



Municipal Code Book
Updated October 1, 2022

ORDINANCE NO. 54-85

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES OF THE VILLAGE OF MACHESNEY PARK, ILLINOIS; ESTABLISHING THE SAME; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED THEREIN, EXCEPT AS HEREIN EXPRESSLY PROVIDED; PROVIDING FOR THE MANNER OF AMENDING SUCH CODE OF ORDINANCES AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MACHESNEY PARK, ILLINOIS, that

Section 1. That this ordinance consisting of Chapter 1 through 31, including Appendixes A, B, and C, inclusive, is hereby adopted and enacted as the "Village of Machesney Park Municipal Code, " shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other general and permanent ordinances passed by the Village Board on or before June 1, 1985 except such as by reference thereto are expressly saved from repeal or continued in force and effect for any purpose.

Section 2. That all provisions of such Code shall be in full force and effect from and after August 1, 1985, and all ordinances of general and permanent nature of the Village of Machesney Park, enacted on final passage on or before June 1, 1985, and not in such Code or recognized and continued in force by reference therein are hereby repealed from and after the effective date of such Code, except as hereinafter provided.

Section 3. That the repeal provided for in Section 2 hereof shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Code; nor shall such repeal affect any of the following:

(a) Any ordinance or resolution promising or guaranteeing the payment of money for the Village, or any evidence of the Village's indebtedness, or any contract or obligations assumed by the Village;

(b) Any administrative ordinances or resolutions of the Village Board not in conflict or inconsistent with the provisions of such Code;

(c) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the Village;

- (e) Any appropriation ordinances;
- (f) Any ordinance levying or imposing taxes;
- (g) Any zoning ordinance or any amendment thereto;
- (h) Any ordinance establishing or prescribing grades in the Village;
- (i) Any ordinance dedicating or accepting any plat or subdivision in the Village;
- (k) Any ordinance extending or contracting the boundaries of the Village;
- (l) Any ordinance prescribing the number, classification or compensation of any Village officers or employees not inconsistent herewith;
- (m) Any ordinance establishing the boundaries of any wards in the Village;
- (n) Any ordinance regulating or restricting traffic or parking on particular streets or in particular places;
- (o) Such repeal shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

Section 4. Then any and all additions or amendments to such Code, when passed in such form as to indicate the intention of the Village Board to make the same a part thereof, shall be deemed to be incorporated in such Code so that reference to the "Village of Machesney Park Municipal Code" shall be understood and intended to include such additions and amendments.

Section 5. That a copy of such code shall be kept on file in the office of the Village Clerk, preserved in looseleaf form. It shall be the express duty of the Village Clerk or someone authorized by her, to insert in their designated places all amendments or ordinances which indicate the intention of the Village Board to make the same a part of such Code when the same have been printed or reprinted in page form, and to extract from such code all provisions which may from time to time to be repealed by the Village Board. This copy of such Code shall be available for all persons desiring to examine the same and shall be considered the official Code of Ordinances of Machesney Park, Illinois.

Section 6. Whenever in said Code or in any ordinance of the Village of any act is prohibited or is made or declared to

be unlawful or a misdemeanor, or whenever in such Code or ordinance the doing of any act is required or the failure to any act is declared to be unlawful or a misdemeanor, where no specific penalty is provided therefore, the violation of any such provision of this Code or any ordinance shall be punished by a fine or not more than five hundred dollars (\$500). Each day any violation of any provisions of this Code or of any ordinance shall continue shall constitute a separate offense.

The person upon whom any fine or penalty is imposed upon order of the court before which the conviction is had, may be imprisoned until the fine, penalty and costs are paid. No imprisonment, however, shall exceed six (6) months for any one offense.

Section 7. That in case of the amendment of any section of such Code for which a penalty is not provided, the general penalty as provided in Section 6 of this ordinance shall apply to the section as amended or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 8. That it shall be unlawful for any person, firm or corporation in the Village to change or amend by additions or deletions, any part or portion of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the Village of Machesney Park to be misrepresented thereby. Any person, firm or corporation violating this section shall be punished as provided in Section 6 of this ordinance.

Section 9. That all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 10. That this ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law. This ordinance shall be published in pamphlet form

APPROVED:
FRANK G. BAUER

PRESIDENT

ATTEST:
GLADYS NELSON

VILLAGE CLERK

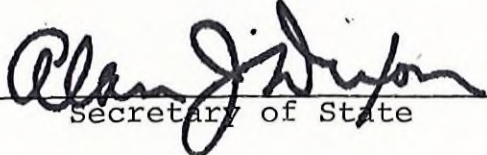
PASSED: June 25, 1985
APPROVED: June 28, 1985
PUBLISHED: June 28, 1985

TO WHOM IT MAY CONCERN:

I, ALAN J. DIXON, Secretary of State of the State of Illinois, in accordance with the provisions of Section 2-1-7 of the "Illinois Municipal Code" as amended, do hereby certify that the name of Machesney Park, a Village in the County of Winnebago, was filed in this office May 7, 1980, for the purpose of incorporating as a municipality.

That the records on file in the office of the Secretary of State, fail to indicate that the proposed name of Machesney Park has been adopted by any incorporated municipality and is, therefore, available.

IN TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Great Seal of the State of Illinois, this the 7th day of May, 1980.


Secretary of State



January 2022
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THE MUNICIPAL CODE OF MACHESNEY PARK OF 1981

Article I. CHAPTER 1. THE VILLAGE PRESIDENT/MAYOR

ARTICLE 1. GENERAL PROVISIONS

1.101. ELECTION AND TERM OF OFFICE. The Village President shall be elected to a term of four years, and he/she shall be the President of the Board of Trustees as is provided by statute. (Ord. 75-84 – 11/13/84; Amd. Ord. 102-88 – 9/27/88; Amd. Ord. 12-12 – 04-02-12).

1.102. DUTIES.

A. *Generally.* The Village President shall perform all of the duties which are prescribed by law and municipal ordinance and is required to see that such laws and ordinances are faithfully executed. Except as otherwise provided herein, the Village President shall preside over the meetings of the Village Board.

The Village President shall have the power and authority to inspect all books and records pertaining to the affairs of the Village at any reasonable times. The Village President shall provide primary leadership in the following areas: determination of Village policy and direction; act as a link between the Village Board of Trustees and the Village Administration for communication of Board-driven initiatives and concerns; ensure that the Trustees have all necessary information and tools to adequately make informed decisions to serve their constituents.

B. *Appointments.* Except as otherwise provided for in this Code or by State Statute, the Village President shall appoint, with the advice and consent of the Board of Trustees, such other officers, standing committees, special committees, commissions, and boards as prescribed by law and municipal ordinances that may be necessary for the health, welfare and safety of the Village.

The Village President, as a member of the corporate authorities, shall have advice and consent authority with regards to the hiring of key staff members and key employees of the Village.

The Village President does not have the authority to unilaterally terminate an employee of the Village nor may the Village President change job classification or duties of an employee. (Amd. 06-17-2013 – Ord. 07-13)

C. *Coordination with Village Administrator.* The Village President shall meet with the Village Administrator as needed regarding the day-to-day operations of the Village; may provide input as to the affairs of the Village to the Village Administrator; and propose new projects, ventures, and initiatives with the Village Administrator to review. As a part of the corporate authorities of the Village, the Village President shall participate in performance reviews and the setting of compensation of the Village Administrator. The Village President may provide input on the performance and status of all Village personnel.

D. *Project Discussions.* The Village President shall have the authority to conduct, when necessary, preliminary discussions with third parties on Village matters and projects. The Village President shall report on such discussions to the Board of Trustees and the Village Administrator as soon as practical following such discussions so that staff may be mobilized to follow up on any opportunities.

E. *Reports to President.* The Village President may require the Village Administrator to provide the President with a log on a regular basis, of all citizen requests for service that come in to the Village staff. Further, the President, at his/her discretion, may request to receive copies of all reports and memoranda prepared by staff regarding the activities and projects that are ongoing within each department. These documents shall include, but not be limited to, staff recommendations to the Planning and Zoning Commission and memoranda or reports submitted to the standing committees and/or the Village Administrator. The purpose of providing this information to the Village President is to keep the Village President as informed as possible on all activities which are occurring within, and relate to, the Village and Village business. (A & F Committee deferred the language changes in this section to the Administration. The changes reflected above were developed and approved together with the Mayor and the Village Administrator)

F. *Local and Regional Duties.* The Village President shall act for and on behalf of the Village on formal occasions and receptions and otherwise serve as the representative of the Village to the community and the region; in his/her absence or inability to attend any function, the Village President may designate the Village Administrator or any other Village staff or elected official to so act. The Village President shall promote Village programs and initiatives to the residents, merchants and outside agencies to further the goals of the Village. Additionally, the Village President shall provide guidance for, and remediation of, unresolved issues within the community and at the Village Board level. Finally, he/she shall act as an advocate of the Village residents at the local, regional and state levels.

1.103. BOND-OATH-SALARY. Before entering upon the duties of his/her office, the President shall have a bond with sureties to be approved by the Board of Trustees

conditioned upon the faithful performance of his/her duties, in the sum of at least three thousand dollars or such higher sum as may be directed by the Board of Trustees. He/She shall take the oath of office prescribed by statute and shall receive such compensation as may be set from time to time by the Board.

1.104. PRESIDENT PRO-TEM. During a temporary absence or disability of the Village President, the Board of Trustees, as provided in State statute, shall elect one of its members to act as President Pro-tem, who during the absence or disability of the President shall perform the duties pertaining to the office. (Ord. 35-81 – 9/3/81)

1.105. HEALTH INSURANCE AND PENSION. The Village shall also pay for health insurance coverage for the Village President and dependents under its Village group policy as provided for the regular employees and the Village President shall be eligible for pension benefits also as provided for the regular employees.

1.106 SALARY. There shall be allowed and paid out of the Village Treasury of the Village of Machesney Park, Illinois, to the Village President, and annual salary pursuant to the following schedule:

Beginning May 1st, 2025 and each year thereafter, the Salary for the Village President shall be \$51,700 (Amd. Ord. 13-12 – 06/04/2012; Amd. Ord. 35-22, 08/15/22)

1.107 MILEAGE REIMBURSEMENT. The Village President shall be entitled to reimbursement for utilization of his/her personal automobile for Village business. Said reimbursement for expenses for the use of his/her private automobile shall be reimbursed at the current rate allowed by the Internal Revenue Service Code per actual miles traveled in the conduct of Village business. In addition, a Village vehicle will be available for use by the Village President for Village business only and not for personal use. (Ord. 102-88 - 9/27/88; Amd. Ord. 52-92 - 10/19/92; Amd. Ord. 38-96 - 7/8/96; Amd. Ord. 29-00 - 9/25/2000; (Amd. Ord. 33-04 – 10/12/2004); (Amd. Ord. 51-09 – 3/1/2010; Amd. Ord. 12-12 – 04-02-2012)

CHAPTER 2. BOARD OF TRUSTEES

ARTICLE I. GENERAL PROVISIONS

2.101. ELECTION - FUNCTIONS. The Board of Trustees, consisting of six members, shall be elected to office for a four-year term as is provided by statute. This Board shall be the legislative department of the Village government and shall perform such duties and have such powers as may be delegated to it by statute. (Amd. Ord. 18-90 - 3/27/90)

2.102 OATH-SALARY. The members of the Board of Trustees shall take the oath of office prescribed by statute and shall receive such compensation as may be from time to time provided by ordinance.

A. The compensation for the Village Board Trustees shall be as follows:

- (i) Commencing May 1st, 2023, and thereafter, the compensation for each Trustee in Districts 2, 5, and 6 shall be \$8,500 annually
- (ii) Commencing May 1st, 2025, and thereafter, the compensation for each Trustee in Districts 1, 3, and 4 shall be \$8,500 annually. (Amd. Ord. 35-22, 08/15/22)

Pay periods are to coincide with the regular payroll, through each Trustee's term of office.

B. Each Trustee shall receive reimbursable expenses and insurance as determined by resolution by the Board of Trustees. (Ord. 55-82 - 12/14/82; Amd. Ord. 48-87 - 6/23/87; Amd. Ord. 105-88 - 9/27/88; Amd. Ord. 18-90 - 3/27/90; Amd. Ord. 34-92 - 9/8/92; Amd. Ord. 50-92 - 11/23/92; Amd. Ord. 30-00 - 9/25/2000; Amd. Ord. 36-04 - 10/12/2004)

C. Each Trustee shall be allowed a maximum of three (3) paid regularly-scheduled Board meeting absences per fiscal year commencing May 1st, 2025. For every absence beyond three (3) absences, a Trustee's compensation shall be reduced by \$175. (Ord. 55-82 - 12/14/82; Amd. Ord. 10-90 - 2/6/90; Amd. Ord. 18-90 - 3/27/90; Amd. Ord. 75-90 - 9/10/90; Amd. Ord. 34-92 - 9/8/92; Amd. Ord. 35-22, 08/15/22)

D. A Trustee who cannot attend a regularly-scheduled meeting of the Village President and the Board of Trustees has a duty to notify the Village Clerk of their pending absence by phone, e-mail, or in-person, at least 24 hours prior to the meeting, where practical. The Village Clerk shall immediately notify the Village President and the Village Administrator of the absence. (Amd. Ord. 35-22, 08/15/22)

2.103. MEETINGS. The regular meeting of the Board of Trustees shall be held on the first and third Mondays of each month beginning at 6:00 P. M. and no notices of such regular meeting shall be required. The Administration and Finance Committee shall meet immediately prior to the regular meetings of the Board of Trustees at 5:45 P.M. or such earlier time as is required, based on the agenda items, issues or materials to be addressed at said meeting.

The meeting place of said Board shall be at the Village Hall, unless otherwise ordered by the Board. If a regular meeting falls upon a legal holiday, then such meeting shall be the next day occurring. Legal holidays are defined as New Year's Day, Martin Luther King Jr.'s Birthday, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, Christmas Day and New Year's Eve. (Amd. Ord. 127-86 - 12/23/86; Amd. Ord. 7-90 - 2/12/90; Amd. Ord. 53-05 - 12/12/05; Amd. Ord. 42-06 - 10/02/2006; Amd. Ord. 18-09 - 06/22/2009; Amd. Ord. 06-10 - 04/05/2010)

If at any regular meeting a quorum is not present, the majority present at such meeting shall set the next meeting date and provide such notice as may be required by Illinois Statute. (Amd. Ord. 42-06 - 10/02/2006)

2.104. SPECIAL MEETINGS. Special meetings may be called by the President of the Village or any three Trustees upon at least 48 (forty-eight) hours notice to all members and the President before such special meeting. The notice must also include the agenda for the special meeting. (Amd. Ord. 4-96 -2/20/96)

2.105. PRESIDENT. The Village President shall be the presiding officer of all regular and special meetings of the Board of Trustees and at all times when the Board meets as a Committee of the Whole.

2.106. COMMITTEES.

A. Standing Committees.

1. Administration and Finance: General duties include, but are not limited to, review and recommendation on matters that are substantially related to the administration and finance of the Village including, but not limited to, bills, warrants, budgets, personnel, intergovernmental agreements and any and all other matters relating to administration or expenditure of Village funds.

2. Public Improvement and Safety: General duties include review and recommendation on matters that are substantially related to public improvements, recreation and safety, including, but not limited to, public

property, such as, municipal buildings and grounds, municipal parks, municipal right-of-way, infrastructure, such as, municipal roadways, sidewalks, recreational equipment and paths, storm water and matters substantially related to public health, safety and welfare, such as, police, garbage, public works mosquito control, tree trimming, mowing contracts and any and all other related matters.

3. Planning and Economic Development: General duties include review and recommendation on matters that are substantially related to planning, zoning, subdivision and economic development including, but not limited to, community and economic development projects, revolving loan fund, grants, TIF, IHDA, as well as text amendments for Zoning code, Subdivision Code, Flood Plan development, map amendments, special use permits, variances relating to Zoning Code, Subdivision Code, Flood Plain development, tentative and final plats, vacation of plats and any and all other related matters. (Ord. 41-82 - 9/28/82 repealed; Section 2.106 Amd. by Ord. 24-83 - 6/14/83; Amd. Ord. 54-83 - 8/23/83; Amd. Ord. 74-85 - 10/8/85; Amd. Ord. 21-89 - 3/28/89; Amd. Ord. 13-07 – 05/14/07)

B. Committee Membership and Appointments.

1. Each Committee shall consist of three (3) Trustees and up to three (3) citizen members. The President shall annually appoint a Trustee to serve as Chairman of one (1) Standing Committee. The President shall annually appoint a Trustee to serve as Vice Chairman of one (1) Standing Committee. Each Trustee shall serve on a minimum of one (1) Committee as a Chairman or as a Vice Chairman. The Chairman of each Standing Committee shall recommend a third Trustee to serve as a Member of the Committee and additionally, may recommend up to three (3) citizen Members. Recommended Members shall be submitted to the President in writing. The Members of each Committee shall be appointed by the President based on recommendations from the Chairman. The President may then submit the Committee Member names to the Board of Trustees for approval. The appointment(s) shall be presented to the Village Board at any regular Village Board meeting. A vote on the confirmation of said appointment constituting the advice and consent of the Village Board shall not take place until the next duly scheduled regular meeting of the Village Board. Qualifications for these Citizen Members are as follows: a resident of the Village, a person who does business in the Village and/or a person who possesses a particular expertise valuable to the Village. Any citizen serving on a Committee who misses three (3) consecutive meetings or any five (5) out of twelve (12) meetings without prior approval may be removed from the Committee by the President.

2. The President shall be an ex-officio non-voting member of all Committees. The President may vote in the event of a tie on any matter voted upon at any Committee meeting.

3. Trustees may attend any Committee Meeting and shall be allowed to address any Committee, whether or not the Trustee is a member of that Committee.

C. Committees General.

1. The Standing Committees' advisers and their duties shall be designated by the President.

2. Committees shall consider matters consistent with the general duties outlined above. Resolutions or Ordinances relative to the general duties of the Standing Committees shall be referred to them by the President and/or Board of Trustees.

3. The Public Improvement and Safety Committee and the Planning and Economic Development Committee shall schedule monthly meetings and meet as necessary to handle matters presented to the Committee. Meeting schedules shall be published annually.

4. Special committees shall be created from time to time as determined by the President and/or Board of Trustees. Membership on a special committee shall be designated by the President with the advice and consent of the Board of Trustees. The appointment process shall be the same as designated in Section 7.102. (Amd. Ord. 40-84 - 6/26/84; Amd. Ord. 25-01 – 07/09/2001; Amd. Ord. 22-03 – 07/28/2003; Amd. Ord.13-07 – 05/14/07) (Sec. 2.106.1 added per Ord. 25-84 - 4/24/84; Sec. 2.106.1 was deleted per Ord. 13-07 – 05/14/07) (Section 2.107.1 was Amd. Ord. 23-83 - 6/28/83) Sec. 2.107.1 was deleted per Ord. 13-07 – 05/14/07)

2.107 COMMITTEE ON COMMITTEES. The Committee on Committees shall meet as necessary and consist of the three (3) Trustees who are currently serving as Chairs of the three (3) Standing Committees. If for any reason the Committee on Committees is called to meet and a vacancy occurs, such vacancy shall be filled by the appointment of one of the other Trustees, by the President with the advice and consent of the Village Board. The Committee on Committees shall select as its Chairman one of its members. The duty of the Committee on Committees shall be to recommend to the Village Board any changes in the Standing Committee structure, as set forth in Section 2.106 of this Article. Said changes may be and relate to the title of said Standing Committee and the duties

given to the Standing Committees. The vote required to confirm any of said changes shall be a simple majority of said Committee on Committees and shall constitute a recommendation to the Board of Trustees. (Sec. 2.107 - Amd. Ord. 40-84 - 6/26/84; Sec. 2.107 was deleted per Ord. 13-07 – 05/14/07 and Amd. Ord. 13-07 – 05/14/07)

2.108. ADVISORY REFERENDA. It shall be the policy of the Village Board to submit questions of public policy to the voters of the Village in special Advisory Referenda upon receipt of petition therefor, signed by not less than twenty percent of the registered voters residing in the Village.

Such Special Advisory Referenda shall be held at the next election available pursuant to the Illinois Election Code after the receipt of such petition as may be allowed by said Election Code. Notice of such an election shall be published in accordance with the Illinois Election Code or such other applicable Illinois Statute.

Such petition may be filed with the President and Board of Trustees of the Village, or with the Village Clerk.

2.109. DISTURBING MEETINGS. It shall be unlawful for any person to disturb any meeting of the Board of Trustees or of any committee thereof; any person violating the provisions of this section shall be fined not less than one dollar (\$1) nor more than ten dollars (\$10) for each offense.

2.110. PRESIDENT TO PRESIDE - DECIDING VOTE. The Village President shall preside at all meetings of the Village Board. He shall not vote on any ordinance, resolution, or motion except:

1. Where the vote of the Trustees has resulted in a tie;
2. Where one-half of the Trustees have voted in favor of an ordinance, resolution, or motion even though there is no tie vote;
3. Where more than a majority of Corporate Authorities required for a passage of such ordinance, resolution, or motion as provided by ordinance or statute.

In each of the instances specified, the Village President shall vote. Nothing in this section shall deprive an acting President or President pro-tem from voting in his capacity as a Trustee, but he shall not be entitled to another vote in his capacity as acting President or President pro-tem.

2.111. ORDINANCES - APPROVAL - VETO. All resolutions and motions: (1) which create any liability against the Village, or (2) which provide for the expenditure or

appropriation of its money, or (3) which sell any Village property, and all ordinances passed by the Village Board shall be deposited with the Village Clerk. If the President approves of them he shall sign them. Those of which he disapproves, he shall return to the Village Board, with his written objections, at the next regular meeting of the Village Board occurring not less than five days after their passage. The Village President may disapprove of any one or more sums appropriated in any ordinance, resolution, or motion making an appropriation, and if so, the remainder shall be effective. However, the Village President may disapprove entirely of an ordinance, resolution, or motion making an appropriation. If the Village President fails to return any ordinance or any specified resolution or motion with his written objections within the designated time, it shall become effective despite the absence of his signature.

2.112. RECONSIDERATION - PASSING OVER VETO. Every resolution and motion specified in the preceding section, and every ordinance, which is returned to the Village Board by the Village President after veto shall be reconsidered by the Board of Trustees at the next regular meeting as provided by statute. If after such reconsideration two-thirds of all the Trustees then holding office shall agree to pass an ordinance, resolution, or motion notwithstanding the President's refusal to approve it, then it shall be effective. The vote on the question of passage over the President's veto shall be by Ayes and Nays, and shall be recorded in the Journal of Proceedings. (Ord. 35-81 - 9/3/81)

ARTICLE II. RULES OF ORDER

2.201. ORDER OF BUSINESS. The order of business to be observed at all meetings of the Village Board shall be as follows:

1. Invocation
2. Pledge of Allegiance
3. Roll Call
4. Approval of Minutes
5. Treasurer's Report
6. Communications
7. Warrants
8. Administrative Reports
9. Committee and Trustee Reports
10. Consent Agenda
11. Unfinished Business
12. New Business
13. Public Comment
14. Closed Session
15. Adjournment

(Amd. Ord. 25-82 - 6/9/82; Amd. Ord. 3-95 - 2/13/95; Amd. Ord. 57-02 - 12/09/2002; Amd. Ord. 16-07 - 08/20/07; Amd. Ord. 38-13 - 09/03/2013)

2.202. RESCINDED ACTION. No vote or action of the Board of Trustees shall be rescinded at any special meeting of the Board of Trustees unless there be present at such special meeting as many members of the Board of Trustees as were present at the meeting when such vote or action was taken, as provided by statute.

2.203. RESOLUTIONS. Any resolutions submitted to the Board of Trustees shall be reduced to writing before being voted upon, on request of any two members of the Board.

2.204. ADDRESSING MEETINGS. A person wishing to speak before the Board of Trustees at a scheduled meeting regarding an agenda item shall submit a written request which outlines the specific details of their address. Such request must be submitted to the Village Clerk prior to a scheduled Board meeting. The Village Board of Trustees reserves the right to restrict the time allotted to a person or persons wishing to speak. Except as provided above, no person other than the President or member of the Board of Trustees shall address that body at any regular or special meeting, except upon consent of a majority of members of the Board of Trustees present at the meeting.

Rules and Procedures for Public Comment at Open Meetings: A public comment period shall be held during every open meeting of the Village Board and all Village committees/commissions/boards. Except upon motion approved by a majority of the Village Board or Village committees/commissions/boards, the public comment period shall not exceed three (3) minutes per speaker. The right to public comment does not apply to closed meetings/executive sessions.

Public comments must be directed by speakers to the Village Board or Village committees/commissions/boards as a whole, and not to an individual member of the Village Board or Village committees/commissions/boards or to Village staff. The public comment period is not intended to require members of the Village Board or Village committees/commissions/boards or Village staff to provide responses to speakers. Discussions between speakers and members of the audience shall not be permitted.

After an individual speaker has made their public comments, or their allotted time for public comment has expired, they shall be seated with no further debate, dialogue or comment. During the presentation of items for consideration at committee/commission, the chair has the latitude to permit more in-depth discussion amongst the petitioner/audience and the committee/staff. (Amd. Ord. 15-16 – 03/21/2016)

All comments must be civil and respectful in nature. Any speaker who makes defamatory, obscene, discriminatory, threatening or abusive comments, or who engages in threatening, abusive or disorderly behavior when addressing the Village Board or Village committees/commissions/boards may be deemed out-of-order by the presiding officer, and the speaker's opportunity for public comment at that meeting may

be terminated.

(Amd. Ord. 4-82 - 2/9/82; Amd. Ord. 5-94 - 1/18/94; Amd. Ord. 50-96 - 9/16/96)

2.205. PROCEDURE FOR PASSING ORDINANCES. Each ordinance to be passed shall be introduced at a regular, adjourned, or special meeting of the Board of Trustees. At that time if a majority of the Trustees present vote to accept the ordinance as to its first reading, the ordinance will be held over until the next regular, special or adjourned meeting. At such subsequent meeting or at any subsequent meeting, said ordinance may be passed as to its final passage. Provided, however, that by a vote of a majority of the corporate authorities then holding office, any ordinance may be passed at its first reading without following the procedure set forth in this section.

2.206. SUSPENSION OF RULES. The rules of order, other than those prescribed by statute, may be suspended at any time by the consent of a majority of the members present at any meeting.

2.207. ROBERT'S RULES OF ORDER. Robert's Rules of Order shall govern the deliberation of the Board of Trustees except when in conflict with any of the foregoing rules. (Ord. 35-81 -9/3/81)

2.208. Agenda Preparation. The Village Administrator directs the preparation of agendas for Village Board of Trustees meetings and Village Committee meetings. If at least two members of the Corporate Authorities request an item be considered for discussion, then the item shall be included on the next regularly scheduled meeting agenda for the applicable committee meeting. (Amd. 43-20; 11/16/2020)

CHAPTER 3. THE VILLAGE CLERK

ARTICLE 1. GENERAL PROVISIONS

3.101. ELECTION - TERM. The Village Clerk shall be elected and serve for a four year term and until his successor is elected and qualified as is provided by statute.

3.101.1 SALARY. There shall be allowed and paid out of the Village treasury of the Village of Machesney Park, Illinois, to the Village Clerk an annual salary, pursuant to the following schedule:

Beginning May 1, 2013, and each year thereafter \$42,000.

The Village shall also pay for medical and health insurance coverage for the Village Clerk and dependents under the Village group policy, as provided for regular employees, and the Village Clerk shall be eligible for pension benefits also as provided for the regular employees.

3.101.2 ADDITIONAL COMPENSATION. The Village Clerk shall be entitled to additional compensation upon presentation of documentation to the Corporate Authorities of satisfactory completion of levels of certification from Municipal Clerks of Illinois and International Institute of Municipal Clerks as follows:

a. Upon the elected Village Clerk's receipt of the certification resulting in the designation of Registered Municipal Clerk (RMC) obtained from Municipal Clerks of Illinois, the Village Clerk shall be entitled to additional annual compensation in the amount of \$3,000.

b. Upon the elected Village Clerk's receipt of the certification resulting in the designation of Certified Municipal Clerk (CMC) obtained from International Institute of Municipal Clerks, the Village Clerk shall be entitled to additional annual compensation in the amount of \$6,000.

c. Upon the elected Village Clerk's receipt of the certification resulting in the designation of Master Municipal Clerk (MMC) obtained from International Institute of Municipal Clerks, the Village Clerk shall be entitled to additional annual compensation in the amount of \$9,000.

This salary shall be for a full-time Village Clerk.

The salary as set forth above, shall be paid out to the officer named on the warrant to the Village Clerk. (Amd. Ord. 36-96 - 7/8/96; Amd. Ord. 27-2000; Amd. Ord. 34-04 - 10/12/2004; Amd. Ord. 24-12 - 06-04-2012)

The Village shall also pay for medical and health insurance coverage for said Village Clerk and dependents under its Village group policy as provided for the regular employees. (Ord. 103-88 - 9/27/88; Amd. Ord. 53-92 - 10/19/92)

3.101.2 BONUS INCENTIVE

As a bonus incentive and not as part of the Village Clerk's salary, as determined by Section 3.001.1, the Clerk shall be entitled to a bonus, upon presentation of documentation to the Mayor of satisfactory completion of a level of certification from Municipal Clerks of Illinois and International Institute of Municipal Clerks as follows:

Level 1 Bonus (MCI)	\$ 500.00
Level 2 Bonus (IIMC)	1,000.00
Level 3 Bonus (IIMC)	1,500.00
Level 4 Bonus (IIMC)	1,500.00
Level 5 Bonus (IIMC)	1,500.00

Only one level bonus per fiscal year may be completed.
(Ord. 34-04 - 10/12/2004)

3.102. BOND. Before entering upon the duties of his office the Village Clerk shall execute a bond in such amount and with such sureties as is provided by Statute, conditioned upon the faithful performance of his duties.

3.103. SIGNATURES. The Clerk shall seal and attest all contracts of the Village and all licenses, permits and such documents as shall require this formality. (Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 28-01 - 8/6/2001)

3.104. MONEY COLLECTED. The Clerk shall turn over all money received by him or her on behalf of the Village to the

Village Treasurer promptly upon receipt of the same, and with such money, he shall give a statement as to the source thereof.(Amd. Ord. 28-01 - 8/6/2001)

3.105. ACCOUNTS. The Clerk shall keep all accounts showing all money received by him or her and the source and disposition thereof, and such other accounts as may be required by statute or ordinance. (Amd. Ord. 28-01 - 8/6/2001)

3.106. RECORDS. In addition to the record of ordinance and other records which the Clerk is required by statute to keep, he or she shall keep a register of all licenses and permits issued and the payments thereon, a record showing all of the officers and regular employees of the Village and such other records as may be required by the Board of Trustees. (Amd. Ord. 28-01 - 8/6/2001)

3.107. SEAL. The Clerk shall be the custodian of the Village seal, and shall affix its impression on documents whenever this is required. (Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 28-01 - 8/6/2001)

3.108. DOCUMENTS. The Clerk shall be the custodian of all documents belonging to the Village which are not assigned to the custody of some other officer. (Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 28-01 - 8/6/2001)

3.109. INDICES. The Clerk shall keep and maintain a proper index to all documents and records kept by him, so that ready access thereto may be had. (Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 28-01 - 8/6/2001)

3.110. QUALIFICATIONS. The Village Clerk shall be a citizen of the United States, a qualified voter, shall be a resident of Machesney Park for not less than one (1) year preceding election, and shall have sufficient training and/or experience to perform the duties of Village Clerk. (Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 28-01 - 8/6/2001)

3.111. ADDITIONAL DUTIES. In addition to the duties herein provided, the Clerk shall perform such other duties and functions which may be required by statute or ordinance. (Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 28-01 - 8/6/2001)

3.112. VACANCIES. In case the office of Village Clerk shall become vacant for any reason, the President and Board of Trustees shall appoint a successor as is provided by statute. (Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 28-01 - 8/6/2001)

3.113. DEPUTY CLERK. The Village Clerk may appoint a Deputy Clerk when, and in the manner, authorized by the Corporate Authorities. Any person so appointed will have the power and duties of a Deputy Clerk as prescribed by statute. (Amd. Ord. 38-95 - 4/17/95: REPEALED MAY 5, 1997 - Ord. 15-97; Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 28-01 - 8/6/2001)

3.114. COLLECTOR. The Village Clerk shall be the Village Collector and shall perform all the duties of that office. (REPEALED MAY 5, 1997 - Ord. 15-97; Amd. Ord. 28-01 - 8/6/2001)

CHAPTER 3 1/2. VILLAGE TREASURER

ARTICLE I. GENERAL PROVISIONS

3½.101. ELECTION - TERM. The Village Treasurer shall be elected and serve for a four (4) year term and until his successor is elected and qualified as is provided by Statute. The office of Treasurer shall be considered a part-time office. The Village Treasurer shall be elected when the Village President is elected, except in case of an election to fill a Village President vacancy. (Amd. Ord. 79-84 - 11/27/84; Amd. Ord. 28-97 - 6/16/97)

3½.101.1. SALARY. There shall be allowed and paid out of the Village Treasury of the Village of Machesney Park, Illinois, to the Treasurer, an annual salary as set forth herein:

for the fiscal year commencing with the first day of May, 2025, and thereafter, the sum of \$5,940

The salary as set forth above, shall be paid out to the officer named on the warrant to the Village Treasurer. (Amd. Ord. 37-96 - 7/8/96; Amd. Ord. 28-00 - 9/25/2000; Amd. Ord. 35-04 – 10/12/2004; Ord. 35-22 – 8/15/22)

3½.102. QUALIFICATIONS. The Village Treasurer shall be a citizen of the United States, a qualified voter, shall be a resident of Machesney Park for not less than one (1) year preceding election (or appointment), and shall have sufficient training and/or experience to perform the duties of Village Treasurer.

3½.103. BOND. The Village Treasurer shall give a bond before entering upon the duties of his office, in the sum required by statute or ordinance. This bond to be conditioned upon the faithful performance of duties and to indemnify the Village for any loss by reason of neglect or any act of the Treasurer.

3½.104. GENERAL DUTIES. The Treasurer shall perform such duties as may be prescribed for him by statute or ordinance. He shall maintain records showing all monies received including the source and purpose for which it is paid, and showing the deposit of such funds in the bank account, or accounts, of the Village as directed by the President and Board of Trustees.

3½.105. ACCOUNTING. The Treasurer shall keep such books and accounts as required by statute or ordinance and shall keep records at all times showing the financial status of the Village.

3½.106. SPECIAL ASSESSMENT FUNDS. All monies received on any special assessment shall be held by the Treasurer as a special fund to be applied only to the payment of the improvement, or bonds and vouchers issued therefor, together with interest thereon, for which assessment was made, and said money

shall be used for no other purpose, unless to reimburse the Village for money expended for such improvement. Payments on bonds or vouchers shall be made in accordance with the statutes and the law and the Treasurer shall keep his books and accounts in such a manner so that proper prorations in payments of principal and interest can be made and ascertained.

3¹/₂.107. WARRANTS - TRANSFER OF FUNDS. All warrants drawn on the Treasurer must be signed by the President and countersigned by the Clerk, stating the particular fund or appropriation to which the same is chargeable, and the person to whom payable; and no money shall be otherwise paid except as may be provided by statute. Money shall not be transferred by the Treasurer from one fund to another, after it has been received by him, nor appropriated to any other purpose than that for which it has been collected or paid, except as may be ordered by the President and Board of Trustees in manner and form prescribed by statute.

3¹/₂.108. RECORDS - INSPECTION. The Village Treasurer shall duplicate his monthly report and place in a paper or plastic binder so as to make it available for public inspection in the office of the Village of Machesney Park. (Amd. Ord. 13-82 - 3/23/82)

3¹/₂.108.1. Anyone desiring to inspect the records of the Treasurer of the Village of Machesney Park shall submit a notice in writing at least 24 hours in advance, which notice shall be filed with the Village Treasurer. Such notice shall specify which records of the Treasurer are to be inspected, and the name and address of the person requesting said inspection. The Village Treasurer shall make such records available to the person requesting inspection after said 24 hour period and during regular office hours of the Village Hall. However, the Treasurer of the Village, at his/her option, may provide a photocopy reproduction of said public records requested to be inspected and have them available after said 24 hour notice for inspection at the Village Hall. This Section shall apply only to Treasurer's records prepared prior to July 1, 1984. (Chapter created per Ord. 53-85, 6/25/85)

CHAPTER 4. APPOINTIVE OFFICERS

ARTICLE I. ADMINISTRATION

4.101. ADMINISTRATIVE HEARING OFFICER. The position of Administrative Hearing Officer is hereby created to hear and adjudicate allegations of code violations brought by the Village and to impose fines, costs and penalties for such violations as are proven. The Administrative Hearing Officer shall be appointed by the Mayor and the Mayor hereby is authorized and empowered to appoint, with the advice and consent of the Board of Trustees, an individual or firm to provide the services of Administrative Hearing Officer as an independent contractor on a part-time basis with such individual or firm to serve at the pleasure of the Mayor. The position of Administrative Hearing Officer shall not be a civil service position and the Mayor shall have the authority to remove, replace or reappoint such individual or firm from time to time as he, in his sole discretion, may choose with any new appointment subject to the advice and consent of the Board of Trustees. (Ord. 54-05 - 01/03/06)

ARTICLE II. ATTORNEY

4.201. COUNSEL. The President, with the consent of the Board of Trustees, may from time to time retain an attorney to represent or advise the Village on legal matters; and he may likewise retain special counsel to advise or represent the Village on special matters or to assist the attorney for the Village.

4.202. SUITS AND ACTIONS. The attorney shall prosecute or defend any and all suits or actions at law or equity to which may be brought against or by, any officer of the Village on behalf of the Village or in the capacity of such person as an officer of the Village.

4.203. JUDGMENTS. It shall be the duty of the attorney to see to the full enforcement of all judgments or decrees entered in favor of the Village, and of all similar interlocutory orders.

4.204. ADVICE. The attorney shall be the legal adviser of the Village and shall render advice on all legal questions affecting it, whenever requested to do so by any Village Official. Upon request by the President or the Board, he shall reduce any such opinion to writing.

4.205. SPECIAL ASSESSMENTS. It shall be the duty of the

attorney to see to the completion of all special assessment proceedings and condemnation proceedings. (Ord. 35-81 - 9/3/81)

ARTICLE III. TREASURER/APPOINTED

(This Article was formerly reserved for appointed Treasurer as provided by Ord. 35-81 - 9/3/81. This Article repealed by Ord. 53-85 - 6/25/85.)

ARTICLE IV. ROAD SUPERINTENDENT

(This Article was repealed by Ord. 45-98 - 9/8/98) See Chapter 21 Article II Section B. Street Superintendent.

CHAPTER 5. POLICE DEPARTMENT

(Reserved)

CHAPTER 6. BOARD AND COMMISSION

ARTICLE I. PLANNING COMMISSION

6.101. DEFINITIONS. For the purpose of this Article the following words shall have the meanings respectively ascribed to them by this section:

A. "Chairman" means the Chairman of the Planning Commission.

B. "Board" means the Village Board of Trustees.

C. "President" means the President of the Village Board of Trustees.

D. "Village" means the Village of Machesney Park.

6.102. CREATION AND MEMBERSHIP. A Planning Commission is hereby created, which Commission shall be appointed by the President subject to confirmation by the Board. Said Commission shall consist of seven (7) members. Members of the Commission shall reside within the Village or within territory contiguous to the Village and not more than one and one-half miles beyond the Village limits in territory not included within any other municipality. No members of the Commission shall hold an elective office in any government.

A. TERM. One member of the Commission shall be initially appointed for one (1) year, one for two (2) years, one for three (3) years, one for four (4) years, one for five (5) years, one for six (6) years and one for seven (7) years, the successor to each member so appointed to serve for a term of five (5) years. Each member of the Commission shall be entitled to vote any question coming before the Commission.

1. Upon the creation of the Commission one of the members so appointed shall be named as chairman for a period of one year by the President.

2. Each successor to the chairman shall be elected by the membership by a majority vote, for a term of one (1) year.

3. The President and Board shall have the power to remove any member of the Commission, including its Chairman, for cause, and after a public hearing. (Amd. Ord. 12-86 - 3/11/86)

4. Vacancies upon the Commission shall be

filled for the unexpired term of the member or the chairman whose seat has become vacant by appointment by the President with the consent of the Board.

5. When members propose to resign, if reasonably feasible, they shall give notice of their intent to the chairman or secretary, or make the date of resignation effective in such a manner as to allow time for appointment of replacements. (Amd. Ord. 12-86 - 3/11/86)

6. Failure to attend three consecutive regular monthly meetings, or three of any seven consecutive regular monthly meetings, without the recorded consent of the chairman, shall be construed as cause for removal from the board by absence. (Amd. Ord. 12-86 - 3/11/86)

6.103. ORGANIZATION. The President and Board may provide by ordinance for the compensation of the members and chairman of the Commission.

A. Immediately upon its organization, the Commission shall select from its membership a vice-chairman and a secretary.

1. The vice-chairman shall serve as acting chairman whenever the chairman is absent from meetings.

2. The secretary shall oversee and shall be responsible for filing the most current rules of procedure or rules of the Commission, the minutes of the meetings, the record of hearings and the memoranda of decisions with the Village Clerk and copies thereof with the Planning and Zoning Manager.

3. The secretary shall perform such other duties as may be assigned from time to time by the Commission.

4. The secretary shall be given such clerical assistance as the President and Board may provide.

B. The Commission shall adopt rules for the conduct of its meetings, which rules shall not conflict with this Article.

1. Four (4) members of the Commission shall constitute a quorum to conduct business.

2. For the purpose of determining quorum at meetings, the chairman shall be considered a member of the Commission.

C. The Chairman and all members of the Planning Commission shall be voting members.

6.104. MEETINGS.

A. All meetings of the Commission shall be open to the public and the record and minutes thereof shall be available for examination in the office of the Village Clerk during regular business hours.

1. At the meetings of the Commission, any interested person may appear or may be represented by duly authorized agents or attorneys.

2. No testimony shall be taken and no witnesses heard except at a properly convened meeting of the Commission.

3. All meetings of the Commission shall be held at the call of the chairman and at such other times as the Commission may determine by rule.

4. The Commission shall keep minutes of its proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact, and shall also keep records of its examinations and other official actions.

5. At or following such meetings and within the parameters of its jurisdiction, the Commission shall make its decision or its recommendation on all matters presented to it within a reasonable time.

6. The Commission shall adopt rules of order and procedure governing the conduct of business. In the absence of specific rules, meetings shall be conducted pursuant to "Roberts Rules of Order".

7. Any exhibits containing plans and specifications requiring review and recommendation of the Commission shall remain part of the permanent record of the Commission.

6.105. REIMBURSEMENT FOR EXPENSES. Each member of the Planning Commission of the Village of Machesney Park shall receive the sum of thirty dollars (\$30.00) paid quarterly for

reimbursement for expenses for each scheduled meeting actually attended by said members at which a quorum is present, not to exceed sixteen (16) meetings per fiscal year. Planning Commission members shall not be entitled to reimbursement for mileage expense under Section 21.302 of this Municipal Code. Notwithstanding anything herein to the contrary, Planning Commission members shall not receive reimbursement of Thirty Dollars (\$30.00) per meeting for said expenses for attending a Planning Commission meeting not involving recommendations to the Zoning Board of Appeals or Village Board of Trustees. (Ord. 112-86 - 1/27/87; Amd. Ord. 11-88 - 2/16/88)

6.106. PLANNING COMMISSION POWERS AND DUTIES.

A. To prepare and recommend to the Village Board a Comprehensive Plan for the present and future development or redevelopment of the Village of Machesney Park. Said Plan may be adopted by the Board in whole or in separate geographical or functional parts, each of which, when adopted, shall be an official Comprehensive Plan, or part thereof, of the Village. This Plan may include reasonable requirements with reference to streets, alleys, public grounds, and other improvements hereinafter specified. The Plan, as recommended by the Commission and as thereafter adopted by the Board, may be made applicable, by the terms thereof, to land situated within the corporate limits and contiguous territory not more than one and one-half miles beyond the corporate limits and not included in any municipality. (Ord. 11-89 - 2/21/89)

1. Such Plan may be implemented by ordinances establishing reasonable standards of design for subdivisions and e-subdivisions of unimproved land and of areas subject to redevelopment in respect to public improvements as herein defined;

2. Such Plan may be implemented by ordinances establishing reasonable requirements concerning the location, width, course, and surfacing of public streets and highways, alleys, ways for public service facilities, curbs, gutters, sidewalks, street lights, parks, playgrounds, school grounds, size of lots to be used for residential purposes, storm water drainage, water supply and distribution, sanitary sewers, and sewage collection and treatment;

3. Such Plan may be implemented by ordinances designating land suitable for annexation to the Village and the recommended zoning classification

for such land upon annexation.

B. To recommend changes from time to time, in the official Comprehensive Plan.

C. To prepare and recommend to the Board, from time to time, plans for specific improvements in pursuance of the official Comprehensive Plan.

D. To give aid to the municipal officials charged with the direction of projects for improvements embraced within the official Plan, to further the making of these projects, and, generally, to promote the realization of the official Comprehensive Plan.

E. To prepare and recommend to the Board schemes for regulating or forbidding structures or activities which may hinder access to solar energy necessary for the proper function of solar energy systems, as defined in Section 1.2 of the Comprehensive Solar Energy Act of 1977 set forth in Illinois Revised Statutes, Chapter 96½, Section 7303, or to recommend changes in such schemes.

F. To exercise such other powers germane to the powers granted by this Article as may be conferred by the Board from time to time.

G. Such powers shall include, but not limited to, the review and recommendation of the following items:

1. Tentative plats.
2. Site development plans.
3. Zoning map amendments.
4. Street and alley vacation.
5. Street extensions.
6. Proposed ordinance amendments regarding subdivisions, zoning and flood control.
7. Village plans and proposals concerning utilities and utility extensions and other improvements.
8. Review Special Use Permits affecting changes in land use only.
9. Additional concerns as deemed necessary by the Community Development Director or Village Board of Trustees. (Amd. Ord. 61-86 - 5/27/86; Amd. Ord. 97-86 - 9/25/86)

H. Such powers shall not include:

1. Zoning Variances (Amd. Ord. 61-86 - 5/27/86; Amd. Ord. 97-86 - 9/25/86)

6.107. The official Comprehensive Plan, or any amendment thereof, or addition thereto, proposed by the Commission shall be effective in the Village and contiguous area herein prescribed only after its formal adoption by the Board. Such Plan shall be advisory and in and of itself shall not be construed to regulate or control the use of private property in any way, except as to such part thereof as has been implemented by ordinances duly enacted by the Board.

6.108. The President and Board may initiate plans and maps by requesting the Commission to prepare an official Comprehensive Plan and recommend the same, or may originate an official Comprehensive Plan, or a part thereof, or an amendment thereto, and may refer the same or suggested changes in an existing Comprehensive Plan to the Commission for its consideration and recommendation thereon. No Comprehensive Plan or amendment thereto shall be adopted that has not been submitted to the Commission.

A. The Board may adopt parts of a Comprehensive Plan recommended by the Commission without adopting the entire Comprehensive Plan as recommended, or may modify or amend portions of a recommended Comprehensive Plan without a re-reference of same to the Commission, and may adopt such Comprehensive Plan, as modified or amended. Such Comprehensive Plan, when adopted, shall be the official Comprehensive Plan, or part thereof, of the Village.

B. Upon submission by the President and Board of any suggested Comprehensive Plan, part thereof, or amendment, to an existing Comprehensive Plan to the Commission for consideration and recommendation, the corporate authorities may require a report thereon from the Commission with its recommendation within ninety (90) days from the date of such submission, and if the Commission shall fail to make such report within such ninety (90) days, then the President and Board may proceed to consider such Comprehensive Plan, or part thereof or amendment to an existing Comprehensive Plan, for adoption, including arranging for and holding of a public hearing thereon in the same manner as if the Commission had made its recommendation.

6.109. The official Comprehensive Plan, or any amendment thereof, shall not be adopted by the Village until notice and opportunity for public hearing have first been afforded. Upon submission of a Comprehensive Plan by the Commission, or a proposed amendment to an existing Comprehensive Plan, the President and Board shall schedule a public hearing thereon,

either before the Commission or the Board. Not less than fifteen (15) days notice of the proposed hearing, and the time and place thereof, shall be given by publication in a newspaper of general circulation in the Village. The hearing shall be informal, but all persons desiring to be heard in support or opposition to the Comprehensive Plan or amendment shall be afforded such opportunity, and may submit their statements, orally, in writing, or both. The hearing may be recessed to another date if not concluded, if notice of the time and place thereof is publicly announced at the hearing or is given by newspaper publication not less than five (5) days prior to the recessed hearing.

A. Within ninety (90) days after the conclusion of the hearing, the President and Board, after consideration of the recommendation of the Commission and such information as shall have been derived from the hearing, shall either adopt the Comprehensive Plan or amendment in whole or in part or reject the entire Comprehensive Plan or amendment. If adopted, the President and Board shall enact the Ordinance including a map or maps. At any time or times before or after the adoption of the official Comprehensive Plan by the President and Board, they may designate by Ordinance an official map, which map may consist of the whole area included within the official Comprehensive Plan or one or more separate geographical or functional parts, and may include all or any part of the contiguous unincorporated area within one and one-half miles from the corporate limits of the Village. Such map or maps may be made a part of the Ordinance, which Ordinance shall specifically state standard requirements of the Village relating to size of streets, alleys, public ways, parks, playgrounds, school sites, other public grounds, and ways for public service facilities; and kind and quality of materials which may be used in the construction of streets, and alleys; and the kind and quality of materials for public service facilities as may be consistent with Illinois Commerce Commission or industry standards, and shall contain the standards required for drainage and sanitary sewers and collection and treatment of sewage. The map may be drawn to scale, and shall be reasonably accurate, and shall show north point, section lines and numbers, and streams. In adopting an official Comprehensive Plan, except as herein otherwise provided, the President and Board shall be subject to the same limitations on the subject matter as applied to the Commission. If at the expiration of such ninety (90) days, the corporate authorities have taken no formal action, the Comprehensive Plan or amendment thereto may thereafter not be acted upon by the corporate authorities without again complying with

the conditions of notice and hearing heretofore provided.

B. No official map, or amendment or addition there to shall be grounds for rejection of any plat or subdivision or re-subdivision by the corporate authorities, if application for final approval of such subdivision or re-subdivision is filed with the corporate authorities fifteen (15) days or more prior to the date on which the Ordinance approving the official map, or amendment or addition thereto, is adopted.

C. The Comprehensive Plan or amendment shall become effective upon the expiration or ten (10) days after the date of filing notice of the adoption of such Comprehensive Plan or amendment with the Recorder of Winnebago County. Whenever used in this Article, the words "Plans" or "Comprehensive Plan" shall be deemed to mean and include where applicable, an official map or maps.

D. Said official Comprehensive Plan and the Ordinance or Ordinances including the official map shall be placed on file with the municipal Clerk and shall be available at all times during business hours for public inspection. Copies of said Plan, all Ordinances implementing the same and including the official map, shall be made available to all interested parties upon payment of the sum of twelve dollars (\$12.00). (Ord. 47-84 - 6/26/84; Amd. Ord. 74-86 - 6/8/86)

6.110. OFFICIAL COMPREHENSIVE PLAN AND MAPS. The Village of Machesney Park hereby adopts an official comprehensive plan for the Village of Machesney Park, known as VillagePlan`94, a copy of which is attached hereto and made a part hereof, including the maps contained therein.

This Ordinance and the official comprehensive plan of the Village of Machesney Park, known as the Village Plan`94, including the maps contained therein, shall be placed on file with the Village Clerk and shall be available at all times during business hours for public inspection. Copies of said official comprehensive plan, and this Ordinance implementing the same, including the maps contained therein, shall be made available to all interested parties upon the payment of the sum of Twelve Dollars (\$12) to the Village Clerk, which sum shall be used to reimburse the General Fund of the Village for the cost of printing and distribution.

The Village Clerk is directed to record a notice of the adoption of the official comprehensive plan of the Village of Machesney Park with the Recorder of Deeds of Winnebago

County. (Ord. 60-86 - 5/27/86; Amd. Ord. 74-86 - 6/8/86; Amd. Ord. 45-94 - 5/31/94)

ARTICLE II. ZONING COMMISSION

6.201. CREATION AND MEMBERSHIP. A Zoning Commission is hereby authorized to be established. The Board shall consist of a chairman and six (6) members. The said Board shall be appointed by the Village President with the consent of the Board of Trustees of the Village. No member of the Zoning Commission shall hold an elective office in the Village Government.

6.202. PURPOSE. The Zoning Commission shall recommend the boundaries of the districts and appropriate regulations to be enforced therein. The Zoning Commission shall prepare a tentative report and a proposed zoning ordinance for the entire Village with provisions to:

A. Provide for the citizens of the Village adequate light, air, and safety from fire and other dangers, to conserve the value of land and buildings, to lessen or avoid congestion of traffic in the public streets and to promote the public health, safety, comfort, convenience, morals and general welfare;

B. Protect the character and the stability of the residential, business, and manufacturing areas within the Village and to promote the orderly and beneficial development of such areas;

C. Establish restrictions in order to attain these objectives by recommending for adoption a zoning ordinance which will establish the districts into which the Village is divided, the restrictions upon the uses to which land and buildings may be devoted, the restrictions upon the location and height of buildings, the restrictions upon the intensity of the use of land and buildings, the requirements for yards, the requirements for off-street parking facilities, the provisions for administration and enforcement of the Ordinance and the penalties for violation of the Ordinance. The Ordinance shall be referred to as the "Village of Machesney Park Zoning Ordinance."

6.203. ORGANIZATION.

A. Immediately upon its organization, the Zoning Commission shall select from its membership a vice-chairman and a secretary.

1. The vice-chairman shall serve as acting chairman whenever the chairman is absent from meetings and hearings.

2. The secretary shall oversee and shall be responsible for the record of proceedings and the minutes of the Zoning Commission.

a. The secretary shall be given such clerical assistance as the Village President and/or Board of Trustees of the Village may provide.

B. The Zoning Commission shall adopt rules for the conduct of its hearings and meetings, which rules shall not conflict with this Chapter.

1. Four (4) members of the Zoning Commission shall constitute a quorum to conduct business.

2. For the purpose of determining quorum at meetings and members present at hearings, the chairman shall be considered a member of the Zoning Commission.

6.204. HEARINGS AND MEETINGS. After the preparation of such a tentative report and ordinance, the Zoning Commission shall hold a public hearing thereon and shall afford persons interested an opportunity to be heard.

A. Notice of the hearing shall be published at least once, not more than 30 nor less than 15 days prior to the hearing in one or more newspapers of local circulation.

B. The notice shall state the time and place of the hearing and the place where copies of the proposed ordinance will be accessible for examination by interested persons.

C. The hearing may be adjourned from time to time.

D. Within 30 days after the final adjournment of the hearing, the Zoning Commission shall make a final report and submit a proposed ordinance to the Village Board of Trustees.

E. The Village Board of Trustees may enact the ordinance with or without change, or may refer it back to the Zoning Commission for further consideration.

6.205. JURISDICTION.

A. The Zoning Commission is hereby vested with the duty to prepare a tentative report and proposed zoning ordinance for the entire Village.

B. The Zoning Commission shall cease to exist upon the adoption of a zoning ordinance for the entire Village. (Ord. 29-82 - 7/27/82)

ARTICLE III. ZONING BOARD OF APPEALS

6.301. REIMBURSEMENT FOR EXPENSES. Each member of the Zoning Board of Appeals of the Village of Machesney Park shall receive the sum of thirty dollars (\$30.00) payable quarterly as reimbursement for expenses, payable for each hearing of the Zoning Board of Appeals actually attended by said Zoning Board of Appeals members, not to exceed eighteen (18) hearings per fiscal year. Zoning Board of Appeals members shall not be entitled to reimbursement for mileage expense under Section 21.302 of this Municipal Code. (Ord. 77-83 - 10/25/83; Amd. Ord. 70-84 - 11/12/84; Amd. Ord. 12-88 - 1/16/88)

ARTICLE IV. BOARD OF LOCAL IMPROVEMENTS

6.401. CREATION AND MEMBERSHIP. There is hereby created a Board of Local Improvements being composed of the Village President, the Street Superintendent and three members of the Board of Trustees. The Village President shall be President of the Board of Local Improvements.

6.402. SPECIAL ASSESSMENTS. In making local improvements by special assessment, the Board of Local Improvements and the President and Board of Trustees shall follow the procedures set forth in Division 2 of Article 9 of Chapter 24 of the Illinois Revised Statutes, as amended. Said Division 2 of Article 9 of Chapter 24 is hereby adopted by the Village by reference, not less than three copies of such Act having been on file in the office of the Village Clerk for a period of thirty (30) days prior to the adoption of this Article. The Board of Local Improvements and the President and Board of Trustees shall have all the powers and duties set forth in said statute incorporated herein by reference. (Ord. 15-82 - 4/27/82)

6.403. ENGINEER/SECRETARY. Insofar as practical, all policies of the Board of Local Improvements shall be incorporated into this article. The Board of Local Improvements shall be authorized to utilize an engineering

consultant. The Board of Local Improvements shall be authorized to utilize a transcribing secretary. (Ord. 32-85 - 5/14/85)

6.403.1. AUTHORIZATION TO CONDUCT TITLE SEARCH. After petitions have been filed and the Board of Local Improvements has conducted an informal public hearing, the Secretary of the Board of Local Improvements is authorized to expend funds to have a professional title company conduct a title search of the targeted area as annotated on the filed petition. (Amd. Ord. 106-86 - 10/14/86)

6.404. INITIATION OF A LOCAL IMPROVEMENTS PROJECT. The following is a guide of the procedures that may be implemented to initiate a local improvement: (Amd. Ord. 34-86 - 5/27/86)

A. Local improvements may be initiated by petition to the Board of Local Improvements, or by the Board of Local Improvements without petition. (Amd. Ord. 34-86 - 5/27/86)

B. The petition shall only be considered if 51 percent or more of the property owners within the targeted area signed the petition.

C. The petition shall only be considered if sewer and water services are available in the petitioned area.

D. Petitions shall normally be considered on a first come first serve basis.

E. The Board of Local Improvements shall conduct an informal public hearing with the affected property owners before authorizing the consulting engineering to design the project. (Ord. 32-85 - 5/14/85) 6.405.

6.405. The following is a general assessment policy regarding residential streets:

A. The total cost of all local improvements adhering to the residential street standard of a 30-foot wide roadway will be paid as follows:

1. Except as otherwise provided in this ordinance, fifty percent to be paid by the Village from Board of Local Improvements' appropriations, and;

2. Fifty percent to be paid by the property owners of the project area. (Ord. 32-85 - 5/14/85)

3. The cost assessed to the property based on the above shall not exceed \$50.00 per front foot. (Amd. Ord. 106-86 - 10/14/86)

6.406. The Board of Local Improvements shall make assessment policies for the assessor to use as a guide. The following is a list of the methods of determining assessments listed in descending order of preference:

A. LOTS ABUTTING RESIDENTIAL STREETS:

1. The residents' share of the cost of a specific street may be divided equally among abutting lots on a per lot basis except for lots that vary more than ten percent from the average frontage of all affected lots. If a lot's frontage varies more than ten percent from the average, the assessment may be based on the actual percentage of variation, or;

2. Assessments for the residents' share of the cost of the improvement may be based on a per foot basis, or;

3. Assessments may be based on the actual expected increase in property value. A real estate appraiser may be contracted for this task. A sample of properties would be appraised prior to improvement. Based on the sample, the appraiser would then estimate the value of the properties within the project area with the desired improvements. The properties would then be assessed based on the appraiser's estimate of increased property value.

B. CORNER LOTS:

1. When possible, the cross street may be improved to the rear property line of the affected lot on the project street. The corner lot may be assessed one-third of the cost of the side street on a per foot basis and the remaining residents' share of the cost of the project may then be divided equally among all lots including the corner lot on a per lot basis, or;

2. Assessments for the residents' share of the cost may be made on a per foot basis, or;

3. Real estate appraisal process described above under 6.406 (A) (3) may be used to determine

assessment, or;

4. Assess the greater of the two sides and divide the remainder of the residents' share of the costs equally among all lots including the corner lot on a per lot or per foot basis.

C. COLLECTORS AND ARTERIALS:

1. The lots having addresses on the collector or arterial street may be assessed the average per foot assessment costs from the last prior project for a residential street on a per foot basis, or;

2. All lots abutting the collector or arterial may be assessed on a per lot basis (as described above under 6.406 (A) (1), or;

3. Assessments may be determined from variables representing a residential street standard of 30 foot wide and the differential that exists from the collector or arterial street standards.

D. CUL-DE-SACS:

1. For the purpose of this Article, a cul-de-sac is defined as the circular portion at the end of a street with no outlet.

2. The lots abutting a cul-de-sac shall be assessed seventy-five percent of the total cost of the cul-de-sac on a per lot basis, or;

3. All lots abutting the cul-de-sac shall be assessed on a per foot basis at seventy-five percent of the total cost, or;

4. All lots abutting the cul-de-sac shall be assessed based on a real estate appraiser's judgment (as described above under 6.406 (A) (3). (Ord. 32-85 - 5/14/85)

E. UNIMPROVED STREETS:

1. For the purpose of this Article, an unimproved street is defined as dedicated right-of-way of 33 feet or more in width that does not meet the minimum standards established in the subdivision ordinance regarding street acceptance.

2. The standards for improvement of unimproved streets shall be the same standards as outlined in the subdivision ordinance regarding street standards.

3. The lots abutting an unimproved street shall be assessed on a per foot basis at seventy-five percent of the total cost, or;

4. All lots abutting the unimproved street shall be assessed based on a per lot basis at seventy-five percent of the total cost, or;

5. All lots abutting the unimproved street shall be assessed based on a real estate appraiser's judgment (as described above under 6.406 (A) (3). (Amd. Ord. 106-86 - 10/14/86)

6.407. VILLAGE EXPENDITURES FOR BLI PROJECTS. When possible, fifteen percent of the Village's total income shall be appropriated for the Board of Local Improvements as the Village's share for special assessment projects. (Ord. 32-85 - 5/14/85)

6.408. VOUCHER DENOMINATIONS. Vouchers may be issued in \$10,000.00 denominations (or any other denomination the BLI deems appropriate) and be recalled in chronological order. (Ord. 32-85- 5/14/85)

6.408.1. VOUCHER/BOND EXCHANGE.

A. Pursuant to Illinois Revised Statutes, Chapter 24, Section 9-2-127, the President and Village Clerk are hereby authorized to execute bonds to be issued in exchange for vouchers for Board of Local Improvements special assessments projects. (Ord. 75-85 - 9/24/85; Amd. Ord. 94-86 - 8/12/86)

B. The President is authorized to enter into any agreement necessary to implement the voucher/bond exchange with the funds established for this purpose for each project. (Ord. 75-85 - 9/24/85)

6.409. DELINQUENT ASSESSMENTS.

A. Assessments shall be collected in accordance with applicable state statutes regarding same.

B. Late payments shall be handled administratively through the President's office (correspondence, phone calls, et cetera). In the event of hardship cases, decisions on the disposition of the assessment will be determined by the Board of Trustees. (Sections 6.403 through 6.409 - Ord. 32-85 - 5/14/85)

ARTICLE V. ECONOMIC DEVELOPMENT COMMISSION

6.501. CREATION. There is hereby established a citizens commission which shall be known as the "Machesney Park Economic Development Commission" for the purpose of structuring sound economic development programs, through conducting such research and inventory of resources and preparation of industrial facts profiles to be used as presentations to industrial prospects considering expansion or location in the Machesney Park area. Said Commission shall make its findings and recommendations to the President and Board of Trustees in the manner prescribed herein.

6.502. MEMBERSHIP. The membership of the Economic Development Commission shall be composed of seven (7) residents of the Village or of agencies serving the Village of Machesney Park, one of which shall be appointed chairman. The appointments to this Commission shall be made by the President with the advice and consent of the Board of Trustees.

6.503. TERM. The term of office to this Commission shall be for a period of three (3) years. However, members appointed at the onset shall be for the following terms.

- A. 3 members for a 3-year term
- B. 3 members for a 2-year term
- C. 1 member for a 1-year term

Successors to be appointed for three (3)-year terms. In addition to the seven (7) members of this Commission, the Chairman of the Planning Commission of the Village of Machesney Park or his designee shall also be an ex-officio member.

6.504. FINANCIAL RESPONSIBILITIES. The Machesney Park Economic Development Commission shall be authorized to expend no municipal funds other than those appropriated and approved by the Village President and the Village Board. However, the Economic Development Commission is authorized to encourage

the creation of a non-profit economic development corporation as a legal entity to raise such funds as needed and handle such other financial responsibilities in the performance of their duties.

6.505. DUTIES. The Machesney Park Economic Development Commission is authorized to enlist the volunteer services of such other members of the community who will assist in achieving the goals of sound economic growth, recognizing broad community involvement will assure broad community support.

6.506. REPORTS/RECOMMENDATIONS. The Machesney Park Economic Development Commission shall make periodic reports on their progress and shall make their recommendations to the President and Board of Trustees regularly, but not less than every six (6) months. (Ord. 21-87 - 11/24/87)

ARTICLE VII. PLANNING AND ZONING COMMISSION

6.701. PLANNING AND ZONING COMMISSION ESTABLISHED. This Chapter supersedes Chapter 6, Article I, Sections 1.101 - 1.105, and Article III of the Village Code of Ordinances, and Section 20-69 of the Zoning Ordinance of Machesney Park as adopted on February 8, 1983 and as amended in October 2003 (hereafter "Zoning Ordinance"). Any ordinance, code, regulation of the Village or state statute that references the Plan Commission and/or Zoning Board of Appeals shall mean the Planning and Zoning Commission.

6.702. DEFINITIONS. For the purpose of this Article the following words shall have the meanings respectively ascribed to them by this section:

A. "Commission" means the Planning and Zoning Commission.

B. "Chairman" means the Chairman of the Planning and Zoning Commission.

C. "Meeting" means an assembly of the Commission for the purpose of exercising the powers authorized herein, including, but not limited to, for the purpose of conducting hearings.

D. "Board" means the Village Board of Trustees.

E. "President" means the President of the Village Board of Trustees.

F "Village" means the Village of Machesney Park.

6. 703. CREATION AND MEMBERSHIP. A Planning and Zoning Commission is hereby created, which Commission shall be appointed by the President subject to consent by the Board. Said Commission shall consist of seven (7) members. All members of the Commission shall be residents of the Village. No members of the Commission shall hold an elective office in any government.

A. TERM. One member of the Commission shall be initially appointed for one (1) year, one for two (2) years, one for three (3) years, one for four (4) years, one for five (5) years, one for six (6) years and one for seven (7) years, the successor to each member so appointed to serve for a term of five (5) years. Each member of the Commission shall be entitled to vote any question coming before the Commission.

1. Upon the creation of the Commission one of the members so appointed shall be named as chairman for a period of one year by the President.

2. Each successor to the chairman shall be elected by the membership by a majority vote, for a term of one (1) year.

3. The President and Board shall have the power to remove any member of the Commission, including its Chairman, for cause, and after a public hearing.

4. Vacancies upon the Commission shall be filled for the unexpired term of the member or the chairman whose seat has become vacant by appointment by the President with the consent of the Board.

5. When members propose to resign, if reasonably feasible, they shall give notice of their intent to the chairman or secretary, or make the date of resignation effective in such a manner as to allow time for appointment of replacements.

6. Failure to attend three consecutive Regular monthly meetings, or three of any seven consecutive regular monthly meetings, without the recorded consent of the chairman, shall be construed as cause for removal from the Commission for absence. The appointing authority has the power to remove any member for such cause after a public hearing.

6. 704. ORGANIZATION. The President and Board may provide by resolution for the compensation of the members and chairman of the Commission.

A. Immediately upon its organization, the Commission shall select from its membership a vice-chairman and a secretary.

1. The vice-chairman shall serve as acting chairman whenever the chairman is absent from meetings.

2. The secretary shall be responsible for calling roll at Commission meetings and considering and approving minutes of previous meetings. (Amd. Ord. 49-09 - 01/04/2010)

3. The secretary shall perform such other duties as may be assigned from time to time by the Commission.

4. The secretary shall be given such clerical assistance as the President and Board may provide.

B. The Commission shall adopt rules for the conduct of its meetings, which rules shall not conflict with this Chapter.

1. Four (4) members of the Commission shall constitute a quorum to conduct business.

2. For the purpose of determining quorum at meetings, the chairman shall be considered a member of the Commission.

C. The Chairman and all members of the Commission shall be voting members.

6. 705. MEETINGS

A. All meetings of the Commission shall be open to the public and the record and minutes thereof shall be available for examination in the office of the Village Clerk during regular business hours.

1. At the meetings of the Commission, any interested person may appear or may be represented by duly authorized agents or attorneys.

2. No testimony shall be taken and no witnesses heard except at a properly convened meeting of the Commission.

B. Regular meetings of the Commission shall be held in Village Hall on the fourth Monday of each month at a time determined by the Commission members. If a meeting falls on a legal holiday, the meeting shall be held the next day. Where hearings are required, they shall be conducted as follows: (Amd. Ord. 49-09 - 01/04/2010)

Where hearings are required, they shall be conducted as follows:

1. All testimony before the Commission shall be given under oath and a record of minutes maintained for each case so heard.

2. The chair shall administer or authorize the administration of oaths and may compel the attendance of witnesses by issuing subpoenas.

3. No vote of the Commission shall be held at any hearing, unless the said Commission shall by rule provide that such hearing shall be deemed a meeting and minutes of said hearing maintained by the secretary.

4. The Village Clerk or Planning and Zoning Manager is hereby authorized to make such additional charges to the applicant as may be necessary to cover the cost of sending and publishing a notice in the event the filing fees authorized to be collected hereinafter are sufficient to cover costs, as well as the costs of said hearings. (Amd. Ord 49-09 - 01/04/2010)

C. All meetings of the Commission shall be held at the call of the chairman and at such other times as the Commission may determine by rule.

1. The Commission shall keep minutes of its proceedings showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact, and shall also keep records of its examinations and other official actions.

2. At or following such meetings and within the parameters of its jurisdiction, the Commission shall make its decision or its recommendation on all matters presented to it within a reasonable time.

3. The Commission shall adopt rules of order and procedure governing the conduct of business. In the absence of specific rules, meetings shall be conducted pursuant to "Roberts Rules of Order".

4. Any exhibits containing plans and specifications requiring review and recommendation of the Commission, or submitted at hearing shall remain part of the permanent record of the Commission.

5. The Commission may reserve or confirm, wholly or partly, or may modify or amend any order, requirement, decision or

determination, appealed from to the extent and in the manner the Commission may decide to be fitting and proper subject to the provisions contained in this Chapter, the applicable provisions of the Zoning Ordinance, or in the applicable Statutes of the State of Illinois.

6. The chairman or any absent member who certifies that he has read the transcript of proceedings before the Commission may vote on any question before the Commission. The absent member has seven (7) days from the date of the hearing at which the question was heard within which to inform the Commission of said member's intention to vote. The vote of said absent member must be received by the secretary of the Commission within fourteen (14) days after the transcript of proceedings becomes available.

7. The concurring vote of four (4) members of the Commission shall be necessary to recommend or decide in favor of the petitioner on any matter upon which the Commission is required to pass, under this Chapter or any other ordinances of the Village.

8. Within the parameters of the jurisdiction granted herein, the applicable provisions of the Zoning Ordinance, or the applicable statutes of the State of Illinois, in all instances wherein the decision of the Commission shall be a final administrative determination, said determination shall be subject to review by a court of law as provided by Illinois Statutes.

6. 706. REIMBURSEMENT FOR EXPENSES. Each member of the Commission shall receive the sum of thirty dollars (\$30.00) for reimbursement for expenses, or as amended from time to time by the Board, payable for each meeting actually attended by said members at which a quorum is present, not to exceed eighteen (18) meetings per fiscal year. Said expenses shall be reimbursed quarterly. Commission members shall not be entitled to reimbursement for mileage expense under Section 21.302 of this Municipal Code.

6.707. PLANNING AND ZONING COMMISSION POWERS AND DUTIES. The Commission shall have such powers and duties as are provided by and for that body formally known as Plan Commission in Chapter 6, Article I, Sections 1.106-1.110 of the Village Code of Ordinances, and applicable provisions of

the Zoning Ordinance, and for that body formally known as the Zoning Board of Appeals in the applicable provisions of the Zoning Ordinance, and, where not in conflict with applicable provisions of the Village Code of Ordinances, Chapter 65 of Illinois Compiled Statutes, Sections 5/11-12-1 et seq. and 5/11-13-1 et seq. (65 ILCS 5/11-12-1 et seq. and 65 ILCS 5/11-13-1 et seq.). (Amd. Ord. 29-09 - 08/17/2009)

CHAPTER 7. OTHER PROVISIONS RELATING TO VILLAGE GOVERNMENT

ARTICLE I. OFFICERS AND EMPLOYEES

7.101. EFFECT. The provisions of this article shall apply alike to all officers and employees of the Village, regardless of the time of the creation of the office or employee.

7.102. APPOINTMENTS. The Village President shall appoint, by and with the advice and consent of the Village Board, all members of any Board or Committee of the Village, in the following manner:

The appointment shall be presented to the Village Board at any regular Village Board meeting at which there is a quorum present; a vote on the confirmation of said appointment, being the advice and consent of the Village Board, shall not take place until the next duly-scheduled regular meeting of the Village Board. This procedure also shall be followed in the appointment of the Standing Committee and members of Special Committees pursuant to Section 2.106. (Amd. Ord. 21-82 - 6/9/82, Amd. Ord. 40-84 - 6/26/84; Amd. Ord. 13-07 - 05/14/07) (Amd. Ord. 21-82 - 6/9/82) (Amd. Ord. 15-97 - 5/5/97)

7.103. OATH. Every officer of the Village shall, before entering upon his/her duties, take the oath prescribed by statute. (Amd. Ord. 45-82 - 10/26/82; Ord. 09-07 - 04/09/07)

7.104. RECORDS. All records kept by any officer of the Village shall be open to inspection by the President, or any member of the Board of Trustees at all reasonable times, whether or not such records are required to be kept by statute or ordinance.

7.105. BOND. Every officer and employee who handles Village funds shall be bonded in compliance with State statute.

7.106. TERMINATION OF OFFICE. Every officer and employee of the Village upon the expiration of his/her term of office or termination of employment for any cause whatsoever, shall deliver to his/her successor all books and records which may be the property of the Village, and if no successor has been appointed, such property shall be delivered either to the Village Clerk or Village Treasurer as soon as practicable.

7.107. ELECTRONIC COMMUNICATIONS AND DOCUMENT RETENTION POLICY. Conduct of the elected officials with regard to electronic communications and document retention shall generally be governed by Section 6 of the Village of

Machesney Park's Personnel Policies Manual as identified in Article I, of Chapter 21, as amended from time to time.

ARTICLE II. FINANCES

7.201. Prior to the end of each fiscal year, as required by statute, the Village Board shall approve the annual budget ordinance in which shall be itemized estimated revenues and anticipated expenditures to be met during the coming year.

- A. Beginning with the preparation and adoption of a budget for the Village's 2014-2015 fiscal year, and for all fiscal years thereafter, the Village hereby adopts the municipal budget officer procedures as set forth in 65 ILCS 5/8-2-9.1 through 65 ILCS 5/8-2-9.10, in lieu of the municipal appropriations procedures as set forth in 65 ILCS 5/8-2-9.
- B. Pursuant to 65 ILCS 5/8-2-9.1, the Village's Budget Officer shall be designated by the Village President with the approval of the Corporate Authorities.
- C. The Corporate Authorities hereby delegate authority to heads of departments, boards, or commissions, to delete, add to, change or create sub-classes within object classes budgeted previously to the department, board or commission subject to the prior approval by the Budget Officer.
- D. By a vote of two-thirds (2/3rds) of the members of the Corporate Authorities then holding office, the annual budget for the Village may be revised by deleting, adding to, changing or creating sub-classes within object classes and object classes themselves. No revision of the annual budget shall be made, which increases the annual budget, in the event funds are not available to effectuate the purpose of the revision. (Amd. Ord. 07-14 - 03/17/2014)

7.202. INDEBTEDNESS. No indebtedness shall be incurred, excepting such indebtedness as may be payable solely from the proceeds of a duly authorized bond issue or from a designated specified source, unless there is a prior budget out of which such indebtedness could be paid, as provided by statute.

7.203. CONTRACTS. The Village President or any other person designated by the Board of Trustees, may sign on behalf of the Village any contract authorized by the Village Board. No contract may be entered into without the authority of the Village Board.

7.204. PURCHASING POLICY. All purchases made by the Village shall be conducted under the regulations of the Purchasing Policy in effect at Chapter 18 of the Village of Machesney Park Code. (Amd. Ord. 9-91 - 3/18/91)

7.205. AUDIT. As soon as practicable at the close of each fiscal year, and not later than six months thereafter, there shall be an audit of all accounts of the Village made by a competent person authorized to act as an auditor under the laws of Illinois to be designated by the Village Board. Copies of such audit report shall be filed with the Village Clerk and with the director of the State Department of Revenue and in such other places as may be required by law.

7.206. AUTHORIZED SIGNERS. The Village of Machesney Park's authorized signers are the Village President/Mayor, Village Clerk, Village Treasurer, and one Village Trustee as designated by Board action. The Village Clerk shall certify those individuals currently holding those positions at any given time. The Village transacts business with various financial institutions and shall require no less than two authorized signatures to establish, maintain, or close Village accounts. In addition, the Village shall require two authorized signatures on all checks drawn on Village accounts. ACH transactions shall be approved by an authorized signer as established by this section or the Village Administrator to conduct the necessary business of the Village. (Amd. 06-03-2019; Ord 35-19)

ARTICLE III. OTHER REGULATIONS

7.301. CORPORATE SEAL. The corporate Seal of the Village of Machesney Park shall be as follows: A circular disk with the words, "Village of Machesney Park, Winnebago County, Illinois" on the periphery thereof and the word "Seal" in the center thereof. (Amd. Ord. 93-86 - 8/12/86)

7.302. FISCAL YEAR. The fiscal year of the Village shall begin on the first day of May and end on the thirtieth day of April of each year.

7.303. INJURY TO PUBLIC PROPERTY. It shall be unlawful

to injure, deface or interfere with any property belonging to the Village without proper authority from the Board. Any person violating the provisions of this section shall be fined not less than one hundred dollars nor more than two hundred and fifty dollars for each offense.

7.304. DAYLIGHT SAVINGS TIME. Central standard time shall hereby be the official time within the Village for the transaction of all Village business; except that at 2 AM on the Sunday in April designated by the Federal Government each year, official time for the Village shall be advanced one hour, and at 2 AM on the Sunday in October designated by the Federal Government of the year such official time shall, by retarding of the same one hour be returned to Central Standard Time; and all legal and official business of the Village shall be regulated hereby, and when, by ordinance, resolution or action of any municipal officer or body, any act must be performed at or within a prescribed time, it shall be done according to such official time. (Amd. Ord. 29-89 - 5/2/89)

7.305. All clocks or other timepieces in or upon public buildings or other premises maintained at the expense of the Village shall be set and run according to the official time provided in this section, and it is hereby made the duty of the officer or other person having control and charge of such building or buildings and premises to see that the said clocks or other timepieces are set and run in accordance with the official time as provided by this section. (Ord. 126-86 - 12/23/86)

ARTICLE IV. TRAVEL POLICY

7.401. All members of the Village Board, elected officials, commission and committee members and any and all elected or appointed individuals serving the village in any capacity, must comply with the Travel Policy as provided in the Personnel Policies Manual as identified in Chapter 21, Article I of this code. All Travel Policy rules applicable to employees shall apply to individuals as defined herein. (Amd. Ord. 45-93 - 8/2/93)

ARTICLE V - FAIR HOUSING POLICY

7.501 Declaration of Policy

A. Equal Opportunity Housing: In furthering the policy of the State as expressed in the Constitution and other laws and in order that the safety and general welfare, peace and health of all the inhabitants of the Village of

Machesney Park may be insured, it is hereby declared the policy of the Village, to assure equal opportunity to all Residents, regardless of race, color, religion, national origin or ancestry, sex, creed, or physical or mental handicap to live in decent, sanitary, healthful, standard living quarters.

B. Discrimination: It is the policy of the Village that no owner, lessee, sublessee, assignee, managing agent, or other person, having the right to sell, rent, lease (or otherwise control) any Housing accommodation and/or real property within the Village, or any agent of these, shall refuse to sell, rent, lease, or otherwise deny to or withhold from any person or group of persons such Housing accommodations and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or physical or mental handicap of such person or persons or discriminate against any person or persons because of race, color, religion, national origin or ancestry, sex, creed or physical or mental handicap in the conditions, term privileges of the sale, rental or lease Of any Housing accommodations and/or real property or in the furnishing of facilities and/or services in connection therewith.

7.502 Prohibited Acts. The Village of Machesney Park supports the cultivation of a diverse community and the enriched values such communities create, and believes adoption of a Fair Housing Policy enhances equal opportunity, promotes fairness, and is in the best interests of the public health, safety, and general welfare of its residents. In support of this endeavor, the Village vehemently opposes the following acts or omissions, and strongly believes these acts or omissions are in derogation of this Policy and its purpose:

- A. Discrimination by any owner of real estate, lessee, sublessee, real estate broker or salesman, financial institution or employee of the financial institution, advertiser, or agent of any or all of the foregoing, against any person or persons because of their race, color, religion, national origin or ancestry, sex, creed, or physical or mental handicap with regard to the sale, exchange or rental, or any dealing concerning any Housing accommodation and/or real property.
- B. In addition to the foregoing, the Village opposes discrimination by any real estate broker or employee thereof, owner or other person, or financial institution dealing with Housing or real property in the Village:

1. Against any person in the availability of or the price, terms, conditions or privileges of any kind relating to the sale, rental, lease, or occupancy of any Housing accommodation or real property in the Village or in the furnishing of any facilities or services in connection therewith.
2. In publishing or circulating, or causing to be published or circulated any notice, statement or advertisement, or to announce a policy, or to use any form of application, for the purposes, lease, rental or financing of real property, or to use any record of inquiry in connection with the prospective purchase, rental or lease of such real estate, which expresses directly or indirectly any discrimination as to race, color, religion, national origin or ancestry, sex, creed or physical or mental handicap of any person.
3. In connection with lending money, guaranteeing loans, accepting mortgages or otherwise obtaining or making available funds for the purchase, acquisition, construction, rehabilitation, repair or maintenance of any Housing accommodation and/or real property.
4. In soliciting for sale, lease, or listing for the sale or lease, of any Housing accommodation and/or real property on the ground of loss of value because of the present or prospective entry into any neighborhood of any person or persons of any particular race, color, religion, national origin or ancestry, sex, creed, or physical or mental handicap.
5. In distributing or cause to be distributed, written material or statements designated to induce any owner or any Housing accommodation and/or real property to sell and or lease his property because of any present or prospective change in the race, color, religion, national origin or ancestry, sex, creed, or physical or mental handicap of persons in the neighborhood.
6. In making any misrepresentation concerning the listing for sale or the anticipated listing for sale of any Housing accommodations and/or real property for the

purpose of including or attempting to induce the sale or listing for sale of any Housing accommodation and/or real property by representing that the presence or anticipated presence of persons of any particular race, color, religion, national origin or ancestry, sex, creed, or physical or mental handicap in the area will or may result in the lowering of property values in the block, neighborhood, or area in which the property is located.

7. For an owner to solicit any real estate broker to sell, rent or otherwise deal with such owner's Housing accommodations and/or real property with any limitation on its sale based on race, color, religion, national origin or ancestry, sex, creed, physical or mental handicap.
8. For an owner to refuse to sell, rent, or otherwise deal with any Housing accommodation and/or real property because of race, color, religion, national origin or ancestry, sex, creed, or physical or mental handicap of the proposed buyer or tenant. (Amd. Ord 11-09 - 4/27/2009)"

ARTICLE VI. POLICY PROHIBITING SEXUAL HARASSMENT

7.601 All members of the Village Board, elected officials, commission and committee members and any appointed individuals serving the Village in any capacity, must comply with the Policy Prohibiting Sexual Harassment as provided in the Village of Machesney Park Personnel Policies & Job Description Manual. (Amd. Ord 05-20 - 01/06/2020)

CHAPTER 8. PUBLIC WORKS (INCLUDES STREETS AND SIDEWALKS)

ARTICLE I. ALTERATIONS AND WORK ON PUBLIC ROADS AND PROPERTY

8.101. DEFINITIONS. Person means any person, persons, firm, corporation, or any organization or concern.

8.102. PERMIT REQUIRED. It shall be unlawful for any person, except a public utility which has by ordinance or agreement been authorized by the Village to maintain its public utility facilities within the Village, to make any excavation or alteration in or across, or to tunnel under any curb, gutter or street or any Village property without first having secured a permit therefor from the Village.

8.103. APPLICATION. The application for a permit required by this Ordinance shall be filed with the Village. The application shall state the name of the applicant, where he resides, on whose behalf the work is to be done, the nature of the work that is desired to be done, and the reason therefor, the size, type, and location of the street surface or other improvement to be injured or altered and the exact location where the work is to be done. The application shall be under oath, sworn to before a Notary Public and signed by the applicant and said application shall contain a statement that the applicant agrees that if he shall injure or alter for any purpose whatsoever any pavement of any street, alley, sidewalk, curb or gutter or any part thereof, or dig any hole, trench, ditch or drain, or dig or remove any sod, stone, curb, earth, sand or gravel from any street, alley, sidewalk, parkway or other public property, that he shall be responsible and liable to the Village for damages to persons or property in consequence thereof which the Village shall suffer or be adjudged to pay. It shall further contain a statement that the applicant shall pay all damages to the street surface or improvement that may arise due to operations of the applicant and applicant agrees to pay all damages that may be recovered against the Village to any person or property occasioned by or in any manner resulting from the operations of the applicant on public property.

8.104. BOND REQUIREMENTS; CONDITIONS. If the Street Superintendent finds the permit requested should be issued, the applicant shall be required to enter into a bond of not less than 150% of the cost of the project as determined by the street superintendent with corporate sureties furnished by a reputable surety company as approved by the street superintendent, conditioned that the applicant will do the work for which he has applied for a permit in a proper and workmanlike manner and in accordance with the specifications set forth; that the applicant will pay all damages to the

street surface or improvement that may arise due to operations of the applicant and that the applicant will pay all damages that may be recovered against the Village to any person or property occasioned by or in any manner resulting from the operations of the applicant on public property. Said bond shall be effective for a duration of one (1) year after the date applicant has ceased his operations.

8.105. PERMIT FEE. The fee for a permit shall be determined by the Street Superintendent or such officer or agent as may be designated from time to time by the Village, equal to the actual cost of inspection and processing necessary inspection documents and the permit, and provided further that, pending determination of such actual cost, the applicant shall deposit with the Village an amount equal to the cost as so estimated. Should any amount of such deposit remain unexpended, after deducting the actual cost involved, said amount shall be returned to the applicant making the deposit. Should the deposit be insufficient to cover the actual costs outlined above, the applicant shall, upon notification, immediately pay to the Village the difference between said actual costs and the amount on deposit.

8.106. SPECIFICATIONS; RESTORATION. Any person doing any work pursuant to a permit shall promptly restore any street surface or other property, which may be injured or damaged in any manner. Street surfaces so injured shall be restored by a reputable contractor, firm or individual in accordance with the following specifications:

A. All dirt and rubble shall be removed from the excavation site. The Village Street Superintendent, or such officer or agent as may be designated from time to time by the Village, shall be notified prior to restoration of the injured street surface so that an on-site inspection may take place during the restoration process.

B. Permanent and semi-permanent street surfaces shall be repaired to their original condition by the person doing the work. Where the excavation is within the surface area of any street, it shall be backfilled by using sand or stone screening in layers not to exceed six (6) inches in depth. Each layer shall be thoroughly compacted by jetting with water and/or tamping by the use of ramming tools or hand tampers. The final layer of road repair shall be ten (10) inches of crushed rock (road stone) and compacted utilizing the above methods. Four (4) to six (6) weeks shall be allowed for settling before finishing or such other time as may be directed by the Street Superintendent, or such other officer or agent as may be designated from time to time by the

Village.

C. If the surface of the street is concrete, the surface shall be replaced by using concrete which meets state specifications and is equal in thickness to the original surface and finished in a manner similar and equal to the original surface. If the original surface was of a bituminous nature, the surface shall be repaired by using bituminous patching mixture, which meets state specifications, for a thickness of two (2) inches or the thickness of the original surface, whichever is greater. The bituminous patching material shall be smoothed and rolled until thoroughly compacted to the line and grade of the original surface.

D. Any gravel or crushed stone surface shall be backfilled as described previously in this section and the street surface repaired by using the same type of surfacing material to a depth equal to the original street surface.

8.107. PENALTIES. Any person, persons, corporation, firm, or any organization or concern who shall intentionally injure any road, highway, or public property of the Village of Machesney Park, without first securing a permit as required above, shall be subject to a fine of not less than one hundred and fifty dollars (\$150.00) nor more than five hundred dollars (\$500.00) and each and every day such work continues shall constitute a new and separate offense. Failure to restore the road, highway, or public property to the original condition as provided by this Ordinance, shall subject the offender to a penalty not to exceed five hundred dollars (\$500.00) for each and every day such failure continues after written notice by the Director of Public Works of Machesney Park that a breach has been committed. (Ord. 30-81 - 8/10/81 repealed 12/8/81; Ord. 44-81 - 12/8/81 repealed 12/8/81; Amd. Ord. 51-81 - 12/8/81; Amd. Ord. 75-95 - 9/18/95)

ARTICLE II. DRIVEWAY CONSTRUCTION AND MAINTENANCE

8.200. Definitions

- A. Driveway: A private improved surface, road, field road, or other traveled way that provides access to a private property from a public road.
- B. Public Right of Way: The land within legally defined property boundaries shown on the plat of subdivision or whose title rests with the Village and is designated or intended for use as a public street, public alley, or public highway.

8.201. PERMIT REQUIRED.

A. No person, firm, corporation, or other entity shall hereafter construct, reconstruct, build, establish or maintain a driveway over, across or upon any portion of the public right of way without first having obtained a written permit to do so from the Department of Public Works. A driveway permit is required prior to the issuance of a building permit for new construction, additions, or changes in use. No permit shall be issued for construction or establishment of any such driveway except in accordance with the provisions herein contained.

B. Property owners may obtain a driveway permit only if:

1. The driveway will not create undue safety hazard;
2. It will not impede safe and efficient flow of traffic;
3. It does and will conform in all respects to existing traffic, zoning, storm water, and building provisions.

C. Applications for permit must be made in writing upon forms furnished by the Village. Said application shall contain:

1. The location of the property, including address and street name.
2. The name, address and contact phone number of the property owner.
3. The name, address, and contact phone number of the contractor or person who is to construct the driveway.
4. The location of all proposed and existing buildings and other physical features such as retaining walls, sidewalks, utilities, landscaping etc. that may affect the driveway location and/or slope.
5. The location of property lines. A dimension from the nearest property line to the proposed driveway(s) shall be provided.
6. Existing pavement and right of way widths.
7. Locations and types of all easements.
8. All existing driveway(s) on the property, including dimensions.
9. All proposed driveway(s), including dimensions.
10. Locations of the driveways on adjacent properties, and locations of the driveways on the opposite side of the street.

D. Complete plans and specifications shall be submitted to the Public Works Department of the Village at least forty-eight (48) hours before permit shall be issued.

(Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 53-11 - 10-17-11)

8.202. SUPERVISION. All such work shall be done under the jurisdiction of the Department of Public Works or their assigned agent and in accordance with the ordinances of the Village and shall be inspected upon completion by the constituted members of such Department.

8.203. SPECIFICATIONS. All plans and specifications must conform to the following minimum requirements before permit for construction or reconstruction shall be permitted:

A. INDUSTRIAL/COMMERCIAL

1. Industrial or Commercial entrance or exit drives shall be constructed of Portland cement concrete at least six inches (6") in thickness or four inches (4") of bituminous pavement with twelve inches (12") aggregate base. All materials shall conform with IDOT specifications (latest edition) on file with the Village Engineer.

2. The width of the entrance or exit drive shall not exceed thirty feet (30') at the property line. Request for driveway widths thirty (30') to forty-five (45') at the property line may be approved at the discretion of the Village engineer or the Public Works Department. Where two (2) or more adjoining driveways are provided for the same property, a safety island of not less than forty feet (40') at the property line shall be provided. Not more than two (2) such driveways shall be allowed to any one owner for any one piece of property on any one street for each one hundred fifty feet (150') of continuous frontage thereof. The Board of Trustees reserves the right to waive the width requirement. (Amd. Ord. 26-01 - 07/09/2001)

3. The width of the opening (flared or radial) at the curb or pavement line shall be no greater than twenty feet (20') nor less than ten feet (10') in addition to the width of the driveway at the property line. Requests for radial flares in excess of 20' for the purposes of accommodating the turning radii of expected design vehicle(s) may be approved at the discretion of the Village Engineer or the Public Works Department. The additional width granted at the curb or pavement line shall be divided equally on each side of each entrance or drive, unless otherwise approved by the Village Engineer or Public Works Department. (Amd. Ord 53-11 - 10-17-11)

B. MULTI-FAMILY

1. Multi-Family Driveways (more than one dwelling unit) shall be constructed of Portland cement concrete of at least six inches (6") thickness or three inches (3") of bituminous pavement with a ten (10") inch aggregate base. All materials shall conform with IDOT specifications (latest edition) on file with the Village Engineer.

2. The width of the driveway shall not exceed thirty feet (30') at the property line for a single drive or no more than twenty-four feet (24') if more than one drive is required. If more than one drive is required, a safety island of not less than thirty feet (30') at the property line shall be provided between the edges of adjacent drives. Not more than two (2) driveways will be allowed for each one hundred fifty feet (150') of continuous frontage. The Board of Trustees reserves the right to waive the width requirements.

3. The width of the opening (flared or radial) at the curb or pavement line shall be no greater than twenty feet (20') nor less than ten feet (10') in addition to the width of the driveway at the property line. The additional width granted at the curb or pavement line shall be divided equally on each side of each entrance or drive.

C. SINGLE FAMILY

1. Driveways for single family residential houses shall be constructed of Portland cement concrete at least four inches (4") thickness or two inches (2") of bituminous pavement with an eight inch (8") aggregate base. All materials shall conform with IDOT specifications (latest edition) on file with the Village Engineer.

2. The width of the driveways shall be determined as follows:

A. For lot frontages equal to or greater than seventy-five (75') as measured at the property line, the driveway shall not be less than ten feet (10'), nor more than twenty-four feet (24') at the property line for residential house with a two (2) car garage and thirty feet (30') at the property line for a residential house with

a three (3) car attached garage. Only one (1) driveway shall be allowed for each residential house. (Amd. Ord. 53-11 - 10/17/11)

- B. For lot frontages equal to or greater than sixty feet (60'), but not more than seventy-five feet (75') as measured at the property line, the driveway shall not be less than ten feet (10') nor more than twenty-four feet (24') at the property line.
- C. For lot frontages less than sixty feet (60') as measured at the property line, the driveway shall not be less than ten feet (10'). The maximum width at the property line shall be calculated by multiplying the frontage as measured at the property line by 0.40.
- D. For cul-de-sac and/or radius corner frontages:
 - a. For lot frontages equal to or greater than seventy-five (75') as measured at the front building set back line, the driveway shall not be less than ten feet (10'), nor more than twenty-four feet (24') at the property line for residential house with a two (2) car garage and thirty feet (30') at the property line for a residential house with a three (3) car attached garage.
 - b. For lot frontages equal to or greater than sixty feet (60') but not more than seventy-five feet (75') as measured at the front building set back line, the driveway shall not be less than ten feet (10'), nor more than twenty-four feet (24') at the property line.
 - c. For lot frontages less than sixty feet (60') as measured at the front building set back line, the driveway shall not be less than ten feet (10'). The maximum width at the property line shall be calculated by multiplying the frontage as measured along the front building setback line by 0.40.
- E. For corner lots, the measurement shall be taken along the property line that has the narrowest frontage.

3. The width of the opening (flared or radial) at the curb or pavement line shall be no greater than fifteen feet (15') nor less than five feet (5') in addition to the width of the driveway at the property line. The additional width granted at the curb or pavement line shall be divided equally on each side of the drive.

D. GENERAL

1. Where a driveway of any kind of material is constructed across the sidewalk space, it shall conform to the existing sidewalk grade as established in the field, or by the Village Engineer.

2. Where a driveway of any kind of material is constructed across an existing sidewalk, said sidewalk shall be removed and replaced with Portland cement concrete for the full width of the driveway and for a distance of at least twelve inches (12") on both sides of said driveway. This portion shall be no less than six inches (6") in thickness and shall be reinforced with 6x6x6 woven or welded wire mesh. Amd. Ord. 10-00 - 3/13/00)

3. All driveways whether new construction or reconstruction, shall be constructed of Portland Cement or Bituminous Pavement as specified in this ordinance and shall be completed with said pavement within one year of the date of issuance of the driveway permit. If concrete is used, it shall be air entrained, have a slump of 3" or less, and have a minimum compressive strength of 3,500 psi at 28 days cure time. Temporary driveways prior to the final installation of Portland Cement or Bituminous Pavement shall be constructed of a minimum of 6" of aggregate base for residential single-family homes and a minimum of 10" of aggregate base for Commercial/Industrial and Multi-Family drives.

4. Where paving in the public street is of concrete, and a concrete driveway is constructed, a one inch (1") bituminous pre-molded expansion joint shall be placed against the existing concrete pavement, curb, and sidewalk in accordance with IDOT specifications (latest edition) on file with the Village Engineer.

5. All driveways shall be so graded between the street and the sidewalk that it will not be necessary to change the established grade of either

and will not elevate or depress any portion of either. No part of said driveway shall extend beyond the curb line or edge of street pavement in such a manner as to change the grade of said street or obstruct the free flow of water in any gutter. Where elevations or depressions are necessary in the parkway strip between the curb and walk, said parkway shall be graded on both sides of the driveway to a distance sufficient to create a gradual ascent or descent. Driveways for newly constructed homes shall not have a slope of greater than 14%.

6. Where curbs exist, combined curb and gutter and separate curbing shall be entirely removed for the full width of the driveway opening at the curb line or the curb head may be sawed off if allowed by the Director of Public Works. If an existing joint in said curb is within five feet (5') of the end of the driveway opening, remove the existing curbing to said joint, otherwise cut said combined curb and gutter or separate curbing, making a neat edge truly at right angles to the edge of the pavement and truly vertical. Integral curbing, which is that type placed with the pavement and molded as an integral part of it, must be removed for the full depth from the top of curb to the bottom of the pavement. The edge must be cut as above described. No combined curb and gutter, straight curb or integral curb shall be removed within five feet (5') of a public crosswalk.

7. Where driveways cross open ditches in the parkways, culverts shall be installed. Said culverts shall be of such size and length and shall be constructed of such material as determined by the Department of Public Works, depending on the conditions existing. In no instance shall the size of the opening be less than that obtained by a fifteen-inch (15") diameter pipe.

8. Where an existing catch basin is in the area of the proposed driveway, the grate and frame shall be replaced with a heavy-duty grate and frame intended for vehicular traffic. The additional cost thereof shall be paid by the Owner or Contractor.

9. Where a storm sewer lid or an inlet not intended for vehicular traffic is in the area of the proposed driveway, the lid or inlet and frame

shall be removed and replaced with an inlet and frame intended for vehicular traffic. The additional cost thereof shall be paid for by the Owner or Contractor.

10. Where any existing utility shutoff or control valve, fire hydrant or utility pole is in the area of the proposed driveway, such changes or relocations must be arranged with the utility or fire department involved as may be required by said utility or fire department, and the additional cost thereof shall be paid by the owner or contractor.

11. All driveways constructed or reconstructed over, across or upon any public street or public parkway in the Village shall be kept and maintained at all times in accordance with the provisions hereof by the persons so constructing, reconstructing or using the same as an adjunct or appurtenance to lands or properties immediately adjacent thereto.

12. All private driveways shall be located a distance of at least three (3) feet from the nearest property line that runs parallel to the driveway. (Amd. Ord. 47-96 - 9/9/96)

13. If a driveway is to be shared by two adjacent property owners or is located over a property line, then the width of said driveway shall not exceed a total of thirty (30) feet at the property line which separates public right of way from private property. (Amd. Ord. 47-96 - 9/9/96)

14. For the purpose of off-street parking, no portion of a driveway on private property in single family residential districts in any yard shall exceed more than twenty-four (24) feet in width on existing nonconforming substandard lots, nor more than thirty-six (36) feet in width on conforming lots. (Amd. Ord. 67-97 - 12/15/97)

15. All driveways shall be constructed to intersect the public road at a 90-degree angle, or as close to a 90-degree angle as practical.

8.204. PERMIT FEE. The permit fee shall be five dollars (\$5.00).

8.205. PENALTIES. Any person, persons, corporation, firm or any organization or concern who shall violate any provision of this ordinance shall be subject to a fine of not

less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) and each and every day such violation continues shall constitute a new and separate offense. (Amd. Ord. 41-09 - 11/16/2009)

8.206 VARIATIONS

(1) Purpose. The Public Improvements and Safety Committee is empowered to recommend variations in order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of this article as would result from a strict or literal interpretation and enforcement of certain regulations prescribed by this ordinance. A practical difficulty or unnecessary physical hardship may result from the size, shape, or dimensions of a site or from population densities, street locations, or traffic conditions in the immediate vicinity. Recommending the variance will not merely serve as a convenience to the applicant but is necessary to alleviate some demonstrable difficulty. Cost to the applicant of strict or literal compliance with a regulation shall not be the sole reason for recommending a variation. A variation shall be recommended by the Public Improvements and Safety Committee only in accordance with the standard set forth above and only in the following instances and no other.

- (a) To permit a residential property to exceed the allowed one (1) driveway per residential lot;
- (b) To permit a driveway within the right of way to exceed the allowed width as outlined by this chapter;
- (c) To permit a driveway, for the purpose of off-street parking, to exceed the allowed width as outlined by this chapter;
- (d) To permit a driveway to be constructed closer to the nearest property line than is outlined by this chapter;
- (e) To permit a safety island to be constructed smaller than is outlined by this chapter.

(2) Application and fee

(a) Data to be furnished. Application for a variation shall be made to the Superintendent of Public Works on a prescribed form and shall include the following data:

- 1. Name and address of the applicant.
- 2. Address or description of the property.

3. Statement of the precise nature of the variation requested and the practical difficulty or unnecessary physical hardship that would result from a strict or literal interpretation and enforcement of a specified regulation of this chapter.

4. A site plan in accordance with the provisions of 8.201, Section C.

(b) Fee. The application shall be accompanied by a fee of one hundred (\$100) dollars to cover the cost of handling the application as prescribed in this Article.

(Amd. Ord. 53-11 - 10/17/2011)

ARTICLE III. EMERGENCY NO PARKING (SNOW)

8.301. EMERGENCY DECLARED. It is hereby declared and ordained that any accumulation of snowfall of a depth of two inches (2") or more, as declared and determined by the U.S. Weather Bureau Office covering this Village, creates an emergency on the roads and highways of Machesney Park.

8.302. REGULATIONS. No person, corporation or organization shall, during an emergency, park or permit any automobile, truck, tractor, wagon, trailer or combination thereof, or any other vehicles to park or stand on any road, highway, shoulder of the road, ditch or any other property used or which could be used as a roadway within the Village of Machesney Park until such road or highway has been cleared of snow or such other natural obstruction or until the same has been otherwise removed or abated.

8.303. PENALTIES. Any person, corporation or organization or other concerned violating this ordinance shall be subject to a fine of not less than \$25 and not more than \$100 and in addition, the vehicle constituting the violation may be removed and stored at the owner's expense. Each day of the violation to this ordinance shall be a separate offense. Further, if said citation is paid within ten (10) days from the issuance of said citation, the maximum fine shall be \$25. Failure to pay said citation within ten (10) days from the issuance of same, may result in the imposing of a fine of not more than \$100. (Amd. Ord. 35-82 - 8/24/82)

8.304. VALIDITY. If any part of this Article is unconstitutional or invalid for any reason, the remainder shall not be affected hereby. (Ord. 43-81 - 10/13/82)

ARTICLE IV. UNOBSTRUCTED VIEW AT INTERSECTIONS.

8.401. SIGHT CLEAR DISTANCE. On any corner lot, within one-half of the right-of-way width from the intersection of the nearest right-of-way lines, nothing shall be erected, placed, planted or allowed to grow in such a manner as to materially impede vision between a height of three (3) feet and ten (10) feet above the plane surface formed by the centerline grades of the intersecting streets.

8.402. PENALTIES. Any person violating or disobeying this Ordinance shall be fined upon conviction not less than \$10.00 nor more than \$100.00 for each offense with the fine to be recovered in the manner and form as provided by law. A separate offense shall be deemed committed upon each day during or on which the violation of this Ordinance occurs or continues. (Ord. 17-82 - 4/27/82)

ARTICLE V. NON-ROUTINE MAINTENANCE

8.501. APPROVAL. All non-routine street maintenance shall be approved by the Village Board before proceedings with the project.

8.502. DEFINITION OF. Non-routine street maintenance items are defined as any expenditure of maintenance or improvement of streets within the Village with the exception of those items listed in Article VII, " ROUTINE MAINTENANCE." (Ord. 44-82 - 10/12/82)

ARTICLE VI. MAINTENANCE & REPAIR OF SIDEWALKS

8.601. DUTY. It shall be the duty of each owner or occupier of any lot or part of a lot abutting a public sidewalk to maintain such sidewalk in good repair.

8.602. INSPECTION. The Village Department of Public Works may institute a program of inspection of public sidewalks. If such inspection reveals any sidewalk to be in a state of disrepair, the Public Works Department shall notify the owner of abutting property, in writing, of the location of such sidewalk and the condition constituting disrepair.

8.603. NOTICE. The written notice required by Section 2 of this Ordinance shall constitute constructive notice.

8.604. DUTY FOR REPAIR OR REPLACEMENT. Upon constructive notice of sidewalk disrepair, it shall be the duty of the owner of property abutting said sidewalk to cause necessary repairs or replacement of such sidewalk to be made within thirty (30) days of such notice, except that if such notice is made after October 15 of any year and before April 15 of the following year, repairs will not be required until the following May 15.

8.605. PENALTY. If the owner of said abutting property fails to make the required repair or replacement within the time above specified, the Department of Public Works shall report same to the Village Attorney, who shall initiate procedures against appropriate persons as provided by law.

8.606. AUTHORITY. Nothing contained in this Ordinance shall prevent the Department of Public Works from repairing or removing any public sidewalk found to be in disrepair. (Ord. 52-82 - 10/26/82)

8.607. CONSTRUCTION MATERIALS. Sidewalks shall be constructed as outlined in Appendix C - Subdivisions of the Municipal Code of the Village of Machesney Park. (Ord. 53-98 - 11/16/98)

ARTICLE VII. ROUTINE MAINTENANCE

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(Ord. 43-82 - 10/12/82; Amd. Ord. 49-98 - 9/28/98; Ord. 30-07 - 01/14/08) (Amd. Ord. 03-14 - 02-03-2014)

ARTICLE VIII. MAINTENANCE-UNACCEPTED STREETS

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(Ord. 35-83 - 7/12/83; Amd. Ord. 57-84 - 8/14/84; Amd. Ord. 126-88 - 12/13/88)

ARTICLE IX. PREVAILING WAGE/PUBLIC WORKS

8.901. ESTABLISHED. To the extent and as required by "An Act regulating wages of laborers, mechanics and other workmen employed in any public works by the State, County, City or any public body or any political subdivision or by any one under contract for public works" approved June 26, 1941, as amended, the general prevailing rate of wages in the locality for laborers, mechanics and other workmen engaged in the construction of public works coming under the jurisdiction of this Village is hereby ascertained to be the same as the

County area as determined by the Department of Labor of the State of Illinois as of June, 1982. The definition of any terms appearing in this Article which are also used in aforesaid Act shall be the same as in said Act.

8.902. APPLICATION. Nothing herein contained shall be construed to apply said general prevailing rate of wages as herein ascertained to any work or employment except public works construction of this Village to the extent required by the aforesaid Act.

8.903. DETERMINATION POSTED. The Village Clerk shall publicly post or keep available for inspection by any interested party in the main office of this Village this determination of such prevailing rate of wage.

8.904. MAILING OF. The Village Clerk shall mail a copy of this determination to any employer, and to any association of employers and to any person or association of employees who have filed, or file their names and addresses, requesting copies of any determination stating the particular rates and the particular class of workmen whose wages will be affected by such rates.

8.905. FILING REQUIREMENTS. The Village Clerk shall promptly file a certified copy of the yearly Prevailing Wage Ordinance with both the Secretary of State and the Department of Labor of the State of Illinois.

8.906. PUBLICATION. The Village Clerk shall cause to be published in a newspaper of general circulation within the area a copy of the yearly Prevailing Wage Ordinance, and such publication shall constitute notice that the determination is effective and that this is the determination of this body. (Ord. 37-81 - 10/13/81; Ord. 24-82 - 6/9/82; Ord. 29-83 - 6/28/83; Ord. 45-84 - 6/26/84; Ord. 49-85 - 6/25/85; Ord. 72-86 - 6/24/86; Ord. 47-87 - 6/16/87; Ord. 53-88 - 6/21/88; Ord. 44-89 - 6/20/89; Ord. 28-90 - 5/7/90; Ord. 28-91 - 5/20/91; Ord. 26-92 - 6/22/92; Ord. 39-93 - 6/21/93; Ord. 48-94 - 6/20/94; Ord. 56-95 - 6/26/95; Ord. 31-96 - 6/24/96; Ord. 25-97 - 6/23/97; Ord. 22-98 - 6/22/98; Ord. 15-99 - 6/21/99; Ord. 17-00 - 6/19/00; Ord. 23-01 - 6/25/01; Ord. 27-02 - 6/10/02; Ord. 19-03 - 6/23-03; Ord. 15-04 - 6/21/04; Ord. 21-05 - 6/27/05; Ord. 30-06 - 06/19/06; Ord. 15-07 - 07/23/07)

ARTICLE X. TREES ON PUBLIC PROPERTY

8.1001. DEFINITIONS.

A. Whenever the words "parkway" or "terrace" are used in this Article they shall mean:

1. On curbed streets: That part of the public right-of-way lying between said curb and any adjacent sidewalk, or if no sidewalk, that part between said curb and adjacent property line.

2. On non-curbed streets: That part of the public right-of-way lying between the edge of the maintained road surface and any adjacent sidewalk, or if no sidewalk, that part between said maintained road surface and the adjacent property line.

B. Whenever the words "maintained roadway" are used in this Article they shall mean:

1. That portion of the public right-of-way which is paved or otherwise maintained for the purpose of vehicular movement, or

2. In the case of dedicated roadways not yet improved, that portion of the dedicated roadway which would be reasonably expected to become an improved surface at some later date.

8.1002. PERMIT REQUIRED FOR PLANTING OR REMOVAL OF SAME.

No person shall plant or transplant, trim or remove a tree or shrub on public property, terrace, or parkway without first obtaining a written permit for such work from the Public Works Department.

8.1003. FEE. There shall be no fee for said permit.

8.1004. PLANTING REGULATIONS. No tree or shrub shall be planted on public property, terrace, or parkway on streets with less than a 60-foot right-of-way. No tree or shrub shall be planted on public property within six (6) feet of any driveway. Any tree or shrub planted pursuant to Section 8.1002 of this Article must be exactly eight (8) feet from the property line.

8.1005. ACCEPTABLE TREES. Under the provisions of Section 8.1002, the following described trees may be planted or transplanted on public property, terrace, or parkway except beneath or near overhead electric power lines. The Board of Trustees reserves the right to waive the requirements regarding type of tree that is allowed to be planted in the public right-of-way.

A. Medium to Large Trees:

<u>Common Name</u>	<u>Botanical Name</u>
Ginkgo (male)	<i>Ginkgo biloba</i>
Concolor Fir	<i>Abies concolor</i>
River Birch	<i>Betula nigra</i>
Tulip Poplar	<i>Liriodendron tulipifera</i>
Bitternut Hickory	<i>Carya cordiformis</i>
Hackberry	<i>Celtis occidentalis</i>
American Beech	<i>Fagus grandifolia</i>
Ironwood	<i>Ostrya virginiana</i>
Ohio Buckeye	<i>Aesculus glabra</i>
Swamp White Oak	<i>Quercus bicolor</i>
Chinquapin Oak	<i>Quercus muehlenbergii</i>
English Oak	<i>Quercus robur</i>
Blackgum	<i>Nyssa sylvatica</i>
Baldcypress	<i>Taxodium distichum</i>
American Hornbeam	<i>Carpinus caroliniana</i>
Kentucky Coffee Tree	<i>Gymnocladus dioica</i>
Hybrid Elms	<i>Ulmus x spp</i>
Sweetgum	<i>Liquidambar styraciflua</i>
London Planetree	<i>Plantanus x acerifolia</i>
American Larch	<i>Larix laricina</i>
Cucumber Magnolia	<i>Magnolia acuminata</i>
Speckled Alder	<i>Alnus rugosa</i>
Douglas Fir	<i>Pseudotsuga menziesii</i>

B. Low Growing Trees for Under Utility Wires:

<u>Common Name</u>	<u>Botanical Name</u>
Serviceberry	<i>Amelanchier arborea</i>
Thornless Hawthorn	<i>Crataegus Crusgalli</i>
Ivory Silk Tree Lillac	<i>Syringia reticulata</i>
Red Buckeye	<i>Aesculus x carnea</i>
Star Magnolia	<i>Magnolia stellata</i>

(Amd. Ord. 03-14 - 02-03-2014)

1. The Board of Trustees reserves the right to waive the requirements regarding type of "ornamental" tree that is allowed to be planted in the public right-of-way. (Amd. Ord. 49-96 - 9/9/96)

8.1006. PENALTIES. Any person who shall remove a tree in violation of Section 8.1002 of this Article shall be subject to a fine of \$500.00 plus costs incurred for removal of the stump and replacement of the tree. Any person who shall plant a tree in violation of Section 8.1005 shall be subject to costs incurred for removal of the tree. (Ord. 33-84 - 5/22/84)

8.1007. Any person who intends to plant or remove any tree or shrub on public property must first have all underground facilities (underground power, telephone, gas lines, etc.) marked out by J.U.L.I.E. or other recognized underground facilities locator. (Amd. Ord. 49-96 - 9/9/96)

ARTICLE XI. MAINTENANCE-CERTAIN ALLEYS

8.1101. AUTHORIZATION. The Department of Public Works is authorized to incorporate (maintain to department standards) into the street system the following alleys or stub streets as listed under Policy Six of the Transportation Section of the Master Plan:

- A. Erma Avenue-north of Pershing Road to Machesney Road
- B. Leland Avenue-north of Pershing Road to Machesney Road
- C. Kingsley Drive to Evans Avenue (north/south)
- D. Wallace Avenue to Shoreland Road (north/south)
- E. Wood Avenue to Ramona Terrace (north/south)
- F. Ramona Terrace to Colonial Drive (north/south)
- G. Between Anna Avenue and Marie Avenue (east/west)
- H. Between IL 251 and Spruce Street (north/south)
- I. Between Anna Avenue and Windsor Lane (600 block, east/west) (Ord. 129-86.19/9/86)

ARTICLE XII. ADDITION OF FRONTAGE ROADS TO STREET SYSTEM ADDITION OF HARLEM ROAD TO STREET SYSTEM

8.1201. ADDITION TO MUNICIPAL STREET SYSTEM. The following streets be added to the Municipal Street System:

A. FA ROUTE 738 FRONTAGE ROAD NUMBER 646 from Swanson Road to Copper Drive, a total distance of 3.19 miles.

B. FA ROUTE 738 FRONTAGE ROAD NUMBER 952 from Melbourne Avenue to Harlem Court, a total distance of 1.47 miles.

C. FAU ROUTE 5034 (Harlem Road from IL251 to the east limits of the Village) is added to the Village Street system. (Amd. Ord. 89-88 - 9/13/88)

D. ALPINE ROAD (Juniper Lane to IL 173) is added to the Village Street system. (Ord. 91-88 - 9/20-88)

8.1202. FILING REQUIREMENTS. The Village Clerk is directed to forward a certified copy of this ordinance to the

State of Illinois through its District Engineer's office at Dixon, Illinois. (Ord. 79-87 - 10/13/87)

ARTICLE XIII. REGULATE ENCROACHMENT/RIGHT-OF-WAY/N.
SECOND STREET REGULATE ENCROACHMENT/RIGHT-OF-WAY/HARLEM ROAD
REGULATE ENCROACHMENT/RIGHT-OF-WAY/PUBLIC PROPERTY

8.1301. DEFINITIONS.

A. "Roadway Right-of-Way" is defined as those areas existing or acquired by dedication or by fee simple for highway purposes; also, the areas acquired by temporary easement during the time the easement is in effect.

B. "Encroachment" is defined as any building, fence, sign, personal property, construction material, equipment, vehicles, any materials or foreign matter, water, or liquid from any source including, but not limited to liquid from sump pumps/pits, roof drain, downspouts, swimming pools and swimming pool backwash, or other intermittent sources or any other structure, or debris (with the exception of utilities, mailboxes, public road signs, and other public facilities) which is placed, located or maintained in, on, or over any portion of the roadway right-of-way or public property. (Amd. Ord. 31-89 - 7/25/89; Amd. Ord. 42-04 - 11/29/2004; Amd. Ord. 08-10 - 03/15/2010)

8.1302. ENCROACHMENT PROHIBITED. It shall be unlawful for any person, firm or corporation to erect or cause to be erected, to retain or cause to be retained, to maintain or cause to be maintained, or to store or cause to be stored for a period of more than twenty-four (24) hours, an ENCROACHMENT (herein above defined) on any property owned by or under the jurisdiction of the Village of Machesney Park, including, but not limited to, any Village street, right-of-way, easement, park, or any other property owned by or under the jurisdiction of the Village of Machesney Park, except as provided in Section 8.1002 of the Village of Machesney Park Code. Encroachments beyond 24-hour periods may be granted, under special circumstances by the Village Engineer, Winnebago County Sheriffs Police or Superintendent of Streets. The Public Works Department, Winnebago County Sheriffs Police and Village Engineer has responsibility for enforcing this ordinance and has the authority to remove any and all encroachments in violation of this ordinance. (Amd. Ord. 90-88 - 9/13/88; Amd. Ord. 31/89 - 7/25/89; Amd. Ord. 42-04 - 11/29/2004)

8.1303 DISCHARGE PROHIBITED. It shall be unlawful to locate any discharge of any kind, including, but not limited to discharge from a sump pump, roof drain, downspouts, swimming pool, swimming pool backwash or other interment source within ten feet (10.0') of a property line unless otherwise approved in writing by the Director of Public Works or his authorized designee. (Amd. Ord. 08-10 - 03/15/2010)

8.1304. INTENT. This Article is intended to and shall be in addition to all other ordinances, rules and regulations concerning encroachments and shall not be construed as repealing or rescinding any other ordinance or part of any ordinance unless in direct conflict therewith. (Amd. Ord. 08-10 - 03/15/2010)

8.1305. PENALTY. Any person, persons, corporation, firm or organization or concern which shall violate any provision of this ordinance or fail to remove violating encroachment or discharge after initial contact, either personally or in writing, by the Department of Public Works shall be guilty of a petty offense and upon conviction shall be fined not less than \$100 and no more than \$500 for each and every day the violation persists. Each and every day the violation persists shall constitute a separate violation. (Ord. 80-87 - 10/13/87; Amd Ord. 31-89 - 7/25/89; Amd. Ord 42-04 - 11/29/2004; Amd. Ord. 08-10 - 03/15/2010)

ARTICLE XIV. ILLICIT DISCHARGE DETECTION AND ELIMINATION ORDINANCE

8.1401. PURPOSE/INTENT.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of The Village through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

The objectives of this ordinance are:

A. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user.

B. To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system.

C. To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to ensure compliance with this ordinance

8.1402. DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits. NPDES Storm Water Phase II permits are required for construction projects resulting in land disturbance of one (1) acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge means any direct or indirect non-stormwater discharge to the storm drain system.

Illicit Connections: An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by The Superintendent of Public Works;

or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by The Superintendent of Public Works.

Industrial Activity means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b) (14).

National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Permit: means a permit issued by the U.S. Environmental Protection Agency (USEPA) (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Stormwater Discharge means any discharge to the storm drain system that is not composed entirely of stormwater. Owner or Operator as defined by 40 CFR 122.2, means the owner or operator of any "facility or activity" subject to regulation under the NPDES program.

Person means any individual, occupant, tenant, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System means facilities by which stormwater is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage

structures.

Stormwater means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

Stormwater Pollution Prevention Plan (SWPPP). A document which describes the BMPs and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

8.1403. APPLICABILITY

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by The Village.

8.1404. RESPONSIBILITY FOR ADMINISTRATION.

The Village of Machesney Park, Illinois shall implement and enforce the provisions of this ordinance. Any powers granted or duties imposed upon an authorized enforcement agency may be delegated in writing by the Superintendent of Public Works to persons or entities acting in the beneficial interest of or in the employ of The Village.

8.1405. SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this ordinance.

8.1406. ULTIMATE RESPONSIBILITY

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore, this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

8.1407. DISCHARGE PROHIBITIONS.

A. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.

B. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

C. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.

D. A person is considered to be in violation of this ordinance if the person connects a line conveying pollutants to the MS4 or allows such a connection to continue.

E. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if de-chlorinated - typically less than one PPM chlorine), fire-fighting activities, and any other water source not containing Pollutants.

2. Discharges specified in writing by The Village as being necessary to protect public health and safety.

3. Dye testing is an allowable discharge but requires a verbal notification to The Village prior to the time of the test.

4. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the USEPA, provided that the discharger is in full

compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

8.1408. SUSPENSION OF MS4 ACCESS.

A. Suspension due to Illicit Discharges in Emergency Situations - The Village may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, The Village may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons. Suspension due to the Detection of Illicit Discharge.

B. Suspension due to the Detection of Illicit Discharge - Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Village will notify a violator of the proposed termination of its MS4 access. The violator may petition The Village for a reconsideration and hearing.

C. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval The Village.

8.1409. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to The Village prior to the allowing of discharges to the MS4.

8.1410. MONITORING OF DISCHARGES

A. Applicability.

This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

B. Access to Facilities.

1. The Village shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of The Village.

2. Facility operators shall allow The Village ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.

3. The Village shall have the right to set up on any permitted facility such devices as are necessary in the opinion of The Village to conduct monitoring and/or sampling of the facility's stormwater discharge.

4. The Village has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.

5. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of The Village and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. Unreasonable delays in allowing The Village access to a permitted facility is a violation of a stormwater discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to

discharge stormwater associated with industrial activity commits an offense if the person denies The Village reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

7. If The Village has been refused access to any part of the premises from which stormwater is discharged, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then The Village may seek issuance of a search warrant from any court of competent jurisdiction.

8.1411. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES (BMP).

The Village will adopt requirements identifying BMPs for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

8.1412. WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive

vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

8.1413. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system, or water of the U.S., said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify The Village in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to The Village within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

8.1414. ENFORCEMENT.

Notice of Violation.

A. Whenever The Village finds that a person has violated a prohibition or failed to meet a requirement of this ordinance, The Village may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting.
2. The elimination of illicit connections or discharges.
- 3 That violating discharges, practices, or operations shall cease and desist.
4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration

of any affected property.

5. Payment of a fine to cover administrative and remediation costs; and

6. The implementation of source control or treatment BMPs.

B. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency, or a contractor and the expense thereof shall be charged to the violator.

8.1415. APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of violation to the Village Administrator within seven (7) days of the notice of violation. Upon receipt of the appeal, the Village Administrator shall schedule, as soon as practicable, a meeting in an attempt to resolve any pending issue with the appellant. The Village Administrator may include in that meeting, in his discretion, the Superintendent of Public Works, the Village engineer, the Village Attorney, or any other individual or consultant which, in the opinion of the Village Administrator, would facilitate resolution of the pending issue.

8.1416. ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within seven (7) days of the decision of the municipal authority upholding the decision of The Village, then representatives of The Village shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent, or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

8.1417. COST OF ABATEMENT OF THE VIOLATION.

Any costs of abatement incurred by the Village may be passed on to the property owner for payment or reimbursement to the Village. Payment must be made to the Village within fourteen (14) days. The property owner may challenge the amount of the abatement by

appealing said cost as provided in Section 8.1415. Any costs of abatement ultimately determined to be due and owing to the Village and not paid within fourteen (14) days of a final assessment may be filed as a lien on the property as provided herein or under any applicable state or federal statute.

