 9-221 or 9-222 of the Public Utilities Act, as amended, or any similar charges added to customers' bills by retailers who are not subject to rate regulation by the Illinois Commerce Commission for the purpose of recovering any of the tax liabilities or other amounts specified in those provisions of the Public Utilities Act;

(2) charges for a sent collect telecommunication received outside of such municipality;

(3) charges for leased time on equipment or charges for the storage of data or information for subsequent retrieval or the processing of data or information intended to change its form or content. Such equipment includes, but is not limited to, the use of calculators, computers, data processing equipment, tabulating equipment or accounting equipment and also includes the usage of computers under a time-sharing agreement;

(4) charges for customer equipment, including such equipment that is leased or rented by the customer from any source, wherein such charges are disaggregated and separately identified from other charges;

(5) charges to business enterprises certified as exempt under Section 9-222.1 of the Public Utilities Act to the extent of such exemption and during the period of time specified by the Department of Commerce and Community Affairs;

(6) charges for telecommunications and all services and equipment provided in connection therewith between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries when the tax imposed under this Act has already been paid to a retailer and only to the extent that the charges between the parent corporation and wholly owned subsidiaries or between wholly owned subsidiaries represent expense allocation between the corporations and not the generation of profit for the corporation rendering such service;

(7) bad debts ("bad debt" means any portion of a debt that is related to a sale at retail for which gross charges are not otherwise deductible or excludable that has become worthless or uncollectible, as determined under applicable federal income tax standards; if the portion of the debt deemed to be bad is subsequently paid, the retailer shall report and pay the tax on that portion during the reporting period in which the payment is made);

(8) charges paid by inserting coins in coin-operated telecommunication devices; or

(9) amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.

(d) "Interstate telecommunications" means all telecommunications that either originate or terminate outside this State.

(e) "Intrastate telecommunications" means all telecommunications that originate and terminate within this State.

(f) "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation, limited liability company, or a receiver, trustee, guardian, or other representative appointed by order of any court, the Federal and State governments, including State universities created by statute, or any city, town, county, or other political subdivision of this State.

(g) "Purchase at retail" means the acquisition, consumption or use of telecommunications through a sale at retail.

(h) "Retailer" means and includes every person engaged in the business of making sales at retail as defined in this Section. The Department may, in its discretion, upon application, authorize the collection of the tax hereby imposed by any retailer not maintaining a place of business within this State, who, to the satisfaction of the Department, furnishes adequate security to insure collection and payment of the tax. Such retailer shall be issued, without charge, a permit to collect such tax. When so authorized, it shall be the duty of such retailer to collect the tax upon all of the gross charges for telecommunications in this State in the same manner and subject to the same requirements as a retailer maintaining a place of business within this State. The permit may be revoked by the Department at its discretion.

(i) "Retailer maintaining a place of business in this State", or any like term, means and includes any retailer having or maintaining within this State, directly or by a

subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within this State under the authority of the retailer or its subsidiary, irrespective of whether such place of business or agent or other representative is located here permanently or temporarily, or whether such retailer or subsidiary is licensed to do business in this State.

(j) "Sale at retail" means the transmitting, supplying or furnishing of telecommunications and all services and equipment provided in connection therewith for a consideration, to persons other than the Federal and State governments, and State universities created by statute and other than between a parent corporation and its wholly owned subsidiaries or between wholly owned subsidiaries for their use or consumption and not for resale.

(k) "Service address" means the location of telecommunications equipment from which telecommunications services are originated or at which telecommunications services are received by a taxpayer. In the event this may not be a defined location, as in the case of mobile phones, paging systems, and maritime systems, service address means the customer's place of primary use as defined in the Mobile Telecommunications Sourcing Conformity Act. For air-to-ground systems and the like, "service address" shall mean the location of a taxpayer's primary use of the telecommunications equipment as defined by telephone number, authorization code, or location in Illinois where bills are sent.

(l) "Taxpayer" means a person who individually or through his or her agents, employees, or permittees engages in the act or privilege of originating or receiving telecommunications in a municipality and who incurs a tax liability as authorized by the Article.

(m) "Telecommunications", in addition to the meaning ordinarily and popularly ascribed to it, includes, without limitation, messages or information transmitted through use of local, toll, and wide area telephone service, private line services, channel services, telegraph services, teletypewriter, computer exchange services, cellular mobile telecommunications service, specialized mobile radio, stationary two-way radio, paging service, or any other form of mobile and portable one-way or two-way communications, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. As used in this Ordinance, "private line" means a dedicated non-traffic sensitive service for a single customer, that entitles the customer to exclusive or priority use of a communications channel or group of channels, from one or more specified locations to one or more other specified locations. The definition of "telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchases of telecommunications by a telecommunications service provider for use as a component part of the service provided by such provider to the ultimate retail consumer who originates or terminates the taxable end-to-end communications. Carrier access charges, right of access charges, charges for use of inter-company

facilities, and all telecommunications resold in the subsequent provision of, used as a component of, or integrated into, end-to-end telecommunications service shall be non-taxable as sales for resale. Prepaid telephone calling arrangements shall not be considered "telecommunications" subject to the tax imposed under this Act. For purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupations Tax Act.