8.1418. INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this ordinance. If a person has violated or continues to violate the provisions of this ordinance, The Village may petition for a temporary restraining order or preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

8.1419. COMPENSATORY ACTION.

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8.1420. VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

8.1421. ADMINISTRATIVE HEARING.

Any person that has violated or continues to violate this ordinance shall be liable to prosecution to the fullest extent of the law and shall be subject to a fine of not less than \$250.00 and not to exceed \$750.00 dollars per violation per day. The fines imposed hereunder, and the violations identified within Chapter 8 may be enforced through the Municipal Administrative Hearing Process as provided in the Village Code.

8.1422. REMEDIES NOT EXCLUSIVE.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of The Village to seek cumulative remedies.

ARTICLE XV. PROHIBIT DELIBERATE PLACEMENT OF SNOW ON SIDEWALKS BY INDIVIDUALS

8.1501. PROHIBITED. It shall be deemed illegal to deliberately place snow on public rights-of-way and sidewalks by individuals. (Amd Ord. 19-90 - 4/9/90)

8.1502. PENALTY. Any person, persons, corporation, firm or organization or concern which shall violate any provision of this ordinance shall be guilty of a petty offense and upon conviction shall be fined not less than fifty dollars (\$50.00). Each and every day the violation persists shall constitute a separate violation. (Ord. 47-88 - 6/8/88)

ARTICLE XVI. PROHIBITING OBSTRUCTIONS ABOVE SIDEWALKS

8.1601. PROHIBITED. Any tree, shrub, or any other object which overhangs any sidewalk in such a way as to impede or interfere with pedestrian traffic shall be trimmed or removed by the owner of the abutting premises on which such tree, shrub, or any other object grows or is located so that obstruction shall cease.

8.1602. PENALTY. Any person, persons, corporation, firm or any organization or concern who shall violate this ordinance shall be fined upon conviction not less than \$10.00 nor more than \$100.00 for each offense with the fine to be recovered in the manner and form as provided by law. A separate offense shall be deemed committed upon each day by law. A separate offense shall be deemed committed upon each day during or on which the violation of this ordinance occurs or continues. (Ord. 57-91 - 8/26/91)

ARTICLE XVII. BLOCK PARTY PERMIT

8.1701. PERMIT REQUIRED. No person shall hold any block party, across or upon any portion of the public walk, public parkway, or any other public property without first having obtained a written permit to do so from the Department

of Public Works. No permit shall be issued for any block party except in accordance with the provisions herein contained.

8.1702. PARTY RULES.

A. Persons seeking to hold a block party must fill out an application and return it to the Police Department two (2) weeks prior to the date of the block party.

B. Each block party must designate a person to act

as a liaison with the Police Department should any problem arise because of the party.

C. All music and noise must be terminated by 10:00 PM, 9:00 PM Sunday through Thursday.

D. All debris must be cleaned up by the participants at the end of the party.

E. The Public Works Department will provide barricades to the liaison on the Friday before the block party. The liaison will be responsible for transporting these barricades back to Village Hall on the following Monday. This person shall be responsible for the barricades should they become lost, stolen, or broken.

F. At least 75% of the homeowners on the street affected must sign the petition on the application form granting permission for the block party to be held.

G. All other Village Ordinances must be observed by block party participants.

H. No alcohol shall be consumed in the street or on any other public property.

8.1703. PERMIT SPECIFICATIONS. Applications for permit must be made in writing upon forms furnished by the Village. Said forms shall be substantially the same as the following:

APPLICATION FOR BLOCK PARTY PERMIT

This form must be completed and returned to the Public Works Department two (2) weeks prior to date of party.

Name _____ Phone _____

Address _____

Street to be affected _____
(If only a portion of the street will be closed, please note the range of addresses affected.)

Contact person responsible for Block Party _____
(Name)

Number of people expected to attend _____

PETITION

We, the undersigned, constitute at least 75% of the homeowners whose homes border the block cited above, do hereby agree to have the street blocked off for a block party to be held on _____.
(Date)

NAME

ADDRESS

75% Verification By _____

Approved ____ Not Approved ____ Date _____

8.1704. SUPERVISION. The applicant shall describe all activities expected to occur at the block party upon any portion of the public walk, public parkway, or any other public property. Allowable activities shall be determined by the Department of Public Works and/or the Village's law enforcement agency.

8.1705. PERMIT FEE. The permit fee shall be five dollars (\$5.00).

8.1706. PENALTIES. Any person, persons, corporation, firm or any organization or concern who shall violate any provision of this ordinance shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) and each and every day such violation continues shall constitute a new and separate offense. (Ord. 78-95 - 9/25/95)

ARTICLE XVIII. RECONSTRUCTION OF EXISTING STREETS

8.1801. All reconstruction of existing streets shall be done to comply with the standards and specifications set by Appendix C - Subdivisions, of the Municipal Code of Machesney Park. (Ord. 13-96 - 4/08/96)

ARTICLE XIX. TREES ON PRIVATE PROPERTY

8.1901. REGULATIONS. It shall be unlawful for any person, persons, corporations, firms or organizations to allow or maintain any tree, shrub or plant on private property with an infectious disease or insect problem resulting in the tree, shrub or plant being dead or dying or

causing limbs to obstruct the public right of way in any way including, but not limited to, obstruction of traffic control devices, free passage of pedestrians or vehicles or posing a threat or a potential threat to public safety. Any tree, shrub or plant in such condition shall be deemed a public nuisance.

8.1902. INSPECTION. The Village Department of Public Works may institute a program of inspection. If such inspection reveals that any tree, shrub or plant is found to be a public nuisance, the Public Works Department shall notify the owner of the property, in writing, of the location of such tree, shrub or plant and the condition which constitutes a nuisance. The Public Works Director or his/her official designee has the authority to enter onto private property whereon there is located a tree, shrub, plant or plant part that is suspected to be a public nuisance and to order its removal if necessary.

8.1903. VIOLATION NOTICE. Any property owner who is given a thirty (30) day notice in writing personally served or sent by registered mail to the person to whom was sent the tax bill for the general taxes for the last preceding year on the property from the Public Works Department to remove such tree, shrub or plant, shall remove said tree, shrub or plant within said thirty (30) day period. In the event the owner, after receipt of said notice refuses or neglects to remove such tree, shrub or plant, the Village may remove the same and collect from the owner of the premises the reasonable cost thereof. Within sixty (60) days after such cost and expense is incurred by the Village, the Public Works Department shall file a notice in the office of the Recorder of Deeds of Winnebago County consisting of a sworn statement setting out: (1) a description of the real estate sufficient for identification thereof, (2) the amount of money representing the cost and expense incurred or payable for the service, (3) the date or dates when such cost and expense was incurred by the municipality. Said notice shall be a lien upon the real estate affected superior to all subsequent liens and encumbrances except tax liens.

However, the lien of the Village shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to removal of the tree, shrub or bush and prior to the filing of such notice, and the lien of such municipality shall not be valid as to any mortgagee, judgement creditor or other lienor whose rights in a to such real estate arose prior to the filing of such notice.

The lien may be enforced by proceedings to foreclose as in case of mortgages or mechanics liens. Suit to foreclose this lien shall be commenced within two (2) years after the

date of filing notice of lien as is set forth in Illinois Compiled Statutes. (Chapter 65, Section 5/11-20-11 and 5/11-20-12)

8.1904. PENALTY. Any person, persons, corporations, firms or organizations which shall violate any provision of this Article shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), plus cost of court. Each day any violation of this Article shall continue shall constitute a separate offense. (Ord. 17-96 - 5/06/96)

ARTICLE XX. REMOVAL OF SNOW FROM UNACCEPTED STREETS

8.2001. DEFINITIONS

A. "Village" is defined as the Village of Machesney Park.

B. "Unaccepted Street" is defined as any street that has been constructed under the provisions of the Subdivision Code by a person, corporation, organization or other entity, that has not been accepted by the Village under the provisions of the Subdivision Code by the Village of Machesney Park.

C. "Snow Emergency" is defined as a snowfall event that an accumulation of two (2) inches or greater.

D. "Developer" is defined as persons, corporation, organization or other entity that has caused the subdivision to be platted, subdivided and/or the public infrastructure constructed.

8.2002. REGULATIONS

A. Within two (2) hours of a snow emergency being declared by the Village of Machesney Park, the developer that has caused an unaccepted street to be constructed shall, at their own expense, cause the snow accumulation to be removed from said unaccepted street and maintain snow and ice control through the duration of the storm event. Within four (4) hours after the end of a snow accumulation that has caused a snow emergency to be declared, the developer shall, at their own expense, remove any remaining snow accumulation from said unaccepted street.

B. If the developer has not caused the snow

accumulation to be removed as provided in subparagraph A, the Village may cause the snow to be removed and charge the developer the expense of the snow removal as provided in subparagraph C.

C. The Village shall provide an invoice to the developer detailing the number of hours, the operation description and the hourly rate and material cost for each operation, and a total cost of snow and ice removal operations. The amount that the developer shall be required to reimburse the Village for shall be calculated by multiplying the total cost of snow and ice removal operations by 1.25. The developer shall reimburse the Village within 30 days of the date of the invoice.

D. The Developer shall provide the names and phone numbers of a minimum of two (2) persons that the Village may contact on a 24-hour basis. (Amd. Ord 42-09 - 11/02/2009)

8.2003. PENALTY. Any developer violating this shall be subject to a fine of not less than one hundred dollars (\$100) and not more than five hundred dollars (\$500), and each and every day that the violation continues shall constitute a separate offense. (Ord. 4-01 - 1/29/01)

ARTICLE XXI. REGULATION OF AND APPLICATION FOR SMALL WIRELESS FACILITIES

8.2101. PURPOSE AND SCOPE

A. Purpose. The purpose of this Ordinance is to establish regulations, standards and procedures for the siting and collocation of small wireless facilities on rights-of-way within the Village's jurisdiction, or outside the rights-of-way on property zoned by the Village exclusively for commercial or industrial use, in a manner that is consistent with the Act.

B. Conflicts with Other Ordinances. This Ordinance supersedes all Ordinances or parts of Ordinances adopted prior hereto that are in conflict herewith, to the extent of such conflict.

C. Conflicts with State and Federal Laws. In the event that applicable or federal laws or regulations conflict with the requirements of this Ordinance, the wireless provider shall comply with the requirements of this Ordinance to the maximum extent possible without violating state or federal laws or regulations.

8.2102. DEFINITIONS

A. Antenna - communications equipment that transmits or

receives electromagnetic radio frequency (RF) radiation, to be operated or operating from a fixed location pursuant to Federal Communications Commission (FCC) authorization, for the provision of personal wireless service and any commingled information services. The antenna does not include an unintentional radiator, mobile station or device.

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

C. Applicant - any person or entity that who submits an application and the agents, employees and contractors of such person or entity.

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

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

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

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

H. FCC - the Federal Communications Commission of the United States.

I. Fee - a one-time charge.

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

K. Law - a federal or state statute, common law, code,

rule, regulation, order, or local ordinance or resolution.

L. Micro wireless facility - a small wireless facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, no longer than 11 inches.

M. Municipal utility pole - a utility pole owned or operated by the Village in public rights-of-way.

N. Permit - a written authorization required by the Village to perform an action or initiate, continue, or complete a project.

O. Person - an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization.

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

Q. Rate - a recurring charge.

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

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

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

U. Wireless facility - equipment at a fixed location that enables wireless communications between user equipment and a communications network, including: (i) equipment associated with wireless communications; and (ii) radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes small wireless facilities. Wireless facility does not include: (i) the structure or improvements on, under, or within which the

equipment is collocated; or (ii) wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

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

W. Wireless provider - a wireless infrastructure provider or a wireless services provider.

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

Y. Wireless services provider - a person who provides wireless services.

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

8.2104. REGULATION OF SMALL WIRELESS FACILITIES.

A. Permitted Use. Small wireless facilities shall be classified as permitted uses and subject to administrative review, except as provided in paragraph (9) regarding Height Exceptions or Variances, but not subject to zoning review if they are collocated (i) in rights-of-way in any zoning district, or (ii) outside rights-of-way in property zoned exclusively for commercial or industrial use.

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

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

- a. Site specific structural integrity and, for a municipal utility pole, make-ready analysis prepared by a structural engineer, as that term is defined in

Section 4 of the Structural Engineering Practice Act of 1989.

- b. The location where each proposed small wireless facility or utility pole would be installed and photographs of the location and its immediate surroundings depicting the utility poles or structures on which each proposed small wireless facility would be mounted or location where utility poles or structures would be installed. This should include a depiction of the completed facility.
 - c. Specifications and drawings prepared by a structural engineer, as that term is defined in Section 4 of the Structural Engineering Practice Act of 1989, for each proposed small wireless facility covered by the application as it is proposed to be installed.
 - d. The equipment type and model numbers for the antennas and all other wireless equipment associated with the small wireless facility.
 - e. A proposed schedule for the installation and completion of each small wireless facility covered by the application, if approved; and
 - f. Certification that the collocation complies with the Collocation Requirements and Conditions contained herein, to the best of the applicant's knowledge.
 - g. In the event that the proposed small wireless facility is to be attached to an existing pole owned by an entity other than the Village, the wireless provider shall provide legally competent evidence of the consent of the owner of such pole to the proposed collocation.
 - h. Certification by a radio engineer that a new, replacement or modified small wireless facility operates within all applicable FCC standards.
- (2) Application Process. The Village shall process applications as follows:
- a. The first completed application shall have priority over applications received by different applicants for collocation on the same utility pole or wireless support structure.

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

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

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

FCC regulation provides that an application to collocate a small wireless facility using an existing structure shall be granted or denied within 60 days of submission of a completed application.

Delays beyond that time limit are available only in exceptional circumstances. These FCC time limits may be enforced through litigation.

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

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

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

FCC regulation provides that an application to

collocate a small wireless facility using a new structure shall be granted or denied within 90 days of submission of a completed application. Delays beyond that time limit are available only in exceptional circumstances. These FCC time limits may be enforced through litigation.

- d. The Village shall deny an application which does not meet the requirements of this Ordinance.

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

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

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

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

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

- e. Pole Attachment Agreement. Within 30 days after an approved permit to collocate a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a Master Pole

Attachment Agreement, provided by the Village for the initial collocation on a municipal utility pole by the application. For subsequent approved permits to collocate on a small wireless facility on a municipal utility pole, the Village and the applicant shall enter into a License Supplement of the Master Pole Attachment Agreement.

- (3) Completeness of Application. Within 10 days after receiving an application, the Village shall determine whether the application is complete and notify the applicant. If an application is incomplete, the Village must specifically identify the missing information. An application shall be deemed complete if the Village fails to provide notification to the applicant within 10 days after all documents, information and fees specifically enumerated in the Village's permit application form are submitted by the applicant to the Village. FCC regulation allows 10 days for determination of completion, and that 10-day time frame replaces the 30-day period provided in the state Act.

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

- (4) Tolling. The time period for applications may be further tolled by:
- a. An express written agreement by both the applicant and the Village; or
 - b. A local, State or federal disaster declaration or similar emergency that causes the delay.

- (5) Consolidated Applications. An applicant seeking to collocate small wireless facilities within the jurisdiction of the Village shall be allowed, at the applicant's discretion, to file a consolidated application and receive a single permit for the collocation of up to 25 small wireless facilities if the collocations each involve substantially the same type of small wireless facility and substantially the same type of structure.

If an application includes multiple small wireless facilities, the Village may remove small wireless facility collocations from the application and treat separately small wireless facility collocations for which incomplete information has been provided or that do not

qualify for consolidated treatment or that are denied. The Village may issue separate permits for each collocation that is approved in a consolidated application.

- (6) Duration of Permits. The duration of a permit shall be for a period of not less than 5 years, and the permit shall be renewed for equivalent durations unless the Village makes a finding that the small wireless facilities or the new or modified utility pole do not comply with the applicable Village codes or any provision, condition or requirement contained in this Ordinance.

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

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

8.2105. COLLOCATION REQUIREMENTS AND CONDITIONS.

- (1) Public Safety Space Reservation. The Village may reserve space on municipal utility poles for future public safety uses, for the Village's electric utility uses, or both, but a reservation of space may not preclude the collocation of a small wireless facility unless the Village reasonably determines that the municipal utility pole cannot accommodate both uses.
- (2) Installation and Maintenance. The wireless provider shall install, maintain, repair and modify its small wireless facilities in safe condition and good repair and in compliance with the requirements and conditions of this Ordinance. The wireless provider shall ensure that its employees, agents or contractors that perform work in connection with its small wireless facilities are adequately trained and skilled in accordance with all applicable industry and governmental standards and regulations.
- (3) No interference with public safety communication frequencies. The wireless provider's operation of the small wireless facilities shall not interfere with the

frequencies used by a public safety agency for public safety communications.

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

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

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

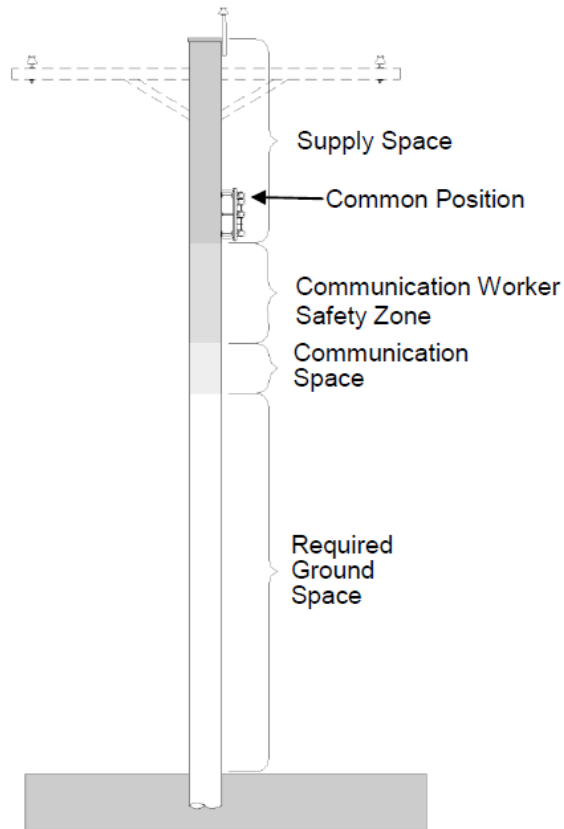
The Village may terminate a permit for a small wireless facility based on such interference if the wireless provider is not in compliance with the Code of Federal Regulations cited in the previous paragraph. Failure to remedy the interference as required herein shall constitute a public nuisance.

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

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

For purposes of this subparagraph, the terms "communications space", "communication worker safety zone", and "electric supply zone" have the meanings given to those terms in the National Electric Safety Code as published by the Institute of Electrical and Electronics Engineers, per Figure 1, the Illustration of Space Allocation on Pole.

Figure 1 Illustration of Space Allocation on Pole



- (5) The wireless provider shall comply with all applicable codes, including acoustic regulations, and local code provisions or regulations that concern public safety.
- (6) The wireless provider shall comply with written design standards that are generally applicable for decorative utility poles, or reasonable stealth, concealment and aesthetic requirements that are set forth in a Village ordinance, written policy adopted by the Village, a comprehensive plan or other written design plan that applies to other occupiers of the rights-of-way, including on a historic landmark or in a historic district.
- (7) Alternate Placements. Except as provided in this Collocation Requirements and Conditions Section, a wireless provider shall not be required to collocate small wireless facilities on any specific utility pole, or category of utility poles, or be required to collocate multiple antenna systems on a single utility pole. However, with respect to an application for the collocation of a small wireless facility associated with a new utility pole, the Village may propose that the

small wireless facility be collocated on an existing utility pole or existing wireless support structure within 200 feet of the proposed collocation, which the applicant shall accept if it has the right to use the alternate structure on reasonable terms and conditions, and the alternate location and structure does not impose technical limits or additional material costs as determined by the applicant.

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

- (8) Height Limitations. The maximum height of a small wireless facility shall be no more than 10 feet above the utility pole or wireless support structure on which the small wireless facility is collocated.

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

- a. 10 feet in height above the tallest existing utility pole, other than a utility pole supporting only wireless facilities, that is in place on the date the application is submitted to the Village, that is located within 300 feet of the new or replacement utility pole or wireless support structure and that is in the same right-of-way within the jurisdictional boundary of the Village, provided the Village may designate which intersecting right-of-way within 300 feet of the proposed utility pole or wireless support structures shall control the height limitation for such facility; or
- b. 50 feet above ground level. The 50-foot limit provided by FCC regulation replaces the limit of 45 feet under the Act.

- (9) Height Exceptions or Variances. If an applicant proposes a height for a new or replacement pole in excess of the above height limitations on which the small wireless facility is proposed for collocation, the applicant shall apply for an Administrative Waiver of the height requirements for locations where applicants demonstrate a practical difficulty or hardship, either geographic or otherwise, that presents the successful operation of a proposed small wireless facility.

- (10) Contractual Design Requirements. The wireless provider shall comply with requirements that are imposed by a contract between the Village and a private property owner that concern design or construction standards applicable to utility poles and ground-mounted equipment located in the right-of-way.
- (11) Ground-mounted Equipment Spacing. The wireless provider shall comply with applicable spacing requirements in applicable codes and ordinances concerning the location of ground-mounted equipment located in the right-of-way. Ground-mounted equipment shall not block sight lines at intersections that could result in unsafe conditions for pedestrians, as determined by Village staff on a case-by-case basis. For said cases, applicants will be provided with nearby options for collocation.
- (12) Undergrounding Regulations. The wireless provider shall comply with local code provisions or regulations concerning undergrounding requirements that prohibit the installation of new or the modification of existing utility poles in a right-of-way without prior as long as they do not prohibit the replacement of utility poles.
- (13) Collocation Completion Deadline. Collocation for which a permit is granted shall be completed within 180 days after issuance of the permit, unless the Village and the wireless provider agree to extend this period or a delay is caused by make-ready work for a municipal utility pole or by the lack of commercial power or backhaul availability at the site, provided the wireless provider has made a timely request within 60 days after the issuance of the permit for commercial power or backhaul services, and the additional time to complete installation does not exceed 360 days after issuance of the permit. Otherwise, the permit shall be void unless the Village grants an extension in writing to the applicant.

8.2106 APPLICATION FEES. Application fees are imposed as follows:

- (1) Applicant shall pay an application fee of \$650 for an application to collocate a single small wireless facility on an existing utility pole or wireless support structure, and \$350 for each small wireless facility addressed in a consolidated application to collocate more than one small wireless facility on existing utility poles or wireless support structures. The fees established by this ordinance are equal to the limit imposed by the Act and represent a

reasonable approximation of the Municipality's objectively reasonable costs. The Municipality shall regularly review the fees imposed and may adjust the fees by further amendment to this ordinance. The safe harbor rate established by the FCC of \$500 for up to five wireless facilities and \$100 for each additional facility in a consolidated application may be exceeded only if justified based on the Municipality's reasonable approximation of its costs.

- (2) Applicant shall pay an application fee of \$1,000 for each small wireless facility addressed in an application that includes the installation of a new utility pole for such collocation.
- (3) Notwithstanding any contrary provision of State law or local ordinance, applications pursuant to this Section shall be accompanied by the required application fee. Application fees shall be non-refundable.
- (4) The Village shall not require an application, approval or permit, or require any fees or other charges, from a communications service provider authorized to occupy the rights-of-way, for:
 - a. routine maintenance.
 - b. the replacement of wireless facilities with wireless facilities that are substantially similar, the same size, or smaller if the wireless provider notifies the Village at least 10 days prior to the planned replacement and includes equipment specifications and certifications consistent with the Section titled Application Requirements: or
 - c. the installation, placement, maintenance, operation or replacement of micro wireless facilities suspended on cables that are strung between existing utility poles in compliance with applicable safety codes.
- (5) Wireless providers shall secure a permit from the Village to work within rights-of-way for activities that affect traffic patterns or require lane closures.

8.2107. EXCEPTIONS TO APPLICABILITY. Nothing in this Ordinance authorizes a person to collocate small wireless facilities on:

- (1) property owned by a private party or property owned or controlled by the Village or another unit of local government that is not located within rights-of-way, or a

privately owned utility pole or wireless support structure without the consent of the property owner.

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

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

8.2108. PRE-EXISTING AGREEMENTS. Existing agreements between the Village and wireless providers that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on Village utility poles, that are in effect on June 1, 2018, remain in effect for all small wireless facilities collocated on the Village's utility poles pursuant to applications submitted to the Village before June 1, 2018, subject to applicable termination provisions contained therein. Agreements entered into after June 1, 2018, shall comply with this Ordinance.

A wireless provider that has an existing agreement with the Village on the effective date of the Act may accept the rates, fees and terms that the Village makes available under this Ordinance for the collocation of small wireless facilities or the installation of new utility poles for the collocation of small wireless facilities that are the subject of an application submitted two or more years after the effective date of the Act by notifying the Village that it opts to accept such rates, fees

and terms. The existing agreement remains in effect, subject to applicable termination provisions, for the small wireless facilities the wireless provider has collocated on the Village's utility poles pursuant to applications submitted to the Village before the wireless provider provides such notice and exercises its option under this paragraph.

8. 2109. ANNUAL RECURRING RATE.

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

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

8.2110. ABANDONMENT.

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

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

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

8.2111. DISPUTE RESOLUTION.

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

8.2112. INDEMNIFICATION.

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

8.2113. INSURANCE.

A. The wireless provider shall carry, at the wireless provider's own cost and expense, the following insurance:

(i) property insurance for its property's replacement cost against all risks.

(ii) workers' compensation insurance, as required by law;

OR

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

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

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

8.2114. SEVERABILITY.

A. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

(Amd. 26-18 - 07/16/2018; Amd. 44-21 - 10/24/21)

CHAPTER 8 ½. Erosion and Sediment Control

ARTICLE I. IN GENERAL

8 ½.101. INTERPRETATION.

A. The provisions of this chapter shall be held to be minimum requirements, adopted to lessen the threat to public health, safety, or welfare through protection of soil erosion and sediment control sought by the enactment of this ordinance.

B. Excessive quantities of soil may erode from areas undergoing development for certain non-agricultural uses including but not limited to the construction of dwelling units, commercial buildings and industrial plants, the building of roads and highways, the modification of stream channels and drainage ways, and the creation of recreational facilities;

C. The washing, blowing, and falling of eroded soil across and upon roadways endangers the health and safety of users thereof, by decreasing vision and reducing traction of road vehicles;

D. Soil erosion necessitates the costly repairing of gullies, washed-out fills, and embankments;

E. Sediment from soil erosion tends to clog sewers and ditches and to pollute and silt rivers, streams, lakes, wetlands, and reservoirs;

F. Sediment limits the use of water and waterways for most beneficial purposes, destroys fish and other desirable aquatic life, and is costly and difficult to remove; and

G. Sediment reduces the channel capacity of waterways and the storage capacity of floodplains and natural depressions, resulting in increased chances of flooding at risk to public health and safety.

8 ½.102. PURPOSE.

The Village of Machesney Park therefore declares that the purpose of this ordinance is to safeguard persons, protect property, prevent damage to the environment, and promote the

public welfare by guiding, regulating and controlling the design, construction, use and maintenance of any development or other activity which disturbs or breaks the topsoil or otherwise results in the movement of earth on land situated in The Village of Machesney Park. It is the intention of this ordinance that the transport of sediment via wind or rainwater runoff from sites affected by land disturbing activities be limited, as closely as practicable, to that which would have occurred if the land had been left in its undisturbed state.

The management practices, controls, and other provisions contained in an Erosion and Sediment Control Plan must be at least as protective as the requirements contained in the *Illinois Urban Manual-A Technical Manual for Urban Ecosystem Protection Enhancement, 2002*, prepared by the U.S. Department of Agriculture, Natural Resources Conservation Service.

ARTICLE II. GENERALLY

8 ½.201. DEFINITIONS

For the purposes of this Ordinance certain terms used herein are defined as set forth below:

Authority means any agency with regulatory powers.

Building permit means a permit issued by the permitting authority for the construction, erection, or alteration of a structure or building.

Certify or certification means formally attesting that the specific inspections and tests where required have been performed, and that such tests comply with the applicable requirements of this Ordinance.

Clearing means any activity that removes vegetative ground cover.

District means the Winnebago County Soil and Water Conservation District.

Excavation means any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.

Existing grade means the vertical location of the existing ground surface prior to excavation or filling.

Fill means any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved to a new location and shall include the conditions resulting therefrom.

Final grade means the vertical location of the ground or pavement surface after the grading work is completed in accordance with the site development plan.

Grading means excavation or fill or any combination thereof and shall include the conditions resulting from any excavation or fill.

Hydric soil means a soil having a seasonal high water table at or near the surface of the soil most of the year.

Hydrophyte means a plant growing in water or in soil too saturated with water for most plants to survive.

Inspector means the person designated to review, approve, or enforce erosion and sediment control plans or storm water pollution prevention plans.

Natural drainage means the existing runoff pattern of water on the ground surface prior to construction.

Parcel means all contiguous land held in one ownership.

Permitting authority means The Village of Machesney Park.

Person shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

Removal means cutting vegetation to the ground or stumps, complete extraction, or killing by spraying.

Runoff means that portion of precipitation or irrigation on an area which does not infiltrate into the soils, but instead flows off the surface of the land.

Sediment/sedimentation means transported and deposited soil particles or aggregates, usually by wind or water.

Site means a lot or parcel of land, or a contiguous combination thereof, where construction activity is performed.

Storm Water Conveyance and Storage System means any river, stream, creek, brook, branch, flowage, ravine, or natural or artificial drainage way, lake, pond, wetland, roadway drainage, storm sewer, etc. in or into which surface or groundwater flows, either perennially or intermittently.

Stripping means any activity that removes the vegetative surface cover including tree removal, clearing, and storage or removal of topsoil.

The Superintendent of Public Works shall mean the person currently designated by The Village to hold such position or their designated representative.

Vacant means land on which there are no structures or only structures which are secondary to the use or maintenance of the land itself.

The Village means The Village of Machesney Park, IL.

Waste means an unwanted byproduct of the developing/building process including construction-generated litter.

Wetland, according to the U.S. Fish and Wildlife Service, means lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this classification wetlands must have one or more of the following three attributes: (1) at least periodically, the land supports predominantly hydrophytes; (2) the substrate is predominantly undrained hydric soil; and (3) the substrate is non-soil and is saturated with water or covered by shallow water at some time during the growing season of the year.

8 ½.202. GENERAL PRINCIPLES.

It is the objective of this ordinance to control soil erosion and sedimentation caused by development activities, including clearing, grading, stripping, excavating, and filling of land, in The Village. Measures taken to control soil erosion and offsite sediment runoff should be adequate to assure that sediment is not transported from the site by wind erosion or a storm event of ten-year frequency or less. The following principles shall apply to all development activities within The Village and to the preparation of the submissions required under this ordinance:

A. Development should be related to the topography and soils of the site so as to create the least potential for erosion. Areas of steep slopes where high cuts and fills may be required should be avoided wherever possible, and existing contours should be followed as closely as possible.

B. Natural vegetation should be retained and protected wherever possible. Areas immediately adjacent to existing watercourses, lakes, ponds, and wetlands should be left undisturbed wherever possible. Temporary crossings of watercourses, when permitted, must include appropriate stabilization measures.

C. Special precautions should be taken to prevent damages that occur due to any necessary development activity within or adjacent to any stream, lake, pond, or wetland. Preventative measures must be commensurate with the sensitivity of these areas to erosion and sedimentation.

D. The smallest practical area of disturbance should be exposed for the shortest practical time during development.

E. Sediment basins or traps, filter barriers, diversions, and any other appropriated sediment or runoff control measures should be installed prior to site clearing and grading and maintained to control and remove sediment from run-off waters from land undergoing development.

F. The selection of erosion and sedimentation control measures should be based on site limitations, project duration, and other factors to provide the necessary site protection during the construction development activity.

G. In the design of erosion control facilities and practices, aesthetics and the requirements of continuing maintenance shall be considered.

H. Permanent vegetation and runoff control structures shall be installed and functional as soon as practical during development.

I. All waste generated as a result of site development activity shall be properly disposed of and should be prevented from being carried off the site by either wind, water, or artificial means.

J. All construction sites shall provide measures to prevent sediment from being tracked onto public or private roadways.

8 ½.203. APPLICABILITY.

Except as otherwise provided in this ordinance, no person shall commence or perform any land disturbing activity including but not limited to clearing, grading, stripping, excavating, or filling of land that will disturb an area greater than or equal to 100 square feet or more without having first obtained approval for a site Erosion and Sediment Control Permit from The Village.

Other Village permits involving the disturbance of soil of any kind or which may potentially lead to ground erosion or sediment migration shall include a certification statement to ensure that Best Management Practices are employed during site construction.

8 ½.204. DELEGATION OF AUTHORITY.

The Superintendent of Public Works shall be able to delegate powers and authority to other representatives of The Village. Designated representatives may include but are not limited to The Village Engineer, Public Works Technicians, and third party engineering consulting firms acting on The Village's behalf. All references in this chapter to 'The Superintendent of Public Works' shall also mean their designated representatives.

ARTICLE III. EROSION AND SEDIMENT CONTROL PLAN AND PERMIT

8 ½.301. EROSION AND SEDIMENT CONTROL PLAN

The Owners of the property or their authorized designee shall prepare and submit an **Erosion and Sediment Control Plan** (Plan) to The Village at the time of proposed land disturbing activities. These submissions shall be prepared in accordance with the requirements of this ordinance and the standards and requirements contained in the NPDES Permit No. ILR10 prepared by the Illinois Environmental Protection Agency and the Illinois Urban Manual prepared by the Natural Resources Conservation Service and adopted by the Winnebago County Soil and Water Conservation District,

which standards and requirements are hereby incorporated into this ordinance by reference. The management practices, controls, and other provisions contained in the erosion and sediment control plan must be at least as protective as the requirements contained in the Illinois Urban Manual.

Each plan shall contain the following information:

A. The names, mailing addresses, email addresses and telephone numbers of the owner or developer of the site and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm. The owner must sign a copy of the certification statement. The certification must be included in the plan: "I certify under penalty of law that this document and all attachments were prepared in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment **for a** knowing violation."

B. The name, mailing address, email address, and telephone number of the general contractor(s) that have been identified at the time of the submittal. Identify the contractor(s) or subcontractor(s) implementing each measure of the plan. All contractor(s) and subcontractor(s) identified in the plan must sign a copy of the certification statement. All certifications must be included in the plan except for owners acting as contractor(s). "I certify under penalty of law that I understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit No. ILR10 and The Village's Erosion and Sediment Control ordinance which authorizes the storm water discharges associated with the construction activities and site identified as part of this certification."

C. The name and phone number shall be provided for two site representatives who will be available on a 24 hour a day basis in case of emergency call-out.

D. A vicinity map in sufficient detail to enable easy location in the field of the site for which the permit is sought, and including the boundary line and approximate acreage of the site, existing zoning, and a legend and scale. A 'Property with Parcel Details' printout from www.wingis.org shall be deemed acceptable for sites less than 1 acre in disturbed area. For sites larger than 1 acre in total disturbed area, a more comprehensive map may be required as needed to sufficiently detail the project location.

E. A development plan of the site showing:

1. Existing topography of the site and adjacent land within approximately 100 feet of the boundaries, drawn at no greater than two-foot contour intervals and clearly portraying the conformation and drainage pattern of the area.

2. The location of existing buildings, structures, utilities, streams, lakes, floodplains, wetlands and depressions, drainage facilities, vegetative cover, paved areas, and other significant natural or man-made features on the site and adjacent land within 100 feet of the boundary.

3. A general description of the predominant soil types on the site, their location, and their limitations for the proposed use.

4. Proposed use of the site, including present development and planned utilization; areas of clearing, stripping, grading, excavation, and filling; finished grades, and street profiles; provisions of storm drainage, including storm sewers, swales, detention basins and any other measures to control the rate of runoff, with a drainage area map, indications of flow directions and computations; kinds and locations of utilities; and areas and acreages proposed to be paved, covered, sodded or seeded, vegetatively stabilized, or left undisturbed.

F. Erosion and sediment controls showing all measures necessary to meet the objectives of this ordinance throughout all phases of construction and

permanently after completion of development of the site, including:

1. Location and description, including standard details, of all sediment control measures and design specifics of sediment basins and traps, including outlet details.

2. Plans should ensure existing vegetation is preserved where attainable and disturbed portions of the site are stabilized. Stabilization practices may include, but not limited to: temporary seeding, vegetative buffer strips, protection of trees, preservation of mature vegetation, and other appropriate measures. Location and description of all soil stabilization and erosion control measures, including seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, kind and quantity of mulching for both temporary and permanent vegetative control measures, and types of non-vegetative stabilization measures.

- a. Stabilization measures will be initiated as soon as practicable in portions of the site where construction activities have temporarily or permanently ceased, but in no case more than seven (7) days after the construction activity in that portion of the site has temporarily or permanently ceased

- b. Where the initiation of stabilization measures by the 7th day after construction activity temporary or permanently snow cover precludes ease, stabilization measures shall be initiated as soon as practicable.

- c. Where construction activity will resume on a portion of the site within 14 days from when activity ceased, (i.e. the total time period that construction activity is temporarily ceased is less than 14 days) then stabilization measures do not have to be initiated on that portion of the site by the 14th day after construction activity

temporarily ceased.

3. Location and description of all runoff control measures, including diversions, waterways, and outlets.

4. Location and description of methods to prevent tracking of sediment offsite, including construction entrance details, as appropriate.

5. Description of dust and traffic control measures.

6. Locations of stockpiles and description of stabilization methods.

7. Description of off-site fill or borrow volumes, locations, and methods of stabilization.

8. Provisions for maintenance of control measures, including type and frequency of maintenance, easements, and estimates of the cost of maintenance.

G. The proposed phasing of development of the site, including stripping and clearing, rough grading and landscaping. Phasing should identify the expected date on which clearing will begin and the estimated duration of exposure of cleared areas, and the sequence of installation of temporary sediment control measures (including perimeter controls), clearing and grading, installation of temporary soil stabilization measures, installation of storm drainage, paving streets and parking areas, final grading and the establishment of permanent vegetative cover, and the removal of temporary measures. It shall be the responsibility of the applicant to notify The Village of any significant changes that occur in the site development schedule after the initial erosion and sediment control plan has been approved;

H. A copy of the completed Notice of Intent (NOI) required by the Illinois Environmental Protection Agency.

I. A copy of the completed Illinois Department of Natural Resources Consultation Agency Action Report.

8 ½.304. PERMIT FEES.

On sites where the construction activity will require an Erosion and Sediment Control Permit an inspection fee shall be paid to The Village in an amount to cover all permit processing costs and inspection time incurred by The Village. This fee shall be determined based on the following schedule:

		Permit Expiration Period		
		3 Months	6 Months	12 Months
Total Disturbed Area	100 Square Feet or Less	\$0	\$0	\$0
	100 Square Feet to 1500 Square Feet	\$25	\$50	\$100
	1500 Square Feet to 1 Acre	\$113	\$205	\$341
	1 Acre to 5 Acres	\$227	\$410	\$683
	5 Acres to 10 Acres	\$341	\$615	\$1024
	10 Acres or More	\$455	\$819	\$1365

8 ½.305. WAIVER OF PERMIT FEES.

The Superintendent of Public Works shall have the authority to waive permit fees for work to be completed by Public Utilities. This exemption shall not waive any other requirements related to erosion and sediment control and as such, an Erosion and Sediment Control Plan will still be required prior to the commencement of work.

8 ½.306. REVIEW AND APPROVAL.

Each erosion and sediment control plan shall be reviewed and acted upon according to the following procedures:

Superintendent of Public Works will review each plan and determine its conformance with the provisions of this ordinance. Within fourteen (14) days after receiving the plan, the designee shall in writing:

- A. Approve the erosion and sediment control plan

if it is found to be in conformance with the provisions of this ordinance and issue an Erosion and Sediment Control Permit;

B. Approve the erosion and sediment control plan subject to such reasonable conditions as may be necessary to secure substantially the objectives of this ordinance and issue an Erosion and Sediment Control Permit; or

C. Disapprove the erosion and sediment control plan, indicating the deficiencies and the procedure for submitting a revised erosion and sediment control plan.

8 ½.307. CONDITIONS FOR APPROVAL.

Approval shall not be issued for an intended development site unless:

A. The development, including but not limited to subdivisions and planned unit development, has been approved by The Village where applicable, and

B. All relevant federal and state permits (i.e., for floodplains and wetlands) have been received for the portion of the site subject to soil disturbance.

Some methods, practices and engineered products used for erosion and sediment control may not be allowed by The Superintendent of Public Works and as such, some Erosion and Sediment Control Plans may need changes or modifications to provide adequate erosion and sediment protection and satisfy the requirements of The Superintendent of Public Works.

8 ½.308. APPEALS

The applicant, or any person or agency that received notice of the filing of the Erosion and Sediment Control Plan or the Storm Water Pollution Prevention Plan may appeal **an enforcement decision** of The Superintendent of Public Works as provided in Sec. **404 hereunder. The appeal may be filed to the Village Administrator and upon receipt of the appeal the Village Administrator shall schedule as soon as practicable a meeting in an attempt to resolve any pending issue with the appellant. The Village Administrator may include in that meeting, in his discretion, the Superintendent of Public Works, the Village Engineer, the Village Attorney, or any other individual or consultant which, in the opinion of the**

Village Administrator, would facilitate resolution of the pending issue. Factors to be considered on review shall include, but need not be limited to, the effects of the proposed development activities on the surface water flow to tributary and downstream lands, any comprehensive watershed management plans, or the use of any retention facilities; possible saturation of fill and unsupported cuts by water, both natural and domestic; runoff surface waters that produce erosion and silting of drainage ways; nature and type of soil or rock, which when disturbed by the proposed development activities may create earth movement and produce slopes that cannot be landscaped; and excessive and unnecessary scarring of the natural landscape through grading or removal or vegetation.

8 ½.309. PERMIT EXPIRATION.

The permit expiration period shall be determined by the estimated project schedule provided by the permittee in the Erosion and Sediment Control Plan.

Permits shall be valid starting the date they are approved and shall naturally expire following the term indicated on the permit.

If a permit expires prior to the completion and final stabilization of a project, all work on site must cease and the site must be stabilized immediately until a new Erosion and Sediment Control Plan is submitted and approved for a new permit.

No permit shall be issued with an expiration period extending beyond 12 months. Should a project require a completion schedule of longer than 12 months, a new Erosion and Sediment Control Plan must be submitted and approved prior to the expiration of the original permit to extend permit coverage to the continuing construction activities.

ARTICLE IV. SITE DESIGN REQUIREMENTS

8 ½.401. SITE DESIGN REQUIREMENTS.

On-site sediment control measures, as specified by the following criteria, shall be constructed and functional prior to initiating clearing, grading, stripping, excavation, or fill activities on the site. The management practices, controls, and other provisions contained in the erosion and sediment control plan must be at least as protective as the requirements contained in the Illinois Urban Manual.

- A. Land disturbance activities in stream

channels shall be avoided, where possible. If disturbance activities are unavoidable, the following requirements shall be met:

1. Construction vehicles shall be kept out of the stream channel to the maximum extent practicable. Where construction crossings are necessary, temporary crossings shall be constructed of non-erosive material, such as riprap or gravel.

2. The time and area of disturbance of stream channels shall be kept to a minimum. The stream channel, including bed and banks, shall be re-stabilized within 48 hours after channel disturbance is completed, interrupted, or stopped.

3. Whenever channel relocation is necessary, the new channel shall be constructed in the dry and fully stabilized before flow is diverted.

B. Sediment traps or anchored filter barriers meeting accepted design standards and specifications outlined in the Illinois Urban Manual shall protect storm sewer inlets and culverts.

C. Soil storage piles containing more than 10 cubic yards of material shall not be located with a downslope drainage length of less than 25 feet to a roadway or drainage channel. Filter barriers, including straw bales, filter fence, or equivalent, shall be installed immediately on the downslope side of the piles.

D. If dewatering devices are used, discharge locations shall be protected from erosion. All pumped discharges shall be routed through appropriately designed sediment traps or basins, or equivalent.

E. Each site shall have graveled (or equivalent) entrance roads, access drives, and parking areas a minimum of fifty feet long and 12 feet wide to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by shoveling or street cleaning (not flushing) before the end of each workday and transported to a controlled sediment disposal area.

F. All temporary and permanent erosion and sediment control practices must be maintained and repaired as needed to assure effective performance of their intended function.

G. All temporary erosion and sediment control measures shall be disposed of within 30 days after final site stabilization is achieved with permanent soil stabilization measures. Trapped sediment and other disturbed soils resulting from the disposition of temporary measures should be permanently stabilized to prevent further erosion and sedimentation.

8 ½.402. INSPECTION.

The Superintendent of Public Works shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the applicant wherein the work fails to comply with the erosion and sedimentation control plans as approved. In order to obtain inspections and to ensure compliance with the approved erosion and sediment control plan and this ordinance, the applicant shall notify the inspector within two (2) working days of the completion of the construction stages specified below:

- A. Upon completion of installation of sediment and runoff control measures (including perimeter controls and diversions), prior to proceeding with any other earth disturbance or grading,
- B. After stripping and clearing,
- C. After seeding and landscaping deadlines, and
- D. After final stabilization and landscaping, prior to removal of sediment controls.

If stripping, clearing, grading and /or landscaping are to be done in phases or areas, the applicant shall give notice and request inspection at the completion of each of the above work states in each phase or area.

The Village shall also reserve the right to inspect disturbed areas of the construction site that have not been finally stabilized, structural control measures, and locations where vehicles enter or exit the site at least once every seven (7)

calendar days and within 24 hours of the end of a storm that is 0.5 inches or greater or equivalent snowfall.

The site owner and/or contractor shall provide inspections of the site in a format of their own choosing conforming to the inspection requirements of NPDES Permit No. ILR10. The records of these inspections shall be submitted to The Village each week on Mondays by 4:30 p.m. In the case where Monday is a Village observed legal holiday, the report shall be submitted by 4:30 p.m. the first business day following Monday. Owner/contractor inspections will be required at least once every seven (7) calendar days and within 24 hours of the end of a storm that is 0.5 inches or greater or equivalent snowfall following Village approval of the Erosion and Sediment Control Plan and shall continue to be completed and submitted to The Village until final stabilization and landscaping is completed. These requirements shall not relieve the site owner or contractor of any additional reporting requirements associated with NPDES Permit No. ILR10. Inspections shall be submitted electronically to the Village at the email address specified at the time the permit is issued. The Superintendent of Public Works may allow hard copies of inspections to be submitted in lieu of or in addition to electronic copies should hard copies be preferable to The Village for a specific project.

If at any stage of the grading of any development site The Superintendent of Public Works determines by inspection that the nature of the site is such that further work authorized by an existing building permit is likely to imperil any property, public way, stream, lake, wetland, or drainage structure, The Superintendent of Public Works may require, as a condition of allowing the work to be done, that such reasonable special precautions to be taken as is considered advisable to avoid the likelihood of such peril. "Special precautions" may include, but shall not be limited to, a more level exposed slope, construction of additional drainage facilities, berms, terracing, compaction or cribbing, installation of plant materials for erosion control, and recommendations of a registered soils engineer and/or engineering geologist which may be made requirements for further work.

Where it appears that storm damage may result because the grading on any development site is not complete, work may be stopped and the applicant may be required to install temporary structures of take such other measures to protect adjoining property or the public safety.

Major amendments of the erosion and sediment control plan shall be submitted to The Village and shall be processed and approved or disapproved in the same manner as the original plans. The Village may authorize field modifications of a minor nature by written authorization to the applicant.

8 ½.403. RETENTION OF PLANS.

The applicant shall retain copies of plans and all reports for a period of at least three (3) years from the date the site is finally stabilized. The applicant shall also retain a copy of the plan at the construction site from the date of project initiation to the date of final stabilization.

The Village shall retain plans, specifications, and reports for all site developments in original form.

8 ½.404. ENFORCEMENT.

A. Written Warning; In the event The Superintendent of Public Works determines any person holding an approved erosion and sediment control plan pursuant to this ordinance violates the terms of the approval and The Superintendent of Public Works determines that the violation poses a 'low threat' to causing soil erosion or storm water pollution, a warning notice shall be issued. Following the issuance of a warning notice, the permittee shall remediate the violation as soon as possible and in all cases within three days of the issuance of the warning notice. A 'low threat' violation shall be defined as any condition which is not in compliance with the approved Erosion and Sediment Control Plan and is determined by The Superintendent of Public Works to be unlikely to cause immediate erosion of soil, environmental hazard, or migration of material off-site.

B. Fines levied via Municipal Administrative Hearing Process; In the event The Superintendent of Public Works determines any person holding an approved erosion and sediment control plan pursuant to this ordinance violates the terms of the approval and The Superintendent of Public Works determines that the violation poses a 'high threat' to causing soil erosion or storm water pollution, a fine shall be levied against the permittee in the amount of \$750 per violation per day that the violation remains until remediated and re-

inspected by The Superintendent of Public Works. A 'high threat' violation shall be defined as any condition which is not in compliance with the approved Erosion and Sediment Control Plan and is determined by The Superintendent of Public Works to be likely to cause immediate erosion of soil, environmental hazard, or migration of material off-site.

Any 'high threat' violation will be reported by The Village to the Illinois Environmental Protection Agency.

In the event The Superintendent of Public Works issues a Written Warning and the violation is not addressed within the allowed time period, a fine shall be levied against the permittee in the amount of \$750 per violation per day that the violation remains until remediated and re-inspected by The Superintendent of Public Works.

Any violation which is not repaired within three days of the issuance of a warning notice will be reported by The Village to the Illinois Environmental Protection Agency.

C. Stop-work order; In the event any person holding an approved erosion and sediment control plan pursuant to this ordinance violates the terms of the approval, or carries on site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood of the development site or so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, The Village may suspend or revoke approved construction activity including, but not limited to: any and all building permits, grading activity, road construction, or other construction related activities until such time the approved erosion and sediment control plan is satisfactorily implemented and/or maintained.+

D. Any combination of the above remedies may be issued at any time on the same site for various violations on site. For example, a fine may be issued simultaneously with a stop work order.

8 ½.405. VIOLATIONS AND PENALTIES.

Non-compliance may constitute a violation of the Illinois Environmental Protection Act and Clean Water Act and is grounds for enforcement action, at which strict Criminal, Civil, and Administrative penalties may be issued. Penalties are described in the *NPDES-Construction Site Activities* applications instructions and it is the duty of the petitioner to comply.

8 ½.406. SEPARABILITY.

The provisions and sections of this ordinance shall be deemed to separable, and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

CHAPTER 9. ALCOHOLIC BEVERAGES

ARTICLE I. IN GENERAL

9.101. ADOPTION OF STATE LAW. All provisions of the Illinois Compiled Statutes 2008, Chapter 235, Section 5/1-1 et seq., and as hereafter amended from time to time, shall be hereby made a part of this chapter insofar as the provisions of such law pertain to the Village of Machesney Park. (Amd. Ord. 18-88 - 3/29/88; Amd. Ord 36-09 - 10/19/2009).

9.102. LIQUOR CONTROL COMMISSIONER. 9.102. LIQUOR CONTROL COMMISSIONER. The Village President is hereby designated as the Liquor Control Commissioner and shall be charged with the administration of the appropriate provisions of this Chapter, all other ordinances and resolutions relating to alcoholic liquor as may be enacted by the Board of Trustees, and all legislation as may become applicable within the Village with respect to the sale or use of alcoholic liquor. (Amd. Ord. 46-09 - 12/21/2009)

9.103. LIQUOR CONTROL COMMISSION. The President of the Village Board shall appoint three (3) of its members AND ONE (1) CITIZEN MEMBER to assist the President in the exercise of those powers and the performance of the duties of this chapter and state law. Such members, together with the President, shall constitute the Village Liquor Control Commission. (Amd. Ord. 31-94 - 4/11/94; Amd. Ord. 27-03 - 08/25/2003 - Amd. Ord. 46-09 - 12/21/2009)

9.104. MANNER OF AMENDING CHAPTER. This chapter or any part thereof may be amended by an ordinance receiving a concurrence of a majority of all members then holding office on the Village Board, including the Mayor. (Amd. Ord. 36-88 - 5/3/88; Amd. Ord. 46-09 - 12/21/2009)

9.105. EVASION OF LAW PROHIBITED. The free dispensing, giving away or delivering of any alcoholic liquor for the purpose of evading any provisions of this chapter or state law or any other shift or device to evade any provision of this chapter shall be held to be an unlawful selling and shall ipso facto revoke a liquor license.

9.106. PROHIBITED SALES GENERALLY. No licensee shall sell, offer for sale or furnish alcoholic liquor to any person or patron except on the licensed premises; the serving of liquor to persons for consumption or permitting the consumption in parked automobiles or at tables outside the building or bar room where the same is sold is hereby prohibited. This Section shall not be interpreted to preclude sale of alcoholic beverages for consumption in a patio or beer garden immediately adjacent to the licensed

premises, in the event a patio or beer garden license is obtained. (Amd. Ord. 44-83 - 7/26/83; Amd. Ord. 128-86 - 1/13/87; Amd. Ord. 46-09 - 12/21/2009)

9.107. PREMISES NOT TO BE LOCATED NEAR FOREST PRESERVE. No license shall be issued for a proposed place of business which is within fifteen hundred feet of any territorial limit of any forest preserve except that licenses may be issued for use within forest preserves. (Amd. Ord. 17-92 - 5/26/92)

9.108. Deleted by Ord. 46-09 - 12/21/2009

9.109. Repealed 3/29/88, Ord. 18-88.

9.110. SANITATION OF LICENSED PREMISES. All premises used for the retail sale of alcoholic liquor or the storage of such liquor for sale shall be kept in a clean and sanitary condition, and shall be kept in full compliance with all applicable village ordinances and state statutes including, but not limited to, the health codes, zoning codes, and building codes. (Amd. Ord. 46-09 - 12/21/2009)

Hot and cold running water. All sinks and particularly those at the bars and counters used for the cleaning and sterilizing of glasses, dishes, receptacles and utensils shall be provided with running hot and cold water.

Sterilization, etc., of utensils. All glasses, utensils and other appliances used in preparation, service and sale of alcoholic liquor shall be properly cleaned and sterilized with steam or warm water and chemicals approved by the state after use, and no utensil shall under any circumstances be used a second time unless it shall have been after previous use thereof so cleaned and sterilized. In so cleaning glasses and utensils, the use of water which has been made unsanitary by previous use is prohibited.

Coils, faucets, etc. All coils, faucets and other appurtenances used in dispensing alcoholic liquors shall be of such material as will not chip, corrode or be injurious or deleterious to health. All connections shall be made with block tin pipe.

Contagious, etc. diseases. It shall be unlawful to employ in any premises used for the retail sale of alcoholic liquor any person who is afflicted with or who is a carrier of any contagious, infectious or venereal disease; and, it shall be unlawful for any person who is afflicted with or a carrier of any such disease to work in or about any premises or to engage in any way in the handling, preparation or distribution of such alcoholic liquor.

Ventilation; toilets. All premises licensed under this

chapter shall be properly ventilated and supplied with separate and sufficient toilet arrangements for each sex, toilets to be of water closet combination type and located inside the licensed premises.

9.111. REGULATIONS AS TO DRUNKARDS AND CRIMINALS GENERALLY. It shall be unlawful for any licensee to allow persons in a drunken condition to remain upon or loiter in and around any licensed premises or to harbor, conceal, aid or assist any person who has committed any criminal offense against the laws of the state, or to refuse to aid or assist the law enforcing officers of the Village in the apprehension of persons accused or suspected of crime.

And further, it shall be the personal responsibility and duty of the licensee to maintain peace and order on the licensed premises and to maintain such premises free from rowdiness, rioting, fighting, brawling, shootings, cuttings, stabbings, and any and all such related conduct.

9.112. SALES TO HABITUAL DRUNKARDS. No licensee shall sell, give or deliver alcoholic liquor to any person known by him to be a habitual drunkard.

9.113. REGULATIONS CONCERNING MINORS.

A. It shall be unlawful to employ any person under the age of 21 years of age in any place in the Village to mix, handle or dispense alcoholic beverages. Employees must be 21 years of age or older to act as a clerk to be authorized to sell alcoholic beverages at checkout counters for the sale of packaged goods or for goods to be consumed on the premises. Employees other than defined above may be 18 years of age in any place in the Village which serves alcoholic beverages. Bartenders and retail checkout clerks must be 21 years or older to handle alcoholic beverages. Wait staff or other persons, employed by a Licensee with a restaurant license, serving alcoholic beverages must be 18 years or older. Bus boys or other staff employed by the Licensee other than bartenders, retail checkout clerks or wait staff, may be less than 18 years old. (Amd. Ord. 32-02 - 07/29/2002; Amd. Ord. 46-09 - 12/21/2009)

B. Except as herein provided and as provided in Subsection (a) of this Section, no person under the age of twenty-one (21) years shall attend any premises where alcoholic liquors are sold or dispensed unless accompanied by his or her parent or legally appointed guardian unless such person is in the exercise of his or her legitimate business or trade. (Amd. Ord. 16-97 - 5/12/97)

C. It shall also be unlawful for any person under twenty-one (21) years of age to purchase or otherwise obtain or to attempt to purchase, or otherwise obtain alcoholic liquor from any person, whether engaged in the retail sale of intoxicating liquor or otherwise; or to consume intoxicating liquor, or to make false statements, or to furnish, present or exhibit any fictitious or false registration card, or identification card, or other document indicating that such person is of age; or, to engage or utilize the service of any other person, whether for remuneration or not, to procure for such person any such intoxicating liquor.

D. It shall be unlawful for any licensee or any officer, associate, member, representative, agent, or employee of such licensee to sell, give or deliver alcoholic liquor to any person under the age of twenty-one (21) years, or to any intoxicated person or to any person known by him to be a habitual drunkard, mentally ill, mentally deficient or in need of mental treatment. No person after purchasing or otherwise obtaining alcoholic liquor shall sell, give or deliver such alcoholic liquor to another person under the age of twenty-one (21) years, except in the performance of a religious ceremony or service. For the purpose of preventing the violation of this Section, any licensee, or his agent or employee, may refuse to sell or serve alcoholic beverages to any person who is unable to produce adequate written evidence of identity and of the fact that he or she is over the age of twenty-one (21) years. (Amd. Ord. 84-85 - 11/12/85; Amd. Ord. 46-09 - 12/21/2009)

Adequate written evidence of age and identity of the person is a Federal permanent resident card or passport, or a document issued by a State, County, or Municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Act, or an identification card issued to a member of the Armed Forces. Proof that the defendant/licensee, or his employee or agent, demanded, was shown and reasonably relied upon such written evidence in any transaction, forbidden by this Section is competent evidence and may be considered in any criminal prosecution therefor or to any proceedings for the suspension or revocation of any license based thereon. (Amd. Ord. 84-85 - 11/12/85; Amd. Ord. 46-09 - 12/21/2009)

It is unlawful to sell, give, or furnish to any person under the age of twenty-one (21) years, any false or fraudulent written, printed, or photo static evidence of the age and identity of such person or to sell, give or furnish to any person under the age of twenty-one (21)

years, evidence of age and identification of any other person. (Amd. Ord. 84-85 -11/12/85)

It is unlawful for any person under the age of twenty-one (21) years to present or offer to any licensee, his agent or employee, any written, printed or photo static evidence of age and identity which is false, fraudulent or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or to have in his possession any false or fraudulent written, printed or photo static evidence of age and identity. (Amd. Ord. 84-85 - 11/12/85)

It is unlawful for any person under the age of twenty-one (21) years to have any alcoholic beverage in his possession on any street or highway or in any public place or in any place open to the public. (Amd. Ord. 84-85 - 11/12/85)

Any person, firm or corporation violating the provisions of Section 9.113 shall be fined, upon conviction not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) plus costs of court for each offense. (Amd. Ord. 84-85 - 11/12/85; Amd. Ord. 46-09 - 12/21/2009)

9.114. BUSINESS HOURS, ETC.

No alcoholic liquor shall be sold, offered for sale, given away, purchased, obtained, attempted to be obtained, attempted to be purchased, accepted as a gift, carried out of or consumed by anyone, including the owners or employees thereof, on or in any premises licensed under this chapter from 2:00 AM until 6:00 AM the same morning, nor shall anyone, excluding owners and employees acting within the scope of their employment, be in the premises during the time from 30 minutes after the applicable closing time for the license holder and permissible opening time the following day. (Amd. Ord. 24-88 - 5/31/88; Amd. Ord. 129-88 - 12/27/88; Amd. Ord. 10-98 - 4/13/98)

Provided that on December 31, it shall be lawful for alcoholic liquor to be sold or offered for sale, or consumed on or in any premises licensed under this chapter between normal opening hours for that day and 3:00 AM January 1.

(Amd. Ord. 50-81, - 11/24/81; Ord. 45-83 - 7/12/83; Amd. Ord. 122-86 - 12/9/86; Amd. Ord. 102-89 - 12/5/89; Amd. Ord. 10-98 - 4/13/98; Amd. Ord. 37-11 - 9/19/11) (Amd. Ord 05-15 - 3/16/2015) Removed Paragraph.

The hours of opening and closing as defined in this section shall be applicable to either Central Standard Time or

central daylight savings time, whichever is in effect in Winnebago County. (Amd. Ord. 49-81 - 11/24/81; Amd. Ord. 46-09 - 12/21/2009)

9.115. DUTY OF LICENSEE TO EMPLOY A SECURITY OFFICER. On the licensed premises where dancing is permitted or where in the judgment of the Liquor Control Commission it is necessary for the purpose of keeping order, or where in the judgement of the commission the parking or departing of automobiles is obstructing or endangering traffic, it shall be the duty of the licensee upon the request of the commission to engage a security officer at the expense of the licensee during such hours as it may be deemed necessary by the commission.

9.116. BRINGING IN LIQUOR TO BE CONSUMED ON PREMISES. It shall be unlawful to consume on the licensed premises alcoholic liquors other than those furnished by the licensee, the bringing in of liquor by patrons for personal consumption on the licensed premises being hereby prohibited, except as otherwise provided for in Section 9.214(I) of this Code. (Amd. Ord. 44-12 - 01/07/2013)

9.117. Deleted by Ord. 46-09 - 12/21/2009

9.118. PROSTITUTES: LEWDNESS: GAMING IN PREMISES: REPORT OF PERSONS EMPLOYED. It shall be the duty and responsibility of every licensee under this chapter that no lewd persons or prostitutes remain in or about the licensed premises and that no soliciting to prostitution, practices of prostitution, or lewdness, idleness, gaming, fornication or other misbehavior is conducted on such licensed premises. He shall within seven days after employment commences report to the Village Liquor Control Commission, in writing, stating name, address, age, condition of health and length of residence in the county of every person employed by him in connection with such licensed premises. Notwithstanding the foregoing, any licensed premises shall be permitted to have, locate maintain and operate Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 et seq.) so long as such Video Gaming Terminals are duly licensed pursuant to and in conformance with the Illinois Video Gaming Act and such location, maintaining and operation of Video Gaming Terminals on the licensed premises otherwise conforms to all applicable provisions of the Video Gaming Act (Amd. Ord. 2-86 - 1/28/86; Amd. Ord. 25-12 - 6/4/2012)

A. REPORT OF PERSONS EMPLOYED. Licensees shall within seven days after employment commences report to the Village Liquor Control Commission, in writing, stating name, address, and age, of every person employed in connection with such licensed premises. Licensee shall also report such information as may be

required pursuant to renewal of license. (Amd. Ord. 2-86 - 1/28/86; Amd. Ord. 46-09 - 12/21/2009)

9.119. LOCATION OF PACKAGED LIQUOR. It shall be the duty and responsibility of every licensee under this chapter also selling other general merchandise when the principal business of the licensee is not the sale of alcoholic liquor, to segregate all alcoholic liquors in the original and unbroken packages on the premises into a separate area within the premises. (Amd. Ord. 80-85 - 11/12/85)

9.120. SELLING SINGLE BOTTLES PROHIBITED. It shall be unlawful for any licensee also selling other general merchandise when the principal business of the licensee is not the sale of alcoholic liquor, to sell beer or wine coolers by the can or the bottle containing less than 16 ounces. This Section also does not apply to a restaurant, or a hotel, or a bowling alley, as defined in the Illinois Compiled Statutes, Chapter 235, Section 5/, et. seq. (Amd. Ord. 81-85 - 11/12/85; Amd. Ord. 46-09 - 12/21/2009)

A. PENALTY. Any licensee violating the provisions of this Section shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) plus costs of court for each offense. (Amd. Ord. 82-85 - 11/12/85; Amd. Ord. 46-09 - 12/21/2009)

ARTICLE II. RETAIL LICENSES

9.201. DEFINITIONS OF LAPSED, REVOKED AND CANCELLED LICENSES.

A. A license shall be treated as lapsed where a complete application for renewal of the same shall not have been filed on or prior to the expiration date thereof.

B. A revoked license is one that has been made inoperative pursuant to law.

C. A cancelled license is one that has been voluntarily surrendered by the licensee.

9.202. This section was deleted in its entirety by Ordinance 46-09 -12/21/2009

9.203. APPLICATIONS GENERALLY. Applications for licenses from the Village Liquor Control Commission shall be made with the Clerk, in writing, under oath and on forms of application furnished by the Village, such applications shall contain the

information and statements as set out in state law for a state license. (Amd. Ord. 15-97 - 5/5/97)

Consents for Class "A", "B", "BB", "C", "P", or "R" Licenses. All new applicants for Class A, B, BB (Boutique Bar), C, P, or R licenses to sell alcoholic liquor at retail in the Village of Machesney Park shall, by certified mail, send a copy of the application including date and time of Liquor Control Commission meeting to adjacent property owners. Applicants shall provide return receipts as proof of mailing to Village as part of completed application. The Liquor Control Commission will provide opportunity for the public and adjacent property owners to be heard at the Commission meeting. This provision does not apply to a renewal or transfer of an existing Class A, B, BB, C, P, or R license, but shall apply to any new application.

Notwithstanding the foregoing, this provision shall also not apply to situations where there is a change in ownership at an existing license location (e.g. license holder "1" ceases to operate his business and surrenders his liquor license to the Village and license holder "2" obtains a new liquor license for the same location as license holder "1's" former business. The provisions of this subparagraph shall not apply to License holder "2" in such a situation). However, should 90 days elapse between the date on which the prior license holder closes for business and the date on which the new license holder opens for business, then the provisions of this subparagraph shall apply to the new license holder. (Amd. 03-05-2012 - Ord. 03-12) (Amd. Ord. 44-12, 1/7/2013)

9.204. REFERRAL OF APPLICATION; EXAMINATION OF APPLICANT. All applications for licenses shall be referred to the Village Liquor Control Commission. The Liquor Control Commission shall make a recommendation to the Village Board for approval by the Corporate Authorities of all "A", "B", "C", "R", "P", and "BB" licenses. All other licenses shall be approved by the Liquor Commissioner. The Liquor Control Commission is empowered to grant licenses subject to the provisions set forth in the state law and this chapter. It shall be the duty of the commission to check the applicant's record with the Rockford Police Department, the Winnebago County Sheriff, and the State's Attorney of the county. In addition, the commission shall require the fingerprinting of each applicant and the submission of such fingerprints to the Illinois State Police, Bureau of Identification for the report. The processing fee charged to the Village by the Illinois State Police shall be paid by the applicants. If any applicant for a liquor license shall not have resided in the county for at least ten years immediately prior to his application, the commission shall have the duty to inquire of the police department, county sheriff and state's attorney in the county wherein the applicant has resided during the ten

years immediately prior to the date of his application. (Amd. Ord. 54-94 - 9/12/94; Amd. Ord. 50-97 - 10/20/97; Amd. Ord. 46-09 - 12/21/2009)

9.205. PERSONS INELIGIBLE FOR LICENSE GENERALLY. No license shall be granted to any person who has been convicted of a felony under any federal or state law, if the Liquor Commissioner determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust, or to a person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality, or a person who has been convicted or being the keeper or is keeping a house of ill fame, or a person who is not of good character and reputation in the community in which he resides, or a person who is not a citizen of the United States, or fails to qualify under any provision of state law. It shall be unlawful for a licensee to employ a person to operate or be in charge of such licensed premises unless he can and does so qualify as a licensee under the state law and this chapter before the Village Liquor Control Commission. (Amd. Ord. 18-88 - 3/29/88; Amd. Ord. 46-09 - 12/21/2009)

9.206. DRAM SHOP INSURANCE. At the time of application for or renewal of a liquor license, the applicant must show proof of dram shop insurance. It is the responsibility of the applicant to maintain insurance coverage during the entire period the license is in effect. Voluntary or involuntary cancellation of dram shop insurance gives the Village the right to revoke the liquor license immediately. (Amd. Ord. 55-94 - 9/12/94)

9.207. APPLICANT TO SHOW OWNERSHIP, ETC., OF PREMISES. At time of application for a liquor license the applicant shall show evidence of ownership or a bona fide lease for the premises to be used in such business to cover the period for the requested annual liquor license.

9.208. AGREEMENT BY APPLICANT. Each applicant for a license required by section 9.202 shall agree in his application to comply with all the restrictions and regulations imposed by the laws of the state and this chapter and other ordinances or resolutions of the Village in force at the time of making such application or that may thereafter be passed relating to the sale at retail of alcoholic liquors, and shall authorize the liquor control commissioner to revoke such license for violation of such agreement, and that the license fee, paid for such license shall be forfeited to the Village.

9.209. DURATION AND EXPIRATION DATE; CONTENTS, ETC. All licenses issued by the commission shall be annual licenses and shall expire on April thirtieth (April 30)

following their issuance and shall state thereon the name of the licensee and the address and description of the premises for which the license is granted, together with the date of its issuance and expiration. It shall be the duty of the Liquor Control Commission to see that all licenses are returned to the files of the commission upon expiration or revocation.

Periodic inspections of all license holders for compliance of Village liquor code and state law may be made each year, and one inspection may be performed within sixty (60) days of the license expiration date as described in Section 9.209.

Each license shall contain the following clause, "Subject to revocation and under such restrictions and regulations as provided by Illinois Liquor Control Law and Resolutions of the Village Board regulating the sale at retail of alcoholic liquor, and laws and resolutions amendatory thereto. (Amd. Ord. 46-09 - 12/21/2009)

9.210. EXECUTION; RENEWALS TO BE IDENTICAL WITH ORIGINALS. All licenses shall be signed by the liquor control commissioner and every renewal shall be in all respects identical with the original or first license. If prior to renewal the nature of a licensed business changes such that a different class license is appropriate, it is the duty of the license holder to advise the Liquor Control Commission and provide any and all information necessary for the issuance of the appropriate license. Renewals shall be made by the Liquor Commissioner and not require Village Board action. (Amd. 46-09 - 12/21/2009)

9.211. CONTROL OF NUMBER OF LICENSES ISSUED. (Deleted in its entirety Ord. 36-09 - 10/19/2009)

9.212. EFFECT OF ISSUING NEW LICENSES. Nothing by reason of the issuance of a new license either in connection with the transfer of a business to a new location or to a new owner at an old location shall entitle any other applicant to a license for other premises.

9.213. ONE LICENSE FOR EACH BAR; EXCEPTION. (This section was deleted in its entirety by Ordinance 46-09 - 12/21/2009)

9.214. CLASSES OF LICENSES; AMOUNT OF FEES. Any changes in license classification shall require a majority affirmative vote of the Corporate Authorities. The classification of licenses authorized to be issued under this Chapter and the license fees shall be as follows:

A. Class "A" Licenses. Class "A" shall authorize the retail sale on the premises specified of alcoholic liquor for consumption on the premises as well as other retail sale of such liquor for carryout from the premises in the original and unbroken packages only. The annual fee for such license shall be one thousand five hundred dollars (\$1,500). The maximum number of Class "A" licenses issued by the Village shall be eight (8) at any given time. (Amd. Ord 46-19 - 11/18/2019; Amd. Ord 22-20 - 07/06/2020; Amd. Ord 34-21 - 7/19/21; Amd. Ord 45-21 - 9/20/2021; Ord. 36-33 - 7/18/22).

i. Any holder of a Class "A" License may apply for a Class "G" License, which Class "G" license shall also be required in order for the applicant to have, locate, maintain and operate Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 et seq.) within the Class "A" licensed establishment. Any person holding a Class "G" License shall comply with all provisions of the Illinois Video Gaming Act.

ii. The annual fee for a Class "G" License shall be one thousand dollars (\$1,000.00) and which fee is in addition to the annual fee for a Class "A" License. (Amd. Ord. 44-12 - 01/07/2013)

B. Class "B" Licenses. Class "B" shall authorize the retail sale of alcoholic liquors in the original and unbroken packages on the premises specified in the license, not for medicinal purposes, and not for consumption on the premises so licensed. A Class "B" License holder may allow for alcoholic liquor taste testing and consumption within the area of the licensed premises used for taste testing or consumption related hereto may occur outside the area within the licensed premises used for display of package alcoholic liquor. The annual fee for such license shall be one thousand five hundred dollars (\$1,500). The maximum number of "B" licenses issued by the Village shall be fifteen (15) at any given time. (Amd. Ord 31-15 - 7/6/15 - (Amd. Ord 23-16 - 5/2/16; Amd. Ord 36-18 - 12/03/18; Amd. Ord 45-21 - 9/20/21; Amd. Ord 46-21 - 9/20/21)

i. Any holder of a Class "B" License may apply for a Class "G" License which Class "B" license

shall also be required in order for the applicant to have, locate, maintain and operate Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*) within the Class "B" licensed establishment, provided such establishment meets all the requirements to be considered a "Licensed Truck Stop Establishment" as defined under the Illinois Gaming Act (i.e. is a facility (i) that is at least a 3-acre facility with a convenience store, (ii) with separate diesel islands for fueling commercial motor vehicles, (iii) that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and (iv) with parking spaces for commercial motor vehicles. "Commercial motor vehicles" has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code. The requirement of item (iii) of this paragraph may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month.) Any person holding a Class "G" License shall comply with all provisions of the Illinois Video Gaming Act.

ii. The annual fee for a Class "G" License shall be one thousand dollars (\$1,000.00) and which fee is in addition to the annual fee for a Class "B" License. (Amd. Ord. 44-12 - 01/07/2013)

C. Class "C" Licenses. Class "C" shall authorize the retail sale of beer and wine only for consumption on the premises specified in the license. The annual fee for such license shall be seven hundred dollars (\$700). The maximum number of Class "C" licenses issued by the Village shall be one (1) at any given time. (Amd. Ord. 28-14 - 10/20/2014 - Amd. Ord 24-16 - 05/02/2016 - Amd. Ord 25-17 - 8/21/2017) (Amd. Ord 37-17 - 11/06/2017) (Amd. 20-18 - 6/18/2018)

"i. Any holder of a Class "C" License may apply for a Class "G" License which Class "G" license shall also be required in order for the applicant to have, locate, maintain and operate Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*) within the Class "C" licensed establishment. Any person holding a Class

"G" License shall comply with all provisions of the Illinois Video Gaming Act.

- ii. The annual fee for a Class "G" License shall be one thousand dollars (\$1,000.00) and which fee is in addition to the annual fee for a Class "C" License.

D. "Class "P" (patio/beer garden) Licenses. A Class "P" license is required for an outdoor patio/beer garden which shall allow for the retail sale of alcoholic liquors for consumption within the designated outdoor patio area. A Class "P" license shall only be issued to the holders of either a Class "A", Class "C", or Class "R" (restaurant) license, provided that a site plan is submitted by the license holder describing the designated outdoor patio area which must be approved by the Liquor Commission. The annual fee for such Class "P" license shall be three hundred dollars (\$300.00)". (Amd. Ord. 128-86-1/13/87; Amd. Ord 44-12 - 01/07/2013)

E. Class "R" (restaurant) Licenses. Class "R" shall authorize the retail sale of alcoholic liquor on the premises for consumption on the premises only. Class "R" (restaurant) licenses may be issued only to bona fide full service restaurants, which restaurants derive at least fifty percent (50%) of their sales from food served and eaten on the premises. Bona fide full service restaurants must have a full service kitchen, provide full sit-down table service and wait staff. The Liquor Control Commissioner may require proof of such percentages before issuance of renewal of a Class "R" (restaurant) license. The annual fee for such license shall be one thousand five hundred dollars (\$1,500). (Amd. Ord. 48-81 - 11/10/81; Ord. 82-85 - 11/12/85; Ord. 83-85 - 11/12/85; Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 27-03 - 08/25/2003/ Amd. Ord. 44-12 - 01/07/2013).

- i. Any holder of a Class "R" License may apply for a Class "G" License which Class "G" license shall also be required in order for the applicant to have, locate, maintain and operate Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 et seq.) within the Class "R" licensed

establishment. Any person holding a Class "G" License shall comply with all provisions of the Illinois Video Gaming Act.

ii. The annual fee for a Class "G" License shall be one thousand dollars (\$1,000.00) and which fee is in addition to the annual fee for a Class "R" License.

F. LEFT INTENTIONALLY BLANK (Language inserted as a separate paragraph after the last sentence in Section 9.203) (Amd. Ord. 44-12 - 01/07/2013)

G. Class "SE" (special event) license shall constitute a special and limited license. A Class "SE" license shall permit the licensee to purchase alcoholic liquors from an Illinois licensed distributor (unless the licensee purchases less than \$500.00 of alcoholic liquors for the special event, in which case the licensee may purchase the alcoholic liquors from a licensed retailer), and authorizes the licensee to sell and offer for sale, at retail, alcoholic liquors for use or consumption, but not for resale in any form, and only at the location and on the specific dates designated for the special event in the license.

The Liquor Commissioner may grant a special event license to any not-for-profit organization or club such as a church, order or lodge, veterans organization, civic organization or other similar not-for-profit organization, authorizing the sale of alcoholic beverages approved by the Liquor Commissioner at any special event, including, but not limited to any dance, concert, races, runs, walks, block parties, festivals, picnics, or similar function sponsored by such not-for-profit organization or club. The following restrictions are applicable for a special event license:

1. A Class "SE" license holder shall be entitled to dispense alcoholic liquor at an event for not more than four (4) consecutive specified days and shall be limited to two (2) events per calendar year.

2. A license fee of \$100 per day shall be deposited by the licensee with the application for said special event license. Sufficient evidence of dram shop liability insurance must be provided with the

applicant's application.

3. All sales and consumption pursuant to the special event license issued in accordance with this Section 9.214(G) shall be conducted within an enclosed area and such area shall have controlled entrances and exits and shall be adequately lighted.
 4. Any alcoholic beverages sold pursuant to a special event license must be consumed within the area described in the license. Applicant shall submit a site plan of the area where alcoholic beverages will be sold and consumed with Applicant's application.
 5. All sales and consumption pursuant to the special event license shall be conducted only during the hours specified on the license.
 6. Unless specifically provided otherwise, all requirements of this Chapter 9 shall apply to licenses granted under this Section 9.214(G).
 7. Proof of receiving a state special event retailer's liquor license shall be required prior to the event.
(Amd. Ord. 38-05 - 9/12/2005; Amd. Ord. 46-09 - 12/21/2009; Amd. Ord 44-12, 01-07-2013)
- H. Class "SU" (Special Use Permit) license shall allow an Illinois-licensed liquor retailer to transfer a portion of its inventory approved by the Liquor Commissioner from its licensed retail premises to a designated site, and to sell or offer for sale at retail, only at the designated site, the transferred alcoholic liquor for use and consumption, but not for resale in any form.

The following restrictions shall be applicable to a special use permit:

1. A special use permit license must be obtained for each location and may be granted for the following time periods: one day or less; 2 or more days to a maximum of 15 days per location in any 12-month period.
2. A license fee of \$100 per day shall be deposited by the licensee with the application for said special use permit license. Sufficient evidence of dram shop liability

insurance must be provided with the applicant's application.

3. All sales and consumption pursuant to the special use permit license issued in accordance with this Section 9.214(H) shall be conducted within an enclosed area and such area shall have controlled entrances and exits and shall be adequately lighted.
 4. Any alcoholic beverages approved by the Commissioner sold pursuant to a special use permit license shall only be consumed within the area described in the license. Applicant shall submit a site plan of the area where alcoholic beverages will be sold and consumed with Applicant's application.
 5. All sales and consumption pursuant to the special use permit license shall be conducted only during the hours specified on the license.
 6. Unless specifically provided otherwise, all requirements of this Chapter 9 shall apply to licenses granted under this Section 9.214(H).
 7. Proof of receiving a state special use permit liquor license shall be required prior to the event. (Amd. Ord. 44-12, 01-07-2013)
- I. Class "RB" Licenses. Class RB shall authorize consumption of bring your own bottle (BYOB) of wine in a sit-down restaurant under the following conditions:
1. Any Village liquor license establishment holding a Class "R" liquor license may request permission from the Liquor Control Commissioner, in writing, on an annual basis, to provide BYOB wine service pursuant to a Class R liquor license;
 2. Upon approval by the Local Liquor Commissioner and issuance of a Class RB liquor license by the Village Clerk after payment of the Class RB liquor license fee, the establishment may commence offering BYOB service to the public;
 3. The hours during which a BYOB license holder may permit the consumption of wine on the premises shall conform to the hours applicable to the Class R licenses.

4. In the event that a qualified licensee is granted a Class RB liquor license to allow BYOB, the following conditions shall apply:

- i. No more than one bottle of wine per patron over the age of 21 shall be permitted to be uncorked;
- ii. The licensee shall only permit BYOB to occur on the premises in conjunction with the purchase and consumption of a meal on the licensed premises;
- iii. The licensee may provide glassware and ice to patrons and may uncork a bottle of wine, pour it, and control its consumption for a corkage fee;
- iv. It shall be unlawful for any person to carry, transport or possess liquor in an unsealed and open condition, except as permitted for wine bottles from restaurants under the Illinois Liquor Control Act, 235 ILCS 5/6-33, which allows a liquor licensed establishment to permit a patron to remove one unsealed and partially consumed bottle of wine, provided the bottle shall be placed into a one-time use, see-through, sealable, tamper-proof bag which has been sealed by the restaurant licensee and affix either within or to the bag, a dated receipt for the bottle of wine or a receipt for the corkage fee from the license establishment, and proof of purchase of at least one meal;
- v. The licensee shall be liable for violations of this Chapter in the same manner as the holder of any other classification of liquor license.

5. The annual fee for a Class RB liquor license shall be three hundred dollars (\$300). (Amd. Ord. 29-11 - 08/01/2011)

J. Class "BB" (Bar-Boutique Gaming) Licenses. Class "BB" shall authorize the retail sale of alcoholic liquor on the premises specified for consumption on the premises only provided the licensed premises also has, locates, maintains and lawfully operates Video Gaming Terminals (as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*) within the Class "BB" licensed establishment. The annual fee for such license shall be two thousand five hundred

dollars (\$2,500.00). The maximum number of Class "BB" licenses issued by the Village shall be six (6) at any given time. (Amd. Ord 32-13 - 7/15/2013; Amd. Ord 24-15 -6/1/2015; Amd. Ord. 33-20 -7/6/2020; Amd. Ord. 46-21 - 9/20/2021)

A Class "BB" License and the holder thereof, shall be subject to the following limitations:

1. The licensed premises shall not exceed 1,500 square feet of patron accessible floor area.
2. The number of patrons on the licensed premises at any given time shall not exceed four (4) times the number of licensed Video Gaming Terminals at the premises.
3. Live music, DJ, karaoke, and/or juke boxes are prohibited on the licensed premises. Notwithstanding the foregoing, a music system, operated solely by the licensee, shall be permitted so long as such system is operated at such levels so as to not be heard outside of the licensed premises.
4. Licensee shall not be permitted to have a patio or beer garden of any kind.
5. No alcohol related signs which are visible from the outside of the licensed premises shall be permitted on the licensed premises.
6. No games, other than the Video Gaming Terminals as defined under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*, shall be permitted on the licensed premises, including, but not limited to, pool tables, dartboards, and shuffle board.
7. Notwithstanding the provisions of Section 9.114 of the Code governing "Business Hours", the holder of a Class "BB" license shall not be permitted to have any alcoholic liquor sold, offered for sale, given away, purchased, obtained, attempted to be obtained, attempted to be purchased, accepted as a gift, carried out of or consumed by anyone, including the owners or employees thereof, on the licensed premises from 12:00 AM until 6:00 AM the same morning. All other provisions of Section 9.114 not in conflict with this paragraph shall remain the same and

shall be applicable. (Amd. Ord. 44-12, 01-07-2013)

8. Dispensing of draft beer from a tap is prohibited.

K. Class "MT" (Movie Theater) License Class
"MT" License shall authorize the retail sale of alcoholic liquor on the licensed premises only. Class "MT" license may be issued only to a bona fide cinema or movie theater venue consisting of a single or multi-screen operation. Alcoholic liquor may be consumed throughout the movie theater, including in the movie theater auditorium(s), but may not be taken off-premises. "MT" licensees may only engage in the sale of alcohol incident to the operation of a movie theater and during regular business hours of the operation of the premises as a cinema or movie theater venue. MT license holders are subject to all conditions and restrictions of the Village Liquor Code contained in Chapter 9. The annual fee for such license shall be One Thousand Five Hundred Dollars (\$1,500.00). The maximum number of Class MT licenses issued shall be one (1) at any given time.

- i. Any holder of a Class MT license may apply for a Class G license, which Class G license shall also be required for the applicant to have, locate, maintain and operate video gaming terminals (as defined under the Illinois Video Gaming Act 230 ILCS 40/1 et seq) within the Class MT licenses establishment. Any person holding a Class G license shall comply with all provision of the Illinois Video Gaming Act.
- ii. The annual fee for a Class G license shall be One Thousand Dollars (\$1,000) and which fee is in addition to the annual fee for a Class MT license. (Amd. 23-18 - 07/02/2018)

9.215. Payment of Fees. All license fees, except as otherwise provided in this chapter, shall be paid in full in advance and shall accompany the application for such license. Further, any applicant applying for a Class "A", "B", "C", "R" or "BB" license, in addition to payment of the annual fee, shall also pay to the Village at the time of application, an additional amount equal to the annual fee of the class of license(s) for which is being applied. Said additional payment shall be placed in the general fund of the Village. The additional payment shall not be required for the renewal of any license. If a license

applied for is denied, the applicant shall be entitled to a refund of all fees paid to the Village less one hundred dollars (\$100.00) as an administrative fee. To the extent any partner, member or shareholder of an applicant for a Class "A", "B", "C", "R" or "BB" license at a particular location had at least a fifty percent (50%) ownership interest in a licensed liquor establishment that operated at that same location immediately prior to the applicant's operation, then the applicant shall not be required to make the additional payment provided such partner, member or shareholder also has at least a fifty percent (50%) ownership interest in said applicant. See also the provisions of Section 9.221 of the Code regarding Operation of Business Under Assumed Name; Change in Ownership. (Amd. Ord. 44-12, 01-07-2013)

9.216. PRORATION OF FEES. Liquor license fees shall be prorated for any new Liquor License issued for less than a full licensed year. The Pro-rata fee to be paid shall be determined based on the month in which the Liquor License is issued as compared to the number of months remaining in the Village's fiscal year. The Village's fiscal year is between May 1st and April 30th of each year. (For example: If a license is issued in February, the pro-rata fee to be paid would be for February, March and April).

Notwithstanding the foregoing, should a licensee close its business or otherwise surrender its license during a licensed year, no pro-rata refund shall be given to the licensee. (Amd. Ord. 88-05 - 11/13/95; Amd. Ord 46-09 - 12/21/2009) (Amd. 03/05/12 - Ord. 03-12)

9.217. PRIVILEGE GRANTED BY LICENSE; NATURE AS PROPERTY NOT SUBJECT TO ATTACHMENT, ETC; TRANSFERABILITY. A license shall be purely a personal privilege good for not to exceed one year after issuance unless sooner revoked as provided in this chapter, and shall not constitute property, nor shall it be subject to attachment, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered or hypothecated. Such license shall not descend by the laws of testate or intestate devolution, but shall cease upon the death of the licensee; provided, that executors or administrators of the estate of any deceased licensee and the trustee of any insolvent or bankrupt licensee, which such estate consists in part of alcoholic liquor, under order of the appropriate court may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such descendant or such insolvency or bankruptcy until the expiration of such license, but not longer than six months after the death, bankruptcy or insolvency of such licensee. Any licensee may renew his license at the expiration thereof; provided, that

he is then qualified to receive a license and the premises for which such renewal is sought are suitable for such purpose; and provided further, that the renewal privilege herein provided for shall not be construed as a vested right. Amd. Ord. 46-09 - 12/21/2009)

9.218. DISPLAY. It shall be the duty of any person conducting a licensed business under this chapter to keep his license posted at all times in a prominent and conspicuous place on the premises for such business.

9.219. REPEALED APRIL 16, 1981. (Ord. 5-81)

9.220. CANCELLED LICENSES GENERALLY. Whenever any owner or members of an original firm or partnership, which is a licensee under this chapter, ceases to carry on business, the license issued under this chapter shall be returned, handed over and surrendered to the Village Liquor Control Commission for revocation and cancellation. The Village Liquor Control Commission shall have the right to assign and issue such revoked and cancelled liquor license.

9.221. OPERATION OF BUSINESS UNDER ASSUMED NAME; CHANGE IN OWNERSHIP. Every licensee under this chapter who does, conducts or transacts business under an assumed name shall be required to comply with the terms and provisions of "An Act in relation to the use of an assumed name in the conduct or transaction of business in the State." In the event one or more members of a firm or partnership withdraw from such business, the business may be continued by the remaining person or persons, partner or partners under the same liquor license for the remainder of the period for which the license was issued to the licensee or licensees. The change in ownership, however, shall be reported immediately to the Village Liquor Control Commission and the change shall be shown immediately on the original license application then in effect filed in the office of the Clerk. The failure by any licensee hereunder to comply with the provisions of any part of this section shall be considered and deemed cause for the revocation and cancellation of the liquor license issued under this chapter by the Village Liquor Control Commission. In the event the total of fifty percent (50%) or more of the stock of any corporation is transferred or sold to any other person, corporation, partnership or other entity, such transfer or sale shall require a new license be obtained from the Liquor Control Commissioner and a new license fee be paid as provided in this chapter. (Amd., Ord. 16-88 - 3/29/88; Amd. Ord. 15-97 - 5/5/97)

9.222. SALES IN PLACES OTHER THAN SHOWN IN APPLICATION FOR LICENSE; CHANGE OF LOCATION. A retail liquor dealer's license shall permit the sale of alcoholic liquor only in the

premises described in the application and license. Such location may be changed only upon authority granted by the Village Liquor Control Commission; provided, that written application for such change is made by the licensee. No change of location shall be permitted unless the proposed new location in the written application is a proper one for the retail sale of alcoholic liquor under the laws of the state and this chapter.

9.223. SUSPENSION, REVOCATION, FINES, AND COSTS. If any licensee shall violate any of the provisions of this chapter or any provisions of the state law, relating to liquor control, or shall make any false statement in obtaining a license, such license shall be revoked by the Village Liquor Control Commission and all fees paid thereon shall be forfeited.

The Village Liquor Control Commission is further empowered to suspend the local liquor license of any licensee for a period of not to exceed thirty days in any instance when the members of the commission find that any licensee or his agents or employees have violated any of the provisions of this chapter or state law relating to liquor control. Ord. 5-81 - 4/16/81)

In lieu of suspension or revocation the Liquor Commission may instead levy a fine on the licensee for violations of any of the provisions in the Statutes of the State of Illinois, any valid ordinance or resolution of the Village, or any applicable rule or regulation established by the Liquor Control Commissioner or State Commission which is not inconsistent with law. The fine imposed shall not exceed Two Thousand Five Hundred Dollars (\$2,500) for each violation; each day on which a violation continues shall constitute a separate violation. Not more than Fifteen Thousand Dollars (\$15,000) in fines under this Section may be imposed against any licensee during the period of his license. Proceeds from such fines shall be paid into the general corporate fund of the municipal treasury. (Amd. Ord. 2-86 - 1/28/86; Amd. Ord 46-09 - 12/21/2009)

Any licensee who violates any of said provisions shall also be liable for the costs of the Liquor Commission hearing, including but not limited to the costs of the court reporter, attorney, the costs of having subpoenas served, the costs of any newspaper publication notices, and the costs of U.S. mail incurred. (Amd. Ord. 2-86 - 1/28/86; Amd. Ord. 46-09 - 12/21/2009)

No such license shall be revoked or suspended and no licensee shall be fined except after a public hearing by the Liquor Control Commission with a three-day written notice to

the licensee affording the licensee an opportunity to appear and defend, except that if the Liquor Control Commissioner has reason to believe that any continued operation of a particular licensed premises would immediately threaten the welfare of the community, he may, upon the issuance of a written order stating the reason for such conclusion and without notice or hearing, order the licensed premises closed for not more than seven (7) days, giving the licensee an opportunity to be heard during that period, except that if such licensee shall also be engaged in the conduct of another business or businesses on the licensed premises, such order shall not be applicable to such other business or businesses. (Amd. Ord. 2-86 - 1/28/86)

The Liquor Control Commissioner shall within five (5) days after such hearing, if he determines after such hearing that the license should be revoked or suspended or that the licensee should be fined, state the reason or reasons for such determination and written order, and either the amount of the fine, the period of suspension, or that the license has been revoked, and shall serve a copy of such order within the five (5) days upon the licensee. (Amd. Ord. 2-86 - 1/28/86)

9.224. APPEALS. All appeals to the State Liquor Control Commission of any decision, order or action by the Local Liquor Control Commissioner, or designee, having the effect of levying a fine or refusing to levy a fine on a licensee, granting or refusing to grant a license, revoking or suspending or refusing to revoke or suspend a license, or refusing for more than 30 days to grant a hearing upon a complaint to revoke or suspend a license, shall be limited to review of the official record of the formal proceedings before the Commissioner, or designee. (Ord. 58-97 - 11/03/97)

ARTICLE III. PUBLIC INTOXICATION/DRINKING

9.301. PROHIBITED. It shall be unlawful for any person to be in an intoxicated condition in or on any street, alley, or other public place in the Village.

9.302. EXCEPTION. No person shall without the written permission of the Liquor Commissioner and/or the Village Board of Machesney Park, consume or possess any alcoholic liquor on any street, alley, city parking lot, privately owned parking lot open to the public in a commercial area, or a park or a recreational area, within the Village, except that alcoholic liquor may be possessed in said areas in the original container with the seal unbroken.

9.303. PENALTIES. Any person, firm, or corporation violating the provisions of this Ordinance shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) plus costs of court for each offense. (Ord. 23-82 - 6/9/82; Amd. Ord. 46-09 - 12/21/2009)

ARTICLE IV. ATWOOD GOLF COURSE

9.401. EXEMPTIONS. The area outside of the Atwood Golf Course Club House shall be exempt from all requirements, restrictions and limitations outlined in Chapter 9., Alcoholic Beverages.

9.402. REGULATION. The area outside of the Atwood Golf Course Club House known as the Atwood Golf Course (Forest Preserve), shall be governed by all existing laws, rules and regulations of the Winnebago County Board and/or the Winnebago County Forest Preserve. (Amd. Ord. 53-94 - 9/12/94)

ARTICLE V. NUDITY AND SEMI-NUDITY PROHIBITED

9.501. PROHIBITED.

A. No person or entity licensed under the provisions of this chapter, or any agent, officer or employee of any such person or entity, shall knowingly allow or otherwise participate in any kind of agreement or arrangement which allows or requires any person to appear before or amidst the public, in attendance at an establishment to which said license has been issued, in the nude or in any kind of apparel which as worn or by virtue of its design, fit or material makes visible or tends to make visible all or any portion of such person's:

1. Genitalia;
2. Pubic hair or pubic hair region;
3. Anus and/or anal crevice; and
4. If such person is a female, her breasts at, below and including the areola.

B. No person shall appear or enter into any kind of agreement or arrangement which allows or requires such person to appear before or amidst the public, in attendance at an establishment licensed under the provisions of this chapter, in the nude or in apparel such as that described in subsection A. hereof.

C. The following activities are prohibited by licensees:

1. The performance or simulation of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

2. The actual or simulated touching, caressing or fondling of the breasts, buttocks, anus or genitals;

3. The displaying of films or pictures depicting acts, a live performance of which was prohibited by the regulations quoted above.

4. The holding, promotion, sponsoring or allowance of any contest, promotion, special night, event or any other activity where patrons of the license-holding establishment are encouraged or allowed to engage in any of the conduct, or to be attired as described in the preceding sub-paragraph of this subsection.

D. Licensees shall insure that a minimum distance of 10 feet is maintained between entertainers and patrons.

E. Any person or entity licensed under the provisions of this chapter, or any agent, officer or employee of any such person or entity, who violates any portion of this section may have his license revoked or suspended pursuant to the provisions of this chapter.

9.502. PENALTIES.

A. Any licensee who violates any provisions of this Article may be immediately closed for a maximum of 12 hours by the Law Enforcement Agency of the Village.

B. Any person, firm or corporation violating the provisions of Section 9.501 shall be fined, upon conviction not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) plus court costs for each offense. (Ord. 10-96 - 3/11/96)

ARTICLE VI. REGULATION OF TOBACCO AND ALTERNATIVE NICOTINE PRODUCTS

9.601. LEGISLATIVE FINDINGS, DECLARATION, AND PURPOSE.

The Surgeon General finds cigarette smoking and other tobacco use by minors a grave public health problem. Therefore, the purpose of this article is to implement a

strict and enforceable system to prevent the illegal sale of tobacco products, alternative nicotine products, and electronic cigarettes to minors.

The enactment of this article intends to further the health, welfare, and safety of the residents of the Village of Machesney Park, Winnebago County, Illinois, particularly those residents under 21 years of age.

9.602. DEFINITIONS. As used in this article the following words and phrases shall have the meaning ascribed thereto:

"Alternative nicotine products" shall mean any device not consisting of or containing tobacco that provides for the ingestion into the body of nicotine, whether by chewing, smoking, absorbing, dissolving, inhaling, snorting, sniffing, or by any other means. Alternative nicotine products does not include: any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, and is being marketed and sold solely for that approved purpose.

"Electronic cigarette (E-cigarette)" shall mean

- A. Any device that employs a battery or other mechanism to heat a solution or substance to product a vapor or aerosol intended for inhalation;
- B. Any cartridge or container of a solution or substance intended to be used with or in the device or to refill the device; or
- C. Any solution or substance, whether or not it contains nicotine, intended for use in the device.

Electronic Cigarette includes, but is not limited to, any electronic nicotine delivery system, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any components or parts that can be used to build the product or device.

Electronic Cigarette does not include any product approved by the United States Food and Drug Administration for sale as a tobacco cessation product, as a tobacco dependence product, or for other medical purposes, that is being marketed and sold solely for that approved purpose; any asthma inhaler prescribed by a physician for that condition and being marketed and sold solely for that approved purpose; or any therapeutic product approved for use under the Compassionate Use of Medical Cannabis Pilot Program Act.

"Tobacco products" shall mean any product containing or made from tobacco that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, snus, and any other smokeless tobacco product which contains tobacco that is finely cut, ground, powdered, or leaf and intended to be placed in the oral cavity. *Tobacco Product* includes any component, part, or accessory of a tobacco product, whether or not sold separately.

9.603. LICENSE REQUIRED. It is unlawful to sell, offer for sale at retail, vend through machines or give away tobacco products, alternative nicotine products, vapor products or electronic cigarettes in any form in the Village without first being licensed as a retail tobacco retailer/seller by the Village. A retail tobacco retailer's/seller's license must be obtained for each location in which tobacco products, alternative nicotine products and/or electronic cigarettes are sold. Each license issued under this article terminates on April 30 following the date of issuance unless sooner revoked by the Village.

All retail tobacco retailer's/seller's licenses issued pursuant to this section are nontransferable and non-assignable and are valid only for the applicant and the specific address listed on the retailer's/seller's license. No license may issue for other than a fixed location. A separate retailer's/seller's license is required for each address at which Tobacco Products, Alternative Nicotine Products, or Electronic Cigarettes are sold or offered for sale. Any change in business ownership or business address requires a new retailer's/seller's license.

9.604. LICENSE APPLICATION. The application for a tobacco retailer license required by this article is made annually in writing to the Administration Department. Such application must provide all such information as required by the Village on said application as amended from time to time and must be filed with the Administration Department together with the tobacco retailer license fee required by this article.

9.605. LICENSE FEE. The fee for a tobacco retailer license required by this article is \$150 per annum for each building location in which tobacco products and/or alternative nicotine products are sold.

9.606. SUNRISE CLAUSE. Any retail tobacco or alternative nicotine products retailer/seller in existence in the Village as of November 1, 2021 shall be permitted to continue its operations in its current location by successfully obtaining a

tobacco retailer license by May 1, 2022.

9.607. MINIMUM AGE TO PURCHASE TOBACCO AND ALTERNATIVE NICOTINE PRODUCTS. It is unlawful for any person under the age of 21 years to purchase tobacco products, alternative nicotine products, electronic cigarettes or tobacco accessories or misrepresent their age or use any false or altered identification with the intention of purchasing tobacco products or accessories, alternative nicotine products and/or electronic cigarettes.

9.608. MINIMUM AGE TO POSSESS TOBACCO AND ALTERNATIVE NICOTINE PRODUCTS.

- A. No person under 21 years of age shall purchase or possess any tobacco product, alternative nicotine product or electronic cigarette as defined in 720 ILCS 675/1(a-9).
- B. Any person who violates any provisions of this section shall receive a fine not less than \$50, but not more than \$500 for any single offense. Repeat violators shall be subject to escalated fine amounts above \$50 per offense.

9.609. SALES TO MINORS PROHIBITED. No person shall sell or furnish any tobacco products, alternative nicotine products, vapor products or electronic cigarettes in any form to any person under 21 years of age.

9.610. WARNING SIGNS. Signs informing the public of said age restrictions must be posted by each licensee at every display of tobacco products, alternative nicotine products, vapor products and electronic cigarettes where such items are offered for sale. Each such sign must be plainly visible and shall state:

THE SALE OF TOBACCO, ALTERNATIVE NICOTINE PRODUCTS, VAPOR PRODUCTS OR ELECTRONIC CIGARETTES TO PERSONS UNDER 21 YEARS OF AGE IS PROHIBITED BY LAW.

9.611. IDENTIFICATION REQUIRED. Before selling, offering for sale, or furnishing a tobacco product, electronic cigarette, or alternative nicotine product to another person, the person selling, offering for sale, giving, or furnishing the tobacco product, electronic cigarette, or alternative nicotine product shall verify that the person is at least 21 years of age by examining from any person that appears to be under 30 years of age a government-issued photographic identification that establishes the person to be 21 years of age or older.

9.612. OUT-OF-PACKAGE SALES PROHIBITED. No tobacco retailer establishment licensed or unlicensed under this article or person shall expose for sale, sell, or offer for sale to any person, directly or indirectly, within the Village, any

tobacco product as defined in this article, not sealed in the original packaging unless properly marked and packaged for individual sale by the manufacturer or licensed tobacco products distributor.

9.613. MINIMUM AGE TO SELL TOBACCO AND ALTERNATIVE NICOTINE PRODUCTS. It shall be unlawful for any person, associate, member, representative, agent, or employee of such licensee under 18 years of age to sell tobacco products and/or alternative nicotine products in any licensed premises.

9.614. SALE ON PUBLIC LAND PROHIBITED. It shall be unlawful for any licensee to sell, distribute, promote, or advertise tobacco products and/or alternative nicotine products to any person free of charge or to any person on any public land or building within the Village's corporate limits.

9.615. INSPECTION. The Machesney Park Division of the Winnebago County Sheriff's Department shall conduct random, unannounced inspections of all places wherein such tobacco products, alternative nicotine products and/or electronic cigarettes are licensed to be sold, for the purpose of ascertaining whether the laws of the state and of the Village in relation to the same, are being complied with at such place.

9.616. SALES/DISTRIBUTION VIOLATION. The Machesney Park Division of the Winnebago County Sheriff's Department shall initiate enforcement against any person who violates any provision of this article and shall report violations to the Liquor Commission upon the license-holder's request.

Any person who shall knowingly violate, or shall knowingly cause the violation of any provision of this article other than the purchasing sections, is guilty of a petty offense for which the offender may be fined an amount as follows:

- A. For the first offense in a 24-month period, the person shall be fined \$200.00.
- B. For the second offense in a 24-month period, the person shall be fined \$400.00.
- C. For the third offense in a 24-month period, the person shall be fined \$600.00.
- D. For the fourth or subsequent offense in a 24-month period, the person shall be fined \$800.00.

For the purposes of this subsection, the 24-month period shall begin with the person's first violation of the ordinance. The penalties in this subsection are in addition to any other penalties prescribed under the Cigarette Tax Act (35 ILCS 130/1 et seq.) and the Tobacco Products Tax Act of 1995 (5 ILCS 143/3-5 et seq.).

Any licensee employing a person found to have violated any of the provisions of this article shall pay to the Village costs of the hearing on such violation. Costs may include, but not be limited to: court reporter's fees, the cost of preparing and mailing notices and orders, and all other miscellaneous expenses incurred by the Village or such lesser sum as the Village Attorney may allow. The licensee shall pay said costs to the Village within 30 days of notification of the costs. Failure to pay said costs within 30 days of notification is a violation of this article and may cause the levy of an additional fine.

9.617. SUSPENSION AND REVOCATION OF LICENSE. If any licensee, retailer/seller shall violate any of the provisions of this article, or any provision of the State law regulating tobacco distribution and control or shall make any false statement in obtaining a license, such license may be revoked by the Village Liquor Control Commission and all fees paid thereon shall be forfeited.

The Village Liquor Control Commission is further empowered to suspend the retailer's/seller's license for a period not to exceed thirty (30) days in any instance, when the members of the Commission find that any licensee, or his agent or employees have violated any of the provisions of this article, or State law relating to tobacco and alternative nicotine products.

In lieu of suspension or revocation, the Liquor Control Commission may instead levy a fine on the licensee for violations of the provisions in the Statutes of the State of Illinois, any valid Ordinance or Resolution of the Village or any applicable Rule or Regulation established by the Liquor Control Commission which is not inconsistent with the Law. The fine imposed shall not exceed \$2,500.00 for each violation; each day on which a violation continues shall constitute a separate offense. Not more than \$5,000.00 in fines under this section may be imposed against the licensee for the period of the license. Proceeds from such fines shall be paid into the general corporate fund of the Village.

Any licensee who violates any of said provisions shall also be liable for the costs of the Liquor Control Commission hearing, including but not limited to costs of a court reporter, attorney, costs of having subpoena served, costs of any newspaper publication notice, and the costs of U.S. Mail incurred.

No such licensee shall be revoked or suspended, and no licensee shall be fined except after a public hearing by the Liquor Control Commission with a three (3) day written notice to the licensee, affording the licensee the

opportunity to appear and defend. The Liquor Control Commission shall, within five (5) days after such hearing, if it is determined after such hearing that the license should be revoked or suspend, or that the licensee should be fined, state the reason, or reasons for such determination in written order, and either the amount of the fine, the period of the suspension, or that the license has been revoked, and shall serve a copy of the order within five (5) days upon the licensee. (Ord.17-22)

CHAPTER 10. AMUSEMENTS

ARTICLE I. IN GENERAL.

10.101. DEFINITIONS. (As used in this article the following words and phrases shall have the meaning ascribed thereto:)

Amusement or skill machine shall mean any machine, device or contrivance which is permitted to function by the insertion of a coin, slug, token, plate or disc and is operated for amusement only and does not dispense any form of payoff, prize or reward. This definition shall not include jukebox, telephone devices, or machines that sell merchandise.

Arcade shall mean any place of business or establishment containing five (5) or more amusement machines. Also referred to as pinball arcades, penny arcades game rooms or amusement arcades.

Coin-operated machines consist of amusement machines, including, but not limited to, video, foosball, bowling, shuffleboard, pool tables, dart machines, pinball, etc.

Machine means any amusement, vending or musical machine as defined herein.

Operator means any person who sets up for operation by another any machine or device as herein provided, whether such setting up for operation, leasing, renting or distributing be for a fixed charge or rental or on the basis of a division of the income derived from such machine or device or otherwise.

Premises shall mean a building or a part of a building where coin-operated machines are located, under the ownership or control of the operator.

Vending machine shall consist of any machine which upon the insertion of a coin, slug, token, plat or key into any slot, crevice or other opening, or by the payment of any price, operates or may be operated for the sale of any type of merchandise, goods or items of whatever kind and nature.

10.102. LICENSE REQUIRED. A license shall be obtained from the Comptroller by any person, firm or corporation which displays any coin-in-slot operated amusement device which returns to the player thereof no money or property or right to receive money or property, which amusement device is to be played or operated by the public at any place owned, occupied

or leased by any such person, firm or corporation. It shall be a violation of this article for any person to allow any coin-in-slot amusement device to be operated or to remain on the premises unless such amusement device shall be licensed under this article. (Amd. Ord. 15-97 - 5/5/97)

10.103. APPLICATION. Application for an operator's license shall be made, on a form prescribed by the Comptroller, by the owner of the machine, if an individual; by a partner in the case of a partnership; or by an officer in the case of a corporation, verified by oath or affidavit and shall contain the following information:

1. The name and address of the applicant;
2. Prior convictions of the applicant for any violations of the gaming laws of the State of Illinois or any other state, if any;
3. Place where machine or device is to be displayed or operated and the business conducted at that place;
4. The local business address and telephone number of the applicant;
5. The full name of a local and responsible agent for the amusement machine owner if a business firm or corporation;
6. Such additional information as may be required by the Comptroller or Village Trustees including such evidence that the applicant, if an individual, or the person in charge of the business if a firm or corporation, is or are responsible persons of good character and reputations and any information required under Chapter 10. (Amd. Ord. 15-97 - 5/5/97)

10.104. OPERATORS LICENSE REQUIRED. The fee for the license required by this article shall be \$200.00 and will be payable in advance as of May 1 of each year, and shall expire on April 30 of the following year. Such license shall be issued by the Comptroller and will be paid by the owner of the machines. (Amd. Ord. 15-97 - 5/5/97)

10.105. ARCADE LICENSE REQUIRED. No arcade shall be established, maintained or conducted in the Village of Machesney Park by any person, firm or corporation without the owner of the business establishment first obtaining a license to operate such place from the Comptroller and no operator, as defined herein, shall allow or permit the use of five (5) or more amusement machines unless an amusement arcade license

for such use shall have been obtained from the Comptroller. The fee for an Arcade License will be \$100 for five (5) or more machines. (Amd. Ord. 15-97 - 5/5/97)

10.106. LICENSE APPLICATION FOR ARCADE. Every person, firm or corporation desiring to obtain a license for an amusement machine arcade as required by this article shall file a written application to the Comptroller on forms approved by the Comptroller. The application shall include the following information verified by oath or affidavit:

1. The applicant's age, correct name, post office address, residence and telephone number; and if a corporation, the names and addresses of all officers.

2. Such additional information as may be required by the Comptroller or Trustee's, including such evidence that the applicant, if an individual, or the person in charge of the business, if a firm or corporation, is or are responsible persons of good character and reputation and any information required.

Such license to a corporation shall be revocable upon the occurrence of a change in the agent so managing such premises, and a new license may be required by the Village before any new agent shall take charge of such premises and such agent shall furnish all of the information and recommendations required of the original applicant.

Every such application shall be accompanied by the fee as herein specified, payable to the Village of Machesney Park. (Amd. Ord. 15-97 - 5/5/97)

10.107. ARCADES. Examination of the applicant shall be made by and under the direction of the Machesney Park Section of the Winnebago County Sheriff's Police to determine whether or not the applicant is of good moral character and the premises in which it is proposed that such machine, game or device is to be operated is one of public resort and not habituated by criminals, felons, vagrants or persons having police records of crime or offenses involving moral turpitude.

10.108. ARCADE REGULATIONS.

1. Each operator or license shall, at all times, open each and every portion of the licensed premises for inspection by the Machesney Park Section of the Winnebago County Sheriff's Police and other Village departments for the purpose of enforcing any provisions of the article.

2. Each operator or licensee shall, at all times, display the license granted hereunder in a conspicuous place near the entrance to the licensed establishment, or the arcade area.

3. Except in taverns, each operator or licensee shall have present on the premises, or on such portion of the premises where the arcade is located, as the case may be, at least one (1) adult operator, at all times that the premises are open to the public, who has not been convicted of a crime involving moral turpitude and who has been so certified by the Winnebago County Sheriff's Police.

4. The operator or licensee shall not open the licensed premises for business between the hours of 1 AM and 7:30 AM (local time).

5. Arcades in establishments licensed by the Village to sell alcoholic beverages may be open during the hours in which alcoholic beverages may be served.

10.109. MACHINE LICENSES/APPLICATIONS. Any licensed machine owner desiring to operate a coin operated machine in the Village shall make an application for a machine license before May 1st of each year on a form prescribed by the Comptroller which shall contain the following information:

1. Name of the applicant (owner), if an individual; and the full name of a local and responsible agent, if a business firm or corporation;

2. The address of the premises where the machine will be located and the name of the business;

3. Type of machine;

4. Number of machines for which a license is desired;

5. A diagram of the location of the machine(s) on the premises, which for amusement machines will show exact locations relative to exits from the premises;

6. Evidence that the owners are responsible persons of good character and reputation; and

7. If amusement machines:

a. The name and address of owners of the business in which the machine(s) will be located.

In the case where the owner is a corporation or club, the application shall provide the name and address of the agent who will have principal charge of the premises established.

b. Distance from area designated for amusement machine use to the nearest school building.

Every such application shall be accompanied by the fee as herein specified, payable to the Village of Machesney Park. (Amd. Ord. 15-97 - 5/5/97)

10.110. POLICE TO MAKE INVESTIGATION OF AMUSEMENT MACHINE PREMISES AND LICENSE APPLICANT.

Examination of the owner of the business in which the amusement machine will be located shall be made by and under the direction of the Supervisor in charge of the Machesney Park Section of the Winnebago County Sheriff's Police to determine whether or not the applicant is of good moral character and the premises in which it is proposed that such machine, game or device is to be operated is one of public resort and not habituated by criminals, felons, vagrants or persons having police records of crime or offenses involving moral turpitude.

10.111. INSPECTION OF PREMISES.

Inspection of premises before any amusement machine license is issued shall be made by the Building Official and the Zoning Officer who shall determine whether the premises conform to building, zoning and other applicable Village codes. Before any amusement machine license shall be issued, the Village shall determine whether the applicant is placing the amusement machine(s) in such a location so as to not constitute a nuisance or danger and so as to permit safe ingress to and egress from said premises. Improper location can be the basis for denial of license application.

10.112. APPROVAL OF MACHINE LICENSE APPLICATION.

The Comptroller shall approve complete machine license applications subsequent to their examination by Village Building, Zoning and Police Department personnel. (Amd. Ord. 15-97 - 5/5/97)

10.113. AMOUNT OF FEES.

The license fee for any person, firm or corporation which is the operator of the premises where such amusement device or devices referred to in this article is located,

whether such operator be the owner or tenant of said premises, and whether the operator be the owner of the machines or leasing it, shall be ten dollars (\$10) for each amusement device per year, and such fee shall accompany the application for license. (Amd. Ord. 22-00 - 7/31/00)

Identification stickers will be issued for each machine licensed and must be prominently displayed on that machine only.

10.114. ENFORCEMENT.

The enforcing officer for this article shall be the Police Department of the Village of Machesney Park or such agency as the Village may contract with to perform police services.

10.115. PENALTY

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with, or resists the enforcement of any of the provisions of this article, shall be fined not less than fifty dollars (\$50) nor more than two hundred dollars (\$200) for each offense, and each day upon which such violation continues shall constitute a separate offense. (Ord. 12-81 - 5/7/81; Amd. Ord. 88-85 - 12/10/85; Amd. Ord. 9-96 - 3/18/96)

CHAPTER 11. ANIMALS AND FOWL

ARTICLE I. ANIMAL CONTROL

The Village of Machesney Park, Illinois, and the County of Winnebago, Illinois, for the consideration hereinafter set forth hereby agree as follows:

11.101. DEFINITIONS. For the purpose of this Agreement, the words and phrases listed hereunder have the meanings designated herein, except when a particular context clearly requires a different meaning:

A. "Administrator" means the appointed Administrator of the Animal Control Department of the County of Winnebago, Illinois, or his duly authorized representative.

B. "Animal" means any animal, other than man, which may be affected by rabies.

C. "Village" means Village of Machesney Park, Illinois.

D. "County" means the County Board of the County of Winnebago, Illinois.

E. "Department" means the Animal Control Department of the County of Winnebago, Illinois.

F. "Dog" means all members of the canine family.

G. "Ordinance" means Ordinance #42-81 (maximum of 2 dogs per household), Ordinance #5-82 (dogs running at large and animal control), Ordinance #28-83 (Section 8-barking dogs) of the Code of Ordinances of the Village of Machesney Park, Illinois, in effect on a given date relating to the ownership, possession, and control of dogs.

H. "Owner" means any person having any right of property in an animal or who keeps or harbors an animal or who has it in his care or acts as its custodian or who knowingly permits a dog or other domestic animal to remain on or about any premise occupied by him.

I. "Person" means any person, firm, corporation, partnership, society, association or other legal entity, any public or private institution, the State of Illinois, municipal corporation or political subdivision of the State, or any other business unit.

J. "Poundmaster" means a person appointed by the County Board to direct and supervise the operation of the Winnebago County Pound.

11.102. PURPOSE AND OBJECTIVES. The purpose of this Agreement is to enter into an Intergovernmental Cooperation Agreement between the Village and County whereby the County will, through its Animal Control Department, enforce Village ordinances which regulate and control dogs.

11.103. AUTHORITY. The Village is a municipality in the State of Illinois as defined by Article VII, Section 1 of the Constitution of the State of Illinois; the County is a body politic and corporate existing by and under the laws of the State of Illinois; and each is a unit of local government as defined by Article VII, Section 1 of the Constitution of the State of Illinois. This Agreement, therefore, is entered into by the County and the Village pursuant to and in accordance with the authority granted by the Intergovernmental Cooperation Act, 111. Rev. Stat., Ch. 127, Sec. 741, et seq. (1977) which implements Article VII, Section 10 of the Constitution of the State of Illinois.

11.104. COUNTY RESPONSIBILITIES. The County agrees that the Department shall provide the following services:

A. Enforce the Animal Control Act, the Animal Control Ordinance of Winnebago County, and the Ordinance. Enforcement of the Ordinance by the County shall not preclude the Village from enforcing the Ordinance.

B. Timely answer and investigate inquiries or complaints regarding enforcement of the Ordinance according to the schedule of priorities contained in Exhibit "A" attached hereto.

C. Twenty man-hours of patrol per week in the Village, provided, however, that with the exception of procedures relating to animal bite investigations instituted pursuant to State law, service under this Agreement will be provided only between the hours of 8:00 AM and 5:00 PM Mon. through Fri. on days which are not recognized as holidays by the County of Winnebago.

D. Apprehension and impoundment of dogs found to be in violation of the Ordinance. The Poundmaster, or other person authorized by the Administrator to impound animals, shall, upon receiving any animal, make a complete registry thereof in entering the breed, description, age, sex, date of impoundment, and

registration or tag number of such animal.

The Administrator or Poundmaster shall provide adequate and wholesome food and shelter for impounded animals and shall provide careful and humane treatment toward impounded animals and shall provide for humane destruction.

E. Notification of the owner of an impounded animal at his last known address by certified mail, with a return receipt requested, of such impoundment. If an owner notifies the Administrator that his animal has been lost and gives a description of the animal, the Administrator for a period of six months thereafter shall be required to notify said owner within 24 hours of the impoundment of said animal.

F. Redemption of impounded dogs with 7 days of its impoundment on the following conditions:

1. Presentation of proof of current rabies inoculation and registration, if applicable, or

2. Payment for rabies inoculation and registration, if applicable, and

3. Payment of the cost of boarding, and

4. Payment of \$3.00 as a penalty which penalty shall be paid into the Animal Control Fund and shall be in addition to any other penalties which may be invoked.

G. Humane dispatch, adoption, or transfer to an institution pursuant to the Impounding and Disposition of Stray Animals Act of impounded animals which have not been redeemed. Persons adopting an unredeemed dog must pay for the rabies inoculation and registration of such dog, if applicable.

Animals suffering because of severe physical disability may be disposed of, at the discretion of the Administrator or Poundmaster. No animal left by its owner for disposition is to be regarded as unclaimed or unredeemed but is to be disposed of as authorized by its owner.

No licensed dog wearing an inoculation tag may be disposed of, with the exception of those suffering because of severe physical disability, unless the

Administrator has received the letter receipt provided for herein or has had the certified letter returned undelivered.

H. Provide to the Village monthly reports containing the following information:

1. The number of calls received from the Village of Machesney Park residents.

2. The number of investigations resulting from calls and complaints within the Village of Machesney Park. (This information will not be available until the summer of 1983 when the computerized information system has been fully implemented.)

3. The number of warning letters prepared and sent to Machesney Park residents for violations.

4. The number of citations issued for Ordinance violations and fines collected for same.

5. The number of carcasses picked up within the Village of Machesney Park.

6. The number of animal pickups within the Village of Machesney Park.

I. County responsibilities do not include the trapping or picking up of wild or non-domesticated animals.

11.105. VILLAGE RESPONSIBILITIES. The Village agrees to pay the County for the aforementioned services to be performed by the County, the sum of \$12,827.00 for the period from January 1, 1984 to December, 31, 1984, payable in the amount of \$1,068.92 on January 1, 1984, and on the first day of each and every month thereafter for the term of the contract.

11.106. TERM. The term of this Agreement shall commence on January 1, 1984 and shall terminate on the 31st day of December, 1984, and shall be self-renewing from year to year thereafter unless either party notifies the other in writing at least 30 days prior to the end of the term of a desire to make any modifications.

11.107. BREACH. Willful neglect, failure, or refusal by either party to perform any material provision of this Agreement shall give the other party the power to terminate this Agreement in addition to the right to compensation for

damages suffered by reason of such breach.

11.108. SUCCESSORS AND ASSIGNS. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

11.109. This Agreement represents the entire and integrated agreement, subject to the requirements of the Animal Control Act, between the Village and the County, and supersedes all prior negotiations and representation, either written or oral. None of the provisions of this Agreement may be waived, changed or modified except by an instrument in writing signed by both parties hereto.

11.110. EXHIBIT "A" as called for in Section 11.104, paragraph B, states manner of handling calls as follows:

1. Animal bite investigation
2. Injured animals or those suspected of rabies
3. Confined strays, dogs & cats only
4. Carcasses, usually road kills
5. Patrol - unconfined stray dogs & cats, dog packs
6. Animal abuse
7. Bites - All animal bites will be investigated.

Injured or Sick Animals. These are both wild and domesticated which have usually but not necessarily been hit on the road or may show symptoms of rabies (unprovoked aggressiveness, paralysis, inability to swallow, thirsty). Animals symptomatic of rabies will usually be euthanized and sent to the lab.

Confined Strays. Our wardens only pick up dog and cat strays. Confined strays have priority over calls on strays running loose.

Carcasses. These are usually but not necessarily road kills, all wild and domesticated carcasses will be handled by us.

Animal Abuse/Neglect. These calls are generally last priority and are screened before referral to authorized animal abuse/neglect investigators.

Barking Dogs. Barking dog ordinances exist in Rockford, Loves Park and Machesney Park only. We have authority to investigate and issue a citation only.

Wild Animals. Wild animals in these categories can be handled by Animal Control.

- A. Injured
- B. Symptomatic of rabies
- C. Carcasses
- D. Bats

Wild animals will not be handled by Animal Control.

A. Healthy animals including skunks, raccoon, squirrels and birds. These animals can be removed by authority from the Game Warden.

B. Healthy animals covered by game laws.

C. Pests - this includes all healthy mammals and other animals not covered by game laws (i.e. rats, mice, pigeons, snakes, bees and other insects).

Large Domestic Animals. Animal Control handles all calls on large domestic animals such as horses, cattle, sheep, goats, pigs, etc. running at large. Carcasses are also handled by Animal Control and the owner is ultimately responsible for removal of animal.

Livestock Kills. Animal Control investigates all livestock killed by dogs.

Dog Control Regulations Generally. All dogs must be confined to owners property by chain or fence. All dogs must be vaccinated and registered. Any dog not on owner's property can be picked up and impounded. A citation or warning can be issued. Barking Dog Ordinances exist in Rockford, Loves Park, and Machesney Park only, and our authority is to issue a warning or citation.

Night Patrol. Priorities #1 and #2 (bite investigation and injured animal). Priority #3 calls (confined strays) are taken up to 5:00 p.m., based on new hours. After 5:00 p.m. (based on new hours) #3 calls are referred to days. (Ord. 6-82 - 1/26/82; Amd. Ord. 13-84 - 2/28/84)

ARTICLE II. KENNEL LICENSE

11.201. DEFINITIONS.

A. Dog: Any canine over the age of three (3) months.

B. Dog kennel operator: Any person or persons who keep more than two dogs above the age of three (3) months on any one premise within the Village.

C. Dwelling unit: Shall mean a room or group of rooms located within a dwelling forming a single habitable unit with facilities used or intended to be used by a single family for living, sleeping, cooking and eating purposes.

D. Premises: Shall mean a platted or unplatted lot or parcel or plot of land, occupied or unoccupied by a building structure. Further, premises refers to a dwelling unit, a commercial or industrial structure or any type of building, structure, or improvement.

11.202. NUMBER OF DOGS ALLOWED. No person or persons shall be allowed to keep more than three dogs on any premise within the Village and the keeping of the same is a public nuisance unless said person or persons shall have first obtained a kennel license or shall obtain a Special Use Permit for a Pet Daycare Facility from the Village, or a permit for animal foster care home pursuant to the State Statutes 225 ILCS 605/1 ET SEQ and shall have paid the requisite fee therefor to the Village or the State of Illinois.

11.203. ZONING REQUIRED. Kennel licenses shall be issued for premises located in an AG Agricultural District only.

11.204. APPLICATION. Every kennel operator shall obtain a kennel license from the Village by submitting an application listing the following information:

- A. Name and address of the applicant;
- B. Proposed location of said kennel;
- C. The maximum number of animals which said kennel operator proposes to house on said premises;
- D. Site Development Plan indicating structures to house animals, outdoor areas to be used by the animals, areas used for ancillary kennel operations, customer parking areas, and location of proposed signage.

11.205. FEE. The fee for application of a dog kennel license shall be one hundred dollars (\$100.00), which shall not be refundable.

11.206. VERIFICATION OF STATE LICENSE. All kennels shall be licensed by the Illinois Department of Agricultural, pursuant to the Animal Welfare Act for the State of Illinois.

11.207. OPERATING REQUIREMENTS. All kennels shall abide by the following requirements:

- A. All structures housing animals shall be reasonably soundproofed and reasonably ventilated.
- B. All animal waste shall be removed promptly and sanitarilly, to prevent offensive odors or health risks.
- C. All outdoor play/exercise areas shall be fenced in, and located no less than 50 feet from adjacent lots that are not zoned Agricultural.
- D. All kennels shall provide no less than 80 square feet of open play/exercise area (either indoor or outdoor), per canine housed at the facility at a single time.
- E. All animals shall be kept either within completely enclosed structures or under direct control of the kennel operator or staff at all times.

11.208. REVOCATION OR SUSPENSION OF LICENSE. A kennel license may be revoked or suspended following any violation of this Ordinance or of any nonconformance with the approved application. (Amd. 43-15 - 11/02/2015)

ARTICLE III. PETS PROHIBITED FROM RUNNING AT LARGE

11.301. DEFINITIONS. For the purpose of this Ordinance, the words and phrases listed hereunder shall have the meanings designated herein, except when a particular context clearly requires a different meaning:

- A. Administrator: The appointed Administrator of the Animal Control Department of the County of Winnebago, Illinois, or his duly authorized representative.
- B. Animal: Any live vertebrate creature, domestic or wild.
- C. Village: The Village of Machesney Park, Illinois.
- D. County: The County of Winnebago, Illinois
- E. Department: The Animal Control Department of the County of Winnebago, Illinois, as administered by the Sheriff of Winnebago County.
- F. Dog: All members of the canine family.

G. Owner: Any person having any right of property in an animal or who keeps or harbors an animal or has it in his care or acts as its custodian or who knowingly permits a dog or other domestic animal to remain on or about any premises occupied by him.

H. Person: Any person, firm, corporation, partnership, society, association or other legal entity, any public or private institution, the State of Illinois, municipal corporation or political subdivision of the state, or any other business unit.

I. Pound Master: A person appointed by the County Board to direct and supervise the operation of the Winnebago County Pound.

J. Warden: A person appointed as an Animal Control Warden by the Administrator to perform duties as assigned by the Administrator to effectuate the Animal Control Act of Winnebago County, Illinois.

11.302. REGULATIONS. Any animal off the premises of the owner and not under the direct control of the owner or the owner's authorized agent by means of a leash or lead shall be deemed to be running at large. (Amd. Ord. 27-09 - 08/17/2009)

11.303. IMPOUNDMENT. Any dog or animal found to be in violation of this Ordinance shall be apprehended and impounded by the Administrator, Deputy Administrators, Wardens, Police Officers, or any officer or agent as may be designated by the Village Board. The Pound Master, or other person authorized by the Administrator of the Village Board to impound animals, shall, upon receiving any animal, make a complete registry thereof, entering the breed, description, age, sex, date of impoundment, and registration or tag number of such dog or animal. The Administrator, Pound Master, or officer or agent as may be designated by the Village Board shall provide adequate and wholesome food and shelter for impounded animals, and shall provide careful and humane treatment toward impounded animals and shall provide for humane destruction capability. (Amd. Ord. 27-09 - 08/17/2009)

11.304. NOTIFICATION. The Administrator or his duly authorized agent, or such other officer or agent as may be designated by the Village Board shall, upon impoundment, forthwith notify the owner of the impounded dog or animal at his last known address by certified mail, with a return receipt requested, of such impoundment. If an owner notifies the Administrator that his dog or animal has been lost and gives a description of the animal, the Administrator, or such other office or agent as may be designated by the Village Board shall for a period of six months thereafter be required

to notify said owner within twenty-four hours of the impoundment of said dog or animal.

11.305. CONDITIONS/REDEEMING. The owner of any impounded dog or animal may redeem such dog within seven days of its impoundment on the following conditions:

A. Presentation of proof of current rabies inoculation and registration, if applicable; or

B. Payment for rabies inoculation and registration, if applicable, and

C. Payment of the cost of boarding; and

D. Payment of \$3.00 as a penalty, which penalty shall be paid to the Animal Control Fund and shall be in addition to any other penalties which may be invoked. (Amd. Ord. 27-09 - 08/17/2009)

11.306. DISPOSITION. When not redeemed by its owner, an animal which has been impounded shall be humanely dispatched, offered for adoption, or transferred to an institution. Persons adopting an unredeemed dog must pay for the rabies inoculation and registration of such dog, if applicable. Animals suffering because of severe physical disability may be disposed of at the discretion of the Administrator, Pound Master, officer, or other agent as may be designated by the Village Board. No animal left by its owner for disposition is to be regarded as unclaimed or unredeemed, but is to be disposed of as authorized by its owner. No licensed dog wearing an inoculation tag may be disposed of, with the exception of those suffering because of severe physical disability, unless the Administrator, or other agent designated by the Village Board has received the return receipt provided for herein or has had the certified letter returned undelivered.

11.307. PENALTY. Any person violating any of the provisions of this chapter shall be guilty of a petty offense, punishable by a fine of not less than \$50.00 for the first offense, \$100 for the second offense and \$250 for the third offense.(Ord. 5-82 - 1/12/82; Ord. 43-06 10/10/2006)

ARTICLE IV. SLAUGHTER/LIVESTOCK

11.401. PROHIBITED. It shall be unlawful for any person to kill any cattle, horse, swine, sheep, goat or other livestock within the Village limits, however rabbits and poultry may be killed or slaughtered in a humane fashion if

said killing or slaughtering is done within the confines of a building so that said killing or slaughtering is hidden from public view. Any violation of this Article shall be deemed a public nuisance.

11.402. PENALTIES. Any person, persons, corporation, firm or organization which shall violate any provisions of this Article shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) plus costs of court. (Ord. 56-82 - 12/14/82)

ARTICLE V. ANIMAL DEFECATION PROHIBITED

11.501. PROHIBITED. It shall be unlawful for any person, being the owner of or having charge of any animal, to permit it to defecate, scratch or dig upon any public property, or upon any private property without permission of the property owner.

11.502. Any person, being the owner of or having charge of any animal not confined to that person's property, shall immediately remove any animal feces deposited on public or private property in violation of Paragraph 11.501 above.

11.503. PENALTY. Any person or persons who shall violate any provision of this article shall be fined not less than \$50 nor more than \$500 for each offense, plus court costs. (Amd. Ord. 91-89 - 10/24/89)

ARTICLE VI. REGISTRATION AND INOCULATION OF CATS

11.601. Definition. Whenever used in this Ordinance, unless contrary intention is clearly evident, the following terms are used as herein defined:

A. Cat: Includes all members of the feline family.

B. Administrator: Means the administrator of the Winnebago County Division of Animal services.

C. County Board: Shall mean the County Board of the County of Winnebago and State of Illinois.

D. Owner: Means any person having a right of property in a cat or other animal or keeps or harbors a cat or other animal or who has it in his care or acts as its custodian or who knowingly permits it to remain on or about any premises occupied by him.

E. Person: Means any person, firm, corporation, partnership, society, association, or other legal entity, any public or private institution, municipal corporation, or political subdivision, or any other business unit.

11.602. Registration and Inoculation of Cats.

A. Every owner of a cat four months or more of age shall cause such cat to be inoculated against rabies. Evidence of such rabies inoculation shall be entered on a Certificate, the form of which has been approved by the Illinois Department of Agriculture, and the Certificate shall be signed by the veterinarian administering the vaccine.

B. Within thirty (30) days of the day of inoculation, any owner of a cat shall register such cat by presenting to the administrator or his/her authorized agent, the Certificate of Inoculation together with the appropriate fee. The owner shall be supplied with a registration tag for each cat registered and said tag shall be worn by each cat whenever said cat is off the property of its owner and not within a motor vehicle. The tag shall be in a form and color approved by the Illinois Department of Agriculture. The method of distribution of tags and collection of registration fees shall be determined by the County Board.

C. The failure to register a cat within (30) days of the inoculation or failure to comply with subsection (a) shall result in the registration fee being doubled.

11.603. Cat Registration Fee. There shall be a registration fee of \$5 annually if the owner provides evidence that the cat has been spayed or neutered; \$10 annually if the cat is fertile, \$5 annually if the owner is in possession of a valid hobby breeder or exhibitor's permit. Acceptable evidence of alteration may consist of certification by the veterinarian performing the alteration procedure or a notarized statement by the seller of the animal indicating that it has been spayed or neutered while in his/her possession. There shall be a hobby breeder exhibition permit fee of \$15 annually.

11.604. Enforcement. Exemption from Liability. The Division of Animal Services, its agents, or other persons authorized to enforce the provisions of this Ordinance shall not be held liable for the injury, death or disease which may occur to any cat or other animal as a consequence of the

enforcement of the provisions of this Ordinance. (Ord. 7-92
-4/20/92)

ARTICLE VII: DANGEROUS AND VICIOUS DOGS

11-701. Definitions. For purposes of this Article, the following terms shall be defined as follows and shall have the same definition as set forth in the Illinois Animal Control Act (510 ILCS 5/1 et.seq.), as amended from time to time:

(a) "Dangerous dog" means (i) any individual dog anywhere other than upon the property of the owner or custodian of the dog and un-muzzled, unleashed, or unattended by its owner or custodian that behaves in a manner that a reasonable person would believe poses a serious and unjustified imminent threat of serious physical injury or death to a person or a companion animal or (ii) a dog that, without justification, bites a person or a domestic animal and does not cause Serious Physical Injury.

(b) "Serious physical injury" means a physical injury to a person or domestic animal that creates a substantial risk of death or that causes death, serious disfigurement, protracted impairment of health, impairment of the function of any bodily organ, or plastic surgery.

(c) "Dog Run" means a fence or structure, or combination thereof, which forms a complete and secure enclosure with four sides, a top and bottom and is intended for the holding of dogs or other animals for any length of time and is designed to prevent any dog or other animals from escaping from the Dog Run and suitable to prevent the entry of young children. The height of any fence forming a Dog Run, or any part thereof, shall conform to any and all Village standards governing fences.

(d) "Vicious dog" means a dog that, without justification, attacks a person or domestic animal and causes serious physical injury or death or any individual dog that has been found to be a "dangerous dog" upon three separate occasions.

(e) "Domestic animal" means any of various animals that have been tamed and made fit for a human environment.

11-702. Restrictions.

(a) Any dog which has first been declared to be a Dangerous Dog by the Animal Control Department of the County of Winnebago, Illinois shall be required to be kept at all times either 1) on a leash held by the owner or custodian of the Dangerous Dog, who shall be an adult 18 years of age or older, such that the movements and behaviors of the Dangerous Dog are under the direct and immediate control of the owner or custodian of the Dangerous Dog; 2) indoors; or 3) confined to the Rear Yard of any property, as defined in the Village Zoning Code.

(b) To the extent any Dangerous Dog is confined to the Rear Yard, the Dangerous Dog shall further be required to be confined within a Dog Run as defined in this Article or within a cage suitable to prevent the escape of the Dangerous Dog.

(c) Whenever any Dangerous Dog is located upon public premises or is otherwise taken from its owner's premises, said Dangerous Dog shall be on a leash as required by Section 11.702(a)(1). In addition, said Dangerous Dog shall be muzzled in a manner that will prevent it from biting any person or animal, but that shall not injure the dog or interfere with its vision or respiration.

(d) It shall be unlawful for any person to keep or maintain any dog which has been declared to be a Vicious Dog unless said dog is kept in an enclosure, as defined in Section 2.11a of the Illinois Animal Control Act. Said enclosure shall be approved by the Animal Control Department of the County of Winnebago, Illinois, as provided in Section 15 of the Illinois Animal Control Act.

11.703. Impounding.

(a) Any animal control officer may impound dangerous and vicious dogs in accordance with the provisions of this Ordinance or the Illinois Animal Control Act, Sections 15 and 15.1.

(b) In the event that a law enforcement officer or any animal control officer has probable cause to believe that an individual dog is a vicious or dangerous dog AND may pose an immediate threat of serious harm to persons or other domestic animals, the law enforcement officer or animal control officer may seize and impound the dog pending disposition of a

hearing on whether the dog constitutes a dangerous or vicious dog. The owner of the dog will be notified of the seizure prior to the dog being seized, if possible; otherwise, the owner shall be notified as soon as possible after seizure and prior to any hearing on whether the dog may be declared vicious or dangerous as provided for in the Illinois Animal Control Act, Sections 15 and 15.1.

11-704. Penalty. Any person or persons who are found to be in violation of this Article shall be fined not less than \$250.00 but not more than \$750.00 for each offense, (plus cost associated with impound). Further, if a dog deemed to be dangerous or vicious caused serious physical injury to a person or a domestic animal, as defined in Section 11.701(b) of this Ordinance, then the owner of said dangerous or vicious dog may be required to pay restitution to the victim, which may include any and all damages associated with the physical injury, including, but not limited to, any and all medical expenses.

11-705. Enforcement. The provisions of this Article shall be enforced by either the Department of Animal Control of the County of Winnebago, Illinois or the Village of Machesney Park, Illinois.

11-706. Further Remedies. Nothing in this Article shall be construed as limiting any additional or further remedies that the Village may have for enforcement of this Article nor the Village's enforcement of this Article.

11-707. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Article is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions hereof.

(Amd. Ord. 29-10 - 11-15-2010; Amd. Ord. 09-11 - 04-18-2011)

ARTICLE VIII: SALE OF ANIMALS

11-801. Sale of Animals at Flea Markets, Swap Meets and Public Property Prohibited. No animal shall be offered for sale, gift or other transfer of ownership, and no animal shall be sold, given away or otherwise transferred, on or from any public street, roadway, right-of-way, flea market or swap meet. An "animal" is defined for the purposes of this section as a dog or a cat. A "swap meet" is defined

for the purpose of this section as a place of commercial activity popularly known as a swap meet, flea market or park and swap, which is open to the general public and composed of enclosed, semi-enclosed or outdoor stalls, stands, or spaces rented or leased to persons on a temporary basis for the purpose of display and sale, barter or exchange of new or used merchandise.

11-802. Exceptions. Section 11-801 of this Article shall not prohibit the sale, gift or other transfer of ownership of animals at county fairs, animal exhibitions or shows, 4-H activities, and other activities or events that are regulated by other states or county agencies. Nor shall it prohibit the sale, gift or other transfer of ownership of animals by a tax-exempt, non-profit organization founded for the purpose of providing humane, sanctuary or shelter for abandoned or unwanted animals.

11-803. Penalties: Violation of any provision of this section is punishable by a fine of not less than \$250 per person and not more than \$750 per person. A person is defined for the purpose of this section as the owner, operator or manager of any swap meet, as well as the owner, breeder or peddler of the animals. Each day such violation continues shall constitute a separate offense. (Amd. Ord. 33-12 - 08-20-2012)

CHAPTER 12. MOTOR VEHICLES

The Village hereby adopts by reference the Illinois Vehicle Code, 625 ILCS 5/1-100 et seq., and all amendments and modifications thereto, which henceforth shall be prosecuted as ordinance violations; and all such ordinance violations are subject to the maximum fines and costs as provided for under applicable state statutes.

Unless otherwise identified in this Chapter, henceforth all violations of this Chapter shall be designated and cited as "Chapter 12 - " followed by the applicable section of the Illinois Vehicle Code, and shall be charged as and considered ordinance violations for all purposes. (Amd. Ord. 54-11 - 12/19/2011)

ARTICLE I. NONOPERATING MOTOR VEHICLES

(Amd. Ord. 45-09 12/07/2009 - Eliminated in its entirety)

ARTICLE II. REGULATIONS/MOTOR VEHICLES AND TRAFFIC

12.201-12.203 (Reserved)

12.204. AUTHORITY FOR TRAFFIC CONTROL DEVICES. The Village of Machesney Park, by appropriate action through its corporate authorities, may designate through streets and highways, and place and maintain traffic control devices upon streets and highways within the Village including but not limited to the erection of stop signs or yield signs for the designation of any intersection as a stop intersection or as a yield intersection. All existing through streets and highways and all existing traffic control devices currently so designated are hereby ratified. All traffic signage in the Village shall conform to the current edition of the Manual on Uniform Traffic Control Devices for Streets and Highways as published by the U.S. Department of Transportation, Federal Highway Administration as adopted by the State of Illinois. (Amd. Ord. 85-94 - 12/27/94; Amd. Ord. 54-11 - 12/19/2011)

12.205-12.210 (Reserved)

12.211. OBSTRUCTING TRAFFIC. No person shall park or place any vehicle or other property of any kind within the streets or highways of the Village of Machesney Park so as to obstruct or interfere with traffic or travel of other vehicles or pedestrians or endanger the public safety.

12.212. USE OF BIKE PATHS

A. The use of bike paths situated within the corporate limits of the Village of Machesney Park is limited to pedestrians and operators of non-motorized cycles.

B. The use of bike paths is strictly prohibited to those persons using any type of motorized vehicle whether or not the motor is in operation. This restriction shall not pertain to law enforcement, fire department, and EMS personnel acting within the scope of their duties.

C. Neither pedestrians nor those persons operating a cycle on a bike path shall engage in such conduct or act in such a manner as to endanger or be likely to endanger the safety of any persons or property.

A person found in violation of any of the provisions of this section shall be fined an amount no less than \$50 and no more than \$500. (Ord. 67-83, 75-83, & 76-83 repealed) (Ord. 51-97 - 10/20/97)

12.213-12.258 (Reserved)

12.259. IT SHALL BE UNLAWFUL FOR ANY PERSON TO OPERATE A MOTOR VEHICLE IN A NEGLIGENCE MANNER OVER AND ALONG THE PUBLIC STREETS AND HIGHWAYS OF THE VILLAGE. For the purpose of this section to "operate in a negligent manner" means the operation of a vehicle upon the public streets and highways of this village in such a manner as to endanger or be likely to endanger any persons or property. (Amd. Ord. 60-90 - 7/16/90)

ARTICLE III. REGULATIONS/TRUCK TRAFFIC

12.301 DESIGNATION. It shall be unlawful to operate vehicles with a weight, including load, in excess of 16,000 pounds on any Village street not designated and posted as a truck route, or subject to the following exceptions:

- A. Exempt vehicles. The following vehicles are exempt from the provisions of this section:
- (1) Emergency Vehicles
 - (2) Vehicles owned and operated by governmental agencies;
 - (3) Vehicles owned and operated by private utilities;
 - (4) Buses;

- (5) Vehicles engaged in the collection and removal of garbage or refuse;
- (6) Snow removal vehicles engaged in snow removal functions on private property or under contract with the Village;
- (7) Contractor engaged in the repair, maintenance or construction of streets;
- (8) Tow trucks;
- (9) Implements of farming or agriculture.
- (10) Detoured vehicles
- (11) Local destination or origination. The operation of vehicles upon a residential street where necessary to the conduct of business or the service of an occupant at a destination or origination point within the village and requiring travel on residential streets.

12.302 Signage. As it is deemed appropriate and necessary and where it is in the interest of public welfare and safety, the Village may authorize the posting of signage reflecting the provisions of this section.

12.303 Designation of truck routes. Truck routes are hereby established in the Village as set forth in this section, and the following named streets shall be designated as "truck routes" for purposes of this code:

- (1) IL 251 service roads
- (2) Harlem Rd (IL 251 to East Corporate Limit)
- (3) Forest Hills Road
- (4) Alpine Rd.
- (5) Power Rd.
- (6) Shappert Dr.
- (7) Product Dr.
- (8) Turrett Dr.
- (9) Anvil Dr.
- (10) Burden Rd.
- (11) Lyford Rd.
- (12) Greenlee Dr.
- (13) Quantum Ct.
- (14) Anjali Way
- (15) Velocity Dr.
- (16) Orlando St.
- (17) Copper Dr. (IL 251 to East Mall Drive)
- (18) Irving Blvd.
- (19) Summerwood Dr.
- (20) Elden Dr.
- (21) Swanson Dr.
- (22) Jan Memorial Dr.
- (23) Steele Dr.
- (24) Gregory Rd.
- (25) Marlin Dr.
- (26) Willow Creek Rd.
- (27) Gateway Ct.
- (28) Melbourne Ave.

12.304 All streets and highways owned, maintained, or controlled by the state, county or other political agency or body, shall not be controlled by the provisions of this section.

12.305 The Village engineer and/or public works superintendent shall have the authority to impose restrictions as to the weight of vehicles to be operated upon any such village street, for a total not to exceed 90 days in any calendar year, whenever any said street by reason of deterioration, rain, snow or other climate conditions will be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced.

12.306 PENALTIES. Any person found guilty of violating this ordinance shall be punished by a fine of not less than \$50.00 but not more than \$500.00. (Amd. Ord. 09-20 - 06/01/2020)

ARTICLE IV. NO PARKING AREAS

12.401. DESIGNATION OF NO PARKING AREAS. The Village of Machesney Park, by appropriate action through its corporate authorities, may designate "no parking" areas upon Village streets, alleys, highways and upon any Village-owned property by properly posting same "no parking". All existing "no parking" areas currently so designated are hereby ratified. (Amd. Ord. 54-11 - 12/19/2011)

12.402. COMPLIANCE. Every person operating a motor vehicle within the Village shall obey the instructions of no parking signs placed in accordance with this Ordinance.

12.403. PENALTIES. Any person violating or disobeying any parking sign shall be issued a citation which may result in a fine. If the citation is paid within ten (10) days from the issuance of said citation, the fine shall be \$10. Thereafter, the fine shall be \$100. A separate offense shall be deemed committed upon each day during or on which a violation occurs. (Ord. 11-82 - 3/23/83; Amd. Ord. 37-82 - 8/24/82 - Amd. Ord. 54-11 - 12/19/2011)

12.404 (Reserved)

ARTICLE V. PROHIBITING STOPPING, STANDING OR PARKING IN SPECIFIED PLACES

12.501. PROHIBITED PLACES.

A. On the roadway side of any vehicle stopped or parked at the edge or curb of a roadway;

B. On a sidewalk;

C. Within three (3) feet of the nearest edge of a public or private driveway or opposite such driveway so as to obstruct ingress or egress;

D. Within an intersection;

E. Within fifteen (15) feet of a fire hydrant;

F. On a crosswalk;

G. Within twenty (20) feet of a crosswalk;

H. Within thirty (30) feet of any flashing signal, stop sign, yield sign, or traffic control signal located at the side of the roadway;

I. Within fifty (50) feet of the nearest rail of any railroad crossing which lies across the roadway;

J. Within twenty (20) feet of any driveway entrance to any fire station and on the side of the street opposite the entrance to any fire station within seventy-five (75) feet of such entrance when properly sign-posted;

K. Upon any bridge or other elevated structures;

L. When a no parking sign is erected or the curb is painted yellow, no person shall stop, stand or park the vehicle, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic-control device upon any of the roadways located within the Village;

M. In areas where no curbing is provided, it shall be unlawful to stop, stand or park any portion of a vehicle on the side of said roadway with any portion of the vehicle protruding on the paved or designated area for the roadway.

N. Parallel to any legally parked vehicle within the right-of-way. (Ord. 19-91 - 9/23/91)

O. (Ord. 2-96 - 1/22/96) Removed by Ord 09-20 - 06/01/2020

12.502. LIMITATION ON PARKING OF TRUCKS IN RESIDENTIAL AREAS.

A. It shall be unlawful for the operator or owner of any motor vehicle except a passenger vehicle public utility truck and truck licensed by the state under the classification of "A", "B", or "C" license,

to park such vehicle upon the public right-of-way within residential areas in the Village of Machesney Park for a period of longer than one hour. For the purposes of this paragraph, recreational vehicles classified as "RV" shall not be considered above as an "A", "B", or "C" license.

B. Further, it shall be unlawful to park any vehicle weighing in excess of ten-thousand (10,000) pounds gross weight, including vehicle and maximum load, within residential areas of the Village of Machesney Park for a period of longer than one hour. (Amd. 09-20 - 06/01/2020)

C. The requirements of this Section shall not apply to commercial vehicles parked within the Village limits for the purpose of delivering or collecting persons, materials or merchandise or performing some service to the residents on whose property or adjacent to whose property the vehicle is being parked.

12.503. LIMITATIONS FOR PARKING ON PUBLIC STREETS. The following regulations apply to vehicles legally parked on public streets or right-of-ways:

A. RECREATIONAL VEHICLES. Recreational Vehicles, as defined in section 12.601, can be parked in the same general area on a public street or alley in the Village for a period of time not to exceed 24 hours.

B. TRAILERS. Trailers, as defined in Section 12.601 can be parked in the same general area on a public street or alley only when they are coupled to an operable motor vehicle that is properly licensed, for a period of time not to exceed 24 hours.

C. BOATS AND RECREATIONAL TRANSPORTATION EQUIPMENT. Trailered boats and recreational transportation equipment can be parked in the same general area on a public street or alley in the Village only when they are being hauled on a suitable trailer, which is coupled to an operable motor vehicle that is properly licensed and parked, for a period of time not to exceed 24 hours. (Amd. 09-20 - 06/01/2020)

12.504. PENALTIES. Violation of any of the provisions of Article V shall result in the issuance of a citation for the violation of the applicable provision. If said citation is paid within ten (10) days from the date of issuance of said citation, the fine shall be \$50. Thereafter, the fine shall be \$200. A separate offense shall be deemed committed upon each day during or on which a violation occurs. (Ord. 36-82 - 8/24/82; Amd. Ord. 19-91 - 9/23/91; Amd. Ord. 40-92 -

ARTICLE VI. PARKING ON PRIVATE PROPERTY

12.601. DEFINITIONS.

A. HARD SURFACE. A ground-level surface paved with asphalt or concrete, for the purpose of parking or storing motor vehicles, Trailers, Boats, or Recreational Vehicles. Driveways and parking areas paved with gravel, crushed rock, crushed asphalt and similar materials in existence as of the date that this Ordinance is adopted are considered non-conforming surfaces (Ord. 09-20 [06-01-2020]).

B. TRAILER. A non-motorized vehicle with wheels that is towed behind a motor vehicle, including, but not limited to hauling trailers, enclosed trailers, specialty trailers, race car trailers, contractor equipment trailers, conestoga trailers, step deck trailers, and flat-bed trailers.

C. COMMERCIAL DELIVERY VEHICLE. Any type of motorized vehicle that transports and/or delivers goods or paying passengers, including but not limited to: buses, refrigerated food delivery vehicles, and United States Postal Service, United Parcel Service, Federal Express, and DHL package delivery vehicles.

D. SEMI TRACTOR TRAILER. A non-motorized trailer exceeding 28 feet in length that is hauled behind a commercial, motorized truck or cab and that is used for transporting large goods or vehicles, including, but not limited to: semi-trailers, cube trailers, and multi-car trailers.

E. BOAT. A motorized or non-motorized vessel or watercraft designed for transportation by water, including but not limited to: runabouts, fishing boats, jet skis, canoes, sail boats, bass boats, kayaks, houseboats, jetboats, duck skiffs, and pontoon boats.

F. RECREATIONAL TRANSPORTATION EQUIPMENT. Small, non-street legal, motorized vehicles designed for recreational enjoyment, including, but not limited to: all-terrain vehicles, gators, three-wheelers, four-wheelers, snowmobiles, golf carts, and dirt bikes.

G. RECREATIONAL VEHICLE. A motorized or non-motorized vehicle or trailer that includes living quarters designed for short-term or long-term accommodation, including, but not limited to: motorhomes, campervans,

caravans, trailer campers, pop-up campers, fifth-wheel trailers, and truck campers. (Amd. 09-20 - 06/01/2020)

12.602. POSTED/NO PARKING. No person shall without the permission of the owner or lessee of any private property, leave or park any vehicle thereon if there is in plain view on such property a "no parking" sign.

12.603. MOTOR VEHICLE PARKING. The following regulations apply to licensed motor vehicles that are parked on private property outside of an enclosed structure in residential zoning districts or on property used for residential purposes:

- A. HARD SURFACE. All motor vehicles shall be parked on a hard surface.
 - a. EXCEPTION: Existing gravel parking areas as of the effective date of this Ordinance (Ord. ___ [date]) are permitted, but in no case shall a new gravel driveway be created, nor shall an existing gravel driveway or parking area be expanded with gravel or a non-approved hard surface.
- B. LOCATION. Motor vehicles shall be parked upon the areas designed for off-street parking on a driveway in the side or rear yards leading to a garage or accessory structure, or in the front yard between the dwelling unit and the public right-of-way that the unit faces or abuts.
- C. VEHICLES CLASSIFIED ABOVE "A", "B", or "C". It shall be unlawful for the operator or owner of any motor vehicle licensed by the State of Illinois above the classification of "A", "B", or "C" license to park on private property in residential districts or on property used for residential purposes. For the purposes of this Article, recreational vehicles classified as "RV" shall be considered independently of class "A", "B", or "C" license plates.
- D. COMMERCIAL DELIVERIES. The requirements of this Section shall not apply to commercial delivery vehicles temporarily parked within the Village limits for the purpose of delivering or collecting persons, materials or merchandise or performing some service to the residents on whose property or adjacent to whose property the vehicle is being parked.

12.604. RECREATIONAL VEHICLE PARKING. The following regulations apply to Recreational Vehicles parked outside of an enclosed structure on private property in residential zoning districts or on property used for residential purposes:

A. HARD SURFACE. Recreational Vehicles shall be parked on a hard surface. The hard surface parking area shall be a contiguous surface area located immediately underneath the entirety of the vehicle or trailer. Compacted, crushed asphalt is an acceptable hard surface material for Recreational Vehicles in side or rear yards only.

B. LOCATION. Recreational Vehicles shall be parked in a side or rear yard.

C. SEASONAL ALLOWANCE IN FRONT YARDS. Recreational Vehicles may be parked or stored on a residential front yard driveway in the area designed for off-street parking on a hard surface between the dwelling unit and the public right-of-way that the unit faces or abuts, only during the summer season, between April 15 and October 15. Recreational Vehicles parked on the driveway in shall never block or impede travel within a public sidewalk.

D. CONDITION. Recreational Vehicles shall be maintained in good condition and water-tight. Recreational Vehicles shall not be deteriorated, damaged, open to the elements, displaying graffiti, or in any similar state of disrepair. The use of a tarp, canvas or similar material to cover a Recreational Vehicle in poor condition or a state of disrepair is prohibited.

E. OCCUPANCY. Recreational Vehicles shall not be occupied for human habitation.

F. REGISTRATION. Recreational Vehicles parked in residential districts must have current vehicle registration at all times.

12.605. TRAILERS AND RECREATIONAL TRANSPORTATION EQUIPMENT PARKING. The following regulations apply to Trailers and Recreational Transportation Equipment parked outside of an enclosed structure on private property in residential zoning districts or on property used for residential purposes:

A. HARD SURFACE. All Trailers and Recreational Transportation Equipment shall be parked on a hard surface. The hard surface parking area shall be a

contiguous surface area located immediately underneath the entirety of the vehicle or trailer. Compacted, crushed asphalt is an acceptable hard surface material for Trailers and Recreational Transportation Equipment in side or rear yards only.

B. LOCATION. All Trailers and Recreational Transportation Equipment shall be parked in a side or rear yard.

C. SEMI TRACTOR TRAILERS. Semi-tractor trailers are not allowed to be parked on private property in residential zoning districts or on property used for residential purposes.

12.606. BOAT PARKING. The following regulations apply to Boats parked outside of an enclosed structure on private property in residential zoning districts or on property used for residential purposes:

A. PROPERLY TRAILERED. Boats shall be stored on trailers designed and intended for hauling a particular Boat or watercraft.

a. EXCEPTION: Canoes and kayaks are exempt from 12.605(A).

A. HARD SURFACE. All Boats shall be parked on a hard surface. The Hard Surface parking area shall be a contiguous surface area located immediately underneath the entirety of the Boat and Trailer.

1. EXCEPTION: Canoes and kayaks are exempt from 12.605(B).

2. RIVER LOTS EXCEPTION. Trailered Boats parked on properties with frontage along the Rock River are not required to be parked on a Hard Surface.

3. CRUSHED ASPHALT. Compacted, crushed asphalt is an acceptable hard surface material for Boats in side or rear yards only.

B. LOCATION. All Boats shall be parked in a side or rear yard.

1. EXCEPTIONS:

a. BOATS UNDER 25 FEET IN LENGTH, SEASONAL ALLOWANCE. Properly trailered Boats under 25 feet in length are allowed to be parked or stored upon the area between the dwelling unit and the public right-of-way that the

unit faces or abuts only during the summer season, between April 15 and October 15.

- b. RIVER LOTS LOCATION. Properties with frontage along the Rock River area permitted to park or store trailered Boats upon the area between the dwelling unit and the public right-of-way that the unit faces or abuts, year-round. (Amd Ord 09-20 - 06/01/2020)

12.607. PENALTIES. Any person who shall be in violation of Chapter 12, Article VI shall be issued a citation. If said citation is paid within ten (10) days from the issuance of said citation the fine shall be \$50. Thereafter, the fine shall be \$50. Thereafter, the fine shall be \$200. A separate offense shall be deemed committed upon each day during or on which a violation occurs. (Ord. 38-82 - 8/24/82; Amd. Ord 8-00 - 2/28/00; Amd. Ord. 54-11 - 12/19/2011) (Amd Ord 09-20 - 06-01-2020)

ARTICLE VII. PARKING SAME SIDE AS TRAFFIC PROCEEDING
Repealed - Ord. 54-11 - 12/19/2011

ARTICLE VIII. PARKING AT MACHESNEY TOWN CENTER.

12.801. No unauthorized overnight parking is allowed on any property in the Machesney Town Center. Unauthorized parking includes, but is not limited to: any motor vehicle, truck, semi-truck, uncoupled semi-trailer, or boat that has not been allowed by the property owner. Proper notice shall be posted.

12.802. PENALTIES. Violation of Section 12.801 of this article shall result in the issuance of a traffic citation no less than \$100 per vehicle or trailer, for the first day, and up to \$250 per day for every day thereafter. A separate offense shall be deemed committed upon each day during or on which a violation occurs. The vehicle or trailer may be subject to removal and impound. (Amd Ord 09-20 - 06-01-2020)

ARTICLE IX. PARKING OF VEHICLES WITHIN DESIGNATED PARKING AREAS

12.901. DESIGNATED AREAS. It shall be the duty of the property owner to provide adequate on-site, off-street parking in accordance with the requirements of Article XV, off-street parking and loading of the Zoning Ordinance of the Village of Machesney Park. The property owner and/or tenants shall designate the proper place for the parking of vehicles by painting yellow or white lines on the pavement of such premises to promote the orderly parking of said vehicles.

12.902. RESTRICTIONS. It shall be unlawful for any one vehicle to occupy more than one such parking space.

12.903. PENALTIES. Violation of Section 12.902 of this Article shall result in the issuance of a traffic citation. If said citation is paid within ten (10) days from the issuance of same the fine shall be \$50. Thereafter, the fine shall be \$200. A separate offense shall be deemed committed upon each day during or on which a violation occurs. (Ord. 39-82 - 9/14/82; Amd. Ord. 54-11 - 12/19/2011; Amd. Ord 09-20 - 06-01-2020)

ARTICLE X. PARKING OF VEHICLES PROHIBITED/FIRE LANES

12.1001. REGULATIONS/FIRE LANES. All premises which, in the discretion of the Chief of the Harlem-Roscoe Fire Protection District or the North Park Fire Protection District, depending upon which jurisdiction said premises is located in, which the fire department may be called upon to protect in case of a fire and which are not readily accessible from public streets shall be provided with access roads, fire lanes and gates, if fenced, so that all buildings on the premises are accessible to fire apparatus. The fire lanes shall be provided for all buildings with more than 150 foot setback from a public street, or any building exceeding 30 feet in height, setback more than 50 feet from a public street. Lanes shall be at least 20 feet in width with the road edge closest to the building, at least 10 feet from the building. Any dead-end fire lane 150 feet or longer shall be provided with a turn-around or outlet at the closed end of at least 90 feet in diameter.

12.1002. DESIGNATION. The Chief of the Harlem-Roscoe Fire Protection District or the North Park Fire Protection District, depending upon which jurisdiction said premises lie, shall specify on which properties fire lanes are required to be needed for effective fire fighting operations.

12.1003. FIRE LANE PARKING PROHIBITED.

A. It shall be unlawful for any person to park any unattended motor vehicle upon or otherwise obstruct any fire lane so designated by a standard twelve inch (12") by eighteen inch (18") sign with red lettering on white background of a reflector stating "No Parking Any Time - Fire Lane". The signs are to be posted at the beginning and end of the fire lanes and intermittent signs, each required to achieve the effect of a sign every 150 feet.

B. In case of fire protection activity being carried out upon or around the fire lane areas, no

standing, stopping or parking shall be permitted, and vehicles violating either paragraphs (a) or (b) of this Section shall be towed away at the owner's expense.

C. During any time, any person who is the owner or driver of any vehicle which is parked or permitted to stand in a designated fire lane area is in violation of this Section and shall be issued a citation.

12.1004. PENALTIES. Violation of Section 12.1003 of this Article shall result in the issuance of a citation, which if paid in ten (10) days from the issuance of said citation shall result in a fine of \$50. Thereafter, the fine shall be \$200. (Ord. 46-82 - 10/12/82; Amd. Ord. 54-11 - 12/19/2011)

ARTICLE XI. REGULATIONS/DESIGNATED LOADING ZONES

12.1101. DEFINITION. Loading zone: The space specifically marked by signs at each end of the loading zone stating that said area is reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

12.1102. REGULATIONS.

A. When signs are erected, it shall be unlawful, during the time specified thereon, for the driver of a passenger vehicle, to stand, park or stop the vehicle for a time longer than is necessary for the loading or unloading of passengers, not to exceed three (3) minutes.

B. All such areas shall be properly posted and where designated spaces are limited to certain hours such signs shall indicate the time limits.

C. When signs are erected, it shall be unlawful during the time specified therein, for the driver of any truck, to stand, park or stop the truck for a time longer than it is necessary for the loading and unloading of its contents.

12.1103. PENALITIES. Violation of Section 12.1102 of this Article shall result in the issuance of a traffic citation. If said traffic citation is paid within ten (10) days from the date of its issuance the fine will be \$20. Thereafter, the fine will be \$50. (Ord. 47-82 - 10/12/82; Amd Ord. 54-11 - 12/19/2011)

ARTICLE XII. TOW-AWAY ZONES

12.1201. DESIGNATION OF. The Village may designate certain areas as tow-away zones with each area being properly posted with the necessary signs, designated as "TOW-AWAY ZONE". Said signs shall be posted at the end of each zone and if more than 150 feet in length, said signs shall be placed not more than 150 feet apart.

12.1202. PARKING PROHIBITED. It shall be unlawful for any operator of a motor vehicle to stand, park or stop a vehicle in a tow-away zone for any reason, other than at the orders of a police officer or to avoid the obstruction of traffic.

12.1203. REMOVAL OF. Any vehicle being found in violation of this Article is subject to a police officer authorizing the removal or causing the removal of said vehicle to the nearest garage or other place of safety. The owner or operator of such vehicle shall be responsible for the reasonable charges for such removal and storage of said vehicle.

12.1204. PENALITIES. In addition to the penalty indicated in Section 12.1203 herein, a violation of Section 12.1202 of this Article shall result in the issuance of a traffic citation. If said citation is paid within ten (10) days from the date of its issuance the fine will be \$50. Thereafter, the fine shall be \$200. (Ord. 49-82 - 10/26/82; Amd. Ord. 54-11 - 12/19/2011)

ARTICLE XIII. DRIVING WHILE UNDER THE INFLUENCE
Repealed by Ord. 54-11 - 12/19/2011

ARTICLE XIV. SUSPENSION OF DRIVERS LICENSE/IMPLIED CONSENT -
Repealed by Ord. 54-11 - 12/19/2011

ARTICLE XV. CHEMICAL AND OTHER TESTS
Repealed by Ord. 54-11 - 12/19/2011

ARTICLE XVI. TRAFFIC & PARKING REGULATIONS/HARLEM CONSOLIDATED
SCHOOLS DISTRICT NO. 122

12.1601. SPEED LIMIT. The maximum permissible speed for any vehicle on the HARLEM CONSOLIDATED SCHOOL DISTRICT NO. 122 property shall be 15 m.p.h. (Amd. Ord. 17-93 - 3/8/93)

12.1602. PARKING RESTRICTIONS. The stopping, standing

or parking of any motor vehicle in any roadway or driveway immediately adjacent to the schools described in Section 12.1601 is prohibited with the following exceptions:

A. LOADING ZONES. The Harlem Consolidated Schools District No. 122 shall have the right to establish loading zones for said schools.

B. AUTHORIZED PARKING AREAS. The Harlem Consolidated Schools District No. 122 may issue decals or stickers to students and faculty or otherwise authorized personnel who shall have the right to park in the areas designated for the use of students, faculty or other personnel and shall be designated by signs or markings of said school and also in areas designated for visitor parking by said school.

12.1603. HANDICAPPED PARKING. The Harlem Consolidated Schools District No. 122 shall have the right to establish certain areas to be used for parking by handicapped persons only and:

A. AREAS POSTED. Such school shall install proper signs indicating such areas are reserved for handicapped persons only, and;

B. VIOLATION. It shall be unlawful to park any motor vehicle which is not bearing registration plates issued to a physically handicapped person pursuant to Section 3-616 of Chapter 625 of the Illinois Compiled Statutes or to a disabled veteran pursuant to Section 3-609 of Chapter 625, Illinois Revised Statutes, or such other devices it may deem proper by said school or the municipal authorities of the Village of Machesney Park as evidenced that the vehicle is operated by or for a handicapped person or disabled veteran, in any such parking place specifically reserved by the posting of said proper sign or markings for motor vehicles bearing such registration plates or decals.

C. PENALTY. Violation of this Section shall be punishable upon conviction by a mandatory fine of three hundred fifty dollars (\$350) for each offense. (Amd. Ord. 63-91 - 9/23/91; Amd. Ord. 32-96 - 6/24/96; Ord. 54-11 - 12/19/2011)

12.1604. TRAFFIC CONTROL. The Harlem Consolidated Schools District No. 122, with the advice and consent of the delegated Village Officials, shall install such signs and markings as required to safely control traffic at all exits from said school properties and at such intersections within the school properties as may be deemed necessary for the safety of the public. It shall be unlawful for the driver of

any vehicle approaching such intersection to fail to stop immediately before entering such intersection.

12.1605. CROSSWALKS. The Harlem Consolidated Schools District No. 122, with the advice and consent of the delegated Village Officials, may establish pedestrian crosswalks on selected roadways. Said crosswalks, when established, shall be indicated by signs or containing appropriate markings on the pavement conforming to state standards, which signs will warn motorists that they are approaching a pedestrian crosswalk. All vehicles must yield the right-of-way to pedestrians in such crosswalk.

12.1606. AUTHORIZED PARKING AREAS. The Harlem Consolidated Schools District No. 122 may designate areas for student parking, faculty parking, employee parking, visitor parking, or parking for other authorized personnel. No vehicle may be parked in parking areas so designated for student parking unless said vehicle has a decal or sticker issued by the Harlem Consolidated Schools District No. 122 allowing said student parking. No vehicle may be parked or allowed to remain on any area designated for faculty parking unless said vehicle shall contain a decal or sticker issued by Harlem Consolidated Schools District No. 122 allowing said faculty parking. No vehicle may be parked or allowed to remain in any area designated by the Harlem Consolidated School District No. 122 for visitor parking unless said motor vehicle is driven by a visitor to said school during school hours. No vehicle may be parked or allowed to remain in any area designated by Harlem Consolidated Schools District No. 122 for employee or authorized personnel parking except by employees or duly authorized personnel of the Harlem Consolidated Schools District No. 122. No vehicle may be parked on any of the school properties between the hours of 2:30 a.m. and 6:30 a.m. unless duly authorized by the Harlem Consolidated Schools District No. 122.

12.1607. REGULATIONS. Any person who drives any vehicle on the school properties as described in Section 12.1601 must abide by the rules and regulations as set forth in Ordinance No. 46-81 of the Village of Machesney Park or be subject to fine and penalty set forth in said Ordinance.

12.1608. REMOVAL OF VEHICLES.

A. POLICE POWERS. Winnebago County Deputy Sheriffs, representing the Village of Machesney Park under terms of the Intergovernmental Agreement between the Winnebago County and the Village, are hereby empowered to cause any vehicle found to be left unattended in any area where stopping, standing or parking is prohibited, to be removed to a suitable storage area.

B. TOWING/STORAGE. The owner or operator of any vehicle so removed shall be liable for payment of reasonable charges for towing and storage of such vehicle as a condition of regaining possession of such vehicle.

C. PENALTY. Violation of this Section shall result in the issuance of a citation and be a mandatory fine of three hundred fifty dollars (\$350) for each offense. Amd.Ord. 63-91 - 9/23/91; Amd. Ord. 32-96 - 6/24/96; Amd. Ord 54-11 - 12/19/2011)

12.1609. PENALTIES.

A. Except where a specific penalty is expressly set forth in this Article, it shall be a petty offense for any person to violate or fail to perform any act required by this Article. Further, violation of Sections 12.1601, 12.12.1604, and 16.05 shall be punishable by a fine of not less than one hundred fifty dollars (\$150) nor more than five hundred dollars (\$500) for each offense.

B. Except where a specific penalty is expressly set forth in this Article, violators of all other petty offenses as stated in this Article shall be subject to a fine of \$50 if paid within ten (10) days of the date of issuance of the citation. Thereafter, the fine shall be \$200.

C. All fines for petty offenses or for parking in areas reserved for handicapped persons may be paid to the Village Clerk's office at the Village Hall located at 300 Machesney Road, Machesney Park, Illinois, if the person receiving the citation for such offense wishes to plead guilty and thereby avoid court costs. The Village Clerk is hereby empowered to accept fines for such petty offenses as follows:

1. For the violation of any petty offense as categorized by this Article, where the fine if paid within ten (10) days of issuance of the citation is \$50 and thereafter the fine is \$200.

2. For parking in areas reserved for handicapped persons. (Ord. 88-83 - 12/13/83; Amd. Ord. 32-96 - 6/24/96; Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 54-11 - 12/19/2011)

ARTICLE XVII. BUMPERS & SUSPENSION SYSTEMS

ARTICLE XVIII. PARKING ON PARKWAYS OR PUBLIC SIDEWALKS

12.1801. DEFINITIONS. Whenever the word "parkway" is used in this Article, it shall mean any portion of any public street, highway, roadway, or dedicated roadway between the curb, where curbing is provided and the adjacent property line.

12.1802. PARKING PROHIBITED. No person shall stop, stand or park a motor vehicle, trailer, or boat on any parkway.

12.1803. IMPEDING PEDESTRIANS PROHIBITED. No person shall park any vehicle in any driveway in such a manner as to impede pedestrian traffic on any public sidewalk.

12.1804. PENALTY. Any person who shall be in violation of this Article shall be issued a traffic citation. In the event said citation is paid within ten (10) days from the issuance of said citation, the fine shall be \$50, and thereafter the fine shall be \$200. (Ord. 32-84 - 6/26/84; Amd. Ord. 54-11 - 12/19/2011)

ARTICLE XIX. HANDICAPPED PARKING AREAS

12.1901. UNAUTHORIZED USE OF PARKING PLACES RESERVED FOR HANDICAPPED PERSONS. It shall be prohibited to park any motor vehicle which is not bearing registration plates or decals issued to a handicapped person, as defined in Section 1-159.1 of Illinois Revised Statutes, Chapter 625, as may from time to time be amended, pursuant to Sections 3-616 or 11-1301.2 of Chapter 625 of Illinois Revised Statutes, as may from time to time be amended, or a motor vehicle registered in another jurisdiction, state, district, territory or foreign country upon which is displayed a registration plate, special decal or device issued by the other jurisdiction designating the vehicle is operated by or for a handicapped person, or to a disabled veteran, pursuant to Section 3-609 of Chapter 625 of Illinois Revised Statutes, as may from time to time be amended, as evidenced that the vehicle is operated by or for a handicapped person or disabled veteran, in any parking place, including any private or public off-street parking facility, specifically reserved, by the posting of an official sign as designated under Section 11-301 of Chapter 625 of Illinois Revised Statutes, as may from time to time be

amended, for motor vehicles bearing such registration plates.
(Amd Ord. 8-90 - 2/6/90)

12.1902. RESPONSIBILITY FOR THE INSTALLATION AND MAINTENANCE OF HANDICAPPED ACCESSIBLE SIGNAGE AND PAVEMENT MARKINGS. The responsibility for the proper installation and maintenance of handicapped accessible signage and pavement markings indicating the same are reserved for handicapped persons only shall be with the person owning or operating any public or private off-street parking facility. Any signs and pavement markings shall comply with the current Illinois Accessibility Code and shall be maintained on an on-going basis. (Amd. Ord 09-20 - 06/01/2020)

12.1903. VEHICLE REMOVAL. Any person or the Village of Machesney Park owning or operating any public or private off-street parking facility may, after notifying the Village police, remove or cause to be removed to the nearest garage or other place of safety, any vehicle parked within a stall or place reserved for use by the handicapped which does not display handicapped registration plates or a special decal or device as is required in Section 12.1901 herein. The cost or charges connected with the removal or storage of any motor vehicle pursuant to this Section shall be the obligation of the violator. (Amd. Ord. 47-89 - 7/11/89)

12.1904. PENALTIES. Violation of this article shall be punishable, upon conviction, by a mandatory fine of \$350 in addition to any costs or charges connected with the removal and storage of any motor vehicle pursuant to Illinois Compiled Statutes, Chapter 625, Section 5/11-1301.3. (Ord. 13-85 - 1/22/85; Amd. Ord. 8-90 - 2/6/90; Amd. Ord. 32-96 - 6/24/96; Amd. Ord. 54-11 - 12/19/2011)

ARTICLE XX. DRIVER AND PASSENGER REQUIRED TO USE SAFETY BELTS-EXCEPTIONS - Repealed by Ord. 54-11 - 12/19/2011

ARTICLE XXI. PROHIBIT THROUGH TRAFFIC IN ALLEYS

12.2101. DEFINITIONS.

A. "Alley." Alley is defined as an accepted public right-of-way of less than 33 feet in width used for access to the properties abutting same.

12.2102. DESIGNATION. All alleys maintained by the Village shall have a sign posted at the entrances with the word legend "NO THROUGH TRAFFIC."

12.2103. RESTRICTION. No motor vehicle shall be driven on or parked in an alley.

12.2104. EXCEPTIONS.

A. Vehicles may be driven a minimum distance necessary for the purpose of making deliveries and or pick up of loads.

B. Vehicles may be driven a minimum distance necessary for ingress and egress to the property abutting said alley.

C. Public safety and maintenance vehicles.

12.2105. PENALTIES. Any person found to have violated this Article shall be punished by a fine of not less than \$200 nor more than \$500. (Amd. Ord. 54-11 - 12/19/2011)

ARTICLE XXII. PARKING/HARLEM COMMUNITY CENTER PROPERTY
Repealed by Ord. 54-11 - 12/19/2011

ARTICLE XXIII. PARKING/LOGLI SUPERMARKET PROPERTY
Repealed by Ord. 54-11 - 12/19/2011

ARTICLE XXIV. PROHIBIT PARKING/IL 251
Repealed by Ord. 54-11 - 12/19/2011

ARTICLE XXV. REGULATE PARKING/MAILBOXES

12.2501. PARKING PROHIBITED. Parking of a motor vehicle as to obstruct the delivery of mail to mailboxes is prohibited.

12.2502. PENALTY. Any person, persons, corporation, firm or organization or concern which shall violate any provision of this Article shall be punished by a fine of not less than \$100 nor more than \$250 per violation. Each and every day the violation persists shall constitute a separate violation. (Ord. 77-88 - 8/23/88; Amd. Ord. 54-11 - 12/19/2011)

ARTICLE XXVI. PROHIBIT PARKING/HARLEM ROAD

12.2601. PARKING PROHIBITED. Automobiles, trucks and other vehicles shall be prohibited from parking along either side of Harlem Road, Erma Avenue to Village east limits,

within the corporate limits of the Village of Machesney Park.

12.2602. PENALTY. Any person, persons, corporation, firm or organization or concern which shall violate any provision of this Article shall be punishable by a fine of not less than \$100 nor more than \$250 per violation. Each and every day the violation persists shall constitute a separate violation. (Ord. 88-88 - 9/13/88; Amd. Ord. 54-11 - 12/19/2011)

ARTICLE XXVII. UNATTENDED VEHICLES PARKED IN RIGHT-OF-WAY

12.2701. DEFINITION. The term "Unattended Motor Vehicle" as used in this Article shall mean any motor vehicle left in a public right-of-way for a period of at least ten (10) days.

12.2702. PUBLIC NUISANCE DECLARED. It is hereby declared that all unattended motor vehicles, whether operable or inoperable, left parked, stopped or standing in the public right-of-way within the Village of Machesney Park, for a period of at least ten (10) days, is hereby declared a public nuisance.

12.2703. PENALTIES. A violation of this Article shall result in a fine of not less than \$100 nor more than \$250 per violation. Each and every day the violation persists following the declaration of a public nuisance shall constitute a separate violation.

(Amd. Ord. 54-11 - 12/19/2011)

12.2704. REMOVAL OF OFFENDING VEHICLES.

A. Police Powers. Winnebago County Deputy Sheriff's, representing the Village of Machesney Park under terms of the Intergovernmental Agreement between Winnebago County and the Village of Machesney Park, Illinois, are hereby empowered to cause any vehicle found to be left unattended for ten (10) consecutive days in the right-of-way within the Village of Machesney Park, Illinois, to be removed to a suitable storage area. (Amd. 09-20 - 06/01/2020)

B. Payment for towing and storage. The owner or operator of any vehicle so removed shall be liable for payment of reasonable charges for towing and storage of such vehicle as a condition of regaining possession of such vehicle. (Ord. 71-91 - 11/25/91; Amd. Ord. 54-11 - 12/19/2011)

ARTICLE XXVIII. SNOWMOBILES AND ALL TERRAIN VEHICLES
(ATV)

12.2801. It shall be unlawful for any person to operate a snowmobile or "ATV" as defined in Illinois Revised State Statutes 625 on the public streets or any public right-of-way within the corporate limits of the Village of Machesney Park.

12.2802. PENALTY. Any operator found to have violated this Article shall be punished by a fine of not less than \$200 nor more than \$500. (Ord. 8-92 - 4/27/92; Amd. Ord. 54-11 - 12/19/2011)

ARTICLE XXIX. TRAFFIC & PARKING REGULATIONS/HAMILTON CENTER (Repealed by ord. 54-11 - 12/19/2011)

ARTICLE XXX. TRAFFIC & PARKING REGULATIONS/MARINA TERRACE CONDOMINIUM ASSOCIATION (Repealed by ord. 54-11 - 12/19/2011)

ARTICLE XXXI. TRAFFIC & PARKING REGULATIONS/BAYVIEW ELDERLY HOUSING (Repealed by ord. 54-11 - 12/19/2011)

ARTICLE XXXII. REGULATIONS GOVERNING PERMITS FOR OVERSIZE AND OR OVERWEIGHT VEHICLE LOADS.

12.3201. OVERWEIGHT AND OVER DIMENSION VEHICLES.

A. Except as stated in this Article, the Village of Machesney Park hereby adopts Chapter 15 of the Illinois Motor Vehicle Code (625 ILCS 5/15-101 et seq.) by reference.

B. Chapter 15, Section 15-101(b) of the Illinois Motor Vehicle Code (625 ILCS 5/15-101(b)) is revised to include buses and motor vehicles owned or operated by public utilities while engaged in repairs.

C. Where lower size and weight limits or other restrictions are imposed by ordinance under the authority of Chapter 15 of the Illinois Motor Vehicle Code, Sections 15-316 (625 ILCS 5/15-316) and 15-317 (625 ILCS 5/15-317), and signs indicating such limitations or restrictions are posted it shall be unlawful to operate any motor vehicle or combination of motor vehicles in excess of such size or weight

limitations or in violation of such restrictions. (Amd. Ord. 54-11 - 12/19/2011)

D. Whenever any vehicle or combination of vehicles is operated in violation of Section 12.3301, the owner and/or driver of such vehicle shall be deemed guilty of such violation and either or both the owner or driver of such vehicle(s) may be prosecuted for such violation.

12.3202. PERMITS FOR OVERWEIGHT AND/OR OVERDIMENSION VEHICLES.

A. The Village with respect to any street or highway under its jurisdiction may upon application to the Village Public Works Department on forms provided by the Comptroller and good cause being shown therefore, issue a special permit authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of a vehicle or load exceeding the maximum specified in 12.3301. The applicant shall furnish the following information in the special permit application:

1. The name and address of the owner or lessee of the vehicle.

2. Applicant's name.

3. Type of permit requested whether it be for a single trip, round trip, or multiple routing.

4. The description and registration of the power unit.

5. Description of the object or vehicle to be moved.

6. The number of axles of the vehicle or combination of vehicles.

7. The axle weights of all single, tandem or series axles.

8. Gross weight of the vehicle.

9. The width, length and height of the vehicle and load.

10. The origin of the load within Illinois or state line if the origin is outside the

jurisdiction of the Village, copies of all county and/or State of Illinois permits must be attached to the application prior to approval and issuance of a Village special permit.

11. Requested routing over Village streets and to specific location.

B. The owner or his agent shall submit an application fee in accordance with this section. Permits are valid only for the date(s) specified on the permit and for the specific vehicle, load, and routing as established by the Village Director of Public Works or his designee. No substitution of vehicle, load or routing is permitted without expressed written permission by the Village Director of Public Works or his designee and carried in the vehicle to which the permit applies.

The fees will be as follows:

House Trailer combinations or other vehicles of legal weight but otherwise over dimension shall be fifteen (\$15) dollars for a single trip permit valid for seven calendar days.

All overweight vehicle combinations shall be charged at a rate of fifty (\$50) dollars for a single trip permit valid for seven calendar days, eighty (\$80) dollars for a round trip permit valid for fourteen calendar days, and one hundred fifty (\$150) dollars for a multiple routing permit valid for a period not to exceed one hundred twenty calendar days. (Amd. Ord. 79-94 - 11/21/94)

C. The Village Director of Public Works or his designee is authorized to approve the application for approved routes. Upon approval and payment of all required fees the Village Director of Public Works shall issue a permit allowing the passage of the oversize and/or overweight vehicle(s) over Village streets. The Permit shall be specific and contain.

1. Permit number.
2. The date(s) the permit is valid.
3. Whether the permit is single, round, or multiple routing.
4. The description of object or vehicle to be moved.

5. Authorized gross weight, axle weights, width, length and height.

6. The authorized routing over Village streets including the origin and termination point within the Village.

7. The fee paid.

8. The date and signature of the Village Director of Public Works or his designee.

In addition the permit will specify general conditions that the permittee must comply with that are consistent and reasonable for the protection of the general public and Village streets. A copy of all permits issued will be provided to the Winnebago County Sheriff's Police Machesney Park Division for information and compliance.

D. It is the duty of the permittee to read and familiarize himself or herself with the permit provisions upon receipt. Undertaking of the permit move is deemed Prima Facie evidence of acceptance of the permit and that:

1. The permittee is in compliance with all operation requirements;

2. All dimension and weight limitations specified in the permit will not be exceeded;

3. All operation, registration and license requirements have been complied with;

4. All financial responsibilities, obligations and other legal requirements have been met;

5. The permittee assumes all responsibility for injury or damage to persons or to public or private property, including his own, or to the object being transported, caused directly or indirectly by the transportation or movement of vehicles and objects authorized under the permit. He agrees to hold the Village of Machesney Park harmless from all suits, claims, damages, or proceedings of any kind and to indemnify the Village of Machesney Park for any claim it may be required to pay arising from the movement.

E. The permit shall be carried in the vehicle to

which the permit applies at all times while operating on streets within the Village and shall be exhibited upon demand to any Enforcement Officer, Police Officer or other authorized official of the Village of Machesney Park.

F. Whenever any vehicle is operated in violation of the provisions of a Village permit whether it be by size, weight or general provisions, and either or both the owner or driver of such vehicle shall be deemed guilty and either or both the owner or driver of such vehicle may be prosecuted for such violation. (Amd. Ord. 15-97 -5/5/97)

12.3203. PENALTIES.

A. Operating in excess of Gross Weights specified in the permit shall be punishable at the following rates:

Amount of overweight and fine per pound:

0,001-1,000 pounds	01 cents to 05 cents per pound
1,001-2,000 pounds	04 cents to 07 cents per pound
2,001-3,000 pounds	07 cents to 10 cents per pound
3,001-4,000 pounds	10 cents to 15 cents per pound
4,001-5,000 pounds	15 cents to 20 cents per pound
5,001 pounds and over	17 cents to 25 cents per pound

B. Operating in excess of Axle Weight specified in the permit shall be punishable at the following rates:

0,001-1,000 pounds	02 cents to 05 cents per pound
1,001-2,000 pounds	05 cents to 10 cents per pound
2,001-3,000 pounds	10 cents to 15 cents per pound
3,001 pounds and over	15 cents to 20 cents per pound

C. Operating under a fraudulent permit or permit not specifically covering the move shall be punishable at the rate of not less than ten (10) cents per pound for each pound the gross weight of the vehicle exceeds the gross weight of such vehicles allowable under 12.3302 was repealed by Ord. 54-11 - 12/19/2011

ARTICLE XXXIII. NUISANCE VEHICLES
Repealed by Ord. 54-11 - 12/19/2011

ARTICLE XXXIV. WEIGHT OF VEHICLES LIMITED BECAUSE OF
DETERIORATION DUE TO CLIMATIC CONDITIONS; SIGNS

12.3401. RESTRICTED WEIGHT LIMITS

A. Whenever by reason of deterioration: rain, snow, freezing and thawing, or other climatic conditions, highways under the control, supervision, and jurisdiction of the Village of Machesney Park may be damaged or destroyed, the maximum weights permitted to be transmitted to the surface of any such highway by any vehicle shall be limited to conform with the following limitations:

- 2 axles, single rear tires..... 7,000 lbs.
- 2 axles, dual rear tires..... 18,000 lbs.
- 3 or more axles, dual rear tires..... 30.000 lbs.
- Gross Axle Load..... 11,000 lbs.

For a period of not to exceed ninety (90) days in any one calendar year, and that such notice of the above prohibitions and restrictions be posted at each end of that portion of any such minimum measurements of thirteen (13) inches by nine (9) inches.

B. The Village Director of Public Works or his designee is hereby authorized and directed to cause signs to be erected and maintained at each end of any such highway, which signs shall designate the maximum weight restrictions here adopted and shall read as follows:

NOTICE

VEHICLES RESTRICTED TO THE FOLLOWING GROSS WEIGHTS

- 2 AXLES, SINGLE REAR TIRES..... 7,000 LBS.
- 2 AXLES, DUAL REAR TIRES..... 18,000 LBS.
- 3 OR MORE AXLES, DUAL REAR TIRES..... 30,000 LBS.
- GROSS AXLE LOAD..... 11,000 LBS.

C. PENALTY. Violation of this section shall be punishable upon conviction by a fine of not less than seventy five (75) dollars nor more than five hundred (500) dollars. (Amd. Ord. 25-95 - 4-24-95)

ARTICLE XXXV. FAILURE TO DISPLAY HANDICAP DECAL

12.3501. In all Handicapped Parking areas as designated throughout the Village of Machesney Park and as provided in the various sections of this Chapter 12, if a ticket is issued under a section contained in Chapter 12 to an individual who had, at the time the ticket was issued, a

valid and duly-issued Handicapped decal, but failed to display said decal in the vehicle, resulting in the ticket being issued, then, in that event, the Village in its sole discretion, may reduce the fine amount from the amount stated on the ticket, or as provided in the applicable section of Chapter 12, to \$50. (Ord. 51-96 - 9/16/96; Amd. Ord. 54-11 - 12/19/2011)

ARTICLE XXXVI. TRAFFIC RESTRICTIONS/HAZARDOUS WATER

12.3601. HAZARDOUS WATER CONDITION. When water run-off conditions cause standing water in any public right-of-way which causes a hazard to the public safety, health and welfare from the use of the public right-of-way by vehicular traffic, the Village may erect temporary traffic control devices so as to minimize the hazard to the public generated by the standing water conditions.

12.3602. TRAFFIC RESTRICTIONS. The Village may provide for necessary traffic restrictions when conditions of standing water cause a hazardous condition. These traffic restrictions may include, and are not limited to, providing for reduced maximum permissible speed restrictions in areas affected by standing water, providing for barricades in areas affected by standing water or providing for other regulatory signage in areas affected by standing water. No vehicle may be driven in a manner which violates or disregards the temporary restrictions or regulations posted in the area affected by the condition of standing water.

12.3603. PENALTY. Any person violating or disobeying any traffic restriction or regulation provided in this Article shall be subject to a fine of not less than \$100 nor more than \$500. (Ord. 53-96 - 9/16/96)

ARTICLE XXXVII. ONE WAY STREETS/ALLEYS

12.3701. DESIGNATION OF. The Village of Machesney Park acting through its Board of Trustees may designate and post certain streets and alleys to be one-way streets and alleys. Each street and/or alley designated to be a one-way street or alley shall be posted with the proper traffic control signs as set forth by the Manual on Uniform Traffic Control Devices, Latest Edition.

12.3702. REGULATIONS. All vehicles shall travel in the direction as indicated by the traffic control signs.

12.3703. STREETS AND/OR ALLEYS POSTED "ONE WAY"

A. Alley at Shoreland Road

1. Alley west of and parallel to IL 251 from Shoreland Road from Shoreland Road to a point 490' (+/-20') north of the north edge of pavement of Shoreland Road.

2. Vehicle shall travel south to north

12.3704. PENALTIES. Violations of this Ordinance shall be punishable by a fine of not less than \$50.00 (fifty dollars) and not more than \$500.00 (five hundred dollars) for each offense. (Ord. 36-02 - 09/02/2002)

ARTICLE XXXVIII. SEIZED AND IMPOUNDED VEHICLES

12.3801. In General

This Article is deemed necessary for the preservation of the public peace, health, and safety and is intended to create safer roadways within the Village by deterring drivers from committing certain offenses while offsetting some of the Village's administrative costs associated with these offenses.

12.3802. Definitions

Motor Vehicle: Every vehicle which is self-propelled, including but not limited to, automobiles, trucks, vans, motorcycles and motor scooters.

Registered Owner: The record title holder(s) of the vehicle as registered with the Illinois Secretary of State, or if not registered in Illinois, the Secretary of State of the particular state where the vehicle is registered.

Administrative Law Judge: A Village employee or an officer or agent of the Village, other than a code enforcement officer or law enforcement officer, whose duty it is to:

(a) Preside at an administrative hearing called to determine by a preponderance of the evidence whether or not a motor vehicle was used in violation of this Article; and

(b) Hear testimony and accept evidence regarding the commission of the offense; and

(c) Preserve and authenticate the record of the hearing and all exhibits and evidence introduced at the hearing; and

(d) Issue and sign a written finding, decision, and order stating whether he/she finds, by a preponderance of

the evidence, that a violation of the offense existed such that the provisions of this Article shall apply.

12.3803. Vehicles Subject to Seizure and Impoundment

A motor vehicle that is used in connection with any of the following violations may be subject to seizure and impoundment by the Village. Regardless of whether the Registered Owner was driving the vehicle at the time of seizure and impoundment, the Registered Owner of said motor vehicle shall be liable to the Village for an administrative fee of Three Hundred and Fifty Dollars (\$350) in addition to any and all applicable fines, costs and towing and storage fees. Eligible offenses are as follows:

(a) Driving under the influence of alcohol, other drug(s), intoxicating compound(s), or any combination thereof in violation of 625 ILCS 5/11-501, as amended from time to time; or

(b) Driving while driver's license, permit, or privilege to operate a motor vehicle is suspended or revoked in violation of 625 ILCS 5/6-303, as amended from time to time, except that vehicles shall not be subjected to seizure or impoundment if the suspension is for an unpaid citation (parking or moving) or due to failure to comply with emission testing; or

(c) Aggravated fleeing or attempting to elude a police officer in violation of 625 ILCS 5/11-204.1, as amended from time to time; or

(d) Operating a vehicle without a valid driver's license and without a liability insurance coverage on the vehicle in violation of 625 ILCS 5/6-101, as amended from time to time; or

(e) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of the Illinois Controlled Substance Act, 720 ILCS 570/et seq., as amended from time to time; or

(f) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, a felony or in violation of the Cannabis Control Act, 720 ILCS 550/et seq., as amended from time to time; or

(g) Operation or use of a motor vehicle while soliciting, possessing, or attempting to solicit or possess cannabis or a controlled substance, as defined by the Cannabis Control Act, 720 ILCS 550/et seq., or the Illinois Controlled Substances Act, 720 ILCS 570/et seq., as amended from time to time; or

(h) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense for which a motor vehicle may be seized and forfeited pursuant to Section 36-1 of the Criminal Code of 1961; or

(i) Operation or use of a motor vehicle by a person against whom a warrant has been issued by a circuit clerk in Illinois for failing to answer charges that the driver violated Sections 6-101, 6-303, or 11-501 of the Illinois Motor Vehicle Code, 625 ILCS 5/et seq., as amended from time to time; or

(j) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, an offense in violation of Article 16 or 16A of the Criminal Code of 1961; or

(k) Operation or use of a motor vehicle in the commission of, or in the attempt to commit, any other misdemeanor or felony offense in violation of the Criminal Code of 1961, when so provided by ordinance.

12.3804. Imposition of Administrative Fee

An administrative fee of Three Hundred and Fifty Dollars (\$350) shall be imposed on the Registered Owner of any Motor Vehicle(s), or the agents of that owner, that is seized and impounded under this Article. This fee shall be paid to the Village Clerk of the Village of Machesney Park. In addition, all costs for towing and storage must be paid to the private towing company. This company may place a hold on the vehicle until its costs are paid pursuant to the company's normal practices. Said administrative fee and towing and storage costs are in addition to any other penalties assessed by a court of law.

12.3805. Seizure and Impoundment Procedures

Whenever a police officer has probable cause to believe that the driver of a Motor Vehicle has committed an offense eligible for the seizure and impoundment of a vehicle as enumerated in §12.3803, the officer may provide for the towing of that Motor Vehicle to a Village approved towing or impound facility. The Village shall place an administrative hold on the Motor Vehicle until its release from impound is ordered as provided in §12.3806. The Registered Owner of the vehicle shall receive notice of the seizure and impoundment as detailed in §12.3807.

12.3806. Release from Impound

Motor Vehicles seized and impounded under this Article shall remain impounded until the occurrence of one (1) of the following events:

(a) The Registered Owner, Registered Owner's agent appears before the Village Clerk of the Village of Machesney Park, admits liability and stipulates to same in writing, and remits full payment of the Three Hundred and Fifty Dollar (\$350) administrative fee payable only by cash or cashier's check; or

(b) The Registered Owner, Registered Owner's agent, lessee, or lienholder of record appears before the Village Clerk of the Village of Machesney Park and remits bond in the amount of Three Hundred and Fifty Dollars (\$350) and requests an administrative hearing to contest the validity of the impound; or

(c) The Registered Owner: (i) does not remit bond but requests a hearing to contest the validity of the impound; and (ii) a determination is made by the Administrative Law Judge that the vehicle was not used in a manner which violates any of the provisions of 12.3803 of this Article.

Upon receiving written proof from the Registered Owner or the Registered Owner's agent of the occurrence of either (a), (b), or (c) above, the Village Clerk shall inform the private towing company that the Village is releasing its hold on the vehicle. Regardless of whether the Village's hold on the vehicle is released pursuant to (a), (b), or (c) above, the private towing company shall have the right to hold the vehicle until the costs associated with the towing and storage have been paid in full or other arrangements for payment have been made in a manner consistent with the company's normal practices. All bond money posted pursuant to this Section will be held by the Village until the hearing officer issues a decision, or, if there is a timely judicial review, until the court issues its final decision.

12.3807. Notice Required

(a) If the driver of the vehicle is the Registered Owner of the vehicle at the time of the incident, he/she will be personally served with written notice that their impounded vehicle is subject to a Three Hundred and Fifty Dollar (\$350) administrative fee under this Article in addition to any costs imposed by the private towing company. This notice shall inform the Owner of the seizure and impound, that the vehicle shall remain subject to

administrative hold pending administrative hearing or payment of the administrative fee or bond pursuant to Section 12.3806 (a) or (b) and payment of towing and storage fees, of their right to contest this fee at an administrative hearing and will set forth the procedures for requesting such a hearing. The Registered Owner shall receive this notice before being released from police custody.

(b) If the Registered Owner is found to be one of the passengers in the vehicle at the time of the incident, he/she will be personally served with written notice that their impounded vehicle is subject to a Three Hundred and Fifty Dollar (\$350) administrative fee under this Article, in addition to any costs imposed by the private towing company. This notice shall conform to the notice requirements of Section 12.3807(a) and the Registered Owner shall receive this notice at the scene of the incident.

(c) If the driver of the vehicle is not the Registered Owner or if the Registered Owner is not a passenger in the vehicle at the time of the incident, the Village shall provide notice which conforms to the notice requirements of Section 12.3807(a) to the Registered Owner, lessee, or person identifying himself/herself as the owner or lessee of the vehicle, or any person who is found to be in control of the vehicle at the time of the alleged offense.

a. This notice shall be sent via certified mail within five (5) business days of the impoundment of the vehicle to the last known address of the Registered Owner or lessee.

(d) Upon receipt of a request for an administrative hearing under §12.3806 (b) or (c) above, the Village shall schedule an administrative hearing on the matter at the Village's next regularly scheduled administrative hearing after which Notice of Hearing has been sent. Said administrative hearing shall be scheduled and convened no later than forty-five (45) after the date of mailing the Notice of Hearing to the Registered Owner or lessee of the vehicle, and any lienholder of record.

12.3808. Administrative Review of Seizure and Impoundment

(a) Registered Owners or lessees of Motor Vehicles seized and impounded under this Article who wish to contest the imposition of the Three Hundred and Fifty Dollar (\$350) administrative fee may do so by appearing in person within five (5) days of the seizure and impoundment to file a written request for an administrative hearing to the Village Clerk of the Village of Machesney Park at the following address:

Village Clerk
Village of Machesney Park
300 Roosevelt Road
Machesney Park, IL 61115

(b) All written requests for administrative hearings must include (1) the name of the Registered Owner or lessee of the vehicle, (2) the make, model, and license plate of the vehicle, (3) the date seized, (4) the location of the vehicle when seized, (5) the address and phone number of the Registered Owner or lessee making the request, (6) identification of the driver of the Motor Vehicle at the time of seizure and impoundment, and (7) the name and address of any lienholder of record.

(c) If no request is made after five (5) days the matter will be set for administrative hearing at the first regularly scheduled hearing after Notice of Hearing is sent, but in no case shall the hearing be scheduled and convened more than fifty five (55) days after the date the vehicle is impounded.

(d) Notice of Hearing shall be served upon the Registered Owner or lessee of the vehicle and any lienholder of record no later than ten (10) days after the vehicle is impounded. Service of Notice of Hearing shall be either by personal service or first class mail to the interested party's address registered with the Illinois Secretary of State. If served by mail, Notice shall be affected upon date of mailing.

The Notice of Hearing shall contain the date, time and location of the administrative hearing.

(e) The Registered Owner or lessee of the vehicle and/or his/her legal counsel must appear in person at this hearing to contest the administrative fee, regardless of whether the Registered Owner was the person operating the vehicle at the time it was seized and impounded.

(f) All administrative hearings under this Article shall be conducted pursuant to 625 ILCS 5/11-208.3(b)(4) and shall be held at the Machesney Park Village Hall. An Administrative Law Judge licensed in the State of Illinois for a minimum of three (3) years shall preside over the proceedings and shall have the power to issue subpoenas to secure the attendance and testimony of witnesses if necessary. This Administrative Law Judge will determine whether, by a preponderance of the evidence, the vehicle seized and impounded was being used in violation of one of the offenses enumerated in §12.3803 of this Article. Formal

rules of evidence shall not apply at this administrative hearing and hearsay shall be admissible.

(g) The following shall not be considered valid defenses to the administrative fee at the administrative hearing; however this list of invalid defenses is not exclusive:

- a. That the Registered Owner was not the driver of the vehicle;
- b. That a criminal charge against the driver of the vehicle related to the incident has been dismissed or otherwise disposed of.

In the event the driver is adjudicated not guilty after trial, upon presentation of the appropriate certified records from the Winnebago County Circuit Clerk, the owner shall be entitled to a refund of the Three Hundred and Fifty Dollar (\$350) administrative fee.

(h) At the conclusion of the hearing, the Administrative Law Judge shall make his ruling either sustaining or overruling the vehicle impoundment, and the Administrative Law Judge shall issue a written Finding, Decision, and Order reflecting said ruling.

- a. If the Administrative Law Judge determines the Motor Vehicle was used in violation of this Article he shall (i) order the forfeiture of any bond previously posted and may order the payment of an additional amount for costs incurred by the Village in conducting the hearing; or (ii) order the payment of the administrative fee in addition to costs deemed appropriate and direct that the Village's administrative hold on the vehicle shall not be released until the fine has been paid in full.
- b. If the Administrative Law Judge determines the Motor Vehicle was not used in violation of one of the offenses enumerated in §12.3803 of this Article, he shall make a written finding reflecting that determination and the Village shall notify the private towing company that the administrative hold is released.
- c. If the Administrative Law Judge determines that the Motor Vehicle was not used in violation one of the offenses enumerated in §12.3803 of this Article, and the Three Hundred and Fifty Dollars

\$350) bond has been posted, he shall order the Village to issue a full refund. This refund shall be remitted to the Registered Owner or lessee of the vehicle within thirty (30) calendar days of the order.

(i) The Administrative Law Judge does not have the authority to order the refund of the costs assessed by a private towing company; these costs must be paid regardless of the outcome of the administrative hearing. In addition, the ruling of the Administrative Law Judge shall have no effect on any pending criminal charges related to the incident for which the vehicle was seized and impounded.

(j) The order of the Administrative Law Judge shall be subject to appeal under the provisions of the Illinois Administrative Review Law codified at 735 ILCS 5/3-101 et seq. The amount ordered to be paid by the Village in fines, penalty, or administrative fee shall become a debt due and owing to the Village after the period for judicial review has expired, and may be enforced in the same manner as a judgment entered by a court of competent jurisdiction.

12.3809. Stolen Vehicles

The administrative fee imposed by the Village under this Article shall be waived by the Village upon verifiable proof that the Motor Vehicle was stolen at the time the vehicle was impounded.

12.3810. Abandoned or Unclaimed Vehicles

(a) Any Motor Vehicle impounded under this Article which is not picked up, or for which the administrative fee has not be paid, or where no bond is posted and no judicial review is pending, said Motor Vehicle may be disposed of in the manner provided by law for the disposition of abandoned vehicles as provided in 625 ILCS 5/4-200 et seq., subject to the provisions of subsection (b) below.

(b) The disposal of Motor Vehicles impounded under this Article shall be stayed pending judicial review of a finding of liability by the Administrative Law Judge at a hearing held under the provisions of this Article, as provided in the Administrative Review Law, codified at 735 ILCS 5-3-101 et seq. Failure of a Vehicle Owner to file a timely appeal of the Administrative Law Judge's finding of liability will result in a finding of abandonment as provided in (a) above.

CHAPTER 13. FIRE PREVENTION

ARTICLE I. FIRE DEPARTMENT KEY BOX

13.101. PURPOSE:

A. To provide the citizens of the Village safety from fire and other dangers and promote the efficient delivery of emergency fire protection services.

B. To protect and conserve the value of land and buildings and to promote the public health, safety, comfort, convenience, morals and general welfare.

13.102. DEFINITIONS

A. Key Box: A rapid entry box system that holds information and keys for locked buildings, storage rooms, elevators and other secured areas that allows emergency personnel access without causing property damage from forced entry procedures. The lock box is located near a building entrance and contains keys, electronic access cards, floor plan, HAZ-MAT data and other vital building information for emergency personnel.

13.103 REGULATIONS

Unless otherwise provided in this chapter any new or existing structure required to obtain a building permit or the subject of a zoning petition shall be required to install at the owners expense an exterior Key Box as prescribed by the Fire Protection District within which the structure is located.

13.104. EXCEPTIONS

A. Single Family or Two Family Structures

B. Multi Family Structures of six or less that do not include a common mechanical room.

13.105 LOCATION:

The Key Box shall be located as designated by the applicable Fire Protection District.

13.106. PENALTIES:

Any person who shall violate a provision of this ordinance or shall fail to comply with any of the requirements thereof shall be fined not more than \$500.00 (five hundred dollars). Each day that a violation continues shall be deemed a separate offense. (Amd. Ord. 12-02 - 03/18/2002)

CHAPTER 14. OFFENSES - MISCELLANEOUS

ARTICLE I. FIREARMS

14.101. DEFINITIONS.

A. FIREARMS. A firearm is defined to include but not be limited to a rifle, shotgun, pistol, revolver, pellet gun, air gun, tear-gas gun projector or bomb, B.B. gun, or stun gun or laser.

B. STUN GUN OR LASER. Means any device which is powered by electrical charging units, such as batteries, and which, fires one or several barbs attached to a length of wire and which upon hitting a human can send out current capable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning.

14.102. EXCEPTIONS. It shall be unlawful to discharge any firearm within the Village, provided that this Section shall not be construed to affect the following:

A. Peace officers or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer.

B. Warden, superintendents and keepers of prisons, penitentiaries, jails, and other institutions for the detention of persons accused or convicted of an offense, while in the performance of their official duty.

C. Members of the Armed Services or Reserve Forces of the United States or the Illinois National Guard or the Reserve Officers Training Corps, while in the performance of their official duty.

D. Special agents employed by a railroad or a public utility to perform police functions or guards of armored car companies while actually engaged in the performance of the duties of their employment; watchmen while actually engaged in the performance of the duties of their employment; security guards while actually engaged in the performance of the duties of their employment. For purposes of this Section, security guards means persons employed by a licensed detective agency as defined, in State Statutes, by "An Act to provide for licensing and Regulating Detectives and Detective Agencies", approved June 26, 1933, as amended, who are so employed for any of the purposes enumerated

in Section 1 (B) of such Act and any person regularly employed in a commercial or industrial operation for the protection of persons employed and private property related to such commercial or industrial operation while actually engaged in the performance of their duty or traveling between sites or properties belonging to the employer of such security guards, and who, as such security guards are members of a security force of 30 persons or more registered with the Department of Registration and Education, provided, that such security guard has successfully completed a course of study, approved by and supervised by the Department of Registration and Education, consisting of not less than 30 hours of training which shall include theory of law enforcement, liability for acts and the handling of weapons. The Department of Registration and Education shall provide suitable documentation to demonstrate the successful completion of such course. Such documentation shall be carried by the security guard at all times when he is in possession of a concealable weapon.

E. Agents and investigators of the Illinois Legislative Investigating Commission authorized by the Commission to carry the weapons specified while on duty in the course of any investigation for the Commission.

F. Any person while defending himself or his family in his own home.

G. Members of any club or organization organized for the purpose of practicing shooting at targets upon established, sound proof, indoor target ranges, whether public or private, patrons of such ranges while such members or patrons are using their firearms on those target ranges. Outdoor facilities may be utilized for businesses, clubs and organizations upon inspection and issuance of a use permit. Permits will be limited to the use of non powder projectile weapons. The inspection process will consist of a representative from the Village Building Department and a representative from the Winnebago County Sheriff's Police. The fee for the inspection and permit will be One Hundred Dollars (\$100.00). (Ord. 12-03 - 05/12/2003)

H. Duly authorized military or civil organizations while parading or during memorial services or funerals with the special permission of the Governor or of the Village Board President.

14.103. PENALTY. Any person, persons, corporation, firm or organization or concern which shall violate any provision of this Article shall be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00). (Ord. 9-82 - 4/15/82)

ARTICLE II. GARBAGE, DEBRIS, ETC./PUBLIC NUISANCE

14.201. REGULATIONS. It shall be unlawful for any person to allow garbage or debris to be located upon his property. Any violation of this Section shall be deemed a public nuisance.

14.202. DEFINITIONS. For the purpose of this Article the following definitions shall apply:

A. GARBAGE: Garbage shall be defined as offal; refuse, animal matter; or trash. (Amd. Ord 14-16 - 04/18/2016)

B. DEBRIS: Debris shall be defined as materials which are placed outside in a haphazard manner, which may create rodent and pest harborage or items which are not intended or customarily stored outdoors and which if left exposed and unprotected from the elements have, or potentially will, deteriorate by reason of vandalism, moisture and exposure. Such materials can include rubbish and items which might otherwise be considered usable such as furniture, appliances, boards, cardboard boxes of items, clothing, dishes, machinery and so forth. (Ord. 106-88 - 10/4/88)

C. TRASH: Trash shall be defined as worn out, broken up, or worthless things; and refuse.

D. RUBBISH: Rubbish shall be defined as waste or rejected matter.

E. YARD WASTE: Limbs, branches, overgrown weeds, vegetable matter and wood materials often rooted in landscape beds and gardens. (Amd. Ord 14-16 - 04/18/2016)

F. REFUSE MATERIAL: All disposed materials, as defined herein above, including garbage, rubbish, trash, yard waste and debris. (Amd. Ord 14-16 - 04/18/2016)

14.203. VIOLATION NOTICE. Any owner or tenant who is given a ten (10) day notice in writing from the Zoning Department to remove garbage or debris, shall remove said garbage or debris within said ten (10) day period. In the event the owner or tenant, after receipt of said notice refuses or neglects to remove such garbage or debris, the Village may remove the same and collect from the owner of the premises the reasonable cost thereof. Within sixty (60) days after such cost and expense is incurred by the Village, the Zoning Department shall file a notice in the office of the Recorder of Deeds of Winnebago County consisting of a sworn statement setting out: (1) a description of the real estate sufficient for identification thereof, (2) the amount of money representing the cost and expense incurred or payable for the service, and (3) the date or dates when such cost and expense was incurred by the municipality. Said notice shall be addressed to the owner of said real estate. This notice shall be a lien upon the real estate affected superior to all subsequent liens and encumbrances except tax liens. (Amd. Ord. 86-85 - 12/10/85)

However, the lien of the Village shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to removal of the garbage and debris and prior to the filing of such notice, and the lien of such municipality shall not be valid as to any mortgagee, judgment creditor or other lienor whose rights in and to such real estate arose prior to the filing of such notice.

The lien may be enforced by proceedings to foreclose as in case of mortgages or mechanics liens. Suit to foreclose this lien shall be commenced within two (2) years after the date of filing notice of lien as is set forth in Illinois Revised Statutes, Chapter 24, Section 11-20-13.

14.204. PENALTY. Any person, persons, corporations, firms or organizations which shall violate any provision of this Article shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) plus cost of court. Each day any violation of this Article shall continue shall constitute a separate offense. (Ord. 11-83 - 4/26/83)

ARTICLE III. NOISE/PUBLIC NUISANCE

14.301. FINDINGS. It is recognized that excessive noise endangers physical and emotional health and well-being, interferes with legitimate business and recreational activities, depresses property values, offends the senses,

creates public nuisances, and in other respects reduces the quality of our environment.

14.302. ADOPTION OF STATE PROVISIONS. Chapter 8 of the Illinois Pollution Control Board Rules and Regulations pertaining to noise from stationary sources is hereby adopted by the Village of Machesney Park.

14.303. VEHICULAR NOISE GENERALLY.

A. No person shall sound any horn or audible signal device of any motor vehicle of any kind while not in motion, nor shall such horn or signal be sounded under any circumstances except as required by law, nor shall it be sounded for any unnecessary or unreasonable period of time.

B. It shall be unlawful and it is hereby declared a public nuisance for any person, owner and or operator, to make unnecessary and annoying noises with a motor vehicle by loud use of audio equipment, sound amplification equipment, squealing tires, excessive acceleration of an engine, or by emitting unnecessary and loud muffler noises so that it annoys, injures, or endangers the comfort, health or safety of others, or that can be heard outside the vehicle from seventy five feet (75') or more when the vehicle is being operated or parked. (Amd. Ord. 96-86 - 8/26/86; Amd. Ord. 42-94 - 5/23/94)

14.304. UNREGISTERED RECREATIONAL OR OFF-HIGHWAY VEHICLES. "It shall be unlawful for any property owner in any zoning district, excluding parcels which are approved for the sale and service of such vehicles, to allow any motor driven recreational or off highway vehicle of a type not subject to registration for road use, excluding unmodified golf carts, to be operated on one's property for any purpose other than legitimate grounds maintenance uses, loading, unloading, and proper storage of the vehicle(s). Further, no vehicle(s) of the same shall be operated between the hours of 10:00 p.m. and 7:00a.m." (Amd. Ord 11-16 - 04/04/16)

14.305. CONSTRUCTION NOISE. It shall be unlawful for any person to use any hammer or power-operated tool for repair or construction purposes between the hours of 10:00 p.m. and 7:00 a.m. within six hundred (600) feet of any building used for residential or hospital purposes. Repairs to public service utilities shall be exempted from this Article.

14.306. GROUNDS MAINTENANCE EQUIPMENT. It shall be unlawful to operate any power-driven lawn or garden maintenance equipment between the hours of 10:00 p.m. and 7:00 a.m. within six hundred (600) feet of any building used for residential or hospital purposes.

14.307. MISCELLANEOUS NOISE SOURCES. It shall be unlawful to operate the following equipment outdoors between the hours of 10:00 p.m. and 7:00 a.m. within six hundred (600) feet of any building used for residential or hospital purposes:

- A. Power-operated models including automobiles, boats and aircraft.
- B. Sound trucks and public address systems.
- C. Musical instruments.
- D. Radios, television sets, cd players, tape decks and phonographs. (Amd. Ord. 64-94 - 9/6/94)
- E. Factory time whistles.
- F. Church bells and carillons.
- G. Garbage collection truck between the hours of 10 p.m. and 6 a.m. (Ord. 45-91 - 8/12/91)

14.308. ANIMAL NOISE. It shall be unlawful for any person to own, keep, have in his possession, or harbor any animal which by frequent or habitual emission or generation of noise shall cause annoyance or disturbance to persons in the neighborhood, provided that the provisions of this section shall not apply to hospitals conducted for the treatment of animals or to premises used by the Village of Machesney Park for the confinement of stray animals.

14.309. NUISANCE NOISES.

A. It shall be unlawful to cause or create any unnecessary unusual or loud noise at any time which annoys, injures, or endangers the comfort, repose, health, or safety of others unless such noise is necessary for the protection or preservation of property or of the health, safety, or life of some person. (Amd. Ord. 64-94 - 9/6/94)

B. No person owning or in possession or control of any building or premises shall use the same, permit the use of the same, or rent the same to be used for any business or employment or residential use, or for any

purpose of pleasure or recreation, if such use shall, by its boisterous nature, disturb or destroy the peace of the neighborhood in which such building or premises is situated, or be dangerous or detrimental to health.

14.310. EXCEPTIONS TO REGULATIONS. The following are exempt from the above regulations:

- A. Sirens and bells on emergency vehicles.
- B. Fire and burglar alarms.
- C. Civil defense warning systems.
- D. Train whistles and horns.
- E. Authorized fireworks displays.
- F. Authorized concerts and parades.

14.311. PENALTIES. Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of these regulations, upon conviction thereof, shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than three hundred dollars (\$300.00) for the first offense, and not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) for the second and each subsequent offense, in any one hundred eighty-day period. A separate and distinct offense shall be regarded as committed each day on which such person shall continue or permit any such violation, or failure to comply after notification thereof.

14.312. ENFORCEMENT. This Article shall be enforced by both the Village of Machesney Park police and the county health department. (Ord. 28-83 - 6/14/83)

ARTICLE IV. OPEN BURNING

14.401. DEFINITION. Open burning as used herein is defined as the combustion of any matter in the open or in an open dump without originating in or passing through equipment for which a permit has been issued by the Illinois Environmental Protection Agency. (Amd. Ord. 30-82 - 7/27/82)

14.402. EXCEPTIONS. No person, partnership or corporation shall cause or allow the open burning of any

materials whatsoever in the Village of Machesney Park with the following exceptions:

A. Burning of materials grown on the property which is the site of open burning, such as leaves, tree limbs, or branches and bushes, may be burned only during the months of April (April 1 to April 30) and November (November 1 to November 30) of each year from sun up to 9 PM and all open burning must be attended at all times. (Repealed, Ord. 14-85 - 2/28/85; Amd. Ord. 79-85 - 10/8/85; Amd. Ord. 11-94 - 2/22/94; Amd. Ord. 92-95 - 12/04/95) 14.402(A) of Chapter 14 of the Code of Ordinances is hereby suspended beginning April 13, 2020. Thereafter, no open burning of yard waste shall be allowed until November 1, 2020. (Amd. Ord. 13-20 - 04/06/2020)

B. Burning at any time by a farmer or his agent or employees in the course of their employment on a farm. As used herein, a farm shall be defined as an area of greater than ten (10) contiguous acres having an annual sale of agricultural products of two hundred fifty dollars (\$250.00) or more. (Repealed, Ord. 14-85 - 2/28/85; Amd. Ord. 79-85 - 10/8/85)

C. Burning supervised by any fire protection district serving the Village for the purpose of instruction in methods of fire fighting or fire hazard elimination. The Village President and the supervisor of local law enforcement agency must be notified in advance of any such burning.

14.403. RECREATIONAL BURNING ALLOWED. Recreational burning is defined as "an occasional burning of fuels for legitimate campfire, recreational or cooking purpose". A recreational fire must be contained in a fire-safe vessel, pit, fire ring or a device designed for such use provided that:

A. Burning for the purpose of campfires, recreation and cooking shall be limited to untreated dried wood, which does not exceed 22 inches in length and 11 inches in diameter.

B. Such fires are completely extinguished by midnight and not re-ignited until 6 AM the following morning.

C. Burning shall not be within 10 feet from any structure and shall be in a safe area where it will not constitute a fire hazard to any structure, trees, vegetation or undergrowth.

D. The fire at all times must be monitored and attended by an adult of at least 18 years of age until the fire is extinguished.

E. Buckets, shovels, garden hoses or fire extinguishers shall be available for immediate use.

14.404. SPECIAL CONDITIONS. The code officer, police officer or fire department official may, in their sole discretion, prohibit any burning which will be offensive or objectionable due to smoke or odorous emissions when atmospheric or local circumstances make such fires a nuisance or hazardous. The official in his/her sole discretion may order the extinguishment of any burning, which creates or adds to a hazardous or objectional situation or condition.

14.405. PROHIBITED. Open burning permitted by the terms of this Article shall under no circumstances be allowed upon any sidewalk, public street, right-of-way, alley or highway.

14.406. CHARCOAL OR LP GAS GRILLS. Open burning for the purposes of cooking and preparing a meal using charcoal or LP gas in a typical grilling procedure and equipment is not prohibited by this article.

14.407. PENALTIES. Any person, persons, partnership, corporation, firm or organization who violates any provision of this Article shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), plus court costs for each offense. (Ord. 18-82 - 5/13/82; Amd. Ord. 30-99 - 10/4/99)

ARTICLE V. PUBLIC INDECENCY

14.501. REGULATIONS. It shall be unlawful to urinate or otherwise relieve oneself on any public sidewalk or other public place, or on the floor or walls of any store, theater, hall, public vehicle or other place frequented by the public or to which the public is invited.

14.502. PENALTIES. Any person or persons who shall violate any provisions of this Article shall upon conviction be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), plus court costs. (Ord. 22-82 -6/9/82)

ARTICLE VI. SALE OF MERCHANDISE

14.601. PROHIBITED. It is unlawful for any person, firm,
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or corporation to sell, offer to sell, take orders, or attempt to sell any merchandise on any public street, public sidewalk or other municipal property within the Village.

14.602. PENALTIES. Any person, corporation or firm violating this Article shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00) for each and every such offense. (Ord. 38-81 - 10/13/81)

ARTICLE VII. PLANTS AND WEEDS

14.701. DECLARED PUBLIC NUISANCE. It shall be unlawful for any resident, occupant, owners, or agent of any premises to allow any weeds or plants, other than trees, flowers, ornamental plants or other cultivated plants, to grow to a height exceeding seven (7) inches anywhere in the Village except on land zoned "Agricultural". Any such plants or weeds exceeding such height are hereby declared to be a public nuisance. It shall be the duty of every owner, or occupant of any lot or land within the Village, except as set forth aforesaid, to remove said weeds or plants. (Amd. by Ord 34-15 - 07/20/2015)

14.702. REGULATING SAME. It shall be the duty of every owner of a lot, or other land within the Village, or the occupant thereof, to remove all Canadian thistles, ragweed or other noxious weeds and it shall be unlawful for anyone to permit such weeds to grow or remain on any lot or tract of land in the Village and the same are hereby declared to be a public nuisance.

14.703. VIOLATION NOTICE. Notices in writing of a violation of Sections 14.701 or 14.702 above shall be given by the Planning and Zoning Manager to the owner or his agent or occupant of any lot or tract of land in the Village violating said Sections. Upon failure of the owner or his agent or the occupant to cut or remove the weeds or plants named in Sections 14.701 or 14.702 above, within seven (7) days of the date of mailing of said notice, it shall be the duty of the Planning and Zoning Manager to have said weeds or plants cut or removed. (Amd. Ord. 87-86 - 12/23/85 - Amd. Ord. 37-13 - 08/05/2013; Amd. Ord 34-15 - 07/20/2015)

14.704. EXPENSE. In addition to charges for cutting or removing said weeds or plants, there shall be an administrative fee of one hundred dollars (\$100.00) The expense incurred by the Village in cutting or removing said weeds or plants shall be charged to and paid by the owner of the lot or tract of land and shall be collected by the Village by suit or otherwise and shall be in addition to the

fine or penalty. (Amd. Ord. 90-86 - 6/8/86; Amd. Ord. 44-91 - 8/12/91)

14.705. LIEN. The reasonable expense of removing or cutting said weeds or plants, in the event the same has not been paid, is hereby declared to be a lien upon the real estate affected, superior to all other liens and encumbrances, except tax liens; provided that within sixty (60) days after such expense is incurred the Village Attorney shall file a notice of lien in the office of the Recorder of Deeds of Winnebago County. This notice shall consist of a sworn statement by the Director of Public Works setting out (1) a description of the real estate sufficient for identification thereof, (2) the amount of money representing the cost and expense incurred or payable for the service, and (3) the date or dates which such costs and expense were incurred by the Village. However, the lien of the Village shall not be valid as to any purchaser whose rights in and to such real estate have arisen subsequent to the weed cutting and prior to the filing of such notice, and the lien of the Village shall not be valid as to any mortgagee, judgment creditor or other lienor whose rights in and to such real estate arise prior to the filing of such notice. Upon payment of the cost and expense by the owner of or persons interested in such property after notice of lien has been filed, the lien shall be released by the Village Attorney by the preparation and filing of a release of such lien in the office of the Recorder of Deeds of Winnebago County. (Amd. Ord. 87-85 - 12/23/85)

14.706. PENALTIES. Any person, organization, corporation, partnership or otherwise, violating the provisions of this Article, shall be subject to a fine of not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100.00) for each offense. A separate offense shall be deemed committed upon each day during or on which violation occurs or continues. (Ord. 40-82 - 9/28/82)

ARTICLE VIII. CURFEW/MINORS

14.801. REGULATIONS. It is unlawful for a person less than seventeen (17) years of age to be present at or upon any public assembly, building, place, street or highway at the following times unless accompanied and supervised by a parent, legal guardian or other responsible companion at least eighteen (18) years of age approved by a parent or legal guardian or unless engaged in a business or occupation which the laws of this state authorize a person less than seventeen (17) years of age to perform:

A. Between 12:01 a.m. and 6:00 a.m. Saturday;

B. Between 12:01 a.m. and 6:00 a.m. Sunday; and

C. Between 11:00 p.m. on Sunday through Thursday, inclusive, and 6:00 a.m. on the following day.

14.802. VIOLATION. It is unlawful for a parent, legal guardian or other person to knowingly permit a person in his custody or control to violate Section 14.801 of this Article.

14.803. PENALTY. A person convicted of a violation of any provision of this Article shall be guilty of a petty offense and shall be fined not less than \$10.00 nor more than \$100.00. (Ord. 89-83 - 1/10/84)

ARTICLE IX. PRIVATE SCAVENGERS ON CLEAN-UP DAY/PUBLIC NUISANCE

14.901. DEFINITIONS. Scavengers are hereby defined as any person, persons, corporation, partnership, or other entity that picks up or collects metals and trash.

14.902. DECLARED PUBLIC NUISANCE. It is unlawful for any person, persons, corporation, partnership, or other entity to collect or pick up metals or trash within the Village of Machesney Park on any designated and published clean-up days within the Village except those scavengers hired by the Village to pick up metals and other trash on said designated and published clean-up days, and except for regular garbage pick-up by contracted scavengers, and the violation of this Article is hereby declared to be a public nuisance.

14.903. NOTICE PUBLICATION REQUIRED. The Director of Public Works is hereby directed to publish a Notice of Village clean-up days in a newspaper in general circulation within the Village at least three days prior to any Village clean-up days, and said Notice shall contain the provision that it is unlawful for any person or private scavenger to pick up or collect metals or trash within the Village on said designated Village clean-up day or days.

14.904. PENALTY. Any person, persons, corporation, partnership, firm or any organization or concern who shall violate any provision of this Article shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), and each and every day said violation occurs shall constitute a new and separate

offense. (Ord. 63-86 - 5/27/86)

ARTICLE X. NEIGHBORHOOD BEAUTIFICATION PROGRAM REGULATIONS

14.1001. VIOLATION. It shall be declared unlawful for any person, persons, corporation, firm or organization or concern to transport or place or allow to be transported or placed materials for removal from outside the Village limits during the time period in which the cleanup program is in progress.

14.1002. VIOLATION AND PENALTY. Any person, persons, corporation, firm or organizations or concern which shall violate any provision of this ordinance shall be guilty of a felony and upon conviction shall be fined not less than \$500.00. For each and every day the violation persists shall constitute a separate violation.

14.1003. REWARD. The Village of Machesney Park shall offer a reward of \$50.00 for information leading to the arrest and conviction of any person, persons, corporation, firm or organization or concern violating this ordinance. (Ord. 69-89 - 8/8/89)

ARTICLE XI. HOURS OF PUBLIC PARK AND PENALTY

(This Article was reserved for Hours of Public Park & Penalty as provided by Ord. 73-88 - 07/21/88. This Article was repealed and changed to Chapter 29 Park Rules by Ord. 44-02 - 10/07/2002.)

ARTICLE XII. COLLECTION OF YARD WASTES

14.1201. DEFINITION. Yard waste is defined as any living matter lacking locomotion and possessing cellulose cell walls grown on property and include the following:

A. Grass clippings.

B. Trees or leaves, limbs, branches.

C. Items grown in a garden except fruits or vegetables.

14.1202. Yard waste has been deemed collectible and shall be placed for collection on the curb with regular trash collection in the Village of Machesney Park. (Amd. Ord. 29-99 - 10/4/99)

14.1203. Items will be removed under the following

conditions:

A. Yard wastes can be placed in paper biodegradable bags.

B. Yard wastes can be placed in an open container and placed at the curbside. Container must have an X painted on the side. (Amd. Ord. 29-99 - 10/4/99)

14.1204. Machesney Park residents at the curbside, as defined in this article, may place yard waste, during hours designated by garbage removal schedule. Yard waste placed at the curbside during non-designated times is illegal and is subject to fine as provided hereunder. (Amd. Ord. 29-99 - 10/4/99)

14.1205. PENALTY. Violation of this ordinance shall result in a minimum fine of two hundred dollars and a maximum fine of five hundred dollars. Each day any violation of this Article shall continue shall constitute a separate offense. (Ord. 5-89 - 2/14/89) (Amd. Ord 14-16 - 04/18/2016)

14.1206. PROVISIONS. The provisions of this ordinance shall be deemed severable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder. (Amd. Ord. 41-93 - 7/12/93; Amd. Ord. 29-99 - 10/4/99)

ARTICLE XIII. DUMPING

14.1301. DEFINITION. No single family residential refuse shall be disposed of at any site other than at the curb or road shoulder for each residential property.

14.1302. VIOLATION AND PENALTIES. A violation of this section is punishable to a minimum fine of two hundred dollars and a maximum of five hundred dollars. Each day any violation of this Article shall continue shall constitute a separate offense. Amd. Ord. 14-16 - 04-18/2016

14.1303. PROVISIONS. The provisions of this Ordinance shall be deemed severable, and the invalidity of any portion of this Ordinance shall not affect the validity of the remainder. (Ord. 9-90 - 2/6/90)

ARTICLE XIV. HORSES

14.1401. PERMIT REQUIRED. It shall be unlawful for any person to ride or in any other way be in control of a horse

in direct contact to the public streets or any public right-of-way within an R-1 or greater zoning classification within the corporate limits of the Village of Machesney Park. This Section shall not apply to horses which are being ridden or are in any other fashion participating in a special event including, but not limited to, parades in association with holidays which are recognized nationally, by the State or by the Village of Machesney Park.

Additionally, the Village may issue a permit for the use of a horse drawn carriage. Application for said permit must be submitted to the Village. Said permit will be issued yearly for a fee.

14.1402. RULES.

A. The permit holder will notify the Village each and every time said carriage is operated in the Village and specify when and where it will be operated.

B. The Village retains the right to place conditions and restrictions on the permit each and every time the carriage is operated in the Village.

C. The Village reserve the right to revoke the permit with or without notice.

14.1403. PERMIT SPECIFICATIONS. Applications for permit must be made in writing using forms furnished by the Village.

14.1404. SUPERVISION. Allowable activities shall be determined by the Department of Public Works and/or the Village's law enforcement agency.

14.1405. PERMIT FEE. The permit fee shall be twenty-five dollars (\$25.00).

14.1406. PENALTIES. Any person, persons, corporation, firm or any organization or concern who shall violate any provision of the ordinance shall be subject to a fine of not less than fifty dollars (\$50.00) nor more than two hundred-fifty dollars (\$250.00) and each and every day such violation continues shall constitute a new and separate offense. (Ord. 9-92 - 4/27/92; Amd. Ord. 27-97 - 6/16/97)

ARTICLE XV. PROHIBITION OF GRAFFITI

14.1501. REGULATIONS. No person shall write, paint or draw any inscription, figure or mark of any type on any public or private building or other real or personal property, owned, operated or maintained by a governmental

entity or any agency or instrumentality thereof or by any person, firm or corporation, unless the express permission of the owner or operator of the property has been obtained.

14.1502. PROHIBIT POSSESSION. No person shall carry an aerosol spray paint can or broad-tipped indelible marker with the intent to violate the provisions of Section 14.1501.

14.1503. PROHIBIT PURCHASE. No person shall purchase an aerosol spray paint can or broad-tipped indelible marker with the intent to violate the provisions of Section 14.1501.

14.1504. PROHIBIT SELLING. No person, business or entity shall sell or cause to be sold an aerosol spray paint can or broad-tipped indelible marker to any individual when said person, business or entity knows or has reason to know that said person intends to violate the provisions of Section 14.1501.

14.1505. DEFINITION.

A. Graffiti means any inscription, work, and figure or design marked, scratched, etched, drawn or painted with spray paint, liquid paint, ink, chalk, dye or other similar substances on buildings, fences, structures and similar places.

B. Spray paint means any container, regardless of the material from which it is made, which is made or adapted for the purpose of spraying paint.

C. Broad-tipped marker means any indelible marker or similar implement with a tip which, at its broadest length, width or diameter is $\frac{1}{4}$ inch or greater. (Ord. 12-03 - 05/12/2003)

14.1506. PUBLIC NUISANCE. The existence of graffiti on any real property within the Village limits is expressly declared to be a public nuisance affecting health, safety and welfare. (Ord. 71-93 - 12/27/93; Amd. Ord. 12-03 - 05/12/2003)

14.1507. GRAFFITI PROHIBITED. No owner of any real property within the Village limits shall allow any graffiti to remain upon any structure located on the owner's property when the graffiti is visible from the street or from other public or private property.

14.1508. NOTIFICATION. Whenever the Village of Machesney Park determines that graffiti on any building or structure within the Village limits is visible from the

street or from other public or private property, the Public Works Department shall issue a request to the owner of the property to abate the graffiti in a timely manner. Any property owner who is given a fifteen (15) day request in writing personally served or sent by registered mail to the person to whom was sent the tax bill for general taxes for the last preceding year on the property from the Public Works Department to remove such graffiti shall within fifteen (15) days remove such graffiti.

14.1509. FAILURE TO COMPLY WITH THE REQUEST. If the property owner fails to comply with the request to abate the graffiti, the Public Works Department may cause the graffiti to be abated either by Village employees or by an independent contractor. The Village and the contractor are expressly authorized to enter upon the property and abate the graffiti upon exterior walls, fences, billboards and other structures abutting public streets, property or right of way. The Village or private contractor will take all reasonable precautions to avoid causing damage to the property where the graffiti is abated. Any paint used to obliterate graffiti shall be as close as practicable to the background color or colors in the area where the graffiti is abated. (Ord. 12-03 - 05/12/2003)

ARTICLE XVI. GARAGE SALES AND YARD SALES

14.1601. DEFINITION. A Garage or Yard Sale shall be defined as the selling or offering of any unwanted household good, clothing, or other miscellaneous items conducted either in the garage or in the yard, respectively, of a non-commercial property.

14.1602. REGULATIONS. Garage or Yard Sales shall be permitted on a property no more than three (3) times within a calendar year, and no more than three (3) consecutive days per sale. No permit shall be required for conducting a Garage Sale or Yard Sale.

14.1603. SIGNS. One (1) sign shall be allowed on the property conducting the sale and cannot exceed four (4) sq. ft. in area. Five (5) off-premise signs shall be allowed at a maximum of five (5) roadway intersections provided that the signs are freestanding, are not placed on trees or utility poles, and do not obstruct vision at these intersections. Signs must include the address of the sale in question as well as the dates the sale will be conducted. Signs may be posted up to twenty-four (24) hours prior to the sale, and are required to be taken down twenty-four (24) hours after the posted conclusion of the sale. The Village reserves the right to take down any off-premise signs that violate any of the above conditions.

(Amd. 05-14 - 03/17/2014)

14.1604. PROHIBITED. It shall be unlawful for any person to offer for sale at a Garage Sale or Yard Sale any stock in trade item which is brought onto the property, or any item which has been purchased for the intended purpose of resale.

14.1605. PENALTY. Any person violating any of the provisions of the Article or of neglecting or of refusing to comply with any of the provisions hereof shall be subject to appear at an Administrative Hearing as well as a fine of not less than Fifty Dollars (\$50) and not more than Two Hundred Dollars (\$200) for each day the Garage or Yard Sale is in violation of this Article. (Ord. 13-94 - 2/28/94) (Amd. Ord. 05-14 - 03/03/14)

ARTICLE XVII. STREET GANG ACTIVITY

14.1701. DEFINITION. Graffiti shall be defined as: any sign, symbol, marking, drawing, name, initial, word, diagram, sketch, picture or letter placed, without the express, written permission of the owner, upon the real or personal property of said owner.

A. Graffiti in public view is hereby declared to be a nuisance as set forth in the ordinances of the Village and subject to the provisions of Village Ordinances regarding nuisances and abatement thereof.

B. It shall be unlawful for any person to place graffiti upon the real or personal, public or private property of another.

C. It shall be unlawful for the owner and/or occupant of fixed real or personal property which is in public view to place or give permission for the placement of any graffiti on such property without having first obtained a properly issued signed permit.

D. It shall be unlawful for any person to possess, while in any public building or public facility or while on private property, a spray paint container, paint, ink, marking pen which contains a non-water soluble fluid, brush, applicator, or any other material for marking, scratching or etching with the intent to use such material in violation of Subsection (B) and or (C) hereinabove.

14.1701.1. PENALTIES.

A. The penalty for violation of Subsection (B) hereinabove shall be a fine of not less than \$50 nor more than \$500. In addition to said fine, the offender may be ordered by the Court to pay restitution to the property owner for the costs of restoring the property to its state prior to the application of graffiti.

B. The penalty for violation of Subsection (C) hereinabove shall be a fine of not less than \$50 nor more than \$500 and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

C. The penalty for violation of Subsection (D) hereinabove shall be a fine of not less than \$50 nor more than \$500.

D. Any person convicted of a violation of Subsection (B), (C) or (D) hereinabove, who is found to have been a member of a gang as defined by section 6(A)(1) or candidate for membership in a gang at the time of the offense was committed and who is found to have violated said Subsection in conjunction with gang-related activities, shall be subject to a fine of not less than \$250 nor more than \$500 in addition to other penalties provided in the Section.

14.1702. CURFEW. That notwithstanding anything contained to the contrary in existing Village Ordinances the following shall apply with respect to curfew:

A. It is unlawful for a person more than fifteen (15) years of age but less than eighteen (18) years of age to be present at or upon any public assembly, building, place, street or highway at the following times unless accompanied and supervised by a parent or legal guardian unless engaged in a business or occupation which the laws of this state authorize a person less than eighteen (18) years of age to perform:

1. Between 12:01 AM and 6 AM Saturday;
2. Between 12:01 AM and 6 AM Sunday;
3. Between 11 PM on Sunday to Thursday, inclusive, and 6 AM on the following day.

B. It is unlawful for a person less than sixteen (16) years of age to be present at or upon any public assembly, building, place, street or highway at the following times unless accompanied and supervised by a

parent or legal guardian unless engaged in a business or occupation which the laws of this state authorize a person less than sixteen (16) years of age to perform or unless in attendance at, or while traveling directly home from a school, church or a non-for-profit community organization sponsored activity:

1. Between 10 PM and 6 AM (on the following day), seven (7) days a week.

C. It is unlawful for any parent, legal guardian or other person to knowingly permit a person in his/her custody or control to violate this section.

D. Any person convicted of violating any provision of this section shall be fined not less than \$50 nor more than \$500 for each offense.

14.1703. PARENTAL RESPONSIBILITY.

A. As used in this section, unless the context otherwise requires, the terms specified have the meaning ascribed to them:

1. "Legal guardian" means a person appointed guardian, or given custody, of a minor by circuit court of the State, but does not include a person appointed guardian, or given custody, of a minor under the Illinois Juvenile Court Act of 1987.

2. "Minor" means a person who is above the age of 11 years, but not yet 19 years of age.

B. The parent or legal guardian of an unemancipated minor who resides with such parent or legal guardian is liable for actual damages for the willful or malicious acts of such minor which causes injury to a person or property.

C. No recovery under this section may exceed \$1000 actual damages for each person or legal entity for each occurrence of such willful or malicious acts by the minor causing injury, addition to taxable court costs. In determining the damages to be allowed in an action under this Ordinance for personal injury, only medical, dental and hospital expenses and expenses for treatment by Christian Science practitioners and nursing care appropriate thereto may be considered.

D. This Ordinance shall not effect the recovery of

damages in any other cause of action where the liability of the parent or legal guardian is predicated on a common law or statutory basis.

14.1704. TEMPORARY QUESTIONING WITHOUT ARREST.

A. A peace officer, after having identified himself as a peace officer, may stop any person in a public place for a reasonable period of time when the person is wearing known gang colors, emblems or other gang insignia, or appears to be engaged in communicating gang-related messages through the use of hand signals or other means of communication, and the officer reasonable infers from the circumstances that the person is committing, is about to commit, or has committed any offense. Once stopped, the officer may demand the name and address of the person and an explanation of his actions. Such detention and temporary questioning will be conducted in the vicinity of where the person was stopped.

B. When a peace officer has stopped a person for temporary questioning pursuant to Subsection (A) and the officer reasonable suspects that he or another officer is in danger of attack, he may search the person for weapons. If an officer discovers a weapon, he may take it until the completion of the questioning, at which time he shall return the weapon, if lawfully possessed, or arrest the person so questioned.

14.1705. GANG SIGNS PROHIBITED. It shall be a violation of this ordinance for any person to display, demonstrate, or "throw" a gang sign in any public place within the Village.

14.1706. LOITERING FOR THE PURPOSE OF CAUSING STREET GANG ACTIVITY OR RECRUITMENT IS PROHIBITED.

A. Definitions:

1. "Gang" or "Street Gang" means any combination, confederation, alliance, or understanding in law or in fact, that through its members or through the agency of any member and at the direction, order or request of any member who is a leader or other authority, engages in a course or pattern of criminal activity.

2. "Course or pattern of criminal activity" means two or more gang-related criminal offenses when:

a. One or more of the offenses was

committed after the effective date of this Ordinance; and

b. The offenses were committed within 5 years of each other; and

c. At least one offense involved the solicitation to commit, conspiracy to commit, or commission of any offense defined as a felony or forcible felony under the Illinois Criminal Code.

3. "Gang-related Activities" means those activities which are conducted with the intent to increase the gang's size or dominance, or with the intent to provide the gang with an advantage in the criminal market sector, or with the intent to otherwise directly or indirectly cause any benefit or gain to or for the gang.

B. It shall be unlawful for any person to loiter, wander, stand, or remain idle whether alone and/or in consort with others in a public place with the purpose of recruiting others for membership in a street gang or for participation in gang-related activities.

C. The penalty for violation of this section hereinabove shall be a fine of not less than \$50 nor more than \$500.

14.1707. MAINTAINING PUBLIC NUISANCE.

A. Any building or dwelling used in the commission of offenses prohibited by Sections 9-1, 10-1, 10-2, 11-14, 11-15, 11-16, 11-17, 11-20.1, 11-21, 11-22, 12-5.1, 16-1, 20-2, 23-1, 23-1(a)(1), 24-1(a)(7), 24-3, 28-1, 28-3, 31-5, or 39 A-1 of the "Criminal code of 1961," or used in the Commission of an inchoate offense relative to any of the aforesaid principal offenses, or used to engage in gang related activities within the meaning of Section 6 above is a public nuisance.

B. Penalty: Any person violation this section hereinabove shall be fined not less the \$50 nor more than \$500. Furthermore, if said person is not the owner of the building being used for gang-related activity, the Court may order the offender to pay restitution to the owner for the costs of any damage caused by such gang-related activity, unless the owner knew or should have known that such activity was taking place and

negligently or willfully failed to notify the Village of the occurrence of such activities.

C. Abatement.

1. The Village of Machesney Park may after 30 days and within 90 days of giving the Attorney General and the State's Attorney of Winnebago County written notice by certified or registered mail of the fact that a public nuisance as described in this section exists, commence an action to abate said nuisance in accordance with the procedures delineated below provided that the Attorney General or the State's Attorney of Winnebago County has not already commenced a similar action.

2. The Village of Machesney Park may commence an action to abate the public nuisance in the Circuit Court of Winnebago County. Upon being satisfied by affidavits or other sworn evidence that an alleged public nuisance exists the Court may without notice or bond enter a temporary restraining order or preliminary injunction to enjoin any defendant from maintaining such nuisance and may enter an order restraining any defendant from removing or interfering with all property used in connection with the public nuisance. If during the proceedings or hearings upon the merits, which shall be in the manner of the "Controlled Substance and Cannabis Nuisance Act" (740 ILCS 40/0.01 et. seq. 1992) the existence of the nuisance is established and it is found that such nuisance was maintained with the intentional, knowing, or reckless permission of the owner or agent of the owner managing the building, the court shall enter an order restraining all persons from maintaining or allowing such nuisance for a period six (6) months thereafter, except that an owner, lessee or other occupant thereof may use such place if the owner shall give bond with sufficient security or surety approved by the court, in an amount between \$1000 and \$5000 inclusive, payable to the Village of Machesney Park, and including a condition that no offense specified in subsection (A) above shall be committed at, in or upon the property described and a condition that the principal obligor and surety assume responsibility for any fine, costs or damages resulting from such an offense thereafter.

14.1708. LOITERING FOR THE PURPOSE OF ILLEGALLY USING, POSSESSING OR SELLING CANNABIS OR CONTROLLED SUBSTANCES.

A. It shall be a violation of this Ordinance for a person to loiter in a public place in a manner and under circumstances manifesting the purpose of illegally using, possessing, transferring or selling any cannabis or controlled substance. Among the circumstances which may be considered in determining whether such a purpose is manifested are:

1. The person is known illegal user, possessor, or seller of cannabis or controlled substance, or the person is loitering in a place frequented by persons who are known to illegally use, possess, transfer, or sell cannabis or controlled substances; and

2. The person repeatedly attempts to stop or engage in conversation with passerby, whether such passerby are on foot or in a motor vehicle or other form of transportation, for the purposes of inducing, enticing, soliciting, or procuring another to illegally possess, transfer, or buy any cannabis or controlled substances; or

3. The person repeatedly passes to or receives from passerby, whether such passerby are on foot or in a motor vehicle or other form of transportation, money, objects or written material for the purposes of inducing, enticing, soliciting or procuring another to illegally possess, transfer or buy any cannabis or a controlled substance.

B. A person shall not have violated this Ordinance unless he demonstrates expressly or implicitly a specific intent to induce, entice, solicit, or procure another to illegally possess, transfer or buy cannabis or a controlled substance.

C. A peace officer may not arrest a person for violation of this Ordinance unless the peace officer first offers the person an opportunity to explain his conduct.

D. For the purpose of this section, a "known illegal user, possessor, or seller of controlled substances" is a person who, within one (1) year previous to the date of arrest for violation of the Section, has within the knowledge of the arresting officer been convicted of illegally manufacturing, using, possessing, selling, purchasing, or delivering any controlled substance.

E. Any person found to have violated any provision of this Section shall be fined not less than \$50 nor more than \$500 for each offense.

14.1709. TRUANCY PROHIBITED.

A. It shall be a violation of this Ordinance for any person under the age of eighteen (18) who is enrolled in a public, private, or parochial school to absent himself from attendance at such school without the permission of his legal guardian(s) or parent(s). Any person who shall so absent himself shall be guilty of the offense of truancy and be subject to the penalties set forth below. Emergency or unforeseen absences due to illness or other reasonable cause beyond the control of the person so absenting himself from school without the permission of his parent(s) or legal guardian(s) shall not constitute truancy if such permission is obtained from said parent(s) or legal guardian(s) and submitted in writing to the proper school authorities within twenty-four (24) hours of such absence.

B. Procedure: Initial contact and documentation:
Upon encountering a school-aged individual outside of school during school hours, a police officer or truant officer shall:

1. Question such individual in order to determine whether the individual has violated this Ordinance and verify truancy with the school via radio, telephone, or personal visit; and

2. Upon reasonably ascertaining that such individual has violated this Ordinance, seize the individual and return him to the proper authority at the school; and

3. Complete a truancy report containing the following information: full name, date of birth, address, telephone number, parent or guardian's name, work place telephone number, and school attended; and

4. Forward a copy of the report to juvenile investigations and the truant officer of Winnebago County.

A juvenile officer shall renew the report and

complete or update an applicable juvenile contact card. Further, a school representative or county truant officer may file a report of truancy directly with a juvenile officer in cases of frequent truancy that is not documented by police reports.