38-6-2 Simplified Municipal Telecommunications Tax Imposed. A tax is hereby imposed upon any and all the following acts or privileges:

(a) The act or privilege of originating in the municipality or receiving in the municipality intrastate telecommunications by a person at a rate of 3.5% of the gross charge for such telecommunications purchased at retail from a retailer.

(b) The act or privilege of originating in the municipality or receiving in the municipality interstate telecommunications by a person at a rate of 3.5% of the gross charge for such telecommunications purchased at retail from a retailer.

(c) The tax imposed by this Ordinance is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the municipality.

38-6-3 Collection of Tax by Retailers.

(a) The tax authorized by this Ordinance shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Ordinance and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax authorized by this Ordinance shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

(b) Whenever possible, the tax authorized by this Ordinance shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

38-6-4 Returns to Department. Commencing on February 1, 2003, the tax imposed under this Ordinance on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (Public Act 92-526, Section 5-50) and any accompanying rules and regulations created by the Department to implement this Act.

38-6-5 Resellers.

(a) If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for the tax authorized by this Article on any of such purchases and shall furnish such additional information as the Department may reasonably require.

(b) Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunication tax-free when such actions in fact are not for resale, or which no longer applies because of the person's having discontinued the making of resales.

(c) Except as provided hereinabove in this Section, the act or privilege of originating or receiving telecommunications in this State shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.

38-6-6 Severability. If any provision of this Article, or the application of any provision of this Article, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Article, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Article.

[Next Page is 947]

DIVISION II – STANDARDS FOR CONSTRUCTION OF FACILITIES

38-6-11. Purpose and Scope.

a) **Purpose.** The purpose of this Division is to establish policies and procedures for constructing facilities on rights-of-way within the Village's jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the Village rights-of-way and the Village as a whole.

b) **Facilities Subject to This Division.** This Division applies to all facilities on, over, above, along, upon, under, across, or within the public rights-of-way within the jurisdiction of the Village. A facility lawfully established prior to the effective date of this Division may continue to be maintained, repaired and operated by the utility as presently constructed and located, except as may be otherwise provided in any applicable franchise, license or similar agreement.

c) **Franchises, Licenses, or Similar Agreements.** The Village, in its discretion and as limited by law, may require utilities to enter into a franchise, license or similar agreement for the privilege of locating their facilities on, over, above, along, upon, under, across, or within the Village rights-of-way. Utilities that are not required by law to enter into such an agreement may request that the Village enter into such an agreement. In such an agreement, the Village may provide for terms and conditions inconsistent with this Division.

d) 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 Division and the provisions of any franchise, license or similar agreement between the Village and any telecommunications provider, the provisions of such franchise, license or similar agreement shall govern and control during the term of such agreement and any lawful renewal or extension thereof.

e) **Conflicts with Other Chapters, Divisions, Articles, and Sections.** This Division supersedes all Chapters, Divisions, Articles, and Sections adopted prior hereto that are in conflict herewith, to the extent of such conflict.

f) **Conflicts with State and Federal Laws.** In the event that applicable federal or State laws or regulations conflict with the requirements of this Division, the utility shall comply with the requirements of this Division to the maximum extent possible without violating federal or State laws or regulations.

g) **Sound Engineering Judgment.** The Village shall use sound engineering judgment when administering this Division and may vary the standards, conditions, and requirements expressed in this Division when the Village so determines. Nothing herein

"Construction" or "Construct" - The installation, repair, maintenance, placement, alteration, enlargement, demolition, modification or abandonment in place of facilities.

"Cover" - The depth of earth or backfill over buried utility pipe or conductor.

"Crossing Facility" - A facility that crosses one or more right-of-way lines of a right-of-way.

"Disrupt the Right-of-Way" - For the purposes of this Division, 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" - 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" - Provision of a protective casing.

"Equipment" - Materials, tools, implements, supplies, and/or other items used to facilitate construction of facilities.

"Excavation" - The making of a hole or cavity by removing material, or laying bare by digging.

"Extra Heavy Pipe" - Pipe meeting ASTM standards for this pipe designation.

"Facility" - All structures, 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, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way under this Division, except those owned by the Village.

"Freestanding Facility" - A facility that is not a crossing facility or a parallel facility, such as an antenna, transformer, pump, or meter station.

"Frontage Road" - Roadway, usually parallel, providing access to land adjacent to the highway where it is precluded by control of access on highway.

"Hazardous Materials" - Any substance or material which, due to its quantity, form, concentration, location, or other characteristics, is determined by the Village Superintendent or his or her designee to pose an unreasonable and imminent risk to the life, health or safety of persons or property or to the ecological balance of the environment, including, but not limited to explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives or any substance determined to be hazardous or toxic under any federal or state law, statute or regulation.

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

"Highway" - A specific type of right-of-way used for vehicular traffic including rural or urban roads or streets. "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.

"IDOT" - Illinois Department of Transportation.

"ILCC" - Illinois Commerce Commission.

"Jacking" - Pushing a pipe horizontally under a roadway by mechanical means with or without boring.

"Jetting" - Pushing a pipe through the earth using water under pressure to create a cavity ahead of the pipe.

"Joint Use" - The use of pole lines, trenches or other facilities by two or more utilities.

"Major Intersection" - The intersection of two or more major arterial highways.

"Occupancy" - The presence of facilities on, over or under right-of-way.