C. Procedure: Chronic Truants: A chronic truant, hereinafter defined as an individual who has violated this Ordinance three (3) times in one (1) year or has otherwise been shown to have absented himself from school three (3) times in one (1) year, shall submit to a student and parent conference with either a juvenile officer, county truant officer or school representative at the request of same. The following disposition or "staffing" may result:

1. Station adjustment.
2. Station adjustment with supervision by a juvenile officer, if applicable.
3. Referral of chronic truant to counseling and/or appropriate agency to deal with the specialized problem.
4. Referral to the court.

D. Recommended Dispositions in Juvenile or Adult Court:

1. The Court shall consider the following as possible dispositions of a chronic truancy case:
 - a. Adult supervision for one (1) year or for the balance of the school year in which the offense was committed.
 - b. Suspension of driver's license where applicable.
 - c. Community service work.
 - d. Fines of \$150 to \$500, which may be waived upon the successful completion of the school year without unexplained absence.
 - e. Referral to specific agencies available to address specific problems. (Ord. 78-94 - 11/14/94)

14.1710. DISORDERLY CONDUCT. A. It shall be a violation of this Ordinance for a person to do any act in such an

unreasonable manner as to alarm or disturb another and to provoke a breach of the peace.

14.1710.1 PENALTY. A. The penalty for violation of subsection (A) herein-above shall be a fine of not less than \$50.00 nor more than \$500.00.

14.1711. MOB ACTION. A. It shall be a violation of this Ordinance for 2 or more persons acting together and without authority of law to assemble for the purpose of committing an unlawful act.

14.1711.1 PENALTY. A. The penalty for violation of subsection (A) hereinabove shall be a fine not less than \$100.00 nor more than \$500.00. (Amd. Ord. 05-95 - 3/20/95)

ARTICLE XVIII. STATE OFFICIALS AND EMPLOYEES ETHICS ACT

14.1801. STATE OFFICIALS AND EMPLOYEES ETHICS ACT

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

B. The solicitation or acceptance of gifts prohibited to be solicited or accepted under the Act, is hereby prohibited.

C. The offering or making of gifts prohibited to be offered or made to an officer or employee of the Village under the Act, is hereby prohibited.

D. The participation in political activities prohibited under the Act, by any officer or employee of the Village, is hereby prohibited.

E. For purposes of this Section, the terms "officer" and "employee" shall be defined as set forth in 5 ILCS 430/70-5©.

F. The penalties for violations of this Section shall be the same as those penalties set forth in 5 ILCS 430/50-5 for similar violations of the Act.

G. This Section does not repeal or otherwise amend or modify any existing ordinance or policies which regulate the conduct of Village officers and employees. To the extent that any such existing ordinance or policies are less restrictive than this Section, however, the provisions of this Section shall prevail in accordance with the provisions of 5 ILCS 430/70-5(a).

H. Any Amendment to the Act that becomes effective after the effective date of this Section shall be incorporated into this Section by reference and shall be applicable to the solicitation, acceptance, offering and making of gifts and to prohibited political activities. However, any amendment that makes its provisions optional for adoption by municipalities shall not be incorporated into this Section by reference without formal action by the corporate authorities of the Village.

I. If the Illinois Supreme Court declares the Act unconstitutional in its entirety, then this Section shall be repealed as of the date that the Illinois Supreme Court's decision becomes final and not subject to any further appeals or rehearings. This Section shall be deemed repealed without further notice by the Corporate Authorities of the Village if the Act is found unconstitutional by the Illinois Supreme Court.

J. If the Illinois Supreme Court declares part of the Act unconstitutional by upholds the constitutionality of the remainder of the Act, or does not address the remainder of the Act, then the remainder of the Act, as adopted by this Section, shall remain in full force and effect; however, that part of this Section relating to the part of the Act found unconstitutional shall be deemed repealed without further action by the Corporate Authorities of the Village. (Ord. 26-04 - 08/02/2004)

ARTICLE XIX. VEHICLES PARKED IN PUBLIC/PUBLIC NUISANCE

14.1901. DEFINITIONS. The term "inoperable motor vehicle" as used in this Article and when referring to a motor vehicle shall mean any motor vehicle from which, for a period of at least ten (10) days, the engine, wheels or other parts have been removed, or on which the engine, wheels or other parts have been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own

power. The term "inoperable motor vehicle" shall not include a motor vehicle which has been rendered temporarily, or for a period not exceeding ten (10) days, incapable of being driven under its own power in order to perform ordinary service or repair operations.

The term "street operable" as used in this Article and when referring to a motor vehicle shall mean any motor vehicle which may be legally operated on the roadways, streets, or highways of this State. Examples of motor vehicles which are not "street operable" include ATV's, race cars, stock cars, and any motor vehicle which, because of equipment or the lack thereof, precludes the operation of that motor vehicle upon the roadways, streets, and highways of this State.

The term "inoperable trailer" as used in this Article shall mean any trailer from which, for a period of at least ten (10) days, the wheels or other parts have been removed, or on which wheels or other parts have been altered, damaged or otherwise so treated that the trailer is incapable of being pulled under the power of an operational vehicle.

The term "street operable" as used in this Article, and when referring to a trailer shall mean any trailer which may be legally operated on the roadways, streets, or highways of this State.

14.1902. PUBLIC NUISANCE DECLARED. It is hereby declared that all inoperable motor vehicles, and motor vehicles which are not street operable, whether on public or private property, shall be stored in a garage. Any motor vehicle or part thereof which is inoperable or deteriorated or in need of repair, or which is not street operable, which is located for ten at least (10) days upon public or private property within the Village of Machesney Park, Illinois, outside a garage is hereby declared a public nuisance.

14.1903. REPAIRS/TIME LIMIT. Any inoperable motor vehicle which has been rendered temporarily, for a period of at least ten (10) days, incapable of being driven under its own power in order to perform ordinary service or repair operations is hereby declared to be a public nuisance. Said inoperative motor vehicle which has been rendered temporarily, for a period of at least ten (10) days, incapable of being driven under its own power in order to perform ordinary service or repair operations shall be placed in a garage.

Any inoperable trailer which has been rendered temporarily, for a period of at least ten (10) days, incapable of being pulled under the power of an operable vehicle in order to perform ordinary service or repair operations is hereby declared to be a public nuisance. Said inoperative trailer which has been rendered temporarily, for a period of at least ten (10) days, incapable of being pulled under the power of an operable vehicle in order to perform ordinary service or repair operations shall be placed in an enclosed garage. (Amd. Ord 22-15, 05/04/2015)

14.1904. EXCEPTIONS. Nothing in this Article shall apply to any motor vehicle that is kept in a building or garage so as to be completely out of view of the general public, or a motor vehicle on the lawfully zoned premises of a place of business engaged in repair, wrecking or junking of motor vehicles, provided they are kept within an enclosure on all sides so as not to be in view of the general public.

14.1905. PUBLIC NUISANCE DECLARED. It shall be unlawful and it is hereby declared to be a public nuisance to have a motor vehicle on property owned, leased or controlled by any person that does not display a current license plate or sticker issued by any state of the United States to the particular motor vehicle on which it is displayed, whether or not said motor vehicle is operable or inoperable; except that this Article shall not apply to (a) any motor vehicle is kept within a building or garage, or (b) new or used car lots which are properly zoned for the same. (Amd. Ord. 16-10 - 07/19/10)

14.1906. ENFORCEMENT. This Article shall be enforced by the Village of Machesney Park, Illinois, either by or through its Police Department or appropriate Code Enforcement Official, or such agencies of the County of Winnebago, Illinois, as may from time to time be designated to enforce this Article by the Village of Machesney Park.

14.1907 PENALTIES. The following are potential penalties for a violation of this Article. These procedures are not exclusive and do not preclude the Village of Machesney Park from using other methods to enforce provisions of this Article.

(A) REMOVAL, AFTER NOTICE. Winnebago County Deputy Sheriffs representing the Village of Machesney

Park under terms of an intergovernmental agreement between Winnebago County and the Village are hereby authorized to remove, after ten (10) days from the issuance of the municipal notice, any inoperable motor vehicle or parts thereof, any unlicensed motor vehicle, or any non-street operable motor vehicle in violation of this Article.

Prior to removing any inoperable motor vehicle or parts thereof, any unlicensed motor vehicle, or any non-street operable motor vehicle, said law enforcement agency or Code Enforcement Official of the Village shall send a municipal notice to the owner or occupier of the public or private property involved where said offending motor vehicle is located, stating in substance, that said motor vehicle, or parts thereof in the case of an inoperable motor vehicle, after reasonably describing the same in said notice, are to be removed by said owner or occupier of the public or private property involved within ten (10) days after the date of service of said notice. Said municipal notice may be served on the owner or occupier of the premises involved either by depositing same in the regular U.S. Mail, certified mail, return receipt requested, or by registered mail, with sufficient postage for delivery of same, or by personal service of said notice by the law enforcement agency of the Village. Service by mail shall be affected on the date the municipal notice is deposited with the U.S. Postal Service.

After ten (10) days from the issuance of said municipal notice, said inoperable motor vehicle or parts thereof, unlicensed motor vehicle, or non-street operable motor vehicle which remains in violation of this Article may be removed by the law enforcement agency of the Village to a suitable storage facility. Thereafter, possession of the offending motor vehicle is conditioned on the owner or occupier of the land involved or the owner of the offending vehicle paying a \$200.00 administrative fee to the Village of Machesney Park and paying all reasonable charges for towing and storage.

(B) FINES. Any owner or lessee or any other person in control of the premises or the owner or lessee or any other person in control of a motor vehicle who permits a public nuisance as declared in Sections 14.1902 or 14.1905 to exist or who maintains such public nuisance shall, upon conviction, be punished by a fine of not less than one hundred

dollars (\$100), exclusive of court costs, upon a first conviction, and a fine of not less than two hundred dollars (\$200), exclusive of court costs, for a second offense, and not less than five hundred dollars (\$500), exclusive of costs, for a third and subsequent offense. Each day's failure to comply with the provisions of this Article shall constitute a separate offense. Each motor vehicle which is permitted to exist as a public nuisance as defined in Sections 14.1902 or 14.1905 shall constitute the subject of a separate offense.

(C) ADMINISTRATIVE CODE HEARING. The Village may prosecute violations under Sections 14.1902 or 14.1905 of this Article pursuant to the provisions of Chapter 32, "Code Enforcement Hearing Division", Article I, "Administrative Enforcement", Section 100, "Code Hearing Division", of the Village Code of the Village of Machesney Park. (Amd. Ord 45-09 - 12/07/2009)

ARTICLE XX. POSSESSION OF CANNABIS AND DRUG PARAPHERNALIA

14.2001. DEFINITIONS. The term "Cannabis" as used in this Article shall be as defined under the Illinois Cannabis Control Act, as may be amended from time to time, and includes marijuana, hashish and other substances which are identified as including any parts of the plant Cannabis Sativa, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.

14.2002. POSSESSION OF CANANBIS. It is unlawful for any person knowingly to possess cannabis.

Any person who violates this Section with respect to not more than 10 grams of any substance containing cannabis is guilty of a civil law violation punishable by a minimum fine of \$100 and a maximum fine of \$500.

14.2003. POSSESSION OF DRUG PARAPHERNALIA. If any person violates Section 14.2002, the penalty for possession of any drug paraphernalia seized during the violation for that offense shall be a civil law violation punishable by a minimum fine of \$100 and a maximum fine of \$500. (Amd. Ord 43-16; 10/03/2016)

ARTICLE XXI. ENGAGING IN THE OPERATION OF BINGO OR SIMILAR GAMES OF CHANCE.

14.2101. DEFINITIONS. It shall be unlawful for any person, partnership, corporation or other legal entity or organization to conduct or host games of chance including, but not limited to, Bingo, Pull Tabs, Jar Games, and Raffles except in compliance with the Village Zoning Code. The following are specifically not covered by this section: Off-Track Betting regulated by the Illinois Racing Board; Video Gaming Terminals regulated by the Illinois Video Gaming Act; and Lotteries regulated by the Illinois Department of the Lottery or the Multi-State Lottery Association.

14.2102. PENALTY. Any person, partnership, corporation or other legal entity or organization which shall violate the provisions of the Article shall be fined not less than Fifty Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00) plus court costs. Each day any violation of this Article shall exist shall constitute a separate offense. (Ord. 09-22, 02/07/22)

CHAPTER 15. MASSAGE PARLORS

ARTICLE I. REGULATIONS

15.101. DEFINITIONS. For the purpose of this Article the following words and phrases shall have the meanings respectively ascribed to them by this Section.

A. "Massage". Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, power, creams, lotions, ointments or other similar preparations commonly used in this practice.

B. "Massage Establishment". Any establishment having a fixed place of business where any person, firm, association or corporation engages in or carries on or permits to be engaged in or carried on any of the activities mentions in Section 15.101 A of this Section.

C. "Masseur or Masseuse". Any person, including a trainee, who, for any consideration whatsoever, engages in the practice of massage as herein defined.

D. "Public Bath House". Any place, including a private club or organization, wherein any person, firm, association, corporation or partnership engages in, conducts or carries on or permits to be engaged in, conducted or carried on, the business of giving or furnishing Russian, Finnish, Swedish, hot air, vapor, electric cabinet, steam, mineral, sweat, salt, Japanese, sauna, fermentation or electric baths or baths of any kind whatever, excluding ordinary tub baths where an attendant is not required.

E. "Person". Any individual, copartnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

F. "Employee". Any and all persons, other than the masseurs or masseuses, who render any service to the permittee, who receive compensation directly from the permittee, and who have no physical contact with the customers or clients.

G. "Sexual or Genital Area". Shall include the

genitals, pubic area, buttocks, anus, or perineum of any person, or the vulva or breasts of a female.

H. "Recognized School". Any State of Illinois licensed school or equivalent school or institution which has for its purpose the teaching of the theory, method, profession, or work of massage, which school requires a course of study not less than seventy (70) hours before the student shall be furnished with a diploma or certificate of graduation from such school or institution of learning following the successful completion of such course of study or learning.

I. "Licensee". The operator of a massage establishment.

J. "Bona Fide Non-Profit Club". Any fraternal, charitable, religious, benevolent or any other non-profit organization having a regular membership association primarily for mutual, social, mental, political and civic welfare, to which admission is limited to the members and guests and revenue accruing therefrom to be used exclusively for the benevolent purposes of said organization and which organization or agency is exempt from taxation, under the Internal Revenue Laws of the United States as a bona fide fraternal, charitable, religious, benevolent or non-profit organization.

K. "Building Inspector". The person or persons authorized by the Village Board of Trustees to inspect property for conformance with Building Codes.

15.102. LICENSE. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises in the Village of Machesney Park, the operation of a massage establishment as herein defined, without first having obtained a license from the Liquor Commissioner.

15.103. FILING/FEE PROVISION. Every applicant for a license to maintain, operate or conduct a massage establishment shall file an application with the Comptroller upon a form provided by said Comptroller and pay a filing fee of fifty dollars (\$50.00), which shall not be refundable.

15.104. APPLICATION/MESSAGE ESTABLISHMENT. The application for a license to operate a massage establishment shall set forth the exact nature of the massage to be administered, the proposed place of business and facilities therefor, and the name and address of each applicant.

In addition to the foregoing, any applicant for a license shall furnish the following information:

A. The two (2) previous addresses immediately prior to the present address of the applicant.

B. Written proof that the applicant is at least eighteen (18) years of age.

C. Applicant's height, weight, color of eyes and hair.

D. Two (2) portrait photographs at least two inches by two inches (2" x 2").

E. Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.

F. The message or similar business license history of the applicant; whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

G. All criminal convictions except minor traffic violations.

H. Applicant must furnish a diploma or certificate or graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught; provided, however, that if the applicant will have no physical contact with his customer or clients he need not possess such diploma or certificate of graduation from a recognized school or other institution of learning wherein the method, profession and work of massage is taught.

I. Such other identification and information necessary to discover the truth of the matters hereinbefore specified as required to be set forth in the application.

J. Nothing contained herein shall be construed to deny to the Liquor Commissioner the right to require the fingerprints and additional photographs of the applicant, nor shall anything contained herein be construed to deny the right of said Liquor Commissioner to confirm the height and weight of the applicant.

K. If the applicant is a corporation, the name of

the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors, and each stockholder holding stock of the corporation. If the applicant is a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provisions of this section pertaining to a corporate applicant apply.

15.105. CORPORATE APPLICANT/EXEMPTION. The provisions of Section 15.104, A, B, C, D, and G entitled "Application for massage establishment" relating to requirements for corporate applicants shall not apply to any of the following:

A. A corporation, the stock of which is listed on a stock exchange in the State of Illinois or the City of New York, State of New York.

B. A bank, trust company, financial institution or title company to which application is made or to whom a license is issued in a fiduciary capacity.

C. A corporation which is required by law to file periodic reports with the Securities and Exchange Commission.

15.106. MASSEUR/MASSEUSE LICENSE. It shall be unlawful for any person to engage in the practice of massage as herein defined, in or upon any premises in the Village, without first having obtained a license from the Liquor Commissioner. Any person who engages in the practice of massage as herein defined shall file an application with the Comptroller upon a form provided by said Comptroller and shall pay a filing fee of twenty-five dollars (\$25.00) which shall not be refundable.

15.107. OPERATOR OF MASSAGE ESTABLISHMENT/EXCEPTION. A diploma from a recognized school as defined herein will not be required of the operator of a massage establishment or for any employee where such operator or employee does not give a massage as defined herein.

15.108. APPLICATION FORM/MASSEUR OR MASSEUSE. The application for a masseur or masseuse license shall be completed by the applicant and shall contain the following:

A. Name and residence address.

B. Social Security number and driver's license number, if any.

C. Applicant's weight, height, color of hair and eyes.

D. Written evidence that the applicant is at least eighteen (18) years of age.

E. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.

F. Whether such person has ever been convicted of any crime, except misdemeanor traffic violations. If any person mentioned in this subsection has been so convicted, a statement must be made giving the place and court in which such conviction was had, the specific charge under which the conviction was obtained and the sentence imposed as a result of such conviction.

G. The name and address of the recognized school attended, the date attended and a copy of the diploma or certificate of graduation awarded the applicant showing the applicant has completed not less than seventy (70) hours of instruction.

15.109. FACILITIES NECESSARY. No license to conduct a massage establishment shall be issued unless an inspection by the Building Inspector reveals that the establishment complies with each of the following minimum requirements:

A. Construction of rooms used for toilets, tubs, steam baths, and showers shall be made waterproof with approved waterproofed materials and shall be installed in accordance with applicable building code. Plumbing fixtures shall be installed in accordance with applicable plumbing code.

1. For toilet rooms, toilet room vestibules and rooms containing bathtubs, there shall be a waterproof floor covering, which will be carried up all walls to a height of at least six inches (6").

The walls of all toilet rooms and rooms containing bathtubs shall be finished to a height of six feet (6') with a smooth, non-absorbent finish surface of cement, tile, or similar material.

2. Steam rooms and shower compartments shall have waterproof floors, walls and ceilings approved by the Building Inspector.

3. Floors of wet and dry heat rooms shall be adequately pitched to one or more floor drains

properly connected to the sewer. (Exception: Dry heat rooms with wooden floors need not be provided with pitched floors and floor drain.)

4. A source of hot water must be available within the immediate vicinity of dry and wet heat rooms to facilitate cleaning.

B. Toilet facilities shall be provided in convenient locations. When five (5) or more employees and patrons of different sexes are on the premises at the same time, separate toilet facilities shall be provided. A single water closet per sex shall be provided for each twenty (20) or more employees or patrons of that sex on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. All toilet rooms shall be equipped with self-closing doors opening in the direction of ingress to the toilet rooms. Toilets shall be designated as to the sex accommodated therein.

C. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or the vestibule. Lavatories or wash basins shall be provided with soap a dispenser and with sanitary towels or hot air dryers.

D. All portions of massage establishments and baths shall be provided with adequate light and ventilation by means of windows or skylights with an area of not less than one-eighth (1/8) of the total floor area, or shall be provided with approved artificial light and a mechanical operating ventilating system. When windows or skylights are used for ventilation, at least one-half (1/2) of the total required window area shall be operable.

To allow for adequate ventilation, cubicles, rooms, and areas provided for patrons' use not served directly by a required window, skylight, or mechanical system of ventilation shall be constructed so that the height of partitions does not exceed seventy-five percent (75%) of the floor-to-ceiling height of the area in which they are located.

E. All electrical equipment shall be installed in accordance with the requirements of applicable electrical code.

15.110. OPERATING REQUIREMENTS.

A. Every portion of a massage establishment,

including appliances, apparatus, and personnel shall be kept clean and appliances and apparatus shall be operated in a sanitary condition.

B. All employees shall be clean and shall wear suitable clean outer garments whose use is restricted to the massage establishment. Provision of a separate dressing room for each sex must be available on the premises with individual lockers available for each employee and for each customer. Said lockers shall be equipped with a key lock or number combination locking device. Doors to such dressing rooms shall open inward and shall be self-closing.

C. All massage establishments shall be provided with clean, laundered sheets and towels in sufficient quantity and shall be laundered after each use thereof and stored in a sanitary manner. No towels or sheets shall be laundered or dried in any massage establishment unless such establishment is provided with automatic laundry facilities for such laundry and drying. Covered receptacles shall be provided for the storage of soiled linens and paper towels.

D. Wet and dry heat rooms, shower compartments, and toilet rooms shall be thoroughly cleaned each day the business is in operation. Bathtubs shall be thoroughly cleaned after each use.

E. If the massage establishment is in any building used for residential or sleeping purposes, any room in which the services enumerated in Section 15.101 A herein are provided, is to be used for massage and shall not be used for residential or sleeping purposes; provided, however, that the Health Department may allow such room to be used for residential or sleeping purposes if it finds that the health and safety of the patrons of such establishment will not be jeopardize.

F. Advertising. No massage establishment granted a license under the provisions of the Section shall place, publish or distribute or cause to be placed, published or distributed any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective patrons that any service is available other than those services as described in Section 15.101 A of this Article, nor shall any massage establishment indicate in the text of such advertising that any service is available other than those as described in Section 15.101 A of this Article.

G. No service enumerated in Section 15.101 A of the

Article may be carried on within any cubicle, room, booth or any area within a massage establishment, which is fitted with a door capable of being locked.

H. Sexual or genital area of patrons must be covered by towels, clothes or undergarments when in the presence of an employee, masseur or masseuse.

15.111. VERIFICATION OF APPLICATION. Every application for a license under this Article shall be verified as provided in the Illinois Civil Practice Act for the verification of pleadings.

15.112. ISSUANCE OF LICENSE/ESTABLISHMENT. The Liquor Commissioner shall issue a license within fourteen (14) days following the completed application therefor unless the Liquor Commissioner finds:

A. That operation as proposed by the applicant if permitted would not comply with the Building, Health, Village Planning, Housing and Fire Codes of the Village.

B. That the applicant and any other person who will be directly engaged in the management and operation of a massage establishment has been convicted of any of the following offenses or convicted of an offense outside of the State of Illinois that would have constituted any of the following offenses if committed within the State of Illinois:

1. An offense involving the use of force and violence upon the person of another that amounts to a felony.

The Liquor Commissioner may issue a permit to any person convicted of any of the crimes described in sub-section B 1 of this Section if the Liquor Commissioner finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in this Section.

C. That the applicant for a massage parlor license, is previously conducting a massage establishment within a municipality, engaged in, or any of the applicant's employed masseurs or masseuses engaged in, any of the unlawful activities set forth in Section 15.122 of this Article, Regulating Massage Parlors, Masseurs and Masseuses.

D. That the applicant for a license as a masseur or masseuse, if previously so engaged within a municipality, engaged in any of the unlawful activities set forth in Section 15.122 of this Article Regulating Massage Parlors, Masseurs and Masseuses. (Amd. Ord. 7-83 - 2/24/83)

15.113. OPERATOR TO MAINTAIN REGISTER OF EMPLOYEES. The operator of a massage establishment must maintain a register of all persons employed as masseurs or masseuses and their permit numbers. Such register shall be available for inspection at all times during regular business hours.

15.114. REVOCATION OR SUSPENSION OF LICENSE. Any license issued for a massage establishment may be revoked or suspended by the Liquor Commissioner, after a hearing, for good cause, or in any case where any of the provisions of the Article are violated or where any employee of the permittee, including a masseur or masseuse, is engaged in any conduct which violates any State or local laws or ordinances at permittee's place of business and the permittee has actual or constructive knowledge of such violations or the permittee shall have actual or constructive knowledge by due diligence, or in any case, where the permittee or licensee refuses to permit any duly authorized Police Officer of the Village to inspect the premises or the operations therein, after a hearing before the Public Improvement and Safety Committee, after seven (7) days notice in writing of the time, date and place of said hearing has been mailed to the licensee wherein said causes for revocation or suspension have been found to exist. (Adm. Ord. 13-07 - 05/14/07)

15.115. REVOCATION OF MASSEUR OR MASSEUSE PERMIT. A masseur or masseuse permit issued by the Liquor Commissioner to any employee may be revoked or suspended after a public hearing before the Public Improvement and Safety Committee, after seven (7) days notice in writing of the time, date and place of said hearing has been mailed to the permittee, on any of the following grounds:

A. Violation of any of the provisions of the Article.

B. Violation of any section of Article II entitled "Sex Offenses" of the Illinois Revised Statutes, 1979. (Amd. Ord. 13-07 - 05/14/07)

15.116. EMPLOYMENT/UNDER EIGHTEEN PROHIBITED. It shall be unlawful for any owner, proprietor, manager or other person in charge of any massage establishment to employ any person who is not at least eighteen (18) years of age.

15.117. SALE OR TRANSFER. Upon sale, transfer or relocation of a massage establishment, the permit and license therefor shall be null and void; provided, however, that upon the death or incapacity of the licensee the massage establishment may continue in business for a reasonable period of time to allow for an orderly transfer of the permit.

15.118. NAME & PLACE OF BUSINESS/CHANGE OF LOCATION. No person granted a license pursuant to this Article shall operate under any name or conduct his business under any designation for any location not specified in his permit.

15.119. DISPLAY OF PERMIT. Every person to whom or for whom a permit shall have been granted pursuant to the provisions of this Article shall display said permit in a conspicuous place within the massage establishment so that the same may be readily seen by persons entering the premises.

15.120. INSPECTION. The Police Department of the Village shall upon probable cause to believe that a provision of this Article has been violated make an inspection of any massage establishment in the Village of Machesney Park.

15.121. LICENSE FEES. Every licensee who conducts or assists in conducting or permitting any massage establishment as defined herein shall pay to the Comptroller a license fee of two hundred dollars (\$200.00) annually, payable in advance.

The license fee prescribed in the Section is due and payable upon receipt of the license and on the anniversary date each year thereafter.

15.122. UNLAWFUL ACTIVITIES. It shall be unlawful for any person to massage any other person or give or administer any of the other things mentioned in this Article which violate the provisions of this Article or which violate any Municipal or State law or ordinance, including any offense as set forth in Article II entitled "Sex Offenses" of Chapter 38, Illinois Revised Statutes, 1979. It shall be unlawful for any person, knowingly, in a massage establishment, to place his or her hand upon, to touch with any part of his or her body, to fondle in any manner, or to massage, a sexual or genital area of any person. It shall be unlawful for any masseur or masseuse, employee or operator to perform, offer or agree to perform any act which would require the touching of the patron's genital area.

15.123. EMPLOYMENT/MASSEURS AND MASSEUSES. It shall be the responsibility of the licensee for the massage

establishment or the employer of any persons purporting to act as masseurs and masseuses, to insure that each person employed as a masseur or masseuse shall first have obtained a valid license pursuant to this Article.

15.124. EXCEPTIONS. This Article shall not include hospitals, nursing homes, sanitariums, or persons holding an unrevoked certificate to practice the healing arts and under the laws of the State of Illinois, or persons working under the direction of any such persons or in any such establishments, nor shall this Article apply to barbers or cosmetologists lawfully carrying out their particular profession or business and holding a valid, unrevoked license or certificate of registration issued by the State of Illinois. This Article shall not apply to a physician, surgeon, chiropractor, osteopath or physical therapist duly licensed by the State of Illinois, or to a licensed nurse acting under the direct prescription and direction of any physician, surgeon, chiropractor or osteopath licensed by the State of Illinois.

15.125. VIOLATION/PENALTY.

A. Every person, except those persons who are specifically exempted by this Article, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee or operator, or acting as a participant or worker in any way, or acting as a masseur or masseuse, who gives massages or conducts a massage establishment or who in conjunction with the massage establishment gives or administers, or practices the giving or administering of a massage without first obtaining a license and paying a license fee to do so from the Village of Machesney Park, or shall violate any of the provisions of this Article, shall be subject to a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00).

B. Any owner, operator, manager or permittee in charge or in control of a massage establishment who knowingly employs a person performing as a masseur or masseuse, as defined in this Article, who is not in possession of a valid, unrevoked permit or who allows such a masseur or masseuse to perform, operate or practice within such a place of business shall be subject to a fine of not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00).

15.126. SEVERABILITY. If any Section, subsection, subdivision, paragraph, sentence, clause or phrase in this

Article or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof.

15.127. EFFECTIVENESS CLAUSE. This Article shall be in full force and effect thirty days after passage, approval and publication in pamphlet form as provided by law with the following exceptions:

A. Any massage establishment as defined hereunder in operation as of the effective date of this Article shall not have to comply with Sections 15.104 (H) and 15.108 (G) within thirty days from the passage, approval and publication of this Article. Rather, with a certified list of all currently employed masseurs and masseuses. The masseurs and masseuses on said certified list must comply with Sections 15.104 (H) and 15.108 (G) on or before October 1st, 1984. Any masseur or masseuse employed by a massage establishment as defined herein whose name does not appear on said certified list of currently employed masseurs and masseuses on the effective day of this Article must comply with Sections 15.104 (H) and 15.108 (G) immediately or be in violation of said Article.

B. Any massage establishment as defined hereunder in operation as of the effective date of this Article shall have ninety days after the passage of the Article to comply with the provisions of Section 15.109 of this Article. (Ord. 27-82 - 10/12/82)

CHAPTER 15 1/2. BRANDING, BODY CARVING, BODY
PIERCING AND TATTOOING

ARTICLE I. REGULATIONS

15 1/2.101. DEFINITIONS. For the purpose of this Article the following work and phrases shall have the meanings respectively ascribed them by this section.

A. "Branding" means any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin by aid of heating instruments comprised of metal or other material(s).

B. "Body Carving" means any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with the use of, but not limited to, knives, wires, scalpels or any other material used in surgical and anatomical operations and dissections.

C. "Body Piercing" means making a hole in a part of the human body, except for ears, for the purpose of inserting and affixing an artificial object but not for the purpose of providing health related care or treatment by a health provider duly licensed by the State of Illinois.

D. "Employee" means any and all persons, other than the tattoo artists, who render any service to the permittee, who receives compensation directly from the licensee, and who have no physical contact with the customers or clients.

E. "Licensee" means the operator of a tattoo establishment.

F. "Person" means any individual, co-partnership, firm, association, Joint Stock Company, corporation or combination of individuals of whatever form or character.

G. "Tattoo" means any method of placing designs, letters, scrolls, figures, symbols or any other marks upon or under the skin with ink or any other substance

resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin.

H. "Tattoo Artist" means an individual who performs branding, body carvings, body piercing or applies tattoos.

I. "Tattoo Establishment" means any establishment having a fixed place of business where any person, firm, association or corporation engages in or carries on or permits to be engaged in or carried on branding, body carving, body piercing or tattooing.

15 1/2.102. LICENSE. It shall be unlawful for any person to engage in, conduct or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premise in the Village of Machesney Park, the operation of a tattoo establishment as herein defined, without first having obtained a license from the Village.

15 1/2.103. FILING/FEE PROVISION. Every applicant for a license to maintain, operate or conduct a tattoo establishment shall file an application with the Village upon a form provided by the Village and pay a filing fee of fifty dollars (\$50.00), which shall not be refundable.

15 1/2.104. APPLICATION/TATTOO ESTABLISHMENT. The application for a license to operate a tattoo establishment shall set forth the exact nature of the services to be provided, the proposed place of business and facilities therefor, and the name and address of each applicant.

In addition to the foregoing, any applicant for a license shall furnish the following information:

A. The two (2) previous addresses immediately prior to the present address of the applicant.

B. Written proof that the applicant is at least eighteen (18) years of age.

C. Applicant's height, weight, color of eyes and hair.

D. Two (2) portrait photographs at least two inches by two inches (2"X2").

E. Business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of application.

F. The tattoo or similar business license history of the applicant; whether such person, in previously operating in this or another city or state under license, has had such license revoked or suspended, the reason therefor, and the business activity or occupation subsequent to such action of suspension or revocation.

G. All criminal convictions except minor traffic violations.

H. Such other identification and information necessary to discover the truth of the matters herein before specified as required to be set forth in the application.

I. Nothing contained herein shall be construed to deny the Village Comptroller the right to require the fingerprints and additional photographs of the applicant, nor shall anything contained herein be construed to deny the right of the Village to confirm the height and weight of the applicant.

J. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its article of incorporation together with the names and residence addresses of each of the officers, directors and each stockholder holding stock of the corporation. If the applicant is a partnership, the application shall set forth the name and the residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the provision of this section pertaining to a corporate applicant apply.

15 1/2.105. CORPORATE APPLICANT/EXEMPTION. The provisions of Section 15 1/2 A, B, C, D, G entitled "Application for tattoo establishment" relating to requirements for corporate applicants shall not apply to any of the following:

A. A corporation, the stock of which is listed on a stock exchange in the State of Illinois or the City of New York, State of New York.

B. A bank, trust company, financial institution or title company to which Application is made or to whom a license is issued in a fiduciary capacity.

C. A corporation which is required by law to file periodic reports with the Securities and Exchange Commission.

15 1/2.106. TATTOO ARTIST LICENSE. It shall be unlawful for any person to engage in the practice of branding, body carving, body piercing or tattooing as herein defined, in or upon any premise in the Village, without first having obtained a license from the Village of Machesney Park. Any person who engages in the practice of branding, body carving, body piercing or tattooing as herein defined, shall file an application with the Village upon a form provided by the Village and shall pay a filing fee of Twenty-five dollars (\$25.00), which shall not be refundable.

15 1/2.107. APPLICATION FORM TATTOO ARTIST. The application for a tattoo artist license shall be completed by the applicant and shall contain the following:

A. Name and residence address.

B. Social Security number and driver's license number, if any.

C. Applicant's weight, height, color of eyes and hair.

D. Written evidence that the applicant is at least eighteen (18) years of age.

E. Business, occupation or employment of the applicant for the three (3) years immediately preceding the date of application.

F. Whether such person has ever been convicted of any crime, except misdemeanor traffic violations. If

any person mentioned in this subsection had been so convicted, a statement must be made giving the place and court in which such conviction was obtained and the sentence imposed as a result of such conviction.

15 1/2.108. ZONING REQUIRED. No license to conduct a tattoo establishment shall be issued unless complying with the Village Zoning Code and the following restrictions:

A. A tattoo establishment may not be operated within one thousand feet (1000') of the following previously established uses:

1. A church, synagogue or regular place of worship.

2. A public or private elementary or secondary school.

3. Any residential property legally used or zoned for residential purposes.

4. A public park.

5. A day care facility.

6. Another tattoo establishment.

B. For the purpose of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from nearest portion of the building or structure used as a part of the premises where a tattoo establishment is located, to the nearest property line of a church, school, park, residential use or other tattoo establishment, or the nearest boundary of a residential zoning district.

C. Nothing in this Section shall be interpreted to authorize or permit any activity or conduct prohibited by any local, State or Federal law.

15 1/2.109. REQUIRED INSPECTIONS. No license to conduct a tattoo establishment shall be issued prior to the following inspections.

A. An inspection by the Village Building Inspector for the purpose of assuring that the establishment complies with the minimum requirements of the Building Codes for the Village of Machesney Park.

B. An inspection by the Winnebago County Health Department for the purpose of assuring that the premises comply with all the sanitation requirements set forth in this article and with the regulations of public health, safety and welfare.

15 1/2.110. HEALTH AND SANITARY REQUIREMENTS. Any individual or establishment engaging in the practice of branding, body carving, body piercing or tattooing as herein defined shall comply with the following requirements.

A. The entire premises of the facility and all equipment shall be maintained in a good repair, clean, sanitary condition and shall be kept in full compliance with all applicable Village ordinances and State statutes including, but not limited to, the health codes, zoning codes and building codes.

B. Any individual or establishment desiring to engage in the practice of branding, body carving, body piercing or tattooing shall first inquire as to whether or not the potential recipient of the procedures is under the influence of intoxicating substances. Any individual who appears to be or admits to being under the influence of intoxicating substances shall not receive a branding, body carving, body piercing or tattoo.

C. Any individual or establishment desiring to engage in the practice of branding, body carving, body piercing or tattooing shall first inquire as to whether or not the potential recipient to the procedure has a history of any communicable disease. Any individual providing a history of a communicable disease shall not receive a branding, body carving, body piercing or tattoo.

D. Any individual or establishment desiring to engage in the practice of branding, body carving, body piercing or tattooing shall explain to each potential

recipient before performing the branding, body carving, body piercing or tattooing procedure in written form or through a conspicuously posted sign the following:

1. The nature of the procedure to be conducted.
2. Possible tissue reactions following the procedures.
3. Importance of after procedure care.
4. The permanent nature of the application.

E. Any individual or establishment who performs a branding, body carving, body piercing or tattooing procedure shall maintain proper records of each client. The records shall include the following:

1. The date on which the procedure was performed.
2. The name, address, phone number and age of the client.
3. The name, address, phone number and age of the individual performing the procedure.
4. A description of the procedure.
5. The signature of the client.

F. The information required in subsection (E) shall be permanently recorded and made available for examination and shall be kept by the individual or establishment for at least two (2) years.

G. Used tattoo needles and other infectious waste shall be stored, treated and disposed of in accordance with the provisions of the State and Federal regulations concerning the management and disposal of infectious waste.

15 1/2.111. VERIFICATION OF APPLICATION. Every application for a license under this article shall be

verified as provided in the Illinois Civil Practice Act for the verification of pleadings.

15 1/2.112. ISSUANCE OF TATTOO ESTABLISHMENTS LICENSE. The Village shall issue a license within fourteen (14) days following the completed required inspections and completed application unless the Village finds:

A. That the operation as proposed by the applicant, if permitted, would not comply with the Zoning, Building, Health and Fire Codes of the Village.

B. That the applicant and any other person who will be directly engaged in the management and operation of a tattoo establishment has been convicted of any of the following offenses or convicted of an offense outside of the State of Illinois that would have constituted any of the following offenses if committed within the State of Illinois.

1. An offense involving the use of force and violation upon the person of another that amounts to a felony.

The Village may issue a permit to any person convicted of any of the crimes described in subsection B 1 of this Section if the Village finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in this Section.

15 1/2.113. ISSUANCE OF TATTOO ARTIST LICENSE. The Village shall issue a license within fourteen (14) days following the completed application unless the Village finds:

A. That the applicant is not at least eighteen (18) years of age.

B. That the applicant has been convicted of any of the following offenses or convicted of an offense outside of the State of Illinois that would have constituted any of the following offenses if committed within the State of Illinois:

1. An offense involving the use of force and violence upon the person or another that amounts to a felony.

The Village may issue a permit to any person convicted of any of the crimes described in subsection B 1 of this Section if the Village finds that such conviction occurred at least five (5) years prior to the date of the application and the applicant has had no subsequent felony convictions of any nature and no subsequent misdemeanor convictions for crimes mentioned in this Section.

15 1/2.114. OPERATOR TO MAINTAIN REGISTER OF EMPLOYEES. The operator of a tattoo establishment must maintain a register of all persons employed as tattoo artists and their license numbers. Such register shall be available for inspection at all times during regular business hours.

15 1/2.115. REVOCATION OR SUSPENSION OF TATTOO ESTABLISHMENT LICENSE. In any case where any of the provisions of this Article are violated or where any employee of the licensee, including a tattoo artist, is engaged in any conduct which violates any State or local laws or ordinances at licensee's place of business and the licensee has actual or constructive knowledge of such violations or the licensee has actual or constructive knowledge by due diligence, or in any case, where the licensee, tattoo artist, or any other employee refuses to permit any duly authorized personnel of the Village to inspect the premises or the operations therein, the tattoo establishment license shall be suspended automatically by the Village.

The Village shall notify the licensee within seven (7) days in writing of said causes for automatic suspension. The Public Safety, Health and Welfare Committee shall hold a public hearing within forty-five (45) days and if not satisfied that the provisions of this Article is being complied with, may revoke, suspend or take such action as may be necessary to ensure compliance with this Article. The Village shall notice the licensee in writing of the time, date and place of said hearing at least seven (7) days prior to the date of said hearing.

Within five (5) days following the date of a decision of the Public Safety, Health and Welfare Committee, the Village shall transmit to the Village Board written notice of the decision. The decision shall become final ten (10) days following the date on which the tattoo establishment license was revoked or on the day following the next meeting of the Village Board whichever is later, unless an appeal has been taken to the Village Board or unless the Village Board shall elect to review the decision of the Public Safety, Health and Welfare Committee.

15 1/2.116. REVOCATION OR SUSPENSION OF TATTOO ARTIST LICENSE. A tattoo artist license issued by the Village of Machesney Park may be automatically suspended by the Village for violation of any of the provisions of the Article including any of the following:

A. Unfitness or incompetence by reason of negligence, habits or other causes regardless of whether actual damage to the public is established.

B. Habitual intemperance, addiction or dependency on alcohol or other habit forming substances.

C. Mental incompetence resulting in an inability to practice as a tattoo artist.

D. Submitting to or filing with the Village any application, notice, statement or other document containing false information when procuring or attempting to procure a tattoo artist license.

E. Using the title "licensed tattoo artist" or any designation tending to imply that the person is a licensed tattoo artist when the person is not licensed or the person's license has been suspended or revoked.

F. Violation conditions or limitations of a tattoo artist license.

G. Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm any individual of the public in the course of providing professional services or activities.

H. Having disciplinary action concerning the practice of a tattoo artist as defined in this article taken against the tattoo artist in another state.

I. Knowingly aiding or abetting an unlicensed person, conspiring with an unlicensed person, allowing one's license to be used by an unlicensed person, or acting as the agent or associate of an unlicensed person in order to enable the unlicensed person to evade the requirements of this Article.

J. Engaging in false or misleading advertising.

K. Engaging in sexual conduct in connection with professional services or activities.

The Village shall notify the tattoo artist within seven (7) days in writing of said causes for automatic suspension. The Public Improvement and Safety Committee shall hold a public hearing within forty-five (45) days and if not satisfied that the provisions of this Article is being complied with, may revoke, suspend or take such action as may be necessary to ensure compliance with this Article. The Village shall notice the tattoo artist in writing of the time, date and place of said hearing at least seven (7) days prior to the date of said hearing.

Within five (5) days following the date of a decision of the Public Improvement and Safety Committee the Village shall transmit to the Village Board written notice of the decision. The decision shall become final ten (10) days following the date on which the tattoo artist's license was revoked or on the next day following the next meeting of the Village Board of unless the Village Board shall elect to review the decision of the Public Improvement and Safety Committee. (Ord. 13-07 - 05/14/07

15 1/2.117. EMPLOYMENT UNDER EIGHTEEN (18) PROHIBITED. It shall be unlawful for any owner, proprietor, manager or other person in charge of any tattoo establishment to employ any person who is not at least eighteen (18) years of age.

15 1/2.118. SALE OR TRANSFER. Upon sale, transfer or relocation of a tattoo establishment the license therefor shall be null and void; provided, however, that upon the death or incapacity of the licensee the tattoo establishment may continue in business for a reasonable period of time to allow for an orderly transfer of the permit.

15 1/2.119. NAME AND PLACE OF BUSINESS/CHANGE OF LOCATION. No person granted a license pursuant to this Article shall operator under any name or conduct his business under any designation for any location not specified in his permit.

15 1/2.120. DISPLAY OF LICENSE. Every person to whom or for whom a license shall have been granted pursuant to the provisions of this Article shall display said license in a conspicuous place within the tattoo establishment so that the same may be readily seen by persons entering the premises.

15 1/2.121. INSPECTION. The Police Department of the Village and/or any duly authorized personnel of the Village shall upon probable cause to believe that a provision of this Article has been violated shall make an inspection of any tattoo establishment in the Village of Machesney Park.

15 1/2.122. TATTOO ESTABLISHMENT LICENSE FEES. Every licensee who conducts or assists in conducting or permitting any tattoo establishment as defined herein shall pay to the Village a license fee of two hundred dollars (\$200.00) annually, payable in advance.

15 1/2.123. TATTOO ARTIST LICENSE FEES. Every tattoo artist as defined herein shall pay to the Village a license fee of one hundred dollars (\$100.00) annually, payable in advance.

The license fee prescribed in this Section is due and payable upon receipt of the license and on the anniversary date each year thereafter.

15 1/2.124. EMPLOYMENT TATTOO ARTIST. It shall be the responsibility of the licensee for the tattoo establishment or the employer of any persons purporting to act as tattoo shall first have obtained a valid license pursuant to this Article.

15 1/2.125. EXCEPTIONS. This Article shall not include hospitals, nursing homes, sanitariums or persons holding an unrevoked certificate to practice the healing arts and under the laws of the State of Illinois, or persons working under the direction of any such persons or in any such establishment. This Article shall not apply to health care providers duly licensed by the State of Illinois providing health-related care or treatment.

15 1/2.126. VIOLATION/PENALTY.

A. Every person, except those persons who are specifically exempted by this Article, whether acting as an individual, owner, employee of the owner, operator or employee of the operator, or whether acting as a mere helper for the owner, employee or operator, or acting as a participant or worker in any way, or acting as a tattoo artist, who engages in the practice of branding, body carving, body piercing or tattooing or conducts a tattoo establishment or who in conjunction with the tattoo establishment engages in the practice of branding, body carving, body piercing or tattooing without first obtaining a license and paying a license fee to do so from the Village of Machesney Park, or shall violate any provisions of this Article, shall be subject to a fine of not less than five hundred dollars (\$500). Each day the violation continues shall be considered a separate offense.

B. Any owner, operator, manager or permittee in charge or in control of a tattoo establishment who knowingly employs a person as a tattoo artist, as defined in the Article, who is not in possession of a valid, unrevoked permit or who allows such tattoo artist to practice within such a place of business shall be subject to a fine of not less than two hundred and fifty dollars (\$250) nor more than five hundred dollars (\$500). Each day the violation continues shall be considered a separate offense.

15 1/2.127. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Article or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of

competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof. (Ord. 7-00 - 2/22/00)

CHAPTER 16. MOTELS

ARTICLE I. REGULATIONS/LICENSING

16.101. DEFINITIONS. For the purposes of this chapter, certain terms and works are hereby defined as follows:

A. "Auto court and resort" means any area, place or tract of land where two or more single-family dwellings, or a building containing two (2) or more apartments designed, used or intended wholly or in part for the accommodation of transients, are located and offered for hire, rent or lease by any person, firm or corporation. Auto court and resort also includes any motel, auto inn, or roadside hotel.

B. "Auto court and resort, auto inn, motel or roadside hotel" shall be construed to mean any permanent structure where transient sleeping accommodations are afforded or provided for the public where parking facilities for motor vehicles are provided in a parking lot or garage on the same premises. However, it is provided herein that a hotel which furnishes parking space or has a garage in connection with the hotel shall not be construed as an auto court and resort, motel, auto inn, or roadside hotel.

C. "Building" means a tent, tent house, single and multi-family dwelling, public toilets, public baths, and laundry rooms or other structures and a compartment containing a toilet or bath, or both, constructed for the exclusive use of an occupant of a campsite.

D. "Cabin plot" means a section of ground not less than thirty feet by forty feet in area, upon which only one camp cottage or cabin is located.

E. "Dwelling unit" is a house or building, or portion thereof, which is occupied, in whole or in part, as a residence or sleeping place by one or more human beings, transiently. Dwelling is a building containing one or more apartments.

F. "Dwelling units" are dwellings in a building occupied by various human beings as a residence or sleeping place transiently in conformity with Building and Zoning Ordinance as applied to "Local Business Districts".

G. "Garage" means any place in any building used for the storage of automobiles.

H. "Motel" means a building containing two or more guest rooms or apartments, or combinations thereof, each of which has a separate, individual entrance leading directly from the outside of the building and is designed, used or intended wholly or in part for the accommodation of automobile transients. Motel is an inn or group of cabins along a highway, in which motorists may spend the night.

I. "Shall" is mandatory and "may" is permissive.

16.102. TITLE. This chapter, including such rules and regulations it adopts by reference, is entitled the "Machesney Park Motel Ordinance."

16.103. INTERPRETATION AND APPLICATION OF CHAPTER. In the interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where this chapter imposes a greater restriction upon the use of buildings or premises for auto court and resort, motel, auto inn, or roadside hotel purposes than are imposed or required by the provisions of existing ordinance, rules and regulations, the provisions of this chapter shall control.

16.104. LICENSE REQUIRED/FEE. It shall be unlawful for any person to establish, operate or maintain, or permit to be established, operated or maintained upon any property owned or controlled by him, an auto court and resort, motel, auto inn or roadside hotel within the boundaries of the Village of Machesney Park, Illinois, the business of providing for the lodging of transients, without having first secured a license therefor from the granted in compliance with the terms of this chapter. Such license shall be valid and have force in the Village until the succeeding April thirtieth from the date of issuance, but it may be renewed under the provisions of this chapter of additional periods of one year. The annual fee for such license shall be ten dollars (\$10.00), plus two dollars (\$2.00) per year for each unit available for hire; provided, however, that such license fees shall not exceed two hundred dollars (\$200.00) per year. The Village shall pay such license fees to the Village Treasurer.

16.105. APPLICATION. The application for the license required by this chapter or renewal thereof shall be filed with the Village and shall be accompanied by the required fee.

The application for a license or a renewal thereof shall be made on printed forms furnished by the Village and shall include the name and address of the applicant and the

name under which the facility will be operated, a brief and concise description of the type of facility being licenses, which shall include information as to location and number of units.

16.106. APPROVAL. Before any new license may be issued under this chapter there must be a favorable recommendation by a majority of the Village Board and the premises must be inspected and approved by the Zoning and Building Officer, or his duly authorized representative, as to complying with all the provisions of this chapter and all other applicable provisions of this chapter or other ordinances of the Village, however, no such recommendation is required if a license had been previously issued to the applicant at the same location by the County of Winnebago, Illinois.

16.107. The President of Machesney Park is hereby authorized to revoke any license issued pursuant to the terms of this chapter if after due investigation he determines that the holder thereof has violated any of the provisions of this chapter or that any cabin is being maintained in an unsanitary or unsafe manner or is a nuisance.

16.108. OFFICE REQUIRED/DISPLAY OF LICENSE AND CHAPTER/REGISTER GENERALLY. In every auto court and resort, motel, auto inn or roadside hotel, there shall be an office building in which shall be located the office of the person in charge of such camp. A copy of the auto court license and of this chapter shall be posted therein and the camp register shall at all times be kept in the office.

16.109. DUTIES OF OPERATOR AND LICENSEE. It is hereby made the duty of the attendant or person in charge of the facilities regulated by this chapter, together with the licensee to:

A. KEEPING REGISTER. Keep at all times a register of all guests, which shall be open at all times to inspection by state, county and federal officers and officers of the Village showing for all guests:

- (1) Names and addresses.
- (2) Dates of entrance and departure.
- (3) License numbers of all cars.

B. MANNER OF MAINTAINING. Maintain the auto court and resort, motel, auto inn or roadside hotel in a clean, orderly and sanitary condition at all times.

C. COMPLIANCE WITH CHAPTER, ETC. See that the

provisions of this chapter are complied with and enforced and report to the proper authorities any violations of this chapter or any other violations of law which may come to his attention.

D. REPORT OF COMMUNICABLE DISEASES. Report to the appropriate health officer all cases of persons or animals affected or suspected of being affected with any communicable disease.

E. DOMESTIC ANIMALS RUNNING AT LARGE. Prevent the running loose of dogs, cats or other animals or pets.

F. FIRE EXTINGUISHER. Maintain within space to be known as "Office," one ten pound carbon-dioxide type fire extinguisher, which shall be hung on the wall of the office, and be readily seen when entering the door. There shall be one of each of the above mentioned fire extinguisher provided for each eight units. Additional units shall be equipped with extinguisher on the same ratio.

G. OPEN FIRES. Prohibit the lighting of open fires on the premises.

H. PROPER NUMBER OF OCCUPANTS. Prohibit the use of any cabin or dwelling unit by a greater number of occupants than that which it is designed to accommodate.

16.110. SEWAGE, ETC.,/DISPOSAL. All waste from showers, toilets, laundries, faucets and lavatories shall be wasted into a sewer system extended from and connected with a sanitary sewer system. In any auto court and resort, motel, auto inn or roadside hotel in which such sanitary sewer system connections are not available, disposal of sewage and other water-carried wastes shall be into a private system which includes a sanitary means of disposal, the operation of which creates neither a nuisance nor a menace to health.

16.111. GARBAGE DISPOSAL. Every unit shall be provided with substantial fly-tight metal garbage depository and tight fitting cover from which the contents shall be removed by an approved scavenger service.

16.112. NUMBER OF OCCUPANTS ALLOWED. No cabin or dwelling unit may be inhabited with a greater number of occupants than that for which it was designed.

16.113. APPLICABILITY OF BUILDING, PLUMBING, ETC., ORDINANCES/TOILET, ETC., FACILITIES. All plumbing, electrical, building and other work on or at any court licensed under this chapter shall be in accordance with the

ordinances of the Village regulating such work, and each dwelling unit shall have installed therein at least one approved water closet, one wash basin, and one bathtub or one shower bath. Whenever the so called convenience apartments are offered, there shall be one kitchen sink installed in a room separate from the sleeping and living quarters.

Nothing herein shall be construed to alter, amend or change the Building Code insofar as it refers to structures for permanent occupancy.

16.114. FIRE WALLS, ETC., REQUIRED FOR CERTAIN PARKING SPACES. No parking space shall be provided for motor vehicles within ten feet of any building or structure used for housing accommodations in an auto court and resort, motel, auto inn, or roadside hotel unless the wall facing such parking space is constructed of fireproof materials and unless the windows in such wall, if any, are equipped with reinforced fire-resistant glass.

16.115. ZONING CLASSIFICATION. No person shall locate, build, construct, operate or maintain any auto and resort, motel, auto inn or roadside hotel without complying with "Local Business District" as provided in the Zoning Ordinance.

16.116. ADDITIONAL REGULATIONS. It shall be unlawful to permit any violation of any ordinance or law on or in any auto court and resort, motel, auto inn, or roadside hotel. Such premises must be kept clean and sanitary at all times, and all waste material must be removed therefrom at least once every twenty-four hours. Each of the respective departments of Village shall inspect or cause to be inspected each auto court, motel or roadside hotel to see to the compliance with the provisions of this chapter. The licensee shall allow each of the respective departments full access to the premises at reasonable hours for the purpose of making their respective inspections.

16.117. PENALTY. Any person violating any provision of this chapter shall be fined not exceeding two hundred dollars for each offense, and, a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 10-81 - 5/7/81)

CHAPTER 17. CIVIL DEFENSE

(Reserved)

CHAPTER 18. PURCHASING

ARTICLE I. PURCHASING AND BACKGROUND

The purpose of this directive is to provide comprehensive purchasing policies and procedures as guidance in procuring equipment, materials, supplies and services for the operational requirements of the Village of Machesney Park, and is created to ensure competitive and unbiased selection of qualified and cost-effective vendors and suppliers. This Chapter is intended for use by Village personnel as a general reference and will be revised as policies and procedures require revisions or clarification. (Amd. Ord. 43-09 - 01/04/2010)

ARTICLE II. PURCHASING OBJECTIVES

The objectives of this purchasing manual are as follows:

18.201. It is the philosophy of the Village of Machesney Park to conduct a purchasing process which will result in maximum value in the goods and services purchased for the tax dollar spent. It is the policy of the Village of Machesney Park that the purchasing process will achieve the following objectives:

- A. Purchase goods and services at the lowest cost consistent with specified quality and service levels.
- B. Promote full competition from vendors through a standardized formal bidding process.
- C. Comply with all local, state and federal regulations regarding the purchase of municipal goods and services.
- D. Maintain standards of quality in materials.
- E. Avoid duplication, waste and obsolescence with respect to materials and equipment.

18.202 The policies and procedures in the section that follow are meant to serve as guidelines and may not govern every purchasing situation which may arise. When purchases of an emergency nature are necessary, the Village should strive to maintain the objectives outlined in Section 18.201. (Amd. Ord. 43-09 - 01/04/2010)

18.203. To enable the Village to follow a purchasing procedure which promotes availability of material and services when needed, without creating excess inventory.

18.204. To provide adequate controls and oversight over Village expenditures as required by the Village's auditors and in compliance with local government accounting practices and principles.

* * * * *

Note: The following policies and procedures are meant to serve as guidelines and may not govern every purchasing situation which may arise. When purchases of an emergency nature are necessary, the Village should strive to maintain the objectives outlined above.

ARTICLE III. GENERAL PURCHASING POLICIES

This section describes Village purchasing policies which apply to all non-emergency purchases of material, equipment, supplies, and services.

18.301. PURCHASING CATEGORIES

18.302. Non-emergency purchases made by the Village may be grouped under the following categories:

- A. Purchases up to \$2,500
- B. Purchases between \$2,501 and State Limit, as defined in 65 ILCS 5/8-9-1 and as amended, hereafter referred to as "State Limit."
- C. Purchases Above the State Limit
(Amd. Ord. 43-09 - 01/04/2010)

18.303. All of these categories require a different level of organizational approval.

A. Purchases up to two thousand five hundred dollars (\$2,500) can be made in the open market with approval of the Department Head. Verbal or written quotes are encouraged whenever possible. Physical records regarding dates, contacts, and quotes received should be retained in the department's files.

B. Purchases between two thousand five hundred one dollars (\$2,501) and the State Limit require three written quotes, where practical, and the approval of the Administration & Finance Director and Village President. Physical records regarding dates, contacts, and quotes received should be retained in the department's files.

C. Purchases above the State Limit must be competitively bid through formal public bid procedures, and in accordance with State law and Village ordinances. Bid documents require written approval of the Village President, and final bid approval is made by the Village Board. Requires approval of the Administration & Finance Director, Village President, and Board of Trustees. (Amd. Ord. 43-09 - 01/04/2010)

18.304. Emergency Purchases. In the event of enemy caused, other disaster, or other exigent circumstances, the Village President or his/her designee is authorized on behalf of the Village to procure such services, supplies, equipment, or materials as may be necessary for such purposes, in view of exigency, without regard to the statutory procedures or formalities normally prescribed by law pertaining to Village contracts or obligations, as authorized by the Village Code. (Amd. Ord. 43-09 - 01/04/2010)

ARTICLE IV. PURCHASING PROCEDURES

18.401. PURCHASES UNDER \$2,500. Purchases up to two thousand five hundred dollars (\$2,500) can be made in the open market with approval of the Department Head. Verbal or written quotes are encouraged whenever possible. Physical records regarding dates, contacts, and quotes received should be retained in the department's files.

PROCEDURE:

1. Staff evaluates need for service or item based on Department and Village objectives, and verifies that funds are appropriated and available.
2. Staff obtains verbal or written quotes if possible, including taking telephone bids, obtaining prices through catalogs or electronic means, and receiving letter quotations.
3. Staff makes recommendation after review of quotes and Department Head gives final approval.
4. Village Board retains oversight through approvals of monthly warrants and annual budget.

If a supplier is recommended who has not quoted the lowest price, staff should document the reason for not recommending the supplier quoting the lowest price. If the purchase is for a routine operating good or service, a price comparison shall be performed once during the fiscal year. Exceptions to obtaining price quotes from more than one vendor may occur in the event an item is unique and/or specialized or specifications are detailed.

18.402. PURCHASES BETWEEN \$2,501-State Limit. Purchases of materials, equipment, services or supplies between two thousand five hundred and one dollars (\$2,501) and the State Limit are made by obtaining three written quotes where practical and the approvals of the Director of Administration & Finance and Village President. Physical records regarding dates, contacts and quotes received shall be retained in the department's files.

PROCEDURE:

1. Staff evaluates need for service or item based on Department and Village objectives, and verifies that funds are appropriated and available.
2. Staff obtains three written quotes, including taking telephone bids, obtaining prices through catalogs or electronic means, and receiving letter quotations.
3. Staff makes recommendation to Director of Administration & Finance after review of quotes. Director of Administration & Finance makes recommendation to Village President for final approval.
4. Village Board retains oversight through approvals of monthly warrants and annual budget.

If a supplier is recommended who has not quoted the lowest price, staff should document the reason for not recommending the supplier quoting the lowest price. If the purchase is for a routine operating good or service, a price comparison shall be performed once during the fiscal year. Exceptions to obtaining price quotes from more than one vendor may occur in the event an item is unique and/or specialized or specifications are detailed.

18.403. PURCHASES ABOVE STATE LIMIT. Purchases of materials, equipment, services or supplies above the State Limit must be competitively bid through formal public bid procedures, and in accordance with State law and Village ordinances. Bid documents require written approval of the Village President, and final bid approval is made by the Village Board. Requires approval of the Director of Administration & Finance, Village President, and Board of Trustees. The Village President may waive the public bid requirement when procuring certain professional services as outlined in state statute. In these situations, the Village President may require that request for proposals be utilized. The purchasing procedure under this paragraph may be waived by a 2/3 vote of the corporate authorities.

PROCEDURE:

1. Staff evaluates need for service or item based on Department and Village objectives, and verifies that funds are appropriated and available.
2. Notice of call for bids shall be published in a newspaper of general circulation throughout the Village by at least one insertion which shall be at least ten (10) days prior to the time designated for opening bids. The notice shall include a general description of the article or service desired; shall state the time, date and place of bid opening and shall designate where bidding documents may be found. (See Appendix B)
3. Formal bids are opened and read publicly at Village Hall on the date specified and immediately following the time shown in the notice of call for bids. Bids are read aloud and recorded on a bid tabulation form. A copy of the bid tab form is available to all bidders after the bid opening.
4. Bids are tabulated and analyzed by the appropriate staff and memorandum issued to the appropriate committee stating how the award should be made. The appropriate committee shall provide a recommendation to the Village Board based on its review of the recommended bid. Recommendation is usually based upon an award to the lowest responsible, responsive bidder meeting specifications. Criteria for awarding bids shall be made in the bid specifications and are subject to modification depending on the product or service being acquired.
5. Final bid is awarded by the Village Board, and official contracts and/or agreements are signed by the Village President.

Bidding forms are attached to this document as Appendix A. These forms are examples of standard language that may be used in all bid documents. It is recognized that certain variances in language and form will be required in bidding for certain items. The decision to provide variance in form and language shall be at the discretion of the Village President with advice from the Village Attorney.

18.404 PETTY CASH PURCHASES. The petty cash fund should be used whenever immediate payment for goods is needed. Petty cash should be restricted to payments less than \$200 where practicable. All petty cash payments must be supported with receipts. Use of petty cash should be avoided unless necessary. The Director of Administration & Finance or his/her designee is responsible for the petty cash fund and are the only persons allowed to disburse money

from the account. (Ord. 49-97 - 9/22/97; Amd. Ord. 43-09 - 01/04/2010)

ARTICLE V. EQUAL OPPORTUNITY/NON-DISCRIMINATION POLICY

It is the policy of the Village of Machesney Park that all potential bidders shall have an opportunity to submit bids and to compete on an equal basis for Village business.

All purchases and contracts to which the Village of Machesney Park is party shall contain a nondiscrimination in employment clause which provides:

"The vendor agrees that in performing under this purchase order with the contracting municipality, he/she shall not discriminate against any worker, employee or applicant, or any member of the public because of race, creed, color, national origin, or sex. The vendor further agrees that this clause will be incorporated in all contracts entered into with suppliers of materials or services who may perform any such labor or services in connection with this contract."

18.501. PREVAILING RATE OF WAGES. It is the policy of the Village of Machesney Park that the prevailing rate of wages as found by the Village, the Department of Labor, or determined by the Court on Review shall be paid to all laborers, workers and mechanics performing work for the Village.

18.502. JOINT PURCHASING. It is the policy of the Village of Machesney Park to encourage purchasing under intergovernmental agreements with other local governments, and/or state or federal agencies when feasible. (Ord. 10-91 -3/18-91)

ARTICLE VI - RESPONSIBLE BIDDER FOR CONSTRUCTION CONTRACTS OVER \$25,000.00

18.601 This section shall apply to bidders for construction projects (construction of new facilities, renovation of current facilities or road construction projects) over \$25,000.00 (spent in any one fiscal year). (Amd. Ord 06-20 - 2/18/2020)

18.602 "Responsible" bidder for construction projects is defined as a bidder who substantially meets the following applicable criteria and in awarding contracts, the Board shall consider:

- A. Bidders compliance with all applicable law prerequisite to doing business in Illinois and all applicable law relating to bidding and performing public contracts in Illinois.
- B. Bidders compliance with all requirements provided in the bid specifications for the project.
- C. Bidder's participation in apprenticeship and training programs approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training.
- D. Bidder's ability, capacity and skill to perform the contract and to provide the services required.
- E. Whether the bidder can perform the contract or provide the service promptly or in the time specified without delay or interference.
- F. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
- G. The quality of performance of previous contracts or services by the bidder.
- H. The previous and existing compliance by the bidder with laws and ordinances relating to the contract for services.
- I. The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service.
- J. The quality, availability and adaptability of the supplies or contractual services to the particular use required.
- K. The ability of the bidder to provide future maintenance and service for/of subject contract.
- L. The number and scope of conditions attached to the bid.

PERTAINING TO BIDS
APPENDIX A – B - C

&

(EXAMPLE)

BID SPECIFICATIONS
**Type of Contract

Bid Opening:

**Date

**Time

Village Hall

Village of Machesney Park

Contact: ** (Name)
Public Works Superintendent

Introduction

Submitters of bids shall provide answers to direct questions or comments to any part of this bid specification as provided in the instructions.

The term "Village" hereinafter shall refer to the Village of Machesney Park. The term "company" hereinafter shall refer to a submitter of a bid.

The term "bid" hereinafter shall refer to the minimum specifications described herein.

Any questions or comments regarding this bid shall be directed to **_____, Director of **_____, at (815) 877-5432 or by mail at 300 Roosevelt Road, Machesney Park, IL 61115.

1.0 OVERVIEW AND PURPOSE

1.1 Purpose - The Village of Machesney Park, IL is seeking to obtain bids from qualified companies to provide (general description of item being purchased or services required) for the period from (insert dates).

The Village intends to award a bid to the company best able to meet all of the specifications herein.

2.0 GENERAL CONDITIONS

2.1 Meeting Specifications - Companies submitting bids should anticipate meeting all existing specifications. Any exceptions shall be noted in the bid. Any deviations from specifications shall be thoroughly explained in detail. In addition, all of the specifications anticipate a certain method of operation. The company may provide other suggested methods of operation as "an alternative".

2.2 Instructions to Bidders

2.2.1 Submission and opening of bids - All bids shall be enclosed in a sealed envelope and delivered to the Village of Machesney Park, 300 Roosevelt Road, Machesney Park, IL 61115. The sealed bid shall be clearly marked: ****Specific Title of Bid****. Bids will be opened on ****date**** at ****time****. It is the bidders responsibility to assure that the bid is delivered to the proper location prior to the established date and time. Any bid presented after the specified time for delivery will be returned to the bidder unopened.

2.2.2 Proposal Due: ****date**** at ****time**** at Village Hall, 300 Roosevelt Road, Machesney Park, IL 61115.

2.2.3 Modification, Withdrawal of Bids, Irregular Bids, Disqualification of Bids - A bid may not be modified, withdrawn or canceled by the bidder for sixty (60) days following the time and date designated for the opening of bids and bidder so agrees in submitting their bids.

If any individual company is acting as an agent for a separate entity, it shall be so stated. Unless it is specifically stated on the bid, the bid will be awarded or placed with and payment made to the person or company that signs the bid.

Bids that contain omissions, erasures, alterations or additions not called for, conditional or alternative bids, unless called for, or contain irregularities of any kind, may not be considered by the Village.

Two or more bids from a person, firm, corporation or association under different names will not be considered. Evidence that any bidder is interested in more than one bid for the same work will cause rejection of both such bids.

Any and all bids will be rejected if there is evidence of collusion among the bidders.

2.2.4 Rejection of Bids - The Village reserves the right to reject any and all bids.

2.2.5 Selection of Bids - The Village reserves the right to waive any technicality or any irregularity in any bid and to make final award of the contract based solely on what is determined to be in the Village's best interest. It is the intent of the Village to award a contract to the bidder who best meets the specifications; provided the bid has been submitted in accordance with the requirements of the minimum specifications, and it is judged by the Village to be reasonable and does not exceed the funds available. Bidders are encouraged to point out and specify any features or other benefits they could provide above and beyond the minimum requirements.

3.0 EVALUATION CRITERIA

3.1 Award of Bid - The award of a bid, if it is awarded, will be to the company selected by the Village, whose proposal is determined by the Village to be in the best interest of the Village. The contract will be awarded to the bidder whose proposal most closely satisfies the overall specifications as well as a number of other factors, including but not limited to, the criteria listed below.

3.1.1. Cost - Award of the bid shall be based on the cost of services to be provided and professional support. In addition, the Village may consider alternative bids as described later in the specifications and award the bid based upon alternative prices.

3.1.2 Time Period of Completion - The award of the bid will be based upon the company's ability to provide service in a timely manner which will be determined by the Village.

3.1.3. Previous Experience - The award of the bid will be based upon the company's previous experience in similar projects to the type being proposed for the Village of Machesney Park. The company should exemplify a knowledge of the type of equipment and service needed to complete the job.

3.1.4. Features exceeding minimum specifications - Any features that the company can provide the Village that exceed the minimum specifications out-lined in this bid specification shall be weighed as a benefit towards the award of the bid. The Village shall be the sole determinant if any feature is of benefit and to what degree.

4.0 PROJECT SPECIFICATIONS

4.1 Scope of Work - Work is subject to the requirements of the specifications documents and drawings. The company shall supply all required equipment, supervision, labor, transportation, utilities and all permits necessary for proper

completion of work as outlined in the specifications and as proposed by the company. All work is subject to the inspections and subject to the approval of the Village.

4.1.1. Service Provided - The Contractor shall provide **specify** services which include all labor and supplies.

4.1.2. **Services** - The Contractor shall furnish all necessary equipment and labor for such ** service and shall at all times provide a sufficient amount of equipment and labor to maintain adequate service. Services to be performed is as follows:

4.1.3. Hold Harmless and Indemnification Agreement The Contractor shall save and hold harmless and indemnify the Village against any and all liability, claims and cost of any kind for injury of death of any person and for the loss or damage to any property occurring in connection with or in incident to or arising out of occupancy, use, service, operation of performance of work under the terms of this contract resulting in whole or in part from the negligent acts or emissions of the company awarded the contract, subcontractors and/or any employee, agent or representative of the Contractor.

Nothing in the above paragraph shall be considered to prevent the Village from receiving the benefits of any insurance the contractor may carry which provides for indemnification for any loss or destruction of property and the care of the company for such property. The contractor shall do nothing to prejudice the Village's right to recover against third parties for any loss, destruction of or damage to the Village's property and upon the request the Village shall, at the Contractor's expense, furnish to the Village all reasonable assistance and cooperation (including assistance in the prosecution of a suit and execution of instruments of the assignment in favor of the Village in obtaining recovery).

4.1.4. Liability Insurance - Prior to the execution of the contract, the Contractor shall maintain in full force and effect throughout the term of the contract, insurance acceptable to the Village, naming the Village an additional insured, at least to the limits specified below:

A) Automobile liability insurance---A policy under a comprehensive form to insure the entire automobile liability for its operations with limits not less than \$100,000 in property damage, \$300,000 each person and \$1,000,000 each accident bodily injury liability. This policy shall name the Village as an additional insured as respects the operation of vehicles owned or operated by the Contractor.

B) General Liability---A comprehensive liability policy for the Contractor's operations with limits at least: \$500,000 each occurrence for bodily injury, \$500,000 aggregate; \$500,000 each occurrence for property damage, \$500,000 aggregate; or \$1,000,000 combined single limit.

4.1.5. Workman's Compensation Insurance - The Contractor shall furnish to the Village satisfactory evidence that it carries workman's compensation and occupational disease insurance adequate to protect all employees employed by it in the course of its performance of this contract.

4.1.6. Performance Bond - The Contractor shall furnish to the Village a performance bond, cash escrow deposit, or letter of credit for the faithful performance of this agreement. Said bond or letter of credit shall be executed by a surety company acceptable to the Village in an amount of 50% of the total projected cost as determined by the Village. Said bond or letter of credit shall indemnify the Village against any loss resulting from failure of performance by the Contractor including payment of wages and cost of supplies, materials and insurance premiums, not exceeding, however, the sum of the bond or letter of credit.

This agreement shall be subject to termination by the Village at anytime if said bond or letter of credit shall be canceled or the surety is relieved from the liability for any reason.

4.1.7. Compensation - The Village and the Contractor agree that the Contractor shall submit statements to the Village, detailing the dates worked, hours worked and type of task performed. Compensation for the work done by the Contractor

shall be as follows:

****Specify duties**

4.1.8. Modification of Rates - Rate increases shall be instituted only upon request by the Contractor to the Village Board and only with their subsequent approval. Increases must be justified in writing and cannot exceed the percentage increase of the Consumer Price Index (CPI-U) for the North Central Region. If the foregoing CPI shall no longer be published, then another publication recognized as authoritative shall be substituted upon agreement of both parties.

4.1.9. Prevailing Wage - The Village and the Contractor agree that the prevailing wage rate, as found by the Village and/or Department of Labor shall be paid to all laborers, workers and mechanics performing work under this contract.

5.0 FINANCIAL REQUIREMENTS

5.1 Contract Price - All costs associated with the service to be provided to the Village, based on a per month and per unit rates.

5.2 Termination of Contract - The Village reserves the right to terminate the contract upon thirty (30) days written notice to the company, with or without cause. The terms and requirements found herein shall become attached to and made part of the contract agreement. The bidder agrees to all terms of the bid specifications in submitting their bid.

5.3 Laws and Ordinances - The submitter shall comply with all laws, ordinances and regulations covering work of this character and shall include all cost in any of such compliance and the prices quoted in this bid.

5.4 Execution of Contract - A notification in writing by the Village of Machesney Park to the successful company of award of contract shall be deemed a formal contract award. Specifications herein shall become a part of the contract. The date for the completion of the work will be determined at that time and it is understood that completion of the work within the time specified

is an essential part of this contract. No allowance will be made for delay or suspension of the work due to the fault of the company.

5.5 Failure to Execute Contract - Failure to comply with any of the requirements of the specifications or contract shall be just cause for annulment of the award or contract if executed.

6.0 GUARANTEES, ACCEPTANCE AND RESPONSIBILITIES

6.1 Final Approval by the Village of Machesney Park - Final approval by the Village of Machesney Park will be provided to the company in written form. Upon final approval and acceptance by the Village of Machesney Park, full payment or remaining balance shall be paid to the company performing the work within thirty (30) days. Only upon final acceptance by the Village of Machesney Park and acknowledged operation of the item or service provided will payment be made, unless such approvals and payment schedules are specified otherwise herein.

7.0 ADDITIONAL SUPPORTING MATERIAL

Please attach to this document any supporting material your company feels necessary that would provide further benefits to the Village of Machesney Park.

**PROPOSAL

TO THE PUBLIC WORKS COMMITTEE OF THE VILLAGE OF
MACHESNEY PARK:

Proposal of _____ (Company Name)

For the supply and labor per the specifications for the
cleaning of the Machesney Park Village Hall:

- A) Daily:
 - 1. Empty all waste containers and ashtrays in the building and garage.
 - 2. Vacuum all carpeting.
 - 3. Spot clean all walls, ceilings and windows.
 - 4. Clean and sanitize all bathrooms and drinking fountains.
 - 5. Dust all furnishings.
 - 6. Clean all tile floors.
 - 7. Furnish all supplies on an as needed basis.

- B) Monthly:
 - 1. Wax all tile floors.

- C) Quarterly:
 - 1. Shampoo and clean all carpets.

Bids are to be in accordance with the above specifications for a monthly amount. Supplies, excluding cleaning supplies, are to bid at a per unit cost.

Monthly bid for above specifications: \$ _____ per month

Unit bids for the following supplies:

Toilet paper (per roll): \$
Paper towels (per pack): \$

Name:

Incorporated: Yes _____ No
Date of Incorporation:

Federal Tax Identification number or principle owner's
Social Security Number.

Address

Telephone/Fax

SIGNATURE OF REPRESENTATIVE

If you are awarded the contract you will be required to have a performance bond or letter of credit equal to 50% of the amount budgeted by the Village for cleaning services.

THE VILLAGE OF MACHESNEY PARK RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS.

**Sample of the proposal for the cleaning contract.

Appendix A
BID SPECIFICATION ADDENDUM

Equal Opportunity/Non-Discrimination Policy

It is the policy of the Village of Machesney Park that all potential bidders shall have an opportunity to submit bids and to compete on an equal basis for the Village business.

All purchases and contracts to which the Village of Machesney Park is party shall contain a non-discrimination in employment clause which provides:

"The vendor agrees that in performing under this purchase order with the contracting municipality, he/she shall not discriminate against any worker, employee or applicant, or any member of the public because of race, creed, color, national origin or sex. The vendor further agrees that his clause will be incorporated in all contracts entered into with suppliers of materials or services who may perform any such labor or services in connection with this contract."

APPENDIX B

This is the format for publication of
Notice to Bidders

VILLAGE OF MACHESNEY PARK

NOTICE TO BIDDERS

The Village of Machesney Park will be accepting sealed bids for ****specify item or service**** until ****date**** at ****time****. All bids shall be enclosed in a sealed envelope and delivered to the Village of Machesney Park (Village Hall), 300 Roosevelt Road, Machesney Park, IL, 61115. The sealed envelope shall be clearly marked ****"_____ Bid"**. It is the bidders responsibility to assure that the bid is delivered to the proper location prior to the established date and time. Any bid presented after that specified time for delivery will be returned to the submitter unopened. Any party showing interest may obtain bid documents at the Office of the Village Clerk between 8 AM and 4:30 PM, Monday through Friday or by calling 815-877-5432. The Village of Machesney Park reserves the right to accept or reject any or all bids and to waive any technicality in order to serve the best interests of the Village.

Dated:

Village of Machesney Park
By: ****insert name****, Village President

APPENDIX C

PURCHASE ORDER REQUISITION FORM

As the services and requirements of the Village grow with the population growth, this possibly will be an item which would need to be developed and utilized in future bid processes.

CHAPTER 19. TAXATION

ARTICLE 1. AUTOMOBILE RENTING OCCUPATION TAX.

19.101. TAX RATE. A tax is hereby imposed upon all persons engaged in the business of renting automobiles in this Village at the rate of one percent of the gross receipts from such rentals made in the course of such business while this Article is in effect, in accordance with the provisions of Section 8-11-7 of the Illinois Municipal Code.

19.102. FILING OF REPORT. Every such person engaged in such business in the Village shall file on or before the last day of each calendar month, the report to the State Department of Revenue required by Sections Two and Three of "An Act in Relation to a Tax Upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption" approved June 29, 1933, as amended.

19.103. PAYMENT. At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the renting of automobiles during the preceding month.

19.104. CERTIFICATION. The Village Clerk is hereby directed to transmit to the State Department of Revenue a certified copy of the Ordinance not later than five days after the effective date of the Ordinance.

19.105. EFFECTIVENESS. The Ordinance shall be effective on the first day of the second calendar month next following publication as provided in Municipal Code Section 1-2-4. Certified proof of publication shall be forwarded to the Illinois Department of Revenue along with the certified copy of this Ordinance as required by Section 19.104. (Ord. 1-82 - 1/12/82)

ARTICLE II. AUTOMOBILE RENTING USE TAX.

19.201. TAX IMPOSED. A tax is hereby imposed upon the privilege of using in this Village an automobile which is rented from a renter outside Illinois and which is titled or registered with an agency of this State's government in this Village at the rate of one percent of the rental price of such automobile while this Ordinance is in effect, in accordance with the provisions of Section 8-11-8 of the Illinois Municipal Code.

19.202. TAX COLLECTION. The tax provided for in the Ordinance shall be collected from the persons whose Illinois address for titling or registration purposes is given as being in this Village.

19.203. PAYMENT. The tax imposed by the Ordinance shall be paid to the Illinois Department of Revenue.

19.204. CERTIFICATION. The Village Clerk is hereby directed to transmit to the State Department of Revenue a certified copy of the Ordinance not later than five days after the effective date of the Ordinance.

19.205. EFFECTIVENESS. The Ordinance shall be effective on the first day of the second calendar month next following publication as provided in the Municipal Code Section 1-2-4. Certified proof of publication shall be forwarded to the Illinois Department of Revenue along with the certified copy of this Ordinance required by Section 19.204. (Ord. 2-82 - 1/12/82)

ARTICLE III. MUNICIPAL RETAILER'S OCCUPATION TAX/RATE
OF 1% ON GROSS SALES

19.301. TAX IMPOSED. A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property at retail in this Village at the rate of 1% of the gross receipts from such sales made in the course of such business while this Ordinance is in effect, in accordance with the provisions of Section 8-11-1 of the Illinois Municipal Code.

19.302. FILING OF REPORT REQUIRED. Every such person engaged in such business in the Village shall file on or before the last day of each calendar month, a report to the State Department of Revenue required by Section 3 of "An Act in Relation to a Tax Upon Persons Engaged in the Business of Selling Tangible Personal Property to Purchasers for Use or Consumption" approved June 28, 1933, as amended.

19.303. PAYMENT. At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed on account of the receipts from sales of tangible personal property during the preceding month.

19.304. CERTIFICATION. The Village Clerk is hereby directed to transmit to the State Department of Revenue a certified copy of the Ordinance not later than five (5) days after the effective date of the Ordinance.

19.305. PUBLICATION. The Village Clerk is directed to cause the Ordinance to be published at least once in a newspaper of general circulation within the Village of Machesney Park, Illinois. (Ord. 1-81 - 4/16/81)

ARTICLE IV. MUNICIPAL SERVICE OCCUPATION TAX/ 1% OF
COST PRICE/SALES OF SERVICE

19.401. TAX IMPOSED. A tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service at the rate of 1% of the cost price of all tangible personal property transferred by said servicemen either in the form of tangible personal property or in the form of real estate as an incident to a sale of service, in accordance with the provisions of Section 8-11-5 of the Illinois Municipal Code.

19.402. FILING OF REPORT REQUIRED. Every supplier or servicemen required to account for municipal service occupation tax for the benefit of this municipality shall file, on or before the last day of each calendar month, the report to the State Department of Revenue required by Section 9 of the "Service Occupation Tax Act" approved July 10, 1961, as amended.

19.403. PAYMENT. At the time such report is filed, there shall be paid to the State Department of Revenue the amount of tax hereby imposed.

19.404. CERTIFICATION. The Village Clerk is hereby directed to transmit to the State Department of Revenue a certified copy of the Ordinance not later than five (5) days after the effective date of the Ordinance.

19.405. PUBLICATION. The Village Clerk is directed to cause the Ordinance to be published at least once in a newspaper of general circulation within the Village of Machesney Park, Illinois. (Ord. 2-81 - 4/16/81)

ARTICLE V. MUNICIPAL USE TAX

19.501. TAX IMPOSED. A tax is hereby imposed in accordance with the provisions of Section 8-11-6 of the Illinois Municipal Code upon the privilege of using in the municipality any item of tangible personal property which is purchased outside Illinois at retail from a retailer, and which is titled or registered with any agency of Illinois Government. The tax shall be at a rate of 1% of the selling

price of such tangible property with selling price to have the meaning as defined in the Use Tax Act, approved July 14, 1955.

19.502. PAYMENT. Such tax shall be collected by the Illinois Department of Revenue for all municipalities imposing the tax and shall be paid before the title or certificate of registration for the personal property is issued.

19.503. CERTIFICATION. The Village Clerk is hereby directed to transmit to the Illinois Department of Revenue a certified copy of the Ordinance not later than five (5) days after its effective date.

19.504. PUBLICATION. The Village Clerk is directed to cause the Ordinance to be published at least once in a newspaper of general circulation within the Village of Machesney Park, Illinois. (Ord. 3-81 - 4/15/81)

ARTICLE VI. MUNICIPAL ELECTRICITY UTILITY TAX

19-601. Definitions. For purposes of the municipal taxes imposed by this ordinance, the following terms shall be defined as follows:

(a) "Person" as used in this Section shall mean any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, guardian or other representative appointed by any order of court.

(b) "Person Maintaining a Place of Business in this State" as used in this Section shall mean any person having or maintaining within this State, directly or by a subsidiary or other affiliate, an office, generation facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent, or other representative operating within this State under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in this State permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in this State.

(c) "Purchase at retail" as used in this Section shall mean any acquisition of electricity by a Purchaser for purposes of use or consumption, and not for resale, but shall not include the use of electricity by a public utility, as defined in 65 ILCS 5/8-11-2, directly in the generation, production, transmission, delivery, or sale of electricity.

(d) "Purchaser" as used in this Section shall mean any person who uses or consumes, within the corporate limits of the Village, electricity acquired in a purchase at retail.

19-602. Municipal Utility Tax Imposed on Use or Consumption of Electricity.

(a) Pursuant to 65 ILCS 5/8-11-2, and any and all other applicable authority, a tax will be imposed upon the privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the Village at the following rates, calculated on a monthly basis for each Purchaser.

(i) For the first 2,000 kilowatt-hours used or consumed in a month; 0.61 cents per kilowatt-hour;

(ii) For the next 48,000 kilowatt-hours used or consumed in a month; 0.40 cents per kilowatt-hour;

(iii) For the next 50,000 kilowatt-hours used or consumed in a month; 0.36 cents per kilowatt-hour;

(iv) For the next 400,000 kilowatt-hours used or consumed in a month; 0.35 cents per kilowatt-hour;

(v) For the next 500,000 kilowatt-hours used or consumed in a month; 0.34 cents per kilowatt-hour;

(vi) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.32 cents per kilowatt-hour;

(vii) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.315 cents per kilowatt-hour;

(viii) For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.31 cents per kilowatt-hour;

(ix) For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.305 cents per kilowatt-hour;

hour; and

(x) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month, 0.30 cents per kilowatt-hour.

(b) This tax is in addition to all taxes, fees, and other revenue measures imposed by the Village, the State of Illinois, or any other political subdivision of the State.

(c) This tax shall be imposed with respect to the use or consumption of electricity by Purchasers beginning with the first bill issued on or after March 1, 2013 and shall continue until further action of the Village. (Amd. 5/20/2019 - Ord 26-19)

(d) The use or consumption of electricity within the Village by units of local government or school districts shall be exempt from the tax imposed under this Section.

(e) Notwithstanding any other provision of this ordinance, the tax shall not be imposed if and to the extent that imposition or collection of the tax would violate the Constitution or statutes of the United States or the Constitution of the State of Illinois.

19-603. Collection of Tax.

(a) Subject to the provision of Section 19-605 of this Article, the tax imposed under this Article shall be collected from Purchasers by the Person Maintaining a Place of Business in this State who delivers electricity to such Purchasers. This tax shall constitute a debt of the Purchaser to the Person that delivers the electricity to the Purchaser and is recoverable at the same time and in the same manner as the original charge for delivering the electricity.

(b) Any tax required to be collected by this Article, and any tax in fact collected, shall constitute a debt owed to the Village by the Person delivering the electricity, provided, however, that the Person delivering electricity shall be allowed credit for such tax related to deliveries of electricity, the charges for which are written off as uncollectible, and provided further that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax.

(c) Persons delivering electricity shall collect the tax from the Purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to 3% of the tax they collect to reimburse them for their expenses incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the Village upon request. For purposes of this Article, any partial payment of a billed amount not specifically identified by the Purchaser shall be deemed to be for the delivery of electricity.

19-604. Tax Remittance and Return.

(a) Every Person Maintaining a Place of Business in this State who delivers electricity to a Purchaser in accordance with this Article shall, on a monthly basis, file a return in a form prescribed by the Village Treasurer. The return and accompanying remittance shall be due on or before the last day of the month following the month during which the tax is collected or is required to be collected under Sections 19-602 and 19-603.

(b) If the Person delivering electricity fails to collect the tax from the Purchaser or is excused from collecting the tax under Section 19-605, then the Purchaser shall file a return in a form prescribed by the Village Treasurer and pay the tax directly to the Village Treasurer on or before the last day of the month following the month during which the electricity is used or consumed.

19-605. Resales

(a) Electricity that is delivered to a Person in the Village shall be considered to be for use and consumption by that person unless the person receiving the electricity has an active resale number issued by the Village Treasurer and furnishes that number to the person who delivers the electricity, and certifies to that person that the sale is either entirely or partially nontaxable as a sale for resale.

(b) If a Person who receives electricity in the Village claims to be an authorized reseller of electricity, that person shall apply to the Village Treasurer for a resale number. The applicant shall

state facts showing why it is not liable for the tax imposed by this Article on any purchases of electricity and shall furnish such additional information as the Village Treasurer may reasonably require.

- (c) Upon approval of the application, the Village Treasurer shall assign a resale number to the applicant and shall certify the number to the applicant.
- (d) The Village Treasurer may cancel the resale number of any Person if the Person fails to pay any tax payable under this Ordinance for electricity used or consumed by the Person, or if the number was either (1) obtained through misrepresentation, or (2) no longer necessary because the Person has discontinued making resales.
- (e) If a reseller had acquired electricity partly for use or consumption and partly for resale, the reseller shall pay the tax imposed by this Article directly to the Village Treasurer pursuant to (b) of Section 19-604 on the amount of electricity that the reseller uses or consumes, and shall collect the tax pursuant to Section 19-604 and remit the tax pursuant to (a) of Section 19-604 to the Village Treasurer on the amount of electricity delivered by the reseller to a Purchaser.
- (f) Any person who delivers electricity to a reseller having an active resale number and complying with all other conditions of the Section, shall be excused from collecting and remitting the tax on any portion of the electricity delivered to the reseller, provided that the Person reports the total amount of electricity delivered to the reseller, and such other information that the Village Treasurer may reasonably require.

19-606. Books and Records. Every Person Maintaining a Place of Business in this State who delivers electricity to a Purchaser and every taxpayer required to pay the tax imposed by this Article, shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that gave rise, or may have given rise, to any tax liability under this Article. Those books and records shall be subject to and available for inspection at all times during business hours of the day.

19-607. Credits and Refunds. Notwithstanding any other provision of this ordinance, in order to permit sound fiscal

planning and budgeting by the Village, no person shall be entitled to a refund of, or credit for, a tax imposed under this Article unless the person files a claim for refund or credit within one year after the date on which the tax was paid or remitted.

19-608. Penalty. Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article, is guilty of a misdemeanor and upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than Seven Hundred Fifty Dollars (\$750.00) and in addition, shall be liable in a civil action for the amount of tax due.

19-609. Further Remedies. Nothing in this Article shall be construed as limiting any additional or further remedies that the Village may have for enforcement of this Article.

19-610. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Article is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions hereof.

ARTICLE VII. MUNICIPAL GAS UTILITY TAX

19-701. Definitions. For the purposes of the taxes imposed by this Article, the following terms shall be defined as follows:

- (a) "Gross receipts" means the consideration received for distributing, supplying, furnishing or selling gas for use or consumption and not for resale, and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith, and shall be determined without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever; provided, however that "gross receipts" shall not include any amounts specifically excluded from the definition of gross receipts in Section 8-11-2(d) of the Illinois Municipal Code. The term "gross receipts" shall not include that portion of the consideration received for distributing, supplying, furnishing or selling gas to school districts or units of local government

within the corporate limits of the Village of Machesney Park.

(b) "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, guardian or other representative appointed by order of any court.

(c) "Taxpayer" means Persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the Village of Machesney Park and not for resale.

19-702. Municipal Gas Utility Tax Imposed.

(a) Pursuant to 65 ILCS 5/8-11-2, and any and all other applicable authority, a tax is imposed on all Persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of the Village of Machesney Park and not for resale, at the rate of 5% of the gross receipts therefrom.

(b) No tax is imposed by this Article with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the constitution and statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing or selling gas be subject to taxation under the provisions of this Article for such transactions as are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1 of the Illinois Municipal Code.

(c) Such tax shall be in addition to the payment of money, or value of products or services furnished to this municipality by the Taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the Taxpayer's business.

19-703. Effective Date. The tax provided for in this Article shall be based on the gross receipts, as herein defined, actually paid to the Taxpayer for services billed on or after

March 1, 2013, and shall continue until further action of the Village. (Amd. 05/20/2019 - Ord 26-19)

19-704. Implementation.

(a) On or before the last day of April 2013, each Taxpayer shall make a return to the Village Treasurer for the month of March, 2013, stating:

1. Its name;
2. Its principal place of business;
3. Its gross receipts during the month upon the basis of which the tax is imposed;
4. The amount of tax; and
5. Any other reasonable and related information as the corporate authorities may require.

(b) On or before the last day of every month thereafter, each Taxpayer shall make a like return to the Village Treasurer for a corresponding one month period. (Amd. 05/20/2019 - Ord 26-19)

(c) The Taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village Treasurer, the amount of tax herein imposed; provided that in connection with any return the Taxpayer may, if he so elects, report and pay an amount based upon his total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross receipts.

19-705. Errors. If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this Article from the Taxpayer who made the erroneous payment; provided that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefore shall be so credited.

19-706. Actions to Recover. No action to recover any amount of tax due under the provisions of this Article shall be commenced more than three (3) years after the due date of such amount.

19-707. Penalty. Any Taxpayer who intentionally fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars (\$100) nor more than seven hundred fifty dollars (\$750) and in addition shall be liable in a civil action for the amount of tax due.

19-708. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Article is for any reason held invalid or unconstitutional by any court or competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions hereof.

ARTICLE VIII ELECTRICITY AND NATURAL GAS UTILITY TAX ("UTILITY TAX") REBATE PROGRAM

19-801. Electricity and Natural Gas Utility Tax ("Utility Tax") Rebate Program

(a) Residents of Machesney Park who are at or below the low-income thresholds as outlined in the below table may be eligible to receive a rebate of utility taxes paid.

Low income household limits:					
1 person	2 persons	3 persons	4 persons	5 persons	6 persons
\$30,000	\$35,000	\$40,000	\$45,000	\$50,000	
\$55,000					
7 persons	8 persons				
\$60,000	\$65,000				

(b) A basic low documentation rebate of \$25.00 for electricity tax and \$25.00 for gas use tax will be given per household per year (total of \$50.00). A rebate of more than \$25.00 for either tax will be made only if an eligible individual has actually paid more than \$25.00 in electricity or gas taxes and copies of monthly utility bills are submitted with a rebate application. The maximum rebate per household is \$150.00 and only one rebate of electricity and one rebate of gas use taxes will be issued per residence.

(c) Residents may apply in person at Village Hall or mail in their information each year during the months of February through April to claim a rebate for the prior year; applications will not be accepted after April 30 of each year unless the application is for the quarterly

rebate Items required at the time of application include: Village of Machesney Park Utility Tax Rebate Application, proof of income (example: tax return), and copies of the applicable electric and natural gas bills; if the standard rebate is being requested, a copy of the electric bill and natural gas bill with ending service dates in December of the applicable calendar year must be submitted. If more than the standard amount is being requested, copies of electric and natural gas bills for each month of the calendar year (12 months) must be submitted. Residents must have received electricity and/or natural gas at their Village residence and paid the applicable tax(es) for the entire calendar year. Eligibility criteria will be verified.

i. If preferred, Residents may request reimbursement on a quarterly basis. Eligibility must be established with the first application of each calendar year. Residents must submit the application, proof of income, and copies of the applicable electric and natural gas bills for the period covered as outlined below; proof of income can be established using the prior year's tax return. After eligibility has been established for that calendar year, only the applicable electric and natural gas bills will be required for subsequent quarterly submittals.

ii. Documentation must be provided by the due date outlined below; otherwise the disbursement will be made during the next scheduled disbursement period. Once the maximum rebate amount of \$150.00 has been disbursed to a household, no further disbursements will be paid for that year. For purposes of the maximum rebate, a year is considered the period covering January - December; for the first year of the rebate, a year is considered March 1 - December 31, 2013.

<u>Period Covering</u>	<u>Due Date</u>
March - June 2013	August 31, 2013
July - September 2013	November 30, 2013
October - December 2013	February 28, 2014
January - March 20XX	May 31, 20XX
April - June 20XX	August 31, 20XX
July - September 20XX	November 30, 20XX
October - December 20XX	February 28, 20X1

(d) The Utility Tax Rebate Program will begin March 1, 2013. Quarterly and Yearly disbursements will be made as soon as practicable following the applicable deadline. The first disbursements will be made in 2013. (Amd. 05-13 - 01/22/2013)

Article IX. HOTEL/MOTEL TOURISM TAX.

19.901. TAX IMPOSED. A tax is hereby imposed upon all persons engaged in the Village of Machesney Park in the business of renting, leasing, or letting rooms in a hotel (as defined in the "Hotel Operators Occupation Tax Act," 35 ILCS 145/1 *et seq.*), at a rate of 5% of the gross rental receipts from such renting, leasing, or letting of rooms. The tax imposed by this Ordinance is not imposed on such privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by the Village.

19.902. EXEMPTION. The gross rental receipts upon which the tax imposed in Section 19.901 is based shall not include gross rental receipts of any hotel room leased for more than thirty (30) consecutive days to one person, or gross rental receipts of any hotel room which was leased to a person as a condition of his employment at the same hotel.

19.903. REIMBURSEMENT. Persons subject to the tax imposed in Section 19.901 may reimburse themselves for their tax liability for such tax by separately stating such tax as an additional charge in the rental of the hotel room, which charge may be stated in combination, in a single amount, with state tax imposed under the "Hotel Operators Occupation Tax Act."

19.904. REPORTS. Any person subject to the tax imposed in section 19.901 shall transmit a report upon forms supplied by the finance manager indicating the gross receipts from the renting of hotel rooms, and such other information as the finance manager may reasonably require for the enforcement of this Article.

19.905. TRANSMITTAL OF TAX. Any person subject to the tax imposed in Section 19.901 shall transmit to the finance manager, on or before the last day of each calendar month, a sum of money equal to the tax imposed on the renting of hotel rooms for the preceding calendar month.

19.906. RECORDS.

A. Any person subject to the tax imposed in Section 19.901 shall keep complete and accurate books and records, including a daily sheet showing the gross receipts for the hotel room rentals for the day reported, and tax imposed on the receipts for that day.

B. For the purposes of administering and enforcing this Article, the finance manager shall, after providing reasonable notice, have access during normal business

hours to the books and records of persons subject to the tax imposed under Section 19.901.

19.907. PENALTIES. Any person who violates this Article, upon conviction thereof, shall be punished by a fine of not less than \$500.00, nor more than \$1,000.00 for the first offense, and not less than \$1,000.00, nor more than \$2,000.00 for the second and each subsequent offense in any One Hundred Eighty (180) day period. A separate and distinct offense shall be regarded as having been committed each day upon which said person shall continue any such violation.

19.908. PROCEEDS OF TAX.

A. The proceeds of the tax shall be retained by the finance director in a separate fund which shall be expended solely to promote tourism, conventions, and other special events within the Village of Machesney Park, or otherwise to attract non-residents to visit the Village of Machesney Park.

B. In no event shall the proceeds of the tax be used to advertise for or otherwise promote new competition in the hotel business in the Village of Machesney Park. (Ord. 49-13 - 11/04/2013)

ARTICLE X: MUNICIPAL CANNABIS RETAILERS' OCCUPATION TAX.

19.1001. TAX IMPOSED - RATE

- (a) A tax is hereby imposed upon all persons engaged in the business of selling cannabis, other than cannabis purchased under the Compassionate Use of Medical Cannabis Pilot Program Act, at retail in the Village of Machesney Park at the rate of 3% of the gross receipts from these sales made in the course of that business.
- (b) The imposition of this tax is in accordance with the provisions of Sections 8-11-22, of the Illinois Municipal Code (65 ILCS 5/8-11-22).

19.1002. COLLECTION OF TAX BY RETAILERS

- (a) The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue (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 may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State tax that sellers are required to collect.

(b) The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department. The Department shall have full power to administer and enforce the provisions of this article.

19.1003. SEVERABILITY.

If any provision of this Ordinance, or the application of any provision of this Ordinance, is held Unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, 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 Ordinance.

19.1004. EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that the tax provided for herein shall take effect for all sales on or after the first day of January, 2020. Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to September 30, 2019.
(Amd. Ord 40-19 - 09/16/2019)

CHAPTER 19 ½.
SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX.

19 ½.101. Definitions.

As used in this Chapter, the following terms shall have the following meanings:

A. "Amount paid" means the amount charged to the taxpayer's service address in the Village 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 within the Village 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 termination point within the Village and charges for that portion of the inter-office channels provided within the Village. Charges for that portion of the inter-office channel connecting 2 or more channel termination points, one or more of which is located within the jurisdictional boundary of the Village, shall be determined by the retailer by multiplying an amount equal to the total charge for the inter-office channel by a fraction, the numerator of which is the number of channel termination points that are located within the jurisdictional boundary of the Village and the denominator of which is the total number of channel termination points connected by the inter-office channel.

However, "gross charge" shall not include any of the following:

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 the Village.

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 Economic Opportunity.

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 Ordinance 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.

9. Amounts paid by telecommunications retailers under the Telecommunications Infrastructure Maintenance Fee Act.

10. Charges for nontaxable services or telecommunications if (i) those charges are aggregated with other charges for telecommunications that are taxable, (ii) those charges are not separately stated on the customer bill or invoice, and (iii) the retailer can reasonably identify the nontaxable charges on the retailer's books and records kept in the regular course of business. If the nontaxable charges cannot reasonably be identified, the gross charge from the sale of both taxable and nontaxable services or telecommunications billed on a combined basis shall be attributed to the taxable services or telecommunications. The burden of proving nontaxable charges shall be on the retailer of the telecommunications.

D. "Interstate telecommunications" means all telecommunications that either originate or terminate outside the State of Illinois.

E. "Intrastate telecommunications" means all telecommunications that originate and terminate within the State of Illinois.

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 the State of Illinois.

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 the State of Illinois, directly or by a subsidiary, an office, distribution facilities, transmission facilities, sales office, warehouse or other place of business, or any agent or other representative operating within the State of Illinois 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 the State of Illinois.

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 Ordinance.

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 provided 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 Ordinance. For purposes of this Section, "prepaid telephone calling arrangements" means that term as defined in Section 2-27 of the Retailers' Occupation Tax Act.

(Amd. Ord. 12-08 - 03/03/08)

19 ½.102 Simplified Municipal Telecommunication Tax Imposed.

A tax is hereby imposed upon any and all of the following acts or privileges:

A. The act or privilege of originating in the Village or receiving in the Village intrastate telecommunications by a person at a rate of 6% of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another municipality on that event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of the tax properly due and paid in the municipality that was not previously allowed as a credit against any other municipal tax.

B. The act or privilege of originating in the Village or receiving in the Village interstate telecommunications by a person at a rate of 6% of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state or multi-municipal taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another state or municipality in this State on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state or such tax properly due and paid in a municipality in this State which was not previously allowed as a credit against any other state or local tax in this State.

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 Village.

(Amd. Ord. 12-08 - 03/03/08

19 ½.102.1 Use of Revenue Collected.

All taxes collected through imposition of the tax created by this Ordinance shall be used solely and exclusively for public road, drainage and related infrastructure improvements.

19 ½.103. 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.

19 ½.104. Returns to Department.

On or before the last day of August 2008, and on or before the last day of every month thereafter, 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 (35 ILCS 636/5-50) and any accompanying rules and regulations created by the Department to implement the Act.

19 ½.105. 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 Chapter 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 telecommunications 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.

19 ½.106. Rebates and Exemptions.

A. To the extent that the Village's territory includes part of another unit of local government or a school district, the Village may, by separate ordinance, rebate some or all of the amount of the tax authorized by this Ordinance paid by the other unit of local government or school district qualifying for the rebate as determined by the Village's ordinance, which shall not be filed with the Department.

B. The Village may, by separate ordinance, rebate some or all of the amount of the tax authorized by this Ordinance paid by persons 65 years of age or older. Any tax related to such rebate shall be rebated from the Village directly to persons qualified for the rebate as determined by the Village's ordinance, which shall not be filed with the Department.

19 ½.107. Severability.

If any provision of this Ordinance, or the application of any provision of this Ordinance, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Ordinance, 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 Ordinance.

19 ½.108. Effective Date.

This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law; provided, however, that the tax provided for herein shall take effect for all bills issued on or after the first day of July 2008. Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to March 20, 2008. (Original Ord. 65-97 - 11/17/97; Chapter 19-1/2 was deleted and replaced. Ordinance 29-07 - 12/03/07) (Amd. Ord. 12-08 - 3/3/08)

CHAPTER 20. TRAILERS AND TRAILER PARKS

(Reserved)

CHAPTER 21. PERSONNEL POLICY

ARTICLE I. GENERAL PROVISIONS.

21.101. The Village of Machesney Park has created a Personnel Policies Manual which shall be applicable to all employees. All Village Employees shall refer to the Personnel Policies Manual for all items relating to personnel policies, procedures and benefits. The manual may be updated from time to time by resolution of the Village.

ARTICLE II. DEPARTMENTS AND AUTHORIZED POSITIONS

INTRODUCTION. The Village of Machesney Park has created a job description for each authorized position identified in this Article. The referenced job descriptions are compiled in the Personnel Policies & Job Description Manual. Minor modifications to job descriptions having limited impact on a positions' compensation may be applied by the Village Administrator from time to time; all other changes should be updated by resolution of the Village. The job description of the Village Administrator may only be updated by resolution of the Village. (Amd. Ord 05-20 - 01/06/2020)

A. DEPARTMENT OF ADMINISTRATION.

21.201. CREATION: There is hereby created a Department of Administration for the Village of Machesney Park, Illinois. The Department shall have an Administrator and such other positions of employment as the Village Board may authorize from time to time. The Department, under the supervision of the Village Administrator, shall be responsible for general management of Village functions, assisting residents, contract management, finance, human resources, economic development matters, annexations, planning and zoning matters of the Village, including, but not limited to: implementation of the Master Plan, Zoning Ordinance Administration, assisting the Planning and Zoning Commission in carrying out its duties and powers, and any other matter referred to the Department by the Corporate Authorities. (Amd Ord 43-20 - 11/16/2020)

21.202. VILLAGE ADMINISTRATOR - APPOINTMENT: There is hereby created the position of Village Administrator. The Village Administrator position shall be hired by the Village President, with the advice and consent of the Village Board. The Village Administrator shall be an employee of the Village and not an officer. Performance reviews and setting of compensation shall be completed by the Corporate Authorities

annually, typically in March. (Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 28-01 - 8/06/2001; Amd. Ord. 23-10 - 10-04-10; Amd. Ord. 52-11 - 10-03/2011)

A. PROCEDURE FOR ABSENCE

In the event of a planned absence from Village Hall (e.g. vacation) the Village Administrator shall, prior to leaving, designate another Village employee in either a supervisor or manager position, to temporarily and during the absence perform the duties of the Village Administrator. In the event of an unplanned or sudden absence for greater than three days (e.g. illness or other incapacity) then, the Village President shall, upon confirmation of the absence, immediately designate one of the employees in either a supervisor or manager position to temporarily and during the absence, perform the duties of the Village Administrator. (Amd. 06-17-2013 - Ord. 07-13)

21.203. FINANCE AND HUMAN RESOURCES MANAGER - APPOINTMENT: There is hereby created the position of Finance and Human Resources Manager. The Finance and Human Resources Manager shall be appointed by the Village Administrator, with the advice and consent of the Corporate Authorities. (Amd. Ord 27-11 - 08/01/11)

21.204. ADMINISTRATIVE ASSISTANT/DEPUTY CLERK - EMPLOYMENT: There is hereby created the position of Administrative Assistant/Deputy Clerk. The Administrative Assistant/Deputy Clerk shall be employed by the Village Administrator. (Amd. Ord 36-21 - 8/19/21).

21.205. ADMINISTRATIVE ASSISTANT/RECEPTIONIST - EMPLOYMENT: There is hereby created the position of Administrative Assistant/RECEPTIONIST. The Administrative Assistant/RECEPTIONIST shall be employed by the Village Administrator. (Amd. Ord 36-21 - 8/19/21).

21.206. MANAGEMENT ANALYST - EMPLOYMENT: There is hereby created the position of Management Analyst. The Management Analyst shall be employed by the Village Administrator. (Amd. Ord 36-21 - 8/19-21).

B. DEPARTMENT OF COMMUNITY DEVELOPMENT

21.301. CREATION: There is hereby created a Department of Community Development for the Village of Machesney Park, Illinois. The Department shall have positions of employment as the Village Board may authorize from time to time. The Department, under the Supervision of the Village Administrator, shall be responsible for community development matters and programs, planning and zoning matters, administration of building permits and inspections, property standards (such as the maintenance of private property and structures and other related matters pertaining to private property), and any other items assigned to the Department by the Village Administrator. (Amd. Ord 36-21 - 8/19-21).

21.302. PLANNING AND ZONING MANAGER - APPOINTMENT: There is hereby created the position of Planning and Zoning Manager. The Planning and Zoning Manager shall be appointed by the Village Administrator, with the advice and consent of the Corporate Authorities. (Amd Ord 43-20 - 11/16/2020; Amd Ord 36-21 - 8/16/21).

21.303. CODE ENFORCEMENT INSPECTOR - EMPLOYMENT: There is hereby created the position of Code Enforcement Inspector. The Code Enforcement Inspector shall be employed by the Community Development Director with the advice and consent of the Village Administrator. (Amd Ord 43-20 - 11/16/2020)

21.304. BUILDING CLERK - EMPLOYMENT: There is hereby created the position of Building Clerk. The Building Clerk shall be employed by the Community Development Director with the advice and consent of the Village Administrator. (Amd. Ord. 23-11 - 06/20/2011) (Amd Ord 43-20 - 11/16/2020)

C. DEPARTMENT OF PUBLIC WORKS

21.401. CREATION: There is hereby created a Department of Public Works for the Village of Machesney Park, Illinois. The Department shall have a Superintendent and such other positions of employment as the Village Board may authorize from time to time. The Department, under the supervision of the Superintendent of Public Works, shall be responsible for the Village's streets, lighting, traffic signals, driveway

and road-cut permits, storm water management, parks, Village owned buildings, Village vehicles and equipment, and any other matters as assigned. (Amd. Ord. 45-98 - 9/8/98)

21.402. SUPERINTENDENT OF PUBLIC WORKS - APPOINTMENT: There is hereby created the position of Superintendent of Public Works. The Superintendent of Public Works shall be appointed by the Village Administrator, with the advice and consent of the Corporate Authorities. (Amd. Ord. 45-98 - 9/8/98)

21.403. MAINTENANCE WORKERS - EMPLOYMENT: There is hereby created the position of Maintenance Workers. The Maintenance Workers shall be employed by the Superintendent of Public Works with the advice and consent of the Village Administrator. (Amd. Ord. 17-11 - 05/16/2011)

21.404. PUBLIC WORKS SEASONAL WORKERS - EMPLOYMENT: There is hereby created the position of Public Works Seasonal Workers. The Public Works Seasonal Workers shall be employed by the Superintendent of Public Works with the advice and consent of the Village Administrator.

21.405. PUBLIC WORKS FOREMAN - EMPLOYMENT: There is hereby created the position of Public Works Foreman. The Public Works Foreman shall be employed by the Superintendent of Public Works with the advice and consent of the Village Administrator.

All Ordinances in conflict hereof or contrary to this Article are hereby repealed. (Ord. 45-81 - 11/24/81; Amd Ord. 4-83 - 2/24/83; Ord. 47-83 - 8/9/83; Amd Ord. 58-83 - 1/11/83; Amd Ord. 10-84 - 3/27/84; Amd Ord. 34-84 - 5/22/84; Amd Ord. 58-84 - 9/25/84; Amd Ord. 66-84 - 8/28/84; Amd Ord. 71-84 - 11/13/84; Amd Ord. 21-85 - 3/12/85; Amd Ord. 41-85 - 7/23/85; Amd Ord. 69-85 - 8/27/85; Amd Ord. 5-86 - 3/11/86; Amd Ord. 6-86 - 2/25/86; Amd Ord. 28-86 - 3/25/86; Amd Ord. 33-86 - 5/13/86; Amd Ord. 59-86 - 5/27/86; Amd Ord. 104-86 - 9/25/86; Amd Ord. 119-86 - 12/9/86; Amd Ord. 120-86 - 12/9/86; Amd Ord. 121-86 - 12/9/86; Amd Ord. 88-87 - 11/17/87; Amd Ord. 6-88 - 2/2/88; Amd Ord. 13-88 - 1/16/88; Amd Ord. 23-88 - 3/15/88; Amd Ord. 72-88 - 7/12/88; Amd Ord. 123-88 - 11/22/88; Amd Ord. 1-89 - 1/17/89; Amd Ord. 10-89 - 2/21/89; Amd Ord. 12-89 - 3/1/89; Amd Ord. 13-89 - 3/1/89; Amd Ords. 33,34&35-89 - 6/6/89; Amd Ord. 72-89 - 8/29/89; Amd Ord. 77-89 - 9/5/89; Amd Ord. 84,85&86-89 - 10/3/89; Amd Ord. 108-89 - 12/26/89; Amd Ord. 17-90 - 3/27/90; Amd. Ord. 64-90 - 8/20/90; Amd Ord. 74-90 - 8/20/90; Amd Ord. 87-90 - 10/9/90; Amd Ord. 99-90 - 12/17/90; Amd Ord. 7-91 - 3/11/91; Amd Ord. 56-91 - 8/26/91; Amd Ord. 72-91 - 12/16/91; Amd.

Ord. 59-92 - 11/10/92; Amd Ord. 5-93 - 1/25/93; Amd Ord. 6-93 - 1/25/93; Amd Ord. 8-93 - 1/19/93; Amd Ord. 26-93 - 4/19/93; Amd Ord. 48-93 - 8/16/93; Amd Ord. 64-93 - 10/25/93; Amd Ord. 15-94 - 3/21/94; Amd Ord. 26-94 - 3/14/94; Amd Ord. 28-94 - 3/28/94; Amd Ord. 32-94 - 4/11/94; Amd Ord. 44-94 - 5/23/94; Amd Ord. 40-95 - 6/9/95; Amd. Ord. 11-96 - 4/01/96; Amd. Ord. 59-96 - 10/21/96; Amd. Ord. 9-97 - 3/24/97; Amd. Ord. 15-97 - 5/5/97; Amd. Ord. 57-97 - 11/10/97; Amd. Ord. 45-98 - 9/8/98; Amd. Ord. 21-00 - 9/25/2000; Amd. Ord. 24-01 - 7/09/2001; Amd. Ord. 46-01 - 10/29/2001; Amd. Ord 47-01 - 10/29/2001; Amd. Ord. 03-04 - 03/29/2004; Amd. Ord. 25-04 - 7/26/2004; Amd. Ord. 26-04 - 08/02/2004; Amd. Ord. 43-04 - 12/13/2004; Amd. Ord. 26-05 - 07/11/2005; Amd. Ord. 20-06 - 05/01/2006; Ord. 30-07 - 01/14/08; Amd. Ord. 33-08 - 5/5/08; Amd. Ord. 02-09 - 01-26-09; Amd. Ord. 18-10 - 08-02-2010; Amd. Ord. 19-10 - 07-06-2010; Amd. Ord. 23-10 - 10-04-2010; Amd. Ord. 05-11 - 03-21-2011; Amd. Ord. 17-11 - 05-16-2011; Amd. Ord 27-11 - 08-01-2011; Amd. Ord. 02-12 - 03/19/2012; Amd. Ord. 04-12 - 03/19/2012; Amd. Ord. 07-13 - 06/17/2013) (Ord 02-14 - 02/03/2014) (Amd. Ord. 40-16 - 09/19/2016) (Amd. Ord 29-18 - 09/04/2018) (Amd. Ord. 43-20 - 11/16/2020)(Amd. Ord 36-21 - 8/19-21).

CHAPTER 22. ELECTIONS

ARTICLE I. ELECTED OFFICERS

22.101. TIME OF TAKING OFFICE. Terms of newly elected officers, or new terms of re-elected officers shall commence at the first regular meeting or special meeting after the receipt of the certification of the official election results from the County Clerk or as soon thereafter as allowed under statute. The agenda for such meeting shall include the inauguration of the newly elected officers. (Ord 21-83 - 5/24/83; Ord. 03-07 - 3/12/07)

CHAPTER 23. FLOOD AREA DEVELOPMENT

ARTICLE I. REGULATIONS

23.101 Purpose.

This ordinance is enacted pursuant to the police powers granted to this Village by the Illinois Municipal Code (65 ILCS 5/1-2-1, 5/11-12-12, 5/11-30-2, 5/11-30-8 and 5/11-31-2) in order to accomplish the following purposes:

- A. To prevent unwise developments from increasing flood or drainage hazards to others;
- B. protect new buildings and major improvements to buildings from flood damage;
- C. to promote and protect the public health, safety, and general welfare of the citizens from the hazards of flooding;
- D. to lessen the burden on the taxpayer for flood control, repairs to public facilities and utilities, and flood rescue and relief operations;
- E. maintain property values and a stable tax base by minimizing the potential for creating blight areas;
- F. make federally subsidized flood insurance available, and
- G. to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and storm water impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

23.102 Definitions.

For the purposes of this ordinance, the following definitions are adopted:

Base Flood- The flood having a one percent (1%) probability of being equaled or exceeded in any given year. The base flood is also known as the 100-year flood. The base flood elevation at any location is as defined in Section 3 of this ordinance.

Base Flood Elevation (BFE) - The elevation in relation to mean sea level of the crest of the base flood.

Basement- That portion of a building having its floor sub-grade (below ground level) on all sides.

Building- A walled and roofed structure, including gas or liquid storage tank that is principally above ground including manufactured homes, prefabricated buildings and gas or liquid storage tanks. The term also includes recreational vehicles and travel trailers installed on a site for more than one hundred eighty (180) days per year.

Compensatory Storage- An artificially excavated, hydraulically equivalent volume of storage within the SFHA used to balance the loss of natural flood storage capacity when artificial fill or structures are placed within the floodplain. The uncompensated loss of natural floodplain storage can increase off-site floodwater elevations and flows.

Critical Facility- Any facility which is critical to the health and welfare of the population and, if flooded, would create an added dimension to the disaster. Damage to these critical facilities can impact the delivery of vital services, can cause greater damage to other sectors of the community, or can put special populations at risk.

Examples of critical facilities where flood protection should be required include: emergency services facilities (such as fire and police stations), schools, hospitals retirement homes and senior care facilities, major roads and bridges, critical utility sites (telephone switching stations or electrical transformers, and hazardous material storage facilities (chemicals, petrochemicals, hazardous or toxic substances).

Development- Any man-made change to real estate including, but not necessarily limited to:

1. Demolition, construction, reconstruction, repair, placement of a building, or any structural alteration to a building;
2. substantial improvement of an existing building;
3. installation of a manufactured home on a site, preparing a site for a manufactured home, or installing a travel trailer on a site for more than one hundred eighty (180) days per year;
4. installation of utilities, construction of roads, bridges, culverts or similar projects;

5. construction or erection of levees, dams walls or fences;
6. drilling, mining, filling, dredging, grading, excavating, paving, or other alterations of the ground surface;
7. storage of materials including the placement of gas and liquid storage tanks, and channel modifications or any other activity that might change the direction, height, or velocity of flood or surface waters.

"Development" does not include routine maintenance of existing buildings and facilities, resurfacing roads, or gardening, plowing, and similar practices that do not involve filing, grading, or construction of levees.

Existing Manufactured Home Park or Subdivision- A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an Existing Manufactured Home Park or Subdivision- The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FEMA- Federal Emergency Management Agency

Flood- A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, the unusual and rapid accumulation, or the runoff of surface waters from any source.

Flood Fringe- That portion of the floodplain outside of the regulatory floodway.

Flood Insurance Rate Map- A map prepared by the Federal Emergency Management Agency that depicts the floodplain or special flood hazard area (SFHA) within a community. This map includes insurance rate zones and may or may not depict floodways and show base flood elevations.

Flood Insurance Study- An examination, evaluation and

determination of flood hazards and, if appropriate, corresponding water surface elevations.

Floodplain and Special Flood Hazard Area (SFHA) - These two terms are synonymous. Those lands within the jurisdiction of the Village of Machesney Park, the extraterritorial jurisdiction of the *Village of Machesney Park*, or that may be annexed into the *Village of Machesney Park*, that are subject to inundation by the base flood. The floodplains of the Village of Machesney Park are generally identified as such on panel number(s) 0143, 0144, 0163, 0164, 0252, 0254, 0256, 0257, 0258, 0259, 0276, and 0277 of the countywide Flood Insurance Rate Map of Winnebago County prepared by the Federal Emergency Management Agency and dated February 17, 2016. Floodplain also includes those areas of known flooding as identified by the community.

The floodplains of those parts of unincorporated Winnebago County that are within the extraterritorial jurisdiction of the Village of Machesney Park or that may be annexed into the Village of Machesney Park are generally identified as such on the Flood Insurance Rate map prepared for Winnebago County by the Federal Emergency Management Agency and dated February 17, 2016.

Floodproofing- Any combination of structural or nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate, property and their contents.

Floodproofing Certificate- A form published by the Federal Emergency management agency that is used to certify that a building has been designed and constructed to be structurally dry flood proofed to the flood protection elevation.

Flood Protection Elevation (FPE) - The elevation of the base flood plus one foot of freeboard at any given location in the floodplain.

Floodway- That portion of the floodplain required to store and convey the base flood. The floodway for the floodplains of the Rock River, McDonald Creek and Willow Creek shall be as delineated on the countywide Flood Insurance Rate Map of Winnebago County prepared by FEMA and dated February 17, 2016. The floodways for each of the remaining floodplains of the Village of Machesney Park shall be according to the best data available from the Federal, State, or other sources.

Freeboard- An increment of elevation added to the base flood elevation to provide a factor of safety for uncertainties in calculations, future watershed development, unknown localized conditions, wave actions and unpredictable effects such as those caused by ice or debris jams.

Historic Structure- Any structure that is:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register.
1. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district.
2. Individually listed on the state inventory of historic places by the Illinois Historic Preservation Agency.
3. Individually listed on a local inventory of historic places that has been certified by the Illinois Historic Preservation Agency.

IDNR/OWR- Illinois Department of Natural Resources/Office of Water Resources.

IDNR /OWR Jurisdictional Stream- Illinois Department of Natural Resource Office of Water Resources has jurisdiction over any stream serving a tributary area of 640 acres or more in an urban area, or in the floodway of any stream serving a tributary area of 6,400 acres or more in a rural area. Construction on these streams requires a permit from the Department. (Ill Admin. Code tit. 17, pt. 3700.30). The Department may grant approval for specific types of activities by issuance of a statewide permit which meets the standards defined in Section 6 of this ordinance.

Lowest Floor- the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor. Provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 7 of this ordinance.

Manufactured Home- A structure transportable in one or more sections that is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities.

Manufactured Home Park or Subdivision- A parcel (or contiguous parcels) of land divided into two or more lots for rent or sale.

New Construction- Structures for which the start of construction commenced or after the effective date of floodplain management regulations adopted by a community and includes any subsequent improvements of such structures.

New Manufactured Home Park or Subdivision- A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed or buildings to be constructed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by a community.

NFIP- National Flood Insurance Program.

Recreational Vehicle or Travel Trailer- A vehicle which is:

1. built on a single chassis;
2. four hundred (400) square feet or less in size;
3. designed to be self-propelled or permanently towable by a light duty truck and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

Repetitive Loss- Flood related damages sustained by a structure on two separate occasions during a ten year period for which the cost of repairs at the time of each such flood event on the average equals or exceeds twenty-five percent (25%) of the market value of the structure before the damage occurred.

SFHA- See definition of floodplain.

Start of Construction- Includes substantial improvement and means the date the building permit was issued. This, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement or other improvement, was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation or placement of a manufactured home on a foundation. For a substantial improvement, actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building whether or not that alteration affects the external dimensions of the building.