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

"Parkway" - Any portion of the right-of-way not improved by street or sidewalk.

"Pavement Cut" - The removal of an area of pavement for access to facility or for the construction of a facility.

"Permittee" - That entity to which a permit has been issued.

"Practicable" - That which is performable, feasible or possible, rather than that which is simply convenient.

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

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

"Prompt" - That which is done within a period of time specified by the Village. If no time period is specified, the period shall be 30 days.

"Public Entity" - A legal entity that constitutes or is part of the government, whether at local, state or federal level.

"Restoration" - The repair of a right-of-way, highway, roadway, or other area disrupted by the construction of a facility.

"Right-of-Way" - 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" - That part of the highway that includes the pavement and shoulders.

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

"Security Fund" - That amount of security required pursuant to Section 20.

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

"Sound Engineering Judgment" - A decision(s) consistent with generally accepted engineering principles, practices and experience.

"Telecommunications" - This term includes, but is not limited to, messages or information transmitted through use of local, toll, and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, specialized mobile radio services, or any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. Unless the context clearly requires otherwise, "telecommunications" shall also include wireless telecommunications as defined in the Illinois Telecommunications Infrastructure Maintenance Fee Act, 35 ILCS 635/1 *et seq.* "Telecommunications" shall not include value added services in which computer processing applications are used to act on the form, content, code, and protocol of the information for purposes other than transmission. "Telecommunications" shall not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by him or her to the ultimate retail consumer who originates or terminates the end-to-end communications. Retailer access charges, right of access charges, charges for use of intercompany facilities, and all telecommunications resold in the subsequent provision and used as a component of or integrated into, end-to-end telecommunications service shall not be included in gross charges as sales for resale. "Telecommunications" shall not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following) as now or hereafter amended or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.D.F. 76.1550 and following) as now or hereafter amended.

"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" - A relatively narrow open excavation for the installation of an underground facility.

"Utility" - The individual or entity owning or operating any facility as defined in this Division.

"Vent" - A pipe to allow the dissipation into the atmosphere of gases or vapors from an

underground casing.

"Village" - The Village of Germantown.

"Village Superintendent" - The Village Superintendent or his/her designee.

"Water Lines" - Pipelines carrying raw or potable water.

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

38-6-13 Annual Registration Required.

Every utility that occupies right-of-way within the Village shall register within 90 days of passage of this Division and on January 1 of each year thereafter with the Village Clerk, 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 18 of this Division, in the form of a certificate of insurance. A telecommunications provider that has registered under this Section, shall be deemed to have satisfied the registration requirement under Section 2 of this Article.

38-6-14 Permit Required; Applications and Fees.

a) **Permit Required.** No person shall construct (as defined in this Division) 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 Division), 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 Village Superintendent and obtaining a permit from the Village therefor, except as otherwise provided in this Division. 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 Division 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 general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of such description shall be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
 - 5) Evidence that the utility has placed on file with the Village:
 - i) 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
 - ii) 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 18 of this Division;
 - 8) Evidence of posting of the security fund as required in Section 20 of this Division;
 - 9) Any request for a variance from one or more provisions of this Division (See Section 31); 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 new electric power, communications or natural gas distribution system installation, evidence that any "Certificate of Public Convenience and Necessity" has been issued by the ILCC that the applicant is required by law, or has elected, to obtain;

- 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 [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 Division shall be accompanied by a fee in the amount of \$25.00. No application fee is required to be paid by any telecommunications retailer that is paying the municipal telecommunications infrastructure maintenance fee pursuant to Chapter 38 Article VI Division I of the Code or the optional state telecommunications infrastructure maintenance fee pursuant to the Telecommunications Municipal Infrastructure Maintenance Fee Act, or by any electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act.

38-6-15 Action on Permit Applications.

a) **Village Review of Permit Applications.** Completed permit applications, containing all required documentation, shall be examined by the Village Superintendent 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 Village Superintendent shall reject such application in writing, stating the reasons therefor. If the Village Superintendent is satisfied that the proposed work conforms to the requirements of this Division and all applicable ordinances, codes, laws, rules, and regulations, the Village Superintendent shall issue a permit therefor as soon as practicable.

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 Division 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 Village Superintendent 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 Village Superintendent fails to provide such specification of location to the telecommunications retailer within either (i) 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 (ii) 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 Division.
- 3) Upon the provision of such specification by the Village, where a permit is required for work pursuant to Section 14 of this Division 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.

38-6-16 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 Division 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) **Compliance with All Laws Required.** The issuance of a permit by the Village does not excuse the permittee from complying with other requirements of the Village and all applicable statutes, laws, ordinances, rules, and regulations.

38-6-17 Revised Permit Drawings.

In the event that the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings and specifications submitted with the permit application, the permittee shall submit a revised set of drawings or plans to the Village within ninety (90) days after the completion of the permitted work. The revised drawings or plans shall specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Division, it shall be treated as a request for variance in accordance with Section 31 of this Division. 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.

38-6-18 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:
 - i) Five million dollars (\$5,000,000) for bodily injury or death to each person;
 - ii) Five million dollars (\$5,000,000) for property damage resulting from any one accident; and
 - iii) 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.

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 Clerk 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.

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.

38-6-19 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 Division 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 Division by the Village, its officials, officers, employees, agents or representatives.