Structure (see "Building")

Substantial Damage- Damage of any origin sustained by a structure whereby the cumulative percentage of damage during a ten (10) year period equals or exceeds fifty percent (50%) of the market value of the structure before the damage occurred regardless of actual repair work performed. Volunteer labor and materials must be included in this determination. The term includes "Repetitive Loss Buildings" (see definition).

Substantial Improvement- Any reconstruction, rehabilitation, addition or improvement of a structure taking place during a ten (10) year period in which the cumulative percentage of improvements:

Equals or exceeds fifty percent (50%) of the market value of the structure before the improvement or repair is started, or

Increases the floor area by more than twenty percent (20%).

"Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. This term includes structures which have incurred repetitive loss or substantial damage, regardless of the actual repair work done.

The term does not include:

1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or
1. any alteration of a structure listed on the National Register of Historic Places or the Illinois Register of Historic Places.

Violation- The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the required federal, state, and/or local permits and elevation certification is presumed to be in violation until such time as the documentation is provided.

23.103. Base Flood Elevation.

This ordinance's protection standard is the base flood. The best available base flood data are listed below. Whenever a party disagrees with the best available data, the party shall finance the detailed engineering study needed to replace the existing data with better data and submit it to the FEMA and IDNR/OWR for approval prior to any development of the site.

- A. The base flood elevation for the floodplains of the Rock River, McDonald Creek and Willow Creek shall be as delineated on the 100-year flood profiles in the countywide Flood Insurance Study of Winnebago County prepared by the Federal Emergency Management Agency and dated February 17, 2016
- B. The base flood elevation for each floodplain delineated as an "AH Zone" or AO Zone" shall be that elevation (or depth) delineated on the county wide Flood Insurance Rate Map of Winnebago County.
- C. The base flood elevation for each of the remaining floodplains delineated as an "A Zone" on the countywide Flood Insurance Rate Map of Winnebago County shall be according to the best data available from federal, state or sources. Should no other data exist, an engineering study must be financed by the applicant to determine base flood elevations.
- D. The base flood elevation for the floodplains of those parts of unincorporated Boone County that are within the extraterritorial jurisdiction of the Village of Machesney Park or that may be annexed into the Village of Machesney Park, shall be as delineated on the 100-year flood profiles in the Flood Insurance Study of Boone County prepared by the Federal Emergency Management Agency and dated February 17, 2016.

23.104. Duties of the Planning and Zoning Manager.

The Planning and Zoning Manager shall be responsible for the general administration of this ordinance and ensure that all development activities within the floodplains under the jurisdiction of the Village of Machesney Park meet the requirements of this ordinance. Specifically, the Planning and Zoning Manager shall:

- A. Process development permits in accordance with Section 105;
- B. ensure that all development in a floodway (or a floodplain with no delineated floodway) meets the damage prevention requirements of Section 106;

- C. ensure that the building protection requirements for all buildings subject to Section 107 are met and maintain a record of the "as-built" elevation of the lowest floor (including basement) or flood-proof certificate;
- D. assure that all subdivisions and annexations meet the requirements of Section 108;
- E. ensure that water supply and waste disposal systems meet the Public Health standards of Section 109;
- F. if a variance is requested, ensure that the requirements of Section 111 are met and maintain documentation of any variances granted;
- G. inspect all development projects and take any and all penalty actions outlined in Section 113 as a necessary to ensure compliance with this ordinance;
- H. assure that applicants are aware of and obtain any and all other required local, state, and federal permits;
- I. notify IDNR/OWR and any neighboring communities prior to any alteration or relocation of a watercourse;
- J. provide information and assistance to citizens upon request about permit procedures and floodplain construction techniques;
- K. cooperate with state and federal floodplain management agencies to coordinate base flood data and to improve the administration of this ordinance;
- L. maintain for public inspection base flood data, floodplain maps, copies of state and federal permits, and documentation of compliance for development activities subject to this ordinance;
- M. perform site inspections to ensure compliance with this ordinance and make substantial damage determinations for structures within the floodplain, and
- N. maintain the accuracy of floodplain maps including notifying IDNR/OWR and/or submitting information to FEMA within six months whenever a modification of the floodplain may change the base flood elevation or result in a change to the floodplain map.

23.105. Development Permit.

No person, firm, corporation, or governmental body not exempted by law shall commence any development in the floodplain without

first obtaining a development permit from the Planning and Zoning Manager. The Planning and Zoning Manager shall not issue a development permit if the proposed development does not meet the requirements of this ordinance.

A. The application for development permit shall be accompanied by:

1. drawings of the site, drawn to scale showing property line dimensions;
2. existing grade elevations and all changes in grade resulting from excavation or filling;
3. the location and dimensions of all buildings and additions to buildings;
4. the elevation of the lowest floor (including basement) of all proposed buildings subject to the requirements of Section 107 of this ordinance, and
5. cost of project or improvements as estimated by a licensed engineer or architect. A signed estimate by a contractor may also meet this requirement.

B. Upon receipt of an application for a development permit, the Planning and Zoning Manager shall compare the elevation of the site to the base flood elevation. Any development located on land that is shown by survey elevation to be below the current base flood elevation is subject to the provisions of this ordinance. In addition, any development located on land shown to be below the base flood elevation and hydraulically connected to a flood source, but not identified as floodplain on the current Flood Insurance Rate Map, is subject to the provisions of this ordinance. Any development located on land that can be shown by survey data to be higher than the current base flood elevation and which has not been filled after the date of the site's first Flood Insurance Rate Map is not in the floodplain and therefore not subject to the provisions of this ordinance. The Planning and Zoning Manager shall maintain documentation of the existing ground elevation at the development site and certification that this ground elevation existed prior to the date of the site's first Flood Insurance Rate Map identification.

The Planning and Zoning Manager shall be responsible for obtaining from the applicant copies of all other federal, state, and local permits, approvals or permit-not-

required letters that may be required for this type of activity. The Planning and Zoning Manager shall not issue a permit unless all other federal, state, and local permits have been obtained.

23.106. Preventing Increased Flood Heights and Resulting Damages.

Within any floodway identified on the countywide Flood Insurance Rate Map, and within all other floodplains where a floodway has not been delineated, the following standards shall apply:

A. Compensatory Storage.

1. Whenever any portion of a floodplain is authorized for use, the volume of space which will be occupied by the authorized fill or structure below the base flood or 100-year frequency flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood or 100-year frequency flood elevation.
2. The excavation volume shall be at least equal to 1.5 times the volume of storage lost due to the fill or structure
3. In the case of streams and watercourses, such excavation shall be made opposite or adjacent to the areas so filled or occupied.
4. All floodplain storage lost below the existing 10-year flood elevation shall be replaced below the proposed 10-year flood elevation. All floodplain storage lost above the existing 10-year flood elevation shall be replaced above the proposed 10-year flood elevation.
5. All such excavations shall be constructed to drain freely and openly to the watercourse.
6. The Village Floodplain Manager and/or the Village Engineer may waive the Compensatory Storage requirements in the Special Flood Hazard Areas in Forest Hills Industrial Park and Willow Creek Business Park, bounded by Forest Hills Road on the east, Alpine Road on the west, and the unnamed channel on the south.
(Amd Ord 35-18; 10/01/2018)

- B. Except as provided in Section 23.106(C) of this ordinance, no development shall be allowed which, acting in combination with existing and anticipated development will cause any

increase in flood heights or velocities or threat to public health and safety. The following specific development activities shall be considered as meeting this requirement:

1. Bridge and culvert crossings of streams in rural areas meeting the following conditions of the Illinois Department of Natural Resources, Office of Water Resources Statewide Permit Number 2:
 - a. The crossing will not result in an increase in water surface profile elevation in excess of 1.0 feet, and
 - b. The crossing will not result in an increase in water surface profile elevation in excess of one half (0.5) feet at a point one thousand (1,000) feet upstream of the proposed structure.
 - c. There are no buildings in the area impacted by the increases in water surface profile.
 - d. The proposed bridge or culvert crossing will not involve straightening, enlarging, or relocating the existing channel.
 - e. The design must be certified by a registered professional engineer in the State of Illinois and the designs must meet the conditions of an IDNR/OWR permit.
 - f. The design must be certified by a second registered professional engineer.
2. Barge fleeting facilities meeting the following conditions of IDNR/OWR Statewide Permit Number 3:
 - a. The permit is only applicable when deadmen, pier cells, or other similar anchorage devices have been permitted by the U.S. Army Corps of Engineers.
3. Aerial utility crossings meeting the following conditions of IDNR/OWR Statewide Permit Number 4;
 - a. The utility line must be constructed above the existing 100-year flood elevation or attached to an existing bridge.
 - b. A utility line attached to an existing bridge shall be constructed above the low cord elevation of the bridge.

- c. No supporting towers or poles shall be located in a river, lake or stream.
 - d. Supporting towers including foundation and poles shall be designed and located so as to not cause an obstruction of flood flows by trapping debris.
 - e. All disturbed areas shall be returned to pre-construction grades and re-vegetated.
 - f. All Illinois Commerce Commission, National Electrical Safety Code, and federal requirements must be met.
4. Minor boat docks meeting the following conditions of IDNR/OWR Statewide Permit Number 5:
- a. The boat dock must not extend more than fifty (50) feet into a waterway and no more than one quarter (1/4) of the width of the waterway and shall not extend beyond the navigational limited established by the IDNR and Corps of Engineers.
 - b. The width of the boat dock shall not be more than ten (10) feet.
 - c. For L-Shaped or T-shaped docks, the length of that portion parallel to the shoreline must not exceed fifty percent (50%) of the landowner's shoreline frontage nor fifty (50) feet.
 - d. Docks must be aligned so as not to cross the projection of property lines into the waterway or come within ten (10) feet of the projected property line.
 - e. Dock posts must be marked by reflective devices.
 - f. The boat dock must be securely anchored to prevent detachment during times of high wind or water.
 - g. Metal drums or containers may not be used as buoyancy units unless they are filled with floatation foam. Containers which previously stored pesticides, herbicides, or any other toxic chemicals are not permissible.
 - h. This permit does not authorize any other related construction activity such as shore protection or fill.

- i. Non-floating boat docks must be constructed in a manner which will minimize obstruction to flow.
 - j. At any future date, the permittee must agree to make necessary modifications to the dock as determined by the IDNR or Corp of Engineers.
5. Minor, non-obstructive activities meeting the following conditions of IDNR/OWR Statewide Permit Number 6:
- a. The following activities (not involving fill or positive change in grade) are covered by this permit:
 - i. The construction of underground utility lines, wells, or septic tanks not crossing a lake or stream.
 - ii. The construction of light poles, sign posts, and similar structures.
 - iii. The construction of sidewalks, driveways, athletic fields (excluding fences), patios, and similar structures.
 - iv. The construction of properly anchored, unwalled, open structures such as playground equipment, pavilions, and carports.
 - v. The placement of properly anchored buildings not exceeding seventy (70) square feet in size, nor ten (10) square feet in any dimension. Only one such building on a property is authorized by this statewide permit.
 - vi. The raising of existing buildings, provided no changes are made to the outside dimensions of the building and the placement of fill is not involved.
6. Outfall Structures and drainage ditch outlets meeting the following conditions of IDNR/OWR Statewide Permit Number 7:
- a. Any outfall structure, including any headwall or end-section, shall not extend riverward or lakeward of the existing adjacent natural bank slope or adjacent bank protection.

- b. The velocity of the discharge shall not exceed the scour velocity of the channel soil, unless channel erosion would be prevented by the use of riprap or other design measures.
 - c. Outlets from drainage ditches shall not be opened to a stream until the ditch is vegetated or otherwise stabilized to minimize stream sedimentation.
 - d. Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.
7. Underground pipeline and utility crossings meeting the conditions of IDNR/OWR Statewide Permit Number 8:
- a. In all cases, the crossing shall be placed beneath the bed of the river, lake or stream and, unless the crossing is encased in concrete or entrenched in bedrock, a minimum of three (3) feet of cover shall be provided. The river, lake or stream bed shall be returned to its original condition.
 - b. Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including stream banks, shall be restored to their original contours and seeded or otherwise stabilized upon completion of construction.
 - c. Any utility crossing carrying material which may cause water pollution, as defined by the Environmental Protection Act (415 ILCS 5), shall be provided with shut-off valves on each side of the body of water to be crossed.
 - d. If blasting is to be utilized in the construction of the crossing, the permittee shall notify the IDNR/OWR at least ten (10) days prior to the blasting date to allow monitoring of any related fish kills.
8. Bank stabilization projects meeting the conditions of IDNR/OWR Statewide Permit Number 9:

- a. Only the following materials may be utilized in urban areas: stone and concrete riprap, steel sheet piling, cellular blocks, fabric-formed concrete, gabion baskets, rock and wire mattresses, sand/cement filled bags, geotechnical fabric materials, natural vegetation and treated timber. Urban areas are defined as: areas of the State where residential, commercial, or industrial development currently exists or, based on land use plans or controls, is expected to occur within ten (10) years. (The Department should be consulted if there is a question of whether or not an area is considered urban).
- b. In addition to the materials listed in Section 106(B)(8)(a), other materials (e.g. tire revetments) may be utilized in rural areas provided all other conditions of this permit are met.
- c. The following materials shall not be used in any case: auto bodies, garbage of debris, scrap lumber, metal refuse, roofing materials, asphalt or other bituminous materials, or any material which would cause water pollution as defined by the Environmental Protections Act (415 ILCS 5).
- d. The affected length of shoreline, stream bank, or channel to be protected shall not exceed, either singularly or cumulatively, one thousand (1000) feet.
- e. All material utilized shall be properly sized or anchored to resist anticipated forces of current and wave action.
- f. Materials shall be placed in a way which would not cause erosion or the accumulation of debris on properties adjacent to or opposite the project.
- g. Materials shall not be placed higher than the existing top of the bank.
- h. Materials shall be placed so that the modified bank full-width and cross-sectional area of the channel will conform to or be no more restrictive than that of the natural channel upstream and downstream of the site.

For projects involving continuous placement of riprap along the bank, toe of the bank or other

similar applications, in no case shall the cross-sectional area of the natural channel be reduced by more than ten percent (10%) nor the volume of material placed exceed two (2) cubic yards per lineal foot of the stream bank or shoreline. The bank may be graded to obtain a flatter slope and to lessen the quantity of material required.

- i. If broken concrete is used, all protruding materials such as reinforcing rods shall be cut flush with the surface of the concrete and removed from the construction area.
 - j. Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of construction.
 - k. In the case of seawalls and gabion structures on lakes, the structure shall be constructed at or landward of the water line as determined by the normal pool elevation, unless:
 - i. It is constructed in alignment with an existing seawall(s) or gabion structure(s), and
 - ii. The volume of material placed, including the structure, would not exceed two (2) cubic yards per lineal foot.
 - iii. Excess material excavated during the construction of the bank or shoreline protection shall be placed in accordance with local, state, and federal laws and rules, shall not be placed in a floodway.
9. Accessory structures and additions to existing residential buildings meeting the conditions of IDNR/OWR Statewide Permit Number 10:
- a. The accessory structure or building addition must comply with the requirements of the local floodplain ordinance.

- b. The principle structure to which the project is being added must have been in existence on the effective date of this permit (July 25, 1988).
 - c. The accessory structure or addition must not exceed five hundred (500) square feet in size and must not deflect floodwaters onto another property, and
 - d. Must not involve the placement of any fill material.
 - e. No construction shall be undertaken in, or within fifty (50) feet of the bank of the stream channel.
 - f. The accessory structure or addition must be properly anchored to prevent its movement during flood conditions.
 - g. Only one accessory structure or addition to an existing structure shall be authorized by this permit; plans for any subsequent addition must be submitted to IDNR/OWR for review.
 - h. Disturbances of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas shall be seeded or otherwise stabilized upon completion of construction.
10. Minor maintenance dredging activities meeting the following conditions of IDNR/OWR Statewide Permit Number 11:
- a. The affected length of the stream shall not either singularly or cumulatively exceed one thousand (1000) feet.
 - b. The project shall not include the construction of any new channel; all work must be confined to the existing channel or to reestablishing flows in the natural stream channel, and
 - c. the cross-sectional area of the dredged channel shall conform to that of the natural channel upstream and down stream of the site.
 - d. Dredged or spoil material shall not be disposed of in a wetland and shall be either:
 - i. Removed from the floodway;

- ii. Used to stabilize an existing bank provided no materials would be placed higher than the existing top of bank and provided the cross-sectional area of the natural channel would not be reduced by more than ten percent (10%), nor the volume of material placed exceed two (2) cubic yards per lineal foot of streambank;
 - iii. Used to fill an existing washed out or scoured floodplain area such that the average natural floodplain elevation is not increased;
 - iv. Used to stabilize an existing levee provided the height of the levee would not be increased nor its alignment changed;
 - v. Placed in a disposal site previously approved by the Department in accordance with the conditions of the approval, or
 - vi. Used for beach nourishment, provided the material meets all applicable water quality standards.
- e. Disturbance of streamside vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed floodway areas, including the stream banks, shall be seeded or otherwise stabilized upon completion of construction.
11. Bridge and culvert replacement structures and bridge widening meeting the following conditions of IDNR/OWR statewide Permit Number 12:
- a. A registered professional engineer shall determine and document that the existing structure has not been the cause of demonstrable flood damage. Such documentation shall include, at a minimum, confirmation that:
 - i. No buildings or structures have been impacted by the backwater induced by the existing structure, and

- ii. There is no record of complaints of flood damages associated with the existing structure.

 - b. A registered professional engineer shall determine that the new structure will provide the same or greater effective waterway opening as the existing structure. For bridge widening projects the existing piers and the proposed pier extensions must be in line with the direction of the approaching flow upstream of the bridge.

 - c. The project shall not include any appreciable raising of the approach roads. (This condition does not apply if all points on the approaches exist at an elevation equal to or higher than the 100-year frequency flood headwater elevation as determined by a FEMA flood insurance study completed or approved by IDNR/OWR).

 - d. The project shall not involve the straightening, enlargement or relocation of the existing channel of the river or stream except as permitted by the Department's Statewide Permit Number 9 (Minor Shoreline, channel and Streambank Protection Activities) or Statewide Permit Number 11 (Minor Maintenance Dredging Activities).

 - e. The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above conditions.
12. Temporary construction activities meeting the following conditions of IDNR/OWR statewide Permit Number 13:
- a. No temporary construction activity shall be commenced until the individual permittee determines that the permanent structure (if any) for which the work is being performed has received all required federal, state and local authorizations.

 - b. The term "temporary" shall mean not more than one construction season. All temporary construction materials must be removed from the stream and floodway within one year of their placement and the area returned to the conditions existing prior to the beginning of construction. Any desired subsequent or repetitive material placement shall not occur without the review and approval of the IDNR/OWR.

- c. The temporary project shall be constructed such that it will not cause erosion or damage due to increases in water surface profiles to adjacent properties. For locations where there are structures in the upstream floodplain, the temporary project shall be constructed such that all water surface profile increases, due to the temporary project, are contained within the channel banks.
- d. This permit does not authorize the placement or construction of any solid embankment or wall such as a dam, roadway, levee, or dike across any channel or floodway.
- e. No temporary structure shall be placed within any river or stream channel until a registered professional engineer determines and documents that the temporary structure will meet the requirements of Special Condition Number 3 of this statewide permit. Such documentation shall include, at a minimum, confirmation that no buildings or structures will be impacted by the backwater induced by the temporary structure.
- f. The permittee shall maintain records of projects authorized by this permit necessary to document compliance with the above condition.
- g. Disturbance of vegetation shall be kept to a minimum during construction to prevent erosion and sedimentation. All disturbed areas shall be seeded or otherwise stabilized upon completion of the removal of the temporary construction.
- h. Materials used for the project shall not cause water pollution as defined by the Environmental Protection Act (415 ILCS 5).

13. Any Development determined by IDNR/OWR to be located entirely within a flood fringe area shall be exempt from State Floodway permit requirements

C. Other development activities not listed in (B) may be permitted only if:

- 1. Permit has been issued for the work by IDNR/OWR (or written documentation is provided that an IDNR/OWR permit is not required), or
- 2. Sufficient data has been provided to FEMA when necessary, and approval obtained from FEMA for a

revision of the regulatory map and base flood elevation.

23.107. Protecting Buildings.

A. In addition to the state permit and damage prevention requirements of Section 106 of this ordinance, all buildings located in the floodplain shall be protected from flood damage below the flood protection elevation. This building protection requirement applies to the following situations:

1. Construction or placement of a new building or alteration or addition to an existing building valued at more than one thousand dollars (\$1,000) or seventy (70) square feet.
2. Substantial improvements or structural alterations made to an existing building that increase the floor area by more than twenty percent (20%) or equal or exceed the market value by fifty percent (50%). Alteration shall be figured cumulatively during a ten-year period. If substantially improved, the existing structure and the addition must meet the flood protection standards of this section.
3. Repairs made to a substantially damaged building. These repairs shall be figured cumulatively during a ten-year period. If substantially damaged the entire structure must meet the flood protection standards of this section within 24 months of the date the damage occurred.
4. Installing a manufactured home on a new site or a new manufactured home on an existing site. (The building protection requirements do not apply to returning a manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage).
5. Installing a travel trailer or recreational vehicle on a site for more than one hundred eighty (180) days per year.
6. Repetitive loss to an existing building as defined in Section 102.

B. Residential or non-residential buildings can meet the building protection requirements by one of the following methods:

1. The building may be constructed on permanent land fill in accordance with the following:
 - a. The lowest floor (including basement) shall be at or above the flood protection elevation.
 - b. The fill shall be placed in layers no greater than six inches before compaction and should extend at least ten (10) feet beyond the foundation before sloping below the flood protection elevation.
 - c. The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, or other structural measure.
 - d. The fill shall be composed of rock or soil and not incorporated debris or refuse material, and
 - e. shall not adversely affect the flow of surface drainage from or onto neighboring properties and when necessary stormwater management techniques such as swales or basins shall be incorporated.
2. The building may be elevated on solid walls in accordance with the following:
 - a. The building or improvements shall be elevated on stilts, piles, walls, crawlspace, or other foundation that is permanently open to flood waters.
 - b. All components located below the flood protection elevation shall be constructed of materials resistant to flood damage.
 - c. The lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection elevation.
 - d. If walls are used, all enclosed areas below the flood protection elevation shall

address hydrostatic pressures by allowing the automatic entry and exit of flood waters. Designs must either be certified by a licensed professional engineer or by having a minimum of one (1) permanent opening on each wall no more than one (1) foot above grade with a minimum of two (2) openings. The openings shall provide a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area subject to flooding below the base flood elevation, and

e. the foundation and supporting members shall be anchored, designed, and certified so as to minimize exposure to hydrodynamic forces such as current, waves, ice, and floating debris.

i. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other service facilities may be located below the flood protection elevation provided they are waterproofed.

ii. The area below the flood protection elevation shall be used solely for parking or building access and not later modified or occupied as habitable space, or

iii. in lieu of the above criteria, the design methods to comply with these requirements may be certified by a licensed professional engineer or architect.

3. The building may be constructed with a crawlspace located below the flood protection elevation provided that the following conditions are met:

a. The building must be designed and adequately anchored to resist flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

b. Any enclosed area below the flood protection elevation shall have openings that equalize hydrostatic pressures by allowing for the automatic entry and exit

of floodwaters. A minimum of one opening on each wall having a total net area of not less than one (1) square inch per one (1) square foot of enclosed area. The openings shall be no more than one (1) foot above grade.

- c. The interior grade of the crawlspace below the flood protection elevation must not be more than two (2) feet below the lowest adjacent exterior grade.
- d. The interior height of the crawlspace measured from the interior grade of the crawl to the top of the foundations wall must not exceed four (4) feet at any point.
- e. An adequate drainage system must be installed to remove floodwaters from the interior area of the crawlspace within a reasonable period of time after a flood event.
- f. Portions of the building below the flood protection elevation must be constructed with materials resistant to flood damage, and
- g. Utility systems within the crawlspace must be elevated above the flood protection elevation.

C. Non-residential buildings may be structurally dry floodproofed (in lieu of elevation) provided a licensed professional engineer or architect certifies that:

- 1. Below the flood protection elevation the structure and attendant utility facilities are watertight and capable of resisting the effects of the base flood.
- 2. The building design accounts for flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, the effects of buoyancy, and the impact from debris and ice.
- 3. Floodproofing measures will be incorporated into the building design and operable without human intervention and without an outside source of electricity.
- 4. Levees, berms, floodwalls and similar works are not considered floodproofing for the purpose of this subsection.

D. Manufactured homes or travel trailers to be permanently installed on site shall be:

1. Elevated to or above the flood protection elevation in accordance with Section 107(B), and
2. anchored to resist flotation, collapse, or lateral movement by being tied down in accordance with the rules and regulations for the Illinois Mobile Home Tie-Down Act issued pursuant to 77 Ill. Adm. Code § 870.

E. Travel trailers and recreational vehicles on site for more than one hundred eighty (180) days per year shall meet the elevation requirements of section 107(D) unless the following conditions are met:

1. The vehicle must be either self-propelled or towable by a light duty truck.
2. The hitch must remain on the vehicle at all times.
3. The vehicle must not be attached to external structures such as decks and porches
4. The vehicle must be designed solely for recreation, camping, travel, or seasonal use rather than as a permanent dwelling.
5. The vehicles largest horizontal projections must be no larger than four hundred (400) square feet.
6. The vehicle's wheels must remain on axles and inflated.
7. Air conditioning units must be attached to the frame so as to be safe for movement of the floodplain.
8. Propane tanks as well as electrical and sewage connections must be quick-disconnect.
9. The vehicle must be licensed and titled as a recreational vehicle or park model, and
10. must either:
 - a. entirely be supported by jacks, or
 - b. have a hitch jack permanently mounted, have the tires touching the ground and be supported by block in a manner that will

allow the block to be easily removed by used of the hitch jack.

F. Garages, sheds or other minor accessory structures constructed ancillary to an existing residential use may be permitted provided the following conditions are met:

1. The garage or shed must be non-habitable.
2. The garage or shed must be used only for the storage of vehicles and tools and cannot be modified later into another use.
3. The garage or shed must be located outside of the floodway or have the appropriate state and/or federal permits.
4. The garage or shed must be on a single family lot and be accessory to an existing principle structure on the same lot.
5. Below the base flood elevation, the garage or shed must be built of materials not susceptible to flood damage.
6. All utilities, plumbing, heating, air conditioning and electrical must be elevated above the flood protection elevation.
7. The garage or shed must have at least one permanent opening on each wall not more than one (1) foot above grade with one (1) square inch of opening for every one (1) square foot of floor area.
8. The garage or shed must be less than fifteen thousand dollars (\$15,000) in market value or replacement cost whichever is greater or less than five hundred and seventy six (576) square feet (24'x24').
9. The structure shall be anchored to resist floatation and overturning.
10. All flammable or toxic materials (gasoline, paint, insecticides, fertilizers, etc.) shall be stored above the flood protection elevation.
11. The lowest floor elevation should be documented and the owner advised of the

12.flood insurance implications.

23.108. Subdivision Requirements

The Village of Machesney Park shall take into account hazards, to the extent that they are known, in all official actions related to land management use and development.

A. New subdivisions, manufactured home parks, annexation agreements, planned unit developments, and additions to manufactured home parks and subdivisions shall meet the damage prevention and building protections standards of Sections 106 and 107 of this ordinance. Any proposal for such development shall include the following data:

1. The base flood elevation and the boundary of the floodplain, where
the base flood elevation is not available from an existing study, the applicant shall be responsible for calculating the base flood elevation;
2. the boundary of the floodway when applicable, and
3. a signed statement by a Licensed Professional Engineer that the proposed plat or plan accounts for changes in the drainage of surface waters in accordance with the Plat Act (765 ILCS 205/2).

Streets, blocks lots, parks and other public grounds shall be located and laid out in such a manner as to preserve and utilize natural streams and channels. Wherever possible the floodplains shall be included within parks or other public grounds.

23.109. Public Health and Other Standards

A. Public health standards must be met for all floodplain development. In addition to the requirements of Sections 106 and 107 of this ordinance the following standards apply:

1. No development in the floodplain shall include locating or storing chemicals, explosives, buoyant materials, flammable liquids, pollutants, or other hazardous or toxic materials below the flood protection elevation unless such materials are stored in a floodproofed and anchored storage tank and certified by a professional engineer or

floodproofed building constructed according to the requirements of Section 107 of this ordinance.

2. Public utilities and facilities such as sewer, gas and electric shall be located and constructed to minimize or eliminate flood damage.
3. Public sanitary sewer systems and water supply systems shall be located and constructed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
4. New and replacement on-site sanitary sewer lines or waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding. Manholes or other above ground openings located below the flood protection elevation shall be watertight.
5. Construction of new or substantially improved critical facilities shall be located outside the limits of the floodplain. Construction of new critical facilities shall be permitted within the floodplain only if no feasible alternative site is available. Critical facilities constructed within the SFHA shall be elevated or structurally dry floodproofed to the 500-year flood frequency elevation. In situations where a 500-year flood elevation has not been determined the flood protection elevation shall be three feet above the 100-year flood frequency elevation. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities.

- B. All other activities defined as development shall be designed so as not to alter flood flows or increase potential flood damages.

23.110. Carrying Capacity and Notification.

For all projects involving channel modification, fill, or stream maintenance (including levees), the flood carrying capacity of the watercourse shall be maintained.

In addition, the Village of Machesney Park shall notify adjacent communities in writing thirty (30) days prior to the issuance of a permit for the alteration or relocation of the watercourse.

23.111. Variances.

Whenever the standards of this ordinance place undue hardship on a specific development proposal, the applicant may apply to the Planning and Zoning Manager for a variance. The Planning and Zoning Manager shall review the applicant's request for a variance and shall submit its recommendation to the Board of Trustees. The Board of Trustees may attach such conditions to granting of a variance as it deems necessary to further the intent of this ordinance.

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

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

B. The Planning and Zoning Manager shall notify an applicant in writing that a variance from the requirements of the building protections standards of Section 107 that would lessen the degree of protection to a building will:

1. Result in increased premium rates for flood insurance up to twenty-five dollars (\$25) per one hundred dollars (\$100) of insurance coverage;
2. increase the risk to life and property, and

3. require that the applicant proceed with knowledge of these risks and that the applicant acknowledge in writing the assumption of the risk and liability.

C. Historic Structures

- a. Variances to the building protection requirements of Section 107 of this ordinance which are requested in connection with reconstruction, repair, or alteration of a historic site or historic structure as defined in "Historic Structures", may be granted using criteria more permissive than the requirements of Sections 106 and 107 of this ordinance subject to the conditions that:
 1. The repair or rehabilitation is the minimum necessary to preserve the historic character and design of the structure.
 2. The repair or rehabilitation will not result in the structure being removed as a certified historic structure.

D. Agriculture

Any variance granted for an agricultural structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in this ordinance.

In order to minimize flood damages during the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for agricultural structures that are constructed at-grade and wet-floodproofed.

1. All agricultural structures considered for a variance from the floodplain management regulations of this ordinance shall demonstrate that the varied structure is located in wide, expansive floodplain areas and no other alternate location outside of the special flood hazard area exists for the agricultural structure. Residential structures or animal confinement facilities, such as farm houses, cannot be considered agricultural structures.
2. Use of the varied structures must be limited to agricultural purposes in zone A only as identified on the community's Flood Insurance Rate Map (FIRM).
3. For any new or substantially damaged agricultural

structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with Section 107 of this ordinance.

4. The agricultural structures must be adequately anchored to prevent flotation, collapse, or lateral movement of the structures in accordance with Section 7 of this ordinance. All of the building's structural components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
5. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or floodproofed so that they are contained within a watertight, floodproofed enclosure that is capable of resisting damage during flood conditions in accordance with Section 107 of this ordinance.
6. The NFIP requires that enclosure or foundation walls, subject to the 100-year flood, contain openings that will permit the automatic entry and exit of floodwaters in accordance with Section 107(B) this ordinance.
7. The agricultural structures must comply with the floodplain management floodway provisions of Section 6 of this ordinance. No variances may be issued for agricultural structures within any designated floodway.
8. Wet-floodproofing construction techniques must be reviewed and approved by the floodplain administrator and a registered professional engineer or architect prior to the issuance of any floodplain development permit for construction.

23.112. Disclaimer of Liability.

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

23.113. Penalty.

Failure to obtain a permit for development in the floodplain or failure to comply with the conditions of a permit or a variance shall be deemed to be a violation of this ordinance. Upon due investigation, the Planning and Zoning Manager may determine that a violation of the minimum standards of this ordinance exists. The Planning and Zoning Manager shall notify the owner in writing of such violation.

A. If such owner fails after ten (10) days notice to correct the violation:

1. The Village of Machesney Park shall make application to the circuit court for an injunction requiring conformance with this ordinance or make such other order as the court deems necessary to secure compliance with the ordinance.
2. Any person who violates this ordinance shall upon conviction thereof be fined not less than fifty dollars (\$50) or more than seven hundred fifty (\$750) for each offense.
3. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues, and
4. the Village of Machesney Park shall record a notice of violation on the title of the property.

B. The Planning and Zoning Manager shall inform the owner that any such violation is considered a willful act to increase flood damages and therefore may cause coverage by a Standard Flood Insurance Policy to be suspended.

The Village Attorney is authorized to issue an order requiring the suspension of the subject development. The stop-work order shall be in writing, indicate the reason for the issuance, and shall order the action, if necessary, to resolve the circumstances requiring the stop-work order. The stop-work order constitutes a suspension of the permit.

No site development permit shall be permanently suspended or revoked until a hearing is held by the Planning and Zoning Commission. Written notice of such hearing shall be served on the permittee and shall state:

1. The grounds for the complaint, reasons for suspension or revocation, and

2.the time and place of the hearing.

At such hearing the permittee shall be given an opportunity to present evidence on their behalf. At the conclusion of the hearing, the Planning and Zoning Commission shall determine whether the permit shall be suspended or revoked.

C. Nothing herein shall prevent the Village of Machesney Park from taking such other lawful action to prevent or remedy any violations. All costs connected therewith shall accrue to the person or persons responsible.

23.114. Abrogation and Greater Restrictions.

This ordinance repeals and replaces other ordinances adopted by the Village of Machesney Park to fulfill the requirements of the National Flood Insurance Program including Ordinances 56-93 and 35-06. However, this ordinance does not repeal the original resolution or ordinance adopted to achieve eligibility in the program. Nor does this ordinance repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. Where this ordinance and other ordinance easements, covenants or deed restrictions conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

23.115. Severability.

The provisions and sections of this ordinance shall be deemed separable and the invalidity of any portion of this ordinance shall not affect the validity of the remainder.

23.116. Effective Date.

This ordinance shall be in full force and effect from and after its passage, approval, and publication as required by law. (Amd. Ord. 56-93 - 10/12/93; Ord. 35-06 - 08/21/2006; Ord 02-16 - 01/20/2016)

CHAPTER 23½. STORM WATER DETENTION

ARTICLE I. REGULATIONS.

INTRODUCTION. Due to the fact that property development increases flooding, accelerated runoff, and decreased exposure of permeable soil surface; and the regulation of storm water detention combined with flood plain restrictions and/or subdivision regulations in a unified system of regulation facilitates compliance, efficient administration, and protection of persons and property; and storm water detention facilities are an acceptable method of detaining storm water runoff for new property development, the following regulations have been deemed necessary:

23½.101. Developments which increase the amount of impermeable area, such as the construction of roof structures, paved areas, or compacted areas, shall be subject to the terms of this Chapter.

A. The following, however, shall not be included:

1. Traditional agricultural uses;
2. Modification of single-family dwellings will continue to be used as single-family dwellings;
3. Improvement of existing roadways which does not increase the number of traffic lanes in the typical cross-section of the roadway;

B. The maximum controlled storm water runoff release rate shall not exceed the natural safe storm water drainage capacity of the downstream system, which has been found to be 1/2 cubic feet per second per acre in the Village. Pipe outlets of less than twelve inches in diameter shall not be allowed. Multiple outlets from a storm water storage area shall be avoided if they are designed to be less than 12 inches in diameter. Removable orifice plates shall be employed when these pipe size requirements cannot be met.

C. When the maximum controlled storm water runoff release rate shall be exceeded, any or all of the following storm water storage methods shall be provided and constructed:

1. DRY BOTTOM STORM WATER STORAGE.

a. Dry bottom storm water storage areas must be designed to serve a secondary purpose for recreation, open space, or similar type of use, which will not be adversely affected by occasional intermittent flooding.

b. The combination of storage of major flood water runoff from a 100-year return frequency storm and the allowable release rate shall not result in a storage duration in excess of 48 hours.

c. Minimum grades for turf areas shall be $\frac{1}{2}$ percent (200 units horizontal to one vertical) and maximum side slopes shall be 25 percent (four units horizontal to one unit vertical). Storage area side slopes shall follow the natural land contours as closely as practicable, and a minimum of earth excavation shall be used to create the storage facility.

d. Temporary seeding or other soil stabilization measures shall be established in the storm water storage area and major flood water passageway immediately following the construction or reconstruction of these areas. During the construction of the overall development, it is recognized that a limited amount of sediment buildup may occur in the storm water storage area due to erosion. In no case shall the volume of the storage area be reduced to less than three-quarters of the required volume during the construction phase of the development.

e. Permanent erosion control measures such as mulching, hydroseeding, conventional seeding, nurse crops, fertilizing, or sod installation shall be utilized to control soil movement and erosion within the storage area and major flood water passageway. These measures shall meet or exceed the standards established by the Winnebago County Soil and Water Conservation District. The installation of these permanent measures shall take place only after the majority of construction and other silt and sediment producing activities have been completed. Prior to the establishment of the permanent erosion control measures, the required capacity of the storm water storage area and the excess storm water passageway shall be restored.

f. The control structure shall be provided with an interceptor for trash and debris, and it shall be designed and constructed to prevent soil erosion and not to require manual adjustments for its proper operation. An inlet design that will produce turbulent flow conditions during any portion of the storm water storage cycle will not be acceptable.

g. Adequate impact silting basins shall be provided to ensure that downstream soil erosion is alleviated and the regime of the downstream drainage facility is not disturbed.

h. Each storm water storage area shall be provided with a method of overflow in the event a storm in excess of the design capacity occurs. This overflow facility shall be constructed to function without specific attention and can become a part of the excess stormwater passageway described in this section.

i. The entire stormwater storage area shall be designed and constructed to fully protect the public health, safety, and welfare. If a condition occurs in the stormwater storage area which is hazardous to the public health, safety, or welfare, the person responsible for the condition will be required to provide approved corrective measures. In the event these corrective measures are not provided, the Village may eliminate the hazard at the expense of the person responsible.

j. Low flow conduits or channels shall be provided in storm water storage areas; these conduits or channels shall be so constructed that they will not interfere with the secondary usage of the storage area and will reduce the frequency of time that the storage area will be covered with water.

2. WET BOTTOM STORM WATER STORAGE. Wet bottom stormwater storage area shall be designed in compliance with all of the regulations which are applicable and govern the construction of dry bottom stormwater storage area. The following additional regulations shall apply:

a. The water surface area of the permanent pool shall not exceed one-tenth of the area of the tributary watershed.

b. Protection of the shoreline must be provided to alleviate soil erosion due to wave action.

c. Minimum normal water depth shall be four feet. If fish are to be used to keep the pond clean, at least one-quarter of the pond area shall be a minimum of ten feet deep.

d. Facilities shall be provided to lower the pond elevation by gravity flow for cleaning purposes and shoreline maintenance.

e. The control structure for stormwater release shall be designed to operate at full design release rate with only a minor increase in the water depth in order to minimize the land surface wetted by frequent minor stormwater runoff conditions.

f. Measures shall be included in the design to prevent pond stagnation. This may be accomplished by fountain aeration or some other method used to ensure aerobic pond conditions.

g. The volume of water permanently stored shall not be considered to be part of the required excess stormwater storage volume.

3. PAVED STORM WATER STORAGE. Design and construction of the pavement base must insure that there is no pavement damage due to flooding. Control structures in paved areas must be readily accessible for maintenance and cleaning. Vortex control devices will be required.

4. ROOFTOP STORM WATER STORAGE. Rooftop storage of excess storm water shall be designed and constructed to provide permanent control inlets and parapet walls to contain excess storm water. Adequate structural roof design must be provided to ensure that roof deflection does not occur which could cause the roofing material to fail and result in leakage. Overflow areas must be provided to ensure that the weight of stored storm water will never exceed the structural capacity of the roof.

5. AUTOMOBILE PARKING STORM WATER STORAGE AREAS. Automobile parking facilities used to store excess storm water must be constructed having a maximum depth of stored storm water of 1.5 feet; and these areas shall be located in the most remote, least used areas of the parking facility.

6. UNDERGROUND STORM WATER STORAGE. Underground storm water storage facilities must be designed for easy access in order to remove accumulated sediment and debris. These facilities must be provided with a positive outlet.

D. CALCULATIONS.

1. The volume of required storm water storage shall be calculated on the basis of the maximum value achieved from the runoff of a 100-year return frequency storm less the volume of water released through the outlet structure. Any generally recognized and substantiated method acceptable to the Village Engineer may be used for these calculations. The release rate of the outlet structure when one half of the storage area is filled may be used in lieu of routing techniques in small drainage areas. The control structure shall be designed to maintain as uniform a flow as possible, independent of the storm water storage volume. Where the proposed structure, project, or land development forms only a portion of a watershed or contains portions of several watersheds, the storage volume calculations shall be based upon the area of the entire project, development, or land use change. The maximum release rate shall be established by multiplying the total acreage of the tributary watershed by 0.2 cubic feet per second per acre.

2. Storm water storage areas which will be filled to capacity by high frequency storms shall be designed in a manner that will protect immediate downstream properties, and all overflow structures shall be designed to function properly and effectively without the necessity of making manual adjustments. A larger outlet for a storm water storage area may be permitted by the Village Engineer for the orderly management of storm water runoff where large tributary areas are developed without detention.

3. If the orderly management of the storm water runoff cannot be achieved by passing the entire tributary area runoff through the storm water storage area, then the storm water storage area shall be constructed to exclude the runoff from the tributary area originating outside of the area to be developed.

E. APPLICATION.

1. Storm water detention facilities shall be designed by and their construction supervised by a Registered Professional Engineer.

2. In addition, the following shall be required by the Village Engineer:

a. Prior review of preliminary plans and tentative plats;

b. To insure the completion of any facilities required by the Article, a bond, irrevocable letter of credit or other suitable guarantee pursuant to Section 19-13 of the Village Subdivision Regulations, Ordinance No. 16-87;

c. A plan for the responsibility of maintaining drainage ditches, storm water storage areas, erosion and sediment control measures, and other facilities required herein.

(1) Acceptable plans for maintenance shall specify which persons shall have the following responsibilities: construction, on site, and permanent function maintenance.

(2) Acceptable plans for maintenance may include the following:

i. Agreements with units of local government or school districts;

ii. Agreements with individual property owners or property owners associations, provided that the face of any final plat makes reference to the agreement and that a restrictive covenant running with the land be imposed on all affected property.

d. Information showing how the development will comply with the general intent and technical requirements of this ordinance, such as;

(1) A site development plan;

(2) Any supplemental information necessary for the Village Engineer to evaluate the development's compliance with the requirements of this ordinance;

(3) An estimated schedule of development phases.

e. Upon completion of construction, a set of as built drawings certified by a Registered Professional Engineer; and

f. An estimate schedule of development phases.

3. All applications for building permits shall contain a statement that such buildings or structures and appurtenances connected therewith include facilities for the orderly runoff or retention of rain and melting snow. Plans submitted with said application shall include a signed statement issued by an Illinois Registered Professional Engineer that the plans include facilities adequate to prevent harmful runoff. For single-family dwellings to be located in a subdivision meeting the requirements of this

chapter, the signed statement shall be place on the face of the final plat.

4. When compliance with the storm water detention requirements of this chapter will result in a facility the volume of which is three-tenths (0.3) acre-feet or less, the Village Engineer may waive the requirement for that specific facility.

5. A development on a parcel of two acres or less may not require storm water detention, however this determination shall be made by the Village Engineer. (Ord. 17-87 - 11/24/87)

F. COMPLIANCE WITH PERMIT REQUIREMENTS AND STANDARDS.

1. All landowners, developers, project owners, site owners, agencies, businesses, builders, contractors, or subcontractors (hereafter referred to as developers) involved in development or construction activities on any land in the Village shall conduct said activities in compliance with the Illinois Environmental Protection Agency's current NPDES (National Pollutant Discharge Elimination System) Permit regarding construction site activities (hereafter referred to as the Permit). Furthermore, developers shall submit to the Village Engineer, at least 48 hours prior to the commencement of development or construction activities, two (2) copies of all notices, plans, and other documentation prepared as required by the Permit, including the Notice of Intent (to discharge storm water from construction sites) and the Storm Water Pollution Prevention Plan.

2. Erosion and sediment controls and management practices implemented by developers within construction sites as required by the Permit shall be at least as protective as the requirements contained in the Illinois Environmental Protection Agency's current Standards and Specifications for soil erosion and

Sediment Control (hereafter referred to as the Standards).

3. The Permit and the Standards are available for review at the office of the Village Clerk.

4. The Village Engineer shall, during the course of development or construction activities and within the customary and good practice of engineering, periodically inspect the construction site to insure compliance with requirements of the Permit and with erosion and sediment controls proposed by the developer. The cost incurred by the Village for these inspections shall be reimbursed to the Village by the developer.

5. The enforcement of the above-referenced requirements and the penalties which result from noncompliance with said requirements shall be administered by the Village in accordance with Appendix C, Articles 103.115 and 103.116. (Amd. Ord. 6-95 - 3/13/95)

CHAPTER 24. OTHER LICENSES AND PERMITS

ARTICLE I. FIREWORKS.

24.101. DEFINITION. As used in the Article, the term "fireworks" shall mean and include any explosive composition or any substance or combination of substances, or articles prepared for the purpose of producing a visible or audible effect of a temporary exhibitional nature by explosion, combustion, deflagration or detonation, and shall include blank cartridges, toy cannons in which explosives are used, the type of balloons which require fire underneath to propel the same, firecrackers, torpedoes, sky rockets, Roman candles, bombs or other fireworks of like construction and any fire-works containing any explosive compound; or any tablets or other devices containing any explosive substance or containing combustible substances producing visual effects; provided, that the term "fireworks" shall not include hand held single wire sparklers or toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing twenty-five hundredths grains or less of explosive compound cannot come in contact with the cap when in place for the explosion, and toy pistol paper or plastic caps which contain less than twenty-five hundredths grains of explosive mixture, the sale and use of which shall be permitted at all times. (Amd. Ord. 08-04 - 04/12/2004)

24.102. PROHIBITED. It shall be unlawful for any person to offer for sale, expose for sale, sell at retail or use or explode any fire works, as defined in this Article, except after having obtained a permit for the public display of fireworks as hereinafter provided.

24.103. APPLICATION. Applications for permits for public displays of fireworks shall be made in writing to the Village at least fifteen days in advance of such display. Each application shall disclose the identity of persons expert in the handling of fireworks under whose supervision such display shall be conducted, and shall be accompanied by certificates of insurance evidencing such insurance coverage as the Village Board shall prescribe. Action shall be taken on such application within forty-eight hours after such application is received.

24.104. PERMIT REQUIRED. Permits may be granted under this Article to any groups of three or more adult individuals over the age of twenty-one years applying therefor. No permit granted hereunder shall be transferable. After such permit shall have been granted, possession, use and

distribution of fireworks for such display shall be lawful for that purpose only.

24.105. ISSUANCE OF PERMIT. Permits for the supervised display of fireworks by properly qualified persons, may be issued by the Public Improvement and Safety Committee, in such form as may be prescribed, and upon furnishing of such information as the committee may request, consistent herewith.

24.106. REGULATION. Every such display of fireworks shall be of such character and so located as in the opinion of the Public Improvement and Safety Committee, after proper inspection, shall not be hazardous to property or endanger any person or person. Such displays shall not be discharged, ignited or exploded within six hundred feet of any infirmary.

24.107. EXCEPTIONS. The provisions of this Article shall not apply to fireworks of the kind and nature herein mentioned which shall be in the possession of railroads or other common carriers for the purpose of transportation, nor shall the provisions of this Article apply to manufacture, storage or use of signals or fuses necessary to the safe operation of railroads, trucks, aircraft or other instruments of transportation, or to explosives used for blasting or similar purposes. The provisions of the Article shall not apply to fireworks displays authorized by the Village of Machesney Park or any committee thereof for a Fourth of July celebration or other celebration authorized by the Village of Machesney Park, except that a permit shall be issued prior thereto by the Mayor, or in his absence, by the Chairman of the Public Improvement and Safety Committee, for the supervised display of fireworks by properly qualified persons upon furnishing the Mayor, or such Chairman, such information as he or she may request. (Amd. Ord. 71-88 - 6/30/88; Ord 13-07 - 05/14/07)

24.108. PENALTY. Any person convicted of violating any of the provisions of the Article or of neglecting or refusing to comply with any of the provisions hereof shall be punished by a fine not exceeding one hundred dollars (\$100.00). (Ord. 15-81 - 6/4/81)

ARTICLE II. RAFFLES.

24.201. TITLE. This Article shall be known, cited or referred to as the "Raffle Ordinance of the Village of Machesney Park."

24.202. PURPOSE. The purpose of this Ordinance is to

regulate and control the conduct of raffles within the Village of Machesney Park and the unincorporated areas of the County, pursuant to an intergovernmental agreement for raffle licenses with Winnebago County.

24.203. DEFINITIONS. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

A. CHARITABLE ORGANIZATION means an organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit upon the public.

B. EDUCATIONAL ORGANIZATION means an organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

C. FRATERNAL ORGANIZATION means an organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of the government by caring for those who otherwise would be cared for by the government.

D. LABOR ORGANIZATION means an organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

E. LICENSEE means an organization which has been issued a license to operate a raffle.

F. NET PROCEEDS means the gross receipts from the conduct of raffles, less sums expended for prizes, local license fees, and other reasonable operating expenses incurred as a result of operating a raffle.

G. NON-PROFIT means organized, operated, and conducted on a not-for-profit basis with no personal profit incurring to anyone as result of said operations.

H. RAFFLE means a form of lottery, as defined in <sec> 28-1(b) of the Criminal Code of 1961, (720 ILCS 5/28-2) conducted by an organization licensed under this article in which:

1. The player pays or agrees to pay something of value for a chance represented and differentiated by a number or by a combination of numbers or by some other means, one or more of which chances is to be designated the winning chance; and

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

I. RELIGIOUS ORGANIZATION means any church, congregation, society or organization founded for the purpose of religious worship.

J. VALUE OF NON-CASH PRIZES means the retail value of such prizes.

K. VETERANS ORGANIZATION means an organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows, or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

Words not defined in this section shall be interpreted in accordance with definitions contained in the most current edition of Webster's New Collegiate Dictionary.

24.204. LICENSE REQUIRED. No person, firm or corporation shall conduct a raffle or sell chances for a raffle in the Village of Machesney Park and in the unincorporated areas of Winnebago County without first having obtained a license pursuant to this Chapter. Licenses for raffles shall be issued only to bona fide religious, charitable, labor, business, fraternal, education or veterans organizations which operate without profit to their members, which have been in existence continuously for a period of fixe (5) years immediately before making application for a license and have had during the entire five (5) years period a bona fide membership engage in carrying out their

objectives and which maintain an office in the County, or to a non-profit fund raising organization that the County Board determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of illness, disability, accident or disaster.

24.205. CLASSIFICATION OF LICENSES

A. Class A: General Raffle License. A General Raffle License shall permit the conduct of a raffle with a maximum single cash prize or the maximum retail value of a single non-cash prize not exceeding \$150,000 and an aggregate maximum value of all cash and non-cash prizes awarded not exceeding \$250,000.

Multiple drawings may be held to award the prizes but all drawings must occur on the same day and at this same location.

The following fees are based upon the total aggregate value of all cash and non-cash prizes and shall be paid to the County Clerk when the application for a raffle license(s) is filed:

Less than \$100	No fee
\$100 to \$4999	\$10.00
\$5000 to \$999	\$25.00
\$10,000 to \$25,000	\$50.00
Over \$25,000 but not to exceed \$250,000	\$50.00 plus an additional \$50.00 for each additional multiple of \$25,000

B. Class B: One Ticket, Multiple Raffle License. A Class B license allows up to four raffles to be conducted with the same raffle tickets. Each ticket shall specify the dates of ticket sales and the dated of each drawing. Each drawing date shall be considered a separate raffle and will require a separate license and fee. Each license will allow one drawing event for the prizes awarded.

Although a Class B license allows up to four raffles, the maximum value of a cash or non-cash prize or prizes awarded to a single winner shall not exceed \$150,000 and the aggregate value of all prizes awarded in all of the raffle

shall not exceed \$250,000.

The fees for Class A Raffle Licenses will apply for each of the licenses secured for Class B raffles.

C. Class C: One Time Emergency Raffle License. A Class C Raffle License allows a not-for-profit fund raising organization or group, organized for the sole purpose of providing financial hardship assistance to an identified individual or group of individuals suffering severe financial hardship as a result of an injury, disability, accident or disaster, to conduct one raffle for that purpose.

The fee for a Class C license shall be ten dollars (\$10) payable to the County Clerk at the time of application.

D. Class D: Twelve-Month Raffle License. A twelve-month raffle license shall permit the conduct of a raffle or raffles, or the sale of chances for a raffle or raffles, in which the maximum value of all cash or non-cash prizes for a single drawing shall not exceed \$5,000.00. Class D raffles shall be licensed annually for a twelve-month period commencing on the day the license is approved by the Village Board. Such license shall permit no more than 52 raffles. The aggregate value of all prizes awarded annually shall not exceed \$250,000.00.

The fee for a Class D license shall be two hundred dollars (\$200) payable to the County Clerk at the time of application. Such annual licenses shall not be prorated as to term or fee. (Amd. Ord. 23-02 - 05/28/2002)

E. Class E: Limited Annual Raffle License. A Limited Annual Raffle License permits an organization to regularly conduct raffles among its own membership at a regularly scheduled organizational meeting. Chances for these raffle may only be sold, and the drawings held, on the day of the meeting. The aggregate value of the prizes awarded at each of these drawings may not exceed one hundred dollars (\$100). Class E raffles shall be licenses annually on a calendars year basis.

Such licenses shall permit not more than sixty (60) raffles per year. The aggregate value of all prizes awarded annually shall not exceed \$5200.

The fee for a Class E license shall be twenty-five dollars (\$25) payable to the County Clerk at the time of

application. Renewal applications shall be made on or before November 1 for the following year. Class E licenses shall not be prorated as to term or fee.

F. Fee Not Refundable. The application fees are not refundable, even in the event that the application is rejected by the County Board, or if the raffle is cancelled.

24.206. QUALIFICATIONS OF APPLICANT. Raffle licenses shall be issued only to bona fide charitable, educational, fraternal, labor, religious and veterans organizations that operate without profit to their members and which have been in existence continuously for a period of five (5) years or more immediately before making application for a license and which have had during the entire five (5) year period, a bone fide membership engaging in and carrying out their objections, or to a not-for-profit fund raising organization or group that is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering sever financial hardships a result of an illness, disability, accident or disaster. The following groups or individuals are ineligible for any raffle license:

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

B. Any person who is or has been a professional gambler or gambling promoter.

C. Any person who is not of good moral character.

D. Any organization in which a person described in subsections A, B, or C of this section has a proprietary equitable or credit interest or in which such person is active or employed.

E. Any organization in which a person described in subsections A, B, or C of this section is an officer, director, or employee, whether compensated or not; and

F. Any organization in which a person described in subsections A, B, or C of this section is to participate in the management or operation of a raffle.

24.207. APPLICATION; CONTENTS FOR CLASS A, B & C LICENSES. Any person seeking to conduct or operator a raffle shall file an application with the County Clerk on forms provided by the County Clerk. Applications must be submitted to the County Clerk at least ten (10) days prior to the County Board meeting at which approval is desired. The application shall contain the following information:

A. The name, address, and type of organization;

B. The length of existence of the organization and, if incorporated, the date and state of incorporation;

C. The name, address, telephone number, social security number and date of birth of the organization's presiding officer, secretary, raffle manager(s) and any other members responsible for the conduct and operation of the raffle(s);

D. The aggregate retail value of all prizes to be awarded in the raffle;

E. The maximum value of each prize to be awarded in the raffle;

F. The maximum price charged for each raffle chance issued or sold;

G. The maximum number of raffle chances to be issued;

H. The areas in which raffle chances will be sold or issued;

I. The dates raffle chances will be issued or sold;

J. The date(s) and location at which winning chances will be determined;

K. A sworn statement attesting to the not-for-profit character of the applicant or organization, signed by its presiding officer and secretary; and

L. A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.

24.208: APPLICATION FOR CLASS D & E LICENSES. Any organization seeking to conduct or operate a raffle shall file an application with the County Clerk on forms provided by the County Clerk. Applications must be submitted to the County Clerk at least ten (10) days prior to the County Board meeting at which approval is desired. The application shall contain the following information:

A. The name, address, and type of organization;

B. The length of existence of the organization and, if incorporated, the date and state of incorporation;

C. The name, address, telephone number, social security number and date of birth of the organization's presiding officer, secretary, raffle manager(s) and any other members responsible for the conduct and operation of the raffle(s);

D. The location(s) at which the chances are to be sold and the drawing(s) held;

E. The dates the drawings are to be held;

F. A sworn statement, signed by the presiding officer of the organization, attesting to its not-for-profit status and length of existence;

G. A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct; and

H. The number of drawings to be held during the twelve month period.

24.209: OPERATION AND CONDUCT. The operation and conduct of raffles are subject to the following restrictions:

A. The entire net proceeds of any raffle must be exclusively devoted to the lawful purpose of the licensee.

B. No person except a bona fide member of the licensee may participate in the management or operation of the raffle.

C. No person may receive renunciation or profit for participating in the management or operation of the raffle.

D. A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this Chapter.

E. Raffle chances may be sold, offered for sale,

conveyed, issued or otherwise transferred for value only within the area determined on the license; the winning chances may be determined only at the location specified on the license.

F. The maximum price which may be charged for each raffle chance sold, offered for sale, conveyed, issued or otherwise transferred for value shall not exceed \$250.

G. No cash prize in excess of \$150,000.00 may be awarded and the value of all prizes to be awarded shall not exceed \$250,000.

H. Each raffle chance shall have printed thereon the cost of the chance, the aggregate retail value of all prizes to be awarded in the raffle, and the maximum number of raffle chances to be issued except as provided below:

1. When raffle chances are sold, conveyed, issued, or otherwise transferred only at the time and location at which winning chances will be determined and only to persons then in attendance.

2. When the raffle chance is also a ticket to an event and a portion of the cost of the ticket is designated for a dinner, golf or other item of value to be consumed or used by the purchaser at the event.

I. No person under the age of 18 years may participate in the operation or conduct of raffles, except with the permission of a parent or guardian. A person under the age of 18 years may be within the area where winning chances are being determined only when accompanied by his parent or guardian.

J. Raffle drawings must be held on the date and at the location listed on the raffle license. If a raffle drawing is unable to be held due to an extreme emergency or a natural disaster, the licensee must seek approval of the County Board before the drawing can be held on a different date. If a drawing is cancelled due to inadequate sale of raffle tickets or due to some reason other than an extreme emergency or a natural disaster, the licensee must notify all ticket purchasers, refund all monies and return all prizes within thirty (30) days. Such cancellation will be reported to the County Clerk with a full explanation.

24.210: MANAGER, FIDELITY BOND. The operation and conduct of all raffles shall be under the supervision of a single raffle manager designated by the licensee. The manager shall give a fidelity bond equal in amount to the aggregate retail value of all prizes to be awarded in favor of the licensee conditioned upon his honesty in the performance of his duties. The terms of the bond shall provide that notice shall be given in writing to the County not less than 30 days prior to its cancellation.

24.211. RECORD KEEPING OF GROSS RECEIPTS; EXPENSES; NET PROCEEDS.

A. Each licensee shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount, and date of payment.

B. Gross receipts from the operation of raffles shall be segregated from other revenues of the licensee including bingo gross receipts, if bingo games are also conducted by the same non-profit organization pursuant to the license therefore issued by the State Department of Revenue and placed in a separate account. Each licensee shall keep separate records of its raffles. The person who accounts for gross receipts, expenses and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the licensee.

C. Each licensee shall report to its membership and to the County its gross receipts, expenses and net proceeds from the raffle, and the distribution of net proceeds itemized as required in this section. A report must be turned in within thirty (30) days of each raffle drawing, with the exception of weekly raffles, which may be reported once a month.

D. Raffle records shall be preserved for three (3) years, and organizations shall make available their records relating to the operation of raffles for public inspection at reasonable times and places.

E. No new raffle licenses will be issued to an organization until all reports from the organization's

previous raffles have been completed and submitted to the County Clerk's office.

24.212: ISSUANCE.

A. Review of application; acceptance or rejection. Organizations shall submit applications to the County Clerk's office at least ten (10) days prior to the County Board meeting at which approval is desired. The County Clerk shall review all raffle license applications, recommend approval or denial, and submit them to the County Board. The County Board shall, within thirty (30) days from the date of application, accept or reject a raffle license application. If an application is accepted, the County Clerk shall forthwith issue a raffle license to the applicant. Chances for each raffle may be issued or sold for a period of thirty (30) days prior to and including the date winning chances are to be determined unless the County Board has specifically authorized a longer period of time but in no event longer than three hundred and sixty-five (365) days prior to and including the date winning chances are to be drawn.

B. Contents of license. A raffle license shall show the following, with respect to each raffle:

1. The area in which raffle chances may be sold or issued;
2. The period of time during which raffle chances may be sold or issued; and
3. The date(s) and location at which winning chances will be determined.

C. Display. The license shall be prominently displayed at the time and location of the determination of the winning chances.

D. Validity. Each Class A or Class C license shall be valid for one (1) raffle. Each Class B license shall be valid for up to four (4) raffles. Each Class D or Class E license shall be valid for a specific number of raffles to be conducted during a specified period of time not to exceed one (1) year.

24.213: ENFORCEMENT OF CHAPTER.

A. Penalties. Failure to comply with any of the

requirements of this Chapter shall constitute a violation, and any person, upon conviction thereof, shall be fined not more than \$500. Each day the violation continues shall be considered a separate offense. In addition, the County Board is authorized to revoke the license of any Class D licensee that fails to comply with the reporting requirements in a timely manner.

B. Abatement. The imposition of the penalties in this section prescribed shall not preclude the State's Attorney from instituting appropriate action to prevent unlawful raffles or to restrain, correct or abate a violation of this Chapter of the conditions of a raffle license issued pursuant hereto.

NOTE: The County of Winnebago is authorized to regulate raffle licenses as provided through an Intergovernmental Cooperation Agreement for Raffle Licenses per Ordinance 13-99 of the Village of Machesney Park as passed by the Village Board May 17, 1999 and approved by Winnebago County. (Ord. 13-99 - 5/17/99)

ARTICLE III. SOLICITING

This chapter shall be known as the "Door-to-Door Solicitation Law of the Village of Machesney Park."

24.301. INTENT.

This chapter regulates door-to-door solicitation by licensed sales agents; establishes a Do Not Knock Registry; and promulgates reasonable time and manner restrictions on door-to-door solicitation including enforcement of the Do Not Knock Registry. In so doing, this chapter intends to assure residents that solicitors are known to Village officials and are properly licensed.

24.302. DEFINITIONS.

The following words and phrases shall have the following meanings:

SALES PERSON- any person engaged in door-to-door sales of goods or services for present or future delivery.

SALES ORGANIZATION- any entity engaged in the supervision, recruitment, retention, or employment of a sales person or persons, including any person or representative thereof.

SALES SUPERVISOR- any person who directs or supervises a sales person or persons engaged in door-to-door sales.

CHARITABLE - the purpose of door-to-door solicitation of an organization which has received a letter of determination approving tax exempt status under Title 26 of the United States Code Section 501(c)(3) or the purpose of a school club, recognized and affiliated with a public or private school, having a program with annual campaigns to support the public or private school club.

NONCOMMERCIAL - the purpose of door-to-door solicitation which is charitable, as defined in this section, religious, or political.

DOOR-TO-DOOR SALES- the in-person solicitation of sales of goods or services for present or future delivery by entry upon residential property, including multi-family or duplex residential property, or by soliciting persons located on residential property from a street, sidewalk, or other adjacent property, without the prior invitation of the person to be solicited.

DOOR-TO-DOOR SALES PERMIT- A permit issued to a sales agent to engage in door-to-door sales in accordance with this chapter.

DO NOT KNOCK REGISTRY- a list of residential addresses in the Village, organized alphabetically by street name, indicating those residential properties placed on the list at the request of the owner or occupant indicating that they do not want sales agents to enter their property.

24.303. ADMINISTRATION

The Village of Machesney Park Door-to-Door Sales Permit process shall be administered by the Village of Machesney Park in conjunction with the Winnebago County Sheriff's Department.

24.304. APPLICATION REQUIREMENTS

A. Each Sales Person must apply individually to the Village Clerk's Office during posted administrative hours by submitting a completed application, which shall require:

1. Government-issued photographic identification.
2. Date of birth.
3. Social security number.
4. Permanent residential address.
5. Home telephone number.
6. Temporary local address.

7. Current cell phone number.
8. Sales organization information.
9. Sales supervisor identity.
10. Make, model, color, and registration number of any vehicle(s) used to transport the sales agent, his/her supervisor, or sales materials.
11. Such other verifying information as may be reasonably required.

B. An application fee of \$75 (or as adjusted from time to time) shall accompany each Village of Machesney Park Door-to-Door Sales Permit Application.

C. A fee of \$75 per permit badge (or as adjusted from time to time) for each Sales Person shall be paid upon approval of Door-to-Door Sales Permit Application. A fee determined by the Village Clerk's office shall be paid for replacement badges.

24.305. CHARITABLE AND NONCOMMERCIAL SALES

A. Charitable and noncommercial sales as defined in 24.302 are exempt from all provisions of this Chapter with the following exceptions:

- 1) Charitable and noncommercial Sales Persons must receive a copy of the Do Not Knock Registry from the Village Clerk's office prior to engaging in door-to-door solicitation.
- 2) Charitable and noncommercial Sales Persons are prohibited from entering within the perimeter of any residential property included on the Do Not Knock Registry, as well as any residence where a "No Soliciting," "No Trespassing," or similar sign is posted at or near the entrance(s) to such residence.
- 3) Charitable and noncommercial Sales Persons shall not engage in abusive solicitation, including, but not limited to:
 - I. Blocking or impeding the passage of the person solicited;
 - II. Repeating the solicitation after the person solicited has indicated his or her objection to the solicitation;
 - III. Threatening the person solicited with physical harm by word or gesture; or
 - IV. Touching the solicited person without consent.
- 4) Charitable and noncommercial Sales Persons shall not engage in door-to-door solicitation except during the hours between 10 a.m. and 7 p.m. daily.

24.306. BACKGROUND CHECK.

The Winnebago County Sheriff's Department and Village of Machesney Park shall conduct a Criminal Records Check of each applicant for a Village of Machesney Park Door-to-Door Sales Permit to determine the applicant's fitness and suitability to conduct door-to-door sales.

- A. A person whose criminal history record background check reveals a conviction for any criminal offense including, but not limited to, violent crimes, sexual assault, possession of controlled substances, theft, fraud, or burglary shall be disqualified from receiving a permit to solicit within the village, subject to the following provisions:
 - I. The person shall have thirty (30) calendar days from the receipt of that notice to petition the Village for a review and to cite reasons substantiating the review.
 - II. If the person successfully challenges the accuracy of the criminal history record information, the Village may issue a permit.

24.307. DO NOT KNOCK REGISTRY.

- A. The Do Not Knock Registry shall be established and maintained by the Village Clerk's Office. Residents may submit their property address for inclusion on the list without charge.
- B. Upon approval and issuance of a Village of Machesney Park Door-to-Door Sales Permit, each Sales Person shall be provided with a copy of the Do Not Knock Registry.
- C. Solicitors shall not solicit at any premises identified on the Do Not Knock Registry.

24.308. DOOR-TO-DOOR SALES REGULATIONS.

- A. No Sales Person shall engage in door-to-door sales without first having applied for and received a Village of Machesney Park Door-to-Door Sales Permit.
- B. No Sales Organization shall allow any Sales Person to engage in door-to-door sales who has not applied for and

received a Village of Machesney Park Door-to-Door Sales Permit.

- C. No Sales Supervisor shall direct or supervise, or allow any Sales Person to engage in door-to-door sales who has not applied for and received a Village of Machesney Park Door-to-Door Sales Permit.
- D. No Sales Person shall enter within the perimeter of any residential property included on the Do Not Knock Registry, or any residence where a "No Soliciting," "No Trespassing" or similar sign is posted at or near the entrance(s) to such residence.
- E. No Sales Person shall solicit sales from a person situated within a residential property included on the Do Not Knock Registry from a street, sidewalk or other adjacent property.
- F. Each Sales Person shall carry the Village of Machesney Park Door-to-Door Sales Permit and permit badge at all times while engaged in door-to-door sales, and shall display said Permit and badge upon request by any police officer, Village official, or any person present at a residential property where door-to-door sales are solicited.
- G. No Sales Person shall engage in abusive solicitation, including, but not limited to:
 - 1) Blocking or impeding the passage of the person solicited;
 - 2) Repeating the solicitation after the person solicited has indicated his or her objection to the solicitation;
 - 3) Threatening the person solicited with physical harm by word or gesture; or
 - 4) Touching the solicited person without consent.
- H. Door-to-door sales shall not be conducted except during the hours between 10:00 a.m. and 7:00 p.m. daily.

24.309. PERMIT EXPIRATION; RENEWAL.

- A. All permits granted under the provisions of this Chapter shall be valid for up to forty-five (45) days and may be renewed thereafter, unless sooner revoked.
- B. Prior to the expiration of the permit, and upon application for renewal of the permit, Village officials shall determine if the applicant or solicitor has acted in compliance with the applicable provisions of this Chapter.

- C. Renewal fees shall be \$75 per Sales Person (or as adjusted from time to time).

24.310. PENALTIES.

- A. Each violation of any provision of this Chapter shall be punished by a fine not to exceed Three Hundred (\$300) Dollars and/or may cause revocation of the permit by the Village.
- B. Upon the occurrence of a second violation of this Chapter by any sales person, the issuing authority may revoke that Sales Person's Village of Machesney Park Door-to-Door Sales Permit.
- C. Revocation of a door-to-door solicitation permit may cause a solicitor to be ineligible to receive a new permit for a period of up to one (1) year.
- D. Violations of this provision shall be administered through the Administrative Hearing Process.

24.310. SEVERABILITY.

The invalidity of any portion or portions of this chapter shall not invalidate any other portion, provision or section thereof. (Ord. 39-81 - 10/13/81; Amd. Ord. 69-94 - 11/14/94; Ord. 02-10 - 3/1/2010)

ARTICLE IV. THEATERS.

24.401. LICENSE REQUIRED/FEE. It shall be unlawful for any person to establish, operate or maintain or permit to be established, operated or maintained upon any property owned or controlled by him, within the boundaries of the Village of Machesney Park, Illinois, a theater in the business of providing entertainment consisting of either live shows or plays, outdoor or indoor motion pictures, without having first secured a license from the Village. Such license shall be valid and in force in the Village until the succeeding April 30th from the date of issue, and may be renewed under the provisions of the Article for additional periods of one year. The annual fee for such license shall be \$75.00 for live theater, \$50.00 per screen for an indoor movie theater not to exceed \$200.00, \$75.00 per screen for an outdoor movie theater not to exceed \$200.00. Short-term licenses shall be available to all new licensees under this Article and a fee which is prorated in accordance with a full year. (Amd. Ord. 15-97 - 5/5/97)

24.402. APPLICATION. The application for a license required by this Article or renewal thereof shall be filed with the Village accompanied by the designated license fee. Application for license renewal shall be made on printed forms furnished by the Village and shall include the name and address of the applicant, seat or seating and parking capacity, location of the theater to be licensed and the name under which the applicant expects to conduct his business. (Amd. Ord. 15-97 - 5/5/97)

24.403. REGULATIONS/ISSUANCE. Before any new license under this Article may be issued there must be a favorable recommendation by the majority of the Village Board. Provided, however, that renewal licenses need not receive the recommendation of a majority of the Village Board. Holders of licenses previously issued by the County of Winnebago prior to the incorporation of Machesney Park as a Village shall be titled to receive a license under this Article without first receiving a recommendation by a majority of the Village Board for the same location for which a license was issued previously by the County of Winnebago.

24.404. INVESTIGATION COMMISSION CREATED. The Village President, together with two members of the Village Board appointed by him, shall constitute a commission to investigate and hear any complaints that may be made concerning violations of the provisions of this Article. The two members selected from the Board to serve on such commission shall serve for a period of two years or until their successors have been appointed and duly qualified. Members of the commission may be reappointed.

24.405. REVOCATION/SUSPENSION OF LICENSE. The commission created by the preceding section is authorized to revoke or suspend any license issued pursuant to the terms of this Article, if after this investigation and hearing the commission shall determine that the holder of such license has violated any of the provisions of this Article. No hearing shall be held unless notice of such hearing shall be served by registered mail on the alleged violator at least three days prior to the date of the hearing. The commission shall keep a record of any proceeding taken at a hearing pursuant to this Section. The commission may suspend a license issued pursuant to the terms of this Article for a period not to exceed thirty (30) days, if it determines that the holder is guilty of a violation of any of the provisions of this Article.

24.406. MAINTENANCE REQUIREMENTS. It is hereby made the duty of the licensee under this Article to maintain such theaters in a safe, clean, orderly and sanitary condition at

all times.

24.407. INSPECTIONS. All licensees under this Article shall be subject to inspection by the Village Building Officer or the Village Health Officer or their deputies or the County Building Officer or the County Health Officer of Winnebago County.

24.408. PENALTY. Any person violating any provision of this Article shall be fined not exceeding \$200.00 for each offense; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. (Ord. 11-81 - 5/7/81)

ARTICLE V. GOING OUT OF BUSINESS SALE.

24.501. REGULATIONS. No person shall directly or indirectly advertise or cause to be advertised, represent or cause to be represented, or hold out to the public in any manner that any sale of goods is an insurance, salvage, removal, going out of business, insolvent's assignee's, or creditor's sale of goods, or that it is a sale of goods which have been damaged by fire, smoke, water or otherwise, unless such persons shall first have obtained a license to conduct such sale under one of such descriptive names from the Comptroller of the Village of Machesney Park, in the event said sale is being conducted within the village limits; provided, however, this Article shall not apply to any sales directly ordered by any court or referee in bankruptcy, or to any person acting under the direction and supervision of state or federal courts in the course of their official duties; provided further, that this Article shall not apply to any sales by a person regularly engaged in insurance or salvage sales of goods, or sale of goods which have been damaged by fire, smoke, water or otherwise, who acquired the goods for the account of others as a result of fire or other casualty. (Amd. Ord. 15-97 - 5/5/97)

24.502. DEFINITIONS. This Article, unless the context or subject matter otherwise requires:

A. "GOING OUT OF BUSINESS SALE" means any sale, whether described by such name or by any other name (such as, but not limited to, "closing out sale", "liquidation sale", "lost our lease sale", "forced to vacate sale"), held in such a manner as to induce a belief that upon disposal of the stock of goods on hand, the business will cease and be discontinued at the premises where the sale is conducted.

B. "GOODS" includes all goods, wares, merchandise and other personal property, excepting choices in action and money.

C. "PERSON" includes a person, firm, corporation, partnership, association or two or more persons having a joint or common interest.

D. "REMOVAL SALE" means any sale held in such a manner as to induce a belief that upon disposal of the stock of goods on hand, the business will cease and be discontinued at the premises where the sale is conducted, and thereafter will be moved to and occupy another location.

24.503. APPLICATION REQUIRED. Any applicant for a license under this Article shall file an application in writing and under oath with the Village setting out the following facts and information regarding such a proposed sale:

A. The name and address of the applicant for the license, who must be the owner of the goods to be sold, and in addition, if the applicant is a partnership, corporation, firm or association, the name and position of the individual filing such application.

B. The name and style in which such sale is to be conducted, and the address where such sale is to be conducted.

C. The dates and period of time during which the sale is to be conducted.

D. The name and address of the person or persons who will be in charge of and responsible for the conduct of such sale.

E. A full explanation with regard to the condition or necessity which is the occasion for such sale, including a statement of the descriptive name of the sale and the reasons why such name is truthfully descriptive of the sale. If the application is for a license to conduct a going out of business sale, it shall also contain a statement that the business will be discontinued at the premises where the sale is to be conducted upon termination of the sale. If the application is for a license to conduct a removal sale, it shall also contain a statement that the business will be discontinued at the premises where the sale is

to be conducted upon termination of the sale, in addition to the location of the premises to which the business is to be moved. If the application is for a license to conduct a sale of goods damaged by fire, smoke, water or otherwise, it shall contain a statement as to the time, location and cause of such damage.

F. A full, detailed and complete inventory of the goods that are to be sold, which inventory shall:

1. Itemize the goods to be sold and contain sufficient information concerning each item, including make and brand name, if any, to clearly identify it;

2. List separately any goods which were purchased during a 60 day period immediately prior to the date of making application for the license; and

3. Show the cost price of each item in the inventory together with the name and address of the seller of the item to the applicant, the date of purchase, the date of delivery of each item to the applicant and the total value of the inventory at cost.

G. A statement that no goods will be added to the inventory after the application is made or during the sale and that the inventory contains no goods received on consignment.

H. A statement that the applicant has in the past maintained a place of business within the jurisdiction of the licensing authority where the goods so listed in his inventory have been sold or offered for sale for not less than four months prior to the time of making application for such license. However this subparagraph shall not apply to any applicant who acquired a right, title, or interest in the goods as:

1. An heir, devisee, legatee or surviving joint tenant, or

2. An executor, administrator, trustee, guardian or conservator, or

3. Pursuant to an order or process of a court of competent jurisdiction.

I. The application for license shall be subscribed

and sworn to under oath by the applicant and shall, directly above the space reserved for the signature of the applicant, contain the following legend in at least 10 bold type: "Warning to applicant. This application must be fully and accurately completed. False or misleading statements may subject applicant to the penalties of perjury in addition to other penalties provided by law."

24.504. LICENSE ISSUANCE. The Village, upon receipt of an application giving fully and completely the information under oath as required by the foregoing Section, and upon receipt of a fee of \$25.00, shall issue a license to the applicant therefor, authorizing such applicant to advertise, represent, and to sell the particular goods so inventoried at the time and place stated in the application and in accordance with the provisions of this Article. The license shall be issued in duplicate and shall bear a number and date of its expiration. A license issued under this Article shall be granted and valid only for the sale of the inventoried goods which are the property of the licensee. Such license shall apply only to the premises specified in the application, and it may not be transferred or assigned. If a licensee under this Article is engaged in business in other locations, advertising or offering of goods on behalf of such locations shall not represent or imply any participation in or cooperation with the sale on the premises specified in the license, nor shall any advertising or any other offering of goods on behalf of the premises where the licensed sale is being conducted represent or imply any participation in or cooperation with such sale at other locations.

No license under this Article shall be issued to any person:

A. To conduct a sale in the trade name or style of a person in which goods the applicant for the license has acquired a right or title thereto within 6 months prior to the time of making application for such a license;

B. To continue a sale in the name of a licensee under this Article in whose goods such person acquired a right or title while such a sale is in progress; or

C. To conduct a sale, other than an insurance sale, a salvage sale or a sale of damaged goods, on the same premises within one year from the conclusion of a prior sale of the nature covered by this Article.

The previous sentence, including subparts A, B and C

thereof, shall not apply to any person who acquired a right, title or interest in goods as an heir, devisee or legatee or pursuant to an order or process of a court of competent jurisdiction.

24.505. PUBLIC RECORD. The Village who issued such a license under this Article shall endorse upon each such application the date of its filing and shall preserve it, and the inventory attached to it, as a public record of the Village Clerk's office, and shall make a notation of it in a book to be kept for that purpose, properly indexed, showing the name of the applicant, the date of the application, the descriptive name of the proposed sale, the place where such sale is to be conducted, its duration, the date of the license issued thereon, and the total value of the goods thus to be sold. A copy of the inventory shall be available for public inspection in the office of the Village Clerk after issuing a license hereunder.

24.506. ILLEGALITY. It shall be unlawful for any person to advertise, or otherwise to represent, for sale, or to sell, any goods at a bankruptcy, executor's, administrator's, receiver's or trustee's sale, except pursuant to, and in compliance with, federal or state statutory authority or judicial process, or as an assignee's or insolvent's sale except when there is a bona fide assignment for the benefit of creditors.

24.507. LICENSE PERIOD/RENEWAL. A license to conduct a sale issued pursuant to this Article shall not be issued or valid for a period of more than 60 days from the start of such sale, and such sale may be conducted only during the period set forth in such license; provided, however, that such license may be renewed once only for a period not to exceed 30 days upon affidavit of the licensee that the goods listed in the inventory have not been disposed of and that no new goods have been or will be added to the inventory previously filed pursuant to this Article, by purchase, acquisition, on consignment or otherwise. The application for renewal of the license shall be made not more than 14 days prior to the time of the expiration of the license and shall contain a new inventory of the goods remaining on hand at the time the application for renewal is made, which new inventory shall be prepared and furnished in the same manner and form as the original inventory. No renewal shall be granted if any goods have been added to the stock listed in the inventory since the date of the issuance of the license. A fee of \$25.00 shall accompany an application for a license and for a renewal of a license.

24.508. APPLICATION/LICENSE TO BE POSTED. A copy of
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the application for a license to conduct a sale under this Article, including the inventory therewith, shall be posted in a conspicuous place in the sales room or place where the inventoried goods are to be sold, so that the public body may be informed of the facts relating to the goods before purchasing same; provided, however, that such copy need not show the purchase price of the goods. The duplicate copy of a license issued hereunder shall be attached to the front door of the premises where the sale is conducted in such a manner that it is clearly visible from the street, or the front door of said premises where the sale is to be conducted. Any advertisement or announcement published in connection with the sale shall conspicuously show on its face the number of the license and the date of its expiration.

24.509. FAILURE TO COMPLY/LICENSE VOID. Any substitution for or addition to goods described in an inventory filed pursuant to this Article, or any change in the time or place for a sale conducted pursuant to this Article, shall be unlawful and shall void any license issued to conduct a sale pursuant to this Article, and such license shall cease to apply to such sale. In the case of a sale of goods damaged by fire, smoke, water or otherwise, or in the case of an insurance sale or a salvage sale, the goods to be sold at such sale shall be clearly and distinctly segregated, marked or identified, and advertised, if at all, so that both on display and in advertising such goods may be readily distinguished from other stocks, and their identity readily ascertained. Any commingling of such goods with other stocks of the licensee in such a manner to cause the goods to lose their separate identity, either on display or in advertising, shall be unlawful and shall void any license issued to conduct such a sale pursuant to this Article, and such license shall cease to apply to such sale. No person in contemplation of conducting any going out of business, removal, assignee's or creditor's sale, or during the continuance of such a sale, shall order or purchase any goods for the purpose of selling them at such sale, and any unusual purchase, or additions to the stock of such goods within 60 days before the filing of such application for a license to conduct such a sale, shall be presumptive evidence that such purchases or additions were made in contemplation of such sale and for the purpose of selling them at such sale.

24.510. PENALTY. Any person, including both the applicant and an individual filing on behalf of any applicant, who shall procure from such clerk a license to conduct a sale under the description of one of the names set out in Section 24.501 hereof, which name shall be misrepresentation of the true description or character of such sale or of the kind or condition of goods to be sold

under such license, or any such person violating any of the other provisions of the Article shall be guilty of a Class B misdemeanor. Each false statement of fact in an application or inventory required to be filed hereunder shall constitute a separate offense under this Article.

24.511. INVALIDITY. If any section, subsection, sentence, clause or portion of this Article is held invalid or unconstitutional by any court of competent jurisdiction for any reason, such portion of this Article shall be deemed a separate, distinct and independent provision and such court action shall not affect the validity of the remaining portions hereof. (Ord. 9-84 - 2/14/84)

ARTICLE VI. ITINERANT MERCHANTS.

24.601. DEFINITION. An itinerant merchant is any person, persons, firm, corporation, or partnership engaging in, or intending to engage in the selling of merchandise in the Village of Machesney Park for a period of time not to exceed one hundred twenty (120) days, excluding garage sales and excluding any itinerant merchant located within a legally zoned commercial building. (Amd. Ord. 108-86 - 9/25/86)

24.602. LICENSE - REQUIRED. It is unlawful to do business in the Village as an itinerant merchant without having first secured a license therefor. Said license shall be posted on the premises identified in the application so as to be visible from the public street adjoining said premises. For the purpose of this article, any merchant engaging in, or intending to engage in, any business as a merchant selling merchandise in the Village for a period of time not exceeding one hundred twenty (120) days shall be considered as an itinerant merchant. These provisions shall exclude itinerant merchants taking orders for goods to be shipped in interstate commerce.

24.603. APPLICATION.

A. Application for such licenses shall be made to the Village at least five working days prior to the intended date or dates for selling merchandise. (Amd. Ord. 108-86 - 9/25/86; Amd. Ord. 15-97 - 5/5/97)

B. Every application for an itinerant merchant license shall set forth the name and address of the applicant, commodities to be sold, the applicant's employer identification number, the applicant's retail sales tax number, and the location to be occupied or used for the business. The location of said premises

must meet all applicable zoning regulations and therefore, said license form shall be countersigned by the zoning officer of the Village indicating that said location meets all applicable zoning regulations. Said license shall include the conditions that no portable signs are permitted, and no signs with flashing or pulsating lights shall be permitted, and no public right-of-way shall be used for display or placement of any item associated with said temporary business, and that only one advertising sign shall be permitted not to exceed six square feet per side. It is unlawful for any person to violate any of the provisions of this paragraph.

24.604. LICENSE TAX FEE. The fee for such license and the tax therefor shall be twenty five dollars (\$25.00) for a one (1) day license, one hundred dollars (\$100.00) for a seven (7) day license, two hundred dollars (\$200.00) for a thirty (30) day license, and three hundred fifty dollars (\$350.00) for a thirty-one (31) to one hundred twenty (120) day license.

24.605. PENALTY. Any person convicted of violating any of the provisions of this article or of neglecting or of refusing to comply with any of the provisions hereof shall be fined not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). Each day the violation continues shall be considered a separate and distinct offense for which the violator may be subject to the above penalties. (Ord. 91-86 - 6/22/86)

Article VII, ITINERANT STREET VENDORS

24.701. PROHIBITED.

1. No person shall operate as an itinerant street vendor in the Village, except as expressly permitted under this Ordinance.
2. It is unlawful for any person to peddle or sell merchandise on or along any public ways, except as expressly permitted under this Ordinance.

24.702. ICE CREAM TRUCKS AND ICE CREAM VENDORS.

(A) Definitions.

1. *Ice cream truck* means an enclosed motorized second division vehicle in which ice cream, ice milk, frozen dairy products or ice flavored with syrup are carried for purposes of retail sale on the streets of the

- village and which is equipped with a functioning freezer to keep the aforementioned products frozen.
2. *Ice cream vendor* means a person offering ice cream, ice milk, dairy products or ice flavored with syrup for sale from an ice cream truck on the streets of the village.
 3. *Slow signal arm* means a safety arm that can be extended horizontally from the left side of the truck and which is meant to promote pedestrian safety (see equipment specification in subsection (b) below).
 4. *Slow signal front arm* means a safety arm that can be extended outward from the front of the truck and which is meant to promote pedestrian safety and signal to motorists that the truck has slowed or stopped.
 5. *Vend* means to sell ice cream products out of the ice cream truck.

(B) Equipment specifications for ice cream trucks.

- (1) In addition to any other equipment required under local, state, and/or federal law and required by the other provisions of this article, every ice cream truck shall be equipped with the following:
 - a. A slow signal arm that can be extended horizontally from the left side of the truck. This arm shall be yellow with black lettering and contain two alternatively flashing amber lights three to five inches in diameter visible at 300 feet to the front and rear in normal sunlight upon a straight level roadway or highway. The bottom of the signal arm shall be approximately 42 inches above the roadway or highway. (Amd. Ord. 15-10 - 05/17/10)
 - b. A slow signal front arm that extends outward from the front of the truck. This arm shall be the color yellow. The signal arm shall be bumper level from road surface. (Amd. Ord. 15-10 - 05/17/10)
 - c. A convex mirror mounted on the front so the driver in his normal seating position can see the area in front of the truck obscured by the hood.
 - d. Signs or decals on both the front and the rear of the vehicle identifying the vehicle as an ice cream truck and displaying the words "SLOW CHILDREN CROSSING" in distinctive lettering at least ten (10) inches in height which is visible at 300 feet to the front and rear in normal sunlight upon a straight level roadway

- or highway.
- e. An outside passenger side mirror that provides the driver with visibility to the right side and to the rear of the vehicle.
 - f. A sign or decal that is visible at all times with the business address and telephone number of the business license holder printed on the side of the vehicle in letters of not less than two inches (2") in height. (Amd. Ord. 15-10 - 05/17/10)
 - g. A trash receptacle to dispose of all litter that is generated from products sold from the ice cream truck. (Amd. Ord. 15-10 - 05/17/10)

(C) PERMIT REQUIRED.

- (1) Each ice cream truck must obtain an annual operating permit from the Village Clerk's Office at a cost of **\$250** per ice cream truck.
- (2) The Village will limit the issuance of permits to a maximum of two ice cream truck permits per company to a maximum of three companies.
- (3) Each vendor must supply the Village with a phone number which the Sheriff's Police Department may utilize to contact and locate each ice cream truck operating in the Village. If this phone number is not a direct phone number to the ice cream truck, the person answering this phone must have the ability to immediately contact the driver of said truck.
- (4) Prior to obtaining a permit, the Village will require proof that the ice cream truck and ice cream vendors are in compliance with all provisions of this division, including but not limited to, proof of insurance and verification that all employees have received background checks.

(D) INSURANCE REQUIRED.

- (1) Each ice cream truck that operates within the Village must carry insurance.
- (2) All insurance policies required under this division shall name the Village as an additional insured within the policy.
- (3) Minimum policy limit shall be \$1 million and type of insurance shall be general liability.
- (4) The Village must be given 30 days' notice of the cancellation of any policy required under this division.
 - a. Cancellation of an insurance policy for an

individual ice cream truck shall be an automatic revocation of the Village permit issued to that individual ice cream truck.

- b. Cancellation of an insurance policy for any company that operates any ice cream truck shall be an automatic revocation of all village permits issued to all ice cream trucks operated by that company.

(E) EMPLOYEE REQUIREMENTS.

- (1) All ice cream vendors, drivers of ice cream trucks, or other employees of the ice cream vendor that are to be working out of the ice cream truck shall submit to a background check by the Winnebago County Sheriff's Department.
- (2) All drivers employed to drive any ice cream truck shall possess a **valid** Illinois driver's license at all times.
- (3) All ice cream vendors, drivers of ice cream trucks, or other employees of the ice cream vendor that are to be working out of the ice cream truck shall be over the age of **eighteen (18)**.

(F) USE OF LIGHTS AND SLOW SIGNAL ARMS ON ICE CREAM TRUCKS.

- (1) The driver of an ice cream truck stopped on the roadway or highway for the purpose of vending shall activate the special amber flashing lights of the ice cream truck and shall extend the slow signal arm and slow signal front arm.
- (2) These lights and the slow signal arms shall not be used when the truck is in motion, nor at any time when the truck is stopped for a purpose other than vending.

(G) INSPECTION REQUIRED. Every ice cream truck shall be inspected **annually** by the appropriate authorities as determined by the Village.

(H) CLEANLINESS REQUIRED.

- (1) The interior and exterior of each ice cream truck, and all equipment therein shall be kept clean and sanitary and maintained in good repair at all times.
- (2) The interior and exterior of each ice cream truck shall comply with all local, state, and federal codes and regulations governing the sale and

distribution of food products.

(I) VENDING RESTRICTIONS.

- (1) Ice cream trucks may only operate between the calendar dates of **May 1** and **September 30** of any given year.
- (2) No ice cream truck or ice cream vendor shall vend before **10:00 a.m.** or after **one hour before sunset daily.**
- (3) Ice cream trucks and ice cream vendors shall only vend on residential streets and only where the speed limit does not exceed 30 miles per hour ("vending area"). The village shall provide each ice cream vendor with a map and a list of prohibited streets which may include certain residential streets. The list of prohibited streets is subject to change. A copy of the same shall be on file at the Village Clerk. (Amd. Ord. 15-10 - 05/17/10)
- (4) No ice cream truck or ice cream vendor shall vend within **500** feet of any property used as a school **from one hour before the regular school day to one hour after the regular school day; provided, this subsection shall not apply on day when school is not attended by children nor when vending on school property has been approved in writing by the principal of the school.**
- (5) No ice cream truck or ice cream vendor may vend before the ice cream truck is lawfully parked or stopped with safety devices in use.
- (6) Ice cream trucks and ice cream vendors may only vend from the right side of the truck that is away from moving traffic and as near as possible to the curb or edge of the roadway or highway.
- (7) No ice cream truck or ice cream vendor may vend to a person standing in the roadway.
- (8) Only individually packaged ice cream products shall be sold; no soft serve machines shall be permitted.
- (9) A copy of a current, valid health department permit must be on file with the Village Clerk and must also be carried in the vehicle.
- (10) A current, valid Village Operating Permit issued to that individual ice cream truck must be visibly displayed on the window of the ice cream truck.

(J) BACKING RESTRICTED.

- (1) The driver of an ice cream truck shall not operate the truck in reverse in order to make or to attempt to make a sale nor shall he/she operate the truck in reverse immediately before or after vending.

(K) SOUND AMPLIFICATION RESTRICTIONS.

- (1) All sound amplification equipment used must comply with all local, state, and federal laws regulating permissible levels of sound.
- (2) Sound amplification, if used, shall be restricted to the playing of non-vocal music and the Village reserves the right to regulate volume in a manner to prevent the non-vocal music from being a nuisance or otherwise disturbing the peace.
- (3) Sound amplification equipment shall not be operated while the ice cream truck is stopped or parked, and shall not be operated while the ice cream truck is travelling outside an approved vending area.
- (4) Sound amplification equipment shall not be operated within **500** feet of hospitals, schools, or churches.

24.703. PENALTIES. Any person convicted of violating any of the provisions of this Article or of neglecting or refusing to comply with any of the provisions hereof shall **face revocation of the license and/or be fined not less than \$100 and not more than \$500.** Each day the violation continues shall be considered a separate and distinct offense for which the violator may be subject to the above penalties. **In the event of revocation, the licensee shall be provided a hearing within seven (7) days of the revocation.** (Ord. 52-96 - 9/16/96; Amd. Ord. 47-09 - 12/21/2009)

CHAPTER 25. PUBLIC ACCESS TO RECORDS

ARTICLE I. FREEDOM OF INFORMATION ACT

25.101. FOI OFFICER DESIGNATION. The Village Clerk is hereby designated as the Freedom of Information Officer to whom all initial requests for access to the records of the Village are to be referred. Such requests are to be made at the offices of the clerk at 300 Roosevelt Road, Machesney Park, Illinois, between the hours of 8 a.m. to 4:30 p.m. Monday through Friday except on Village holidays. In the event that the Village Clerk is not available during the times described above, the Deputy Clerk is designated as the Deputy Freedom of Information Officer to whom such initial requests are to be made. Except in instances when records are furnished immediately, the Freedom of Information Officer, or his or her designee(s), shall receive requests submitted to the Village under FOIA, ensure that the Village responds to FOIA requests in a timely fashion, and issue responses as required or authorized under FOIA. The Freedom of Information Officer shall develop a list of documents or categories of records that the Village shall immediately disclose upon request.

25.102. REQUEST PROCESSING. Upon receiving a request for a public record, the Freedom of Information Officer shall:

- (1) Note the date the Village receives the written request;
- (2) Compute the day on which the period for response will expire and make a notation of that date on the written request;
- (3) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied; and,
- (4) Create a file for the retention of the original request, a copy of the response, a record of written communications with the requester and a copy of other communications relating to the request.

25.103. FOI OFFICER TRAINING. The Freedom of Information Officer and Deputy Freedom of Information Officer shall, within 30 days of designation, successfully complete an electronic training curriculum through the Illinois Attorney General Public Access Counselor and thereafter successfully complete an annual training program. Whenever a new Freedom of Information Officer is designated by the Village, that person shall successfully complete the electronic training curriculum within 30 days after assuming the position.

25.104. RECORD RETRIEVAL. Any records which are the subject of a request under FOIA shall be retrieved from such place as

they are stored by the Freedom of Information Officer, or by an employee of the Village acting under the direction of the Freedom of Information Officer. In no event shall records be retrieved by the party requesting them or by any person who is not employed by the Village.

25.105. COPYING COSTS. If copies of records are requested, the fees for such copies, whether certified or not, shall be as determined from time to time by the Freedom of Information Officer pursuant to Section 6(b) of FOIA. The clerk shall maintain a written schedule of current fees in the clerk's office. The fees so charged shall reflect the actual cost of copying the records, and the cost of certifying copies, if certification is requested, subject to the limitations under FOIA.

25.106. APPEAL. In the event that a request to inspect Village records is denied by the Freedom of Information Officer, the denial may be appealed to the Illinois Attorney General Public Access Counselor.

25.107. FOIA BOOKLET. The clerk shall prepare: (a) a Village Information Directory; (b) a block diagram of the functional Subdivisions of the Village; (c) a Village Records Directory; and, (d) a Records Catalog, all of which shall be substantially in the same form as the documents attached hereto and made a part hereof as Exhibit A. This information shall also be posted on the Village's website. The documents referenced in this section may be updated from time to time at the discretion of the Village Administrator.

25.108. REPEAL OF CONFLICTING PROVISIONS. All ordinances, resolutions and policies, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

25.109. SEVERABILITY. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable. (Ord. 28-22, 07/05/22)

CHAPTER 26. ACCESS GRIEVANCE PROCEDURE

ARTICLE I. ACCESS TO FACILITIES.

26.101. GRIEVANCE TO BE FILED WITH VILLAGE CLERK. (STEP ONE). The person with a grievance or an alleged discrimination in reference to access of facilities that are the responsibility of the Village of Machesney Park may present the grievance, verbally or in writing to the Village Clerk. The Village Clerk in Machesney Park is the person designated by the governing body to be coordinator of all efforts to comply with Section 51.55 of the Local Government Fiscal Assistance Amendments of 1983 to the Federal Revenue Sharing Regulations hereinafter referred to as General Revenue Sharing Amendment.

26.102. GRIEVANCE TO VILLAGE BOARD. (STEP TWO). If the Village Clerk does not resolve the complaint to the satisfaction of the complainant within 10 working days, the Village Clerk along with the person bringing the complaint will present the problem to the Board of Trustees of the Village of Machesney Park at the next regular scheduled meeting.

26.103. REVIEW BY REVENUE SHARING AUDITOR. (STEP THREE). If the decision of the Board of Trustees does not satisfy the grievance, then the Revenue Sharing Auditor will be asked by the Board of Trustees to review the complaint in light of Section 51.55 (h) 1-2-3-4, Reasonable Accommodation, of the General Revenue Sharing Amendment.

26.104. AUDITOR'S DECISION BINDING. (STEP FOUR). The Auditor's decision, which can include advice from the Office of Revenue Sharing will be binding. (Ord. 64-84 - 9/25/84)

ARTICLE II. EMPLOYMENT PRACTICES AND POLICIES, PROGRAMS, SERVICES AND BENEFITS GRIEVANCE PROCEDURE.

26.201. GRIEVANCE TO BE FILED WITH VILLAGE CLERK. (STEP ONE). The grievance should be in written form and contain as much information as possible about the alleged discrimination (name, address, phone number, location and description of problem etc.). Other arrangements for submission of a grievance such as a personal interview or tape recording will be made available for the visually impaired or those with motor impairments. It should be submitted by the grievant and/or his or her design within 30 calendar days of the alleged violation to: Machesney Park Village Clerk, 300 Machesney Road, Machesney Park, IL 61111 - Phone: 877-5432 - Office hours: 8:00 a.m. to 4:30 p.m.

26.202. RESPONSE. (STEP TWO). Within 15 working days of receipt of the complaint, the Village Clerk will respond in writing (or a method understood by the complainant) to the complainant and/or his design. The response will offer a resolution or explain the position of the Village of Machesney Park with respect to the complaint.

26.203. HEARING BEFORE BOARD OF TRUSTEES. (STEP THREE). If the response by the Village Clerk does not satisfactorily resolve the issue, the complainant and/or his or her design may request a hearing to be held within 15 working days of receipt of the response before the Board of Trustees, 300 Machesney Road, Machesney Park, IL 61115 - Phone: 877-5432 - Office hours: 8:00 a.m. to 4:30 p.m. for resolution. Within 30 calendar days of the hearing, the complainant and/or his or her design will receive the final resolution in writing (or a method understood by the complainant) as proposed by the Board of Trustees.

26.204. RECORDS RETENTION/THREE YEARS. (STEP FOUR). All complaints received by the Village Clerk and responses from the Board of Trustees will be kept by the Village of Machesney Park for a period of three years. These documents may be requested by the Office of Revenue Sharing should an investigation into alleged discrimination on the basis of handicapped status be initiated. (Ord. 12-85 - 2/13/85)

CHAPTER 27. EMERGENCY MANAGEMENT

ARTICLE I. ESTABLISHMENT OF.

27.101. PRESIDENTIAL POWERS/STATE OF EMERGENCY. The President has the authority to declare a state of emergency as provided within the provisions of this Section.

A. The Standard for Determination of a State of Emergency: A state of emergency exists when an unforeseen combination of circumstances either natural or manmade or the resulting aftermath calls for immediate action.

B. A signed statement, under oath, finding that the determination of a state of emergency exists with facts substantiating this determination and an executive order declaring same shall be prepared.

C. The aforementioned statement and executive order shall be filed with the Village Clerk as soon as practicable.

D. The declared state of emergency shall expire not later than the adjournment of the first regular meeting of the Board of Trustees after the state of emergency is declared.

27.102. PUBLIC INFORMATION OFFICER/AUTHORITY. The President or his design shall be the sole Public Information Officer during a declared state of emergency. The Public Information Officer is the only individual authorized to communicate with the media during a declared state of emergency. It is declared to be the policy of the Village that in the event of a declared state of emergency, all questions from the media shall be referred to the Public Information Officer.

27.103. INTERGOVERNMENTAL AGREEMENT REVIEW. The Intergovernmental Agreement between the Village and Winnebago County for emergency services shall be reviewed bi-annually in June of odd numbered years by the Board of Trustees.

27.104. EMERGENCY COORDINATOR. The Village Director of Public Works shall be designated as the Emergency Coordinator for purposes outlined in the aforementioned Intergovernmental Agreement for emergency services. (Ord. 67-84 - 12/11/84)

CHAPTER 28. BUILDING AND GROUNDS

ARTICLE I. BOARD ROOM POLICY.

28.101. USE OF SAME. The following procedures are defined as policy regarding the use of the boardroom, conference room and village property by outside originations and agencies:

A. The boardroom, conference room and Village property shall be made available to bona fide non-profit organizations daily, except during periods of Village use.

B. The organization requesting the boardroom, conference room and Village property shall schedule the use at least 48 hours in advance.

C. The Village shall have an authorized person to make the room available before the meeting and to secure the room after the meeting.

D. All requests for the use of the boardroom, conference room and Village property shall be made in writing and authorized by the Village President or his or her designee.

E. No regular uses are to be scheduled without review and approval in writing by the village President or his or her designee.

F. The Board reserves the right to revoke privileges with or without cause. The use of Village owned parks are exempt from this policy. (Ord. 4-87 - 3/24/87; Amd. Ord. 7-96 - 3/4/96; Amd. Ord. 07-10 - 03/15/2010)

ARTICLE II. ROUTINE MAINTENANCE.

28.301. AUTHORIZATION. The department of Public Works is hereby authorized to cause to be carried out routine building and grounds maintenance including repairs.

28.302. MONETARY LIMITATIONS. Any anticipated costs for maintenance or repair exceeding one thousand dollars (\$1,000.00) for a single item shall be authorized by the Board of Trustees.

28.303. EMERGENCY REPAIRS. Emergency repair items are

exempt from Section 28.302. The DPW must receive authorization from both the Mayor and the Chairman of the Public Improvement and Safety Committee before implementation of emergency repairs exceeding one thousand dollars (\$1,000.00). (Ord. 41-88 - 5/31/88) (Ord. 13-07 - 05/14/07)

CHAPTER 29. PARK RULES

INTRODUCTION TO ARTICLES I AND II OF THE VILLAGE PARK CODE.

The rules and regulations contained in Articles 1 and 2 of this Chapter of the Village of Machesney Park's Code are intended to ensure the use and enjoyment of all Village park facilities.

It is the intention of the Village of Machesney Park's Board of Trustees that not only will these ordinances be enforced but that all appropriate provisions of state criminal law, especially those related to the use of drugs, liquor or weapons, be enforced by Village of Machesney Park Police. The ordinances contained in Article 1 and 2 are in no way intended to take the place of provisions of state, municipal or county law otherwise intended to ensure the safety and good conduct of any person making use of Village Park facilities.

ARTICLE I. PARK RULES REGULATING THE ADMINISTRATION OF PARKS AND PARK FACILITIES.

29.101. ADVERTISING. No person shall display any placard or advertisement of any kind in any park, nor shall any person distribute, cast, throw, or place any handbill, pamphlet, circular, advertisement or notice of any kind, nor post, stencil, or otherwise affix any notice or bills, advertisements or other papers upon any structure or thing in or about any park, except as herein provided.

29.102. FIGHTS - DISORDERLY CONDUCT.

A. No person within the limits of the Village of Machesney Park's parks or its playgrounds shall engage in, instigate, cause or procure any prize fight, dog fight, cock fight or any public or private fighting.

B. No person shall do any act in such unreasonable manner as to alarm or disturb another and to provoke a breach of the peace while within property of the Village of Machesney Park's parks.

29.103. CLOSING HOURS.

A. Public Recreational Parks - All public recreational parks under the jurisdiction of the Village of Machesney Park shall be open to the public between the hours of 6:00 a.m. and 9:00 p.m. It shall be unlawful to be present in a public park between 9:00 p.m. and 6:00 a.m. except in the case of a special use or event with the consent of the Village. No person or property of any kind shall remain in the parks after closing time unless permission has been granted by the Village for later hours.

B. Public Boat Launch Park - All public boat launch parks under the jurisdiction of the Village of Machesney Park shall be open

to the public only between 6:00 a.m. and 9:00 p.m. daily. It shall be unlawful to be present in a public park between 9:00 p.m. and 6:00 a.m. except for the purpose of launching or retrieving of vehicles from the river, use of the bike path or in the case of a special use or event with the consent of the Village. No person or property of any kind shall remain in the parks after closing time unless permission has been granted by the Village for later hours.

29.104. WEAPONS, MISSILES AND FIREWORKS. No person or organization shall bring, carry, or use in any way knives, firearms, or other weapons of any kind, or any fireworks or other explosive substance of any kind into the park system without the permission of the Village. No person shall throw, cast, or shoot arrows, stones, or other missiles of any kind within the park system except as such places and times as the Village may designate for such purposes.

29.105. PARKING LOTS. No person shall park any vehicle on any park lot larger than and A or B licensed vehicle at any time. Additionally, no vehicle shall be parked on a Village park lot beyond normal closing of the park, except where individuals are using the lot for the purposes of launching or retrieving a vehicle from the river or is attending a function where permission has been granted for later closing hours by the Village of Machesney Park.

29.106. GAMBLING. No person or organization shall engage in gambling or any gambling-related activity within the Village of Machesney Park's parks. Gambling for purposes of the above includes the following:

A. A game of chance or skill for money or for other thing of value unless otherwise declared legal by the laws of the State of Illinois.

B. Wagering upon the result of any game, contest or any political nomination, appointment or election.

C. Operating, keeping, owning, using, purchasing, exhibiting, renting, selling, bargaining for the sale or lease of, manufacturing or distributing any gambling device.

D. Knowingly owning or possessing any book, instrument or apparatus by means of which bets or wagers have been or are recorded or registered or knowingly possessing any money which has been received in the course of a bet or wager.

E. Selling pools upon the result of any game or contest of skill or chance, political nomination, appointment or election.

F. Setting up or promoting any lottery or selling, offering to sell or transferring any ticket or share for any lottery unless specifically provided by the laws of the State of Illinois.

G. Setting up or promoting any policy game or selling, offering to sell or knowingly possessing transferring any policy ticket, slip, record, document or similar device. A person found guilty of gambling within the Village of Machesney Park's parks shall be fined in an amount not less than \$10.00 but not greater than \$200.00.

29.107. CONCESSIONS. The selling of any object including food and beverage is prohibited without the consent of the Village.

ARTICLE II. PROHIBITIONS.

29.201. ANIMALS.

A. No person shall hunt, trap, catch, wound or kill or treat cruelly, or attempt to hunt, trap, catch, wound or kill any bird or animal in any park.

B. No person shall bring a dog or cat within the park system controlled by the Village, unless properly leashed and under control at all times.

C. No person shall ride, drive or lead any farm or domestic animal, except dogs or cats, over or through any park or playground in the Village or haul, drag or ride any agricultural vehicle therein or any vehicle except on the roads or areas provided for such purposes.

D. No person shall lead, ride or allow to be loose upon Village property, any horse, pony or other riding animal except in areas designated for riding and by express consent of the Village.

E. Any animal found within the park system in violation of this section may be apprehended, removed to the animal shelter, public pound or any other place provided for that purpose and impounded, all at the expense of the owner.

29.202. FIRES. No person shall light or make use of any fire in the park system except at such places as may be established for such purposes and then only under such rules as may be prescribed therefor. Every fire shall be continuously under the care and direction of a competent person from the time it is kindled until it is completely extinguished.

29.203. SOUND AMPLIFICATION. No person within the Village of Machesney Park's parks system shall play or operate any sound amplification device including radios, television sets, phonographs, tape decks, public address systems, amplified musical instruments and the like or operate any other energy

amplification device in a manner which may reasonably be expected to annoy other persons in the parks.

29.204. INTOXICATING LIQUORS. No person shall consume or possess any intoxicating liquor upon any property of the Village of Machesney Park or in any park owned or leased by the Village except for the purposes of transporting from one vehicle to another when utilizing the Village's boat launch.

29.205. REFUSE. No person shall deposit or leave any garbage, tree, shrub or grass trimmings or clippings, refuse or other material of any kind on the park system grounds or waters. Paper, glass, cans, garbage and other refuse of every kind resulting from picnics or other proper use of the park system shall be deposited in receptacles if provided for that purpose, and no person shall litter, suffer, or cause the park system to be littered in any way.

29.206. TREES - SHRUBS.

A. No person shall cut, break, or in any way injure or deface any tree, shrub, plant, flower, turf, or any of the buildings or other structures and properties, or dig into the soil or into any road, park, parkway or playground within the Village of Machesney Park's parks without permission of the Village.

B. No person shall trespass, stand, walk, ride or write upon any place laid out and appropriated for shrubbery or grass when there shall have been place thereon a sign forbidding same.

C. No person shall cut, quarter or remove any dying, dead or downed trees or shrubs from the Village of Machesney Park's park property without permission of the Village.

29.207. MOTORIZED VEHICLES. Motorized vehicles including but not limited to powered snow sleds, motorcycles, motor scooters, all-terrain vehicles or any like vehicle shall not be operated, managed or used by any person in any park under the jurisdiction or control of the Village of Machesney Park's parks without the express consent of the Village.

29.208. PENALTIES. Any person, persons, corporation, partnership, firm or any organization or concern who shall violate any provision of the chapter shall be subject to a fine of not less than fifty dollars (\$50.00) and not more than two hundred dollars (\$200.00) for each violation. Every day said violation occurs shall constitute a new and separate offense.

29.209. SIGNS. The Superintendent of Public Works is authorized to purchase and post signs denoting said hours and regulations at all public parks under the jurisdiction of the Village of Machesney Park. (Amd. Ord 18-16 - 4/18/2016)

CHAPTER 30. GARBAGE

ARTICLE I. GARBAGE AND RECYCLING COLLECTION REQUIREMENTS.

30.101. It shall be the duty of every owner, agent, tenant or occupant of any single family residence to place all refuse material and recycling in approved containers as set forth and defined hereinbelow:

A. The refuse material shall be placed in approved containers not exceeding a capacity of 33 gallons. All refuse material not suitable for placement in containers or cartons shall be placed in bundles or broken into sizes not to exceed 60 pounds and not over four feet in length.

B. Residents are encouraged to limit the number of containers to four per week.

30.102. It shall be the duty of every owner, agent, tenant or occupant of any multi-family residence to place all refuse material and recycling in approved receptacles as set forth and defined herein below:

A. Every multi-family dwelling unit shall utilize an approved trash container, toter or a dumpster to manage refuse material, as well as a recycling container, for use by the dwelling's residents. In residential zoning districts, the use of dumpsters is limited to properties zoned R3 and R4.

i. Dumpsters shall be adequately screened all sides using an approved solid fence, wall, or opaque landscape screen; and shall not be located in a front yard or yard abutting a street.

ii. Multi-family units utilizing approved containers or toters in lieu of dumpsters shall store these containers in an enclosed area, where practical.

30.103. Collection shall take place one time per week from all single-family and multi-family residences. A week is determined as Monday through Friday. If the collection schedule falls on a holiday, the collection days of that week will be set back one day, after the holiday. Holidays are New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day.

A. All refuse material and recycling to be collected will be placed at the curb location no later than 6:00 a.m. local time on the day of collection.

B. No refuse material or recycling may be placed at

curb location before 6:00 a.m. local time of the day immediately before the day of collection. All approved containers must be removed from the curb location no later than 12:00 noon of the day immediately following the day of collection.

C. All refuse material and recycling materials stored in approved containers, and refuse materials not suitable for placement in containers, shall not be stored in the area between the dwelling unit and the public right-of-way that the unit faces or abuts, except for the approved times in (B) above before and after collection. Amd. Ord 14-16 - 04/18/2016

30.104. Each single-family residence shall be provided with one 20-gallon plastic-recycling bin. Damaged bins which are no longer useable due to normal wear and tear will be exchanged. Collection of recyclable materials shall take place as defined hereinbelow:

A. All recycling materials shall be placed in the bin provided by CONTRACTOR at curb location by 6:00 AM local time on the day of collection. Recycling materials shall be defined as paper products, clean glass, clean plastic, and clean aluminum cans.

B. Collection of all recycling materials from single family residences shall take place one time per month. If the collection schedule falls on a holiday, the collection days of that week will be set back one day, after the holiday. Holidays are New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas Day. (Ord. 92-89 - 11/16/89)

ARTICLE II. SINGLE FAMILY RESIDENTIAL AND RECYCLABLES.

30.201. EXCLUSIVE FRANCHISE LICENSE: There shall be issued in the Village of Machesney Park no more than one scavenger license, authorizing the collection of garbage/refuse and recyclable for any and all single family residential dwelling units located within the corporate limits of the Village.

30.202. The said exclusive franchise license shall be issued to that contractor awarded the contract by resolution of the Board of Trustees for the Collection of single family residential refuse and recyclable.

30.203. Yard waste is defined as any living matter lacking locomotion and possessing cellulose cell walls grown

on property and include the following:

A. Grass clippings.

B. Trees or leaves, limbs, branches of less than six inches in diameter.

C. Items grown in a garden except fruits or vegetables.

30.204. The exclusive franchise licensee shall charge no more than \$1.25, under no circumstances more than the lowest rate per yard waste removal service charged by any licensed collector in any adjacent municipality, per collection and disposition of each 33 gallon bag, can, or bundle of yard wastes. The contractor has the opportunity 30 days prior to the yearly anniversary to request an increase. The Board of Trustees reserves the right to approve or disapprove the increase in the collection fee. This request shall not be unreasonable withheld.

30.205. This ordinance does not prohibit single family residences from composting, mulching, or otherwise disposing of yard waste in a legal manner.

30.206. PENALTY. The penalty for any scavenger service collecting single family residential yard waste without the exclusive franchise license, upon conviction, shall be fined not less than \$200.00 or more than \$500.00 plus court costs. (Amd. Ord. 58-90 - 7/9/90)

A. The penalty for any scavenger service collecting single family residential refuse or recyclables without the exclusive franchise license, upon conviction, shall be fined not less than \$500.00 plus court costs. (Ord. 93-89 - 11/14/89)

B. The funds collected from the sale of items from the Residential Refuse/Recycling Collection Program shall be used to abate residential rates in the Residential Refuse/Recycling Collection Program. (Ord. 100-90 - 12/10/90)

ARTICLE III. DUMPSTERS AND TOTER FROM RESIDENTIALLY ZONED PROPERTIES.

30.301. APPROVED CONTAINERS. All refuse material shall be collected in approved containers. Approved containers shall include:

A. Garbage Can - containers provided by residents that are made of pliable or hard plastic or galvanized metal not exceeding a volume of thirty-two (32) gallons, commonly sold as a garbage can. Each such can shall have two handles upon the sides of the can or bale by which it may be lifted and shall have a tight fitting top.

B. Toter - containers provided by a commercial garbage collection service that are made of hard, molded plastic material that are larger than thirty-three (33) gallons and less than ninety-five (95) gallons in capacity.

C. Dumpsters - commercially available metal garbage collection containers, with or without wheels, larger than ninety-five (95) gallons, measured in increments of three (3) to six (6) yards in capacity, and used to mechanically tip or load refuse material directly into a mobile garbage collection vehicle.

Bundles - yard waste such as limbs, branches, overgrown weeds, and wood, which cannot be properly placed in proper containers for collection, which in order to be collected, must be tied securely in bundles. Amd. Ord 14-16 - 04/18/2016

30.302. PROHIBITED. Dumpsters are prohibited on single family and two-family residentially zoned properties except for reasonable periods of time during demolition, construction, or remodeling of structures on the property. Toters are prohibited on single family residentially zoned properties except for those properties that have been issued a home occupation permit and provided that said toters are obscured from view to the public except when placed for pickup. Amd. Ord 14-16 - 04/18/2016

30.303. PENALTY. Any person, persons, corporations, firms or organizations which shall violate this article shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) plus court costs. Each day any violation of this Article shall continue shall constitute a separate offense. (Ord. 60-91 - 9/16/91; Ord. 49-92 - 10/5/92)

ARTICLE IV. LICENSING REQUIREMENT FOR MULTIPLE FAMILY RESIDENTIAL REFUSE/RECYCLING.

30.401. License required: It shall be unlawful for any

person, firm, or corporation to engage in the business of refuse/recycling of multiple family residential buildings within the Village of Machesney Park without having first obtained a license to do so, provided that this section shall not apply to materials from the demolition of buildings or structures demolished pursuant to a permit issued by the Village of Machesney Park.

30.402. Applications: That applications for such licenses shall be made in writing to the Comptroller. All applications must include a recycling plan or proposal which will be made available to each multiple family residential and mobile home unit they collect. The application shall be subject to the approval of the Village President and the Village Board. That the license to be issued upon the application is and will be subject to revocation by the Village President and Village Board. The application shall be under oath and shall state as follows: (Amd. Ord. 15-97 - 5/5/97)

A. The name, address and statement of legal age of the applicant in the case of an individual; in the case of a co-partnership, the persons entitled to share in the profits thereof, and in the case of a corporation for profit, the date of incorporation, the names and addresses of the officers and directors, owned by one person or his nominees, the name and address of such person;

B. The citizenship of the applicant, his place of birth, and if naturalized citizen, the time and place of his naturalization;

C. The character of business of the applicant; and in the case of a corporation, the objects for which it was formed;

D. The length of time that said applicant has been in business of that character, or in the case of a corporation, the date on which its charter was issued;

E. The location and description of the premises or place of business which is to be operated under such license;

F. A statement whether applicant has made similar application for a similar other license on premises other than described in this application, and the disposition of such application;

G. A statement that applicant has never been convicted of a felony and is not disqualified to

receive a license by reason of any matter or thing contained in this section, laws of this state or the ordinances of this Village;

H. Whether a previous license by any state or subdivision, thereof, or by the federal governments has been revoked, and the reasons therefor;

I. The number of trucks intended to be operated under the proposed license;

J. That each truck shall be covered or enclosed in such a way that the contents thereof will not blow from or drop off of said truck either in the Village limits or on the way to the designated landfill facility;

K. That all regulation and resolutions duly adopted by the Village Board pertaining to the pick-up and dumping of garbage, refuse and rubbish will be observed and followed;

30.403. (Deleted by Ord 14-16 - 04/18/2016)

30.404. Recyclable Material Containers: The recyclable materials shall be collected in approved containers. Approved containers shall include:

A. Recycling Bin - the term "recycling bin" shall mean a plastic or other material container with four sides and a bottom that is provided by the Licensee to all residences for their use in recycling.

B. Recycling Container - contained used for the disposition and collection of recycling materials.

30.405. License shall provide:

A. The name, address or location of the sanitary landfill at which the licensee intends to dump all garbage, refuse or rubbish collected from within the Village. All landfill facilities must be licensed and approved by the Illinois or other appropriate State Environmental Protection Agency.

B. The name, address or location of the recycling factory at which the licensee intends to deposit recyclable materials collected from within the Village.

C. A list of current multiple family

building/sites for which the license will be issued, which list shall be updated on an annual basis and furnished to the President of the Village within 5 days of the end of the year.

30.406. Limitations on Licenses: No person, firm, or corporation shall be issued more than one license. No license shall be issued to any person, firm or corporation which does not have trucks in service. There shall be no limitation on the number of trucks operated by each licensee.

30.407. Duration and Transfer of License:

A. The license shall be issued for a period not to exceed one year. The one-year period shall be from the 1st day of July of each year to the 30th day of June of each year unless sooner revoked or suspended as provided in this chapter. Licenses issued after the 1st day of July of any year shall pay the full license fee as provided. A license shall not constitute property, nor shall it be subject to attachment, garnish, garnishment or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to the encumbrance or hypothecation. Such license shall not descend by the laws of testate or intestate devolution, but it shall cease upon the death of the licensee, and the trustee of any insolvent or bankrupt licensee, when such estate consists in part of refuse collection service, may continue the business under order of the appropriate court, and may exercise the privileges of the deceased or insolvent or bankrupt licensee after the death of such decedent, or such insolvency or bankruptcy, until the expiration of such license, but not longer than six (6) months after the death, bankruptcy or insolvency of such licensees. In no event shall there be any refund of any portion of any license fee paid.

B. Any licensee may renew his license at the expiration thereof, provided he is then qualified to receive a license AND FURTHER PROVIDED that the renewal privilege herein provided for shall not be construed as a vested right.

30.408. License Fee: The fee for such license shall be calculated as follows:

A. The annual fee payable in advance for such licenses shall be twenty-five dollars (\$25) for each license.

B. Starting three months after the passage of

this ordinance, the Licensee shall provide a sum of \$1.75 for every ton of garbage collected in the Village and remit that sum to the Village Treasurer ten (10) working days after the close of each month. Said sum to be deposited in the Village's General Fund. Each Licensee is responsible for submitting a refuse and recycling report monthly informing the Village, as accurately as possible, of the amount collected.

30.409. Times for Pick-up: Licensees shall schedule the collection of recyclables, garbage, refuse or rubbish not to start before 6 a.m. or continue after 6 p.m. on the afternoon of the same day (Monday through Friday), except during weeks with legal holidays, a Saturday pick-up will be allowed.

30.410. Penalty:

A. Any Licensee in violation of any provisions of this chapter who fails to correct said violation within ten days written notice shall be subject to having their license revoked by the Village President and Village Board.

B. Any person, firm or corporation collecting and/or hauling refuse and recycling materials in the Village of Machesney Park without a license or after said revocation of license shall be subject to a fine of not less \$100 and not more than \$500 for each offense. Each day a violation continues shall constitute a separate offense. (Ord. 28-92 - 7/6/92)

ARTICLE V. REGIONAL POLLUTION CONTROL FACILITY SITING.

30.501. TITLE. This chapter shall be known, cited and referred to as the "Regional Pollution Control Facility Siting" Ordinance of the Village of Machesney Park, Illinois.

30.502. CONSTRUCTION. The terms used in this Chapter shall have the same meaning as the same terms are defined in the Illinois Environmental Protection Act, Illinois Compiled Statutes, Chapter 415, Paragraph 5/1, et sec. (hereinafter referred to as the "Illinois Environmental Protection Act"), in effect as of the dates hereof, and as said Act may be amended or modified from time to time.