38-6-20 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 Division;
- 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

Division; and

- 3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the Village may pay or incur by reason of any action or non-performance by permittee in violation of this Division including, without limitation, any damage to public property or restoration work the permittee is required by this Division 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 Division 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) Shall provide a location convenient to the Village and within the State of Illinois at which it can be drawn.

c) Amount. The dollar amount of the Security Fund shall be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Village Superintendent, 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 Village Superintendent 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, 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 Division that the Village determines can be remedied by an expenditure of an amount in the Security Fund.

e) **Replenishment.** Within fourteen (14) days after receipt of written notice from the Village that any amount has been withdrawn from the Security Fund, the permittee shall restore the Security Fund to the amount specified in Subsection c) of this Section.

f) **Interest.** The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the Village, upon written request for said withdrawal to the Village, provided that any such withdrawal does not reduce the Security Fund below the minimum balance required in 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 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 Division or other applicable law. In the event of any revocation of the permit, the Security Fund, and any and all accrued interest therein, shall become the property of the Village to the extent necessary to cover any reasonable costs, loss or damage incurred by the Village as a result of said revocation, provided that any amounts in excess of said costs, loss or damage shall be refunded to the permittee.

h) **Rights Not Limited.** The rights reserved to the Village with respect to the Security Fund are in addition to all other rights of the Village, whether reserved by this Division 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.

38-6-21 Permit Suspension and Revocation.

a) **Village Right to Revoke Permit.** The Village may revoke or suspend a permit issued pursuant to this Division 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 Division;
- 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 Division stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this section.

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 its designee may, at the option of the Village: (1) correct the deficiencies; (2) upon not less than twenty (20) days notice to the permittee, remove the subject facilities or equipment; or (3) after not less than thirty (30) days notice to the permittee of failure to cure the 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.

38-6-22 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 Division, with respect to the work and facilities in the right-of-way.

b) **Amended Permit.** A new owner shall request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, the new owner shall be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility

or allows it to remain on the Village's right-of-way.

c) Insurance and Bonding. All required insurance coverage or bonding must be changed to reflect the name of the new owner upon transfer.

38-6-23 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:

- 1) Standard Specifications for Road and Bridge Construction;
- 2) Supplemental Specifications and Recurring Special Provisions;
- 3) Highway Design Manual;
- 4) Highway Standards Manual;
- 5) Standard Specifications for Traffic Control Items;
- 6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);
- 7) Flagger's Handbook; and
- 8) Work Site Protection Manual for Daylight Maintenance Operations.

b) Interpretation of Municipal Standards and Principles. If a discrepancy exists between or among differing principles and standards required by this Division, the Village Superintendent shall determine, in the exercise of sound engineering judgment, which principles apply and such decision shall be final. If requested, the Village Superintendent shall state which standard or principle will apply to the construction, maintenance, or operation of a facility in the future.

38-6-24 Traffic Control.

a) Minimum Requirements. The Village's minimum requirements for traffic protection are contained in DOT'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 30 of this Division, 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.

38-6-25 Location Facilities.

a) 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:
 - i) 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;
 - ii) 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;
 - iii) 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;
 - iv) No pole is located in the ditch line of a highway; and
 - v) 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:
 - i) 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;
 - ii) 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
 - iii) 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 above-grounded appurtenance shall be located within one foot (0.3 m) of the right-of-way line or as near as practicable.

b) Facilities Crossing Highways.

- 1) **No Future Disruption.** The construction and design of crossing facilities installed between the ditch lines or curb lines of Village highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of such crossing facilities.
- 2) **Cattle Passes, Culverts, or Drainage Facilities.** Crossing facilities shall not be located in cattle passes, culverts, or drainage facilities.
- 3) **90 Degree Crossing Required.** Crossing facilities shall cross at or as near to

- a ninety (90) degree angle to the centerline as practicable.
- 4) Overhead Power or Communication Facility. An overhead power or communication facility may cross a highway only if:
- i) 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);
 - ii) 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
 - iii) 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:
- i) The design materials and construction methods will provide maximum maintenance-free service life; and
 - ii) 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)).
- c) 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.
- d) Freestanding Facilities.
- 1) The Village may restrict the location and size of any freestanding facility located within a right-of-way.
 - 2) The Village may require any freestanding facility located within a right-of-way to be screened from view.
- e) 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.
- f) Above Ground Installation. Above ground facilities may be installed only if:
- 1) No other existing facilities in the area are located underground;
 - 2) New underground installation is not technically feasible; and
 - 3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable

designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable.

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:
 - i) 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;
 - ii) The type, length, value and relative importance of the highway structure in the transportation system;
 - iii) The alternative routings available to the utility and their comparative practicability;
 - iv) The proposed method of attachment;
 - v) The ability of the structure to bear the increased load of the proposed facility;
 - vi) The degree of interference with bridge maintenance and painting;
 - vii) The effect on the visual quality of the structure; and
 - viii) The public benefit expected from the utility service as compared to the risk involved.

38-6-26 Construction Methods and Materials.

a) Standards and Requirements for Particular Types of Construction Methods.

1) Boring or Jacking.

- i) Pits and Shoring. Boring or jacking under rights-of-way shall be accomplished from pits located at a minimum distance specified by the Village Superintendent from the edge of the pavement. Pits for boring or jacking shall be excavated no more than 48 hours in advance of boring or jacking operations and backfilled within 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.
- ii) Wet Boring or Jetting. Wet boring or jetting shall not be permitted under the roadway.
 - iii) Borings with Diameters Greater Than 6 Inches. Borings over six inches (0.15) 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 (25mm).
 - iv) Borings with Diameter 6 Inches or Less. Borings of six inches or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
 - v) 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."
- i) Length. The length of open trench shall be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Village Superintendent.
 - ii) 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.
 - iii) The utility shall not trench within the drip line of any tree designated by the Village to be preserved.
- 3) Backfilling.
- i) Any pit, trench, or excavation created during the installation of facilities shall be backfilled for its fill width, depth, and length using methods and materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction." When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill shall be used.
 - ii) For a period of three years from the date construction of a facility is completed, the utility shall be responsible to remove and restore any

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

- 4) **Pavement Cuts.** 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 limitation set forth in this paragraph 4) is permitted under Section 31, the following requirements shall apply:
 - i) Any excavation under pavements shall be backfilled as soon as practicable with granular material of CA-6 or CA-b gradation, as designated by the Village Superintendent.
 - ii) 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.
 - iii) All saw cuts shall be full depth.
 - iv) 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.**
 - i) 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.
 - ii) 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.
 - iii) 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.
 - iv) In the case of gas pipelines of 60 psig or less, encasement may be

- eliminated.
- v) In the case of gas pipelines or petroleum products pipelines with installations of more than 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;
 - vi) If encasement is eliminated for a gas or petroleum products pipeline, the facility shall be located so as to provide that construction does not disrupt the right-of-way.
- 6) Minimum cover of Underground Facilities. Cover shall be provided and maintained at least in the amount specified in the following table for minimum cover for the pipe of facility:

TYPE OF FACILITY	MINIMUM COVER
Power or Communication Line (In General)	30 Inches (0.8 m)
Communication Line Installed by the Plowed Method	24 Inches (0.6 m)
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.
 - i) 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.
 - ii) Overhead Facilities. Overhead power or communication facilities shall use single pole construction and, where practicable, joint use of poles shall be used. Utilities shall make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.
 - iii) 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.

- 2) **Underground Facilities Other than Electric Power or Communication Lines.** Underground facilities other than electric power or communication lines may be installed by:
 - i) the use of "moles," "whip augers," or other approved methods which compress the earth to move the opening for the pipe;
 - ii) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
 - iii) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
 - iv) tunneling with vented encasement, but only if installation is not possible by other means.
- 3) **Gas Transmission Distribution and Service.** Gas pipelines within rights-of-way shall be constructed, maintained, and operated in a Village approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 - Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR 192), IDOT's "Standard Specifications for Road and Bridge Construction," and all other applicable laws, rules, and regulations.
- 4) **Petroleum Products Pipelines.** Petroleum products pipelines within rights-of-way shall conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
- 5) **Waterlines Sanitary, Sewer Lines, Storm Water, Sewer Lines or Drainage Lines.** Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way shall meet or exceed the recommendations of the current "Standard Specifications for Water and Sewer Main Construction in Illinois."
- 6) **Ground Mounted Appurtenances.** Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, shall be provided with a vegetation-free area extending one 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 Village Superintendent. With the

approval of the Superintendent, 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," 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.
- 3) **Hazardous Materials.** The plans submitted by the utility to the Village shall identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.

d) **Operational Restrictions.**

- 1) Construction operations on rights-of-way may, at the discretion of the Village, be required to be discontinued when such operations would create hazards to traffic or the public health, safety, and welfare. Such operations may also be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.
- 2) These restrictions may be waived by the Superintendent when emergency work is required to restore vital utility services.

e) **Location of Existing Facilities.** Any utility proposing to construct facilities in the Village shall contact J.U.L.I.E. and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The Village will make its permit records available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the Village or by J.U.L.I.E., a utility shall locate and physically mark its underground facilities within 48 hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

38-6-27 Vegetation Control.

a) **Tree Trimming Permit Required.** Tree trimming 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 Division.

- 1) **Application for Tree Trimming Permit.** Applications for tree trimming permits shall include assurance that the work will be accomplished by competent workers with supervision who are experienced in accepted tree pruning practices. Tree trimming permits shall designate an expiration date in the interest of assuring that the work will be expeditiously accomplished.
- 2) **Damage to Trees.** Poor pruning practices resulting in damaged or misshapen trees will not be tolerated and shall be grounds for cancellation of the tree trimming permit and for assessment of damages. The Village will require compensation for trees extensively damaged and for trees removed without authorization. The formula developed by the International Society of Arboriculture will be used as a basis for determining the compensation for damaged trees or unauthorized removal of trees. The Village may require the removal and replacement of trees if trimming or radical pruning would leave them in an unacceptable condition.
- b) **Specimen Trees or Trees of Special Significance.** The Village may require that special measures be taken to preserve specimen trees or trees of special significance. The required measures may consist of higher poles, side arm extensions, covered wire or other means.
- c) **Chemical Use.** 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 Village Superintendent that such spraying is the only practicable method of vegetation control.