30.503. APPLICATION. All applications for site location approved for regional pollution control facilities pursuant to the Illinois Environmental Protection Act shall be made in writing and filed with the Comptroller. Said applications shall conform to the following. (Amd. Ord. 15-

A. The Application.

1. Four copies of the application and all exhibits thereto shall be filed with the Comptroller. (Amd. Ord. 15-97 - 5/5/97)

2. The application shall be typed on paper eight and one-half (8 1/2) inches x eleven (11) inches in size and shall be securely bound in the left-hand margin.

3. The application shall contain the information specified in subsections (a) through (f) of this section as is required under Section 39.2 of the Illinois Environmental Protection Act.

4. The application shall be signed by the applicant, or if the application is filed by a corporation, it shall be signed by its principal executive officer.

5. The face sheet of the application shall contain only the following information.

a. A statement that it is an application for approval of a site for a new regional pollution control facility.

b. A statement indication whether it is an application for a waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste incinerator, or any combination thereof, or any other type of regional pollution control facility governed by the Illinois Environmental Protection Act.

c. The name of the applicant.

d. The principal business address and telephone number of the applicant.

e. The name, address, telephone number and title of the person designated by the application as its agent for service of notices.

6. The application shall be under oath sworn to by the applicant, or if a corporation, the principal executive office thereof, which shall state that the person signing the application has

read the application, that he knows the contents thereof and that the statements made therein are true to the best of his/her knowledge and belief.

B. BACKGROUND OF APPLICANT. The application shall contain applicant's full name, address and telephone number. If a partnership, the names and address of all partners and telephone number of the partnership. If a corporation, the names and addresses of shall shareholders owning ten percent (10%) or more of the capital stock of the corporation and the telephone number of the corporation.

C. THE SITE.

1. The application shall contain the legal description of the proposed site and a street address of some other reasonable description of where the proposed site is located.

2. The application shall set forth the names, addresses and telephone numbers of the owners of the site, if other than the applicant. If the site is owned by a trust, the names, addresses and telephone numbers of all of the beneficiaries shall be set forth and a copy of the trust agreement shall be attached to the application as an exhibit. If the site is owned by a corporation, all of the information required by subsection (B) of this section shall be furnished in the application as to the owning corporation. If the site is not owned by the applicant, the application shall describe all documents giving the applicant the right to use the site for the purposes listed in the application, and the applicant as exhibits.

D. THE PROPOSED SERVICE AREA. The application shall define the geographic area that the proposed facility is intended to serve.

E. FLOODPLAIN. The application shall include a statement that the facility is within or outside of the boundary of the 100-year floodplain as determined by the Illinois Department of Transportation.

F. NOTICES. Copies of the notices required to be served under the Illinois Environmental Protection Act, as existing or hereafter amended shall be filed with the application.

30.504. EFFECTIVE DATE OF FILING.

A. No application for site approval shall be deemed to have been filed or accepted for filing unless all of the requirements of this chapter shall have been met. The Comptroller shall not give a receipt or other indication of filing until such times it has been determined that the application complies with the requirements of this chapter. Within a reasonable period of time after delivery of an application, the Comptroller shall advise the application either. (Amd. Ord. 15-97 - 5/5/97)

1. The application is complete and that it has been accepted for filing, designated that date of filing; or

2. That the application is not complete, specifying wherein it is deficient.

3. The application may not be amended excepts as provided under Sec. 5/39.2(e) of the Illinois Environmental Protection Act. If an amendment is filed as provided thereunder, an additional filing fee may be determined by the Village Board.

30.505. FILING FEE.

A. Each application shall be accompanied by \$35,000 as an initial filing fee, which shall be used to defray the actual costs incurred by the Village in the siting review process, including, but not limited to, the costs involved in conducting the required hearings, costs involved in investigation by the Village of the advisability of approval or denial of the application, and court reporting and transcription fees. The Comptroller shall not accept an application for filing unless the fee has been tendered. (Amd. Ord. 15-97 - 5/5/97)

B. At any time during the application process, the Village may request an additional application fee to be paid, however said amount must bear a direct relationship to the costs incurred by the Village as outlined above. If at the conclusion of all of the permitting procedures the costs incurred by the Village exceed the filing fees paid, the applicant will be required to provide to the Village the difference between the application fee and the total costs incurred by the Village to any and all aspects of the application process.

C. Within a reasonable period of time after all proceedings have been completed as to any application, the Village Board shall make a determination as to its total costs incurred by the Village in the siting review process and shall refund to the applicant any amount of application fee paid, which has not been used, or will not be necessary to defray the Village's costs in reviewing the application. However, in no case shall any amount of interest on the refunded amount be refunded to the applicant.

30.506. COMPTROLLER'S DUTIES. Upon receipt of an application for site location approval, the Comptroller shall transmit a copy of that application to the President of the Village and to the Village Attorney. Furthermore, upon receipt of any written comment from any person concerning the appropriateness of the proposed site, the Comptroller shall transmit a copy of that written comment to the President and to the Village Attorney. (Amd. Ord. 15-97 - 5/5/97)

30.507. PUBLIC INSPECTION. A copy of the application shall be made available for public inspection in the office of the Comptroller. Members of the public shall be allowed to obtain a copy of the application or any part thereof upon payment of the actual cost of reproduction. (Amd. Ord. 15-97 - 5/5/97)

30.508. PUBLIC COMMENT.

A. The Comptroller shall receive and file written comment from any person concerning the appropriateness of the proposed site. Upon receipt of any such written comment, the Comptroller shall date stamp same and immediately deliver a copy to the President and to the Village Attorney. (Amd. Ord. 15-97 - 5/5/97)

B. Copies of such written comment shall be made available for public inspection in the office of the Comptroller. Members of the public shall be allowed to obtain a copy of any written comment upon payment of the actual cost of reproduction. (Amd. Ord. 15-97 - 5/5/97)

C. Any written comment received by the Comptroller postmarked not later than thirty (30) days from the date of receipt of the application for site location approval shall be made part of the record at the public hearing as hereinafter described, and the Village Board shall consider any such timely written comment in making its decision concerning the application. (Amd. Ord. 15-97 - 5/5/97)

30.509. HEARINGS.

A. For each application submitted pursuant to this chapter, there shall be at least one (1) public hearing conducted pursuant to the procedures prescribed by the Illinois Environmental Protection Act.

B. All such hearings shall be conducted by the Village Board of the Village of Machesney Park. The procedures to be utilized at the hearings shall be those set forth in the Illinois Environmental Protection Act. Where no specific procedure is set forth, then those procedures utilized by the Zoning Board of Appeals when conducting public hearings on zoning applications pursuant to the Village's own ordinances shall be used.

C. The Village Board may by a majority of those present vote to continue the public hearing if they find that additional time for testimony of cross-examination is necessary. The time and location for such continued hearing shall be determined immediately and announced to all who are present.

D. Any third party or individual may appear at the hearings and present evidence or testimony, either in favor of or against the application. The Village may, through its designated representative, appear at the hearing, and present evidence either in favor of or against the application.

30.510. DECISION.

A. The decision of the Village Board on the application shall be in writing, specifying the reasons for that decision. The decision shall be based solely upon the criteria set forth in the Illinois Environmental Protection Act.

B. The decision of the Village Board, whether approval, approval with conditions, or denial, shall be made in the form of a resolution which shall set forth the reasons for that decision.

C. Within fourteen (14) days of the Village Board's decision, the resolution of the Village Board shall be forwarded to the applicant requesting site location approval and to the Illinois Environmental Protection Agency.

30.511. This ordinance shall apply retroactively to January 1, 1994. Any application covered by this ordinance

filed between January 1 and the date of passage of this ordinance must, within 10 days of passage, comply with all provisions hereunder including but not limited to payment of filing fee and form of application. (Ord. 7-94 - 2/14/94)

CHAPTER 31. THE CODE

ARTICLE I. TITLE-INTERPRETATION.

31.101. TITLE. This Code of Ordinances shall be known as the Municipal Code of Machesney Park. Any reference to the number of any section contained herein shall be understood to refer to the position of the same under its appropriate chapter heading, its article headings, if any, and to the penalty clause relating thereto, as well as to the section itself, when reference is made to this Code by title in any legal document or ordinance of the Village.

31.102. CONSTRUCTION OF WORDS. Whenever any work in any section of this Code importing the plural number is used in describing or referring to any matters, parties, or persons any single matter, party or person shall be deemed to be included, although distributive words may not have been used. When any subject matter, party or person is referred to in this Code by words importing the singular number only, or the masculine gender, several matters, parties or persons and females as well as males and bodies corporate shall be deemed to be included. The words "person, firm or corporation" shall be deemed to include any association or organization of any kind. Words in the present shall include the future. The words "this ordinance" whenever used in this Code shall be held and taken to mean the entire Code, including each and every section thereof. The "Village" whenever used in this Code shall be held and taken to mean the Village of Machesney Park. The words "written" or "in writing" may include printing. Provided that these rules of construction shall not be applied to any section of this Code which contains any express provisions excluding such construction or where the subject matter or content of such section may be repugnant thereto.

31.103. DISTINCTION BETWEEN WHOLESALER AND RETAILER. In all cases where the words "wholesale" or "wholesale dealer" are used in this Code, unless otherwise specifically defined, they shall be understood to relate to the sale of goods, merchandise, articles or quantity to persons who purchase for the purpose of resale, as distinguished from a retail dealer who sells in smaller quantities direct to the consumer.

31.104. PENALTIES. In all cases where the same offense is made punishable or is created by different clauses or sections of this Code, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided that the revocation of a license or permit shall not be

considered a recovery or penalty so as to bar any other penalty being enforced.

Whenever in this Code a minimum but not a maximum fine or penalty is imposed, the court may in its discretion fine the offender any sum exceeding the minimum fine or penalty so imposed but not exceeding two hundred dollars.

Whenever in this Code the doing of any act or the omission to do any act constitutes a breach of any section or provision of this Code, and there shall be no fine or penalty declared for such breach, any person who shall be convicted of any such breach shall be fined not less than ten dollars nor more than one hundred dollars for each offense.

31.105. PRESUMPTION OF RESPONSIBILITY. The occupant of any premises upon which a violation of any ordinance is apparent, the owner of any object or material placed or remaining anywhere in violation of an ordinance, and the occupant of any premises served by any excavation or structure illegally made or erected, shall be deemed prima facie responsible for the violation so evidenced, and subject to the penalty provided therefor.

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

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

31.107. INTENT. All general provisions, terms, phrases and expressions contained in this Article shall be liberally construed in order that the true intent of the Board of Trustees may be fully carried out. (Ord. 35-81 - 9/3/81)

ARTICLE II. AMENDMENTS.

31.201. REFERENCE TO CODE. Any additions or amendments to this Code, when passed in such form as to indicate the intention of the President and Board of Trustees to make the same part of this Article shall be deemed to be incorporated in this Article so that a reference to the Municipal Code of

Machesney Park shall be understood to include them.

31.202. PENALTIES. In case of amendment of any section of this Article containing the provisions for which a penalty is provided in another section, the penalty so provided in such other section shall be held to relate to the section so amended or the amending section, whether re-enacted in the amendatory Article or not, unless such penalty is specifically repealed therein.

31.203. RECORDING AMENDMENTS. It shall be the duty of the Village Clerk to keep at least one copy of the Municipal Code of Machesney Park of 1981, which he shall mark in the following manner: Whenever an ordinance which amends or makes an addition to the code is passed and approved, he shall note on the margin of the section or sections amended that such amendment has been made, with a reference to the place in the amendment book, hereinafter described, where the amendment may be found; and in the case of an addition, he shall mark in the appropriate place a notation that such addition has been made, with a similar reference to the aforementioned amendment book.

The Village Clerk shall also keep a separate book containing every amendment or additions as the place in the record of ordinances where the original ordinance may be found.

The above mentioned records shall be kept in addition to the record of ordinances which the Clerk is required to keep by statute. (Ord. 35-81 - 9/3/81)

ARTICLE III. PRINTING.

31.301. AUTHORIZATION. This Code shall be printed and published in book form.

31.302. DISTRIBUTION OF COPIES. All of the printed copies of this Code belonging to the Village shall be deposited with the Clerk. He shall deliver one copy thereof to the President and each member of the Board of Trustees, and copies to such other persons as the President and Board of Trustees may direct.

31.303. PRESENTATION OF COPIES. The President and Board of Trustees shall have the power to extend or reciprocate courtesies of other municipalities by presenting them with a copy of this code, bound at the expense of the Village, as to them shall seem suitable, and they shall also have the power to present two copies of this code to the Illinois Municipal League.

31.304. TIME OF TAKING EFFECT. This Code, designated as the "MUNICIPAL CODE OF MACHESNEY PARK OF 1981", shall take effect and be in full force from and after its passage and publication in book form as provided by statute. All ordinances, resolutions, or motions in conflict with this Code are hereby repealed. (Ord. 35-81 - 9/3/81)

CHAPTER 32. CODE ENFORCEMENT HEARING DIVISION

ARTICLE I. ADMINISTRATIVE ENFORCEMENT

SECTION 100. CODE HEARING DIVISION

32.101. DEFINITIONS. As used in this Article, unless the context requires otherwise, the following terms are defined below:

Code Inspector: A full-time Village employee whose duties include the inspection or examination of structures or property in the Village to determine if code violations exist.

Property Owner: The legal or beneficial owner of a property with or without a structure appurtenant thereto.

Code: Any Village of Machesney Park Ordinance, Law, Housing or Building Code or zoning ordinance that establishes construction, plumbing, heating, electrical, fire prevention, sanitation or other health and safety standards that are applicable to structures or such ordinance that requires, after notice, the cutting of weeds, the removal of garbage and debris, the removal of inoperable motor vehicles, or the abatement of nuisances from private property in the Village of Machesney Park.

Administrative Hearing Officer: An independent contractor, not a Village employee, officer or agent of the Village, appointed pursuant to the requirements as set forth in Article II of this Chapter 32, whose duty it is to:

- A. Preside at an administrative hearing called to determine whether or not a code violation exists.
- B. Hear testimony and accept evidence from the Code Inspector, the Property Owner, and all interested parties relative to the existence of a code violation;
- C. Preserve and authenticate the transcript and record of the hearing and all exhibits and evidence introduced at the hearing;
- D. Issue and sign a written finding, decision, and order stating whether a code violation exists.

32.102. CODE HEARING DIVISION ESTABLISHED. The Village hereby adopts division 31.1- Building Code violations 65 ILCS 5/11-31.1, and all amendments and modifications thereto and establishes a Code Hearing Division within the Community Development Department and in conjunction with the Village Attorney acting as its legal department. The function of the Code Hearing Division is to expedite the prosecution and correction of code violations in the manner set forth in this Article.

32.103. HEARING PROCEDURES NOT EXCLUSIVE. This Article does not preclude the Village from using other methods to enforce the provisions of its Code.

32.104. INSTITUTING CODE HEARING PROCEEDINGS.

A. When a Code Inspector finds a code violation while inspecting a property or structure, s/he shall note the violation on the multiple copy violation notice and report form indicating the name and address of the violation, the date and time the violation was observed, the names of witnesses to the violation, the address of the structure or property where the violation is observed, and that the violation will be prosecuted pursuant to Chapter 32, Article I of the Village Code. (Amd. 14-10 - 05/17/10)

B. The violation report form shall be forwarded by the Code Inspector to the Code Hearing Division where a docket number shall be stamped on all copies of the report and a hearing date noted in the blank spaces provided for that purpose on the form. The hearing date shall not be less than thirty (30) nor more than forty (40) days after the violation is reported by the Code Inspector.

C. One copy of the violation report form shall be maintained in the files of the Code Hearing Division and shall be part of the record of hearing; one copy of the report form shall be returned to the Code Inspector so that s/he may prepare evidence of the Code violation for presentation at the hearing on the date indicated; and one copy of the report form shall be served by first class mail on the Property Owner, along with a Summons commanding the Property Owner to appear at the hearing. If the name of the Property Owner cannot be ascertained, or if service on the Owner cannot be made by mail, service may be made on the Owner by posting or nailing a copy of the violation report form on the front door of the structure where the violation is

found or otherwise conspicuously posting Notice on the property not less than twenty (20) days before the hearing is scheduled.

32.105. SUBPOENAS; DEFAULT. At any time prior to the hearing date the hearing officer assigned to hear the case may, at the request of the Code Inspector, or the attorney for the Village, or the Property Owner or his attorney, issue Subpoenas commanding witnesses to appear and give testimony at the hearing. If, on the date set for the hearing the Property Owner or his attorney fails to appear, the Hearing Officer may find the Property Owner in default and shall proceed with the hearing and accept evidence to the existence of a code violation.

32.106. CONTINUANCES, REPRESENTATION AT CODE HEARINGS. No continuances shall be authorized by the Hearing Officer in proceedings under this Article except in cases where a continuance is absolutely necessary to protect the rights of the Property Owner. Lack of preparation shall not be grounds for a continuance. Any continuance authorized by a Hearing Officer under this Article shall not exceed twenty-five (25) days. The case for the Village may be presented by the Code Inspector, by any other Village Employee, or by an attorney designated by the Village. However, in no event shall the case for the Village be presented by an employee of the Code Hearing Division. The case for the Property Owner may be presented by the Property Owner, his attorney, or any other agent or representative.

32.107. HEARINGS; EVIDENCE.

A. Hearing shall be held as necessary, not to exceed once per month.

B. At the hearing, a Hearing Officer shall preside and shall hear testimony and accept any evidence relative to the existence or non-existence of a code violation. The strict rules of evidence applicable to judicial proceedings shall not apply to hearings authorized by this article.

C. The Village Clerk shall prepare the hearing dockets, and maintain the hearing files, including transcripts and records of all hearings and all exhibits and evidence introduced at the hearings.

32.108. EVICTIONS; RIGHTS OF OCCUPANTS. No action for eviction, abatement of a nuisance, forcible entry and detainer or other similar proceedings shall be instituted or threatened against an occupant of a dwelling solely because

such occupant agrees to testify or testifies at a code violation hearing.

32.109. DEFENSES TO CODE VIOLATIONS. It shall be a defense to a code violation charged under this Article if the Property Owner, his attorney, or any other agent or representative proves to the Hearing Officer's satisfaction that:

A. The code violation alleged in the notice does not in fact exist, or at the time of the hearing the violation has been remedied or removed;

B. The code violation has been caused by the current occupant, and that, in spite of reasonable attempts by the Owner to maintain the property free of such violations, the current occupants continue to cause the violations;

C. An occupant or resident of the property has refused entry to the Owner or his agent to all or a part of the property for the purpose of correcting the code violation.

32.110. FINDINGS, DECISIONS, ORDER. At the conclusion of the hearing, the Hearing Officer shall make a determination on the basis of evidence presented at the hearing whether or not a code violation exists. The determination shall be in writing and shall be designated as Findings, Decision & Order. The Findings and Order shall include the Hearing Officer's findings of facts, a decision whether or not a code violation exists based upon the findings of fact, and an Order ordering the owner to correct the violation or dismissing the case in the event a violation is not proved. If a code violation is proved, the Order may also impose the sanctions that are provided in the code for the violation proved. A copy of the Findings, Decision and Order shall be served on the Property Owner within five (5) days after they are issued; service shall be in the same manner as the Report form and Summons are served pursuant to Section 32.104(c) Payment of any penalty or fine and the disposition of fine money shall be in the same manner as set forth in the Code. (Amd. 14-10 - 05/17/10)

32.111. REVIEW UNDER ADMINISTRATIVE LAW. The findings, decision and order of the Hearing Officer shall be subject to review in the Circuit Court of the Winnebago County, and the provisions of the administrative review law, and all amendments and modifications thereto, and the rules adopted pursuant

thereto are adopted and shall apply to and covering every action for the judicial review of the final findings, decision and order of a Hearing Officer under this article.

32.112. JUDGMENT ON FINDINGS, DECISION, ORDER.

A. Any fine, other sanction or costs imposed or part of any fine, other sanction or costs imposed remaining unpaid after the exhaustion of, or the failure to exhaust judicial review procedures under the administrative review law shall be a debt due and owing the Village, and as such may be collected in accordance with applicable law.

B. After expiration of the period within which Judicial Review under the administrative review law may be sought for a final determination of the code violation, the Village may commence a proceeding within the Circuit Court of Winnebago County for purposes of obtaining a judgment on the Findings, Decision and Order. The Village may consolidate multiple Findings, Decisions and Orders against a person in such proceedings. Upon commencement of the action, the Village shall file a certified copy of the Findings, Decision and Order which shall be accompanied by a certification that recites facts sufficient to show that the Findings, Decision and Order was issued in accordance with this Article and the applicable State Laws. Service of the Summons and a copy of the Petition may be by any method provided by Section 2-203 of the Code of Civil Procedure, or by certified mail, return receipt requested; provided that the total amount of fines, other sanctions or costs imposed by the findings, Decision and Order does not exceed Two Thousand Five Hundred Dollars (\$2,500.00). If the Court is satisfied that the Findings, Decision & Order were entered in accordance with the requirements of this Article and the applicable State law, and that the Property Owner had an opportunity for a hearing under this article and for judicial review as provided in this article, the Court shall render judgment in favor of the Village and against the Property Owner for the amount indicated in the Findings, Decision and Order plus costs. Such judgment shall have the same effect and may be enforced in the same manner as other judgments for the recovery of money and the Court may also issue such other Orders and Injunctions as are requested by the Village to enforce the Order of the Hearing Officer to correct a violation.

32.113. SANCTIONS APPLICABLE TO OWNER; PROPERTY.

The order to correct a code violation and the sanctions imposed by the Village as the result of a finding of a code violation under this article shall attach to the property as well as to the Owner of the Property, so that a Finding of a Code Violation against one owner cannot be avoided by conveying or transferring the property to another owner. Any subsequent transferee or owner of the property takes subject to the Findings, Decision and Order of a Hearing Officer under this article.

ARTICLE II. AMEND CHAPTER 4

Furthermore, Chapter 4 of the Code of Ordinances of the Village of Machesney Park, Illinois shall be amended to add Section 4.101 such that the position of Administrative Hearing Officer is hereby created to hear and adjudicate allegations of code violations brought by the Village and to impose fines, costs and penalties for such violations as are proven. The Administrative Hearing Officer shall be appointed by the Mayor and the Mayor hereby is authorized and empowered to appoint, with the advice and consent of the Board of Trustees, an individual or firm to provide the services of Administrative Hearing Officer as an independent contractor on a part-time basis with such individual or firm to serve at the pleasure of the Mayor. The position of Administrative Hearing Officer shall not be a civil service position and the Mayor shall have the authority to remove, replace or reappoint such individual or firm from time to time as he, in his sole discretion, may choose with any new appointment subject to the advice and consent of the Board of Trustees.

ARTICLE III. AMEND CODE OF ORDINANCES

That the Code of Ordinances of the Village of Machesney Park, Illinois, shall be amended to include the provisions of this Ordinance.

ARTICLE IV. OTHER PROVISIONS OF CHAPTER 4 SHALL REMAIN
IN EFFECT AS PREVIOUSLY ENACTED

All other provisions of Chapter 4 shall remain in effect as previously enacted, except that this Ordinance repeals and amends the terms of any and all previous or existing Ordinances to the extent they conflict with the provisions contained herein. (Ord. 54-05 - 01/03/06)

ARTICLE V. ADMINISTRATIVE ENFORCEMENT

SECTION 500. CODE HEARING DIVISION

32.501 DEFINITIONS. As used in this Article, unless the context requires otherwise:

"Code" means any Village of Machesney Park ordinance or law, except for (i) building code violations that must be adjudicated pursuant to Article I of this Chapter and (ii) any offense under Chapter 12 of the Village of Machesney Park Code, the Illinois Vehicle Code or a similar offense that is a traffic regulation governing the movement of vehicles and except for any reportable offense under Section 6-204 of the Illinois Vehicle Code.

"Hearing officer" means a Village employee or an officer or agent of the Village, other than a law enforcement officer, whose duty it is to:

(A) preside at an administrative hearing called to determine whether or not a code violation exists;

(B) hear testimony and accept evidence from all interested parties relevant to the existence of a code violation;

(C) preserve and authenticate the transcript and record of the hearing and all exhibits and evidence introduced at the hearing; and

(D) issue and sign a written finding, decision, and order stating whether a code violation exists.

32.502 CODE HEARING DIVISION ESTABLISHED. The Village hereby adopts division 2.2-Code Hearing Departments, 65 ILCS 5/1-2.2, and all amendments and modifications thereto and establishes a Code Hearing Division within the Police Department and in conjunction with the Village Attorney acting as its legal department. The function of the Code Hearing Division is to expedite the production and correction of Code Violations in the same manner set forth in this Article.

32.503 HEARING PROCEDURES NOT EXCLUSIVE. This

Article does not preclude the Village from using all other lawful methods to enforce the provisions of its code.

32.504 INSTITUTE CODE HEARING PROCEEDINGS. When a police officer or other individual authorized to issue a code violation finds a code violation to exist, he or she shall note the violation on a multiple copy violation notice and report form that indicates (i) the name and address of the defendant, (ii) the type and nature of the violation, (iii) the date and time the violation was observed, (iv) the names of witnesses to the violation, and (v) that the violation will be prosecuted pursuant to Chapter 32, Article V of the Village Code.

The violation report form shall be forwarded to the code hearing department where a docket number shall be stamped on all copies of the report and a hearing date shall be noted in the blank spaces provided for that purpose on the form. The hearing date shall not be less than 30 nor more than 40 days after the violation is reported.

One copy of the violation report form shall be maintained in the files of the code hearing department and shall be part of the record of hearing, one copy of the report form shall be returned to the individual representing the Village in the case so that he or she may prepare evidence of the code violation for presentation at the hearing on the date indicated, and one copy of the report form shall be served by first class mail to the defendant along with a summons commanding the defendant to appear at the hearing.

32.505 SUBPOENAS; DEFAULTS. At any time prior to the hearing date, the hearing officer assigned to hear the case may, at the request of either party, direct witnesses to appear and give testimony at the hearing. If on the date set for hearing the defendant or his or her attorney fails to appear, the hearing officer may find the defendant in default and shall proceed with the hearing and accept evidence relevant to the existence of a code violation.

32.506 CONTINUANCES; REPRESENTATION AT CODE HEARINGS. No continuances shall be authorized by the hearing officer in proceedings under this Article except in cases where a continuance is absolutely necessary to protect the rights of the defendant. Lack of preparation shall not be grounds for a continuance. Any continuance authorized by a hearing officer under this Article shall

not exceed 25 days. The case for the Village may be presented by an attorney designated by the municipality or by any other Village employee, except that the case for the Village shall not be presented by an employee of the code hearing department. The case for the defendant may be presented by the defendant, his or her attorney, or any other agent or representative of the defendant.

32.507 HEARING; EVIDENCE. At the hearing a hearing officer shall preside, shall hear testimony, and shall accept any evidence relevant to the existence or non-existence of a code violation. The strict rules of evidence applicable to judicial proceedings shall not apply to hearings authorized by this Article.

32.508 FINDINGS, DECISION, AND ORDER. At the conclusion of the hearing, the hearing officer shall make a determination on the basis of the evidence presented at the hearing as to whether or not a code violation exists. The determination shall be in writing and shall be designated as findings, decision, and order. The findings, decision, and order shall include (i) the hearing officer's findings of fact; (ii) a decision of whether or not a code violation exists based upon the findings of fact; and (iii) an order that states the sanction or dismisses the case if a violation is not proved. A monetary sanction for a violation under this Division shall not exceed the amount provided for in Section 5/1-2-1 of the Illinois Municipal Code, 65 ILCS 5/1-2-1. A copy of the findings, decision, and order shall be served on the defendant within 5 days after it is issued. Service shall be in the same manner that the report form and summons are served under Section 32.504 of this Article. Payment of any penalty or fine and the disposition of fine money shall be in the same manner as set forth in the code, unless the corporate authorities adopting this Article provide otherwise.

32.509 REVIEW UNDER ADMINISTRATIVE REVIEW LAW. The findings, decision, and order of the hearing officer shall be subject to review in the circuit court of the county in which the municipality is located. The provisions of the Administrative Review Law, and the rules adopted pursuant thereto, shall apply to and govern every action for the judicial review of the findings, decision, and order of a hearing officer under this Article.

32.510 JUDGMENT ON FINDINGS, DECISION, AND ORDER.
(a) Any fine, other sanction, or costs imposed, or part of any fine, other sanction, or costs imposed, remaining unpaid after the exhaustion of, or the failure

to exhaust, judicial review procedures under the Administrative Review Law shall be a debt due and owing the Village and, as such, may be collected in accordance with applicable law.

(b) After expiration of the period within which judicial review under the Administrative Review Law may be sought for a final determination of the code violation, the municipality may commence a proceeding within the Circuit Court of Winnebago County for purpose of obtaining a judgment on the findings, decision, and order. The Village may consolidate multiple findings, decisions, and orders against a person in such a proceeding. Upon commencement of the action, the Village shall file a certified copy of the findings, decision, and order, which shall be accompanied by a certification that recites facts sufficient to show that the findings, decision, and order was issued in accordance with this Article and the applicable Village ordinance and State Laws. Service of the summons and a copy of the petition may be by any method provided for by Section 2-203 of the Code of Civil Procedure, or by certified mail, return receipt requested, provided that the total amount of fines, other sanctions, and costs imposed by the findings, decision, and order does not exceed Two Thousand Five Hundred Dollars (\$2,500). If the court is satisfied that the findings, decision, and order was entered in accordance with the requirements of this Article and the applicable Village ordinance and that the defendant had an opportunity for a hearing under this Article and for judicial review as provided in this Article:

(1) The court shall render judgment in favor of the Village and against the defendant for the amount indicated in the findings, decision and order, plus costs. The judgment shall have the same effect and may be enforced in the same manner as other judgments for the recovery of money.

(2) The court may also issue any other orders and injunctions that are requested by the Village to enforce the order of the hearing officer to correct a code violation. (Amd. 14-10 - 05/17/10)

CHAPTER 33 - PROFESSIONAL SERVICES FEES

ARTICLE I. Introduction / Contents:

- 33.01 Professional Services Fee and Costs
Definitions
 - 33.02 Applicability of Professional Services Fee
 - (A) Initial Meeting
 - (B) General Meeting(s)
 - 33.03 Development, Contracts, Amendments, Review, and Proceedings
 - 33.04 Escrow Account and Professional Services Fee Agreement
 - 33.05 Payment of Fees, Balance of Account
 - 33.06 Approvals and Ordinances
 - 33.07 Good Standing Account Status
 - 33.08 Refunds
- Reference:
- Exhibit "A" - Escrow Deposit Schedule
 - Exhibit "B" - Professional Services Fees Agreement (*Sample*)

33.01 PROFESSIONAL SERVICES FEE AND COSTS

All applicants or petitioners seeking any Village approval, permit or general assistance with regards to any land use, land development, subdivision and/or zoning matter, code amendments, economic development project or economic incentive agreement shall be required to enter into a Professional Services Fee Agreement with the Village, at the time of application or petition, and abide by the requirements of this Chapter.

DEFINITIONS:

Initial Meeting shall mean the first meeting between the applicant/petitioner and the Village to discuss the applicant/petitioner's proposed development or request. The purpose of such Initial Meeting shall include, but is not limited to, providing an overview of Village regulations, policies, and procedures; an introduction to the key Village Staff and Professional Consultants who will be involved in reviewing the proposed development or request; and an opportunity for the applicant/petitioner to present their proposed development or request. The applicant/petitioner shall present a preliminary concept plan or drawing at the Initial Meeting for discussion purposes.

General Meeting(s) shall mean any meeting between the applicant/petitioner and the Village which occurs after the Initial Meeting. The purpose of such General Meetings shall include, but not be limited to, providing a status on the proposed project or request; discussing issues or problems related to the proposed project or request; and answering questions which the applicant/petitioner may have regarding the proposed project or request.

Development Review shall mean the Village review and/or drafting of an applicant/petitioner's proposed project or request, including, but not limited to, review of the application/petition, subdivision plans, site plans, construction drawings, building inspections, field inspections/observations, construction oversight, building plans, storm water plans, plats, architectural review, signage, studies, reports, contracts, code amendments, economic development agreements, economic incentive agreements, development agreements, ordinance/resolution drafting (or any other procedures which may be required under Tax Increment Financing Statutes, Business District Statutes or any other similar economic incentive statutes) by Village Professional Consultants.

Development Proceedings shall include, but not be limited to, any formal public meetings, hearings or bid openings regarding an application/petition which has been filed for review, presentation, and consideration by the Village Staff, Planning & Zoning Commission, Committees of the Board, or Board of Trustees.

Land Development includes, but is not limited to, land that is improved or developed by the conversion of raw land into construction ready residential or non-residential developments as well as expansion or renovation of developed land. The land

development process may also include improvements that have indefinite life, such as vegetative removal (groundcover), drainage, excavating, filling, grading, etc.

Land Improvement includes, but is not limited to, the addition of limited-life enhancements to a parcel of developed land, such as buildings, structures, driveways, fencing, parking spaces, pavements, walls, sidewalks, etc.

Professional Services Fee shall mean those professional consultant fees and costs incurred by the Village as a direct or indirect result of an applicant/petitioner's request for Village approval or permit with regards to any land use, land development, subdivision and/or zoning matter, code amendments, economic development project or economic incentive agreement.

Professional Consultants shall mean those consultants retained by the Village, including, but not limited to, its attorneys, engineers, financial consultants, land planners, traffic and transportation consultants, administration, landscape consultants, Winnebago County Building Department, contractual inspection services and/or others as may be deemed appropriate by the Village to review any land use, land development, subdivision and/or zoning matter, code amendment, contract or agreement brought before the Village.

33.02 APPLICABILITY OF PROFESSIONAL SERVICES FEE

(A) INITIAL MEETING

Unless waived by the Village, an applicant/petitioner shall attend an "initial meeting" with Village Staff and/or its Professional Consultants to discuss and present any conceptual plan, site development plan, plat of subdivision, zoning request, code amendment, contract, agreement or land development to be considered by the Village. No professional services fee and costs shall be assessed to the applicant/petitioner for the initial meeting with Village Staff and/or Professional Consultants. This meeting is not available to petitions or applications already in process or seeking final approvals from the Village.

(B) GENERAL MEETING

All meetings subsequent to the Initial Meeting shall be classified as a "general meeting" between the applicant/petitioner and Village Staff and Professional Consultants. Such General Meeting shall be conducted on an "as needed" basis as determined by the Village or requested by the applicant/petitioner. The applicant/petitioner shall be responsible for paying for the

Professional Services Fee and costs incurred by the Village for each Professional Consultant present at each General Meeting.

33.03. DEVELOPMENT, CONTRACTS, AMENDMENTS REVIEW & PROCEEDINGS

Applicant/Petitioner shall be responsible for paying for the Professional Services Fee and costs incurred by the Village as a part of each Professional Consultants' performing their Development Review and participation in Development Proceeding. No Development Review or Development Proceeding shall commence until the appropriate escrow account has been established and funded and a professional services fee agreement entered into, in accordance with this Chapter.

33.04 ESCROW ACCOUNT AND PROFESSIONAL SERVICES FEE AGREEMENT

(A) In order to secure payment by the applicant/petitioner for any Professional Services Fee and costs incurred by the Village, an escrow account (hereinafter referred to as "escrow account") will be created and maintained by the Village. The applicant/petitioner shall deposit such amounts as in accordance with the schedule set forth in Exhibit "A, attached hereto and incorporated herein (See Exhibit "A", Escrow Deposit Schedule).

(B) Applicant/petitioner shall enter into a "Professional Services Fee Agreement" (hereinafter referred to as the "Agreement"), similar in form as Exhibit "B" attached hereto and incorporated herein (See Exhibit "B", Professional Services Fee Agreement).

(C) Notwithstanding anything to the contrary contained in this Section, the Village Administrator, with the advice and consent of the Village President, shall have the right to adjust any escrow deposit amount or agreement, when warranted.

33.05 PAYMENT OF FEES, BALANCE OF ACCOUNT

Upon submission of invoices for services by a Professional Consultant deemed necessary by the Village, the Village shall pay said invoice out of the specified escrow account. At such time as the balance of the specified escrow account reaches twenty-five percent (25%) of the original amount deposited, the Village may require that an additional sum of money be deposited in the escrow account, inclusive of the present balance in the specified escrow account, which could equal or exceed the amount originally required by the Village.

33.06

APPROVALS AND ORDINANCES

Final action by the Corporate Authorities shall be conditioned upon a confirmation made by the Village Administrative Staff that sufficient funds remain in the escrow account to cover all costs and expenses incurred by the Village for Professional Services. The Village shall have the right to withhold any further action, legislative or ministerial, which may include final board approval, the issuance of permits or licenses, execution or recording of plats, approval of zoning actions and/or any other Village action for, on or upon the subject property until the outstanding balance has been paid and the escrow deposit has been replenished to the required amount.

33.07

GOOD STANDING ACCOUNT STATUS

The Village will conduct a monthly reconciliation of the escrow account and forward its findings to the applicant/petitioner. Should the account balance in escrow fall below the required amount pursuant to §33.05 of this Chapter, the Village shall notify the applicant/petitioner of the same and the escrow account brought into good standing by the applicant/petitioner.

33.08

REFUNDS

Upon a determination being made by the Village that payment of all Professional Service Fees and costs associated with a particular project or request has been made, any balance remaining in the escrow account shall be returned to the applicant/petitioner within ninety (90) days of such determination. (Ord 53-13 - 12/16/2013)

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Exhibit "A"
Escrow Deposit Schedule

Requested Action ⁽¹⁾				
Initial Meeting -- All Land Use's	No Fees Assessed			
Revised Conceptual Site Plan (After Initial Meeting now General Meeting)	\$10,000.00			
	One Acre or Less	One to Five Acres	Five to Ten Acres	More than Ten Acres
Annexation Agreement including Zoning (Zoning Code §20-26.1)	\$2,000.00 to \$10,000.00			
Floodplain Development (Flood Area Development Ch. 23)	\$ 1,250.00	\$ 4,500.00	\$ 6,000.00	\$ 7,500.00
Residential Development Site Plan (Including Landscape) ⁽²⁾	\$ 500.00	\$ 2,000.00	\$ 5,000.00	\$ 10,000.00
Commercial / Industrial Development Site Plan (Including Landscape)	\$ 1,500.00	\$ 2,500.00	\$ 5,000.00	\$ 10,000.00
Planned Community Development (Zoning Code §20-76)	\$ 2,500.00	\$ 5,000.00	\$ 7,500.00	\$ 10,000.00
Planned Unit Development (Zoning Code §20-77)	\$ 2,500.00	\$ 5,000.00	\$ 7,500.00	\$ 10,000.00
Tentative Plat of Subdivision (Subdivisions §103.112 D)	\$ 1,000.00	\$ 2,500.00	\$ 5,000.00	\$ 7,500.00
Final Plat of Subdivision (Subdivisions §103.112 E)	\$ 2,500.00	\$ 5,000.00	\$ 7,500.00	\$ 10,000.00
Other Activities ⁽⁵⁾	\$2,000.00 to \$10,000.00			
Rezoning / Zoning Map Amendment (Zoning Code §20-78)	\$500.00 to \$7,500.00			
Special Use Permit (Zoning Code §20-71)	\$500.00 to \$6,000.00			
Zoning Code Text Amendment (Zoning Code §20-73)	\$750.00 to \$7,500.00			
Zoning Variances ⁽²⁾ (Zoning Code §20-72)	\$500.00 to \$5,000.00			
Construction Observation ⁽³⁾	\$2,000.00 to \$10,000.00			
Discussion, Negotiations and Creation of Economic Development Projects (Irrespective of Acreage Size):				
Development / Redevelopment Agreement (RDA)	\$2,000.00 to \$10,000.00			
Intergovernmental Agreement (IGA) ⁽⁴⁾	\$2,000.00 to \$10,000.00			
Tax Increment Finance District	\$5,000.00 to \$25,000.00			
Business District	\$5,000.00 to \$25,000.00			
Enterprise Zone	\$5,000.00 to \$25,000.00			
Economic Incentive Agreement (i.e. Sales Tax Rebate and Property Tax Rebates)	\$2,000.00 to \$10,000.00			
Special Assessment Areas and Special Service Areas	\$5,000.00 to \$25,000.00			

(1) In the event an Applicant(s) is seeking more than one action, such as annexation and subdivision, only the higher escrow fee shall be required to be initially deposited.

(2) Individual residential / homeowner properties (single-family detached) on less than one acre in size, and when it does not require a Professional Staff determination, the action will be considered to be exempt from the escrow requirements.

(3) Observations not covered by subdivision regulations or development codes of the Village (i.e. construction within Village easements or rights-of-way).

(4) Requests that are development driven, for example, water tower, sanitary sewer expansion, regional storm water management

(5) Request for traffic signalization (intersection), curb cuts, turn lanes, etc.

Exhibit "B"
Sample Agreement



PROFESSIONAL SERVICES FEE AGREEMENT

Date: _____ Village of Machesney Park Account No. _____

Village of Machesney Park - Case No. _____

PRIMARY CONTACT (for Escrow):

Name of Contact: _____

Address: _____

Telephone Number: _____

Facsimile Number: _____

E-mail: _____

OWNER:

Name of Property Owner: _____

Owner's Address: _____

Telephone Number: _____

Facsimile Number: _____

E-mail: _____

PETITIONER:

Name of Petitioner: _____

Petitioner's Address: _____

Telephone Number: _____

Facsimile Number: _____

E-mail: _____

LOCATION OF PROPERTY (General Location, attach more pages if necessary):

Total Acreage: _____ PIN(S): _____

LEGAL DESCRIPTION: (attach as an *Exhibit*)

DESCRIPTION OF PROJECT OR APPROVAL SOUGHT:

The undersigned(s) do hereby agree to pay for all professional services fees and costs incurred by the Village in connection with the above-described project or approval sought. The undersigned(s) agree that such payment shall be made in accordance with the provisions of Chapter 33 of the Village of Machesney Park Code of Ordinances, a copy of which is attached hereto and incorporated herein, and that the undersigned(s) agree to comply with all applicable provisions of said Chapter 33.

WITHDRAWALS OR DENIALS OF PETITION OR APPLICATION: In the event the undersigned(s) withdraws their petition or application, the undersigned(s) may apply in writing to the Village for a refund of the escrow account balance. The Village Administrator may, in his/her sole discretion, approve the refund less any actual fees and expenses which the Village has already incurred associated with the project or request. In the event the petition or application is denied by the Village, the undersigned(s) shall remain liable for all Professional Services Fee and costs which the Village has incurred, and no refund of the escrow account balance shall occur until all such Professional Services Fee and costs have been paid. Should the escrow account fund balance be insufficient to cover all of the Professional Services Fee and costs, the undersigned(s) shall remain liable to pay for any remaining balance of Professional Services Fee and costs.

DEFAULT: Upon the failure of the undersigned(s) to pay for Professional Services Fee incurred by the Village associated with the project or request in accordance with Chapter 33 of the Village of Machesney Park Code of Ordinances and the provisions of this Agreement, the undersigned(s) shall be deemed to be in Default of this Agreement and the Village shall have any and all remedies available to it in equity or at law to obtain payment of the unpaid Professional Services Fee and costs. Further, the Village shall have the right to refrain from taking any further action whatsoever with regards to the project or request and that the same shall remain in abeyance until the escrow is in good standing. The undersigned(s) further agree to extensions of any statutory timelines that may be necessary until such time as the escrow account has been replenished in accordance with said Chapter 33, and upon such happening, the Village agrees to proceed promptly and

with due diligence thereafter. The undersigned(s) agree that the Village may withhold any other action, legislative or ministerial, which may include the issuance of permits, licenses, approval and/or execution of any development agreements, economic development agreements, economic incentive agreements, or recording of plats, approval of zoning actions, code amendments, contracts, or any other Village action for, on or upon the subject property, until the Default is cured. Upon any Default, interest in the amount of one percent (1%) per month shall accrue on all sums outstanding for thirty (30) days or more, plus any legal expenses and five percent (5%) of the outstanding amount due in order to cover administration expenses. The Village shall have the right, but not the obligation, in its sole discretion, to pursue any remedy it may have at law or in equity in the event of Default, including, but not limited to, pursuing collection via the State of Illinois Local Debt Recovery Program and/or electing to place a lien against any real property associated with the undersigned(s)'s project or request, for the amount of expenses, including administrative costs and reasonable attorney fees, that have been outstanding for thirty (30) days or more.

REMEDIES: The remedies available to the Village as set forth herein are non-exclusive and nothing herein shall be construed to limit or waive the Village's right to proceed against any or all parties in a court of law or equity in competent jurisdiction.

PLANNING, ZONING, DEVELOPMENT FEES: (Petition or Application Fees): The undersigned(s) agrees that the payment of Professional Services Fee in accordance with this Agreement and Chapter 33 of the Village of Machesney Park Code of Ordinance shall be in addition to any other customary Village fees which may be applicable to the project or request.

TERMINATION OF PETITION OR APPLICATION: In the event the undersigned(s) fails to replenish the escrow account within thirty (30) days of a request by the Village to do so, the undersigned(s) agree that the Village, shall the right, in its sole discretion, to terminate and render null and void the pending application/petition for the project or request, upon providing written notice of the same to the undersigned.

COOPERATION AND REPRESENTATION OF VILLAGE: The undersigned(s) agree that they shall fully cooperate with the Village, its officials, staff and Professional Consultants with respect to the proposed project or request. The undersigned(s) acknowledge that the Village's Professional Consultants solely represent the Village

and the Village's interest and do not represent the undersigned in any manner.

SEVERABILITY: If any provision of this Agreement or its application to any person, entity or property is held to be invalid, such provision shall be deemed to be excised here from and the invalidity thereof shall not affect the application or validity of any other terms or conditions and provisions of the Agreement and, to that end, any terms, conditions and provisions of this Agreement are declared to be severable.

By signing this Agreement the undersigned(s) acknowledge that they have read the foregoing paragraphs and fully understand and agree to comply with the terms set forth herein. Further, by signing below, each signatory warrants that he/she/it possesses full authority to so sign.

The undersigned(s) agree that that they shall be jointly and severally liable for payment of fees referred to in this Agreement and Chapter 33 of the Village of Machesney Park Code of Ordinances.

Village of Machesney Park, Illinois

Applicant/Petitioner

Village Administrator Date

Print Name Date

ATTEST:

Owner (*if different from above*)

Print Name Date

Village Clerk Date

Additional Page(s) for: Location of Property
 Legal Description
 Description of Project or Approval Sought

CHAPTER 100. BUILDINGS AND BUILDING REGULATIONS

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CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE I. GENERAL

100.1-1. PERMITS AND FEES.

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100.1-6. BUILDING PERMITS FOR TELECOMMUNICATIONS FACILITIES.

100.1-1. PERMITS AND FEES

A. It shall be unlawful to construct, enlarge, alter or demolish a structure, shed, deck or fence; change the occupancy of a building or structure requiring greater strength, exit way or sanitary provisions; to change to another use; install, erect, alter, repair, service, reset, or replace any building or structural equipment for which provision is made of the installation of which is regulated by this chapter; install, alter, extend, or modify electrical services or wiring, either low or high voltage; install, alter, extend or modify plumbing or plumbed fixtures; install alter, modify or replace building mechanical equipment; install a pool or spa; or to move or relocate a building or structure without first filing an application with the Village of Machesney Park in writing and obtaining a required permit; except that ordinary repair, as defined in Section 105 of the ICC International Building Code, Edition 2015, which do not involve any violation of said chapter shall be exempt from this provision.

B. All fees shall be established by Resolution of the Village Board, as adopted and adjusted from time to time. All permit fees shall be paid prior to the issuance of any permit required by this chapter.

C. Except as provided in subsection (D) of this section, when work is commenced or proceeded with prior to obtaining the required permits, the established fees shall be doubled. The payment of such doubled fee shall not relieve any person from fully complying with the requirements of this chapter nor from the penalties prescribed in this chapter.

D. In cases of an emergency, with verbal or written authorization from the Village, a contractor or owner may proceed with the work and file the application for a permit within 24 hours, Saturdays, Sundays and holidays excepted.

100.1-2. NOTICE OF VIOLATION.

A. *Posting; form of notice.* The Building Official or Code Enforcement Officer shall cause a notice of violation or order informing the person responsible for the erection, construction, alteration, extension, repair, equipping, removal, demolition, use, or occupancy of a building, structure, shed, fence, pool or other structural appurtenance in violation of the provisions of this chapter or in violation of a detailed statement or plan approved under this chapter or in violation of a permit or certificate issued pursuant thereto, to be posted in a conspicuous place near the main entrance of such building or structure. The text of the notice shall contain a reference to the provision of this chapter which has been violated; it shall direct the discontinuance of the illegal

action or condition and the abatement of the violation; and shall contain such other information respecting the nature of the violation deemed advisable by the Building Official.

B. *Stop work order notice.* Upon notice from the Village of Machesney Park, or by any designated Building Inspector, that unauthorized work on any building or structure is being procured contrary to the provisions of this code or is being conducted in an unsafe or dangerous manner, such work shall be immediately stopped. The Village of Machesney Park shall issue a stop work order in writing to the owner of the property involved, the owner's agent, or to the person doing the unauthorized or unsafe work.

C. *Removal.* Upon removal or abatement of the cause of the violation for which the notice is posted, the Building Official or Code Enforcement Officer shall remove the notice. Any other person removing or defacing such notice is guilty of a petty offense and shall be fined not to exceed \$500.00.

100.1-3. PROSECUTION OF VIOLATION.

A. If the notice of violation is not complied with promptly, the Community Development Department shall initiate the appropriate code enforcement procedure by law or in equity to restrain, correct, or abate such violation or to require the removal or termination of the unlawful use of the building or structure that is determined to be in violation.

100.1-4. PENALTIES FOR VIOLATION.

A. *Noncompliance.* It shall be unlawful for any person to erect, construct, enlarge, alter, repair, improve, remove, convert, demolish, equip, use, occupy, or maintain any building, structure, shed, deck or fence, or cause the same to be done contrary to or in violation of any provision of this chapter, any approved plan or directive of the building official, any permit or certificate issued under the provisions of this chapter or any stop work order, except such work as he is directed to perform to remove a violation or unsafe condition. Any person violating any of the provisions of this chapter shall be guilty of a petty offense, punishable by a fine, the amount of which is to be determined through the administrative enforcement process established by the Village. Each such person shall be deemed guilty of a separate offense for each and every day during which any violation is committed, continued, or permitted.

B. *Abatement.* The imposition of the penalties prescribed in this section shall not preclude the Village from instituting appropriate action to prevent unlawful construction or to restrain, correct, or abate a violation or to prevent illegal occupancy of a building, structure, or premises, or to stop an illegal act, conduct, business, or use of a building or structure in or about any premises.

100.1-5 MEANS OF APPEAL

Any person, firm or corporation shall have the right to appeal a decision of the building official to the code hearing division. Means of appeal shall follow requirements set forth in Chapter 32, Article I, Section 100 of the Village Code. An application for appeal shall be based on a claim that the true intent of this Code or the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this Code do not fully apply, or an equivalent form of construction is to be used. The application for appeal must be in writing and submitted to the Community

Development Department of the Village. Once received, the Community Development Department will send notice of a hearing on the appeal as provided in Chapter 32 (Code Enforcement Hearing Division) of the Village Code. (Ord 21-20)

100.1-6 SINGLE-FAMILY DWELLING INSPECTIONS: PURPOSE; FEES.

A. Any owner or other person having an interest in a single-family dwelling located in the incorporated areas of the Village may make application to the Community Development Department for an inspection thereof. Such inspection shall be for the purpose of determining whether the single-family dwelling is in compliance with applicable ordinances and resolutions regulating the construction and maintenance thereof.

B. Inspections permitted by this section shall be made by the building official or the Village’s duly appointed representative upon receipt of an application and payment of a fee established by the Village Board for each single-family dwelling to be inspected.

100.1-7 BUILDING PERMITS FOR TELECOMMUNICATIONS FACILITIES.

The review of a building permit for a telecommunications facility or equipment shall comply with the requirements of Section 3108 of the 2015 International Building Code, as adopted, and the Village Zoning Ordinance as provided for in Appendix A of the Village Code. If Village Board action is required before a building permit may be issued, the review of the building permit shall take place simultaneously with the process leading to the Village Board decision.

(Amd. Ord 21-20 – 6/15/2020)

CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE II - BUILDING CODE

100.2-1. ADOPTED.

100.2-2. AMENDMENTS.

100.2-1. ADOPTED.

The “*International Building Code, Edition 2015*”, as published by the International Code Council, is hereby adopted by reference and set forth fully in this section as the Building Code of the Village of Machesney Park. A copy of the ICC International Building Code, Edition 2015 has been filed in the office of the Village Clerk for use and examination by the public.

100.2-2. AMENDMENTS.

The International Building Code 2015, as adopted by Section 100.2-1, is hereby amended as follows:

1) Section 101. 1 is amended as follows:

101. 1 Title. These regulations shall be known as the Building Code of the Village of Machesney Park, State of Illinois, hereinafter referred to as " this code".

2) Section 101. 4.4 is amended as follows:

101. 4.4 Plumbing. The provisions of the State of Illinois Plumbing Code shall govern erection, installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, fixtures, fittings, appurtenances, where connected to a water or sewage system, and all aspects of a medical gas system. Where there is a reference to the " International Plumbing Code", it shall mean " the State of Illinois Plumbing Code".

3) Section 104. 1. 1 is added as follows:

104. 1. 1 Fire Official approval. The Fire Officials for the Harlem Roscoe Fire Protection District or the North Park Fire Protection District covering the Village of Machesney Park shall have the authority to issue orders based on requirements of this code for matters pertaining to design, materials or equipment when related to fire protection.

4) Section 105.2 is amended as follows:

105.2 Work exempt from permit. Building:

1. One- story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided the floor area does not exceed 120 square feet (11 m²), and is not supported by another structure.

2. through 5. remain unchanged. 6. Sidewalks, patios, and driveways not more than 30 inches (762 mm) above adjacent grade, and not over any basement or story below and are not part of an accessible route. 7. through 13. remain unchanged. 14. Replacement of doors and windows provided the size is not changed and a fire rating is not required. 15. Repair or replacement of interior wall and ceiling coverings provided: a. not more than 50% of coverings in a room are removed, b. coverings are not part of a fire rated assembly, c. structural elements in a hazardous condition are not exposed.

5) Section 105. 7 is deleted and replaced as follows:

105.7 Placement of Permit. The permit holder shall post the permit on the job site in a conspicuous place at all times, visible from the street, until the final inspection has been made and approved. The building official is authorized to impose a re-inspection fee when the permit is not posted.

6) Section 106.3 is amended as follows:

106.3 Examination of documents. The building official shall examine or cause to be examined the accompanying construction documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances. The Fire Protection District shall review all plans for issuance of building, fire suppression and fire alarm (electrical) permits, other than one and two family dwelling projects. The plans will be made available in the Building Department offices. If the plans do not conform to the requirements set forth by this code, they shall be rejected by the Fire Protection District pursuant to Section 106 of this code.

7) Section 108.4 is deleted and replaced as follows:

108.4 Work commencing before permit issuance. When a permit is required by this code, and work is started or proceeded with, prior to obtaining said permit, the fees established in Section 108. 2 shall be doubled and not less than \$250.00. This penalty may be waived by the building official if the person in violation has not obtained a permit in the last year and is the owner of the property. For the second offense within a twelve (12) month period, starting or proceeding with the work prior to obtaining a permit, the fees established in Section 108. 2 shall be doubled and not less than \$500.00 plus an additional fee of \$500.00 shall be paid for each day work continued without said permit. For the third such instance within a twelve (12) month period, the fees established in Section 108. 2 shall be tripled and not less than \$ 750.00 plus an additional fee of \$750.00 shall be paid for each day work continued without said permit. For the fourth such instance within a twelve (12) month period, the offender shall be prosecuted by the Village of Machesney Park Community Development Department as permitted by state law. The payment of such fees shall not relieve any person from complying with the requirement of this code and the execution of the work, nor from any penalties prescribed herein.

8) Section 108. 7 is added as follows:

108.7 Governmental exceptions: Permits are required for all governmental projects in accordance with Sections 106, 107 and 108 of this code. No permit fees or inspection charges shall be charged for construction projects directly contracted by the Village of Machesney Park, State of Illinois, Winnebago County, or the United States of America. All other units of government shall pay \$30.00 for each permit. Examples of these governmental units include the Rockford Park District, Rockford Mass Transit District, Rock River Water Reclamation District, North Park Water District, Winnebago County Forest Preserve District, North Suburban Library System, Rockford Township, Harlem Township, North Park Fire Protection District, Harlem Roscoe Fire Protection District, and other similar governmental units.

9) Section 108. 8 is added as follows:

108.8 Re-inspection and testing. Where any work or installation does not pass an initial test or inspection, the necessary correction shall be made so as to achieve compliance with this code. The contractor shall then request that the work or installation be re-inspected or retested. The permit holder will be subject to a re- inspection fee according to Section 18- 28 of the Code of Ordinances of the Village of Machesney Park, for the first, and each additional, re-inspection or test performed.

10) Section 110.5 is added as follows:

110.5 New buildings. Before a certificate of occupancy is issued for new buildings, other than one- and two-family dwellings, the Fire Protection District may inspect the building in accordance with Section 109. 3 and notify the Building Department of the results of their inspection.

11) Section 115.4 is deleted and replaced as follows:

115.4 Method of service. Such notice shall be deemed to be properly serves if a copy thereof is: 1. Delivered to the owner personally; or 2. Sent by first class mail, postage prepaid, to the owner at the last known address; or 3. Sent by certified mail, postage prepaid addressed to the owner at the last known address with return receipt requested, if required by state law.

12) Section 901. 1. 1 is added as follows:

Section 901. 1. 1 International Fire Code. The requirements of this chapter shall include any additional amendments to the 2015 International Fire Code.

13) Section 1008.3.3 Rooms and Spaces is amended as follows:

1008.3.3 Rooms and Spaces. In the event of power supply failure, an emergency electrical system shall automatically illuminate all of the following areas: 1. Electrical equipment rooms 2. Fire command centers 3. Fire pump rooms 4. Generator rooms 5. All bathrooms

14) Chapter 11 is deleted and replaced as follows:

CHAPTER 11 ACCESSIBILITY Section 1101 GENERAL 1101. 1 SCOPE. The provisions of the Illinois Accessibility Code shall control the design and construction of facilities for accessibility for individuals with disabilities.

15) Chapter 13 is deleted and replaced as follows:

CHAPTER 13 ENERGY EFFICIENCY Section 1301 GENERAL 1301. 1 SCOPE. The provisions of the Illinois Efficient Buildings Act adopts the International Energy Conservation Code with State of Illinois amendments.

16) Section 1806.2 Exception is amended as follows by adding the following exception:

Section 1806.2 Presumptive load-bearing values.

Exceptions:

1. A presumptive load-bearing capacity shall be permitted to be used where the building official deems the load-bearing capacity of mud, organic silt or unprepared fill is adequate for the support of lightweight or temporary structures.

2. Depending on the use, the Code Official may accept designs based upon an assumed soil bearing capacity of 1500 psf provided all of the following conditions are met:

a. The building height does not exceed one (1) story or 20 feet in buildings which contain masonry or concrete walls.

b. The building height does not exceed one (1) story or 25 feet in buildings which do not contain any masonry or concrete walls.

c. The foundation is shallow and the building does not include a basement.

d. The building seismic use group is not Category II or III as listed in Table 1604.5

e. Footings bear on virgin soil that is not questionable including but not limited to plastic, liquefied, highly sensitive clays, weakly cemented, peats or organic and expansive materials.

Prior to issuance of a building permit, a statement in accordance with Section 1704. 1. 1 shall be submitted by the permit applicant including the name of the design professional or qualified soils engineer who will be conducting the inspection.

Following excavations and prior to pouring of foundations, a site inspection and written report shall be prepared by a licensed design professional or qualified soils engineer to indicate that no questionable soils have been discovered. A copy of inspection report shall be submitted to the code official prior to inspection listed in Section 109.3.1.

17) Chapter 29 is deleted and replaced as follows:

Chapter 29 PLUMBING SYSTEMS Section 2901 General

2901. 1 Plumbing. Plumbing for new and existing structures shall comply with the Illinois Plumbing Code.

2901.2 Stormwater Drainage. Stormwater drainage shall comply with Chapter 11 of the 2015 International Plumbing Code

18) Appendix F " RODENTPROOFING" is added as part of this Code.

19) Appendix G " FLOOD-RESISTANT CONSTRUCTION" is added as part of this Code.

20) Appendix I "PATIO COVERS" is added as part of this Code.

21) Section 113. All references to "Board of Appeals" shall be deleted. (Ord 21-20)

CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE III. ELECTRICAL CODE

100.3-1. ADOPTED.

100.3-2. AMENDMENTS.

100.3-1. ADOPTED.

The "*National Electrical Code, Edition 2014*", as published by the National Fire Protection Association 70, is hereby adopted by reference and set forth fully in this section, as the Electrical Code of the Village of Machesney Park. A copy of the NFPA 70 National Electrical Code, Edition 2014, has been filed in the office of the Village Clerk for use and examination by the public.

100.3-2. AMENDMENTS.

The National Electrical Code 2014, as adopted by Section 100.3-2, is hereby amended as follows:

Annex H Administration and Enforcement

1) Article 80.2 shall be amended as follows:

Section 80.2 Definitions. Add the following:

ELECTRICAL CONTRACTOR. Whenever the term "electrical contractor" is used it shall mean any person, firm, or corporation undertaking the execution of electrical work or engaged in the business of installing or altering by contract electrical equipment for utilization of electricity, supplied for light, heat, or power, not including radio apparatus or equipment for wireless reception of sounds and signals, not including apparatus, conductors and other equipment

installed for or by public utilities, including common carriers, which are under the jurisdiction of the Illinois Commerce Commission for use in their operation as public utilities; the term "Electrical Contractor" does not include employees employed by such contractor to do or supervise such work, nor does it include homeowners who do their own work in their own home.

ELECTRICAL EQUIPMENT. Whenever the term "electrical equipment" is used, it shall mean conductors and equipment installed for the utilization of electricity supplied for light, heat, or power, but does not include radio apparatus or equipment for the wireless reception of sounds and signals, and does not include apparatus, conductors, and other equipment installed for or by public utilities, including common carriers which are under the jurisdiction of the Illinois Commerce Commission, for use in their operation as public utilities.

2) Article 80.15 (A) shall be amended as follows:

80.15 (A) Creation of the Electrical Board. There is hereby created the Electrical Board of the Village of Machesney Park, hereinafter designated as the Board.

3) Article 80.15 (C) shall be amended as follows:

80.15 (C) Terms. Of the members first appointed, one shall be appointed for a term of 1 year, one for a term of 2 years, one for a term of 3 years, one for a term of 4 years, and thereafter each appointment shall be for a term of 4 years, or until a successor is appointed. The Chair of the Board shall be appointed for a term not to exceed 5 years.

4) Article 80.15 (D) shall be deleted and replaced as follows:

80.15 (D) Compensation. Each appointed member shall receive the sum of zero dollars (\$0) for each day. The permit holder shall post the permit on the job site in a conspicuous place at all times, visible from the street, until the final inspection has been made and approved. The building official is authorized to impose a re-inspection fee when the permit is not posted.

5) Article 80.19 (A) (2) shall be deleted and replaced as follows:

80.19 Permits and Approvals. (A) Application. (2) The permit holder shall post the permit or a legible copy of the permit on the job site in a conspicuous place at all times, visible from the street, until the final inspection has been made and approved. The building official is authorized to impose a re-inspection fee when the permit is not posted.

6) Article 80.19 (C) (3) shall be added as follows: 80.19 Permits and Approvals. (C) Issuance of permits. (3) Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy, unless the wiring is integral with a lighting or power distribution system, fire alarms or temperature control systems involving fan shut down relays, smoke controls systems or duct smoke detectors.

7) Article 80.19 (C) (4) shall be added as follows: 80.19 Permits and Approvals. (C) Issuance of permits. (4) Installation of telephone, CATS or other network wiring, or CATV wiring.

8) Article 80.19 (D) shall be deleted.

80.19 Permits and Approvals. (D) Annual permits. Deleted.

9) Article 80.19 (E) (1) shall be added as follows:

80.19 Permits and Approvals. (E) Fees. (1) Work commencing before permit issuance. When a permit is required by this code, and work is started or proceeded with, prior to obtaining said permit, the fee schedule established by resolution shall be doubled and not less than \$250.00. This penalty may be waived by the building official if the person in violation has not obtained a permit in the last year and is the owner of the property. For the second offense within a twelve (12) month period, starting or proceeding with the work prior to obtaining a permit, the fees established by resolution shall be doubled and not less than \$500.00 plus an additional fee of \$500.00 shall be paid for each day work continued without said permit. For the third such instance within a twelve (12) month period, the fees established by resolution shall be tripled and not less than \$ 750.00 plus an additional fee of \$750.00 shall be paid for each day work continued without said permit. For the fourth such instance within a twelve (12) month period, the offender shall be prosecuted by the Village of Machesney Park Community Development Department as permitted by state law. The payment of such fees shall not relieve any person from complying with the requirement of this code and the execution of the work, nor from any penalties prescribed herein.

10) Article 80.19 (F) (3) shall be deleted and replaced as follows:

80.19 Permits and Approvals. (F) Inspections and Approvals. (3) When any portion of the electrical installation within the jurisdiction of an Electrical Inspector is to be hidden from view by the permanent placement of parts of the building, the person, firm or corporation installing the equipment shall notify the Electrical Inspector, and the equipment shall not be concealed until it has been approved by the Electrical Inspector.

11) Article 80.19 (F) (5) shall be amended as follows:

80.19 Permits and Approvals. (F) Inspections and Approvals. (5) If, upon inspection, any installation is found not to be fully in conformity with the provisions of Article 80, and all applicable ordinances, rules, and regulations, the Inspector making the inspection shall at once make a written notice stating the defects that have been found to exist. The list will be posted on the jobsite. Where any work or installation does not pass an initial test or inspection, the necessary correction shall be made so as to achieve compliance with this code. The contractor shall then request that the work or installation be re-inspected or retested. The permit holder will be subject to a re-inspection fee according to the adopted fee schedule of the Village of Machesney Park, for the first, and each additional, re-inspection or test performed.

12) Article 80.21 (B) (1) shall be amended as follows:

B) Responsibility of the Applicant. (1) The construction documents include all of the electrical requirements. Plans and specifications in sufficient detail shall be filed with the Building Official showing the location and capacity of all lighting facilities, electrically operated equipment and electrical circuits required for all service equipment of the building or structure except as may be modified by the code official. Whenever an electrical contractor will be the installer of electric heat in a room or in a building, and said heat is to be the principal source of heat for that room or building, the plans and heat loss (80% differential) shall be submitted to the building department before proceeding with the installation.

13) Article 80.21 (B) (3) shall be added as follows:

B) Responsibility of the Applicant. (3) Available Short Circuit Current Form. An available short circuit current form will be required stating what the available short circuit current is at the transformer secondary, at the main disconnect line side, and at all sub-panels. The form shall be filled out and on file with the Village of Machesney Park Building Department before an inspection will be performed for an electrical service for commercial, industrial and, in some cases, residential buildings.

14) Article 80.23 (B) (3) shall be deleted.

80.23 Notice of Violations, Penalties. (B) Penalties. (3) (Deleted)

15) Article 80.25 (C) shall be deleted. 5 80.25 Connection to Electrical Supply. (C) Notification. (Deleted)

16) Article 80.27(A) shall be deleted and replaced as follows:

80.27 Inspector' s Qualifications. (A) Certificate. All electrical inspectors shall be certified by a nationally recognized inspector certification program accepted by the Board. The certification program shall specifically qualify the inspector in electrical inspections. If a person is employed as an Electrical Inspector either directly or by contract by the Village of Machesney Park and does not have a certification, that person will have one year to acquire the certification.

17) Article 80.27 (B) (3) shall be amended as follows:

80.27 Inspector' s Qualifications. (B) Experience. (3) Be well versed in the statutes of Illinois relating to electrical work and the National Electrical Code, as approved by the American National Standards Institute

18) Article 80.27 (B) (4) shall be amended as follows: 80.27 Inspector' s Qualifications. (B) Experience. (4) Have had at least two years' experience as an Electrical Inspector or five years in the installation of electrical equipment. In lieu of such experience, the applicant shall be a graduate in electrical engineering or of a similar curriculum of a college or university considered by the Board as having suitable requirements for graduation and shall have had two years' practical electrical experience.

19) Article 80.29 shall be amended as follows:

80.29 Liability for Damages. Article 80 shall not be construed to affect the responsibility or liability of any party owning, designing, operating, controlling, or installing any electrical equipment for damages to persons or property caused by a defect therein, nor shall the Village of Machesney Park or any of its employees be held as assuming any such liability by reason of the inspection, re- inspection, or other examination authorized.

20) Article 80.35 shall be amended as follows:

80.35 Effective Date. Article 80 shall take effect immediately after its passage and publication.

21) Article 210. 19(A) (5) shall be added as follows:

210.19 Conductors—Minimum Ampacity and Size. (A) Branch Circuits Not More Than 600 Volts. (5) Microwave Circuits. The wiring used to supply power to a permanently installed

microwave oven shall consist of a dedicated circuit installed with 12 AWG or larger conductors.

22) Article 210.70(A) (1) shall be amended as follows:

210.70 Lighting Outlets Required. (A) Dwelling Units. (1) Habitable rooms. At least one wall switch-controlled lighting outlet shall be installed in every habitable room and bathroom. The switch shall be installed at a point of entry to the room. The main lighting outlet in each room may not be fed from the load side of a GFCI device. Unless 210.70(A)(1) Exception No. 1 6 is applied, provision shall be made in the wiring of each ceiling box of all habitable rooms excluding dining rooms) for a luminaire to operate independently from a fan.

23) Article 210.70(A) (3) shall be deleted and replaced as follows:

210.70 Lighting Outlets Required. (A) Dwelling Units. (3) Storage or Equipment Spaces. For accessible attics, underfloor spaces, utility rooms, each area of an unfinished basement, and equipment spaces, at least one lighting outlet containing a switch or controlled by a wall switch shall be installed in such spaces. At least one point of control shall be at the usual point of entry to these spaces. A lighting outlet shall be provided within six feet of any equipment requiring servicing.

24) Article 210.70(C) shall be amended as follows:

210.70 Lighting Outlets Required. (C) Other Than Dwelling Units. For accessible attics and underfloor spaces, at least one lighting outlet containing a switch or controlled by a wall switch shall be installed in such spaces. At least one point of control shall be at the usual point of entry to these spaces. A lighting outlet shall be provided within six feet of any equipment requiring servicing.

25) Article 230.11 shall be added as follows:

230.11 Service Installation and/or Modifications. When any part of service entrance equipment, a branch circuit panel, or a service conductor is installed, replaced, modified, or required to be repaired, the service in its entirety must be installed to comply with the current codes as adopted by the Village of Machesney Park. The main branch circuit panel shall be at least 16 spaces. Exception: Replacement or addition of a branch-circuit overcurrent protective device.

26) Article 230.43 shall be deleted and replaced as follows:

230.43 Wiring Methods for 1000 Volts, Nominal, or Less. Service-entrance conductors and service laterals overhead shall be installed in accordance with the applicable requirements of this Code covering the type of wiring method used and shall be limited to rigid metal conduit (RMC) or intermediate metal conduit (IMC). Electrical metallic tubing (EMT) may be used inside a building or structure.

27) Article 230.70 (A) (1) shall be deleted and replaced as follows: 230.70 General. (A)

Location. (1) Readily Accessible Location. The service disconnecting means shall be installed at a readily accessible location, either outside of a building or structure, or inside at or within 5 feet of the meter enclosure.

28) Article 250.52 (A) shall be deleted and replaced as follows:

250.52 (A) Electrodes. A concrete-encased electrode that complies with 250.52 (A) (3) will be required in all new construction. The following electrodes described in (1) through (8) shall be permitted as additional grounding methods.

29) Article 300.1 (D) shall be added as follows:

300.1 Scope. (D) Mixed Use and Occupancy Buildings. The entire mixed use and occupancy building shall be wired by the most restrictive code.

30) Article 300.5 (D) (3) shall be amended as follows:

300.5 Underground Installations. (D) Protection from Damage (3) Service Conductors. Underground service conductors shall be installed in galvanized or stainless steel rigid metal conduit (RMC) or intermediate metal conduit (IMC). Underground service conductors that are not subject to physical damage may be installed in Schedule 80 rigid electrical nonmetallic conduit (PVC), protected by galvanized or stainless steel rigid conduit (RMC) or intermediate metal conduit (IMC) to a minimum of 450 mm (18 inches) below grade. No exposed nonmetallic conduit shall be allowed. Underground service conductors that are not encased in concrete and that are buried 450 mm (18 inches) or more below grade shall have their location identified by a warning ribbon that is placed in the trench at least 300 mm (12 inches) above the underground installation.

31) Article 300.11(A) (3) shall be added as follows:

300.11 Securing and Supporting. (A) Secured in Place. (3) Tie Wire. Tie wire shall not be allowed as a sole means of supporting or securing conduit or cable in above ground applications.

32) Article 300.13 (C) shall be added as follows:

300.13 Mechanical and Electrical Continuity--Conductors. (C) Multiple Conductors. A device designed to be used for switching or as a receptacle may not be used to provide electrical continuity to any circuit conductor.

33) Article 300.13 (D) shall be added as follows:

300.13 Mechanical and Electrical Continuity-Conductors. (D) Push-Type Clamping Devices. No push-type or clamp-type connections for splices or for terminating to devices will be allowed unless the wire connection is secured with a screw or crimping tool. Exception 1: Disconnecting means for ballasts. Exception 2: Factory installed terminations in luminaires.

34) Article 310.106 (B) shall be deleted and replaced as follows:

310.106 Conductors. (B) Conductor Material. Conductors in this article shall be aluminum, copper-clad aluminum, or copper unless otherwise specified. Aluminum and copper-clad aluminum conductors shall be prohibited to be installed in sizes smaller than 4 AWG. Stranded aluminum conductors 4 AWG through 1000 kcmil marked as Type RHH, RHW, XHHW, THW, THHW, THWN, THHN, service-entrance Type SE Style U and SE Style R shall be made of an AA-8000 series electrical grade aluminum alloy conductor material.

35) Article 314.27 (A) (2) shall be amended as follows:

314.27 Outlet Boxes. (A) Boxes at Luminaire or Lampholder Outlets. (2) Ceiling Outlets. At every outlet used exclusively for lighting, the box shall be designed or installed so that a luminaire or lampholder may be attached. Boxes shall be required to support a luminaire

weighing a minimum of 23 kg (50 lb). A luminaire that weighs more than 23 kg (50 lb) shall be supported independently of the outlet box, unless the outlet box is listed and marked on the interior of the box to indicate the maximum weight the box shall be permitted to support. In all habitable rooms with a ceiling fixture (other than recessed fixtures) in a location acceptable for a ceiling-suspended (paddle) fan in single-family, two-family or multi-family dwellings, a box rated for ceiling fan support shall be installed.

36) Article 334.10 including (1) through (5) shall be deleted and replaced as follows:

334. 10 Uses Permitted. Type NM, Type NMC, and Type NMS cables shall be permitted to be used only in the following: R-2, R-3, and R-4 structures (as defined by the International Building Code) not exceeding three floors above grade.

37) Article 334.15 (D) shall be added as follows:

334. 15 Exposed Work. (D) All Unfinished Areas. Any exposed cable 7 feet (213.36cm) or closer to the floor must be protected with a durable building material or sleeved in an approved manner.

38) Article 334.40 (B) shall be deleted in part:

334.40 Boxes and Fittings. (B) Devices of Insulating Material. Delete "and for repair wiring in existing buildings where the cable is concealed."

39) Article 410.36 (B) shall be amended as follows:

410.36 Means of Support. (B) Suspended Ceilings. Framing members of suspended ceiling systems used to support luminaires shall be securely fastened to each other and shall be securely attached to the building structure at appropriate intervals. Luminaires smaller than 610 mm by 610 mm (24 inches by 24 inches) shall be securely fastened to the ceiling framing member by mechanical means such as bolts, screws, or rivets. Listed clips identified for the use with the type of ceiling framing member(s) and luminaire(s) shall also be permitted. Fixtures 610 mm by 610 mm (24 inches by 24 inches) or larger shall be supported independently of the ceiling grid by at least two wires on opposite corners of the fixture. The same size (or larger) wire used to support the ceiling system shall be used to support the fixture, but in no case shall the wire size be smaller than 12 AWG steel.

CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE IV. MECHANICAL CODE

100.4-1. ADOPTED.

100.4-2. AMENDMENTS.

100.4-1. ADOPTED.

The "*International Mechanical Code, Edition 2015*", as recommended and published by the International Code Council, is hereby adopted by reference and set forth fully in this section, as the Mechanical Code of the Village of Machesney Park. A copy of the ICC International

Mechanical Code, Edition 2015 has been filed in the office of the Village Clerk for use and examination by the public.

100.4-2. AMENDMENTS.

The ICC International Mechanical Code, Edition 2015, as adopted by 100.4-1, is hereby amended as follows:

1) Section 101. 1 is amended as follows:

101.1 Title. These regulations shall be known as the Mechanical Code of the Village of Machesney Park, Illinois, hereinafter referred as the Mechanical Code, or "this code."

2) Section 106. 1. 1 is added as follows:

106. 1. 1 Permits required. Mechanical work shall not be commenced until the code official has issued a permit for such work. A mechanical permit shall not be transferable. All work shall be performed and completed by permit holder.

3) Section 106.2 is amended by adding the following:

106.2 Permits not required. Permits shall not be required for the following: 9. Service calls, normal maintenance, and replacement parts in an amount less than \$500.00 (five hundred dollars).

4) Section 106.5.1 is deleted and replaced as follows:

106.5.1 Work commencing before permit issuance. When a permit is required by this code, and work is started or proceeded with, prior to obtaining said permit, the fees established within the permit fee schedule by the Village Board shall be doubled and not less than \$250.00. This penalty may be waived by the building official if the person in violation has not obtained a permit in the last year and is the owner of the property. For the second offense within a twelve (12) month period, starting or proceeding with the work prior to obtaining a permit, the fees shall be doubled and not less than 500.00 plus an additional fee of \$500.00 shall be paid for each day work continued without said permit. For the third such instance within a twelve (12) month period, the fees shall be tripled and not less than \$750.00 plus an additional fee of \$750.00 shall be paid for each day work continued without said permit. For the fourth such instance within a twelve (12) month period, the offender shall be prosecuted by the Village of Machesney Park Community Development Department as permitted by state law. The payment of such fees shall not relieve any person from complying with the requirement of this code and the execution of the work, nor from any penalties prescribed herein.

5) Section 106.5.2 Fee Schedule. is deleted in its entirety.

6) Section 106.5.3 is deleted in its entirety.

7) Section 106.6 is added as follows:

106.6 Posting Permit. The permit holder shall post the permit on the job site in a conspicuous place at all times, visible from the street, until the final inspection has been made and approved. The building official is authorized to impose a re-inspection fee when the permit is not posted.

8) Section 107.1 is amended as follows.

107.1 Required inspections and testing. The building official or code official, upon notification from the permit holder or the permit holder's agent, may make the following inspections and other such inspections as necessary, and shall either release that portion of the construction or shall notify the permit holder or the permit holder's agent of violations that must be corrected. The holder of the permit shall be responsible for the scheduling of such inspections. Where the phrase " shall be made" or" shall require" is used in this section, it shall mean" may be made" or" may be required". The remainder of this section is unchanged.)

9) Section 107.2.3 is amended as follows:

107.2.3 Re-inspection and testing. Where any work or installation does not pass an initial test or inspection, the necessary correction shall be made so as to achieve compliance with this code. The contractor shall then request that the work or installation be re-inspected or retested. The permit holder will be subject to a re-inspection fee as established in the building permit fee schedule by the Village of Machesney Park, for the first, and each additional, re- inspection or test performed.

10) Section 108.4 is amended as follows:

108.4 Violation penalties. Persons who shall violate a provision of this code or who shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair mechanical equipment or systems in violation of an approved construction documents or directive of the code official, or of a permit or certificate issued under the provisions of this code, shall be punishable by a fine of not more than \$500.00 dollars. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

11) Section 108.5 is amended as follows:

108.5 Stop work orders. Upon notice from the code official that mechanical work is being done contrary to the provisions of this code or in a dangerous or unsafe manner, such work shall immediately cease. Such notice shall be in writing and shall state the conditions under which work is authorized to resume. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable for a fine of not more than \$ 500.00 dollars.

12) Section 109.2 is deleted and replaced as follows:

109.2 Membership of board. The board of appeals shall consist of seven members appointed by the chief appointing authority as follows: two (2) for five (5) years; two (2) for four (4) years; one (1) for three (3) years; one (1) for two (2) years; and one (1) for one (1) year. Thereafter, each new member shall serve for five (5) years or until a successor has been appointed.

13) Section 109.2.1 is deleted and replaced as follows:

109.2.1 Qualifications. The members of the board shall consist of one registered Professional Engineer, one licensed plumbing contractor, one license holder for hydronic heating-cooling, one license holder for refrigeration, one license holder for warm-air heating-cooling and two representatives of the mechanical industry with at least ten years of experience in mechanical fields, five of which shall have been in responsible charge of work.

14) Section 309.1 is amended as follows:

309.1 Space-heating systems. Interior spaces intended for human occupancy shall be provided with active heating systems capable of maintaining a minimum indoor temperature of 68° F (20°C) at a point 3 feet (914 mm) above floor on the design heating day. The installation of portable space heaters shall not be used to achieve compliance with this section. Exception: Interior spaces where the primary purpose is not associated with human comfort.

15) Section 508. 1 is amended as follows:

508.1 Makeup air. Makeup air shall be supplied during the operation of commercial kitchen exhaust systems that are provided for commercial cooking appliances. The amount of makeup air supplied to the building from all sources shall be approximately equal to the amount of exhaust air for all exhaust systems for the building. The makeup air shall not reduce the effectiveness of the exhaust system. Makeup air shall be provided by mechanical means. Mechanical makeup air systems shall be automatically controlled to start and operate simultaneously with the exhaust system. Makeup air intake opening locations shall comply with Section 401.

16) Section 603.6.1.1 is amended as follows:

603.6.1.1 Duct length. Flexible air ducts shall not be limited in length to 8 feet overall from termination point and contain no more than the equivalent of one 90 degree turn with no offset greater than 45 degrees. All flexible air ducts shall be of the insulated type. Flexible ducts shall only be used for branches.

17) Section 603.6.2. 1 is amended as follows:

603.6.2. 1 Connector length. Flexible air connectors shall be limited in length to Meet 8 feet overall from termination point and contain no more than the equivalent of one 90 degree turn with no offset greater than 45 degrees. All flexible air connectors shall be of the insulated type. Flexible ducts shall only be used for branches.

18) Section 801.2.2 is added as follows:

801.2.2 Fuel burning appliances. PVC vent piping for a fuel burning appliance that is located in a concealed space shall be marked/ labeled every 36 inches so as to distinguish it from plumbing or other piping.

19) Section 918.7 is added as follows:

918.7 Furnace cement or welding. The use of furnace cement or welding for the repair of furnace heat exchangers is prohibited.

20) Section 929 is added as follows:

SECTION 929 UNVENTED ROOM HEATERS

929. 1 General. Unvented room heaters and/ or fireplaces are prohibited

21) Section 1002.1.1 is added as follows:

1002.1.1 Installation. Water heaters greater than 5 gallons shall not be elevated more than 18" above finished floor (AFF). When elevated, the appliance shall be secured in an approved manner.

22) Appendix A " Chimney Connector Pass-Throughs" is added as part of this Code.

23) Article IV, Section 109, All references to "Means of Appeal" shall be deleted. (Ord 21-20)

CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE V. RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS

100.5-1. ADOPTED.

100.5-2. AMENDMENTS.

100.5-1. ADOPTED.

The "*International Residential Code for One- and Two-Family Dwellings, Edition 2015*" including the Appendix Chapters E, F, G, H, J, and M, as recommended and published by the International Code Council, is hereby adopted by reference and set forth fully in this section, as the Residential Building Code for One- and Two-Family Dwellings of the Village of Machesney Park and shall hereby regulate and govern the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and attached single-family dwellings not more than three stories in height with separate means of egress as herein provided. A copy of the International Residential Code for One- and Two-Family Dwellings, Edition 2015 has been filed in the office of the Village Clerk for use and examination by the public.

100.5-2. AMENDMENTS.

The International Residential Code for One- and Two-Family Dwellings, Edition 2015, as adopted in Section 100.5-1 is hereby amended as follows:

1) Section R101. 1 as amended as follows:

R101. 1 Title. These provisions shall be known as the Residential Code for One- and Two-Family Dwellings of the Village of Machesney Park, and shall be cited as such and will be referred to herein as "this code".

2) Section R105.2 Buildings: Item 1 is amended, and Items 11 and 12 are added as follows:

R105.2 Work exempt from permit.

Building:

1. One- story detached accessory structures, provided the floor area does not exceed 120 square feet (11.15 m²).

2. through 10. remain unchanged.

11. Replacement of doors and windows provided the size is not changed and a fire rating is not required.

12. Repair or replacement of interior wall and ceiling coverings provided:

a. not more than 50% of coverings in a room are removed, and

b. the coverings are not part of a fire rated assembly, and

c. no structural elements that are in a hazardous condition are exposed.

Electrical:

1. through 3. remain unchanged.

4. Electrical wiring, devices, appliances, apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy, unless the wiring is integral with a lighting or power distribution system, fire alarms or temperature control systems involving fan shut down relays, smoke controls systems or duct smoke detectors. Exception: security alarms installed by an outside agent.

(Remainder unchanged)

3) Section R105.7 is deleted and replaced as follows:

R105.7 Placement of Permit. The permit holder shall post the permit on the job site in a conspicuous place at all times, visible from the street, until the final inspection has been made and approved. The building official is authorized to impose a re-inspection fee when the permit is not posted.

4) Section R106. 1 is deleted: R106.1 Submittal documents. Deleted

5) Section R108.6 is deleted and replaced as follows:

R108.6 Work commencing before permit issuance. Any person who commences work requiring a permit by this code prior to obtaining said permit, will be subject to the fees established within the fee schedule adopted by the Village of Machesney Park, being doubled and not less than \$250.00. This penalty may be waived by the building official if the person in violation has not obtained a permit in the last year and is the owner of the property. For the second offense within a twelve (12) month period, starting or proceeding with the work prior to obtaining a permit, the fees established by the Village shall be doubled and not less than \$ 500.00 plus an additional fee of \$500.00 shall be paid for each day work continued without said permit. For the third such instance within a twelve (12) month period, the fees established in Section 108.2 shall be tripled and not less than \$750.00, plus an additional fee of \$750.00 shall be paid for each day work continued without said permit. For the fourth such instance within a twelve (12) month period, the offender shall be prosecuted by the Village of Machesney Park Community Development Department as permitted by State Law. The payment of such fees shall not relieve any person from complying with the requirement of this code and the execution of the work, nor from any penalties prescribed herein.

6) Section R108.7 is added as follows:

R108.7 Re-inspection Fee. Any item of inspection that fails to meet code requirements on the initial inspection shall be subject to a re- inspection fee charged to the permit holder for each additional re-inspection performed.

7) Section R109.1.4 is amended as follows:

R109.1.4 Frame and masonry inspection. Inspection of framing and masonry construction shall be made after the roof, masonry, framing, firestopping, draftstopping and bracing are in place and after the plumbing, mechanical and electrical rough inspections are approved and prior to covering or concealment of any of the aforementioned.

8) Section R115 is added as follows:

SECTION R115 TEMPORARY RESTROOM FACILITIES

R115. 1 Temporary restroom facilities. The builder or the builder's representative of a residential building under construction shall provide restroom facilities for the employees working on the construction site. These facilities shall be located within 300 feet (91440 mm) of the entrance of each residential building.

9) Table R301.2 (1) is deleted and replaced as follows:

TABLE R301.2(1) CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

**TABLE R301.2(1)
CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA**

GROUND SNOW LOAD	WIND DESIGN				SEISMIC DESIGN CATEGORY ^f	SUBJECT TO DAMAGE FROM			WINTER DESIGN TEMP ^a	ICE BARRIER UNDERLAYMENT REQUIRED ^h	FLOOD HAZARDS ^g	AIR FREEZING INDEX ⁱ
	Speed ^d (mph)	Topographic effects ^k	Special wind region ^l	Wind-borne debris zone ^m		Weathering ^a	Frost line depth ^b	Termite ^c				

For SI: 1 pound per square foot = 0.0479 kPa, 1 mile per hour = 0.447 m/s.

- a. Weathering may require a higher strength concrete or grade of masonry than necessary to satisfy the structural requirements of this code. The weathering column shall be filled in with the weathering index, "negligible," "moderate" or "severe" for concrete as determined from Figure R301.2(3). The grade of masonry units shall be determined from ASTM C 34, C 55, C 62, C 73, C 90, C 129, C 145, C 216 or C 652.
- b. The frost line depth may require deeper footings than indicated in Figure R403.1(1). The jurisdiction shall fill in the frost line depth column with the minimum depth of footing below finish grade.
- c. The jurisdiction shall fill in this part of the table to indicate the need for protection depending on whether there has been a history of local subterranean termite damage.
- d. The jurisdiction shall fill in this part of the table with the wind speed from the basic wind speed map [Figure R301.2(4)A]. Wind exposure category shall be determined on a site-specific basis in accordance with Section R301.2.1.4.
- e. The outdoor design dry-bulb temperature shall be selected from the columns of 97¹/₂-percent values for winter from Appendix D of the *International Plumbing Code*. Deviations from the Appendix D temperatures shall be permitted to reflect local climates or local weather experience as determined by the *building official*.
- f. The jurisdiction shall fill in this part of the table with the seismic design category determined from Section R301.2.2.1.
- g. The jurisdiction shall fill in this part of the table with (a) the date of the jurisdiction's entry into the National Flood Insurance Program (date of adoption of the first code or ordinance for management of flood hazard areas), (b) the date(s) of the Flood Insurance Study and (c) the panel numbers and dates of the currently effective FIRMs and FBFMs or other flood hazard map adopted by the authority having jurisdiction, as amended.
- h. In accordance with Sections R905.1.2, R905.4.3.1, R905.5.3.1, R905.6.3.1, R905.7.3.1 and R905.8.3.1, where there has been a history of local damage from the effects of ice damming, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall fill in this part of the table with "NO."
- i. The jurisdiction shall fill in this part of the table with the 100-year return period air freezing index (BF-days) from Figure R403.3(2) or from the 100-year (99 percent) value on the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32°F)."
- j. The jurisdiction shall fill in this part of the table with the mean annual temperature from the National Climatic Data Center data table "Air Freezing Index-USA Method (Base 32°F)."
- k. In accordance with Section R301.2.1.5, where there is local historical data documenting structural damage to buildings due to topographic wind speed-up effects, the jurisdiction shall fill in this part of the table with "YES." Otherwise, the jurisdiction shall indicate "NO" in this part of the table.
- l. In accordance with Figure R301.2(4)A, where there is local historical data documenting unusual wind conditions, the jurisdiction shall fill in this part of the table with "YES" and identify any specific requirements. Otherwise, the jurisdiction shall indicate "NO" in this part of the table.
- m. In accordance with Section R301.2.1.2.1, the jurisdiction shall indicate the wind-borne debris wind zone(s). Otherwise, the jurisdiction shall indicate "NO" in this part of the table.

	ZONE	EFFECTIVE WIND AREA (feet ²)	ULTIMATE DESIGN WIND SPEED, V _{ULT} (mph)																									
			110	115	120	130	140	150	160	170	180																	
Roof 0 to 7 degrees	1	10	10.0	-13.0	10.0	-14.0	10.0	-15.0	10.0	-16.0	10.0	-17.0	10.0	-18.0	10.0	-19.0	10.0	-20.0	10.0	-21.0	9.9	-24.0	11.2	-27.0	12.6	-31.0	14.2	-35.0
	1	20	10.0	-12.0	10.0	-13.0	10.0	-14.0	10.0	-15.0	10.0	-17.0	10.0	-18.0	10.0	-20.0	9.2	-23.0	10.6	-26.0	11.9	-30.0	13.3	-34.1				
	1	50	10.0	-12.0	10.0	-13.0	10.0	-14.0	10.0	-17.0	10.0	-19.0	8.5	-22.0	10.0	-26.0	10.8	-29.0	12.2	-32.9								
	1	100	10.0	-11.0	10.0	-13.0	10.0	-14.0	10.0	-16.0	10.0	-19.0	7.8	-22.0	10.0	-25.0	10.0	-28.0	11.3	-32.0								
	2	10	10.0	-21.0	10.0	-23.0	10.0	-26.0	10.0	-30.0	10.0	-35.0	9.9	-40.0	11.2	-46.0	12.6	-52.0	14.2	-59.0								
	2	20	10.0	-19.0	10.0	-21.0	10.0	-23.0	10.0	-27.0	10.0	-31.0	9.2	-36.0	10.6	-41.0	11.9	-46.0	13.3	-52.4								
	2	50	10.0	-16.0	10.0	-18.0	10.0	-19.0	10.0	-23.0	10.0	-26.0	8.5	-30.0	10.0	-34.0	10.8	-39.0	12.2	-44.1								
	2	100	10.0	-14.0	10.0	-15.0	10.0	-16.0	10.0	-19.0	10.0	-22.0	7.8	-26.0	10.0	-30.0	10.0	-33.0	11.3	-37.9								
	3	10	10.0	-33.0	10.0	-36.0	10.0	-39.0	10.0	-46.0	10.0	-53.0	9.9	-61.0	11.2	-69.0	12.6	-78.0	14.2	-88.3								
	3	20	10.0	-27.0	10.0	-29.0	10.0	-32.0	10.0	-35.0	10.0	-44.0	9.2	-50.0	10.6	-57.0	11.9	-65.0	13.3	-73.1								
	3	50	10.0	-19.0	10.0	-21.0	10.0	-23.0	10.0	-27.0	10.0	-32.0	8.5	-36.0	10.0	-41.0	10.8	-47.0	12.2	-53.1								
	3	100	10.0	-14.0	10.0	-15.0	10.0	-16.0	10.0	-19.0	10.0	-22.0	7.8	-26.0	10.0	-30.0	10.0	-33.0	11.3	-37.9								
Roof > 7 to 27 degrees	1	10	10.0	-11.0	10.0	-12.0	10.0	-13.0	10.0	-14.0	10.0	-15.0	10.0	-16.0	11.1	-18.0	12.6	-21.0	14.5	-24.0	16.4	-27.0	18.4	-31.0	20.6	-35.0		
	1	20	10.0	-11.0	10.0	-12.0	10.0	-13.0	10.0	-14.0	10.0	-15.0	10.0	-16.0	11.1	-18.0	12.6	-21.0	14.5	-24.0	16.4	-27.0	18.4	-31.0	20.6	-35.0		
	1	50	10.0	-10.0	10.0	-11.0	10.0	-12.0	10.0	-13.0	10.0	-14.0	10.0	-15.0	10.0	-17.0	9.9	-20.0	11.2	-22.0	12.6	-25.0	14.2	-29.0				
	1	100	10.0	-10.0	10.0	-11.0	10.0	-12.0	10.0	-13.0	10.0	-14.0	10.0	-15.0	10.0	-17.0	9.9	-20.0	11.2	-22.0	12.6	-25.0	14.2	-29.0				
	2	10	10.0	-20.0	10.0	-22.0	10.0	-24.0	10.0	-29.0	12.2	-33.0	14.0	-38.0	15.9	-44.0	17.9	-49.0	20.2	-55.8								
	2	20	10.0	-19.0	10.0	-20.0	10.0	-22.0	10.0	-26.0	11.1	-31.0	12.6	-36.0	14.5	-40.0	16.4	-45.0	18.4	-51.2								
	2	50	10.0	-16.0	10.0	-18.0	10.0	-20.0	10.0	-23.0	10.0	-27.0	11.1	-31.0	12.7	-35.0	14.3	-40.0	16.0	-45.4								
	2	100	10.0	-16.0	10.0	-16.0	10.0	-18.0	10.0	-21.0	10.0	-24.0	9.9	-28.0	11.2	-32.0	12.6	-36.0	14.2	-40.9								
	3	10	10.0	-30.0	10.0	-33.0	10.0	-36.0	10.0	-43.0	12.2	-49.0	14.0	-57.0	15.9	-65.0	17.9	-73.0	20.2	-82.4								
	3	20	10.0	-26.0	10.0	-31.0	10.0	-34.0	10.0	-40.0	11.1	-46.0	12.6	-53.0	14.5	-60.0	16.4	-68.0	18.4	-77.0								
	3	50	10.0	-26.0	10.0	-28.0	10.0	-31.0	10.0	-36.0	10.0	-42.0	11.1	-48.0	12.7	-55.0	14.3	-62.0	16.0	-69.9								
	3	100	10.0	-24.0	10.0	-26.0	10.0	-28.0	10.0	-33.0	10.0	-39.0	9.9	-44.0	11.2	-51.0	12.6	-57.0	14.2	-64.6								
Roof > 27 to 46 degrees	1	10	11.9	-13.0	13.1	-14.0	14.2	-15.0	16.7	-16.0	19.4	-21.0	22.2	-24.0	25.3	-27.0	28.5	-31.0	32.0	-35.0								
	1	20	11.6	-12.0	12.7	-13.0	13.8	-14.0	16.2	-17.0	18.8	-20.0	21.6	-23.0	24.6	-26.0	27.7	-29.0	31.1	-33.2								
	1	50	11.2	-11.0	12.2	-12.0	13.3	-13.0	15.6	-16.0	18.1	-18.0	20.8	-21.0	23.6	-24.0	26.7	-27.0	29.9	-30.8								
	1	100	10.9	-10.0	11.9	-11.0	12.9	-12.0	15.1	-15.0	17.6	-17.0	20.2	-20.0	22.9	-22.0	25.9	-26.0	29.0	-29.0								
	2	10	11.9	-16.0	13.1	-16.0	14.2	-18.0	16.7	-21.0	19.4	-24.0	22.2	-28.0	25.3	-32.0	28.5	-36.0	32.0	-40.9								
	2	20	11.6	-14.0	12.7	-16.0	13.8	-17.0	16.2	-20.0	18.8	-23.0	21.6	-27.0	24.6	-30.0	27.7	-34.0	31.1	-39.1								
	2	50	11.2	-13.0	12.2	-15.0	13.3	-16.0	15.6	-19.0	18.1	-22.0	20.8	-26.0	23.6	-29.0	26.7	-32.0	29.9	-36.8								
	2	100	10.9	-13.0	11.9	-14.0	12.9	-15.0	15.1	-16.0	17.6	-21.0	20.2	-24.0	22.9	-27.0	25.9	-31.0	29.0	-35.0								
	3	10	11.9	-16.0	13.1	-16.0	14.2	-18.0	16.7	-21.0	19.4	-24.0	22.2	-28.0	25.3	-32.0	28.5	-36.0	32.0	-40.9								
	3	20	11.6	-14.0	12.7	-16.0	13.8	-17.0	16.2	-20.0	18.8	-23.0	21.6	-27.0	24.6	-30.0	27.7	-34.0	31.1	-39.1								
	3	50	11.2	-13.0	12.2	-15.0	13.3	-16.0	15.6	-19.0	18.1	-22.0	20.8	-26.0	23.6	-29.0	26.7	-32.0	29.9	-36.8								
	3	100	10.9	-13.0	11.9	-14.0	12.9	-15.0	15.1	-16.0	17.6	-21.0	20.2	-24.0	22.9	-27.0	25.9	-31.0	29.0	-35.0								
Wall	4	10	13.1	-14.0	14.3	-15.0	15.6	-16.0	18.2	-19.0	21.2	-22.0	24.3	-26.0	27.7	-30.0	31.2	-33.0	35.0	-37.9								
	4	20	12.5	-13.0	13.6	-14.0	14.8	-16.0	17.4	-19.0	20.2	-22.0	23.2	-26.0	26.4	-28.0	29.7	-32.0	33.4	-36.4								
	4	50	11.7	-12.0	12.8	-14.0	13.9	-15.0	16.3	-17.0	19.0	-20.0	21.7	-23.0	24.7	-27.0	27.9	-30.0	31.3	-34.3								
	4	100	11.1	-12.0	12.1	-13.0	13.2	-14.0	15.5	-17.0	18.0	-19.0	20.6	-22.0	23.5	-25.0	26.5	-28.0	29.8	-32.7								
	5	100	10.0	-10.0	10.6	-11.0	11.6	-12.0	13.6	-15.0	15.9	-17.0	18.1	-20.0	20.6	-22.0	23.2	-25.0	26.1	-29.0								
	5	10	13.1	-17.0	14.3	-19.0	15.6	-20.0	18.2	-24.0	21.2	-26.0	24.3	-32.0	27.7	-37.0	31.2	-41.0	35.0	-46.8								
	5	20	12.5	-16.0	13.6	-17.0	14.8	-19.0	17.4	-22.0	20.2	-26.0	23.2	-30.0	26.4	-34.0	29.7	-39.0	33.4	-43.7								
	5	50	11.7	-14.0	12.8	-16.0	13.9	-17.0	16.3	-20.0	19.0	-23.0	21.7	-27.0	24.7	-31.0	27.9	-35.0	31.3	-39.9								
	5	100	11.1	-13.0	12.1	-14.0	13.2	-16.0	15.5	-19.0	18.0	-22.0	20.6	-26.0	23.5	-28.0	26.5	-32.0	29.8	-36.4								
	5	500	10.0	-10.0	10.6	-11.0	11.6	-12.0	13.6	-15.0	15.9	-17.0	18.1	-20.0	20.6	-22.0	23.2	-25.0	26.1	-29.0								

10) Section 313 is deleted and replaced as follows:

Section R313 - Automatic Fire Sprinkler Systems

R313.1 Townhouse automatic fire sprinkler systems. An automatic residential fire sprinkler system shall not be required to be installed in townhouses.

R313.1.1 Design and Installation. If an automatic residential fire sprinkler system for a townhouse is installed, it shall be designed and installed in accordance with the current edition of The Illinois Plumbing Code and NFPA 13 D.

R 313.1.2 Other Code Requirements. All structures built without automatic fire sprinkler systems shall comply with all code requirements of the International Residential Code for non-sprinklered construction.

R313.2 One- and two-family dwellings automatic fire systems. An automatic residential fire sprinkler system shall not be required to be installed in one- and two-family dwellings, including additions and alterations to such dwellings.

R313.2.1 Design and Installation. If an automatic residential fire sprinkler system is installed in a one- or two-family dwelling, it shall be designed and installed in accordance with the current edition of The Illinois Plumbing Code and NFPA 13 D.

R 313.2.2 Other Code Requirements. All structures built without automatic fire sprinkler systems shall comply with all code requirements of the International Residential Code for non-sprinklered construction.

11) Section R322.1.5 is amended as follows:

R322. 1. 5 Lowest floor. The lowest floor shall be the floor of the lowest enclosed area, including basement.

12) Section R322.2.1 (1 and 3) amended to read as follows:

R322.2.1 Elevation requirements.

1. Buildings and structures in flood hazard areas not designated as Coastal A Zones, shall have the lowest floors elevated 12" (30.5 cm) above the design flood elevation.
2. (Remains unchanged)
3. Basement floors that are below grade on all sides shall be elevated 12" (30.5 cm) above the design flood elevation. Exception: (Remains unchanged)

13) Section R322.2.2 is deleted in its entirety. R322.2.2 Enclosed area below design flood elevation. Deleted.

14) Section R403.3.5 is added as follows:

R403.3.5 Detached garages or sheds. The code official may approve a continuous slab on ground foundations which are located where adequate subsoil drainage frost protection is provided and the following conditions are met:

1. Structure is non-occupiable, unconditioned, detached, of Use Groups S or U, does not contain any masonry and does not exceed (1) one story or 25 feet (7.62 m) in height.
2. Slab/foundation does not bear on peats, organic or other questionable soil.
3. Slab thickness is not less than 4" with a minimum of 6" x 6" 10#/ 10# WWF reinforcing.
4. The perimeter of the slab turns down to a minimum of 12" below grade and is reinforced with a minimum of 1 continuous [minimum 12" tied laps] # 4 steel reinforcing bar.
5. A minimum of 4 inches of screened and washed gravel or crushed stone under entire slab. The grade surrounding the building shall fall a minimum of 6" within the first 10'.

15) Section R1005. 1 is amended as follows:

R1005.1 Listing and clearances. Factory-built chimneys shall be listed and labeled and shall be installed and terminated in accordance with the manufacturer's installation instruction. Where, upon inspection, listing specifications are not present or visible, combustible materials within 18 inches of the chimney shall be protected with 5/ 8" Type X gypsum board or equivalent.

16) Chapter 11 ENERGY EFFICIENCY is deleted and replaced as follows:

CHAPTER 11 ENERGY EFFICIENCY

Section 1101 GENERAL

1101.1 SCOPE. The provisions of the Illinois Efficient Buildings Act adopts the International Energy Conservation Code with State of Illinois amendments.

17) Section N1101.4 (R102.1.1) is amended as follows:

N1101. 4 (8102.1.1) Above code programs. Compliance shall be demonstrated by meeting the

requirements of the current International Energy Conservation Code as mandated by the State of Illinois.

18) Section M1201.2 is amended as follows:

M1201.2 Application. In addition to the general administration requirements of Chapter 1, the administrative provisions of this chapter shall also apply to the mechanical requirements of Chapters 12 through 24, and the Village of Machesney Park amendments to the International Mechanical Code.

19) Section M1203 is added as follows:

M1203 Heating Requirements

M1203.1 Heating Required. Heat/ supply air is required in all rooms (including bathrooms).
Exception: 1. Unoccupied storage or other unoccupied spaces.

20) Section M1401.3. 1 is added as follows:

1401.3.1 Calculations Required. The permit applicant shall submit a room by room Manual J, S, and D calculations for all HVAC equipment and/ or replacement prior to permit issuance.

21) Section M1401. 6 is added as follows:

M1401. 6 Furnace repair. The use of furnace cement or welding for the repair of a furnace heat exchanger is prohibited.

22) Section M1408 Vented floor furnaces is deleted.

23) Section M1602.2 - 4. is amended as follows: 4. Return air for heating, ventilation and air conditioning systems for all dwelling units, including manufactured and modular homes, shall not be taken from a closet, bathroom, toilet room, kitchen, garage, mechanical room, boiler room, furnace room or unconditioned attic. (Exception: unchanged)

24) Section G2414. 10. 1 is deleted and replaced as follows:

G2414.10.1 (403.10.1) Welded connections required. All gas lines two and one half inches (2 1/2") inside diameter size or larger shall be of welded construction between the consumer's connection to the gas meter and the shut-off valve located immediately adjacent to any gas burning unit. All gas fuel lines carrying gas at one (1) P.S.I.G. or greater, shall be of welded construction between the consumer's connection to the gas meter and the shut-off valve located immediately adjacent to any gas burning unit.

25) Section G2415.12 is amended as follows:

G2415.12 (404.12) Minimum burial depth. Underground piping systems shall be installed a minimum depth of 12 inches (305 mm) below grade, except as provided for in Section G2415.

12. I. Piping systems and electrical wiring shall be separated a minimum of 12 inches horizontal when sharing the same trench. Burial depth may be less than 12 inches as provided for in Section 404.12.1.

26) Section G2445 Unvented room heaters is deleted.

- 27) Section P2501. 1 is amended as follows: P2501. 1 Scope. The provisions of this chapter and the Illinois Plumbing Code, including local amendments, shall govern the installation of plumbing. All work shall be performed by State of Illinois licensed plumbers in accordance with the Plumbing Licensing Act.
- 28) Appendix E " MANUFACTURED HOUSING USED AS DWELLINGS" is added as part of this Code.
- 29) Appendix F " PASSIVE RADON GAS CONTROLS" is added as part of this Code.
- 30) Appendix G " PIPING STANDARDS FOR VARIOUS APPLICATIONS" is added as part of this Code.
- 31) Appendix H "PATIO COVERS" is added as part of this Code.
- 32) Appendix J" EXISTING BUILDINGS AND STRUCTURES" is added as part of this Code.
- 33) Appendix M" HOME DAY CARE—R-3 OCCUPANCY" is added as part of this Code.
- 34) Section R112. All references to "Board of Appeals" shall be deleted.

CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE VI. PLUMBING CODE

100.6-1. ADOPTED.

100.6-2. AMENDMENTS.

100.6-1. ADOPTED.

The "*Illinois State Plumbing Code of 2014*", as established and adopted by the Illinois Department of Public Health and the Rock River Water Reclamation District Code of Ordinances, is hereby adopted by reference and set forth fully in this section, as the Plumbing Code of the Village of Machesney Park. A copy of the Illinois State Plumbing Code of 2014 has been filed in the office of the Village Clerk for use and examination by the public.

100.6-2. AMENDMENTS.

The Illinois State Plumbing Code 2014, as adopted in Section 100.6-2, is hereby amended as follows:

1) Section 890. 120 is amended as follows:

Section 890. 120 Definitions

"Quick Closing Valves": A valve or faucet that closes automatically when released, one that has fast action closing, or one that closes with (1/ 2) one half turn or less.

2) Section 890.180 is amended by adding a) 1) and a) 2) as follows:

Section 890.180 Sewer and Water Pipe Installations

a)

- 1) Sewer trenching and/ or tunneling not to exceed ten feet (10') total distance.
- 2) Ditches shall be left accessible for inspection of sewer and/or water piping.

3) Section 890.420 is amended by as follows:

Section 890.420 Pipe Cleanouts

a) Location of Cleanouts within a Building Drain or Building Sewer.

1) Cleanouts shall be not more than 50 feet apart, including the developed length of the cleanout pipe, in horizontal drainage lines of four (4) inches or less size. Cleanouts shall be not more than 100 feet apart, including the developed length of the cleanout pipe, in horizontal drainage lines of over four (4) inches to ten (10) inches in size. Cleanouts shall not be more than 150 feet apart, including the developed length of the cleanout pipe, in horizontal drainage lines exceeding ten (10) inches in size. For underground drainage lines exceeding ten (10) inches in size, manholes instead of cleanouts shall be provided and shall be located at intervals of not more than 150 feet.

4) Section 890.510 is amended by adding a) 7) as follows:

Section 890.510 Grease Interceptor Requirements

a)

7) All new or altered installations serving institutions or commercial establishments in which grease, fats, culinary oil, or similar waste products from kitchens or food processing areas, or in which grease, fats, or culinary oils are wasted in connection with utensil, vat, dish, or floor cleaning processes shall install grease interceptors. All waste lines and drains carrying culinary oil, grease, or fats in the above type establishments shall be directed to one or more interceptors before connecting to the plumbing system. If interceptors are located outside the building, they shall be accessible for maintenance purposes within ten (10) feet of the building.

5) Section 890.750 is amended by adding c), d), and e) as follows:

Section 890.750 Hydro Massage/Whirlpool Bathtubs

c) Manufacturer' s instructions. The product shall be installed in accordance with the manufacturer' s installation instructions.

d) Access to pump. Access shall be provided to circulation pumps in accordance with the fixture or pump manufacturer' s instructions. Where the manufacturer' s instructions do not specify the location and minimum size of field-fabricated access openings, and where pumps are located more than 2 feet (609mm) from the access opening, an 18-inch by 18-inch (457mm by 457mm) minimum sized opening shall be installed. A door or panel shall be permitted to close the opening. In all cases, the access opening shall be unobstructed and the size necessary to permit the removal and replacement of the circulation pump.

e) Leak testing. Leak testing and pump operation shall be performed in accordance with the manufacturer' s installation instructions.

6) Section 890.1150) is amended by adding a) 5) as follows:

Section 890. 1150 Water Service Pipe Installation

a)

5) Combination services (Fire and Domestic) shall split outside the building with an individual stop on the domestic service located a minimum of 5 feet(152.4cm) from the building.

7) Section 890.1200 is amended by adding a) 1) as follows:

Section 890. 1200 Water Service Sizing

a)

1) In existing structures which have a 3/ 4" (1. 905cm) water service and the service is being replaced, 3/ 4" pipe may be used provided that the building' s water supply fixture unit count WSFU) does not exceed 890.APPENDIX A TABLE N limits.

8) Section 890.1210 is amended by adding

j) as follows: Section 890.1210 Design of a Building Water Distribution System j) All new family dwellings shall have provisions made for soft water hookup, with three valves for bypass, except for outside lawn hydrants and cold water in kitchen sink with proper bypass. Connections and provisions shall be made of properly sized and vented trap within five feet (5') distance of water softener. Bypass connection for future use shall be capped. Exceptions must be requested in writing to the Board of Appeals and will be granted only after inspection has been conducted.

9) Section 890.1430 is amended by adding d) as follows:

Section 890. 1430 Stack Vents, Vent Stacks, Main Vents

d) Minimum Size of Stack Vent. Any structure in which a building drain is installed/repaired shall have each stack vent or vent stack carried full size to the roof and shall increase to a minimum of four (4) inches, 12 inches below the roof line and 12 inches above the roof line.

10) Section 890.1902 is added as follows:

Section 890.1902 Work commencing before permit issuance. When a permit is required by this code, and work is started or proceeded with, prior to obtaining said permit, the fees established in Section 18- 28 of the Code of Ordinances of the Village of Machesney Park shall be doubled and not less than \$250.00. This penalty may be waived by the building official if the person in violation has not obtained a permit in the last year and is the owner of the property. For the second offense within a twelve (12) month period, starting or proceeding with the work prior to obtaining a permit, the fees established by the Village Board in the building permit fee schedule shall be doubled and not less than \$500.00 plus an additional fee of \$500.00 shall be paid for each day work continued without said permit. For the third such instance within a twelve (12) month period, the fees established by the Village Board in the building permit fee schedule shall be tripled and not less than \$750.00 plus an additional fee of \$750.00 shall be paid for each day work continued without said permit. For the fourth such instance within a twelve (12) month period, the offender shall be prosecuted by the Village of Machesney Park Community Development Department as permitted by state law. The payment of such fees shall not relieve

any person from complying with the requirement of this code and the execution of the work, nor from any penalties prescribed herein.

11) Section 890.1911 is added as follows:

Section 890. 1911 Re-inspection and testing. Where any work or installation does not pass an initial test or inspection, the necessary correction shall be made so as to achieve compliance with this code. The contractor shall then request that the work or installation be re-inspected or retested. The permit holder will be subject to a re-inspection fee according to fee schedule established by the Machesney Park Village Board, for the first, and each additional, re-inspection or test performed.

12) Section 890.1940 a) and b) are added as follows:

Section 890. 1940 General Administration

a) The code official of the jurisdiction shall enforce all of the provisions of the code and shall act on any questions relative to the installation, alterations, repair, maintenance or operation of all plumbing systems, devices and equipment except as otherwise specifically provided for by statutory requirements.

b) Rule-making authority. The code official shall have power as necessary in the interest of public health, safety and general welfare, to adopt and promulgate rules and regulations to interpret and implement the provisions of this code to secure the intent thereof and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering practice involving public safety.

13) Section 890.1950 is amended by adding a) 3) as follows:

Section 890.1950 Violations

a) Notice of Violation

3) Violation-penalties: Any person who shall violate a provision of this code or who shall fail to comply with any of the requirements thereof, who shall erect, construct, alter, or repair plumbing equipment or systems in violation of an approval plan or directive of the building official or a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of no more than \$500.00. Each day that a violation continues shall be deemed a separate offense.

14) Section 890. 1960 is added as follows:

Section 890.1960 Regulations for Permits, Inspections, Test, Maintenance and Administration

WORKMANSHIP: All work shall be conducted, installed and completed in a workmanlike and acceptable manner so as to secure the results intended by this code and the standards referenced herein.

REVOCATION: The Code Administrator may revoke a permit or approval issued under the provisions of this code in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.

SUSPENSION OF PERMIT: Any permit issued shall become invalid if the authorized work is not commenced within six months after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six months after the time of the commencing work.

TIME LIMIT: An application for a permit for any proposed work shall be deemed to have been abandoned six months after the date of filing, unless such application has been diligently prosecuted or a permit shall have been issued. For reasonable cause, the Code Administrator may grant one or more extensions of time for additional periods not exceeding 90 days each.

PERMIT FOR PLUMBING WORK REQUIRED.

a) **PERMIT FEES.** All permit fees for all plumbing work shall be as set forth in the building permit fee schedule adopted by the Village Board. The permit holder shall post all permits required on the job site in a conspicuous place at all times, visible from the street, until the final inspection has been made and approved. The building official is authorized to impose a re-inspection fee when a permit is not posted.

b) **STOP WORK ORDER-NOTICE.** Upon notice from the Code Administrator that work on any building or structure is being prosecuted contrary to the provisions of this code or in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. It shall state the conditions under which work may be resumed.

c) **NOTICE OF APPROVAL.** After the prescribed tests and final inspection indicate the work complies in all respects with this code, the Code Administrator shall issue a notice of approval.

d) **UNSAFE CONDITIONS-GENERAL.** All plumbing installations, regardless of type, which are unsanitary or which constitute a hazard to human life, health, or welfare are hereby declared illegal and shall be abated by repair and rehabilitation or removal.

e) **EMERGENCY MEASURES-VACATING STRUCTURES.** When, in the opinion of the Code Administrator, there is actual and immediate danger of contamination or sanitation hazard which would endanger life, the Code Administrator hereby is authorized and empowered to order and require the occupants to vacate a structure forthwith. The Code Administrator shall cause to be posted to at each entrance to such structure a notice reading as follows: " This Structure is Unsafe and its use or occupancy has been prohibited by the Code Administrator. It shall be unlawful for any person to enter such structure except for the purpose of making the required repairs or removal."

15) Section 890. APPENDIX A- Plumbing Materials, Equipment, Use Restrictions and Applicable Standards is amended as follows:

Section 890. TABLE A-3 Approved Building Drainage/Vent Pipe. 1) Acrylonitrile Butadiene Styrene (ABS) Pipe shall not be permitted.

Section 890. TABLE A-6 Approved materials for Building Sewer 1) Acrylonitrile Butadiene Styrene (ABS) Pipe shall not be permitted.

Section 890. TABLE A-9 Approved Materials for Water Service Pipe. 1) Acrylonitrile Butadiene Styrene (ABS) Pipe shall not be permitted. 7) Galvanized Steel Pipe shall not be permitted.

16) Section 890. APPENDIX A Plumbing Materials, Equipment, Use Restrictions and Applicable Standards TABLE B is amended as follows:

Section 890. TABLE B-2 Minimum Number of Plumbing Fixtures, column labeled All Facilities for Employee Use" Other fixtures— 1 Service sink per floor.

17) Article VI, Section 109 - All references to “Means of Appeal” shall be deleted. (Ord 21-20)

CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE VII. ENERGY CONSERVATION CODE

100.7-1. ADOPTED.

100.7-2. AMENDMENTS.

100.7-1. ADOPTED.

The “*International Energy Conservation Code, Edition 2015*”, as published by the International Code Council and adopted by the State of Illinois as the Illinois Energy Conservation Code, is hereby adopted by reference and set forth fully in this section as the Energy Conservation Code of the Village of Machesney Park and shall regulate and govern energy efficient building envelopes and installation of energy efficient mechanical, lighting and power systems as herein provided. A copy of the ICC International Building Code, Edition 2015 has been filed in the office of the Village Clerk for use and examination by the public.

100.7-2. AMENDMENTS.

The International Energy Conservation Code, Edition 2015, as adopted in Section 100.7-1, is hereby amended as follows:

1) Section 101. 1 shall be amended as follows:

101. 1 Title. This code shall be known as the International Energy Conservation Code of the Village of Machesney Park, and shall be cited as such. It is referred to herein as " this code".

2) Article VII, Section C109: All references to “Board of Appeals” shall be deleted.

CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE VIII. FIRE CODE

100.8-1. ADOPTED.

100.8-2. AMENDMENTS.

100.8-1. ADOPTED.

The “*International Fire Code, Edition 2015*”, as published by the International Code Council, including Appendices B, C, D, F, ad H, and the National Fire Protection Association’s National Fire Code, is hereby adopted by reference and set forth fully in this section as the Fire Code of the Village of Machesney Park and shall regulate and govern the safeguarding of life and

property from fire and explosion hazards arising from the storage, handling, and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises as provided herein. A copy of the ICC International Fire Code, Edition 2015, has been filed in the office of the Village Clerk for use and examination by the public.

100.8-2. AMENDMENTS.

The International Fire Code, Edition 2015, as adopted in Section 100.8-1, is hereby amended as follows:

1) Section 101. 1 is amended as follows:

101. 1 Title. These regulations shall be known as the Fire Code of the Village of Machesney Park, State of Illinois, hereinafter referred to as such or as "this code".

2) Section 105.1.1.1 is added as follows:

105.1.1.1. Operational permit fee. The permit fees for an operational permit in accordance with section 105.6 shall equal one percent (1%) of the operation, with a minimum fee of \$25.00 and a maximum fee of \$500.00 per operation. Flammable and combustible liquid tanks will be \$100.00 per tank.

3) Section 110.5 is added as follows:

110.5 Debris as nuisance. Debris remaining at the scene of a fire after the site has been released by the fire protection district shall constitute a nuisance. The property owner shall be notified of said nuisance and, if not rectified to standards established by the fire inspectors, said debris shall be removed by the city or its duly authorized agent. Costs for removal shall become a lien against the property, or may include other actions permitted by law.

4) Section 113.3 is deleted and replaced as follows:

113.3 Work commencing before permit issuance. When a permit is required by this code, and any operation or work is started or proceeded with, prior to obtaining said permit, the fees established in Section 105.1.1.1 shall be doubled and not less than \$ 250.00. This penalty may be waived by the code official if the person in violation has not obtained a permit in the last year and is the owner of the property. For the second offense within a twelve (12) month period, starting or proceeding with the work prior to obtaining a permit, the fees established in Section 105.1.1.1 shall be doubled and not less than \$500.00 plus an additional fee of \$500.00 shall be paid for each day work continued without said permit. For the third such instance within a twelve (12) month period, the fees established in Section 105.1.1.1 shall be tripled and not less than \$750.00 plus an additional fee of \$750.00 shall be paid for each day work continued without said permit. For the fourth such instance within a twelve (12) month period, the offender shall be prosecuted by the Village of Machesney Park Community Development Department as permitted by state law. The payment of such fees shall not relieve any person from complying with the requirements of this code and the execution of the operation or work, nor from any penalties prescribed herein.

5) Section 202 is amended by adding the following definitions:

Section 202 GENERAL DEFINITIONS

HIGH-RISE BUILDING. For the provisions of this code, a high-rise is defined as any building having occupied floors more than 65 feet above the lowest level of fire department vehicle access.

STRUCTURE. That which is built or constructed or portion thereof. This shall include all buildings, but shall not include any other structures which are within a public right-of-way.

6) Section 202 is amended as follows:

OCCUPANCY CLASSIFICATION. For the purposes of this code, certain occupancies are defined as follows:

Assembly Group A is amended by deleting and replacing as follows:

Assembly Group A. Group A occupancy includes, among others, the use of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civic, social or religious functions, recreations, food or drink consumption or awaiting transportation. A room or space used for assembly purposes by less than 50 persons and 750 square feet or less shall be included as a part of that occupancy.

Assembly occupancies shall include the following: (The remainder of this definition remains unchanged.)

7) Section 307.1.1 is deleted and replaced as follows:

307.1.1 Prohibited open burning. Open burning shall be prohibited.

Exceptions: Where approved by the local jurisdiction.

8) Section 307.1. 2 is added as follows:

307.1. 2 Materials. Fuel for all recreational fires and bonfires shall consist only of seasoned dry firewood and other material approved by the fire code official. The fire shall be ignited with a small quantity of paper. The fire shall not be utilized for waste disposal purposes, and the fuel shall be chosen to minimize the generation of air contaminants.

9) Section 307.4.1.1 is added as follows:

307.4.1.1 Permit. All permits, required by section 105.6.31, shall be requested by and issued to the owner of the land upon which the bonfire is to be kindled.

10) Section 505.3 is added as follows: 505.3 Strip malls. When a strip mall has multiple tenant spaces and a dedicated sprinkler control/fire alarm room, the room shall have its own street address.

11) Section 901. 4.2. 1 is added as follows: 901. 4.2. 1 Discontinuance of use. All non-required fire protection systems shall be approved for discontinuance upon written approval of both the fire protection district and the building code official after inspection of the premises and system.

12) Section 903.2. 11. 1 number 3. is added as follows:

903.2. 11. 1 Stories without openings. 3. An interior stairway that conforms to requirements of Section 1005 with a fire separation assembly enclosure of not less than 1 hour, which has a door directly to the exterior and the stairway does not connect more than 2 stories. The basement or windowless story floor level shall be 15 feet (4572 mm) or less vertically from the exterior door threshold level and the door threshold shall be within 10 feet (3048 mm) of grade. Interior stair doors or openings shall be provided in each 50 linear feet (15240 mm) or fraction thereof on at least one side of the basement or windowless story.