38-6-28 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 Division; or
- 4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

c) **Emergency Removal or Relocation of Facilities.** The Village retains the right and privilege to cut or move any facilities located within the rights-of-way of the Village, as the Village may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the municipality shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

d) **Abandonment of Facilities.** Upon abandonment of a facility within the 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 Village Superintendent determines that such removal will be in the best interest of the public health, safety and welfare. In the event that the Village does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the Village, the abandoning utility shall be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

38-6-29 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 Village Superintendent. 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.

38-6-30 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 non-compliance 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 Village Superintendent 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.
- 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 48 hours after an emergency repair.

38-6-31 Variances.

a) **Request for Variance.** A utility requesting a variance from one or more of the provisions of this Division must do so in writing to the Village Superintendent as a part of the permit application. The request shall identify each provision of this Division from which a variance is requested and the reasons why a variance should be granted.

b) **Authority to Grant Variances.** The Village Superintendent shall decide whether a variance is authorized for each provision of this Division identified in the variance request on an individual basis.

c) **Conditions for Granting of Variance.** The Village Superintendent 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 Village Superintendent may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Division but which carry out the purposes of this Division.

38-6-32 Penalties.

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Division shall be subject to a fine of no more than \$750.00 and no less than \$500.00. 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 Division. 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 an utility who does not pay the costs apportioned to it.

ARTICLE VII – GARBAGE COLLECTION & DISPOSAL

38-7-1 **COLLECTION.** The Village or an agent of the Village shall collect and dispose of all residential garbage and refuse from single-family dwellings. No person, firm, or corporation shall engage in the business of collecting garbage and refuse or be permitted to haul, convey or transport over and upon the streets of the Village any garbage and refuse unless they are an authorized agent of the Village. The collection shall be made by the Village or its agent at least once each week, provided that the material is properly stored for collection in a container complying with the provisions of this Ordinance.

38-7-2 A. **NORMAL SERVICE CHARGE.** A monthly service charge of **\$17.00 per month** for each single-family dwelling and duplex unit shall be paid to the Village monthly for the collection of residential garbage and refuse.

 B. **BULK and APPLIANCES.** One item per week of bulky waste, defined as furniture and other similar items, and materials other than construction debris, large dead animals, hazardous waste and stable matter with weights or volumes greater than those allowed for the carts provided to residents, shall be included in the monthly garbage and refuse collection service charge, provided Village residents schedule said item with the Village provider's customer service prior to pickup. Additionally weekly bulk items, and all appliances are not included in the Village garbage and refuse collection; said items may be included in resident's garbage collection for an additional fee to be scheduled and agreed to by the Village service provider.

38-7-3 **BILLING.** Bills for the collection of garbage and refuse shall be sent out monthly.

38-7-4 **FAILURE TO PAY SERVICE CHARGE.** When any person, firm or corporation fails to pay the service charge for the removal of garbage and refuse, the Village Clerk shall notify such person, firm or corporation of this fact and the Village may refuse further collection from such person, firm or corporation until the required fee has been paid, or use any other remedy available, including, but not limited to, a small claims action.

38-7-5 **VIOLATION/PENALTY.** Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with the provisions of this chapter shall be

Revised Code

38-8-2 PROGRAM ADMINISTRATOR. The Identity Theft Prevention Program shall be implemented and administered by the Village Clerk as the Program Administrator.

38-8-3 AUTHORITY TO MAKE CHANGES. Changes to the Identity Theft Prevention Program of a day-to-day operational character and decisions relating to the interpretation and implementation of the Program may be made by the Program Administrator, however, major changes or shifts of policy positions under the Program shall only be made by the Village Board of Trustees.

**IDENTITY THEFT PREVENTION PROGRAM
VILLAGE OF GERMANTOWN**

APPROVED NOVEMBER 18, 2008

VILLAGE CLERK, PROGRAM ADMINISTRATOR

Purpose

The purpose of this Identity Theft Prevention Program (Program) is to protect customers of the Village's utility services from identity theft. The Program is intended to establish reasonable policies and procedures to facilitate the detection, prevention and mitigation of identity theft in connection with the opening of new Covered Accounts and activity on existing Covered Accounts.

Scope

This Program applies to the creation, modification and access to Identifying Information of a customer of one or more of the utilities operated by the Village (water and sewer) by any and all personnel of the Village, including management personnel. This Program does not replace or repeal any previously existing policies or programs addressing some or all of the activities that are the subject of this Program, but rather it is intended to supplement any such existing policies and programs.

Definitions

When used in this Program, the following terms have the meanings set forth opposite their name, unless the context clearly requires that the term be given a different meaning:

Covered Account: The term "covered account" means an account that the Village offers or maintains, primarily for personal, family or household purposes, that involves or is designed to permit multiple payments of transactions. (16 CFR 681.2(b)(3)(i)). A utility account is a "covered account". The term "covered account" also includes other accounts offered or maintained by the Village for which there is a reasonably foreseeable risk to customers the Village or its customers from identity theft. (16 CFR 681.2(b)(3)(ii)).

Identity Theft: The term "identity theft" means a fraud committed or attempted using the identifying information of another person without authority. (16 CFR §681.2(b)(8) and 16 CFR §603.2(a)).

Identifying Information: The term "identifying information" means any name or

number that may be used, alone or in conjunction with any other information, to identify a specific person, including any name, social security number, date of birth, official State or government issued driver's license or identification number, alien registration number, government passport number, employer or taxpayer identification number. Additional examples of "identifying information" are set forth in 16 CFR §603.2(a).

Red Flag: The term "Red Flag" means a pattern, practice or specific activity that indicates the possible existence of identity theft.

Certain terms used but not otherwise defined herein shall have the meanings given to them in the FTC's Identity Theft Rules (16 CFR Part 681) or the Fair Credit Reporting Act of 1970 (15 U.S.C. §1681 *et seq.*), as amended by the Fair and Accurate Credit Transactions Act of 2003 into law on December 4, 2003. (Public Law 108-159).

Administration of the Program

The initial adoption and approval of the Identity Theft Prevention Program shall be by Ordinance of the Village Board of Trustees. Thereafter, changes to the Program of a day-to-day operational character and decisions relating to the interpretation and implementation of the Program may be made by the Village Clerk (Program Administrator). Major changes or shifts of policy positions under the Program shall only be made by the Village Board of Trustees.

Development, implementation, administration and oversight of the Program will be the responsibility of the Program Administrator. The Program Administrator will report at least annually to the Village Board of Trustees regarding the compliance with this Program.

Issues to be addressed in the annual Identity Theft Prevention Report include:

1. The effectiveness of the policies and procedures in addressing the risk of Identity Theft in connection with the opening of new Covered Account and activity with respect to existing Covered Accounts.
2. Service provider arrangements.
3. Significant incidents involving Identity Theft and management's response.
4. Recommendations for material changes to the Program, if needed for improvement.

Information and Documentation Required for Walk-in

1. Driver's License or government issued picture I.D.
2. Second form of identification, such as credit card.
3. New service address
4. New service telephone number.
5. Most recent previous address.
6. Signature on application.

Identity Theft Prevention Elements

Identification of Relevant Red Flags

The Village has considered the guidelines and the illustrative examples of possible Red Flags from the FTC's Identity Theft Rules and has reviewed the Village's past history with instances of identity theft, if any. The Village hereby determines that the following are the relevant Red Flags for purposes of this Program given the relative size of the Village and the limited nature and scope of the services that the Village provides to its citizens:

- A. Alerts, notifications, or other warnings received from consumer report or service providers.
 1. A fraud or active duty alert is included with a consumer report or an identity verification response from a credit reporting agency.
 2. A consumer reporting agency provides a notice of credit freeze in response to a request from a consumer report.
 3. A consumer reporting agency provides a notice of address discrepancy, as defined in §681.1(b) of the FTC's Identity Theft Rules.
 4. A consumer report indicates a pattern of activity that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
 - a) A recent and significant increase in the volume of inquiries;
 - b) An unusual number of recently established credit relationships;
 - c) A material change in the use of credit, especially with respect to recently established credit relationships; or
 - d) An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

B. The presentation of suspicious documents.

5. Documents provided for identification appear to have been altered or forged.
6. The photograph or physical description on the identification is not consistent with the appearance of the applicant or customer presenting the identification.
7. Other information on the identification is not consistent with information provided by the person opening a new covered account or customer presenting the identification.
8. Other information on the identification is not consistent with readily accessible information that is on file with the Village, such as a signature card or a recent check.
9. An application appears to have been altered or forged, or gives the appearance of having been destroyed and reassembled.

C. The presentation of suspicious personal identifying information, such as a suspicious address change.

10. Personal identifying information provided is inconsistent when compared against external information sources used by the Village. For example:
 - a) The address does not match any address in the consumer report or CRA ID Check response; or
 - b) The Social Security Number (SSN) has not been issued, or is listed on the Social Security Administration's Death Master File.
11. Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer. For example, there is a lack of correlation between the SSN range and date of birth.
12. Personal identifying information provided is associated with known fraudulent activity as indicated by internal or third-party sources used by the Village. For example:
 - a) The address on an application is the same as the address provided on a fraudulent application; or
 - b) The phone number on an application is the same as the number provided on a fraudulent application.
13. Personal identifying information provided is of a type commonly associated with fraudulent activity as indicated by internal or third-party sources used by the Village. For example:

- a) The billing address on an application is fictitious, a mail drop, or prison; or
 - b) The phone number is invalid, or is associated with a pager or answering service.
- 14. The SSN provided is the same as that submitted by other persons opening an account or other customers.
 - 15. The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of other persons opening accounts or other customers.
 - 16. The person opening the covered account or the customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete.
 - 17. Personal identifying information provided is not consistent with personal identifying information that is on file with the Village.
 - 18. If the Village uses challenge questions, the person opening the covered account or the customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report.
- D. The unusual use of, or other suspicious activity related to, a Covered Account.
- 19. Shortly following the notice of a change in address for a covered account, the Village receives a request for the addition of authorized users on the account.
 - 20. A new utility account is used in a manner commonly associated with known patterns of fraud. For example: the customer fails to make the first payment or makes an initial payment but no subsequent payments.
 - 21. A covered account with a stable history shows irregularities.
 - 22. A covered account that has been inactive for a reasonably lengthy period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).
 - 23. Mail sent to the customer is returned repeatedly as undeliverable although usage of utility products or services continues in connection with the customer's covered account.
 - 24. The Village is notified that the customer is not receiving paper account statements.

25. The Village is notified of unauthorized usage of utility products or services in connection with a customer's covered account.