13) Section 903.3.9 is added as follows:

903.3.9 Interior control valves. A fire protection district official may require interior control valves to be installed to isolate occupancies that share a fire suppression system. Where valves are installed in a system, valves shall be supervised or locked in the " open" position.

14) Section 903.3. 10 is added as follows:

903.3. 10 Exterior Control valves. All exterior fire suppression control valves shall have an exterior Indicator Valve (PIV or WPIV) provided in a location approved by the fire code official. Valves shall be locked in the " open position".

15) 903.4.2.1 is added as follows:

903.4.2. 1 Strip malls. Strip malls shall provide individual tenant space notification to comply with IFC 907.1.

16) 907.1.2.1 is added as follows:

907.1.2.1 Qualifications. Shop drawings for fire alarm systems shall be prepared by one of the following:

- 1) An Illinois licensed Professional Engineer with formal training in fire alarm layout/design.
- 2) A holder of a valid NICET level III or higher certification in Fire Alarm System Layout, who is either employed by or hired by the fire alarm installation contractor.

17) Section 907. 1. 4 is added as follows:

907.1.4 Strip malls. Fire alarm systems shall be capable of identifying a fire alarm device activation or waterflow device activation in each tenant space. An audio/visual device shall be provided at the front entrance to each tenant space, and back door (when applicable) to identify the location of an activated device(s).

18) Section 912.2.2 is amended as follows:

912.2.2 Existing buildings. On existing buildings, wherever the fire department connection is not visible to approaching fire apparatus, the fire department connection shall be indicated by an approved sign mounted on the street front or on the side of the building. Such sign shall be reflective and constructed of material designed to resist weathering. The sign shall have a white background with all lettering and graphics red in color. Such sign shall have the letters "FDC" not less than 6 inches (152 mm) high and words in letters not less than 2 inches (51 mm) high or an arrow to indicate the location not less than 3 inches (75 mm) high. Such signs shall be subject to the approval of the fire code official.



19) Section 912.6 is deleted and replaced as follows:

912.6 Backflow protection. A water supply serving a fire suppression system shall be protected against backflow with a Reduced Pressure Zone (RPZ) backflow device and comply with the requirements of Illinois Plumbing Code.

20) Section 1008.3.3 Rooms and Spaces is amended as follows:

1008.3.3 Rooms and Spaces. In the event of power supply failure, an emergency electrical system shall automatically illuminate all of the following areas: 1. Electrical equipment rooms 2. Fire command centers 3. Fire pump rooms 4. Generator rooms 5. All bathrooms

21) Section 5601.2.2 is amended as follows:

5601.2.2 Sale and retail display. Persons shall not construct a retail display nor offer for sale explosives or explosive materials.

22) Section 5608. 1 is amended as follows:

5608. 1 General. Outdoor fireworks displays, use of pyrotechnics before a proximate audience and pyrotechnic special effects in motion picture, television, theatrical and group entertainments productions shall comply with Section 5608.2 through 5608. 10 and NFPA 1123, 1126 and all requirements of the Illinois Office of the State Fire Marshal (OSFM).

23) Appendix B " Fire-Flow Requirements for Buildings" is added as part of this Code.

24) Appendix C " Fire Hydrant Locations and Distribution" is added as part of this Code.

25) Appendix D " Fire Apparatus Roads" is added as part of this Code.

26) Appendix F " Hazard Ranking" is added as part of this Code.

27) Appendix H" Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS) Instructions" is added as part of this Code.

National Fire Protection Association' s National Fire Code amended as follows:

28) Section 42- 109 shall be amended as follows:

Section 42- 109. Districts where storage of flammable liquids in aboveground tanks, bulk storage of LP gas, storage of explosives and blasting agents restricted. The limitations referred to in

Chapters 33, 34, and 36 of the International Fire Code hereby adopted, in which storage of explosives and blasting agents are prohibited, are hereby established as follows:

All areas zoned commercial or industrial, and all property used as or occupied by schools, churches, clubs, halls, theaters or public meeting places.

29) Article VIII, Section 108 - All references to “Board of Appeals” shall be deleted. (Ord 21-20)

CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE IX. LIFE SAFETY CODE

100.9-1. ADOPTED.

100.9-2. AMENDMENTS.

100.9-1. ADOPTED.

The “*NFPA 101, Life Safety Code, Edition 2015*”, as published by the National Fire Protection Association is hereby adopted by reference and set forth fully in this section as the Life Safety Code of the Village of Machesney Park and shall regulate and govern the conditions and maintenance of all property, buildings, and structures, by providing minimum requirements, with due regard to function, for the design, operation, and maintenance of buildings and structures necessary to minimize danger to life from the effects of fire. A copy of the NFPA 101 Life Safety Code, Edition 2015, has been filed in the office of the Village Clerk for use and examination by the public.

100.9-2. AMENDMENTS.

The International Fire Code, Edition 2015, as adopted in Section 100.9-1, is hereby amended as follows:

1) Section 1. 1. 1 as amended as follows:

1. 1. 1 Title. NFPA 101, Life Safety Code, shall be known as the Life Safety Code of the Village of Machesney Park, State of Illinois, is cited as such and shall be referred to herein as " this Code" or "the Code".

CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE X. EXISTING BUILDING CODE

100.10-1. ADOPTED.

100.10-2. AMENDMENTS.

100.10-1. ADOPTED.

The “*International Existing Building Code, Edition 2015*”, as published by the International Code Council is hereby adopted by reference and set forth fully in this section as the Existing Building Code of the Village of Machesney Park and shall regulate and govern the repair, alteration change of occupancy, addition and relocation of existing buildings, including historic

buildings as herein provided. A copy of the ICC International Existing Building Code, Edition 2015, has been filed in the office of the Village Clerk for use and examination by the public.

100.10-2. AMENDMENTS.

The ICC International Existing Building Code, Edition 2015, as adopted in Section 100.10-1, is hereby amended as follows:

1) Section 101. 1 shall be revised as follows:

101.1 Title. These regulations shall be known as the Existing Building Code of the Village of Machesney Park, hereinafter referred to as "this code".

2) Section 410 is deleted in its entirety and replaced with the following:

SECTION 410

ACCESSIBILITY FOR EXISTING BUILDINGS

410. 1 Scope. Accessibility for existing buildings shall comply with the applicable provisions of the Illinois Accessibility

3) Section 705 is deleted and replaced with the following:

SECTION 705

ACCESSIBILITY

705. 1 General. A building, facility or element that is altered shall comply with the applicable provisions of the Illinois Accessibility Code.

4) Section 806 is deleted and replaced as follows:

SECTION 806

ACCESSIBILITY

806.1 General. A building, facility or element that is altered shall comply with the applicable provisions of the Illinois Accessibility Code.

5) Section 906 is deleted and replaced with the following:

SECTION 906

ACCESSIBILITY

906. 1 General. A building, facility or element that is altered shall comply with the applicable provisions of the Illinois Accessibility Code.

6) Section 1012.8 is deleted and replaced with the following:

1012.8 Accessibility. A building, facility or element that is undergoing a change of occupancy shall comply with the applicable provisions of the Illinois Accessibility Code.

7) Section 1105 is deleted and replaced with the following:

SECTION 1105

ACCESSIBILITY

1105.1. Minimum requirements. Additions shall comply with the applicable provisions of the Illinois Accessibility Code.

8) Section 1204 is deleted and replaced with the following:

SECTION 1204

ACCESSIBILITY

1204.1. Accessibility requirements. A building, facility or element that is altered shall comply with the applicable provisions of the Illinois Accessibility Code.

9) Section 1205. 15 is deleted and replaced with the following:

1205.15 Accessibility requirements. A building, facility or element that is undergoing a change of occupancy shall comply with the applicable provisions of the Illinois Accessibility Code.

10) 1401.2 is amended as follows:

1401.2 Applicability. Structures existing prior to August 6, 1951, (rest of section remains unchanged)

11) Article X, Section 112 - All references to "Board of Appeals" shall be deleted. (Ord 21-20)

CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE XI. PROPERTY MAINTENANCE CODE

100.11-1. ADOPTED.

100.11-2. AMENDMENTS.

100.11-1. ADOPTED.

The "*International Property Maintenance Code, Edition 2015*", as published by the International Code Council, is hereby adopted by reference and set forth fully in this section as the Property Maintenance Code of the Village of Machesney Park and shall regulate and govern the conditions and maintenance of all property, buildings, and structures by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, the demolition of such existing structures as herein provided. A copy of the ICC International Property Maintenance Code, Edition 2015, has been filed in the office of the Village Clerk for use and examination by the public.

100.11-2. AMENDMENTS.

The ICC International Property Maintenance Code, Edition 2015, as adopted in Section 100.11-1, is hereby amended as follows:

1) Section 101.1 is amended as follows:

101.1 Title. These regulations shall be known as the International Property Maintenance Code of the Village of Machesney Park, hereinafter referred to as "this code".

2) Section 107.3 is hereby deleted are replaced as follows:

107.3 Method of Service. Such notice shall be deemed to be properly served if a copy thereof is:

1. Delivered to the owner personally; or

2. Sent by first class mail, postage prepaid, to the owner at the last known address; or

3. Sent by certified mail, postage prepaid, addressed to the owner at the last known address with return receipt requested, if required by State law.

3) Section 109.1 is amended as follows:

109.1 Imminent danger. When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment or when the structure is unfit for human habitation, the code official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at the primary entrance to such structure a notice of condemnation. It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

4) Section 110.1 is amended as follows:

110.1 General. The code official shall order the owner of any premises upon which is located any structure, which in the code official judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to secure the structure and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the code official shall order the owner to demolish and remove such structure, or secure the structure until future repair. Boarding the building up shall be treated only as a temporary safeguard and shall not extend beyond 60 days, unless approved by the code official.

5) Section 110.3 is amended as follows:

110.3 Failure to comply. In accordance with State of Illinois Compiled Statutes Chapter 65 Section 5/11-31-1, if the owner of a premises fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and a lien shall be placed upon such real estate.

6) Section 202 is amended as follows:

Add the Following Definition:

DEBRIS. Materials which are placed outside in a haphazard manner, which may create rodent and pest harborage, or items which are not intended or customarily stored outdoors and which if left exposed and unprotected from the elements have, or potentially will, deteriorate by reason of vandalism, moisture and exposure. Such materials can include rubbish and items which might otherwise be considered useable such as furniture, appliances, boards intended for interior use, cardboard boxes of items, clothing, dishes, machinery, and so forth.

7) Section 302.1 is amended as follows:

302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition and free from any accumulation of rubbish or garbage. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition. The Code Official may order the removal of garbage, debris and rubbish/refuse in accordance with Illinois Compiled Statutes, Chapter 65, Section 5/11-20-13. When, accumulation of garbage, debris and rubbish/refuse endangers the public health and safety or when there is actual or potential danger in the proximity of dwellings and/or the public right-of-way, the code official may cause the removal of such garbage or debris, either through an available public agency or by contract or arrangement with private persons, and the cost of such removal shall be charged against the real estate upon which the garbage and debris is located.

8) Section 302.4 is deleted and replaced as follows:

302.4 Weeds. All premises and exterior property shall be maintained free from weeds or plant growth in excess of 7 inches (179 mm). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants, vegetation, overgrowth, and underbrush other than trees or shrubs provided; however, this term shall not include cultivated crops, flowers and gardens. Enforcement of this provision shall be as provided in this Code, and in Article VII, of the Village of Machesney Park Code of Ordinances, and the provisions of Illinois Compiled Statutes, Chapter 65, Section 5/11-20-7. The village may pursue any or all of the remedies provided above in enforcement of this provision. When, overgrowth of weeds or plants endangers the public health and safety or when there is actual or potential danger in the proximity of dwellings and/or the public right-of-way, the Code Enforcement Official may cause the cutting of such weeds or plants, either through an available public agency or by contract or arrangement with private persons, and the cost of such cutting shall be charged against the real estate upon which the weeds or plants are located.

9) Section 302.7 is amended as follows:

302.7 Accessory Structures. Accessory structures, including detached garages, fences, sheds, gazebos and retaining walls, shall be maintained structurally sound and in good repair. All garages where a garage door was intended or installed must be provided with an approved and functioning garage door.

10) Section 302.8 is deleted in its entirety [including exception] and replaced as follows:

302.8 Motor vehicles. All unlicensed vehicles, or inoperable vehicles pursuant to 65 ILCS 5/11-40-3, whether on public or private property and in plain view of the general public are hereby declared to be a public nuisance. In accordance with the procedures outlined in 65 ILCS 5/11-40-3 and 625 ILCS 5/4-201 the abandonment of vehicles is prohibited on public or private property and the Village is authorized to remove such abandoned or inoperable vehicles. (Amd. Ord 09-20 – 06/01/2020)

11) Section 302.8.2 is added as follows:

302.8.2 Vehicles in commercial and industrial areas. Vehicles located in commercial and industrial areas and the storage or repair of vehicles in these areas shall comply with the Village of Machesney Park Zoning Ordinance.

12) Section 302. 10 is added as follows:

302. 10 Cisterns. Pursuant to Illinois Compiled Statutes 65 ILCS 5/ 11- 20- 10, cisterns unused and abandoned shall be filled with clean fill earthen material and sealed with a non-removable cover as prescribed by the Code Official.

13) Section 304.3 is amended as follows:

304.3 Premises identification. Buildings shall have Village of Machesney Park-assigned address numbers, building numbers, or approved building identification placed in a position that is plainly legible and visible from the street or road to which the building is addressed. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or English alphabet letters. Numbers shall be a minimum of 4 inches high when less than 100 feet from the street, with a minimum stroke width of 0.5 inch (12.7 mm). When over 100 feet and less than 200 feet from the street, the numbers shall be 5 inches (128 mm) high and a minimum stroke width 0.75 inch (19 mm). When over 200 feet from the street, the numbers shall be 7 inches (179 mm) high and a minimum stroke width 0.75 inch (19 mm). Wherever the primary entry doors are visible from the address street, the numbers shall be displayed above, on or adjacent to the primary entry doors. Numbers shall be displayed where they remain visible at all times. Where a building is more than 500 feet from the street, displaying additional numbers on a building identification sign or other approved location near and viewable from the street is encouraged.

14) Section 304. 14 is amended as follows:

304. 14 Insect Screens. During the period from April 1 to November 1 every door, window and other outside opening used, or structure required, for ventilation purposes serving any building containing habitable rooms, food preparation areas, food service areas, or any areas where products to be included or used in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door or screen door used for insect control shall have a self-closing device in good working condition. Exception: Screen doors shall not be required for out-swinging doors or other type of openings which make screening impractical, provided other approved means, such as air curtains or insect repellent fans are employed.

15) Section 308.3.1 is amended as follows:

308.3.1 Garbage facilities. The owner or tenant of every dwelling shall supply one of the following; an approved mechanical food waste grinder in each dwelling unit; or an approved leak proof, covered, outside garbage container.

16) Section 308.4 is added as follows:

308.4 Rubbish, Debris and Garbage on Parkways. No rubbish, debris or garbage shall be disposed of at any site other than those approved by the Village of Machesney Park. Every

property shall be required to be served, at the property owners' or tenants' expense, with refuse/garbage removal service through the Village's approved refuse/garbage removal contractor.

17) Section 404.3 Exceptions: 2. is amended as follows:

404.3 Minimum ceiling heights. Exceptions: 2. Basement rooms in one- and two- family dwellings occupied exclusively for bathrooms, toilet rooms, laundry areas, study areas or recreation purposes, having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.

18) Section 501. 1 is amended as follows:

501. 1 Scope. The provisions of this chapter and the Illinois State Plumbing Code listed in Chapter 8 shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

19) Section 601. 1 is amended as follows:

601. 1 Scope. The provisions of this chapter, the 2014 National Electrical Code, and the 2015 International Mechanical Code (all as amended) shall govern the minimum mechanical and electrical facilities and equipment to be provided.

20) Section 602.3 shall be deleted and replaced as follows:

602.3 Heat Supply. Every owner and operator of any building who rents, leases or lets one or more dwelling units, rooming units, dormitories or guest rooms on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to May 1 to maintain a room temperature of not less than 68° F / 20° C in all habitable rooms, bathrooms, and toilet rooms.

21) Section 602.4 is amended as follows:

602.4 Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during the period from October 1 to May 1 to maintain a temperature of not less than 65° F / 18° C during the period the spaces are occupied. Exceptions: 1. Processing, storage and operation areas that require cooling or special temperature conditions. 2. Areas in which persons are primarily engaged in vigorous physical activities.

22) Section 602.6 is added as follows:

602.6 Primary heat source. For new structures built after the effective date of this Code, or for existing structures which require replacement of an HVAC system after the effective date of this Code, a fireplace or wood burning appliance shall not be allowed as the required primary heat source for a structure.

23) Section 603.3 is amended as follows:

603.3 Clearances. All required clearances to combustible structural or finish materials shall be maintained. Clearances of 36 inches (914 mm) shall be maintained for all other combustibles such as stored materials.

24) Section 603.7 is added as follows:

603.7 Flue. All fuel-burning equipment and appliances shall be connected to an approved chimney or vent. When a water heater is connected to a chimney or vent with a furnace, the water heater shall not be connected below the furnace vent connection. Exception: Fuel-burning equipment and appliances, which are labeled for unvented operation.

25) Section 604.1 is amended as follows:

604.1 Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section, Section 605 and local amendments.

26) Section 604.2.1 shall be added as follows:

604.2.1 Minimum service requirements one- and two-family dwelling. If Edison base fuses are in use in the existing panel(s), and there is evidence of over-fusing, the fuses must be replaced with fuse adapters of the "S" type, and "S" type fuses must be installed. When installing a new service in an existing single-family dwelling, or replacing or repairing any part of the existing service equipment, a minimum 3-wire 100 ampere 120/240 volt service shall be required to be installed, with a minimum panel size of 16 spaces. The entire service shall be brought up to all the current code standards adopted by the Village of Machesney Park. Exception: Replacement or addition of a branch-circuit overcurrent protective device.

27) Section 604.2.2 shall be added as follows:

604.2.2 Minimum service requirements—multi-family dwelling. For existing multi-family services no more than two 60 ampere main disconnects shall be allowed on a 100 ampere service, and no more than four 60 ampere main disconnects and one 30 ampere house main disconnect shall be allowed on a 200 ampere service. A panel designated for a specific unit shall serve no other units. If Edison base fuses are in use in the existing panel(s), and there is evidence of over-fusing, the fuses must be replaced with fuse adapters of the "S" type, and "S" type fuses must be installed. When replacing or installing any part of the electrical service in an existing multi-family dwelling, the entire service shall be brought up to all the current code standards adopted by the Village of Machesney Park. The minimum panel size allowed shall be 12 spaces if that number of spaces is adequate to serve the amount of required circuits in the apartment. Exception: Replacement or addition of a branch-circuit overcurrent protective device.

28) Section 604.2.3 shall be added as follows:

604.2.3 Main Disconnecting Means. Main disconnecting means and overcurrent protective devices shall be accessible to each tenant of a multi-family building. Overcurrent devices such as fuses or breakers shall be used to protect branch circuit conductors.

29) Section 604.2.4 shall be added as follows:

604.2.4 Service grounding. A jumper shall be installed around the water meter. The grounded conductor at the main disconnecting means shall be bonded to water pipe within 5 feet (1524 mm) of the point of entry of the main water service pipe.

30) Section 605.1. 1 shall be added as follows:

605. 1. 1 Electrical equipment, wiring, and appliances. No structure shall be deemed to comply with the requirements of this article relating to electrical equipment, wiring, and appliances unless:

- a) Exposed wire. Any exposed knob- and-tube wire has insulation that is in good condition and is properly protected as required by NEC Article 394.
- b) Short circuit. No short circuit or break exists in any electrical conductor.
- c) Shock hazard. No obvious shock hazard exists.
- d) Overload. No circuit shall be overloaded as a result of connecting equipment or appliances to outlets supplied with wire of inadequate size.
- e) Overcurrent protection. Branch circuits shall be protected by breakers or fuses of the proper rating for the wire size, and shall not feed more than 10 outlets.
- f) Devices. Every fixture, receptacle, switch and junction box shall be securely and properly fastened in position.
- g) Maintenance and in good condition. Every fixture, receptacle, and switch shall be properly maintained in workable and safe condition (including proper covers or enclosures), securely fastened to box, and shall be connected to source of electrical power in a safe manner.
- h) Exposed noncurrent-carrying metal parts grounded. All exposed noncurrent-carrying metal parts of the electrical system that are within eight feet (2438 mm) vertically or five feet (1524 mm) horizontally of ground, or a grounded metal object subject to contact by persons, shall be grounded.

31) Section 605.2. 1 shall be added as follows:

605.2. 1 Receptacle outlets in dwellings. Receptacle outlets are required in the following locations:

- a) Laundry areas shall have a grounded receptacle within six feet (1829 mm) of the laundry tub. Receptacles mounted on the ceiling do not fulfill this requirement.
- b) Bathroom receptacles shall be installed adjacent to the sink. A receptacle outlet shall not be installed within tub or shower perimeter. All bathroom receptacles shall have ground fault circuit interrupter protection.
- c) Kitchens: a minimum of three duplex wall receptacles are required with two accessible for appliance use. All existing receptacles serving an appliance with a factory installed grounded plug, or serving countertop spaces, shall be properly grounded.
- d) All receptacle outlets which are added or replaced in bathrooms, kitchens, unfinished basements, garages, open porches, breezeways, or other locations used by a person standing on the ground or on grounding conductive materials shall be on a grounded system and shall have ground fault circuit interrupter protection.
- e) No receptacle shall be installed in the floor, unless it has an approved box and cover for in-floor use.

32) Section 605.3 shall be amended as follows:

605.3 Luminaires. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room, furnace room, utility room, and within 6' of any electrical service panel shall contain not less than one electric luminaire. Pool and spa luminaires over 15V shall have ground fault circuit interrupter protection.

33) Section 605.3. 1 shall be added as follows:

605.3.1. Hall and stairway lighting in multiple dwellings. Every hall and stairway in every multiple dwelling containing five (5) or more units shall be adequately lighted at all times. All multiple dwellings containing four (4) or less units may have conveniently located light switches controlling an adequate lighting system instead of full-time lighting. All exterior stairs shall be adequately lighted and shall be controlled by conveniently located light switches that have been permanently installed.

34) Section 605.4 shall be added as follows:

605.4 Wall switches, stairways and exterior exits. Permanently mounted wall switches to control a luminaire shall be provided in the following locations:

- a) On the interior side of all exterior doorway entrances, unless an automatic means of switching is provided on the outside.
- b) All stairways. If the stairway consists of six or more risers, a three- way switch must be installed at the top and bottom of the stairway.

35) Section 605.5 shall be added as follows:

605.5 Wall switches, other rooms. Permanently mounted wall switches at the point of entry to the room to control a lighting outlet within the room shall be provided in the following locations:

- a) In all bathrooms to control a luminaire. Switches shall be installed so as not to be within tub or shower perimeter.
- b) In kitchens to control a luminaire.
- c) In all habitable rooms to control a luminaire or receptacle.

35) Article XI, Section 111 - All references to “Means of Appeal” shall be deleted. (Ord 21-20)

CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE XII. POOL AND SPA CODE

100.12-1. ADOPTED.

100.12-2. AMENDMENTS.

100.12-1. ADOPTED.

The “*International Swimming Pool and Spa Code, Edition 2015*”, as published by the International Code Council, is hereby adopted by reference and set forth fully in this section as the Pool and Spa Code of the Village of Machesney Park and shall regulate and govern the design, construction, alteration, movement, renovation, replacement, repair and maintenance of swimming pools, spas, hot tubs, aquatic facilities and related equipment as herein provided. A

copy of the ICC International Swimming Pool and Spa Code, Edition 2015, has been filed in the office of the Village Clerk for use and examination by the public.

100.12-2. AMENDMENTS.

The ICC International Swimming Pool and Spa Code, Edition 2015, as adopted in Section 100.12-1, is hereby amended as follows:

1) Section 101. 1 shall be amended as follows:

101.1 Title. These regulations shall be known as the International Swimming Pool and Spa Code of the Village of Machesney Park, hereinafter referred to as "this code".

2) Article XII, Section 108 - All references to "Means of Appeal" shall be deleted. (Ord 21-20)

CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE XIII. FUEL GAS CODE

100.13-1. ADOPTED.

100.13-2. AMENDMENTS.

100.13-1. ADOPTED.

The "*International Fuel Gas Code, Edition 2015*", including Appendices A, B, C, and D, as published by the International Code Council, is hereby adopted by reference and set forth fully in this section as the Fuel Gas Code of the Village of Machesney Park and shall regulate and govern fuel gas systems and gas-fired appliances as herein provided. A copy of the ICC International Fuel Gas Code, Edition 2015, has been filed in the office of the Village Clerk for use and examination by the public.

100.13-2. AMENDMENTS.

The ICC International Fuel Gas Code, Edition 2015, as adopted in Section 100.13-1, is hereby amended as follows:

1) Section 101. 1 shall be amended as follows:

101.1 Title. These regulations shall be known as the Fuel Gas Code of the Village of Machesney Park, hereinafter referred to as "this code".

2) Section 106.5. 1 shall be deleted and replaced as follows:

106.5.1 Work commencing before permit issuance. When a permit is required by this code, and work is started or proceeded with, prior to obtaining said permit, the fees established by the Village Board in the adopted fee schedule shall be doubled and not less than \$ 250.00. This penalty may be waived by the building official if the person in violation has not obtained a permit in the last year and is the owner of the property. For the second offense within a twelve (12) month period, starting or proceeding with the work prior to obtaining a permit, the fees shall be doubled and not less than \$500.00 plus an additional fee of \$500.00 shall be paid for each day

work continued without said permit. For the third such instance within a twelve (12) month period, the fees shall be tripled and not less than \$750.00 plus an additional fee of \$750.00 shall be paid for each day work continued without said permit. For the fourth such instance within a twelve (12) month period, the offender shall be prosecuted by the Village of Machesney Park Community Development Department as permitted by state law. The payment of such fees shall not relieve any person from complying with the requirement of this code and the execution of the work, nor from any penalties prescribed herein.

3) Section 106.4. 7 is added as follows:

106.4.7 Posting Permit. The permit holder shall post the permit on the job site in a conspicuous place at all times, visible from the street, until the final inspection has been made and approved. The building official is authorized to impose a re-inspection fee when the permit is not posted.

4) Section 402.6 is amended as follows: 402.6 Maximum Design Operating Pressure. The maximum design operating pressure for piping systems 1 pound per square inch gauge (psig) (34kPa gauge) or greater shall be welded.

5) Section 403. 10.4, 1 is amended as follows:

1. Threaded fittings in sizes larger than 2 inches shall not be used.

6) Section 404.2. 1 is added as follows:

404.2. 1 Prohibited use. Corrugated stainless steel tubing (CSST) shall not be installed outdoors.

7) Section 404.3. 1 is added as follows:

404.3. 1 Prohibited Use Underground. Corrugated stainless steel tubing (CSST) shall not be used underground.

8) Section 404.9. 1 is added as follows:

404.9. 1 Roof locations. Gas piping installed on roof surfaces shall be painted yellow. Paint and application method shall be approved by the code official.

9) Section 404.13. 1 is added as follows:

404.13.1 Separation. Exterior gas piping and electric lines underground shall be horizontally separated a minimum of 12" (304mm).

10) Section 409.4.1 is added as follows:

409.4. 1 Service Valves. Service valves installed within 24" (61 cm) of the regulator, shall have no more than three screwed connections.

11) Section 503.5.5 - 4 is replaced as follows:

4. For sizing a chimney venting system connected to appliances using mechanical draft, the effective area of the chimney flue shall not be greater than two sizes over the effective area required for the appliances.

12) Appendix A " SIZING AND CAPACITIES OF GAS PIPING" is added as part of this Code

13) Appendix B " SIZING OF VENTING SYSTEMS SERVING APPLIANCES EQUIPPED WITH DRAFT HOODS, CATEGORY I APPLIANCES AND APPLIANCES LISTED FOR USE WITH TYPE B VENTS (IFGS)" is added as part of this Code.

14) Appendix C " EXIT TERMINALS OF MECHANICAL DRAFT AND DIRECT-VENT VENTING SYSTEMS (IFGS)" is added as part of this Code.

15) Appendix D " RECOMMENDED PROCEDURE FOR SAFETY INSPECTION OF AN EXISTING APPLIANCE INSTALLATION (IFGS)" is added as part of this Code.

16) Article XIII, Section 109 - All references to "Means of Appeal" shall be deleted. (Ord 21-20)

CHAPTER 100 BUILDINGS AND BUILDING REGULATIONS

ARTICLE XIV. PERFORMANCE CODE FOR BUILDINGS AND FACILITIES

100.14-1. ADOPTED.

100.14-1. ADOPTED.

The "*Performance Code for Buildings and Facilities, Edition 2015*", as published by the International Code Council, is hereby adopted by reference and set forth fully in this section as the Performance Code for Buildings and Facilities of the Village of Machesney Park and shall regulate and govern the performance-based design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of buildings and/or fire protection systems as herein provided. A copy of the ICC Performance Code for Buildings and Facilities, Edition 2015, has been filed in the office of the Village Clerk for use and examination by the public.

(Chapter 100, Articles I-XIV, Revised 11/16/2017 – Adopted by Ordinance 42-17, 11/20/2017)

THE ZONING ORDINANCE of the VILLAGE OF MACHESNEY PARK

Winnebago County - State of Illinois

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Planning and Zoning Commission

Jay Alms - Chairman

Commission Members: Scott Heidemann, Jonathan Danielewicz, Jim Hankins,
Shane Klinger, Dan Pfluger, Jodi Stromberg

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ORDINANCE NO. 2-83
AN ORDINANCE ADOPTING ZONING FOR THE VILLAGE OF MACHESNEY PARK

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MACHESNEY PARK, ILLINOIS, as follows:

ARTICLE I. IN GENERAL

SEC. Z-1. TITLE

This chapter shall be known, cited, and referred to as "The Zoning Ordinance of the Village of Machesney Park."

SEC. Z-2. PURPOSE OF CHAPTER

This chapter is adopted for the following purposes:

(1) To provide for the citizens of the Village adequate light, pure air and safety from fire and other dangers, to conserve the value of land and buildings, to lessen or avoid congestion of traffic on the public roads and to promote the public health, safety, comfort, convenience, morals and general welfare.

(2) To protect the character and the stability of the residential, business, and industrial areas within the Village and to promote the orderly and beneficial development of such areas.

(3) To establish restrictions in order to attain these objectives by adopting a Zoning Ordinance which will revise the districts into which the Village is divided, the restrictions upon the uses to which land and buildings may be devoted, the restrictions upon the intensity of the use of land and buildings, the requirements for yards, the requirements for off-street parking facilities, the provisions for administration and enforcement of this chapter, the penalties for violation of this chapter, and the procedure, powers and duties of the board of appeals.

SEC. Z-3. DEFINITIONS-CLARITY OF INTERPRETATION

In the construction of this chapter, the definitions contained in this section shall be observed and applied, except when the context clearly indicates otherwise. The following word use shall apply in order to provide clarity to interpretation:

- a. Words used in the present tense shall include the future, and words used in the singular number shall include the plural number, and the plural the singular.
- b. The word "shall" is mandatory and not discretionary.
- c. The word "may" is permissive.
- d. The word "lot" shall include the words "plot" & parcel."
- e. The word "building" includes all other structures of every kind, regardless of similarity to buildings.
- f. The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for,"
"maintained for" and "occupied for."
- g. Words not defined shall be interpreted in accordance with definitions contained in Webster's Dictionary.

SEC. Z-4. DEFINITIONS (Ord. 134-86)

The following words and terms, wherever they occur in this chapter, shall be interpreted as herein defined:

Abandonment. A voluntary action to give up one's rights or interests in property.

Accessory building. A detached or attached accessory building is one which: (Ord. 138-86)

- a. Is subordinate to and serves a principal building or principal use;
- b. Is subordinate in area, extent or purpose to the principal building or principal use served;
- c. Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and
- d. Is located on the same zoning lot as the principal building or principal use served with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot with the building or use served.

Accessory use. An "accessory use" includes, but is not limited to the following: (Ord. 52-88)

- a. A children's playhouse, garden house and private greenhouse;
- b. A garage, carport, shed or building for domestic storage;
- c. Contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use served; and
- d. Is located on the same zoning lot as the principal building or principal use served with the single exception of such accessory off-street parking facilities as are permitted to locate elsewhere than on the same zoning lot with the building or use served.
- e. Storage of goods used in or produced by manufacturing activities, unless such storage is excluded by the district regulations;
- f. Swimming pool, private, for use by the occupant and his guests; (Ord. 52-88)
- g. Off-street motor car parking areas, and loading and unloading facilities with provisions of Article V of this chapter; (Ord. 42-86 & Ord. 52-88)
- h. Signs (other than advertising signs) as permitted and regulated in each district incorporated in this chapter with provisions of Article XII of this chapter; (Ord. 43-86)
- i. Public utilities, facilities, telephone, electric, gas, water and sewer lines, their supports and incidental equipment.

Advertising device and advertising sign. An advertising sign, billboard or poster panel which directs attention to a business, commodity, service or entertainment not exclusively related to the premises where such "advertising device" is located or to which it is affixed, but does not include those advertising signs, billboards or poster panels which direct attention to the business on the premises or to a brand name of a product or commodity with which the business is specifically identified and which is sold on the premises. Advertising signs shall be in accordance with Section 20-63.2 General Sign Standards, and shall only be allowed in Industrial zoning districts, as a Special Use Permit in accordance with Section 20-66.2(3). Ord. 28-96) (Ord. 44-15 – 12/7/2015)

Alley. A public-way, used as a secondary means for vehicular access to the rear or side of properties otherwise abutting on a street.

Apartment. A room or suite of rooms in a multiple-family structure, which is arranged, designed, used or intended to be used as a single housekeeping unit. Complete kitchen facilities, permanently installed, must always be included for each apartment.

Automobile repair, major. Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision service, including body, frame, or fender straightening or repair, and painting of vehicles.

Automobile repair, minor. Incidental repairs, replacement of minor parts and motor service to automobiles, but not including any operation specified under "Automobile repair, major."

Automobile sales, service and rental/leasing. The use of any building, land area or other premises or portion thereof, for the display, sale or rental/leasing of new or used automobiles, panel trucks or vans, or recreational vehicles; the servicing includes the installation and/or repair of minor accessories, washing of motor vehicles by hand but shall not include minor or major automobile repairs. (Ord. 114-88)

Automobile sales, service, and rental/leasing, new. The use of any building, land area or other premises or portion thereof, for the display, sale or rental/leasing of new automobiles, panel trucks, or vans, or recreational vehicles. The display, sale or rental/leasing of used automobiles shall be allowed as an accessory use. The servicing shall include the installation and/or repair of minor accessories, washing of motor vehicles by hand, and minor automobile repair but shall not include major automobile repairs. Major automobile repair may be allowed by special use permit as an accessory use. (Ord. 34-98)

Automobile sales, service, and rental/leasing, used. The use of any building, land area or other premises or portion thereof, for the display, sale or rental/leasing of used automobiles, panel trucks or vans, or recreational vehicles. The servicing shall include the installation and/or repair of minor accessories, washing of motor vehicles by hand but shall not include minor or major automobile repairs. (Ord. 34-98)

Automobile service station. A place where gasoline, stored only in underground tanks, kerosene, lubricating oil or grease, for operation of automobiles, are offered for sale directly to the public, on the premises, and including minor accessories and the servicing of automobiles; but not including major automobile repairs; and including washing of automobiles where no chain conveyor, blower or steam cleaning device is employed. When the dispensing, sale or offering for sale of motor fuels or oil is incidental to the conduct of an automobile service station, the premises shall be classified as a public garage. Automobile service stations shall not include sale or storage of automobiles or trailers (new or used).

Automobile and trailer sales area. An open area, other than a street, used for the display or sale of new or used automobiles or trailers, and where no repair work is done except for minor incidental repair of automobiles or trailers to be displayed and sold on the premises.

Automobile wrecking yard. Any place where motor vehicles, not in running condition, or parts thereof, are stored in the open and are not being restored to operation; or any land, building or structure used for wrecking or storing of such motor vehicles or parts thereof, and including any used farm vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating conditions; and including the commercial salvaging of any other goods, articles or merchandise.

Babysitting Service. A building or portion thereof used for the care of from three (3) to seven (7) children excluding the children of the occupant of the building residing in said building and subject to the Home Occupation permit requirements. (Ord.17-86)

Basement. A portion of a building with the floor located below the grade level. A basement shall be counted as a story for the purpose of height regulations if 1/2 or more of its height is above grade level. (Ord. 87-83)

Bed and Breakfast Establishment. An operator occupied residence providing accommodations for a charge to the public with no more than 5 (five) guest rooms for rent. Breakfast may be provided to the guests only. Bed and breakfast establishments shall not include hotels, motels, boarding houses, or food service establishments. The operator shall not employ any persons who do not reside on the premises. (Ord. 24-96)

Bingo and Similar Games of Chance. Games conducted for the purpose of raising charitable funds, including, but not limited to, Bingo, Pull Tabs, Jar Games, and Raffles. Does not include Off-Track Betting regulated by the Illinois Racing Board; Video Gaming Terminals regulated by the Illinois Video Gaming Act; and Lotteries regulated by the Illinois Department of the Lottery or the Multi-State Lottery Association. (Ord. 08-22, 02/07/22)

Block. A tract of land bounded by streets or, in lieu of a street or streets, by public parks, cemeteries, railroad rights-of-way, bulkhead lines or shorelines of waterways, or corporate boundary lines of municipalities.

Boarding house. A building other than a hotel or restaurant where meals are provided for compensation to not more than six (6) guests who are not members of the keeper's house.

Buildable area. The space remaining on a lot after the minimum open space, yard and setback requirements of this chapter have been complied with.

Building. Any structure having a roof supported by columns or walls for the sheltering or enclosure of persons, animals, chattels or property of any kind.

Building, detached. A free-standing building surrounded by open space on the same zoning lot.

Building setback line. A line parallel to the street line at a distance from it, regulated by the setback requirements established in this chapter.

Bulk. The term used to indicate the size and setbacks of buildings or structures and location of same with respect to one another and includes the following:

- (a) Size and height of buildings;
- (b) Location of exterior walls at all levels in relation to lot lines, streets, or to other buildings;
- (c) Gross floor area of buildings in relation to lot area floor area ratio;
- (d) All open spaces allocated to the building;
- (e) Amount of lot area per dwelling unit; and
- (f) Required parking areas.

Camping Trailer. A canvas, material, or metal folding structure, capable of being mounted on wheels and designed for travel, recreational or vacation uses

Cannabis Craft Grower. A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, dry, cure and package cannabis and perform other necessary activities to make cannabis available for sale at a dispensing organization or use at a processing organization, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as may be amended from time-to-time, and regulations promulgated thereunder.

Cannabis Cultivation Center. A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to cultivate, process, transport and perform necessary activities to provide cannabis and cannabis-infused products to licensed cannabis business establishments, per the

Cannabis Regulation and Tax Act, (P.A. 101-0027), as may be amended from time-to-time, and regulations promulgated thereunder.

Cannabis Dispensing Organizations. A facility operated by an organization or business that is licensed by the Illinois Department of Financial and Professional Regulation to acquire cannabis from licensed cannabis business establishments for the purpose of selling or dispensing cannabis, cannabis-infused products, cannabis seeds, paraphernalia or related supplies to purchasers or to qualified registered medical cannabis patients and caregivers, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as may be amended from time-to-time, and regulations promulgated thereunder.

Cannabis Infuser Organization. A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to directly incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis-infused product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as may be amended from time-to-time, and regulations promulgated thereunder.

Cannabis Processing Organization. A facility operated by an organization or business that is licensed by the Illinois Department of Agriculture to either extract constituent chemicals or compounds to produce cannabis concentrate or incorporate cannabis or cannabis concentrate into a product formulation to produce a cannabis product, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as may be amended from time-to-time, and regulations promulgated thereunder.

Cannabis Transporting Organization. An organization or business that is licensed by the Illinois Department of Agriculture to transport cannabis on behalf of a cannabis business establishment or community college licensed under the Community College Cannabis Vocational Training Pilot Program, per the Cannabis Regulation and Tax Act, (P.A. 101-0027), as may be amended from time-to-time, and regulations promulgated thereunder. (Ord. 43-19)

Carport. A permanent roofed structure with not more than two enclosed sides used or intended to be used for vehicle storage for the occupants of the premises. (Ord. 13-90)

Cellar. A portion of a building or structure more than one-half (1/2) underground and not used or intended to be used for human occupancy.

Clinic, medical or dental. A building or complex in which an organization of physicians or dentists, or both, work cooperatively and have their offices in a common building. A clinic shall not include in-patient care.

Club or lodge, private. A nonprofit association of persons, who are bona fide members paying annual dues, which owns, hires or leases a building or portion thereof, the use of such premises being restricted to members and their guests.

All private clubs or lodges as defined above shall be permitted to rent or lease their premises which are not inconsistent with the permitted uses of said facility of the private club or lodge. (Ord. 5-84)

It shall be permissible to serve food and meals on such premises; provided, that adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed; provided, that such sale of alcoholic beverages is in compliance with the applicable federal, state and Village laws.

Commercial Truck. A truck used primarily for commercial purposes. Commercial trucks with a license over a B designation are not permitted to be parked on residentially zoned lots. Semi trailers, full trailers and diesel cabs are considered to be commercial trucks. (Ord. 38-84)

Commercial Waterfront. Any commercial use of land immediately adjacent to the Rock River, commonly related to retail, and/or service activities associated with recreation or tourism. Commercial Waterfront uses shall require Commercial Zoning and a Special Use Permit. (Ord 46-15 – 12/7/2015)

Day Nursery School. A building or portion thereof used for the care of eight (8) or more children excluding the children of the occupant of the building residing in said building. (Ord. 16-86)

Diligently pursued to completion. An active building permit indicating periodic inspection by the Winnebago County Building Department.

District. An area or section of the Village within which certain uniform regulations and requirements, or various combinations thereof, apply under the provisions of this chapter.

Drive-in restaurant. Any establishment where food and/or beverages are sold to customers for consumption primarily in an automobile parked upon the premises.

Drop-box. An accessory structure, normally without an attendant, that serves as a drop-off point for the collection and temporary storage of donations from the public such as used clothing and household goods.

Dwelling. A building designed, constructed or intended for human habitation, complying with all of the requirements of Section 20-7 through 20-20.

Dwelling, attached. A dwelling which is joined to another dwelling at one or more sides by a party wall or walls.

Dwelling, detached. A dwelling which is entirely surrounded by open space on the same lot.

Dwelling, multiple-family. A building or portion thereof, designed or altered for occupancy by three (3) or more families living independently of each other with separate kitchen and bath facilities.

Dwelling, one-family. A dwelling unit designed exclusively for use and occupancy by one or more persons related by blood, adoption or marriage and two additional individuals living together as a single housekeeping unit or four or fewer persons who are not related by blood, adoption or marriage but who are living together as a single housekeeping unit. (Ord. 16-96)

Dwelling, two-family. A building designed or altered to provide dwelling units for occupancy by two (2) families living independently of each other with separate kitchen facilities.

Educational institution. A public, parochial, charitable or non-profit elementary, junior high, high school, junior college, college or university, other than a trade or business school, including instructional and recreational uses, with or without living quarters, dining rooms, restaurants, heating plants and other incidental facilities for students, teachers and employees.

Electronic Message Board. A sign typically attached to freestanding or integrated signs, with a fixed or changing display/message composed of a series of lights that may be changed through electronic means. Signs whose alphabetic, pictographic, or symbolic informational content can be changed or altered on a fixed display screen composed of electrically illuminated segments. (Ord. 18-12)

Fence. A free-standing barrier device constructed of metal, wood, masonry, concrete or composition plastic material intended for use as fencing (example: recycled plastic material); and designed for exclusion,

confinement or screening, provided said device shall not be electrically charged. Except with respect to restricted areas of public utilities and potentially dangerous installations or enclosures protecting livestock, barbed wire shall not be used in or adjacent to any RR, R1, R2, R3 or R4 district. (Ord. 15-93)

Fence, solid. A fence, including solid entrance and exit gates, which effectively conceals from viewers in or on adjoining properties and streets, materials stored, and operations conducted behind it.

Floor area, gross. (Deleted by Ord. 02-20)

Grade. The average level of the ground adjacent to the exterior walls of the building.

Group Living. Five or more persons not related by blood, adoption or marriage living together as a single housekeeping unit. (Ord. 16-96)

Guest house. Living quarters within a detached accessory building located in the same lot with the principal building, for use by temporary guests of the occupants of the premises. Such quarters shall have no kitchen facilities not be rented or otherwise used as a separate dwelling.

Height, building. The peak or top part of ridge line on structure shall be the point of measurement.

Home Occupation. Any gainful occupation conducted within a dwelling by the residents thereof that is clearly secondary to the residential use and that does not change the character of the structure as a residence. (Ord. 87-83)

Hospital or sanitarium. An institution devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care for not less than twenty-four hours in any week of three (3) or more non-related individuals suffering from illness, disease, injury or other abnormal physical conditions. The term "hospital" as used in this chapter, does not apply to institutions operating solely for the treatment of mentally ill persons, drug addicts, liquor addicts or other types of cases necessitating restraint of patients, and the term "hospital" shall not be used for convalescent, nursing, shelter or boarding homes.

Hotel, motel, inn or auto court. An establishment containing lodging accommodations designed for use by transients, travelers or temporary guests. Facilities provided may include maid service, laundering of linen used in the premises, telephone and secretarial or desk service.

Junk yard. As open area where waste, scrap metal, paper, rags or similar materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including auto and building wrecking yards, but excluding similar uses taking place entirely within a completely enclosed building.

Kennel, commercial. Any lot or premises or portion thereof, on which more than two (2) dogs, cats and other household domestic animals, over three (3) months of age, are boarded for compensation or kept for sale. (Ord.42-81)

Legal Objector. An owner of record of property located such that said owner is among those to be notified of a public hearing for a proposed Special Use Permit, Variation, or Zoning Map Amendment for property located adjacent to or across the street or alley from the property of such owner of record. (Ord. 87-83)

Limited access highway. A traffic-way, including toll roads, for through- traffic, in respect to which owners or occupants of abutting property or land and other persons have no legal right of access to or from the same, except at such points and only in such manner as may to determined by the public authority having jurisdiction over such roadway.

Loading and unloading space or berth, off-street. An obstructed, hard-surfaced area of land other than a street or a public-way, the principal use of which is for the standing, loading, and unloading of motor vehicles, tractors and trailers, to avoid undue interference with public streets and alleys. Such space shall not be less than ten (10) feet in width, thirty-five feet in length and fourteen feet in height, exclusive of access aisles and maneuvering space.

Lot area. The area of horizontal planes bounded by vertical planes containing the front, side and rear lot lines.

Lot, corner. A lot situated at the junction of and abutting on two (2) or more intersecting streets.

Lot coverage. The area of zoning lot occupied by the principal building or buildings and accessory buildings.

Lot depth. The mean horizontal distance between the front and rear lot lines of a lot measured within the lot boundaries.

Lot frontage. The front of a lot shall be that boundary of a lot along a public street. (Ord. 139-86)

Lot, Interior. A lot other than a corner lot, with frontage on only one street. (Ord. 87-83)

Lot of record. An area of land designated as a lot on a plat of subdivision recorded, pursuant to law.

Lot, reversed corner. A corner lot, the rear of which abuts upon the side of another lot, whether across an alley or not.

Lot, through. A lot having frontage on two (2) parallel or approximately parallel streets, and which is not a corner lot. On a through lot, both street lines shall be deemed front lot lines.

Lot, width. The mean horizontal distance between the side lot lines measured within the lot boundaries, or the minimum distance between the side lot lines within the buildable areas.

Massage or Massage Therapy. A system of structured palpation or movement of the soft tissue of the body. The system may include, but is not limited to, techniques such as effleurage or stroking and gliding, petrissage or kneading, tapotement or percussion, friction, vibration, compression, and stretching activities as they pertain to massage therapy. These techniques may be applied with or without the aid of lubricants, salt or herbal preparations, hydro massage, thermal massage, or a massage device that mimics or enhances the actions possible by human hands. The purpose of the practice of massage is to enhance the general health and well-being of the mind and body of the recipient.

Massage Therapist. A person licensed by the State of Illinois to administer massage for compensation.

Massage Establishment. Any establishment that provides massage as the primary means of business, employs at least one licensed massage therapist, and does not offer illicit sexual services under the guise of therapeutic massage. A massage establishment shall include any establishment having a fixed place of business where any person, firm, association, partnership, or corporation engages in, carries on or permits to be engaged in, carried on any of the activities mentioned in the definition of massage, including, but not limited to what are commonly known and referred to as spas, suntan spas, parlors, bathhouses and massage parlors. A massage establishment shall not include any accredited educational facility that teaches massage therapy or massage techniques, nor shall it include any licensed health care facilities, or establishments for duly licensed doctors. Salons, recreational facilities, or physical therapy offices which may offer massages as an accessory use to more dominant uses on the premises will not be considered as massage establishments.

Massage Therapist. Any person who, for consideration of gratuity whatsoever, engages in the practice of massage as defined herein. A massage establishment may employ only persons that have a state license issued by the Illinois Department of Professional Regulation pursuant to the Illinois Massage Licensing Act, 225 ILCS 57/1 et seq. (Amd. 11/7/2016, Ord 37-16)

Marquee or canopy. A roof like structure of a permanent nature which projects from the wall of a building and over-hangs the public way, and is designed and indented to protect pedestrians from adverse weather conditions.

Medical Cannabis Dispensing Facility. A facility operated by an organization or business that is registered by the State of Illinois Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients. (Amd. 26-14 – 11/03/14)

Mobile Home. A manufactured unit, designed or intended for human habitation, which, after fabrication, can be transported on streets and highways in its own wheels, or on flat bed or trailers, and which is delivered substantially assembled and ready for human habitation except for utility connections and temporary or permanent foundations which may or may not be installed.

Mobile Home Park. A tract of land within a Mobile Home District upon which mobile homes and/or one-family detached dwellings are located for permanent habitation either free of charge or for revenue purposes.

Mobile Home Stand. That part of the individual mobile home site reserved for the mobile home itself. "Modular Home: Manufactured housing constructed with standardized units or dimensions that meet all building code requirements." (Ord. 3-85)

Monument Sign. A freestanding sign that does not utilize pylons, posts, poles or uprights for support, but instead is attached to a base made of natural materials such as granite, marble, or other similar materials that is anchored to the ground. (Amd. Ord. 17-12 – 09-04-2012)

Motor Home. A portable, temporary dwelling to be used for travel, recreational, or vacation uses, constructed as an integral part of a self-propelled vehicle.

Nonconforming lot. A lot of record existing at the date of the passage of this chapter which does not have the minimum width or contain the minimum area for the zone in which it is located.

Nonconforming structure. A lawful structure which exists upon the adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards or other characteristics of the structure, or its location on the lot.

Nonconforming use. The use of any structure or land lawfully occupied and maintained, but which does not conform with the use regulations or required conditions for the district in which it is located, by reason of adoption of this chapter or amendments thereto.

Nursing home, rest home, convalescent home. A private home for the care of children or the aged or infirmed, or a place of rest for those suffering bodily disorders, but not including facilities used primarily for the treatment of sickness, injuries or surgical care.

Obstruction. Any man-made object other than a structure. (Ord. 26-86)

Open sales lot. Any land used or occupied for the purpose of buying, displaying, rental/leasing, storing, and/or selling where greater than thirty (30%) percent of the stock-in-trade is stored on an open lot. (Ord 34-98)

Parking area, private. An open, hard-surfaced area, other than a street or public way, designed, arranged and made available for the storage of private passenger automobiles and pickup trucks, but not including trailers, mobile homes or boats, or occupant of buildings for which parking is developed and is necessary.

Parking area, public. An open, hard-surfaced area, other than a street or public way, intended to be used for the storage of passenger automobiles and commercial vehicles under one and one-half (1/2) tons capacity, and available to the public, whether for compensation, free or as an accommodation to clients or customers.

Parking space, off-street. A useable off-street area with independent access, not included within the established front yard setbacks, at least nine (9) feet by eighteen (18) feet for diagonal and perpendicular vehicle parking or at least eight (8) feet by twenty-two feet (22) for parallel vehicular parking. (Ord. 87-86)

Pet Daycare Facility. An establishment where domestic animals owned by another person are temporarily housed for compensation, for no longer than twelve (12) hours at a time. (Amd 11/02/2015 – Ord 43-15)

Pet Services. A business offering grooming or training of cats, dogs, and other small domesticated pets. Does not include pet boarding, breeding, kenneling, shelters, veterinary clinics, or animal rescues.

Pick-up Coach. A structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreational or vacation uses.

Planned community development. A development occupying not less than ten (10) acres which shall include all land within the project boundaries plus one-half (1/2) of all adjacent public rights-of-way involving a related group of associated uses, planned as an entity and, therefore, acceptable for development and regulation as one complex land use unit.

Planned Unit Development (PUD). A type of development and regulatory process whereby multi-family residential developments consisting of 9 or more dwelling units are required to meet the Village's land use and design goals. A PUD is planned and built under specific development plans and a regulatory ordinance, thus fixing the type, scale, appearance, design and location of dwelling units over the entire project area.

Porch, covered. A roofed structure, projecting out from the wall or walls of a main structure and commonly open to the weather in part.

Principal Building or Structure. A building or structure on a lot or parcel that is intended to be utilized for a principal use. (Ord 42-20)

Principal use. The main use of land or buildings as distinguished from a subordinate or accessory use.

Public open space. Any publicly-owned open area, including but not limited to the following: Parks, playgrounds, forest preserves, beaches, waterways, parkways and streets.

Public utility. Any person, firm, corporation or municipal department, duly authorized to furnish, under public regulations, to the public, electricity, gas, steam, telephone, communications, transportation or water.

Recreational Campground. A tract of land upon which recreational vehicles and/or tents are located and occupied as temporary dwellings for travel, recreational, or vacation purposes.

Recreational Vehicle. A travel trailer, pick-up coach, motor home, camping trailer, or 5th wheel trailer.

Retail Sales: Purveyors of new or used goods who engage in the business of retail trade to the general public for personal or household consumption. The following types of retailers are included in the definition of retail sales: department stores; dollar or discount stores; bake shops; grocery stores; florists; home improvement centers; drug stores/pharmacies; resale shops. The sale of "Retail Sales" items includes but is not limited to: antiques; apparel, shoes, and accessories; art supplies, including framing services; bicycle and accessory sales; cameras and photographic supplies; hobby and collectible items; fabrics and sewing supplies; electronics; jewelry; liquor; hardware; motor vehicle parts and accessories; health and beauty aids; home furnishings; furniture; luggage; leather goods; musical instruments, parts and accessories; medical and orthopedic supplies; print media items, including books, magazines, and newspapers; sporting goods and recreation equipment; stationery; toys and games; tobacco; vacuums and accessories.

Sexually Oriented Use. "Sexually Oriented Use" means any sexually oriented business, private club or lodge, establishment, or organization including, but not limited to, a "sexually oriented arcade", a "sexually oriented bookstore", "sexually oriented video store", "escort agency", "strip club", "swinger's club" or a "nude model studio". The following terms are defined as follows:

- a. "Sexually Oriented Arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing "specified sexual activities" or "specified anatomical areas."
- b. "Sexually Oriented" Bookstore or "Sexually Oriented Video Store" means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
 - (2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities". A commercial establishment may have other principal purposes that do not involve the offering for sale or rental of material depicting or describing "specified sexual activities" or "specified anatomical areas: and still be categorized as "SEXUALLY ORIENTED" BOOKSTORE or "SEXUALLY ORIENTED" VIDEO STORE. Such other business purposes will not serve to exempt such commercial establishment from being categorized as a "SEXUALLY ORIENTED" BOOKSTORE or "SEXUALLY ORIENTED" VIDEO STORE so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe "specified sexual activities" or "specified anatomical areas."

- (2) "Specified Sexual Activities" means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
 - (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
 - (3) Masturbation, actual or simulated; or
 - (4) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.
- (3) “Escort Agency” means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
 - (4) “Escort” means a person who for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.
 - (5) “Nude Model Studio” means any place where a person who appears in a state of nudity or displays "specified anatomical areas: is provided to be observed, sketched, drawn, painted, sculpted, photographed, or similarly depicted by other persons who pay money or any form of consideration.
 - (6) “Nudity” or a “State of Nudity” means the appearance of a human bare buttock, anus, male genitals, female genitals, or full female breasts.
 - (7) “Specified Anatomical Areas” means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.
 - (8) “Strip Club” means any business, club or lodge (public) or establishment where any persons perform any striptease or other erotic dance involving Nudity, a State of Nudity or any displays of Specified Anatomical Areas.
 - (9) “Swingers Club” means any business, Club or Lodge (public or private) or establishment where persons and/or couples engage in any Specified Sexual Activities.” (Ord. 46-92) (Amd. 12-05-2011 - Ord. 56-11)

Sign. A name, identification, description, display or illustration which is affixed to or represented directly or indirectly upon a building structure or piece of land, and which directs attention to an object, product, place, activity, person, institution, organization or business.

Sign, abandoned. Any sign which is located on a property which becomes vacant, and which remains vacant for a period in excess of 30 days, and any sign which refers to a business or other activity, which has ceased operation for a period in excess of 30 days.

Sign, advertising. A sign which directs attention to a business, commodity, service or entertainment not exclusively related to the premises where such sign is located or to which it is affixed.

Sign, attached. A sign attached to the building which in no case may extend more than eighteen inches from the face of the building.

Sign, business. A sign which directs attention to a business or profession conducted or to a commodity, service or entertainment sold or offered upon the premises on which such sign is located, or to which it is affixed.

Sign, flashing. An illuminated sign on which the artificial light is not kept stationary or constant in intensity at all times in which sign is in use. Illuminated signs which indicate the time, temperature, date or similar public service information shall not be considered "flashing signs."

Signs, freestanding. A sign which is supported by one or more uprights or braces in or upon the ground.

Sign, gross area of. The entire area of all advertising surfaces shall be used in computing total gross area. It does not include any structural or framing elements lying outside the limits of such sign surface and not forming an integral part of the display."

Sign, off premises identification. A sign giving only the name, trademark or other readily recognized symbol or address, or combination thereof, of a building, business, development or establishment, which sign is located off the lot on which such building, business, development or establishment is located.

Sign, permanent directory. A sign which is either projecting or freestanding that shall be utilized solely for the purpose of identifying the official name of the retail center, business or industrial park and provides a directory of the occupants of that retail center, business or industrial park which is comprised of more than one establishment, and which is located on one or more lots or parcels.

Signs, portable. Any sign built upon a chassis, wheels, flatbed or similar device designed to be transported or towed from one location to another. Any sign not permanently affixed to a wall, or permanently installed in the ground by anchoring below the frost line or installation in concrete.

Signs, projecting. A sign attached to the building which extends more than eighteen inches from the face of such building.

Signs, special event. A sign calling attention to an annual or semi-annual special, unique or limited activity or service; a sign announcing an annual or semi-annual campaign, drive or event of a civic, philanthropic, educational, non-profit or religious organization. Special events may include but are not limited to the following: indoor and outdoor art, craft and plant shows; Christmas tree sales; carnivals, circuses, fairs, rodeos and parades. All of these events must take place within the Village.

Street. A right-of-way other than an alley, which affords a primary means of access to abutting property.

Structural alterations. Any change other than incidental repairs which would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams and girders.

Structure. Anything which is constructed or erected with a fixed location on the ground or attached to something having fixed location on the ground. Among other things, structures include walls, buildings, fences, signs, mobile homes and swimming pools. The word "structure" includes the word "building."

Structure, Temporary. A structure not designed for the permanent protection of property of any kind. A structure without any foundation or footings. (Ord. 27-96)

Temporary Use or Temporary Structure. A temporary use or structure that is not otherwise treated by the Zoning Ordinance as a permitted or special use in a particular zoning district may be conducted or erected if the Village Staff issues a Temporary Use or Structure Permit. (Ord. 31-20)

Tent. A portable structure or enclosure primarily constructed of canvas, cotton, nylon, or similar materials. (Ord. 27-96)

Travel trailer. A mobile, portable structure, built on a chassis, pulled by a vehicle, and is designed to be used for temporary human habitation for travel, recreational and vacation uses. (Ord. 65-87)

Truck parking area or yard. Any land used or intended to be used for the storage or parking of trucks, trailers, tractors, and including commercial vehicles, while not loading or unloading, which exceed one and one-half (1 1/2) tons in capacity.

Wind Operated Energy Devices. Those devices, such as windmills, which transform wind energy into mechanical force to operate electricity generators, pump water or perform other useful work. Installation of these devices are further designed as follows:

- a. Site Service, where the majority of the power generated is used directly on the lot or parcel of land containing the installation or used on a limited number of surrounding lots whose owners have financial interest in the installation.
- b. Commercial Service, where the majority of the power generated enters an energy grid system for general consumption on a fee basis.

Yard or setback. An open space on the same zoning lot with a principal building or group of buildings, which is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted in this chapter, and which extends along a lot line and at right angles thereto to a depth or width specified in the yard regulations for the district in which the zoning lot is located.

Yard or setback, front. The yard extending along the full length of the front lot line between the side lot lines. Any yard adjoining a public street shall be considered a front yard. (Ord. 135-86)

Yard or setback, rear. The yard extending along the full length of the rear lot line between the side lot lines.

Yard or setback, side. The yard extending along a side lot line from the front yard to the rear yard.

Zoning lot. A parcel of land considered or treated as a single unit. A zoning lot may or may not correspond with a lot of record.

Zoning maps. The map or maps incorporated into this chapter as a part thereof, designating zoning districts.

SEC. Z-5. INTERPRETATION OF CHAPTER

- (1) Minimum requirements. The provision of this chapter shall be held to the minimum requirements for carrying out the intent and purpose, as defined in Section 20-2.
- (2) Relationship with other laws. Where the conditions imposed by any provision of this chapter upon the use of land, building, or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive (or which impose higher standards or requirements) shall govern.

- (3) Effect on private agreements. This chapter is not intended to abrogate any existing easement, covenant, condition, restriction or any other private agreement; provided, that where the regulations of this chapter are more restrictive or impose higher standards or requirements, all future easements, covenants, conditions, restrictions or other private agreements shall meet the minimum requirements of this chapter.

SEC. Z-6. SCOPE OF REGULATIONS

- (1) Changes in structures or use. Except as may otherwise be provided in Article II of this chapter, all structures erected hereafter, all uses of land, or structures established hereafter, all structural alteration or relocation of existing structures occurring hereafter, and all enlargements of or additions to existing uses occurring hereafter shall be subject to all regulations of this chapter which are applicable to the zoning districts in which such structures, uses, or land shall be located.
- (2) Nonconforming structures and uses. Any lawful structure or use existing at the time of the enactment of this chapter may be continued, even though such structure or use does not conform to the provisions of this chapter for the district in which it is located, and whenever a district shall be changed hereafter, the then existing lawful use may be continued, subject to the provisions of Article II of this chapter.
- (3) Building permits. Where a building permit for a structure has been issued in accordance with law prior to the effective date of this chapter, and provided that construction is begun within ninety days of such effective date and diligently pursued to completion, such structure may be completed in accordance with the approved plans on the basis of which the building permit has been issued, and further may upon completion be occupied under a certificate of occupancy by the use for which originally designated, subject thereafter to the provisions of Article II of this chapter.

SEC. Z-7. USE AND BULK REGULATIONS

- (1) Use. No structure or land shall hereafter be used or occupied, and no structure or part thereof shall be erected, raised, moved, reconstructed, replaced, extended, enlarged or altered except in conformity with the regulations herein specified for the district in which it is located.
- (2) Bulk. All new structures shall conform to the building regulations established herein for the district in which each structure shall be located; except, that parapet walls, windmills, aerial antennas, water towers, chimneys, cooling towers, elevator bulkheads, fire towers, stacks and necessary mechanical appurtenances shall be permitted to exceed the maximum height provisions when erected in accordance with all other ordinances of the Village. (Ord. 35-90)

SEC. Z-8. LOT COVERAGE

- (1) Maintenance of yards, courts and other open spaces. The maintenance of yards, courts and other open spaces and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, courts, or other open space or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason be used to satisfy yard, court, other open space or minimum lot area requirements for any other building.
- (2) Division of zoning lots. No improved zoning lot shall hereafter be divided into two (2) or more zoning lots unless all improved zoning lots resulting from each such division shall conform with all the applicable bulk regulations of the zoning district in which the property is located.
- (3) Location of required open space. All yards, courts and other open spaces allocated to a building or dwelling group shall be located on the same zoning lot as such building or dwelling group.

- (4) Required yards for existing buildings. No yards now or here after provided for a building existing on the effective date of this chapter shall subsequently be reduced below, or further reduced below, if already less than, the minimum yard requirements of this chapter for equivalent new construction.
- (5) Permitted obstructions in required yards. The following shall be considered to be the only permitted obstructions when located in the required yards specified. (Ord. 25-86)
 - (a) IN ALL YARDS. Open terraces not over four (4) feet above the average level of the adjoining ground but not including a permanently roofed-over terrace or porch; awnings and canopies; steps, four (4) feet or less above grade, which are necessary for access to a permitted building, or for access to a zoning lot from a street or alley; chimneys projecting eighteen inches or less into the yard; recreational and laundry-drying equipment; arbors and trellises, and flag poles.
 - (b) IN FRONT YARDS. One-story bay windows projecting three (3) feet or less into the yard; and overhanging eaves and gutters projecting three (3) feet or less into the yard.
 - (c) IN REAR YARDS. Enclosed, attached or detached off-street parking spaces; open off-street parking spaces; accessory sheds, tool rooms and similar buildings or structures for domestic or agricultural storage; balconies; breezeways and open porches; one-story bay windows projecting three (3) feet or less into the yard; and satellite dish fixtures. (Ord. 66-85)
 - (d) IN SIDE YARDS. Overhanging eaves and gutters projecting into the yard for a distance not exceeding forty (40%) percent of the required yard width, but in no case exceeding thirty (30) inches.

SEC. Z-9. FENCES

FENCES, WALLS, HEDGES IN ALL ZONE DISTRICTS. In all district's fences, walls and hedges are permitted in required yards. In front yards fences, walls and hedges shall not exceed 4 feet in height. In side and rear yards fences, walls and hedges shall not exceed 6 feet in height. The following exceptions and additional requirements apply:

- (1) Permitted Fence Materials.
 - a. Naturally resistant or treated wood
 - b. Brick or masonry
 - c. Wrought iron
 - d. Vinyl or composition plastic
 - e. Galvanized or coated chain link
- (2) Temporary Fencing. Snow fencing, garden fencing, and construction fencing do not require a Fence Permit, and shall only be allowed for the following purposes:
 - a. Snow Fences. Wood or plastic fencing for the purpose of directing the accumulation of drifting snow, permissible between November 1st and March 31st.
 - b. Garden Fences. Chicken wire, field fencing, or similar for the purpose of enclosing and protecting garden areas, permissible between April 1st and October 31st.
 - c. Construction Fences. Silt fencing, and temporary fencing or barriers to protect construction zone areas, permissible only in association with an active building permit.
- (3) Decorative post caps may extend up to eight inches above the maximum fence height, if the posts are spaced a minimum of 24 inches apart.
- (4) Any property located in a commercial or industrial district shall have effective screening along lot lines adjoining any residential district. Effective screening is to consist of a solid fence, wall or

- compact hedge not less than 6 feet nor more than 8 feet in height.
- (5) Subject to the fencing requirements of the County Health Code, swimming pools shall be enclosed within a wall, fence, or hedge, with a maximum height of 8 feet. Such fencing may be an extension of bearing walls of existing structures in the rear yards, but shall not project closer than 6 feet to the side or rear lot line.
 - (6) Dumpsters and recycling disposal areas shall be effectively screened by a solid fence or wall to avoid the scattering of debris and improve the aesthetics of the area.
 - (7) Open-mesh type fencing is permitted to enclose school sites.
 - (8) All lots that have frontage on two parallel streets, excepting corner lots, one of which is an arterial street, as designated in the Machesney Park master plan, a 6-foot fence may be placed on the property line along the arterial street, if the access to the property is from the other parallel street.
 - (9) All fences, walls, hedges and trees which may be in conflict with public traffic signals or signs, railroad signals or signs, emergency lights or the movement of traffic shall not be permitted.
 - (10) All corner lots fences, walls and hedges within 1/2 of the right-of-way width from the intersection of the nearest right-of-way lines, shall not exceed 3 feet in height. (Ord. 56-96)
 - (11) On corner lots, fences located in front yards, which includes corner side yards abutting a public roadway, or rear yards abutting a public roadway, shall be permitted up to 6 feet in height, provided that fences exceeding 4 feet in height be set back a minimum of 3 feet from the corner side yard property line. However, in front yard areas parallel to the front façade of the home, fences shall not exceed 4 feet in height. The front façade of the home shall be the side where the front entrance is located, that faces the roadway on which the home is addressed. (Ord 23-17)
 - (12) Fences surrounding ground mounted solar arrays or community solar projects may not exceed 7 feet in height. Fences surrounding solar arrays or community solar projects may be comprised of chain link fencing, but in no case shall barbed wire be used. In cases where solar arrays are located such that there may be an immediate visual impact upon surrounding properties, Village Staff may require a solid, sight obscuring fence be installed. (Ord. 01-20)

SEC. Z-10. LOT AREA AND DIMENSION

- (1) Contiguous parcel. When two (2) or more parcels of land, any of which lacks adequate area or dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they shall be combined and used as one zoning lot for such use. Said parcels of land which are of record at the time of adoption of this ordinance shall be divided into lots of a size not less than 75% of the required area in said district; provided, that yards, courts, or usable open spaces are not less than 75% of the minimum required dimensions or areas.
- (2) Lots or parcels of land of record. Any single lot or parcel of land, held in one ownership, which was of record at the time of adoption of this ordinance amendment, that does not meet the requirements of minimum lot width and area, may be utilized for a permitted use; provided, that yards, courts or usable open spaces are not less than seventy-five (75%) percent of the minimum required dimensions or areas.
- (3) Irregular lots. all setbacks shall be determined by the Planning and Zoning Manager according to principles as set forth for yard setbacks in this chapter.

SEC. Z-11. NUMBER OF DWELLINGS ON A ZONING LOT

- (1) In the RR, R1 and R2 Districts, not more than one dwelling shall be permitted on a zoning lot, subject to the following. Where a dwelling or mobile home presently exists on a zoning lot, the residential use of that dwelling or mobile home may be continued during the period of construction of a new dwelling upon that zoning lot. However, the existing dwelling or mobile home must be

removed from the zoning lot within fourteen days after the date of issuance of the certificate of occupancy for the new dwelling. Provided further that under no circumstances shall the existing dwelling or mobile home remain on the property for more than one year after the issuance of a building permit for the new building. (Ord. 17-89)

- (2) In the AG District, more than one dwelling shall be permitted on a zoning lot; provided, that the site for each dwelling shall be not less than five (5) acres in area and shall have not less than two hundred fifty (250) feet of frontage on a public highway, subject to the following. Where a dwelling or mobile home presently exists on a zoning lot, the residential use of that dwelling or mobile home may be continued during the period of construction of a new dwelling upon that zoning lot. However, the existing dwelling or mobile home must be removed from the zoning lot within fourteen days after the date of issuance of the certificate of occupancy for the new dwelling. Provided further that under no circumstances shall the existing dwelling or mobile home remain on the property for more than one year after the issuance of a building permit for the new building. (Ord. 17-89)
- (3) In the R3 and R4 Districts, more than one dwelling may be permitted on a zoning lot, subject to the following. In addition to the yards and setbacks established by this chapter, the following additional setbacks between dwellings shall be required where there is more than one dwelling on a zoning lot:
 - (a) Side to side: A minimum of ten (10) feet is required.
 - (b) Side to back: A minimum of twenty (20) feet is required.
 - (c) Front to front: A minimum of sixty (60) feet is required.
 - (d) Front to side: A minimum of (20) feet is required.
 - (e) Front to back: A minimum of sixty (60) feet is required.
 - (f) Back-to-back: A minimum of forty (40) feet is required.
 - (g) All yards shall be increased by one foot for every increase of four (4) feet in height if either of the adjacent buildings are greater than twenty-five (25) feet in height.

SEC. Z-12. ACCESSORY BUILDINGS

- (1) Location. When a rear yard is required, no part of an accessory building shall be located closer than three (3) feet to the rear lot line or to the side lot line.
- (2) Rear Yard Location Abutting Public Roadway. Where a single-family residential or two-family residential lot lies between two parallel roadways, accessory buildings in the yard area opposite the front of the home shall abide by Rear Yard setback requirements, rather than Front Yard setback requirements. (Amd 33-18, 10/01/2018)
- (3) Location and Distance from Residential Building.
 - (a) Overhanging eaves or gutters on an accessory building may project not more than eight (8) inches into the minimum required setbacks or yards specified above.
 - (b) In all Residential Districts, or in any Zoning District in which the property is used primarily for residential purposes, a detached accessory building shall be located not less than ten (10) feet from the principal building on the property. Accessory buildings located closer than ten (10) feet from the principal building shall be required the same side yard setbacks as required for the principal building in the Zoning District in which the property lies. (Ord. 91-85)

- (c) Accessory buildings within ten (10) feet of the principal building must have one (1) hour fire rating wall on the side nearest the residentially used building. (Ord 4-84)
- (4) Time of construction. No accessory building or structure shall be constructed on any lot prior to the start of construction of the principal building to which it is accessory.
- (5) Percentage of lot area occupied. The total square footage of all accessory structures located on a lot shall not exceed the square footage of the principal structure and shall not occupy more than ten (10%) percent of the lot area to a maximum of one thousand (1000) square feet of accessory use per residential lot or a maximum of one thousand eight hundred (1800) square feet of accessory use on lots of one half (1/2) acre or larger. This does not include swimming pools or carports which are unenclosed on three (3) sides. Only three (3) accessory structures shall be allowed per residential lot. (Ord. 27-84, Ord. 64-65 & Ord. 118-88)
- (6) Height of accessory building in required rear yards. No accessory building or portion thereof located in a required side or rear yard shall exceed fifteen feet in height.
- (7) Temporary structure. Unless otherwise provided, temporary structures shall not be used for the storage of property for more than 30 days for a 12-month period, and shall comply with all other elements of Sec. 20-11 (Accessory Structures) with the following exception:
 - (a) Tents used exclusively for recreational purposes shall be exempt from the above restrictions. (Ord. 27-96)
- (8) In Commercial and Office Districts. Accessory structures in Commercial and Office Districts shall not be allowed except as identified on the approved site plan or unless all applicable approvals and permits are obtained prior to the start of construction or placement of said structure with the following exception:
 - Drop-box. Drop-boxes shall be prohibited in the Commercial Neighborhood and Office Districts.
- (9) Shipping Containers, Modified or Unmodified. Shipping containers, pods, and other storage containers shall not be permitted as permanent structures in any zoning district. These containers may be allowed temporarily, in accordance with the Temporary Structures subsection. (Ord. 07-22)

SEC. Z-13. EXISTING SPECIAL USE

Where a use is classified as a special use under this chapter and exists as a permitted use at the date of the adoption of this chapter, it shall be considered a legal use, without further action of the Village Board, the Planning and Zoning Manager or the Planning Commission.

SEC. Z-14. ESTABLISH SINGLE-FAMILY LOT WIDTH AND AREA

Where a vacant single-family lot was previously platted, with dimensions less than the current required minimum Single-Family Residential (R1) lot width of 60 feet and/or an area less than the current required minimum Single-Family Residential (R1) lot area of 7,920 square feet, the construction of a single-family home shall be permitted as long as the lot width and/or area is not less than 70% of the requirement and all required yard setbacks are observed.

Section 2. Except as amended in this Ordinance, all other provisions and terms of Village Zoning Code shall remain in full force and effect as previously enacted except that those ordinances, or parts thereof, in conflict herewith are hereby repealed to the extent of such conflict. (Ord 16-17 – 7/17/2017)

SEC. Z-15. ESTABLISH BUILDING SETBACK LINE

Where a block is at least forty (40%) percent occupied by permanent buildings at the time of the passage of this chapter, the average of the distances of the street walls of such buildings from the street right-of-way line shall be the requirements of each district, but in no case shall a setback of greater than sixty (60) feet be required. (Ord. 49-83)

ARTICLE II. NONCONFORMING USES AND STRUCTURES

SEC. Z-16. CONTINUANCE OF USE

- (1) Any lawfully established use of a structure or land, on the effective date of this chapter, or of amendments hereto, that does not conform to the use regulations for the district in which it is located, shall be deemed to be a legal nonconforming use and may be continued except as otherwise provided herein.
- (2) Any legal nonconforming structure may be continued in use, provided there is no physical change other than necessary maintenance and repair, except as otherwise permitted herein.
- (3) Any structure for which a permit has been lawfully granted prior to the effective date of this chapter; or of amendments hereto may be completed in accordance with the approved plans; provided, that construction is started within ninety (90) days and diligently pursued to completion. Such structure shall thereafter be deemed a lawfully established structure.
- (4) Where this chapter by its adoption has reclassified property to a more restrictive district, the owner thereof may use such property for any use or structure permitted under the previous zoning district; provided, that such use is commenced within one year from the adoption of this chapter or that a building permit is obtained for such structure during such period and construction is diligently pursued thereafter. Such use or structure shall thereafter be classified a nonconformity.

SEC. Z-17. DISCONTINUANCE OF USE.

- (1) Whenever any part of a building, structure, or land occupied by a nonconforming use is changed to or replaced by a use conforming to the provisions of this chapter, such premises shall not thereafter be used or occupied by a nonconforming use, even though the structure may have been originally designed and constructed for the prior nonconforming use.
- (2) Whenever a nonconforming use of a structure or part thereof has been discontinued for a period of six (6) consecutive months, or whenever there is evident a clear intent on the part of the owner to abandon a nonconforming use, such use shall not, after being discontinued or abandoned, be re-established and the use of the premises thereafter shall be in conformity with the regulations of the district. (Ord. 85-83)

- (3) Where no enclosed structure is involved, discontinuance of a nonconforming use for a period of six (6) months shall constitute abandonment and shall not thereafter be used in a nonconforming manner.
- (4) A use not authorized by the provisions of the Winnebago County Zoning Ordinance in effect at the time this Ordinance becomes effective shall be discontinued and not re-established, except when the provisions of this chapter find the use to be conforming to the district in which it is then located.

SEC. Z-18. CHANGE OR CONVERSION OF NONCONFORMING USE.

A nonconforming use or a nonconforming structure may not be replaced by nor changed to another nonconforming use or nonconforming structure; provided, however, a nonconforming use or a nonconforming structure may be thus changed or replaced in any zoning district as a special use, pursuant to the procedure set forth in Section 20-71 herein.

SEC. Z-19. TERMINATION AND REMOVAL OF NONCONFORMING USES AND STRUCTURES IN RESIDENTIAL DISTRICTS

The period of time during which the following nonconforming uses and structures may continue or remain in residential districts shall be limited to two (2) years from the effective date of this chapter, or of any amendment hereto which causes the use or structure to be nonconforming. Every such nonconforming use or structure shall be completely removed from the premises at the expiration of the two (2) year period.

- (1) Any nonconforming structure having an assessed valuation not in excess of five hundred dollars (\$500.00) on the effective date of this chapter.
- (2) All nonconforming signs.
- (3) All nonconforming uses where no enclosed building is involved; or where the only buildings employed are accessory or incidental to such use, or where such is maintained in connection with a conforming building. (Amd. Ord 34-18, 10/01/2018)

SEC. Z-20. REPAIRS AND ALTERATIONS

- (1) Normal maintenance of a nonconforming structure or of a conforming structure containing a nonconforming use is permitted, including necessary nonstructural repairs and incidental alterations which do not extend or intensify the nonconforming use or the life of the nonconforming structure.
- (2) No structural alteration shall be made in a structure containing a nonconforming use, except in the following situations:
 - (a) When the alteration is required by law.
 - (b) When the alteration will actually result in eliminating the nonconforming use or structure.
 - (c) When a building in a residential district containing residential nonconforming uses may be altered in any way to improve livability; provided, no structural alteration shall be made which would increase the number of dwelling units or the bulk of the building.

SEC. Z-21. DAMAGE AND DESTRUCTION

If a nonconforming structure or a structure containing a nonconforming use is damaged or destroyed by any means to the extent of fifty (50%) percent or more of its replacement value at that time, the structure can be rebuilt or used thereafter, only in compliance with the provision of the district in which it is located. In the event the damage or destruction is less than fifty (50%) percent of its replacement value based upon prevailing costs, the structure may then be restored to its original condition and the structure and use thereof may then continue as before the partial destruction.

In either event, restoration or repair of the structure or other structure must be started within a period of six (6) months from the date of damage or destruction, and diligently pursued to completion.

SEC. Z-22. ADDITIONS AND ENLARGEMENTS

- (1) A conforming structure containing a nonconforming use may be enlarged or extended only if the entire structure is thereafter devoted to a conforming use.
- (2) No structure partially occupied by a nonconforming use shall be altered in such a way as to permit the enlargement or expansion of the space occupied by such nonconforming use.
- (3) No nonconforming use may be enlarged or extended in such a way as to occupy any required usable open space, or any land beyond the boundaries of the zoning lot as it existed on the effective date of this chapter, or to displace any conforming uses in the same building or on the same parcel.
- (4) A structure which is nonconforming with respect to yards, heights or any other element of bulk regulated by this chapter shall not be altered or expanded in any manner, unless all bulk regulations are complied with as to the portion altered or expanded. (Ord. 20-88)

SEC. Z-23. NONCONFORMING SIGNS IN AGRICULTURAL, COMMERCIAL AND INDUSTRIAL DISTRICTS

- (1) All outdoor advertising structures, existing on or prior to the effective date of the adoption of this chapter or the effective date of a change in land use classification which may occur hereafter, which do not conform to the provisions of this chapter relating to the district in which such outdoor advertising structures are located, shall be removed within five (5) years from the date when such use became nonconforming and shall not be maintained after such five (5) year amortization period.
- (2) Wherever, by reason of the spacing limitations of this chapter, as noted in Article XII of this chapter, a greater number of outdoor advertising structures exist than this chapter permits, the Planning and Zoning Commission shall determine the date of establishment of each such outdoor advertising structure, and such structures shall be removed in reverse order of their establishment.

ARTICLE III. ZONING DISTRICTS GENERALLY

SEC. Z-24. ENUMERATION

For the purpose and provisions of this chapter, the Village is hereby organized into the following districts:

- AG Agricultural
- RR Rural Residential
- R1 Residential Single-Family
- R2 Residential Two-Family
- R3 Residential Multi-Family
- R4 Residential Multi-Family
- MH Mobile Home District

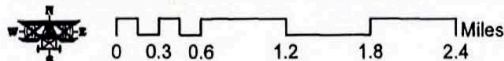
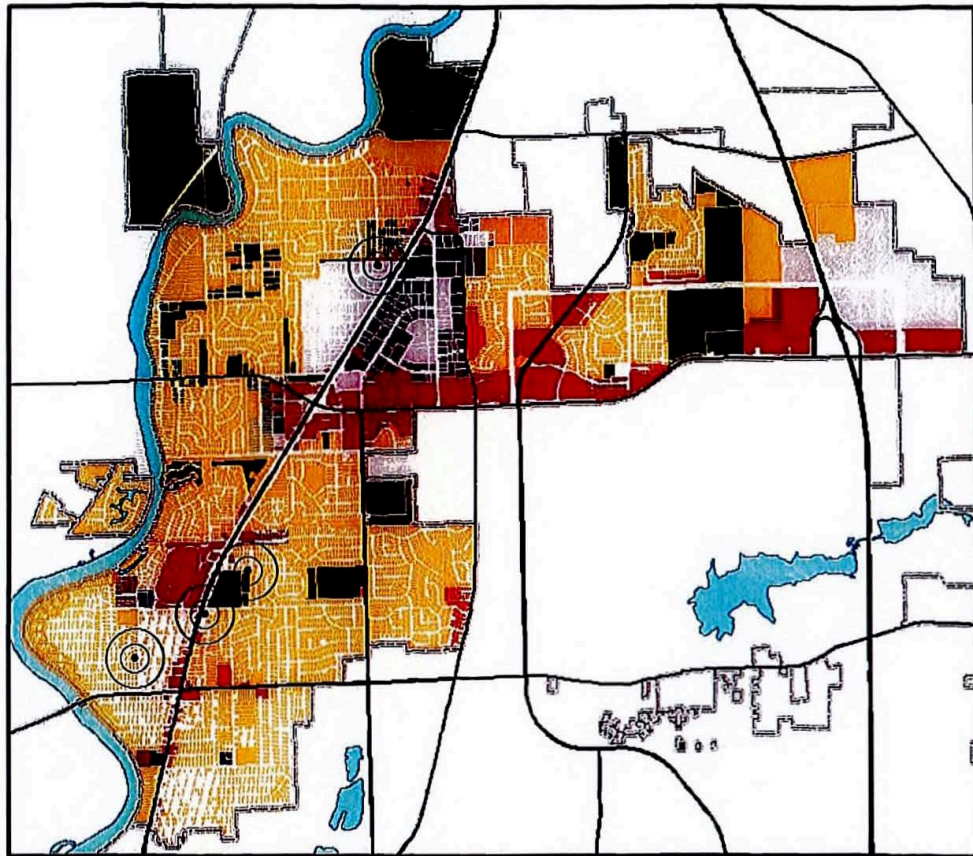
CN Commercial Neighborhood
CC Commercial Community
CG Commercial General
OF Office District
IL Industrial-Light
IG Industrial-General
IH Industrial-Heavy

SEC. Z-25. ZONING MAPS

The boundaries of the aforesaid zoning districts are hereby established as shown on the map(s) entitled "Village of Machesney Park Zoning Map February 8, 1983." These official maps and all explanatory matter thereon and attached thereto are hereby adopted by reference and declared to be part of this chapter.

The "Village of Machesney Park Zoning Map," and all official explanatory matter attached thereto bears the signature of the Village Clerk and shall be on file in the office of the Planning and Zoning Manager.

MACHESNEY PARK OFFICIAL ZONING MAP – 2020
Adopted by The Village Board of Trustees 4/6/2020



Agricultural & Residential Zoning Districts

- AGRICULTURAL (AG)
- RURAL RESIDENTIAL (RR)
- SINGLE-FAMILY RESIDENTIAL (R1)
- TWO-FAMILY RESIDENTIAL (R2)
- MULTI-FAMILY RESIDENTIAL (R3)
- MULTI-FAMILY RESIDENTIAL (R4)
- MOBILE HOME (MH)

Commercial & Industrial Zoning Districts

- COMMERCIAL NEIGHBORHOOD (CN)
- COMMERCIAL COMMUNITY (CC)
- COMMERCIAL GENERAL (CG)
- INDUSTRIAL LIGHT (IL)
- INDUSTRIAL GENERAL (IG)
- INDUSTRIAL HEAVY (IH)
- OFFICE (OF)

Overlay Zoning Districts

- GROUNDWATER PROTECTION OVERLAY
- FLOODWAY CONSERVATION OVERLAY

SEC. Z-26. DISTRICT BOUNDARIES

When uncertainty exists with respect to the boundaries of the various districts as shown on the zoning maps, the following rules shall apply:

- (1) District boundary lines are either the centerline of railroads, highways, streets, alleys or easements, or the boundary lines of sections, quarter sections, divisions of sections, tracts or lots, or such lines extended or otherwise indicated.
- (2) In areas not subdivided into lots and blocks, wherever a district is indicated as a strip adjacent to and paralleling a street or highway, the depth of such strips shall be in accordance with the dimensions shown on the maps measured at right angles from the centerline of the street, or highway, and the length of frontage shall be in accordance with dimensions shown on the map from section, quarter section or division lines, or centerlines of streets, highways or railroad rights-of-way unless otherwise indicated.
- (3) Where a lot held in one ownership and of record on the effective date of this chapter is divided by a district boundary line, the entire lot shall be construed to be within the less restricted district; provided, that this construction shall not apply if it increases the less restricted frontage of the lot by more than twenty-five (25) feet.

SEC. Z-27. ZONING OF STREETS, ALLEYS, PUBLIC WAYS, WATERWAYS AND RIGHT-OF-WAYS

All streets, alleys, public ways, waterways and railroad rights-of-way___0, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alleys, streets, public ways or waterways and railroad rights-of-way___0. Where the centerline of a street, alley, public way, waterway or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such centerline.

SEC. Z-28. ZONING OF NEW OR ANNEXED LAND

Land annexed to, or consolidated with, the Village shall automatically classify said territory as an agricultural district and if less than 5 acres, shall be automatically classified as a rural residential district and be subject to all conditions and regulations applicable to said territory in such district until such territory is later zoned in a manner provided by law.

No change in the use of land or existing buildings or structures shall be made until an ordinance designating the zoning district classification of such annexed land is duly adopted by the Board of Trustees. The owner may petition for said zoning classification simultaneously with the petition for annexation. The Village Board of Trustees may either adopt or deny the recommendation of the Planning and Zoning Commission for the proposed zoning amendment, at the time of adoption of the final ordinance annexing the territory. If the property to be annexed is partially developed, the proper nearest comparable zoning classification shall apply separately or collectively to the undeveloped portions and the developed portions. (Ord. 101-89)

ARTICLE IV. HOME OCCUPATIONS

SEC. Z-29. HOME OCCUPATIONS

- (1) Purpose. The purpose of this section is to protect public health and promote public safety, convenience, comfort, morals, prosperity and welfare within agricultural and residential districts while providing for certain types of otherwise restricted occupational uses that are incidental to the use of the property as a residence but, because of their potential influence upon neighboring uses, need to be carefully regulated for the protection of the community.
- (2) Applicability. Unless otherwise provided in this chapter, no building or land may be used, and no building may be erected, converted, enlarged or structurally altered, in an Agricultural or Residential District except in compliance with the requirements of this section.
 - (a) Permit. A home occupation permit shall be obtained as prescribed by the requirements of this section. Acceptance of any of the benefits of a home occupation permit shall be deemed acceptance of all terms and conditions set forth herein.
 - (b) Application. Application for a home occupation permit shall be made to the Planning and Zoning Manager on a form prescribed by the Planning and Zoning Manager.
 - (c) Inspection. Prior to approval the Planning and Zoning Manager or designated representative shall review the application and inspect the premises for compliance with the regulation of this section. Additional inspections may be requested by the Planning and Zoning Manager to confirm continued compliance with the provisions of this section.
 - (d) Fee. The application fee for a home occupation permit shall be \$10.00.
 - (e) Renewal. Approved home occupation permits must be renewed annually for as long as the business is conducted from the property. The renewal fee for a home occupation permit shall be \$10.00 (Amd. 8/3/2020 – Ord 29-20)
- (3) Required Conditions. Conforming home occupations are those activities that require the practice of some skill, talent or craft on the part of the resident and not just as a place to house or furnish the use of some machine or equipment, and shall comply with the following regulations:
 - (a) There shall be no stock-in-trade other than products manufactured on the premises unless otherwise approved by the Planning and Zoning Commission by special use permit as provided by Article XIII of this chapter.
 - (b) A home occupation shall be conducted within a dwelling or in an accessory building not to exceed 500 square feet in area.
 - (c) There shall be no storage of supplies or equipment outside of the building.
 - (d) There shall be no external alteration of the dwelling or accessory building in which a home occupation is conducted, and the existence of a home occupation shall not be apparent beyond the boundaries of the site, except for a nameplate not to exceed a total of 2 square feet in area. (288 square inches) (Ord. 26-84)
 - (e) No person, other than a resident of the dwelling, shall be employed in the conduct of a home occupation.
 - (f) No motor power other than electrically operated motors shall be used in connection with a home occupation.
 - (g) No unreasonable odor, liquid or solid waste, shall be emitted. No electrical disturbance shall be produced.
 - (h) A home occupation shall not create any radio or television interference or create noise in excess of the standards set forth in other Village ordinances.
 - (i) No trucks with a license greater than a B designation and no semi-trailers, or full trailers, incidental to a home occupation shall be kept on the site. (Ord. 26-84)
 - (j) A home occupation shall not create pedestrian, automobile, or truck traffic significantly in excess of the normal amount in the district.

- (k) Anyone conducting a home occupation within the village limits who files in the office of the County Clerk of Winnebago County a Certificate to conduct a business under an assumed name, pursuant to Illinois revised Statutes, Chapter 96, Section 4, shall, within 5 days, register said assumed name with the Planning and Zoning Manager of Machesney Park. (Ord. 90-85)
- (4) Special Use Permit. Doctors, dentists, chiropractors, massage therapists and other practitioners of the medical arts licensed by the State of Illinois may be permitted as a home occupation if approved by the Planning and Zoning Commission by special use permit as provided by Article XIII of this chapter. Licensees shall maintain with the Village of Machesney Park a current copy of their applicable license.
- (5) Prohibited Uses. The following types of activity shall not constitute legal and conforming home occupations and are specifically prohibited:
 - (a) Alcoholic beverages manufactured on the premises, any sale of.
 - (b) Automobile laundry;
 - (c) Automobile repair, major and minor;
 - (d) Firearms, sale or mail order;
 - (e) Kennel, commercial;
 - (f) Smoking products manufactured on the premises, any sale of;
 - (g) Tattoo or body piercing establishments; or, any other use whose activity is subject to review by the Village of Machesney Park Liquor Commissioner (Ord. 48-98).
- (6) Exemptions. Home occupations that consist entirely of communication via correspondence, telephone, facsimile or computer modem, and involves no deliveries to the property by semi-tractor/trailer trucks, and no clients, customers or students visiting the premises shall not be required to obtain a home occupation permit.
- (7) Revocation. Revocation of a home occupation permit may be made for the following reasons:
 - (a) Any change in the use for which the permit was issued;
 - (b) Failure to allow required inspections;
 - (c) Failure to comply with the applicable provisions herein;
 - (d) Violation of any Village Ordinance, State law, or federal law.

ARTICLE V. OPEN SALES LOTS

SEC. Z-30. OPEN SALES LOTS

- (1) Purpose. The purpose of this section is to ensure that open sales lots do not create an adverse impact on adjacent properties and surrounding neighborhoods by reason of insufficient on-site customer and employee parking, traffic generation, including road testing of vehicles, obstruction of traffic, visual blight, bright lights, noise, fumes, or drainage runoff.
- (2) Applicability. The provisions of this section shall apply to all properties which are used or are zoned Commercial.
- (3) Inclusive. Open sales lots shall include Commercially used land or Commercially zoned land used or occupied for the purpose of buying, displaying, rental/leasing, storing, and/or selling where greater than thirty (30%) percent of the stock-in-trade is stored on an open lot. Open sales lots shall include, but not be limited to, the following specifically listed uses:

Accessory structures and decorative items;

 - (a) Agricultural implement sales and service;
 - (b) Automobile sales, service and rental/leasing, new & used;
 - (c) Mobile homes, travel trailers and motor homes sales & service; Monument sales, but not including the cutting or grinding of stones;

- (d) Motorcycle sales and repairs;
- (e) Rental service stores;
- (f) Truck and/or trailer sales and rental/leasing;

- (4) Exemptions. Seasonal sales of forty-five (45) days or less on an open lot shall be exempt from the requirements of this Section. Exemptions shall include, not be limited to, the following specifically listed uses:
Christmas tree sales;
- (5) Site Development Plan Review. All new open sales lots shall be subject to site development plan review. All new open sales lots shall comply with the requirements of this section and the minimum requirements of the zoning district in which it is located.

Existing open sales lots shall be subject to site development plan review and comply with this section when seeking any of the following:

- (a) Cumulative expansions of more than 50% of improved square footage.
 - (b) Any adjacent expansion of the land area on which the use is located, whether by purchase, lease, business combination or acquisition, or similar method.
 - (c) Any substantial remodel of the existing use as determined by the Village Building Official.
- (6) Minimum Lot Size. All new open sales lots shall have a minimum lot size of 15,000 sq. ft. with a minimum lot width of 100 feet.
- (7) Minimum Distance to Residential Uses. All new open sales lots shall be at least 100 feet or more from a previously established property legally used or zoned for residential purposes. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest property line of the property used as an open sales lot to the nearest property line of a residential use, or the nearest boundary of a residential zoning district.
- (8) Screening or Landscaping. A solid, sight obscuring fence or wall shall be provided along the inside property line of an open sales lots adjacent to any abutting residential district. Additional required screening or landscaping shall comply with Article XI Off-Street Parking and Loading, Section 20-57(7)(c) Screening or Landscaping.
- (9) Parking and Vehicle Storage. Parking shall comply with Article XI Off Street Parking and Loading. Areas designated for employee and customer parking shall not be used for storage or display. Any land used or occupied for the purpose of buying, displaying, rental/leasing, storing, and/or selling of motorized and non-motorized vehicles or equipment such as new or used agricultural implements, aircraft, automobiles, boats, mobile homes, motorcycles, motor homes, motor scooters, recreational vehicles, trucks, or vans shall be hard-surfaced and comply with Article XI Off-Street Parking and Loading, Section 20-57(7)(b) Surfacing. Areas designated for parking and areas designated for storage or display shall be indicated on submitted site plan.
- (10) Lighting. All lighting shall comply with Article XI Off-Street Parking and Loading, Section 20-57(7)(d) Lighting.
- (11) Loading and Unloading of Vehicles. Loading and unloading is permitted only in accordance with this subsection. The open sales lots operator shall be responsible and liable for any activities of a common carrier, operator, or other person controlling such loading or unloading activities to the extent any such activities violate the provisions of this subsection.
 - (a) Loading and unloading is limited to the hours of 8:00 a.m. to 5:00 p.m. Monday through Saturday, excluding legal holidays.
 - (b) Off-loading shall be on-site or off-site. Loading and unloading shall not block the ingress or egress of any adjacent property.

- (c) New or substantially remodeled open sales lots shall provide off-loading facilities on private property (on- or off-site). Shared loading and unloading facilities are permitted for the purposes of meeting this requirement.
- (12) Storage of Vehicles to be Repaired or in a state of Disrepair. No motorized or non-motorized vehicle or equipment such as new or used agricultural implements, aircraft, automobiles, boats, mobile homes, motorcycles, motor homes, motor scooters, recreational vehicles, trucks, or vans to be repaired, or in a state of disrepair, shall be parked or stored on any public property including streets, alleys, or right-of-ways. Motorized or non-motorized vehicles or equipment to be repaired, or in a state of disrepair shall be stored within a solid, sight obscuring fence or wall.
- (13) Repair of Vehicles. Automobile repair, minor, may be permitted as an accessory use to a new automobile sales, service and rental/leasing use. Automobile repair, major may be allowed by special use permit as an accessory use to a new automobile sales, service and rental/leasing use. Automobile repair, minor or major, shall not be allowed in conjunction with used automobile sales, rental/leasing.
- (14) Stacking of Vehicles. An adequate on-site stacking area for service customers shall be provided. On-site driveways may be used for stacking but may not interfere with access to required parking spaces. Required parking spaces may not double as stacking spaces.
- (15) Test Driving. Test driving shall not be done on residential streets or alleys. For the purposes of this subsection, streets which are designated by the Village as major collector streets shall be permissible areas for test driving.

Each dealership shall have an affirmative obligation to inform all its personnel of this requirement and to ensure compliance with it. Dealerships shall submit plans to the Director of Public Works for approval to satisfy the requirements of this subsection. (Ord. 34-98)

ARTICLE VI. AGRICULTURAL DISTRICTS

SEC. Z-31. Purposes

- (1) To permit nonagricultural uses that require large land areas that will not detract or adversely affect the normal agricultural pursuits of the rural area.
- (2) To give primary consideration to agricultural pursuits and secondary consideration to large urban supporting uses.
- (3) To discourage residential development other than those that desire to associate and identify with a rural agricultural community accepting its relevant and known environmental conditions.

SEC. Z-32. Agricultural District Requirements

- (1) Lot size.
 - (a) Every principal permitted use in this Article shall be located on a tract of land having an area of not less than five (5) acres and a width at the established building line of not less than two hundred fifty (250) feet. This requirement shall not apply to railroad right-of-way and trackage permitted under subsection (2) (h) of this section. (Ord. 82-89)
 - (b) The lot size requirements set forth herein may be reduced by special use permit.
 - (c) Every special use authorized in the AG District shall be located on a tract of land the minimum size of which shall be specified in the special use permit.
- (2) Yards. No building shall be erected or enlarged unless it is in compliance with the distances specifically enumerated within this section for specific uses, or established when a special use permit is approved as follows:

- (a) FRONT. One-half the existing right-of-way when right-of-way has been established by adopted comprehensive plans, not to exceed sixty (60) feet or be less than thirty (30) feet.
 - (b) SIDE.
 - 1. Corner lot: Same as front yard.
 - 2. Interior lot: Ten (10) feet.
 - (c) REAR. Twenty-five (25) feet.
- (3) Table of Uses. Permitted Uses and Special Uses in the Agricultural Zoning District are found in *Article 9, Agricultural and Residential Table of Uses*.

ARTICLE VII. RESIDENTIAL DISTRICTS

SEC. Z-33. GENERAL PURPOSES-RR, R1 AND R2 RESIDENTIAL DISTRICTS

These districts are established in order to protect public health and promote public safety, convenience, carport, morals, prosperity and welfare. The general goals include, among others, the following specific purposes:

- (1) To protect residential areas against fire, explosion, noxious fumes, offensive noise, smoke, vibrations, dust, odors, heat, glare and other objectionable factors.
- (2) To protect residential areas to the extent possible and appropriate in each area against unduly heavy motor vehicle traffic, especially through traffic, and to alleviate congestion by promoting off-street parking.
- (3) To protect residential areas against undue congestion of public streets and other public facilities by controlling the density of population through regulation of the bulk of buildings.
- (4) To protect and promote the public health and comfort by providing for ample light and air to buildings and the windows thereof.
- (5) To promote public comfort and welfare by providing for usable open space on the same zoning lot with residential development.
- (6) To provide sufficient space in appropriate locations to meet the probable need for future residential expansion and to meet the need for necessary safety and amenity for residents and which do not exert objectionable influences.
- (7) To promote the best use and development of residential land in accordance with a comprehensive land use plan, to promote stability of residential development and protect the character and desirable development, and to protect the value of land and improvements and so strengthen the economic base of the Village.

SEC. Z-34. GENERAL PURPOSES-R3 AND R4 RESIDENTIAL DISTRICTS

In addition to the objectives prescribed in Section 20-29, the R3 and R4 Districts are included in this chapter to achieve the following purposes:

- (1) To reserve appropriately located areas for family living in a variety of types of dwellings at a reasonable range of densities consistent with sound standard of public health and safety.
- (2) To preserve as many as possible of the desirable characteristics of one-family and two-family residential districts while permitting higher population densities.
- (3) To ensure adequate light, air, privacy and open space for each dwelling unit.

- (4) To minimize traffic congestion and to avoid the overloading of utilities by preventing the construction of buildings of excessive size in relation to the land around them.
- (5) To provide necessary space for off-street parking of automobiles, and where appropriate, for off-street loading of trucks.
- (6) To protect residential properties from the hazards, noise and congestion created by commercial and industrial traffic.
- (7) To protect residential properties from noise, illumination, unsightliness, odors, dust, dirt, smoke, vibration, heat, glare, increased water runoff and other objectionable influences.
- (8) To protect residential properties from fire, explosion, noxious fumes and other hazards.

SEC. Z-35. PUBLIC NUISANCE

Consistent with the above-mentioned purposes and goals of Residential districts, and to further those goals, the Village of Machesney Park hereby enacts the following:

- (1) It shall be a violation and shall constitute a Public Nuisance to maintain private property in all Residential districts in such a manner so as to cause a detrimental effect to adjacent properties, by causing to have stored on the exterior of the premises any of the following:
 - (a) Materials and items stored in a haphazard or unorganized manner, so as to present an objectionable visual appearance or a nuisance; but not to include stacked firewood for use on the premises or compost material for use on the premises;
 - (b) Yard maintenance equipment including, but not limited to, lawn mowers, garden tractors, snow blowers, garden tools, and similar items, which are stored outside in a haphazard, unorganized, or unprotected manner, past the season of the reasonable use of such equipment;
 - (c) Material or items brought to the premises for planned improvements such as landscaping, construction, and similar purposes, including, but not limited to, fill dirt, mulch, and building materials, and which are not used for said improvements within 90 days, or which merely constitute outdoor storage of said material or items;
 - (d) Recreational Transportation Equipment, as defined in Chapter 12, Article VI (12.601) of the Village Code or parts thereof, including, but not limited to, bicycles, motorcycles, and snowmobiles, which are stored on the exterior premises not property trailered on a trailer manufactured to haul the Recreational Transportation Equipment, and which are stored in a haphazard, unorganized or unprotected manner. (Adm Ord 09-20 – 06/01/2020)
 - (e) Commercial and industrial equipment, construction equipment, objects, and materials which are not ordinarily found in Residential districts, stored for more than two (2) weeks on exterior premises visible from adjacent properties or public right-of-way, and which are not used for said improvements within 90 days, or which merely constitute outdoor storage of said materials or items.
 - (f) The raising and maintaining of animals, other than domesticated pets. Prohibited animals include but are not limited to bees, poultry, sheep, goats, cattle, swine or any other agricultural and non-domesticated animal. (Ord. 36-13)
 - (g) Home appliances, or parts thereof, auto parts, gasoline or kerosene cans, damaged lawn furniture, televisions, monitors, microwaves or other kitchen equipment which are stored outside in a haphazard, unorganized manner that present an objectionable visual appearance or nuisance.
- (2) The detrimental effect to adjacent properties caused by said lack of proper maintenance to any given property shall include, but not be limited to, diminished property value to adjacent properties, the creation of an unsightly and un-aesthetic appearance in the neighborhood in general, and a decline or loss of comfort, convenience, well-being and mental health of adjacent property owners. (Ord. 12-97)

SEC. Z-36. FLOODWAY CONSERVATION ZONING DISTRICT OVERLAY

- (1) **Declaration of Intent.** In the interest of public health, safety and welfare, the regulations of the Floodway Conservation Zoning District Overlay are intended to protect areas of floodway subject to and necessary for flood waters, and to permit and encourage the retention of open land uses which will be so located and designed as to constitute a harmonious and appropriate part of the physical development of the Village of Machesney park as provided for in the Comprehensive Plan. These regulations are to be applied in conjunction with the Zoning Ordinance of Machesney Park. In the event of conflict, the Floodway Conservation Zoning District Overlay shall be enforced. In advancing these principles and the general purposes of the Zoning Ordinance and Comprehensive Plan, the specific intent of this Overlay is:
 - (a) To combine with present zoning requirements certain restrictions made necessary for the floodways to promote the general health, welfare and safety of the community.
 - (b) To prevent the erection of structures in areas unfit for human usage by reason of danger from flooding, unsanitary conditions or other hazard.
 - (c) To minimize danger to public health by protecting the water supply and promoting safe and sanitary drainage.
 - (d) To reduce the financial burdens imposed on the community, its governmental units and its individuals by frequent and periodic floods and overflow of lands.
 - (e) To permit certain uses which can be appropriately located in the floodway as herein defined and which will not impede the flow of flood waters, or otherwise cause danger to life and property at or above or below their locations along the floodway.
 - (f) To permit only those uses in the floodway compatible to the preservation of natural conditions which are conducive to the maintenance of constant rates of water flow throughout the year by withholding rapid water runoff contributing to downstream flooding and providing area for ground water absorption for maintenance of the subsurface water supply.
 - (g) To provide sufficient drainage courses to carry abnormal flows of storm water in periods of heavy precipitation.

- (2) **Definition of Floodway.** Those areas subject to periodic flooding and determined to be floodway as delineated on maps prepared by Federal Emergency Management Agency.
 - (a) The boundaries of the Floodway Conservation Zoning District Overlay are established as shown on the Zoning District Map, which is declared to be a part of this ordinance.
 - (b) The Floodway Conservation District Overlay may be revised or modified by an amendment to the Zoning District Map where studies or other information, provided by a qualified agency or person, documents the need for such revision. However, prior to any such change that would modify the delineation as shown on any map provided by the Federal Emergency Management Agency, approval must be obtained from that Agency or its successors.

- (3) **Establishment of the Floodway Conservation Zoning District Overlay.** For the purposes of this ordinance, the Floodway Conservation Zoning District Overlay shall be those areas of the Village of Machesney Park identified to be subject to the floodway, as delineated on the most recent Flood Insurance Rate Map (FIRM) which accompanies the Flood Insurance Study, prepared by the Federal Emergency Management Agency (FEMA).
- (4) **Permitted Uses.** The following uses are permitted in the Floodway Conservation Zoning District Overlay:
- (a) Recreational use (excluding structures), such as park, day camp, picnic grove, fishing and boating club;
 - (b) Harvesting of any wild crops, such as marsh hay, ferns, moss, berries or mushrooms;
 - (c) Wildlife sanctuary, woodland preserve, arboretum;
 - (d) Vegetative gardens;
 - (e) Recreational or other burning as allowed by the Village of Machesney Park Municipal Code;
 - (f) Existing sealed public and private water supply wells;
 - (g) Utility transmission lines;
 - (h) Accessory uses customarily incidental to any of the foregoing permitted uses, when approved by the Village Board under the variance procedure as outlined in Section 20-32; and
 - (i) Other public uses as listed in 44 Code of Federal Regulations.
- (5) **Prohibited Uses.** The following uses are prohibited in the Floodway Conservation Zoning District Overlay:
- (a) All structures and buildings, with the following exceptions:
 - i. Existing principal residential, accessory structures and fences constructed prior to the enactment of this Ordinance;
 - ii. Public recreational shelters, provided the structure has no walls;
 - iii. Minor improvements to existing residential structures, such as decks and patios, subject to the determination of the Village Floodplain Manager.
 - (b) The filling in of the Floodway Conservation Zoning District Overlay, including removal or addition of topsoil. Exception to this may be to stabilize embankment by method approved by the Illinois Department of Natural Resources.
 - (c) Sanitary landfill, dump, junkyard and outdoor storage of vehicles and / or materials.
 - (d) On-site sewage disposal system.
 - (e) Swimming pools.
 - (f) Fences.
- (6) **Administration.**
- (a) **Building Permit Approval.** A building permit application shall be completed and submitted to the Village Floodplain Manager. The Village Floodplain Manager shall determine compliance with the restrictions as listed in Section 20-32.
 - (b) **Variances.** The Planning & Zoning Commission may vary or adjust the strict application of the requirements of Section 20-32 on appeal in specific cases, as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship, so that the spirit of

the ordinance will be observed, and substantial justice done. Any such variance shall be granted in accordance with the provisions of Section 20-72 of the Zoning Ordinance and the following:

- i. No variances shall be granted for new residential structures within the Floodway Conservation Zoning District Overlay.
 - ii. No variances shall be granted for any construction or activity that would cause a measurable increase to the floodway and / or 100-year floodplain levels.
 - iii. No variance shall be granted for vented foundations as elevated structures shall be constructed with flow-through or pillared foundations.
 - iv. If it should become necessary to grant any variance, the applicant shall be required to comply with all applicable requirements of the National Flood Insurance Program Regulations, including but not limited to the requirements for elevation, flood-proofing and anchoring. The applicant must also comply with any other requirements considered necessary by the Planning & Zoning Commission.
 - v. In granting any variance, the Planning & Zoning Commission shall attach whatever reasonable conditions and safeguards it considers necessary in order to protect the public health, safety and welfare and to achieve the objectives of this ordinance.
 - vi. In reviewing any request for a variance from Section 20-32, the Planning & Zoning Commission shall consider, at a minimum, the following:
 1. That there is good and sufficient cause;
 2. That failure to grant the variance would result in exceptional hardship to the applicant; and,
 3. That the granting of the variance will neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety or extraordinary public expense, nor create nuisances, cause fraud on or victimize the public or conflict with any other applicable State of Illinois or local ordinances or regulations.
 4. That the variance shall involve only the least modification necessary to provide relief.
 - vii. If granted a variance, the property owner shall sign acknowledgement that such variance may result in increased premium rates for flood insurance, and the granted variance may increase the risks to life and property.
 - viii. A complete record of all variance requests and related actions shall be maintained by the Village.
 - ix. Notwithstanding any of the above, all improvements shall be designed and constructed so as to have the capability of resisting the 100-year flood.
- (c) **Appeals.** Initial determinations under this ordinance, including questions of the boundaries of the Floodway Conservation Zoning District Overlay, shall be made by the Village Floodplain Manager with advice from the Village Engineer and Community Development Director. Any party aggrieved by a decision of the Village Floodplain Manager may appeal by:
- i. Adhering to the process used by the Planning & Zoning Commission for Determination of Uses as outlined in Section 20-75 of the Village of Machesney Park Zoning Ordinance; or

- ii. Appealing to the Planning & Zoning Commission through the variance process as outlined in Section 20-32(6)(b). In rendering decisions under Section 20-32(6)(b), the Planning & Zoning Commission shall consider, in addition to other evidence and standards, the findings and recommendations of the Illinois Department of Natural Resources, Army Corp of Engineers, Winnebago County Soil and Water Conservation District and any other appropriate agencies, at property owner's expense. Both the property owner and the Village of Machesney Park or any of its agencies or agents shall have the right to conduct on-site surveys and other applicable studies and present testimony and evidence of same to the Village Floodplain Manager and Planning & Zoning Commission.

- (7) **Municipal Liability**. The granting of a zoning permit or variance in any Floodway Conservation Zoning District Overlay shall not constitute a representation, guarantee or warranty of any kind by the Village of Machesney Park or by an official or employee thereof, of the practicability or safety of any structure, use or other plan proposed, and shall create no liability upon, or cause of action against, such public body, official or employee for any damage that may result pursuant thereto. (Amd. Ord. 22-11, 07-18-2011)

SEC. Z-37. RR (RESERVED)

SEC. Z-38. RR RURAL RESIDENTIAL DISTRICT

- (1) Rural Residential District Requirements

- (a) Lot size. Every principal permitted use hereafter erected or located in the R1 District shall have a lot area of not less than twenty thousand (20,000) square feet, with a minimum width at the established building line of not less than one hundred (100) feet.
- (b) Yards. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:
 - FRONT. A front yard equal to at least one-half (1/2) the right- of-way of the street on which the lot fronts; however, in no case shall the front yard be less than thirty (30) feet nor require more than sixty (60) feet.
 - SIDE. A side yard on each side of the zoning lot of not less than fifteen (15) feet; except, where a side yard adjoins a street, the minimum width shall be increased to one-half (1/2) the right-of-way of the adjoining street, with a maximum of sixty (60) feet. (Ord. 6-90)
 - REAR. A rear yard of not less than sixty (60) feet.
- (c) Height. In the RR District, no building shall be erected or altered to a height in excess of thirty-five (35) feet or two and one-half (1 1/2) stories.

- (1) Table of Uses. Permitted Uses and Special Uses in the Rural Residential Zoning District are found in *Article 9, Agricultural and Residential Table of Uses*.

SEC. Z-39. R1 ONE-FAMILY RESIDENTIAL DISTRICT

(1) One-Family Residential District Requirements

- (a) Lot Size. Every principal permitted use hereafter erected or located in the R1 District shall have a lot area of not less than seven thousand nine hundred twenty (7920) square feet, with a minimum width at the established building line of sixty (60) feet. (Ord. 3-98)
- (b) Yards. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:
FRONT. A front yard equal to at least one-half (1/2) the right-of-way of the street on which the lot fronts; however, in no case shall the front yard be less than thirty (30) feet nor require more than sixty (60) feet.
SIDE. A side yard on each side of the zoning lot of not less than six (6) feet; except, where a side yard adjoins a street, the minimum width shall be increased to equal one-half (1/2) the right-of-way of the adjoining street, with a minimum of thirty (30) feet but not require more than sixty (60) feet.
REAR. A rear yard of not less than thirty (30) feet.
- (c) Height. In the R1 District, no building shall be erected or altered to a height in excess of thirty-five (35) feet or two and one-half (2 1/2) stories.

(2) Table of Uses. Permitted Uses and Special Uses in the One-Family Residential Zoning District are found in *Article 9, Agricultural and Residential Table of Uses*.

SEC. Z-40. R2 TWO-FAMILY RESIDENTIAL DISTRICT

(1) Two-Family Residential District Requirements

- (a) Lot Size. The minimum lot size in the R2 District shall be eighty-eight hundred (8800) square feet and have a minimum lot area of not less than forty-four hundred (4400) square feet for each dwelling unit and a minimum width at the established building line of sixty (60) feet.
Every single-family dwelling hereafter erected or located in the R2 District shall have the same lot area requirements as found in the R1 District.
- (b) Yards. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:
FRONT. A front yard equal to at least one-half (1/2) the right-of-way of the street on which the lot fronts; however, in no case shall the front yard be less than thirty (30) feet nor require more than sixty (60) feet.
SIDE. A side yard on each side of the zoning lot of not less than ten percent (10%) of the width of the lot; except where a side yard adjoins a street, the minimum width shall be increased to equal one-half (1/2) of the right-of-way of the adjoining street with a minimum of thirty (30) feet, but not require more than sixty (60) feet.; except, where a side yard adjoins a street, the minimum width shall be increased to equal one-half (1/2) the right-of-way of the adjoining street, with a minimum of thirty (30) feet but not require more than sixty (60) feet.
REAR. A rear yard of not less than thirty (30) feet.
- (c) Height. In the R2 District, no building shall be erected or altered to a height in excess of thirty-five (35) feet or two and one-half (2 1/2) stories.

(2) Table of Uses. Permitted Uses and Special Uses in the Two-Family Residential Zoning District are found in *Article 9, Agricultural and Residential Table of Uses*.

SEC. Z-41. R3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

(1) Multiple-Family Residential District Requirements

- (a) Site Development Plan Review. Every permitted Use or Special Use permitted in the R3 district shall comply with Article XIX., Sec. Z-101, SITE DEVELOPMENT PLAN REVIEW PROCEDURES AND STANDARDS.
- (b) Lot size. The minimum lot size in the R3 District shall be eighty-eight hundred (8800) square feet.
Every multiple-family dwelling hereafter erected or enlarged shall be located on a lot which provides a minimum of twenty-nine hundred (2900) square feet of land area for each dwelling unit.
- (c) YARDS.
FRONT. A front yard of not less than (33) feet.
SIDE. Every principal permitted use, except multiple-family dwellings, shall have a side yard of not less than 6 feet.
On corner lots, where the side yard adjoins a street, the yard shall be considered a front yard.
The required side yards for multiple family dwellings shall be not less than ten feet. Structures greater than two stories in height shall have a minimum side yard setback of ten feet plus five feet for each floor in excess of two stories in height. (Amd. Ord 13-15; 6/1/2015)
REAR. A rear yard of not less than 30 feet.
ALL YARDS, ADJACENT TO A SINGLE-FAMILY RESIDENTIAL (R1) ZONING LOT. A 30-foot buffer area shall be provided between multi-family development and property lines abutting a R1 property line, not including those property lines abutting right-of-way. Within the 30-foot buffer, the following shall apply:
 - (i) No vehicular circulation (i.e., driveways, drive lanes, maneuvering areas, and private streets) shall be allowed within the buffer.
 - (ii) No primary entrance shall face the abutting R1 property.
 - (iii) No active recreation areas (athletic courts, tot lots, etc.) or trash facilities shall be allowed within the 30-foot buffer.
- (d) Height. In the R3 District no building shall be erected or altered to a height in excess of (35) feet or (2-1/2) stories.
- (e) Maximum site coverage. The maximum site coverage for structures and pavement/parking in the R3 District shall not exceed (40%) of the lot area.
- (f) BUILDING DESIGN STANDARDS. New multi-unit construction shall comply with the following standards:
 - (i) EXTERIOR WALL FINISHES. Plywood and metal are prohibited finish materials. Siding and brick are preferred. Materials shall be high quality, durable, and shall age well without discoloring. Exterior color schemes must be approved by Village Staff as part of the Site Development Plan Review.
 - (ii) PORCHES, STOOPS AND VERANDAS. Residential entrances shall be accompanied by a covered porch, stoop, veranda, or other features that highlight entry points and offer protection from inclement weather.
 - (iii) BUILDING ARTICULATION. Street-facing horizontal elevations of building walls shall be articulated a minimum of every 30 feet, by the use of

projections or recesses at least 4-feet in depth. All other elevations shall be articulated at least 4-feet in depth at a minimum of every 50 feet.

(iv) WINDOWS. A minimum of 20% of street-facing facades shall contain windows or doors. All other building facades shall contain a minimum of 10% windows or doors.

(v) MINIMUM OVERHANG. In the case of a gable or hip roof, a minimum 12-inch overhang is required. Soffit shall be required for all multi-residential structures.

(vi) MAILBOXES. Exterior mailboxes for each multifamily development shall be alike in appearance, or a cluster box unit shall be used.

(vii) INFILL. Infill development shall maintain setbacks, facade scale, and spacing compatible with adjoining and opposite buildings/land uses. All new multi-unit buildings located adjacent to single-family dwelling(s) shall not exceed 150% the average height of all dwellings that it abuts, not to exceed 35 feet.

(g) OFF STREET PARKING. In the R3 District off-street parking shall be provided in accordance with the provisions of Article XV. OFF-STREET PARKING AND LOADING of this chapter, and;

(i) Parking lots shall be placed to the side or rear of building.

(ii) All parking, maneuvering and loading areas abutting a property line or right-of-way shall provide perimeter lot landscaping. A minimum 5-foot-wide planting strip shall be planted with canopy trees a minimum of 10 feet apart, and an assortment of low level landscape elements.

(iii) On corner lots, parking areas shall not be located within 30 feet of an intersection, as measured from the center of the curb return to the edge of the parking area.

(h) PEDESTRIAN CIRCULATION.

(i) Internal sidewalks shall be separated a minimum of 5 feet from dwellings, measured from the sidewalk edge closest to any dwelling unit;

(ii) Surface treatment of internal sidewalks shall be concrete, asphalt or masonry pavers, and least 5 feet wide.

(iii) All on-site internal sidewalks shall be lighted.

(iv) Multi-residential developments of more than 20 residential units (even when occurring on two or more parcels) shall provide pedestrian circulation in accordance with the following standards:

1. The internal sidewalk system shall connect all abutting streets to primary building entrances;

2. The internal sidewalk system shall connect all buildings on the site and shall connect the dwelling units to parking areas, bicycle parking, storage areas, recreational facilities and common areas, and abutting public sidewalks and pedestrian trails.

(i) SCREENING AND LANDSCAPING. In the R3 District every multiple family dwelling shall have effective screening along lot lines adjoining any R1 or R2 District. Effective screening shall consist of a solid fence, wall or compact hedge four feet height in required front yards and six feet in height in required side and rear yards.

(j) GARBAGE AND DEBRIS. In the R3 District every multi-family dwelling shall have a dumpster(s) and may have a recycling container(s), in accordance with the provisions of Chapter 30. GARBAGE of the Municipal Code of Machesney Park, provided for the use of the dwelling's residents.

(i) Dumpsters and recycling containers shall be adequately sized to completely contain the garbage, refuse, rubbish, and recyclables produced by the dwelling for the time period established by regularly scheduled pick-up.

(ii) Dumpsters and recycling containers shall be screened in accordance with the provisions of Sec. 20-8(e) Fences, Walls, and Hedges in all Zone Districts (3) of this Chapter. (Amd. by Ord 13-15 – 06/01/2015)

- (2) Table of Uses. Permitted and Special Uses in the Multiple-Family Residential Zoning District are found in *Article 9, Agricultural and Residential Table of Uses*.

SEC. Z-42. R4 MULTIPLE-FAMILY RESIDENTIAL DISTRICT

(1) Multiple-Family Residential District Requirements

(a) Site Development Plan Review. Every permitted Use or Special Use permitted in the R4 district shall comply with Article XIX Sec. Z-101, SITE DEVELOPMENT PLAN REVIEW PROCEDURES AND STANDARDS.

(b) Lot size. The minimum lot size in the R4 District shall be eighty-eight hundred (8800) square feet.

Every multiple-family dwelling hereafter erected or enlarged shall be located on a lot which provides a minimum of fourteen-hundred and fifty (1450) square feet of land area for each dwelling unit.

(c) YARDS.

FRONT. A front yard of not less than (33) feet.

SIDE. Every principal permitted use, except multiple-family dwellings, shall have a side yard of not less than 6 feet.

On corner lots, where the side yard adjoins a street, the yard shall be considered a front yard.