E. Notice of Possible Identity Theft.

26. The Village is notified by a customer, a victim of identity theft, a law enforcement authority, or any other person that it has opened a fraudulent account for a person engaged in identity theft.

Detection of Red Flags

The employees of the Village that interact directly with customers on a day-to-day basis shall have the initial responsibility for monitoring the information and documentation provided by the customer and any third-party service provider in connection with the opening of new accounts and the modification of or access to existing accounts and the detection of any Red Flags that might arise. The Village shall see to it that all employees who might be called upon to assist a customer with the opening of a new account or with modifying or otherwise accessing an existing account are properly trained such that they have a working familiarity with the relevant Red Flags identified in this Program so as to be able to recognize any Red Flags that might surface in connection with the transaction. An employee who is not sufficiently trained to recognize the Red Flags identified in this Program shall not open a new account for any customer, modify any existing account or otherwise provide any customer with access to information in an existing account without the direct supervision and specific approval of a management employee. Management employees shall be properly trained such that they can recognize the relevant Red Flags identified in this Program and exercise sound judgment in connection with the response to any unresolved Red Flags that may present themselves in connection with the opening of a new account or with modifying or accessing of an existing account. Management employees shall be responsible for making the final decision on any such unresolved Red Flags.

The Program Administrator shall establish from time to time a written policy setting forth the manner in which a prospective new customer may apply for service, the information and documentation to be provided by the prospective customer in connection with an application for a new utility service account, the steps to be taken by the employee assisting the customer with the application in verifying the customer's identity and the manner in which the information and documentation provided by the customer and any third-party service provider shall be maintained. Such policy shall be generally consistent with the spirit of the Customer Identification Program rules (31 CFR 103.121) implementing Section 326(a) of the USA Patriot Act

but need not be as detailed. The Program Administrator shall establish from time to time a written policy setting forth the manner in which customers with existing accounts shall establish their identity before being allowed to make modifications to or otherwise gain access to existing accounts.

Response to Detected Red Flags

If the responsible employees of the Village as set forth in the previous section are unable, after making a good faith effort, to form a reasonable belief that they know the true identity of a customer attempting to open a new account or modify or otherwise access an existing account based on the information and documentation provided by the customer and any third-party service provider, the Village shall not open the new account or modify or otherwise provide access to the existing account as the case may be. Discrimination in respect to the opening of new accounts or the modification or access to existing accounts will not be tolerated by employees of the Village and may be grounds for immediate dismissal.

The Program Administrator shall establish from time to time a written policy setting forth the steps to be taken in the event of any unresolved Red Flag situation. Consideration should be given to aggravating factors that may heighten the risk of Identity Theft, such as a data security incident that results in unauthorized access to a customer's account, or a notice that a customer has provided account information to a fraudulent individual or website. Appropriate response to prevent or mitigate Identity Theft when a Red Flag is detected include:

1. Monitoring a Covered Account for evidence of Identity Theft.
2. Contacting the customer.
3. Changing any passwords, security codes, or other security devices that permit access to a Covered Account.
4. Reopening a Covered Account with a new account number.
5. Not opening a new Covered Account.
6. Closing an existing Covered Account.
7. Not attempting to collect on a Covered Account or not selling a Covered Account to a debt collector.
8. Notifying law enforcement.
9. Determining that no response is warranted under the particular circumstances.

Program Management and Accountability

Initial Risk Assessment – Covered Accounts

Utility accounts for personal, family and household purposes are specifically included within the definition of "covered account" in the FTC's Identity Theft Rules. Therefore, the Village determines that with respect to its residential utility accounts it offers and/or maintains covered accounts. The Village also performed an initial risk assessment to determine whether the utility offers or maintains any other accounts for which there are reasonably foreseeable risks to customers or the utility from identity theft. In making this determination the Village considered (1) the methods it uses to open its accounts, (2) the methods it uses to access its accounts, and (3) its previous experience with identity theft, and it concluded that it does not offer or maintain any such other covered accounts.

Program Updates – Risk Assessment

The Program, including relevant Red Flags, is to be updated as often as necessary but at least annually to reflect changes in risks to customers from Identity Theft. Factors to consider in the Program update include:

1. An assessment of the risk factors identified above.
2. Any identified Red Flag weaknesses in associated account systems or procedures.
3. Changes in methods of Identity Theft.
4. Changes in methods to detect, prevent, and mitigate Identity Theft.
5. Changes in business arrangements, including mergers, acquisitions, alliances, joint ventures, and service provider arrangements.

Training and Oversight

All staff and third-party service providers performing any activity in connection with one or more Covered Accounts are to be provided appropriate training and receive effective oversight to ensure that the activity is conducted in accordance with policies and procedures designed to detect, prevent, and mitigate the risk of Identity Theft.

Other Legal Requirements

Awareness of the following related legal requirements should be maintained:

- 31 U.S.C. 5318(g) – Reporting of Suspicious Activities
- 15 U.S.C. 1681 c-1 (h) – Identity Theft Prevention; Fraud Alerts and Active Duty Alerts – Limitations on Use of Information for Credit Extensions
- 15 U.S.C. 1681 s-2 – Responsibilities of Furnishers of Information to Consumer Reporting Agencies
- 15 U.S.C. 1681 m – Requirements on Use of Consumer Reports