The required side yards for multiple family dwellings shall be not less than ten feet. Structures greater than two stories in height shall have a minimum side yard setback of ten feet plus five feet for each floor in excess of two stories in height. (Amd. Ord 13-15; 6/1/2015)

REAR. A rear yard of not less than 30 feet.

ALL YARDS, ADJACENT TO A SINGLE-FAMILY RESIDENTIAL (R1) ZONING LOT. A 30-foot buffer area shall be provided between multi-family development and property lines abutting a R1 property line, not including those property lines abutting right-of-way. Within the 30-foot buffer, the following shall apply:

(i) No vehicular circulation (i.e., driveways, drive lanes, maneuvering areas, and private streets) shall be allowed within the buffer.

(ii) No primary entrance shall face the abutting R1 property.

(iii) No active recreation areas (athletic courts, tot lots, etc.) or trash facilities shall be allowed within the 30-foot buffer.

(d) Height. In the R4 District no building shall be erected or altered to a height in excess of (45) feet or (3) stories.

(e) Maximum site coverage. The maximum site coverage for structures and pavement/parking

- in the R4 District shall not exceed (50%) of the lot area.
- (f) **BUILDING DESIGN STANDARDS.** New multi-unit construction shall comply with the following standards:
- (i) **EXTERIOR WALL FINISHES.** Plywood and metal are prohibited finish materials. Siding and brick are preferred. Materials shall be high quality, durable, and shall age well without discoloring. Exterior color schemes must be approved by Village Staff as part of the Site Development Plan Review.
 - (ii) **PORCHES, STOOPS AND VERANDAS.** Residential entrances shall be accompanied by a covered porch, stoop, veranda, or other features that highlight entry points and offer protection from inclement weather.
 - (iii) **BUILDING ARTICULATION.** Street-facing horizontal elevations of building walls shall be articulated a minimum of every 30 feet, by the use of projections or recesses at least 4-feet in depth. All other elevations shall be articulated at least 4-feet in depth at a minimum of every 50 feet.
 - (iv) **WINDOWS.** A minimum of 20% of street-facing facades shall contain windows or doors. All other building facades shall contain a minimum of 10% windows or doors.
 - (v) **MINIMUM OVERHANG.** In the case of a gable or hip roof, a minimum 12-inch overhang is required. Soffit shall be required for all multi-residential structures.
 - (vi) **MAILBOXES.** Exterior mailboxes for each multifamily development shall be alike in appearance, or a cluster box unit shall be used.
 - (vii) **INFILL.** Infill development shall maintain setbacks, facade scale, and spacing compatible with adjoining and opposite buildings/land uses. All new multi-unit buildings located adjacent to single-family dwelling(s) shall not exceed 150% the average height of all dwellings that it abuts, not to exceed 35 feet.
- (g) **OFF STREET PARKING.** In the R4 District off-street parking shall be provided in accordance with the provisions of Article XV. **OFF-STREET PARKING AND LOADING** of this chapter, and;
- (i) Parking lots shall be placed to the side or rear of building.
 - (ii) All parking, maneuvering and loading areas abutting a property line or right-of-way shall provide perimeter lot landscaping. A minimum 5-foot-wide planting strip shall be planted with canopy trees a minimum of 10 feet apart, and an assortment of low level landscape elements.
 - (iii) On corner lots, parking areas shall not be located within 30 feet of an intersection, as measured from the center of the curb return to the edge of the parking area.
- (h) **PEDESTRIAN CIRCULATION.**
- (i) Internal sidewalks shall be separated a minimum of 5 feet from dwellings, measured from the sidewalk edge closest to any dwelling unit;
 - (ii) Surface treatment of internal sidewalks shall be concrete, asphalt or masonry pavers, and least 5 feet wide.
 - (iii) All on-site internal sidewalks shall be lighted.
 - (iv) Multi-residential developments of more than 20 residential units (even when occurring on two or more parcels) shall provide pedestrian circulation in accordance with the following standards:
 1. The internal sidewalk system shall connect all abutting streets to primary building entrances;
 2. The internal sidewalk system shall connect all buildings on the site and shall connect the dwelling units to parking areas, bicycle parking, storage areas, recreational facilities and common areas, and abutting public sidewalks and pedestrian trails.

- (i) SCREENING AND LANDSCAPING. In the R4 District every multiple family dwelling shall have effective screening along lot lines adjoining any R1 or R2 District. Effective screening shall consist of a solid fence, wall or compact hedge four feet height in required front yards and six feet in height in required side and rear yards.
 - (j) GARBAGE AND DEBRIS. In the R4 District every multi-family dwelling shall have a dumpster(s) and may have a recycling container(s), in accordance with the provisions of Chapter 30. GARBAGE of the Municipal Code of Machesney Park, provided for the use of the dwelling's residents.
 - (i) Dumpsters and recycling containers shall be adequately sized to completely contain the garbage, refuse, rubbish, and recyclables produced by the dwelling for the time period established by regularly scheduled pick-up.
 - (ii) Dumpsters and recycling containers shall be screened in accordance with the provisions of Sec. 20-8(e) Fences, Walls, and Hedges in all Zone Districts (3) of this Chapter. (Amd. by Ord 13-15 – 06/01/2015)
- (2) Table of Uses. Permitted and Special Uses in the Multiple-Family Residential Zoning District are found in *Article 9, Agricultural and Residential Table of Uses*.

ARTICLE VIII. MOBILE HOMES, MOBILE HOME DISTRICT, AND RECREATIONAL CAMPGROUNDS

SEC. Z-43. GENERAL PURPOSES

The mobile home district is established in order to provide and regulate the placement of mobile homes in the Village with regard to providing adequate standards to protect public health, safety, morals, convenience and general welfare. The general purpose includes the following specific purposes:

- (1) To provide adequate standards and regulations for mobile homes, and to protect and promote the compatibility to adjacent land uses;
- (2) To protect mobile home areas from over-crowding by regulating the intensity of development by density standards;
- (3) To promote public comfort and welfare by providing for usable open space on the same zoning lot with the mobile home development;
- (4) To provide regulations and standards for the development of a safe, healthy, and well-designed community for permanent mobile home living.

SEC. Z-44. LOCATION AND PLACEMENT OF MOBILE HOMES

No mobile home, whether occupied or unoccupied, may be located or placed outside the mobile home district, except as follows:

- (1) For use as a shelter on the site of a construction project, during the course of construction; provided, the mobile home shall not be occupied for human habitation.
- (2) For display purposes as a part of a mobile home sales or rental business; provided, the mobile home shall not be occupied for human habitation.
- (3) For use in conjunction with carnivals, circuses, fairs, rodeos, or Christmas tree sales, while they are on the site.
- (4) For replacement of an existing mobile home pursuant to Section 20-17 of this chapter and only with a special use permit.

SEC. Z-45. MOBILE HOME DISTRICT

- (1) Performance standards for mobile home parks. An overall development plan delineating the street system, parking areas, mobile home sites, recreational uses, utility easements, and any other on-site improvements shall be submitted and reviewed by the Planning and Zoning Manager for compliance with the following performance standards:
 - (a) Mobile home parks shall have not less than twenty (20) acres of land area.
 - (b) There shall be a minimum of six thousand (6,000) square feet of site area per mobile home.
 - (c) Travel trailers, recreational vehicles, non-permanent shelters, or other vehicles designed for sleeping purposes, other than mobile homes, shall not be permitted for occupancy within a mobile home park.
 - (d) A mobile home park shall contain recreational open spaces, not less than 2% of the gross area of which shall be developed for recreational purposes.
 - (e) A designated recreational vehicle, travel trailer, and/or boat storage area shall be provided with an aggregate area of 50 square feet per mobile home space.
 - (f) The mobile home park management shall provide a space on each mobile home site for outdoor storage. If the park management can show that it does not need 50 square feet per mobile home for recreational storage as contained in subsection 2 (e) above, then this section shall be used to meet a portion or all of said requirement.
 - (g) The mobile home stand shall meet the following requirements:
 1. The stand shall be the same size or larger than the mobile home sitting upon it.
 2. The stand shall be built of concrete in either a slab or split-slab fashion.
 3. The gradient shall provide adequate drainage.
 4. Skirting shall be required around each mobile home. Said skirting shall, at a minimum, comply with the Winnebago County Building and Health Codes.
 - (h) All streets for vehicular circulation, including those dedicated to public use and those which are private, shall meet the following minimum requirements:
 1. A thirty (30) foot wide designated right-of-way.
 2. A twenty-two (22) foot wide roadway consisting of ten (10) inches of compact aggregate base surfaced with one and one-half (1 1/2) inches of asphalt.
 3. Four (4) foot shoulders on each side of said roadway.
 4. No cul-de-sacs shall be permitted in a mobile home park.
 - (i) Each mobile home site shall have a paved sidewalk at least thirty-six (36) inches in width between the mobile home and its on-site parking space.
 - (j) Only one mobile home may be located on a mobile home site as designated in a mobile home park, and shall be subject to the following yards and setbacks for each site:
 1. Front yard: a minimum of ten (10) feet.
 2. Side yard: a minimum of five (5) feet.
 3. Rear lot line: a minimum of ten (10) feet.
 4. Minimum distance of twenty (20) feet between mobile homes and/or other permitted structures.
 5. Minimum distance of ten (10) feet from accessory structures or paved parking areas.
 - (k) No mobile home or dwelling shall be located less than twenty-five (25) feet from the property line of the mobile home park.
 - (l) Only one (1) accessory structure shall be permitted on a mobile home site with a maximum size of six hundred (600) square feet. (Ord. 48-95)
 - (m) A minimum of two (2) improved automobile parking spaces shall be provided for each mobile home, both of which shall be on the mobile home site.

- (n) All utilities, including television service, shall be underground.
 - (o) All mobile homes shall comply with the requirements of "The Illinois Mobile Home Tiedown Act."
- (2) Detached Units in Mobile Home Park & Subdivision.
- (a) Lot Size. Every one-family detached dwelling hereafter erected or located in the Mobile Home District shall have a lot area of not less than 6,600 square feet, with a minimum width at the established building line of sixty (60) feet.
 - (b) Yards. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building structure or enlargement:
FRONT. A front yard equal to at least one-half (1/2) the right-of-way of the street on which the lot fronts; however, in no case shall the front yard be less than thirty (30) feet nor require more than sixty (60) feet.
SIDE. A side yard on each side of the zoning lot of not less than six (6) feet; except, where a side yard adjoins a street, the minimum width shall be increased to equal one-half (1/2) the right-of-way of the adjoining street, with a minimum of thirty (30) feet but not require more than sixty (60) feet.
REAR. A rear yard of not less than thirty (30) feet.
 - (c) Height. In the Mobile Home District, no building shall be erected or altered to a height in excess of thirty-five (35) feet or two and one-half (2 1/2) stories.

SEC. Z-46. MOBILE HOME SUBDIVISION

- (1) Intent and purpose. To provide areas for mobile homeowners who wish to own their own land and to regulate these subdivisions.
- (2) General conditions.
 - (a) Mobile home subdivisions shall have not less than twenty (20) acres of land area.
 - (b) Only mobile homes shall be permitted in a mobile home subdivision.
 - (c) There shall be a minimum of six thousand (6,000) square feet of site area per mobile home.
- (3) Design and performance standards. All design and performance standards shall meet the requirements of Appendix B of the Village Municipal Code (Subdivision regulations), and those required in subsection (1) of Section Z-45.
- (4) Table of Uses. Permitted Uses and Special Uses in the Mobile Home Zoning District are found in *Article 9, Agricultural and Residential Table of Uses*.

SEC. Z-47. LOCATION AND PLACEMENT OF RECREATIONAL VEHICLES

No recreational vehicle, whether occupied or unoccupied, may be located or placed outside a recreational campground except as follows:

- (1) For use as a shelter on the site of a construction project, during the course of construction; provided, the recreational vehicle shall not be occupied for human habitation.
- (2) For display purposes as part of a recreational vehicle sales or rental business; provided, the recreational vehicle shall not be occupied for human habitation.
- (3) For use in conjunction with carnivals, circuses, fairs or rodeos while they are on the site.
- (4) In residential districts, as regulated by Chapter 12, Article VI of the Village Code.

SEC. Z-48. RECREATIONAL CAMPGROUNDS

(1) LOCATION.

Recreational campgrounds are allowed only in the agricultural districts, and only with a special use permit.

(2) PURPOSES.

The recreational campground special use permit procedures are established in order to provide and regulate the placement of recreational vehicles in the Village with regard to providing adequate standards to protect and promote public health, safety, morals, convenience and general welfare. The general purpose includes the following specific purposes:

- (a) To provide regulations and standards for accommodating recreational vehicles having temporary occupancy in the Village;
- (b) To provide sites for accommodating recreational campgrounds in appropriate areas;
- (c) To comply as much as possible with the objective and purposes of the zoning district in which recreational campgrounds are located, and to protect and promote the compatibility of recreational campgrounds to adjacent land uses;
- (d) To insure adequate light, air, access and service for each recreational vehicle;
- (e) To provide for temporary occupancy in recreational campgrounds which are located on land having definite recreational and environmental resources.

(3) REGULATIONS.

(a) Administration.

1. Pre-application Conference. Prior to applying for a special use permit, the applicant is required to confer with the Plats Committee. A conference shall be scheduled by the Planning and Zoning Manager within thirty (30) days after receipt of the following basic information and data, displayed to scale on maps:

- a. The boundaries of the property;
- b. Existing easements and covenants affecting the property.
- c. Land characteristics, such as natural drainage, swamp areas and wooded areas.
- d. Development characteristics, such as surrounding streets, existing buildings, availability of community sewer, water and other utilities.
- e. An overall land use development plan delineating the street systems, parking areas, concrete pads, recreational areas, public and private utility installation and any additional on-site improvements.

(b) Accompanying the land use development plan shall be a phasing plan for the development of the projects.

2. Special Use Permit Filing Procedure. After the receipt of a written report from the Plats Committee, the applicant may file for a special use permit in accordance with provisions of Article XIII of this chapter.

(c) General conditions.

1. Recreational campgrounds shall have not less than twenty (20) acres of land area.
2. Recreational campgrounds shall be developed in accordance with design standards set forth in this Article.

(d) Design and performance standards.

1. Each campground shall provide a sanitary dumping station to enable recreational vehicles to empty their waste facilities as approved by the County Health Department.
2. All utilities, including television service, shall be located underground.
3. Sanitary facilities, as approved by the County Health Department, shall be provided.

ARTICLE IX. AGRICULTURAL AND RESIDENTIAL TABLE OF USES

Land Uses in Agricultural and Residential Zoning Districts are listed in Section Z-49. Permitted Uses are denoted with a “P”, and Special Uses are denoted with a “S”.

SEC. Z-49. AGRICULTURAL AND RESIDENTIAL LAND USES

Agricultural and Residential Land Use	Regulating Section	AG	RR	R1	R2	R3	R4	MH
One-Family Detached Dwelling		P	P	P	P	P	P	P
Two-Family Dwelling					P	P	P	
Multi-Family, 5 units or less per structure	Sec. Z-101					P	P	
Multi-Family, 6 units or more per structure	Sec. Z-101						P	
Accessory Buildings	Sec. Z-12	P	P	P	P	P	P	P
Mobile Home Parks and Mobile Home Subdivisions	Sec. Z-44, Z-45, and Z-46							P
Agriculture, Horticulture and Forestry	Sec.Z-49(1)	P						
Airports, Landing Strips and Heliports	Sec. Z-49(2)	S						
Boarding Houses and Group Living						S	S	
Bed and Breakfast Inn	Sec. Z-49(3)	S	S	S	S	S	S	
Bingo and Similar Games of Chance	Sec. Z-59(3)	P	P	P	P	P	P	
Cemeteries, Crematories and Mausoleums, at least 500’ from any dwelling		S	S	S	S	S	S	
Child Daycare		S	S	S	S	S	S	
Churches and Similar Religious Institutions, including Dormitories and Accessory Uses	Sec. Z-49(4)	S	S	S	S	S	S	
Commercial Fishing Ponds or Lakes		S						
Commercial Stables and Riding Trails		S						

Community Swimming Pools	Sec. Z-49(5)			S	S	S	S	
Dog Kennels, Commercial	Chap. 11	P						
Drop-Box		S						
Family Care Facilities	Sec. Z-49(6)	P		P	P			
Feed, Seed, and Farm Implement Sales		S						
Funeral Homes					S	S		
Golf Courses, with structures at least 200' from any dwelling		P	S	S	S	S	S	
Home Occupations	Article IV	P	P	P	P	P	P	
Hospitals and In-Patient Medical Facilities	Sec. Z-49(7)					S	S	
Livestock and Keeping of Farm Animals; provided the lot area is a minimum of 15 acres	Sec. Z-49(8)	P						
Medical and Dental Offices and Clinics		S				S	S	
Non-Profit and Charitable Institutions			S			S	S	
Nursing Homes and Convalescent Care	Sec. Z-49(9)					S	S	
Off-Street Parking for nearby business or industry	Sec. Z-49(10)		S	S	S	S	S	
Parks, Forest Preserves and Recreational Areas		P	P	P	P	P	P	
Planned Community Developments and Planned Unit Developments, Optional	Sec. Z-100 and Z-101		S	S	S	S	S	
Police Stations and Fire Stations		S	S	S	S	S	S	

Private Recreational Areas or Camps, not for profit			S					
Public Utility Uses	Sec. Z-49 (11)	P	S	S	S	S	S	
Racetracks for Automobiles, Cycles, and Snowmobiles		S						
Radio and Television Towers		S	S	S	S	S	S	
Railroad Right-of-Way and Trackage, not including Maintenance Yards		P	S	S	S	S	S	
Recreational Campground	Sec. Z-48	S						
Sale of products produced on premises, from temporary stands or from existing farm buildings		P						
Schools and Educational Institutions		P	S	S	S	S	S	
Storage of Commercial Vehicles		S						
Temporary Buildings, for Construction purposes, not for Human Habitation		P	P	P	P	P	P	P
Veterinary Clinic and Veterinary Hospital		S						
Wind Operated Energy Devices, Provided the lot area is a minimum of 2.5 acres		P	S	S	S	S	S	
Wind Operated Energy Devices, Roof-Mounted for On-Site Power Supply Only	Sec. Z-49(12)	P	P	P	P	P	P	

1. Agricultural, Horticultural, and Forestry, includes:
 - a. Crop and tree farming;
 - b. Truck gardening and wholesale nursery operations;
 - c. The operation of any machinery or vehicles incidental to the farming operation;
 - d. The keeping and raising of agricultural and livestock animals, for pleasure or for use or profit. These animals include horses, sheep, cattle, goats, pigs, chickens, and bees.

2. Airports, Landing Strips and Heliports, Private and Public
 - a. Site design: Site design shall comply with the requirements of the Federal Aviation Administration, as amended.

- b. Setbacks: Runways, taxiways, and helipads shall be setback a minimum of two thousand (2,000) feet from all property lines.
 - c. Noise: Written evidence of the documented noise levels for aircrafts to be used (Sound Pressure Level measured at 100 foot intervals from the use at 1k hz) must be provided.
3. Bed and Breakfast Inn
- a. Owner-occupied: the owner and/or operator of the bed and breakfast use must reside in the bed and breakfast dwelling.
 - b. Guest rooms: A maximum of 5 guest rooms are permitted. Depending upon the location, the available buffers, and amount of available parking, the Village may restrict the number of guest rooms to a lesser number.
 - c. Meals: Only guests staying in the dwelling, employees, or persons living in the premises may be served meals. Cooking implements including, but not limited to, stoves, grills, or ovens are not allowed in the individual guest rooms.
 - d. Duration of stay: Guest stays shall be limited to 21 consecutive days.
 - e. Detached carriage houses and cottages: Detached carriage houses and cottages, no less than 400 square feet, are permitted as 1 guest room per bed and breakfast.
 - f. Off street parking: All bed and breakfast facilities shall comply with the required number of parking spaces in accordance with the "Hotel and Motel" use in Section 20-59, Schedule of Parking Requirements. Guest parking spaces are not permitted in the front yard or in the right-of-way.
 - g. Bed and Breakfast uses are subject to the hotel-motel tourism tax, and shall submit the tax to the Village monthly, with a completed Hotel-Motel Tax Return Form.
 - h. Other applicable regulations: A Bed and Breakfast shall comply with all applicable State, Federal and local regulations, including but not limited to 50 ILCS 820 (Bed and Breakfast Act), as amended.
4. Bingo and Similar Games of Chance
- a. Permitted in only religious, charitable, labor, fraternal, youth organization, senior citizen, educational or veterans' organizations, which have been licensed by the State of Illinois Department of Revenue to conduct such games.
 - b. Net proceeds from the games must be exclusively devoted to the lawful purpose of the organization permitted to conduct the game. No person may receive any profit for participating in the management or operation of such games, with the exception of the reduction of fees or tuition for educational institutions, consistent with State regulations.
 - c. The conduct of any Bingo or Similar Games of Chance shall be in accordance with the regulations of the Illinois Pull Tabs and Jar Games Act (230 ILCS 20/), the Illinois Bingo License and Tax Act (230 ILCS 25/), and the Illinois Charitable Games Act (230 ILCS 30/), as may be amended from time-to-time, and regulations promulgated thereunder (Ord. 08-22, 02/07/22)
4. Churches and Similar Religious Institutions
- a. Site design: Where possible, open space areas including but not limited to storm water detention facilities shall be located adjacent to residential property. Parking lots shall be located close to the rights-of-ways and away from adjacent residential property.

- b. Outdoor activities: Details for all outdoor activities shall be included in the Special Use Permit application. Outdoor activities shall not be permitted after 8:00 p.m. on lots which are adjacent to residential property.
 - c. Traffic control: For churches or religious establishments with over 400 seats, manual traffic control shall be required, at the discretion of the Village.
 - d. Nursery School/Preschool: Details for accessory nursery school or preschool associated with the religious establishment shall be included in the special use permit application.
5. Community Swimming Pools
- a. The swimming pool shall have an area no greater than five thousand (5,000) square feet and shall be on a lot with an area of not less than two (2) acres.
 - b. Every pool, building, or paved play area shall be no less than one hundred (100) feet distant from every abutting property line in any residential district.
 - c. Pumps and filtration stations shall be no less than fifty (50) feet from every abutting property line in any residential district.
 - d. The sale of refreshments shall be from the principal building.
6. Family Care Facilities
- a. Size requirements and occupancy limitation: A minimum of seventy (70) square feet of bedroom space for every resident, exclusive of caregiver's rooms shall be provided. A maximum of eight (8) occupants is allowed per property.
 - b. Other applicable regulations: Group Dwellings shall comply with all applicable State and Federal regulations, including the Illinois Accessibility Requirements.
7. Hospitals and In-Patient Medical Facilities
- a. Minimum development area: Hospitals shall be located on property with a minimum of five (5) acres.
 - b. Access roads: Hospitals shall have access to an arterial or major collector street. Traffic shall not travel through neighborhood connector or local streets.
 - c. Loading area: A designated drop-off/pick-up area shall be included in front of the building, that is long enough to accommodate a bus and which is exclusive of the required parking lot drive aisles.
 - d. Heliport/helipad: If a heliport or helipad is provided as an accessory use to the facility, it shall be located at least one thousand (1,000) feet from surrounding residential property. The heliport/helipad shall meet all Federal Aviation Administration guidelines as applicable.
8. Livestock and Keeping of Farm Animals
- a. Food-Producing Animals and other Farm Animals shall only be permitted on Agricultural-Zoned Parcels that are a minimum of 15 acres in size.
 - b. These animals include: bees, poultry, horses, donkeys, sheep, goats, cattle, swine and any other livestock.
 - c. Miniature breeds of these animals, as pets (i.e., miniature goats, pigs, etc.) are deemed to be farm animals.

9. Nursing Homes and Convalescent Care Facilities
 - a. General: Applications for nursing home and convalescent care facilities shall include a description of the proposed use, including the maximum number of residents and the nature of the condition of circumstances for which care, or a planned treatment or training program will be provided, the number of staff and the name of the agency responsible for regulating or sponsoring the use.
 - b. Loading area: A drop-off/pick-up area in front of the building that can accommodate three 20-foot-long vehicles and exclusive of the required parking lot drive aisles, shall be provided.
 - c. Other applicable regulations: The proposed facility shall maintain all applicable licenses required by the appropriate agencies for the use described in the application.

10. Off-Street Parking for Nearby Business or Industry
 - a. There must be a need for this parking facility, in the interest of public necessity and convenience.
 - b. There must be no other appropriate site available in nearby commercial or industrial areas.

11. Public Utility Uses, includes:
 - a. Filtration plant, pumping station and water reservoir;
 - b. Sewage treatment plants;
 - c. Portable signs;
 - d. Telephone exchanges;
 - e. Electric and gas substations and booster stations;
 - f. Other governmental uses

12. Wind Operated Energy Devices, Roof-Mounted for On-Site Power Supply Only
 - a. General: One roof-mounted wind turbine is allowed per parcel, only if it supplies electrical power solely for on-site use.
 - b. Height: The turbine structure with supports shall not be more than 8 feet in height. Also, the turbine upon the roof shall not extend taller than the maximum height allowed for principal structures in the zoning district in which the parcel is located.
 - i. On a vertical-axis turbine, height shall be measured at the tallest point.
 - ii. On a horizontal-axis turbine, height shall be measured at the highest extent of a blade tip.
 - c. Appearance: All turbine equipment shall have a flat finish and shall not have any lighting attached to or projected onto it.
 - d. Permitting: An electrical building permit must be applied for and issued prior to installation of any roof-mounted turbine equipment. (Ord. 26-22, 07/05/22)

ARTICLE X. COMMERCIAL DISTRICTS

SEC. Z-50. GENERAL PURPOSES

The commercial districts are established in this chapter in order to achieve the following general purposes:

- (1) To protect commercial areas against fire, explosion, noxious fumes, offensive noise, smoke, vibrations, dust, odor, heat, glare and other objectionable influences incidental to industrial uses.
- (2) To provide appropriately located areas for retail stores, offices, service establishments, wholesale business and amusement establishments offering commodities and service required by residents of the Village and its market area.
- (3) To provide opportunities for retail stores, offices, service establishments, wholesale business and amusement establishments to concentrate in certain areas for the convenience of the public and for the beneficial relationship of each other.
- (4) To provide for community facilities and institutions that may be located in commercial areas.
- (5) To provide adequate space to meet the needs of commercial development, including off-street parking and loading facilities.
- (6) To minimize traffic congestion and to avoid the over loading of public facilities by regulating the construction of building in relation to the area of the zoning lot.
- (7) To minimize any blight, objectionable appearance, or detrimental effect to adjacent properties by requiring all exterior structural surfaces and exterior areas of premises to be maintained in a structurally sound, weatherproofed, and damage-free condition. (Ord. 4-97)

SEC. Z-51. SPECIAL PURPOSES

In addition to the general purposes prescribed in Section 20-50, each commercial district has been established in this chapter to achieve the following special purposes:

- (1) The CN Commercial Neighborhood District is established for the convenience of persons residing in nearby residential areas and is limited to accommodating the basic recurring shopping needs of the typical family. The area of the CN district should be limited in order to reduce the traffic generated to an amount which will not be detrimental to the surrounding residential neighborhood.
- (2) The CC Commercial Community District is established to accommodate a greater variety of goods and services than permitted in the CN District, including business establishments which serve a larger segment of the Village than the immediate surrounding residential area. This district includes the sub-regional shopping centers.
- (3) The CG Commercial General District is established to accommodate a greater variety of goods and services than permitted in the CC District, and to provide appropriately located areas for commercial uses having features that are incompatible with the purpose of other commercial districts.

SEC. Z-52. COMMERCIAL DESIGN STANDARDS

1. Intent. The commercial design standards are intended to elevate the standard of the built environment in the Village of Machesney Park. The standards have been written to attract quality, aesthetic developments that raise and maintain property values in the Village. These minimum design standards offer flexibility in order to recognize business identities that influence the look and feel of commercial developments.

2. Applicability

- a. New Buildings. The commercial design standards shall apply to all new buildings constructed in the CN Commercial Neighborhood, CC Commercial Community, CG Commercial General, and OF Office districts

as of the effective date of this Ordinance. *(Excluded from these design standards are public schools, colleges, universities and professional schools that may be constructed in any of these zoning districts.)*

- b. Existing Buildings. These standards also apply to all existing structures in the CN, CC, CG, and OF zoning districts that undergo improvements, including, but not limited to, renovation, an addition, reconstruction, painting, or exterior façade treatments, for which at least 25% of the surface area of all building elevations are affected by the improvement. For existing buildings, only the standards for applicable design elements will apply.

3. Interpretation of Standards. The commercial design standards provide a consistent means to apply design criteria to all new developments. To maintain consistent application of these standards, the Community Development Department staff shall be responsible for administration of the commercial design standards. Refer to review procedures in Paragraph 5.

4. Standards for Development

- a. Design elements required: The combination of design elements per Table A below is required for any commercial property.

Table A, Applicability of Design Elements		
Section	Standard	Commercial Development
4b	Building Form and Layout	B
4c	Building Massing and Articulation	O
4d	Rooflines	O
4e	Parapet Walls	O
4f	Building Materials	M
4g	Roof Materials	O
4h	Rooftop mechanical screening	M
4i	Building Colors	M
4j	Building Fenestration	O

4k	Entrance Design	O
4l	Canopy/ Awning Design	M*
4m	Parking Areas and Trash Enclosures	M
<p>M = Standard is mandatory O = Standard is optional M* = Standard is mandatory, if applicable B = Bonus standard, applicable criteria can be applied to meet other optional or mandatory standards</p> <p>All new commercial buildings/developments are required to comply with all mandatory standards and at least three (3) of the six (6) optional standards.</p>		



b. Building Form and Layout

- (i) In developments with multiple structures, recurring forms and materials shall be used to tie the development together, while establishing an overall hierarchy of buildings for visual interest and to aid in orientation.
- (ii) Where a private shopping street/drive is to be created, structures are to be constructed with minimal retail storefront setbacks at internal roadways to create a pedestrian oriented “street wall”. (See Figure 1).
- (iii) Along storefronts and at building entrances, generous-sized walkways, measuring at least 15-feet in width, shall be provided to

Figure 1. Example of a walkable, pedestrian area that allows for decorative lighting, benches, and planters.

establish a comfortable pedestrian zone adjacent to storefronts and to allow for the addition of planters or green areas. (See Figure 1).

- (iv) Any outdoor seating areas require separate approval from the Village and shall be complementary to the principal structure and use of the building.
- (v) All service entrances, dumpsters, refuse, loading facilities and outdoor storage, where permitted, shall be located at the rear of the buildings.

[Must meet all of the applicable criteria (i) - (v) to officially meet the Building Form standard.]

c. Building Massing and Articulation

- (i) The apparent mass and bulk of a building must be reduced by structural articulation, windows or other architectural and functional elements. Structural articulation can include breaking the plane of the building by off-sets (horizontal and vertical), variation in materials, insets for entryways or balconies, step-backs, or through the use of alternative roof-mounted structures, such cupolas or dormers. (See Figure 2)
- (ii) Long front facades must demonstrate a rhythm and articulation of “storefront” modules, to lend a pedestrian scale to the development, as opposed to a block or box that sits immediately adjacent to the roadway (internal or public).
- (iii) Building forms must be articulated by varying roof heights and wall planes. Upper story setbacks and false second stories are to be utilized to add visual interest. Long, unbroken volumes and large, unarticulated wall and roof planes are not permitted. (See figure 3)
- (iv) All façades shall incorporate wall offsets in the form of projections and/or recesses in the façade plane, a minimum of one offset/recess/projection every 50 feet of frontage. Offsets, recesses and projections must have a minimum differential of at least 6 inches to be considered.
- (v) Where gable, hip or mansard roofs are used they shall be scaled to the face of the building so as not to dominate the elevation nor be so small as to appear disproportionate. (See Figure 4)

[Must meet 3 of the 5 applicable criteria (i) - (v) to officially meet the Building Massing and Articulation standard.]

d. Rooflines

- (i) Large expanses of consistent roof sections shall be avoided. Visual diversity can be achieved by:
 - I. Varying the roof line
 - II. The addition of dormers.
 - III. Staggering the facade of the building

Figure 2. Using roof-mounted structures and varying roof styles to add interest to building mass.



Figure 3. Good use of pilasters, varying rooflines, building materials, awnings and projections.



Figure 4. Roof structures should be appropriately scaled so as not to dominate the elevation.



Figure 5. The eaves of a roof shall project at least



Figure 6. Faux roof structures should be used to break up the mass of the building and to screen roof-top mechanical units.



Figure 7. Example of appropriate use of building materials.

- (ii) Pitched roofs shall have overhangs. Eaves must project at least 12 inches beyond the façade line. (See Figure 5).

[Must meet 1 of the 2 applicable criteria (i) - (ii) to officially meet the Roofline standard.]

e. Parapet walls (where applicable)

- (i) Where parapet walls are utilized, these features must have a defined top, framing the building façade. A narrow piece of metal flashing or stone cap is inadequate to create this distinction. Brick patterns, stone caps with an overhang and shadow line, and contrasting color for flashing are examples of treatments which may be considered to meet this criteria.
- (ii) Parapets cannot appear to be “tacked on”. Parapets must provide sufficient articulation of detail such as: precast treatments, continuous banding, projecting cornices or corner details.
- (iii) Faux-pitched roofs (through the use of parapets) are allowed and should be used to shield roof-based mechanical equipment. (See Figure 6)
- (iv) All roof-top mechanicals shall be screened with a parapet wall or other acceptable design feature, in accordance with section 4h.

[Must meet 4 of the 4 applicable criteria (i) - (iv) to officially meet the Parapet Wall standard.]

f. Building Materials

- (i) The primary building material (accounting for at least 50% of the façade surface area) for any new construction shall be traditional masonry building materials, including brick, stone, and wood. Masonry materials shall be used on all sides of the building expressing consistent architectural character and detail. Split-face block is allowed but shall not be the dominant construction material on buildings smaller than 15,000 square feet in area. (See Figures 7, 8 & 11)
- (ii) Exterior insulation finish systems (EIFS)/ Drivit® is not permitted as the primary building material but is allowed as an accent material and cannot account for more than 50% of the total façade area, and shall be located in the upper half of the building only, never at a point where the façade meets the finished floor/ground level. (See Figures 7 & 10).
- (iii) The use of metal panels as a primary building material is not permitted, except as an accent material. Metal may be used for gutters, downspouts, railings, trim, grills, panels and flashing. When used, metals will have an anodized, painted or powder coated finish in muted, earth-toned colors. The use of unfinished, exposed metals is not permitted. (See Figure 9)



Figure 8. Example of appropriate use of building materials



Figure 9. Metal buildings are not allowed.



Figure 10. EIFS as the primary building exterior building material is not allowed.



Figure 11. Example of appropriate use of building materials.



Figure 12. Mansard roof designs are prohibited.

- (iv) Where transitions in material are made, the transition will not occur at an outside corner edge. All materials on the front will turn the corner and carry over to the side elevation to a point at which the corner looks solidly finished. Material changes at the outside corners of structures give an impression of thinness and artificiality and should be avoided.

[Must meet 4 of the 4 applicable criteria (i) - (iv) to officially meet the Building Materials standard.]



Figure 13. Skylights are discouraged in applications such as in the photo.

g. Roof Materials

- (i) Roofing surfaces visible from the ground level shall consist of slate, asphalt shingle, clay or ceramic roofing materials. Where asphalt shingles are used “Architectural” shingles must be used.
- (ii) Clay or ceramic roof tiles are appropriate when complementary with the overall façade design in color, tone, and architectural style.
- (iii) Mansard, polished, glossy, shiny or reflective roofing materials are not permitted. (See Figure 12)
- (iv) Metal roofing materials other than copper are not permitted, except when subtly integrated into the overall façade design. The finish and color of the metal surface shall be approved by staff.
- (v) Skylights are discouraged, except when subtly integrated into the roof design or where they are integral to active or passive solar energy system designs. (See Figure 13)

[Must meet 4 of the 5 applicable criteria (i) - (v) to officially meet the Roof Material standard.]



Figure 14. Multiple primary colors on a façade are not permitted.

h. Rooftop mechanical screening

- (i) All new buildings constructed in the CN Commercial Neighborhood, CC Commercial Community, CG Commercial General, and OF Office districts as of the effective date of this Ordinance shall adequately screen mechanical equipment and other rooftop structures from view by locating the units in the center of the building (or tenant space) or as far from the street side facade as possible.

If more than 50% of the rooftop appurtenances are still visible after utilizing the method above, then the rooftop appurtenances shall be screened by a parapet wall, solid metal sight screening or similar systems designed for use as screening of these types of devices.

- (ii) All screening shall comply with all applicable building and fire codes for fire rating, wind load and structural integrity.

- (iii) Compliance with these screening standards shall be computed from all adjacent rights-of-way. Additionally:

- l. Uses adjacent to residential uses may be required to provide sound



Figure 15. Good use of complementary colors.



Figure 16. Neon or fluorescent building colors are not permitted.



Figure 17. Appropriate use of windows to soften long, expansive facades.

buffering measures.

- II. All uses in commercial and office zoning districts are to screen from all sides, except any side that abuts an industrial use.

[Must meet 3 of the 3 applicable criteria (i) - (iii) to officially meet the Roof mechanical screening standard.]

i. Building Colors

- (i) Colors shall complement each other. While complementary colors for different elements are encouraged, a multitude of varying colors on each façade is not permitted. Earth-tones are preferred, but not mandatory. (See Figures 14 & 15)
- (ii) Contrasting trim colors shall be used to highlight architectural elements such as window and door surrounds. Harsh contrasts should be avoided, except where true to the architectural style of the building.
- (iii) Applied elements such as awnings, light fixtures, downspouts, railings and signage shall coordinate with, rather than dominate the color scheme of the building. The elements may be the same color as the background wall, a contrasting shade of the same color, or a more distinctive contrasting color. It is important for these elements to blend with the building's color palette.
- (iv) Primary, fluorescent or neon colors are not permitted for use as accent colors including awning body color. (See Figures 14 & 16)

[Must meet 3 of the 4 applicable criteria (i) - (iv) to officially meet the Building Color standard.]

j. Building Fenestration (*the arrangement, proportioning, and design of windows in a building*).

- (i) Buildings should meet the ground with a solid base treatment that creates a visual transition from sidewalk to building wall.
- (ii) In larger buildings (over 15,000 square feet) a variety of window sizes and styles should be utilized to create interest. (See Figure 18)
- (iii) Building window patterns should add variety, soften the appearance of long expansive walls, and add interest to the architectural appeal of buildings. (See Figure 17)
- (iv) Utilize wood or dark anodized window framing to add depth and richness to the appearance of the building.
- (v) When front doors do not face the street frontage, display windows or distinctive façade treatments shall be provided along public road frontages.
- (vi) Window glazing shall be clear or slightly tinted. Dark, mirrored, reflective glass or glass block is prohibited.



Figure 18. Appropriate use of various-sized windows.



Figure 19. Acceptable entrance design.



Figure 20. Preferred entrance example.



Figure 21. Garage doors must contain glass panels.



Figure 22. Awnings should not contain continuous signage or wrap around buildings.

[Must meet 3 of the 6 applicable criteria (i) - (vi) to officially meet the Building Fenestration standard.]

k. Entrance Design

- (i) Recessed or projected entries and articulation in storefront mass is required. Recesses or projections shall be at least 12 inches. (See Figures 19 & 20)
- (ii) Entrances shall be highlighted by a change in the wall plane. This can be accomplished through wall articulation around the door and projecting beyond the door.
- (iii) Utilize projections above and surrounding the main entrances to highlight the entrance features.
- (iv) Entrances shall be highlighted by implementation of architectural elements such as flanked columns or decorative fixtures.
- (v) Varied paving textures/materials shall be added to define entrances.
- (vi) Garage doors shall contain glass panels over at least 33% of the surface area of the door. (See Figure 21)

[Must meet 3 of the 5 applicable criteria (i) - (vi) to officially meet the Entrance Design standard.]



Figure 23. Awnings shall not be internally illuminated.



Figure 24. Appropriate use of awnings.

l. Canopy/ Awning Design

- (i) Awnings shall not be wrapped around buildings in continuous bands. (See Figure 22)
- (ii) Awnings should only be placed on top of doors, on top of windows, or within vertical elements when the façade of a building is divided into distinct structural bays. (See Figure 24)
- (iii) When awnings are lit externally with direct lighting, architecturally interesting fixtures, such as goosenecks shall be utilized. Internal illumination is not permitted. (See Figure 23)
- (iv) Awning colors should complement the overall building color scheme. Colors should coordinate with, rather than dominate, the color scheme for the building. Awnings may be the same color as the background wall, a contrasting shade of the same color, or, a more distinctive contrasting color. Bold Primary, Fluorescent or Neon colors are not permitted as the awning body color.
- (v) Plexiglas, glossy vinyl and canvas awnings are not permitted. Metal, matte finish vinyl, fabric and treated canvas awnings are required.
- (vi) The use of fan/ umbrella shaped awnings is not permitted.

[Must meet 5 of the 6 applicable criteria (i) - (vi) to officially meet the Canopy/Awning standard.]



Figure 25. Good example of perimeter parking lot landscaping, curbing and an approved surface.

m. Parking Areas and Trash Enclosures

- (i) All parking areas shall be paved with an approved surface, and spaces shall be clearly delineated at all times, and shall maintain adequate surfaces for vehicle travel at all times.
- (ii) Parking areas shall be contained with curbing (perimeters and landscape islands) unless it is determined by the Village Engineer that the curbing would restrict stormwater management. (See Figure 25)
- (iii) All perimeters of parking lots abutting public or private roadways shall maintain a 5-foot-wide landscape area, containing deciduous trees, ground cover, and perennials. The width of the perimeter landscape area can be reduced by staff, where practical. (See Figure 26)
- (iv) Parking areas containing over 200 parking spaces shall contain clearly marked pedestrian pathways throughout the interior of parking areas to avoid large expanses of asphalt and to enhance pedestrian safety.
- (v) Parking lot landscaping shall include “landscape islands” at both ends of each row of parking spaces. Landscape islands shall measure 9 feet in width by 19 feet in length; however, the length may be reduced to 17.5 feet where there is available area for 1.5 feet of vehicle overhang. Landscape islands shall consist of Village approved deciduous tree, and decorative ground cover and be a minimum size of nine (9) feet by eighteen (18) feet. Excessive mulch and stone are prohibited.
- (vi) Within the commercial areas, adjacent parking areas shall be connected via cross-access, as determined by Staff.
- (vii) Parking areas that are in use during the evening hours or overnight in a 24-hour operation shall be effectively illuminated.
- (viii) All refuse containment areas shall be located to the rear of buildings (where practical) and be provided with solid access doors or gates equipped with self-closing mechanisms. (See Figure 27)
- (ix) Detached trash enclosures shall be of masonry construction on three sides and should complement the overall building design. Enclosures shall have landscaping around the perimeter on three sides. (See Figures 27 & 28)

[Must meet all 9 of the applicable criteria (i) - (ix) to officially meet the Parking Areas and Trash Enclosure standard.]



Figure 26. Acceptable landscape islands.

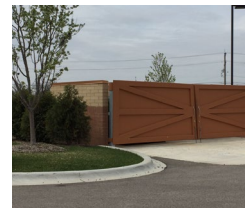


Figure 27. Preferred trash enclosure screening.

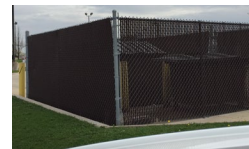


Figure 28. Unacceptable trash enclosure screening.

5. Review procedures

- a. Building permit applications for new commercial buildings constructed in the CN Commercial Neighborhood, CC Commercial Community, CG Commercial General, and OF Office districts shall be accompanied by the following:
 - (i) A site plan, containing: building area, land area, floor-to-area ratio, impervious lot coverage, parking spaces, sign location(s), screened trash container area, loading docks, fire lanes, and utility easements.
 - (ii) A floor plan
 - (iii) Building elevations with adequate detail to illustrate the architectural features required by the commercial design standards, as well as building dimensions, and roof pitch (where applicable).
 - (iv) A landscape plan indicating plant material species (cultivar), plant locations, quantities, size at planting, spacing, and utility easement locations.
 - b. Plans must be reviewed by Village staff prior to commencing construction to confirm compliance with the commercial design standards, and upon confirmation of compliance, a building permit will be granted.
 - c. Changes or revisions to architectural plans following permit issuance will require subsequent review and approval by Village staff prior to implementing amendments, revisions, or changes in the field.
6. Failure to comply with architectural design standards
- a. Developments which fail to comply with the commercial design standards and/or the approved architectural plans shall not be issued a temporary or final certificate of occupancy.
 - b. The Village reserves the right to issue a stop work order upon confirmation of any construction project which fails to comply with any of the provisions of the commercial design standards.
 - c. A failure to comply with any provision of Article 8, Section 20-47 shall constitute a violation. Every day on which a violation exists shall constitute a separate violation and a separate offense. Each violation may be fined not less than \$200.00 nor more than \$500.00.

SEC. Z-53. COMMERCIAL DISTRICT REGULATIONS

- (1) Yards. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement:
 - (a) FRONT. A front yard of at least thirty (30) feet for buildings under twenty-five (25) feet in height. For buildings exceeding twenty-five (25) feet in height, the minimum front yard shall be increased by one foot for each two (2) feet or fraction thereof by which the building height exceeds twenty-five (25) feet, but in no case shall a front yard of more than sixty (60) feet be required.
 - (b) SIDE. Side yards of at least five (5) feet for buildings under twenty-five (25) feet in height. For buildings exceeding twenty-five (25) feet in height, the minimum side yard shall be increased by one foot for each four (4) feet or fraction thereof by which the building height exceeds twenty-five (25) feet, but in no case shall a side yard of more than sixty (60) feet be required.

- (c) CORNER LOTS. On corner lots, where the side yard adjoins a street, the side yard shall be determined in the same manner as the front yard.
 - (d) REAR. A rear yard of not less than twenty-five (25) feet.
 - (e) ALL YARDS, ADJACENT TO A SINGLE-FAMILY RESIDENTIAL (R1) ZONING LOT OR A TWO-FAMILY RESIDENTIAL (R2) ZONING LOT. A 30-foot buffer area shall be provided along property lines abutting a R1 or R2 property line, not including those property lines abutting right-of-way. Within the 30-foot buffer, the following shall apply:
 - (i) No building shall be erected within the buffer.
 - (ii) No vehicular circulation (i.e., driveways, drive lanes, maneuvering areas, loading facilities, and private streets) shall be allowed within the buffer.
 - (iii) No signage shall be allowed within the buffer.
 - (iv) No accessory areas (i.e., dumpsters, seating areas, patios, bicycle racks, communication towers, and other areas as defined by the Planning and Zoning Manager.) shall be allowed within the buffer. (Amd. Ord. 27-14; 11/3/2014)
- (2) Height.
- (a) In the CN Commercial Neighborhood District, no building shall be erected or altered to a height in excess of thirty-five (35) feet or two and one-half (2 1/2) stories.
 - (b) In the CC Commercial Community District there shall be no height regulations.
 - (c) In the CG Commercial General District there shall be no height regulations.
- (3) Table of Uses. Permitted Uses and Special Uses in the Commercial Zoning Districts are found in *Article 13, Commercial and Industrial Table of Uses*.

ARTICLE XI - OFFICE DISTRICT

SEC. Z-54. GENERAL PURPOSE

The OF District is established primarily to accommodate business and professional offices and institutional uses. This district is applied to select locations throughout the Village. Being less restrictive than the Residential Districts and, generally, more restrictive than the Commercial Districts.

SEC. Z-55. OFFICE DISTRICT REGULATIONS

- (1) Yards. No building shall be erected or enlarged unless the following yards are provided and maintained in connection with such building, structure or enlargement.
- (a) FRONT. A front yard equal to at least one-half (1/2) the right-of-way of the street on which the lot fronts; however, in no case shall the front yard be less than thirty (30) feet nor require more than sixty (60) feet.
For buildings exceeding twenty-five (25) feet in height, the minimum front yard determined above shall be increased by one foot for each two (2) feet or fraction thereof by which the building height exceeds twenty-five (25) feet, but in no case shall a front yard of more than sixty (60) feet be required.
 - (b) SIDE. On every zoning lot, side yards shall be provided as follows:
Every principal permitted use shall have a side yard on each side of not less than six (6) feet and a combined total of side yards of not less than fifteen (15) feet when the structure is not more than twenty-five (25) feet in height.

For principal structures exceeding twenty-five (25) feet in height, the minimum side yard shall be increased by one (1) foot for each four (4) feet or fraction thereof by which the building exceeds twenty-five (25) feet.

On corner lots, where the side yard adjoins a street, the minimum width shall be increased to equal one-half (1/2) the right-of-way of the adjoining street with a minimum of thirty (30) feet, but in no case shall a side yard of more than sixty (60) feet be required.

(c) REAR. A rear yard of not less than twenty-five (25) feet.

- (2) Height. In the OF District, no building shall be erected or altered to a height in excess of seventy-five (75) feet or eight (8) stories.
- (3) Maximum Site Coverage. The maximum site coverage in the OF District shall not exceed fifty (50%) percent of the lot area.
- (4) Table of Uses. Permitted Uses and Special Uses in the Office Zoning District are found in *Article 13, Commercial and Industrial Table of Uses*.

ARTICLE XII. INDUSTRIAL DISTRICTS

SEC. Z-56. GENERAL PURPOSES

- (1) The IL Light Industrial District is intended to accommodate light industrial, wholesale and research establishments. The IL District may be located in various areas throughout the Village and may be in close proximity to residential neighborhoods and not be detrimental to residential uses because of its limited nature. While most often applied to areas where the location of particular industries has no direct relationship to other nearby business or industrial districts, it may also be formed as an adjunct to these established districts.
- (2) The IG General Industrial District is intended to accommodate those industrial uses which may not or cannot meet the standards of the IL District yet do not have the objectionable influences of those uses found in the IH District. The IG District should not, where possible, be located in close proximity to a residential district.
- (3) The IH Heavy Industrial District is to accommodate those heavier industrial uses which have objectionable influences, but which, nevertheless, should be provided for in the community. The IH District is, insofar as possible, applied to locations removed from the residential districts on the basis of linear distance or natural or manmade features.

SEC. Z-57. INDUSTRIAL DESIGN STANDARDS

1. Intent. The industrial design standards are intended to elevate the standard of the built environment in the Village of Machesney Park. The standards have been written to attract quality, aesthetic developments that raise and maintain property values in the Village. These minimum design standards recognize the utilitarian nature of industrial developments while also recognizing that there are possible design limitations that can occur due to the nature of the varying industrial and manufacturing activities that take place.

2. Applicability

a. New Buildings. The industrial design standards shall apply to all new buildings constructed in the IL Light Industrial, IG General Industrial, and IH Heavy Industrial districts as of the effective date of this Ordinance.

b. Existing Buildings. These standards also apply to all existing structures in the IL, IG and IH zoning districts that undergo improvements, including, but not limited to, renovation, reconstruction, painting, or exterior façade treatments. Such improvements shall not affect more than:

(i) 25% of the surface area of all building elevations in a manner that does not conform with the industrial design standards, or;

(ii) 25% of the total wall surface area of the primary, front facing elevation in a manner that does not conform with the industrial design standards.

The applicable elements of the standards shall apply only to that portion of the building that is being modified, updated, or improved.

Exterior painting projects are not required to obtain a permit from the Village, but shall comply with the building color requirements in 4d.

These standards shall not apply when additions are built onto existing industrial buildings. Rather, the facades of these building additions shall be consistent to the color, material, and appearance of the existing building. (Ordinance 34-17)

3. Interpretation of Standards. The industrial design standards provide a consistent means to apply design criteria to all new developments. To maintain consistent application of these standards, the Community Development Department staff shall be responsible for administration of the industrial design standards. Refer to review procedures in Paragraph 5.

4. Standards for Development

a. Design elements required: The design elements in Table A below are required for all industrial properties.

Table A, Applicability of Design Elements	
Section	Standard
4b	Building Form and Layout
4c	Building Materials
4d	Building Colors

4e	Entrance Design
4f	Parking Areas and Trash Enclosures



b. Building Form and Layout

- (i) In industrial developments with multiple structures, recurring forms and materials shall be used to create cohesive industrial campus.
- (ii) Any outdoor storage of materials is only permitted with a Special Use Permit and shall be effectively screened from view.
- (iii) Rooftop mounted equipment, vents and mechanical units shall be screened from view.
- (iv) All service entrances, dumpsters, refuse, loading facilities, salt storage and outdoor storage, where permitted, shall be located at the rear of the buildings.

[Must meet all of the applicable criteria (i) - (iv) to officially meet the Building Form standard.]

Figure 1: Acceptable use of prefabricated panels, with masonry accents.



c. Building Materials

- (i) Traditional masonry building materials, including brick, split face block, stone, and precast concrete are permitted.
- (ii) The use of prefabricated concrete tilt-up panels is permitted, provided that architectural treatments such as coloring, masonry inserts, or recessed panel inserts are used. (See Figure 1)
- (iii) The use of Exterior Insulation Finish Material (EIFS)/Drivit®, plastic panels and other similar exterior materials is not permitted, unless used as an accent material, for no more than 30% of the total façade area.
- (iv) Metal materials are permitted for roofs, gutters, downspouts, railings, trim, grills, panels and flashing. Corrugated metal is not permitted. Subject to Staff review, other applications of metal exteriors, such as zinc, copper, and aluminum composite systems may be permitted. When used, metals shall have an anodized, painted or powder coated finish in muted, earth-toned colors, unless when used as an Entrance Design (standard e, below). The use of unfinished, exposed metals is not permitted. (See Figure 2)

Figure 2: Corrugated steel buildings such as this are not permitted.

- (v) Where transitions in material are made, the transition shall not occur at an outside corner edge. All materials on the front will turn the corner and carry over to the side elevation to a point at which the corner looks solidly finished.
 - (vi) Damaged and deteriorated exterior building materials shall be promptly repaired and replaced in accordance with the property maintenance code.
- [Must meet all of the applicable criteria (i) - (vi) to officially meet the Building Materials standard.]*



d. Building Colors

- (i) Colors shall complement each other. While complementary colors for different elements are encouraged, a multitude of varying colors on each façade is not permitted. Earth-tones are preferred, but not mandatory.
 - (ii) Contrasting trim colors shall be used to highlight architectural elements such as window and door surrounds. Harsh contrasts should be avoided, except where true to the architectural style of the building.
 - (iii) Applied elements such as awnings, light fixtures, downspouts, railings and signage shall coordinate with, rather than dominate the color scheme of the building. The elements may be the same color as the background wall, a contrasting shade of the same color, or a more distinctive contrasting color. It is important for these elements to blend with the building's color palette.
 - (iv) Primary, fluorescent or neon colors are not permitted for use as accent colors including awning body color.
- [Must meet 3 of the 4 applicable criteria (i) - (iv) to officially meet the Building Color standard.]*

Figure 3: Example of an industrial building with a decorative, highlighted entrance.



Figure 4: An acceptable landscaped perimeter, where a parking area abuts a roadway.

e. Entrance Design

- (i) Recessed or projected entrances are required. Recesses or projections shall be at least 12 inches.
- (ii) Entrances shall be highlighted by a change in the wall plane. This can be accomplished through wall articulation around the door and projecting beyond the door.
- (iii) Projections should be utilized above and surrounding the main entrances to highlight the entrance features.
- (iv) Entrances shall be highlighted by implementation of architectural elements such as flanked columns, decorative fixtures, or varied textures or materials. (See Figure 3)

[Must meet 3 of the 4 applicable criteria (i) - (iv) to officially meet the Entrance Design standard.]

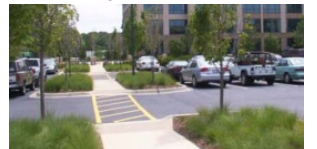
f. Parking Areas and Trash Enclosures

- (i) All parking areas shall be paved with an approved surface, and spaces shall be clearly delineated at all times, and shall maintain adequate surfaces for vehicle travel at all times.
- (ii) The outdoor parking of equipment and vehicles, used in conducting the operation of the industrial use, shall be effectively screened.
- (iii) Parking areas shall be contained with curbing (perimeters and landscape islands) unless it is determined by the Village Engineer that the curbing would restrict stormwater management.
- (iv) All perimeters of parking lots abutting public or private roadways shall maintain a 5-foot-wide landscape area, containing deciduous trees, ground cover, and perennials. The width of the perimeter landscape area can be reduced by staff, where practical. (See Figure 4)
- (v) Parking areas containing over 200 parking spaces shall contain clearly marked pedestrian pathways throughout the interior of parking areas to avoid large expanses of asphalt and to enhance pedestrian safety. (See Figure 5)
- (vi) Parking lot landscaping shall include “landscape islands” at both ends of each row of parking spaces. Landscape islands shall measure 9 feet in width by 19 feet in length; however, the length may be reduced to 17.5 feet where there is available area for 1.5 feet of vehicle overhang. Landscape islands shall consist of Village approved deciduous tree, and decorative ground cover and be a minimum size of nine (9) feet by eighteen (18) feet.
- (vii) Within the industrial areas, adjacent parking areas shall be connected via cross-access, as determined by Staff.
- (viii) Parking areas that are in use during the evening hours or overnight in a 24-hour operation shall be effectively illuminated.
- (ix) All refuse containment areas shall be located to the rear of buildings (where practical) and be provided with solid access doors or gates equipped with self-closing mechanisms. (See Figure 6)
- (x) Detached trash enclosures shall complement the overall building design. (Amd. 8/3/2020 – Ord 28-20)

Figure 5: A clearly



Figure 6: Acceptable refuse containment, at the rear of an industrial building, with solid



[Must meet all 10 of the applicable criteria (i) - (x) to officially meet the Parking Areas and Trash Enclosure standard.]

5. Review Procedures

- a. Building permit applications for new industrial buildings constructed in the IL Light Industrial, IG General Industrial, or IH Heavy Industrial districts shall be accompanied by the following:
 - (i) A site plan, containing: building area, land area, floor-to-area ratio, impervious lot coverage, parking spaces, sign location(s), screened trash container area, loading docks, fire lanes, and utility easements.
 - (ii) A floor plan.
 - (iii) Building elevations with adequate detail to illustrate the architectural features required by the commercial design standards, as well as building dimensions, and roof pitch (where applicable).
 - (iv) A landscape plan indicating plant material species (cultivar), plant locations, quantities, size at planting, and spacing.
- b. Plans must be reviewed by Village staff prior to commencing construction to confirm compliance with the industrial design standards, and upon confirmation of compliance, a building permit will be granted.
- c. Changes or revisions to architectural plans following permit issuance will require subsequent review and approval by Village staff prior to implementing amendments, revisions, or changes in the field.

6. Failure to Comply with Architectural Design Standards

- d. Developments which fail to comply with the industrial design standards and/or the approved architectural plans shall not be issued a temporary or final certificate of occupancy.
- e. The Village reserves the right to issue a stop work order upon confirmation of any construction project which fails to comply with any of the provisions of the commercial design standards.
- f. A failure to comply with any provision of *this Section* shall constitute a violation. Every day on which a violation exists shall constitute a separate violation and a separate offense. Each violation may be fined not less than \$200.00 nor more than \$500.00.

SEC. Z-58. INDUSTRIAL DISTRICT REGULATIONS

- (1) Required conditions.
 - (a) All production, processing, servicing, testing, repair or storage of materials, goods or products shall take place within completely enclosed buildings.

- (b) All uses shall comply with the performance standards as cited in the "Environmental Protection Act" effective July 1, 1970, as amended, State of Illinois.
- (2) Yards. No building or structure shall hereafter be erected or structurally altered unless the following yards are provided and maintained in connection with such buildings:
- (a) FRONT. A front yard of at least twenty-five (25) feet for buildings under twenty-five (25) feet in height. For buildings exceeding twenty-five (25) feet in height, the minimum front yard shall be increased by one foot for each two (2) feet or fraction thereof by which the building height exceeds twenty-five (25) feet, but in no case shall a front yard of more than sixty (60) feet be required.
- (b) SIDE. A side yard equal to at least ten (10) feet; except, on corner lots where the side yards adjoin a street, the side yard shall be the same as the front yard.
- (c) REAR. A rear yard equal to at least ten (10) feet except on a zoning lot abutting a residential district, a rear yard of at least twenty-five (25) feet in depth is required. (Ord. 65-85)
- (d) ALL YARDS, ADJACENT TO A SINGLE-FAMILY RESIDENTIAL (R1) ZONING LOT OR A TWO-FAMILY RESIDENTIAL (R2) ZONING LOT. A 30-foot buffer area shall be provided along property lines abutting a R1 or R2 property line, not including those property lines abutting right-of way. Within the 30-foot buffer, the following shall apply:
- (i) No building shall be erected within the buffer.
 - (ii) No vehicular circulation (i.e. driveways, drive lanes, maneuvering areas, loading facilities, and private streets) shall be allowed within the buffer.
 - (iii) No signage shall be allowed within the buffer.
 - (iv) No accessory areas (i.e. dumpsters, seating areas, patios, bicycle racks, communication towers, and other areas as defined by the Planning and Zoning Manager) shall be allowed within the buffer. (amd. Ord. 27-14; 11/3/2014)
- (3) Height.
- (a) In the IL Light Industrial District, no building shall be erected or altered to a height in excess of forty-five (45) feet.
- (b) In the IG General Industrial District, no building shall be erected or altered to a height in excess of seventy-five (75) feet.
- (c) In the IH Heavy Industrial District, no building shall be erected or altered to a height in excess of one-hundred (100) feet.
- (4) Table of Uses. Permitted Uses and Special Uses in the Industrial Zoning Districts are found in *Article 13, Commercial and Industrial Table of Uses*.

ARTICLE XIII. COMMERCIAL AND INDUSTRIAL TABLE OF USES

Land Uses in Office, Commercial, and Industrial Zoning Districts are listed in Section Z-59. Permitted Uses are denoted with a "P", and Special Uses are denoted with a "S".

SEC. Z-59. COMMERCIAL AND INDUSTRIAL LAND USES

Commercial and Industrial Land Use	Regulating Section	OF	CN	CC	CG	IL	IG	IH
Airports, Landing Strips and Heliports	Sec. Z-59(1)					S	S	S
Ambulance Service				S	P	S	S	S
Amusements Indoor, bowling alleys, pool halls, health clubs, and fitness centers			S	P	P			
Arts, Crafts, and Personal Enrichment Classes			P	P	P			
Art Galleries and Studios				P	P	S	S	S
Auction House					P	S	S	S
Banks and Financial Institutions			P	P	P			
Bars and Taverns			P	P	P			
Barber Shops and Beauty Salons			P	P	P			
Beverages (non-alcoholic) Bottling and Distribution					P	P	P	P
Bingo and Similar Games of Chance	Sec. Z-59-3	P	P	P	P	P	P	
Body Branding, Carving, Piercing and Tattoo	Chap. 15 1/2				P	P	P	P
Bus Terminals, Garages and Lots						P	P	P
Business Associations, Labor Unions, and Civic Organizations		P		P	P	P	P	P
Cannabis Craft Grower	Sec. Z-59(2)				P	P	P	P
Cannabis Cultivation Center	Sec. Z-59(2)					P	P	P
Cannabis Dispensing Organization	Sec. Z-59(2)			P	P	P	P	P
Cannabis Infuser Organization	Sec. Z-59(2)			P	P	P	P	P
Cannabis Processing Organization	Sec. Z-59(2)					P	P	P
Cannabis Transporting Organization	Sec. Z-59(2)					P	P	P
Car Wash				P	P	P	P	P
Carpet and Rug Cleaning					P	P	P	P
Catering Businesses				P	P	P	P	P
Chemical Production, Processing								S
Child Daycare		P	P	P	P			
Christmas Tree Sales for up to 45 days			P	P	P	P	P	P
Churches and Similar Religious Institutions	Sec. Z-59(3)	P	S	S	S	S	S	
Clothing and Shoe Tailoring and Repair			P	P	P			
Coal and Tar Production, Processing								S
Commercial Waterfront Use			S	S	S			
Community Swimming Pools	Sec. Z-59(4)	S	P	P	P			
Concrete/Asphalt Production, Processing Facilities	Sec. Z-59 (5)							S
Contractor's Office and Shops with no outdoor storage					P	P	P	P
Drop Box				S	S	S	S	S
Dry Cleaning Receiving and Distribution, not processing			P	P	P			
Earth Extraction and Materials Processing	Sec. Z-59(6)						S	S

Electric Power and Steam Generating								S
Explosives Storage, Production, Processing (when not otherwise prohibited)								S
Extermination and Pest Control Services				P	P	P	P	P
Fairgrounds, Amusements and Theme Parks	Sec. Z-59(7)				S			
Feed, and Grain Production, Processing, and Storage								S
Fertilizer Production, Processing								S
Firearm and Ammunition Assembly, and Repair						S	S	S
Firearm and Ammunition Sales and Repair				P	P			
Flea Markets with no outdoor display				P	P			
Florist, Gift, and Book Stores			P	P	P			
Funeral Homes and Mortuaries		P		P	P	P	P	P
Furniture Stores				P	P			
Garden Supply, Greenhouses and Seed Stores				P	P	P	P	P
Garages, Public and Private, for storage of private passenger vehicles and commercial vehicles under ¾ ton				P	P	P	P	P
Gas Station and Convenience Store	Sec. Z-59(8)		P	P	P	P	P	P
Golf Courses and Driving Ranges				P	P	P	P	P
Government Offices		P	S	P	P	P	P	P
Grocery Stores and Markets			P	P	P			
Hookah Lounge			S	S	S			
Hospitals and In-Patient Medical Facilities	Sec. Z-59(9)	S	S	S	S	S	S	S
Hotels and Motels				P	P			
Household Appliance and Electronics Store				P	P			
Incinerators, for garbage, offal or dead animals								S
Indoor Shooting Ranges	Sec. Z-59(10)					S	S	S
Indoor Sports Training Facility						P	P	P
Interior Decorating and Upholstery Shops				P	P	P	P	P
Jewelry and Watch Sales and Repair				P	P			
Junkyards and Automobile Wrecking Yards								S
Laboratories: Medical, Dental, Research and Testing (provided no production or manufacturing takes place)					P	P	P	P
Landfills and Waste Transfer Stations	Sec. Z-59(11)							S
Laundromats			P	P	P			
Liquor Stores			P	P	P			
Locksmiths				P	P			
LP Gas for Commercial Dispensing					S	S	S	S
LP Gas for Fleet Operations						S	S	S
Manure, Peat and Topsoil Storage, Processing								P
Massage Establishments	Sec. Z-59(12)				S			
Medical Appliance and Orthopedic Stores				P	P			
Medical Cannabis Dispensing Facility	Sec. Z-59(13)		P	P	P	S	S	

Medical and Dental Clinics, and Outpatient Medical Facilities		P	P	P	P	S	S	
Methadone and Needle Exchange Clinics			S	S	S			
Microbreweries and Distilleries				P	P	P	P	P
Motor Home and Travel Trailer Sales and Service	Art. V				S	S	S	S
Monument Sales, with no fabrication or outdoor display				P	P	P	P	P
Motor Vehicle Repair, Major	Sec. Z-59(14)				S	S	S	S
Motor Vehicle Repair, Minor				S	P	S	S	S
Motor Vehicle Sales, Rental/Leasing	Art. V			S	S	S	S	S
Musical Instrument Sales and Repair				P	P			
Nail Salons			P	P	P			
Noxious Uses, Not Otherwise Defined	Sec. Z-59(15)							S
Nursing Homes and Convalescent Care	Sec. Z-58916)	S	S	S	S			
Off-Street Parking Areas, Independent	Sec. Z-59(17)	S	P	P	P	P	P	P
Off-Track Betting				P	P			
Office Supply Stores				P	P			
Optical and Eyewear Stores				P	P			
Outdoor Storage of Materials in Industrial Districts	Sec. Z-59(18)					S	S	S
Paint and Wallpaper Stores				P	P			
Pawn Shops				P	P			
Parks and Outdoor Recreation			S	S	S			
Pet Daycare Facilities	Sec. Z-59(19)		S	S	S	S	S	S
Pet Shops				P	P			
Petroleum Product of Gas Production, Processing								S
Pharmacies and Drug Stores			P	P	P			
Photography Studios			P	P	P			
Police Stations and Fire Stations		S	S	S	S	P	P	P
Post Office		P	P	P	P	P	P	P
Printing and Publishing				P	P	P	P	P
Private Clubs or Lodges		S	S	S	S	S	S	S
Production, Processing, Servicing, Testing and Repair						P	P	P
Professional and Business Offices		P	P	P	P	P	P	P
Public Utility Uses	Sec. Z-59(20)	S	S	S	S	P	P	P
Racetrack							S	S
Radio and Television Broadcasting Studios		P		P	P	P	P	P
Radio and Television Tower		S			S	S	S	S
Railroad Roundhouses, Switching Yards, and Maintenance Buildings							S	S
Reception Halls and Community Rooms				P	P	P		
Recycling Facilities	Sec. Z-59(21)				S	S	S	S
Rental Service Stores, with or without outdoor storage					P	P	P	P
Restaurants, including drive-thru				P	P			
Restaurants, not with drive-thru			P	P	P			

Restaurants, with or without serving liquor			P	P	P			
Retail Sales				P	P			
Retail Use, Accessory to Industrial Manufacturing, that accounts for no more than 10% of the total floor area						P	P	P
Seasonal Farm Produce Open-Air Market, not to exceed 7 months per year				P	P	S	S	S
Self-Storage	Sec. Z-59(22)			S	S	S	S	S
Sexually Oriented Use	Sec. Z-59(23)							S
Schools and Educational Institutions		P	S	S	S			
Schools; Cosmetology, Driving, Business, or Trade				P	P	P	P	P
Soap Rendering, Production, Processing								S
Sporting Goods Store				P	P			
Stock Yards and Slaughterhouses								S
Taxidermist						P	P	P
Temporary Buildings for Construction Purposes, not for human habitation			P	P	P	P	P	P
Temporary Uses and Structures	Sec. Z-59(24)		P	P	P	P	P	P
Toy and Hobby Shops				P	P			
Travel Agents and Transportation Ticket Office				P	P	P	P	P
Truck or Trailer Sales, Rental/Leasing	Art. V			S	S	S	S	S
Theater, indoor				P	P	S	S	S
Veterinary Clinic and Veterinary Hospital				P	P	P	P	P
Warehousing, Packaging and Distribution					S	P	P	P
Wind Operated Energy Devices, provided the lot area is a minimum of 2.5 acres		S	S	S	S	S	S	S
Wind Operated Energy Devices, Roof-Mounted for On-Site Power Supply Only	Sec. Z-59(25)	P	P	P	P	P	P	P
Welding Shops						P	P	P
Wood, Pulp and Fiber Production, Processing								S

1. Airports, Landing Strips and Heliports, Private and Public

- a. Site design: Site design shall comply with the requirements of the Federal Aviation Administration, as amended.
- d. Setbacks: Runways, taxiways, and helipads shall be setback a minimum of two thousand (2,000) feet from all property lines.
- e. Noise: Written evidence of the documented noise levels for aircrafts to be used (Sound Pressure Level measured at 100-foot intervals from the use at 1k hz) must be provided.

2. Adult-Use Cannabis Business Establishments

- a. All Adult-Use Cannabis Business Establishments (Craft Grower, Cultivation Center, Dispensing, Infuser, Processing, and Transporting Organizations) shall not be located within 250 feet of the property line of a property used for residential purposes and shall not be located within 1,500 feet from a pre-existing public or private nursery school,

preschool, primary or secondary school, day care center, day care home or residential care home. Learning centers and vocational/trade centers shall not be classified as a public or private school for purposes of this Section.

- b. Any Adult-Use Cannabis Business Establishment may not conduct any sales of distribution of cannabis other than as authorized by the Illinois Cannabis Regulation and Tax Act (P.A. 101-0027), as it may be amended from time-to-time, and regulations promulgated thereunder.
 - c. All Adult-use Cannabis Business Establishments shall be required to provide internal and external video surveillance and a security system that saves footage of the past 24 hours for at least 7 days.
 - d. All Adult-Use Cannabis Business Establishments shall apply for a Cannabis Business Establishment Zoning Permit. The Cannabis Business Establishment Zoning Permit shall be reviewed administratively. Through the Cannabis Business Establishment Zoning Permit, the Village may require the applicant to install building enhancements, such as lighting or other improvements to ensure the safety of employees and customers and to meet relevant codes and ordinances. The applicant shall provide the following information for the Cannabis Business Establishment Zoning Permit:
 - i. A site plan illustrating site design that includes access points and internal site circulation, site parking, building entrances and the location of the loading area/deliveries.
 - ii. A floor plan illustrating all areas of the Adult Use Cannabis Business Establishment (including bathrooms and storage closets), shared entrances or hallways (where applicable), and the occupant load of the Cannabis Business Establishment.
 - iii. Security and video surveillance system details.
 - iv. A Cannabis Business Establishment Zoning Permit application fee of \$250. The applicant shall be responsible for any legal fees that may be incurred by the Village in reviewing a Cannabis Business Establishment Zoning Permit, not to exceed \$1,500.
3. Bingo and Similar Games of Chance
- a. Permitted in only religious, charitable, labor, fraternal, youth organization, senior citizen, educational or veterans' organizations, which have been licensed by the State of Illinois Department of Revenue to conduct such games.
 - b. Net proceeds from the games must be exclusively devoted to the lawful purpose of the organization permitted to conduct the game. No person may receive any profit for participating in the management or operation of such games, with the exception of the reduction of fees or tuition for educational institutions, consistent with State regulations.
 - c. The conduct of any Bingo or Similar Games of Chance shall be in accordance with the regulations of the Illinois Pull Tabs and Jar Games Act (230 ILCS 20/), the Illinois Bingo License and Tax Act (230 ILCS 25/), and the Illinois Charitable Games Act (230 ILCS 30/), as may be amended from time-to-time, and regulations promulgated thereunder (Ord. 08-22, 02/07/22)

4. Churches and Similar Religious Institutions

- a. Site design: Where possible, open space areas including but not limited to storm water detention facilities shall be located adjacent to residential property. Parking lots shall be located close to the rights-of-ways and away from adjacent residential property.
 - b. Outdoor activities: Details for all outdoor activities shall be included in the Special Use Permit application. Outdoor activities shall not be permitted after 8:00 p.m. on lots which are adjacent to residential property.
 - c. Traffic control: For churches or religious establishments with over 400 seats, manual traffic control shall be required, at the discretion of the Village.
 - d. Nursery School/Preschool: Details for accessory nursery school or preschool associated with the religious establishment shall be included in the special use permit application.
5. Community Swimming Pools
- a. The swimming pool shall have an area no greater than five thousand (5,000) square feet and shall be on a lot with an area of not less than two (2) acres.
 - b. Every pool, building, or paved play area shall be no less than one hundred (100) feet distant from every abutting property line in any residential district.
 - c. Pumps and filtration stations shall be no less than fifty (50) feet from every abutting property line in any residential district.
 - d. The sale of refreshments shall be from the principal building.
6. Concrete/Asphalt Production, Processing Facilities
- a. Environmental Impact: Provide an environmental impact statement from a qualified expert in the related field that the use will not negatively affect ground water resources or contaminate the environment and will comply with all Federal and State EPA requirements.
 - b. Stockpiling location: No materials shall be stockpiled closer than five hundred (500) feet from all property lines.
 - c. Setbacks: Buildings, structures, storage or repair areas shall be located in conformance with yard requirements of the zoning district.
 - d. Air quality: Concrete batch plants shall provide an air filtration system that alleviates air quality issues with the cement used in the processing and complies with all Federal and State EPA requirements. A retractable cover system for the stored dry goods to mitigate air quality issues that arise out of wind erosion must be provided.
 - e. Screening: All equipment and stored materials shall be screened from view with solid fencing, opaque landscaping, berms, and/or by using natural relief in elevation. In many cases, the height of the fencing or landscaping will not be able to conceal the stock, equipment or materials from view of adjacent properties. Consideration will be given to the type of materials being stored and the impact of the visibility on the adjacent and surrounding property owners.
 - f. Access roads: Permanent access roads shall be paved surfaces that are designed to meet applicable industrial standards.
7. Earth Extraction and Materials Processing
- a. Environmental impact: Provide an environmental impact statement from a qualified expert in the related field that the use will not negatively affect ground water resources or

contaminate the environment and will comply with all Federal and State EPA requirements.

- b. Excavation location: Excavation shall not take place within a minimum of one hundred (100) feet of any street or boundary line. Where deep quarrying of 30 feet or more is planned, boundary setbacks shall be a minimum of one hundred and fifty (150) feet and shall conform to State reclamation standards.
 - c. Stockpiling location: No processing and stockpiling operations shall be conducted closer than five hundred (500) feet of all property lines. All processing operations should be enclosed whenever possible and shall be enclosed whenever the operation is to be in existence for a longer period of time than nine (9) months.
 - d. Setbacks: Buildings, structures, storage or repair areas shall be located in conformance with yard requirements of the zoning district.
 - e. Access roads: Permanent access roads shall have a surface approved by the Village Engineer and designed to meet applicable industrial standards. Temporary access roads into and out of the plans shall be comprised of a stone base.
 - f. Safety: All operations shall be conducted in a safe manner, especially with respect to hazards to persons, damage to adjacent lands or improvements, and damage to any street by slides, single or collapse of supporting soil adjacent to an excavation. No extraction operation shall be conducted in a manner so as to lower the water table on surrounding properties.
 - g. Final conditions: No excavation, removal, or fill shall be permitted if the finished conditions result in the following:
 - i. Serious on-site erosion problems or erosion problems which could extend to neighboring properties;
 - ii. Un-drained depressions other than artificial lakes, or drainage problems, which adversely affect neighboring properties.
 - h. Groundwater table: No extraction operations shall be conducted in such a manner that the groundwater table of surrounding properties is lowered. This determination is to be made from data secured from testing wells installed, located, operated and maintained by the operator on the perimeter of the excavation site.
 - i. Time limit: Special Uses for the extraction of earth products shall be issued for a period of time not to exceed ten (10) years. Such approvals are renewable for additional five (5) year periods.
 - j. Surety: A corporate surety bond or guarantee letter of credit shall be furnished to the Village to assure compliance with an approved reclamation map. The bond or letter of credit shall be in the amount of \$100,000 or \$1,000 per acre; whichever is greater, for the completion of operations and the reclamation of the tract.
8. Fairgrounds, Amusements, and Theme Parks
- a. Minimum development area: Fairgrounds and amusement/theme parks shall be located on a minimum of 5 acres
 - b. Site design: All permanent buildings or structures must be located at least one hundred (100) feet from surrounding residential properties.

- c. Access roads: All points of vehicular access must be from an arterial or major collector street. The access points shall be located to minimize vehicular traffic to and through local streets in residential areas.
 - d. Lighting: A lighting plan shall be submitted with the special use permit application. All lighting shall be designed to prevent glare or impacts to any adjacent properties.
 - e. Natural features: Wherever possible, the use shall preserve existing natural land features, including but not limited to water features and tree stands.
 - f. Screening: Fairgrounds and amusement/theme parks shall provide an 8-foot-tall solid screen consisting of a solid wooden fence along the perimeters of the property.
9. Gas Stations and Convenience Store
- a. No gasoline station shall commence operations unless it has first provided an environmental impact statement from a qualified expert in the related field, that the use will not negatively affect ground water resources or contaminate the soil.
 - b. No gasoline station shall be located within any of the North Park Water District's well-head recharge areas.
10. Hospitals and In-Patient Medical Facilities
- a. Minimum development area: Hospitals shall be located on property with a minimum of five (5) acres.
 - b. Access roads: Hospitals shall have access to an arterial or major collector street. Traffic shall not travel through neighborhood connector or local streets.
 - c. Loading area: A designated drop-off/pick-up area shall be included in front of the building, that is long enough to accommodate a bus and which is exclusive of the required parking lot drive aisles.
 - d. Heliport/helipad: If a heliport or helipad is provided as an accessory use to the facility, it shall be located at least one thousand (1,000) feet from surrounding residential property. The heliport/helipad shall meet all Federal Aviation Administration guidelines as applicable.
11. Indoor Shooting Ranges
- a. All Special Use Permit applications for an indoor shooting range shall contain the following:
 - i. A floor plan, drawn to scale, illustrating the number of firing lanes, dimensions for the firing lanes, identifying the firing positions, size and location of the ammunition storage areas, retail areas, classroom space, utility rooms, and bathrooms.
 - ii. Material data sheets demonstrating the type and the thickness of building materials to be used in the firing range for positive protection against direct impact, for all caliber ammunition to be fired in the range.
 - b. Indoor shooting ranges shall comply with the following use criteria:
 - i. General: Shooting ranges shall be permitted only as indoor facilities. It is required that all shooters must complete an orientation safety program and show a valid firearm owners' identification (FOID) card, before they are allowed to discharge firearms.

- ii. Sound barrier: All shooting ranges shall provide ceiling and in-wall sound barriers to prevent sound from traveling beyond the property lines of the subject property.
- iii. Number of persons discharging a firearm: Only one (1) person shall be allowed to be discharging firearms in each firing lane at one time, with the exception of any tactical firing lanes.
- iv. Tactical firing lanes: Tactical training areas and/or firing lanes shall provide detailed plans for how a tactical training operation will occur, including details on how many people could be discharging a firearm simultaneously in a tactical firing area. Tactical training shall not occur simultaneously with non-tactical training in the same facility unless separated by a substantial barrier.
- v. Other applicable regulations: The shooting range must comply with all applicable local and state laws, rules and regulations regarding the discharge of a firearm.
- vi. Sales of firearms and ammunition: Incidental sales of firearms and ammunition are permitted, provided the applicant meets all applicable federal, state and local regulations.
- vii. Location relative to other uses: At the time the application is submitted, indoor shooting ranges shall not be located immediately adjacent to or within 1,000 feet of places of worship, public or private schools, properties zoned for residential purposes, public parks, day care facilities, or other indoor shooting ranges.
- viii. Inspections: The Village and the Winnebago County Sheriff's Department, its agents or employees, have the right to make unannounced inspections for the purpose of determining of the provisions of this section are met.

12. Landfills and Waste Transfer Stations

- a. Environmental assessment: Provide an environmental impact statement from a qualified expert in the related field that the use will not negatively affect ground water resources or contaminate the environment and will comply with all Federal and State EPA requirements.
- b. Watershed: Landfills and transfer stations shall not be located within any of the North Park Water District's well-head recharge areas.
- c. Statement of need: Provide a written petition to seek a Special Use approval for landfill that states that the project is necessary to accommodate the solid waste management needs of the area it is intended to serve.
- d. Compatibility criteria: The project shall be located so as to minimize incompatibility with the character of the surrounding area and to minimize the effect on the value of the surrounding property.
- e. Plan of operation: Provide a detailed operation plan stating the number of refuse hauling vehicle trips, the vehicle routes, hours of operation, volume of waste to be hauled and other applicable operating criteria as determined by the Village Engineer.
- f. Government standards: Written evidence shall be provided that standards and requirements for health and safety protection and licensing by jurisdictions other than the Village have been met.

- g. Screening: An 8-foot-tall berm with landscaping shall be provided along the perimeters of the property.
- h. Additional mitigation: Additional requirements may be imposed by the Village to mitigate the effects of this use on the adjacent properties and the infrastructure.

13. Massage Establishments

- a. All Special Use Permit applications for shall contain the following:
 - i. A floor plan, drawn to scale, illustrating areas where all services and uses will be provided in the building (e.g., Massage rooms, etc.).
 - ii. Current copies of the licenses as issued by the State Department of Professional Regulation of all licensed massage therapists to be providing massage at the establishment upon opening.
 - iii. A signed, notarized statement, acknowledging that the applicant understands the special use criteria (below), and acknowledging that the massage establishment and its employees will comply with Village requirements.
- b. Massage establishments shall comply with the following use criteria:
 - i. All massage establishments are declared to be public places, and shall not, during business hours, have the doors to the exits and entrances of such establishment locked or obstructed in any way so as to prevent free ingress and egress of persons; provided, however, that such doors may be closed.
 - ii. Persons under 18 years of age are not permitted in massage establishment, unless accompanied by his/her parent or legal guardian.
 - iii. Blocking of storefront windows with drapes, blinds or shelving is prohibited.
 - iv. No massage establishment shall be kept open for any purpose between the hours of 9:00 p.m. and 8:00 a.m.
 - v. Alcohol is not permitted to be served in a massage establishment at any time.
 - vi. Upon sale, transfer or relocation of a massage establishment, a previously granted special use permit will lapse.
 - vii. Any massage therapists working at the massage establishment must submit a copy of their State license to the Community Development Department.
 - viii. The Village and the Winnebago County Sherriff's Department, its agents or employees, have the right to make unannounced inspections for the purpose of determining of the provisions of this section are met.
 - ix. Massage establishments shall not be located within 1,000 feet of places of worship, public or private schools, properties zoned for residential purposes, public parks, day care facilities, or other massage establishments.

14. Medical Cannabis Dispensing Facilities

- a. Not to be located in a house, apartment, or condominium.
- b. Not to be located within 1,000 feet of the property line of a pre-existing public or private preschool or elementary school or secondary school or daycare center, daycare home, or part day childcare facility.

15. Motor Vehicle Repair, Major

- a. Location of repair: All repairs shall be performed within a completely enclosed building.
- b. Licensed vehicles: All vehicles parked or stored on-site shall display a current license plate with current registration.
- c. Sale of vehicles: The sale of vehicles on-site or the advertising of such sale is prohibited, unless granted a Special Use Permit for Motor Vehicle Sales.
- d. Odors and fumes: The use shall safely and appropriately vent all odors, gas and fumes and shall comply with all applicable Federal, State and local regulations. Such vents shall be located a minimum of 10 feet above grade and shall be directed away from residential uses.
- e. Parts or junk vehicle storage: Outdoor storage of automotive parts or junk vehicles is prohibited.
- f. Fuel dispensing: Unattended, automated dispensing of gasoline or other engine fuel is prohibited.
- g. No major motor vehicle repair shall be located within any of the North Park Water District's well-head recharge areas.

16. Noxious Uses, Not Otherwise Defined

- a. Environmental impact: Provide an environmental impact statement from a qualified expert in the related field that the use will not negatively affect ground water resources or contaminate the environment and will comply with all federal and state EPA requirements. Community Development Staff has the ability to require additional environmental studies, information or reports based upon the nature of the use.
- b. Activity: Location of all activities associated with the use must be maintained indoors in a controlled environment.
- c. Site design: Provide open/green space buffers on all perimeters of the property.
- d. Screening: Provide an 8-foot-tall solid screen consisting of a solid fence along the perimeters of the property.

17. Nursing Homes and Convalescent Care Facilities

- a. General: Applications for nursing home and convalescent care facilities shall include a description of the proposed use, including the maximum number of residents and the nature of the condition of circumstances for which care, or a planned treatment or training program will be provided, the number of staff and the name of the agency responsible for regulating or sponsoring the use.
- b. Loading area: A drop-off/pick-up area in front of the building that can accommodate three 20-foot-long vehicles and exclusive of the required parking lot drive aisles, shall be provided.
- c. Other applicable regulations: The proposed facility shall maintain all applicable licenses required by the appropriate agencies for the use described in the application.

18. Off-Street Parking, Independent

- a. There must be a need for this parking facility, in the interest of public necessity and convenience.
- b. There must be no other appropriate site available in nearby business or manufacturing districts.

19. Outdoor Storage of Materials in Industrial Districts

- a. Storage of materials, goods or products outside of completely enclosed buildings, but within completely solid fences.
- b. Fences must be between six (6) feet and twelve (12) feet in height.

20. Pet Daycare Facilities

- a. All animals shall be kept either within completely enclosed structures or fencing at all times.
- b. All structures shall be reasonably soundproofed, and reasonably ventilated.
- c. All animal waste shall be removed promptly and sanitarily, to prevent offensive odors or health risks.
- d. Facilities shall provide no less than 80 square feet of open play/exercise area (either indoor or outdoor), per canine housed at the facility at a single time.
- e. Outdoor play/exercise areas shall not be located on a property that abuts a residentially zoned lot.
- f. All facilities shall be licensed by the Illinois Department of Agriculture, pursuant to the Animal Welfare Act for the State of Illinois.
- g. Facilities may offer accessory services, such as retail sales of pet care supplies and animal grooming.

21. Public Utility Uses, includes:

- a. Filtration plant, pumping station and water reservoir;
- b. Sewage treatment plants;
- c. Portable signs;
- d. Telephone exchanges;
- e. Electric and gas substations and booster stations;
- f. Other governmental uses

22. Recycling Facilities

- a. Materials: Recycling of paper, glass, plastic and metal products is permitted.
- b. Environmental assessment: An environmental impact statement from a qualified expert in the related field shall be provided to the Village, attesting that the use will not negatively affect ground water resources or contaminate the soil.
- c. Site design: Recycling facilities shall be designated such that a main drive-aisle is provided through the principal building to allow materials to be brought into the facility and removed from vehicles.
- d. Location: Facilities must be located not less than one hundred (100) feet from any residential zoning district and existing residential use. All operations, including storage and collection of materials, shall be conducted within a completely enclosed building.
- e. Outdoor storage: There shall be no outdoor storage of materials processed, used, or generated by the operation.
- f. Plan of operation: A detailed explanation of the facility operation, that includes the measures that will be used to mitigate problems associated with noise, fumes, dust, and litter shall be provided to the Village.
- g. Maintenance: the facility must perform continual, daily maintenance of the site to immediately collect any stray debris.

23. Self-Storage

- a. General: No business activity other than the rental of storage units shall be conducted on the premises. The storage of hazardous, toxic or explosive substances, including but not limited to hazardous waste, industrial solid waste, medical waste, solid waste, sewage, or used oil is prohibited.
- b. Site layout: Buildings shall be situated such that the doorways or access points are facing away from the yards abutting street rights-of-way.
- c. Hours of operation: Special Use Permit applications for mini or self-storage shall contain information regarding the hours during which customers will be able to access the facility.
- d. Fencing: A 6 to 8-foot-tall solid fence shall be provided along the perimeters of the storage facility abutting adjacent properties (not abutting rights-of-way). Perimeters of the facility abutting rights-of-way shall be fenced with wrought-iron style open fencing to ensure the security of the facility.
- e. Security: Security lighting shall be provided to safely illuminate all areas of the facility.

24. Sexually Oriented Uses

- a. May not be operated within one thousand (1,000) feet of the following previously established uses:
 - i. A church, synagogue or regular place of worship
 - ii. A public or private elementary or secondary school
 - iii. Any property legally used or zoned for residential purposes
 - iv. A public park
 - v. A daycare facility
 - vi. Another Sexually Oriented Use
- b. For the purposes of this Section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or the nearest property line of a church, school, park, residential use of other Sexually Oriented business, or the nearest boundary of a residential zoning district.
- c. Nothing in this Section shall be interpreted to authorize or permit any activity or conduct prohibited by any local, state, or federal law, including but not limited to obscenity and prostitution.

25. Temporary Uses and Structures

- a. The following uses are permitted contingent with the application and approval of a Temporary Use or Structure Permit:
 - i. Carnivals or circuses;
 - ii. Outdoor festivals or events with multiple vendors or booths;
 - iii. Art, craft, book, and produce/farmers markets;
 - iv. Outdoor concerts with amplified music with attendance in excess of 50 persons
 - v. Tents used for public assembly, display, or sales;
 - vi. Christmas tree sales lots up in excess of 45 days or not removed from the premises prior to December 31st;
 - vii. Any other uses and structures not otherwise specified, as may be determined by the Zoning Administrator.

- b. The following uses are exempt from the requirement to apply for and obtain a Temporary Use or Structure Permit:
 - i. Construction trailers;
 - ii. Sidewalk sales;
 - iii. Garage and Yard sales;
- c. Required Application. The Village shall require an application for all temporary uses or temporary structures. The application shall require submittal of a site plan, structure or use details, and any other information that may be necessary to review and process a permit.
- d. Permit Review and Issuance. In issuing a Temporary Use or Structure Permit, Village Staff may attach any conditions to the approval as deemed appropriate and necessary to achieve the purpose of the Village Zoning Code. Any applicant who objects to the conditions may appeal to the Planning and Economic Development Committee.
- e. Display of Permit. All issued Temporary Use or Structure Permits shall be posted in a visible location, at the site, for the duration of the use.
- f. Alcohol. Any application for a Temporary Use or Structure Permit that includes use of alcohol (either for free or for sale) shall require an appropriate liquor license from the Village.
- g. Fee. The fee for all Temporary Use or Structure Permits shall be \$20.

26. Wind Operated Energy Devices, Roof-Mounted for On-Site Power Supply Only

- a. General: One roof-mounted wind turbine is allowed per parcel, only if it supplies electrical power solely for on-site use.
- b. Height: The turbine structure with supports shall not be more than 8 feet in height. Also, the turbine upon the roof shall not extend taller than the maximum height allowed for principal structures in the zoning district in which the parcel is located.
 - i. On a vertical-axis turbine, height shall be measured at the tallest point.
 - ii. On a horizontal-axis turbine, height shall be measured at the highest extent of a blade tip.
- c. Appearance: All turbine equipment shall have a flat finish and shall not have any lighting attached to or projected onto it.
- d. Permitting: An electrical building permit must be applied for and issued prior to installation of any roof-mounted turbine equipment (Ord. 26-22, 07/05/22).

ARTICLE XIV. GROUNDWATER PROTECTION OVERLAY DISTRICT

SEC. Z-60. Purpose

Pursuant to the authority conferred by Ill. Comp. Stat. 1992, Ch. 65, par. 5/11-125-4; Ill. Comp. Stat. 1992, Ch. 415, par. 5/14.2 and 5/14.3; and in the interest of securing the public health, safety, and welfare; to preserve the quality and quantity of groundwater resources in order to assure a safe and adequate water supply for present and future generations; and to preserve groundwater resources currently in use and those

aquifers having a potential for future use as a public water supply, the provisions of this ordinance shall apply to all properties located within the minimum setback zone for North Park PWD Well #2 (IEPA 11691), #3 (IEPA 11692), #4 (IEPA 11693), and #5 (IEPA 11694), established under section 14.2 of the Environmental Protection Act (Ill. Comp. Stat. 1992, Ch. 415, par. 5/14.2) and this ordinance, and the maximum setback zone for North Park PWD Well #2 (IEPA 11691), #3 (IEPA 11692), #4 (IEPA 11693), and #5 (IEPA 11694), established under section 14.3 of the Environmental Protection Act (Ill. Comp. Stat. 1992, Ch. 415, par. 5/14.3) and this ordinance.

SEC. Z-61. Overlay District

The Groundwater Protection Overlay District shall appear on the Official Zoning Map as an "overlay district" imposed on top of other districts created by the Zoning Ordinance. The designation of the Groundwater Protection Overlay District on the Official Zoning Map shall conform to the definitions of the Minimum Protection Zone and Maximum Protection Zone found in this ordinance and the Act, and identified by aerial photographs prepared as part of the Illinois Environmental Protection Agency's Facility Number 2015500 Well Site Survey Report. Development of properties in the Groundwater Protection Overlay District must comply both with the regulations of the Groundwater Protection Overlay District and with the regulations of the particular base district in which they are located. Where there is any conflict between the Groundwater Protection Overlay District and the base district, the more restrictive district shall apply.

SEC. Z-62. Definitions

Except as stated in this ordinance, and unless a different meaning of a word or term is clear from the context, the definition of words or terms in this ordinance shall be the same as those used in the Environmental Protection Act (Ill. Comp. Stat. 1992, ch. 415, pars. 5/1 et seq.) and the Illinois Groundwater Protection Act (Ill. Comp. Stat. 1992, Ch. 415, pars. 55/1 et seq.):

- (1) "Act" means the Environmental Protection Act (Ill. Comp. Stat. 1992, Ch. 415, pars. 5/1 et seq.).
- (2) "Agency" means the Illinois Environmental Protection Agency.
- (3) "Board" means the Illinois Pollution Control Board.
- (4) "Commenced" means when all necessary federal, State and local approvals have been attained, and work at the site has been initiated and proceeds in a reasonably continuously manner to completion.
- (5) "Maximum setback zone" means the area around a community water supply well established under Section 14.3 of the Act and this ordinance, which can be described as the one thousand foot radial area around the designated wellhead.
- (6) "Minimum setback zone" means the area around a community water supply well established under Section 14.2 of the Act and this ordinance, which can be described as the four hundred foot radial area around the designated wellhead.
- (7) "Potential primary source" means any unit at a facility or site not currently subject to a removal or remedial action which:
 - (a) is utilized for the treatment, storage, or disposal of any hazardous or special waste not generated at the site; or
 - (b) is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris; or
 - (c) is utilized for the landfilling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person; or
 - (d) stores or accumulates at any time more than 75,000 pounds above ground or more than 7,500 pounds below ground, of any hazardous substance.

A new potential primary source is: 1) a potential primary which is not in existence or for which construction has not commenced at its location as of January 1, 1988, or 2) a potential primary source which expands laterally beyond the currently permitted boundary existence as of January 1, 1988, or 3) a potential primary source which is part of a facility that undergoes major reconstruction. Major reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a two year period exceed fifty percent of the fixed capital cost of a comparable entirely new facility.

- (8) "Potential route" means abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavating for the discovery, development or production of stone, sand or gravel.

A new potential route is: 1) a potential route which is not in existence or for which construction has not commenced at its location as of January 1, 1988, or 2) a potential route which expands laterally beyond the currently permitted boundary or, if the potential route is not permitted, the boundary in existence as of January 1, 1988.

- (9) "Potential secondary source" means any unit at a facility or site not currently subject to a removal or remedial action, other than a potential primary source, which:
- (a) is utilized for the landfilling, land treating, or surface impounding of waste that is generated on the site or at other sites owned, controlled or operated by the same person, other than livestock and landscape waste and construction and demolition debris; or
 - (b) stores or accumulates at any time more than 25,000 pounds but not more than 75,000 pounds above ground, or more than 2,500 pounds but not more than 7,500 pounds below ground, of any hazardous substance; or
 - (c) stores or accumulates at any time more than 25,000 gallons above ground, or more than 500 gallons below ground, of petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance; or
 - (d) stores or accumulates pesticides, fertilizers, or road oils for purposes of commercial application or for distribution to retail sales outlets; or
 - (e) stores or accumulates at any time more than 50,000 pounds of any de-icing agent; or
 - (f) is utilized for handling livestock waste or for treating domestic wastewaters other than private sewage disposal systems as defined in the "Private Sewage Disposal Licensing Act."

A new potential secondary source is: 1) a potential secondary source which is not in existence or for which construction has not commenced at its location as of July 1, 1988, or 2) a potential secondary source which expands laterally beyond the currently permitted boundary or, if the potential secondary source is not permitted, the boundary in existence as of July 1, 1988, other than an expansion for handling of livestock waste or for treating domestic wastewater, or 3) a potential secondary source which is part of a facility that undergoes major reconstruction. Major reconstruction shall be deemed to have taken place where the fixed capital cost of the new components constructed within a two-year period exceed fifty percent of the fixed capital cost of a comparable entirely new facility.

- (10) "Setback zone" means a geographic area, designated pursuant to the Act, containing a potable water supply well or a potential source or potential route, having a continuous boundary, and within which certain prohibitions or regulations are applicable in order to protect ground waters.

- (11) Prohibitions

- (a) Except as provided in Sections 5 or 6, no person shall place a new potential primary source, new potential secondary source, or new potential route within the minimum setback zone.
 - (b) Except as provided in Section 5, no person shall place a new potential primary source within the maximum setback zone.
- (12) Waivers, Exceptions, and Certifications of Minimal Hazard
- (a) If, pursuant to Section 14.2(b) of the Act, the owner of a new potential primary source, new potential secondary source, or new potential route is granted a waiver by the Agency, such owner shall be deemed to have a waiver to the same extent from Section 4.(a) of this ordinance.
 - (b) If, pursuant to Section 14.2(c) of the Act, the owner of a new potential primary source (other than landfilling or land treating), new potential secondary source, or new potential route is granted an exception by the Board, such owner shall be deemed to have an exception to the same extent from Section 4.(a) of this ordinance.
 - (c) If, pursuant to Section 14.2(c) of the Act, the owner of a new potential primary source (other than landfilling or land treating) is granted an exception by the Board, such owner shall be deemed to have an exception to the same extent from Section 4. (b) of this ordinance.
 - (d) If, pursuant to Section 14.5 of the Act, the owner of a new potential primary source, new potential secondary source, or new potential route is granted a certificate of minimal hazard by the Agency, such owner shall not be subject to Section 4.(a) of this ordinance to the same extent that such owner is not subject to Section 14.2(d) of the Act.
- (13) Exclusion. Section 4. (a) of this ordinance shall not apply to new common sources of sanitary pollution as specified pursuant to Section 17 of the Act and the regulations adopted there under by the Agency; however, no such common sources may be located within the applicable minimum distance from a community water supply well specified by such regulations.

ARTICLE XV. OFF-STREET PARKING AND LOADING

SEC. Z-63. PURPOSE

The purpose of this article is to alleviate or prevent congestion of the public streets, and so promote the safety and welfare of the public by establishing minimum requirements for the use of the property.

SEC. Z-64. GENERAL PROVISIONS

- (1) Scope of regulations. The off-street parking and loading provisions of this chapter apply as follows:
- (a) For all buildings and structures erected and all uses of land established after the effective date of this chapter, accessory parking and loading facilities shall be provided as regulations of the district in which such buildings or uses are located. However, where a building permit has been issued prior to the effective date of this chapter, and provided that construction is begun within ninety (90) days of such effective date and diligently pursued to completion, parking and loading facilities as required hereinafter need not be provided.
 - (b) When the intensity of use of any building, structure or premises shall be increased through addition of dwelling units, gross floor area, seating capacity or other units of measurement specified herein for required parking or loading facilities as required herein

shall be provided for such increase in intensity of use. When a building or structure lawfully erected or use lawfully established prior to the effective date of this chapter increases in size or capacity by fifty (50%) percent or greater, the parking or loading facilities required by this chapter shall be provided for the total use.

- (2) Existing parking and loading facilities. Accessory off-street parking or lading facilities which are located on the same lot as the building or use served and which were in existence on the effective date of this chapter or were provide voluntarily after such effective date shall not further be reduced below, or if already less than, shall not further be reduced below the requirements of this chapter for a similar new building or use.
- (3) Permissive parking and loading facilities. Nothing in this chapter shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings; provided, that all regulations herein governing the location, design, improvement and operation of such facilities are adhered to.
- (4) Damage or destruction. For any conforming or legally nonconforming building or use which is in existence on the effective date of this chapter, which subsequent thereto is damaged or destroyed by fire, collapse, explosion or other cause, and which is reconstructed, reestablished or repaired, off-street parking or loading facilities need not be provided; except, that parking or loading facilities equivalent to any maintained at the time of such damage or destruction shall be restored or continued in operation. However, in no case shall it be necessary to restore or maintain parking or loading facilities in excess of those required by this chapter for equivalent new uses or construction.
- (5) Control of off-site parking facilities. When required parking facilities are provided on land other than the zoning lot on which the building or use served by such facilities is located, they shall be and remain in the same possession or ownership as the zoning lot occupied by the building or use to which the parking facilities are accessory. No such off-site parking facilities shall be authorized and no certificate of zoning compliance shall be issued where the plans call for parking facilities other than on the same zoning lot until and unless the Board of Appeals has reviewed the plans and heard the applicant and made findings that the common ownership or possession of the zoning lot and the site of the parking facilities are reasonably certain to continue and that the off-site parking facilities will be maintained at all times during the life of the proposed use or building.
- (6) Submission of plot plan. Any application for a zoning permit shall include herewith a plot plan, drawn to scale and fully dimensioned by a landscape architect or competent individual familiar with local practices and procedures, showing any parking, loading and landscaping to be provided in compliance with this chapter. (Ord. 68-85)

SEC. Z-65. ADDITIONAL PARKING REGULATIONS

- (1) Use of parking facilities. Off-street parking facilities accessory to residential use and developed in any residential district in accordance with the requirements of this section shall be used solely for the parking of passenger automobiles owned by occupants of the dwelling structures to which such facilities are accessory or by guests of such occupants. Under no circumstances shall require parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants, visitors or customers of business or manufacturing establishments.

- (2) Joint parking facilities. Off-street parking facilities for different buildings, structures or uses, or for mixed uses, may be provided collectively in any nonresidential zoning district in which separate parking facilities for each constituent use would be permitted; provided, that the total number of spaces so located together shall not be less than the sum of the separate requirements for each use (except as otherwise provided by this chapter).
- (3) Existing parking. Off-street parking, existing at the time a new use or change in use is made, may be considered by the Planning and Zoning Commission in granting a variation of parking requirements. However, such off-street parking shall be adjacent to, or directly across the street or alley from, but in no case at a distance in excess of four hundred fifty (450) feet, a use in a residential district and in the case of a use in a commercial or industrial district, the municipal off-street parking shall be within one thousand (1000) feet from the use.

The Planning and Zoning Commission shall not grant variations of parking requirements for more spaces than eighty (80%) percent of each off-street parking lot, nor shall any one use receive a parking variation of more than twenty (20%) percent of that eighty (80%) percent, nor shall more than twenty-five (25%) percent of the off-street parking requirements of any one use be subject to variation.

- (4) Computation. When determination of the number of off-street parking spaces required by this chapter results in a requirement of a fraction of one-half (1/2) or less, that fraction may be disregarded; while a fraction in excess of one-half (1/2) shall be counted as one parking space.
- (5) Size. A required off-street parking space shall be at least nine (9) feet in width and at least eighteen (18) feet in length, exclusive of access drives or aisles, ramps, columns or office or work areas. Such space shall have a vertical clearance of at least seven (7) feet. (Ord. 87-86)
- (6) In yards. A parking space shall not be located in a required front yard or side yard, except in the office, commercial or industrial districts.

(7) Design and maintenance.

- (a) OPEN AND ENCLOSED PARKING SPACES. Accessory parking spaces located on the same lot as occupied by the use served may be open to the sky or enclosed in a building. Accessory parking spaces located in a residential district elsewhere than on the same lot occupied by the use served shall be open to the sky except when otherwise allowed as a special use.
- (b) SURFACING. All open off-street parking areas, except those parking spaces accessory to a single-family dwelling, shall be improved with a minimum of a 6-inch base and an A-2 bituminous covering as designated in Section 307 and 403.01. "Standard Specifications for Road and Bridge Construction," State of Illinois Department of Public Works and Building Divisions of Highways (current edition). Such parking areas shall be so graded and drained as to dispose of all surface water, and in no case shall drainage be allowed across sidewalks. Alternate surfacing is allowable provided it is of a higher standard than those required by this chapter. (Ord. 10-88)
- (c) SCREENING OR LANDSCAPING. This subsection is established to recognize the public and private benefits of screening or landscaping of off-street parking facilities. Those benefits include the ability of landscaping within parking areas to help control the circulation of automobiles and pedestrians, identify entrances and exits, provide reference

points for locating automobiles, provide summer shade to people and automobiles, provide open space for drainage and snow storage, improve the appearance of large parking lots, and provide environmental and aesthetic benefits and be a positive asset to a shopping area or a business establishment.

All open, off-street parking areas containing five (5) or more spaces, all open off-street loading areas, and all open storage areas shall have effective screening on each side adjoining or fronting on any residential district or any public or private street except where the owner chooses to landscape in lieu of screening. Effective screening shall consist of a solid fence, wall or compact hedge not less than 3 feet nor more than 4 feet in height in front yards, and not less than 3 feet nor more than 6 feet inside and rear yards.

Where the owner chooses to landscape in lieu of screening the landscaping shall consist of the following two requirements:

(1) Canopy (Shade) Trees

In Commercial districts every 12 parking spaces shall require one canopy tree 2" - 2-1/2" caliper as measured 6" above the ground.

In Industrial districts every 24 parking spaces shall require one canopy tree 2" - 2-1/2" caliper as measured 6" above the ground.

Parking areas of 48 parking spaces or more shall require at least 1/2 of required canopy trees to be planted in interior planting islands of at least 70 sq. ft.

(2) Point System for Landscaping Elements. The number of points required shall be determined by the formula:

Parking

Each parking space in a Commercial district shall equal 5 points.

(Total number of parking spaces X 5 points = Total points)

Each parking space in an Industrial district shall equal 2.5 points.

(Total number of parking spaces X 5 points = Total points)

Loading areas

Each loading berth shall equal 75 points.

Open storage areas

Total square feet of outdoor storage area divided by 300 and then multiplied by 5 points.

The required total points shall be utilized on the basis of the following point values for individual landscaping elements.

Element	Point Value
canopy tree* 2" - 2-1/2" caliper	75
canopy tree or small tree 1-1/2" - 2" caliper	30
evergreen trees (minimum height 36 inches)	30

decorative wall or fence – minimum height 3 feet (per 10 linear feet)	10
earth berm - average height 30"	10
earth berm - average height 15" (per 10 linear feet)	5
evergreen shrub variety of plant sizes recommended	5
deciduous shrub variety of plant sizes recommended	3

*trees required in (1) are not to be included in the point count

A credit allowance toward the total points required will be provided for existing landscape elements at the same point values as in the table above.

Required screening along district boundary lines, adjacent to parking, loading and storage areas, will count toward required points for the area being treated.

Landscaping elements within or adjacent to open, off-street parking areas shall be protected from automobiles. Trees, shrubs, and other landscaping materials depicted on landscaping plans approved by the Village shall be considered to be elements of the project in the same manner as parking, building materials and other details. The required landscaping shall be properly maintained or replaced as needed. (Ord. 56-96)

- (a) LIGHTING. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties in such a way as not to create a nuisance.
- (e) SIGNS. Signs are permitted on parking areas when related to and accessory to the parking area.

(8) Floor area exemptions. When two (2) or more uses are located on the same zoning lot, only one exemption in terms of floor area, as set forth in Section 20-59, shall be permitted.

(9) PHYSICALLY IMPAIRED PARKING

- 1. If any parking is provided for employees, visitors, or both, the minimum number of accessible parking spaces to be provided for physically impaired persons are as follows:

Total Off-Street Parking of Spaces Required	Required Minimum Number Accessible Parking Spaces
1 - 20	1
21 - 50	2
51 - 75	3
76 - 100	4
101 - 150	5
151 - 200	6
201 - 300	7
301 - 400	8
401 - 500	9
501 -1000	2% of total number

over 1000 20 plus 1 for each 100 over 1000

- (b) The physically impaired parking stalls shall be at least sixteen feet wide by twenty feet long for 90-degree parking and shall be proportionately larger at other angles.

All stalls shall be appropriately marked and signed, be located in close proximity to the principle building and shall offer barrier free access to the principal building.

- (c) No accessible parking shall be required if only attendant or valet parking is provided and is available at all times the facility is open for public use. However, if accessible at-grade parking is available, at least one space for self parking of a vehicle with sensitive specialized control devices shall be provided. The designation of physically impaired parking stalls shall constitute consent by the property owner to the enforcement of the restriction of such spaces to physically impaired motorists by the Village.

- (d) The total number of accessible parking spaces may be distributed among parking lots, if greater accessibility is achieved in consideration of such factors as anticipated usage, number and location of entrances and level of parking areas. (Ord. 80-89)

SEC. Z-66. LOCATION OF ACCESSORY OFF-STREET PARKING FACILITIES

The location of off-street parking spaces in relation to the use served shall be as prescribed hereinafter. All distances specified shall be walking distances between such parking spaces and main entrance to the use served.

- (1) For uses in a residential district. Parking spaces accessory to single-family and two-family dwellings shall be located on the same zoning lot as the use served. Spaces accessory to multi-family dwellings and to uses other than dwellings may be located on the same zoning lot, on a lot adjacent to, or directly across a street or alley from the lot occupied by the use served, but in no case at a distance in excess of four hundred and fifty (450) feet from such use.
- (2) For uses in commercial and industrial districts. All required parking spaces shall be within one thousand (1000) feet of the use served, except for spaces accessory to dwelling units (except those located in a transient hotel) which shall be within four hundred and fifty (450) feet of the use served.

However, no parking spaces shall be located in a residential district, except that private, free, off-street parking and parking lots may be allowed by special use permit in accordance with the provisions of Article XIII of this chapter within three hundred (300) feet of and adjacent to any commercial or industrial district.

SEC. Z-67. SCHEDULE OF PARKING REQUIREMENTS

For the following uses, accessory off-street parking spaces shall be provided as required hereinafter.

- (1)

	Land Use	Minimum Number of Parking Spaces Required
A.	Single-Family & Duplexes	2 spaces for every dwelling unit

B.	Multi-Family	1 space for every bedroom, when there are 8 or less dwelling units. An additional .25 spaces per unit, when there are 9 or more dwelling units.
C.	Retail Sales & Personal Services	1 space for every 200 square feet of building area
D.	Restaurant & Tavern	1 space for every 150 square feet of building area
E.	Hotel and Motel	1 space for every room, plus 1 space for every 150 square feet of meeting space or ballroom
F.	Convenience Store & Gas Station	1 space for every 200 square feet of building area. Spaces at the fuel pumps may be counted.
G.	Health Club & Gym	The maximum allowed capacity divided by 3
H.	Movie Theater & Auditorium	1 space for every 3 theater seats
I.	Motor Vehicle Sales	1 space for every 450 square feet of building area, plus 1 space for every 1,500 square feet of outdoor display area
J.	Motor Vehicle Repair	3 spaces for every service bay
K.	Financial Institution	3 spaces for every teller counter
L.	Professional Office	1 space for every 200 square feet of building area
M.	Medical & Dental Office	1 space for every 200 square feet of building area
N.	Nursing Home & Convalescent Care	1 space for every 3 beds
O.	Religious Assembly	1 space for every 3 seats in assembly area
P.	Funeral Home	20 spaces for every parlor or chapel
Q.	Child Daycare	1 space for every classroom, plus 1 space for every 5 children
R.	School	3 spaces for every classroom, plus 1 space for every 10 children
S.	Parks & Outdoor Recreation	1 space for every 7,500 square feet of land area. On-street spaces may be counted.
T.	Manufacturing & Production	1 space for every 1,000 square feet of building area, plus 1 space for every vehicle used in conducting the enterprise
U.	Warehousing	1 space for every 1,500 square feet of building area, plus 1 space for every vehicle used in conducting the enterprise

- (2) Mixed uses. When two (2) or more uses are located on the same lot or within the same building, parking spaces equal in number to the sum of the separate requirements for each use shall be provided. No parking space or portion thereof shall serve as a required space for more than one use.
- (3) Other uses. For uses not listed, parking shall be required on the same basis as the most similar use, or as determined by Community Development Staff. All uses, not including any use by the Village of Machesney Park, shall provide a sufficient number of off-street parking spaces that are designed to meet the minimum standards of this Ordinance.
- (4) Restrictions on Required Parking. Required off-street parking areas are to be used for the display of goods for sale or lease or for long-term storage of vehicles, boats, or recreational vehicles or building materials.

- (5) Maintenance of Required Parking. Required off-street parking spaces are intended to serve residents, tenants, patrons, employees, or guests of the principal use. Off-street parking spaces that are required by this Zoning Ordinance must be maintained for the life of the principal use. Amd. Ord 09-2020 – 06/01/2020

SEC. Z-68. ADDITIONAL OFF-STREET LOADING REGULATIONS

- (1) Location. All required loading berths shall be located on the same zoning lot as the use served. No loading berth for vehicles over two (2) ton capacity shall be closer than fifty (50) feet to any property in a residential district unless completely enclosed by building walls, or a uniformly painted solid fence or wall or any combination thereof, not less than six (6) feet in height. No permitted or required loading berth shall be located within twenty-five (25) feet of the nearest point of intersection of any two (2) streets.
- (2) Size. Unless otherwise specified, a required loading berth shall be at least ten (10) feet in width by at least twenty-five (25) feet in length, exclusive of aisle and maneuvering space, and shall have a vertical clearance of at least fourteen (14) feet.
- (3) Access. Each required off-street loading berth shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement.
- (4) Surfacing. All open off-street loading berths shall be improved with a compacted, crushed-stone base, not less than eight (8) inches thick, surfaced with not less than two (2) inches of bituminous material or some comparable all-weather, dustless material.
- (5) Repair and service. No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residential or commercial districts.
- (6) Space allocated to any off-street loading berth shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.
- (7) For special uses other than prescribed for hereinafter, loading berths adequate in number and size to serve such use, as determined by the Planning and Zoning Manager, shall be provided.
- (8) Uses for which off-street loading facilities are required herein but which are located in buildings of less floor area than the minimum prescribed for such required facilities shall be provided with adequate receiving facilities off any adjacent alley, service drive or open space on the same lot which is accessible by motor vehicle.

SEC. Z-69. SCHEDULE OF LOADING REQUIREMENTS

For the uses listed in the following table, off-street loading berths shall be provided on the basis of gross floor area of buildings or portions thereof devoted to such uses in the amounts shown herein:

**OFF-STREET LOADING SPACE
REQUIREMENTS SCHEDULE**

Use	Gross Floor Area in Square Feet	Required Number and Minimum Horizontal Dimensions of Berths
(a) Hospitals, sanitariums and other institutional uses	10,000 to 20,000	1-(10 ft. x 25 ft.)
(b) Hotels, clubs and lodges except as	For each additional 200,000 or fraction	1 additional (10 ft. x 25 ft.)

set forth item(e)	thereof	
(c)Hotels, clubs and lodges containing any of the following:	10,000 to 20,000	1-(10 ft. x 25 ft.)
Retail shops, convention halls, auditoriums, exhibition halls or business or professional offices	20,001 to 150,000	1-(10 ft. x 50 ft.) (Ord 81-89)
	For each additional 150,000 or fraction thereof	1 additional (10 ft. x 50 ft.) (other than accessory)
(d)Retail stores	5,000 to 10,000	1-(10 ft. x 25 ft.)
(e)Establishments dispensing food or beverages for consumption on the premises	10,001 to 25,000 (Ord 81-89)	2-(10 ft. x 25 ft. ea.)
	25,000 to 40,000	2-(10 ft. x 50 ft. ea.)
(f)Motor vehicle and Machinery Sales	40,000 to 100,000	3-(10 ft. x 50 ft. ea.)
(g)Wholesale establishments(but not including warehouse and storage buildings other than accessory)	For each additional 200,000 or fraction thereof	1 additional (10 ft. x 50 ft.)
(h)Auditoriums, convention halls, exhibition halls, sports arenas, stadiums	10,000 to 20,000	1-(10 ft. x 25 ft.)
	20,001 to 100,000 (Ord 81-89)	1-(10 ft. x 50 ft.)
(i)Bowling alleys	For each additional 100,000 or fraction thereof	1 additional (10 ft. x 50 ft.)
(j)Banks and offices - Professional business, and governmental	10,000 to 100,000 For each additional 100,000 or fraction For each additional 500,000 or fraction Thereof	1-(10 ft. x 25 ft.) 1 additional (10 ft. x 25 ft.) to 500,000 1 additional (10 ft. x 25 ft.)
(k)Establishments engaged in production, processing, cleaning, servicing, testing or repair of materials, goods or products	5,000 to 10,000 10,001 to 40,000 40,001 to 100,000 (Ord 81-89)	1-(10 ft. x 25 ft.) 1-(10 ft. x 25 ft.) 2-(10 ft. x 50 ft. ea.)
(l)Warehouses and storage	For each additional	1 additional

buildings	100,000 or fraction (10 ft. x 50 ft.) thereof	
(m)Theaters	8,000 to 25,000 for 1-(10 ft. x 25 ft.) each additional	50,000 or fraction thereof (10 ft. x 25 ft.)
		1 additional

Use	Gross Floor Area in Square Feet	Required Number and Minimum Horizontal Dimensions of Berths
(n)Undertaking establishments	8,000 to 100,000 for 1-(10 ft. x 25 ft.) each additional 1 additional (10 ft. x 25 ft.)	100,000 or fraction thereof

ARTICLE XVI. SIGNS

SEC. Z-70. PURPOSE

It is the intent of this Article to regulate all signs and advertising visible outdoors in the Village of Machesney Park, including but not limited to the number, size, type, use, purpose and illumination thereof in order to protect property values and neighborhood character, create a more attractive business climate, and promote pedestrian and traffic safety by reducing sign distractions, obstructions, and other hazards. This Article permits signs necessary to communicate land use information and increase a use's ability to be easily located.

SEC. Z-71. SIGN STANDARDS

This Article establishes minimum regulations for the display of signs.

SEC. Z-72. SCOPE AND APPLICABILITY

No sign or display shall hereafter be located, relocated, erected, moved, constructed, reconstructed, place, replaced, extended, enlarged, converted or structurally altered, except in conformance with the provisions of this ordinance and after issuance of a sign permit, except as hereinafter provided under Sec. 20-67 Exemptions.

Nonconforming signs shall be subject to all the requirements governing the continuation of nonconforming structures as provided in Article II. No nonconforming sign may otherwise be replace with another nonconforming sign.

SEC. Z-73. GENERAL SIGN STANDARDS

The following general standards shall apply to all signs:

- (1) Obstructions. No sign may block any required access way, window, fire escape, door or other entrance or exit way, nor any window surface required for ventilation.
- (2) Vacant Property. No sign shall be located on vacant unimproved property except as follows:
 - (a) A sign advertising the premises for sale or lease.
 - (b) Political and election campaign signs.
 - (c) no hunting, no trespassing, or legal notices.
- (3) Signs on Trees or Utility Poles. No sign shall be attached to a tree or utility pole.
- (4) Public Right-of-Way. Within a public right-of-way no sign or associated lighting fixture shall be erected or displayed except traffic control and traffic information signs.
- (5) Within three hundred (300) feet of any freeway, expressway or tollway designated as such by the county or the state, no freestanding advertising sign structure designed to be viewed from such road shall be permitted to be erected within one thousand (1000) feet of any other such sign structure on the same side of the road, unless separated by a building or other obstruction that prohibits the motorist's view in his direction of travel. No advertising shall be permitted to be erected within three hundred (300) feet of any public park of more than (5) acres in area if facing such park and visible therefrom.
- (6) Illumination. Sign illumination shall be constant in intensity and color. The light for any illuminated sign shall be shaded, shielded, or directed so as not to cause glare in surrounding properties or in public streets. No direct or reflected light from a light source for an illuminated sign shall create a traffic hazard for operation of motor vehicles.
- (7) No "Advertising Sign" shall be permitted to be erected or placed within four hundred (400) feet of any adjoining residential district boundary lines. Further, no flashing sign of any type shall be permitted to be erected or placed within one hundred and fifty (150) feet of an adjoining residential district boundary line.
- (8) Change of Ownership, Tenant, or Advertiser. Any sign or zoning lot that has a change of ownership, tenant, or advertiser shall cause all signs on that zoning lot to secure new sign permits as provided in this Article.
- (9) Changes to Signs. No sign permit shall be required for the following changes to permitted signs:
 - (a) A change in the copy of a sign designed for replaceable copy, including painted or printed signs.
 - (b) Painting, cleaning, repair, maintenance, or face replacement of a sign not including structural change, and made necessary by breakage or deterioration, but not by a change in advertiser or owner.
- (10) Maintenance and Repair Required. The appearance and safety of a sign shall be maintained at all times. The sign shall be repainted as necessary to prevent rust, corrosion, rotting, or other deterioration in appearance or structural safety of the sign. The source or illumination shall be kept in safe working order at all times.

- (11) Attachments to be Secured. All letters, figures, characters and sign embellishments on a sign and its support shall be safely and securely attached to the sign structure.
- (12) Signs and sign structures attached to the wall of any building shall not extend more than six (6) feet above the roof line.
- (13) Abandoned Signs. It shall be the responsibility of the owner of any property upon which an abandoned sign is located to remove such sign. Sign removal shall abide by the following regulations:

Any abandoned wall-mounted or freestanding lighted cabinet sign that conforms to current Village sign regulations shall be considered “removed” when the sign face is removed and replaced with a blank face, or a face displaying the message “this space available” or words of similar implication.

Abandoned exterior wall-mounted individual letter signs, or other types of wall-mounted signs without an interchangeable face, shall be removed entirely.

If a building is demolished for redevelopment, any existing freestanding sign structure on the property, which is not conforming to current Village sign regulations, shall be removed at the time of demolition. If the sign conforms to current Village sign regulations it may remain on the lot, unless the lot is not yet redeveloped after 18 months, at which time the sign shall be removed.

Any abandoned freestanding sign that is not conforming to current Village sign regulations shall be removed entirely, including the sign face and supporting structure, and the lawn beneath shall be restored. (Amd. 11-15; 05/04/2015)

- (14) Cannabis Business Establishment Signage. No Cannabis Business Establishment nor any other person or entity shall place or maintain, or cause to be placed or maintained, an advertisement for cannabis or a cannabis-infused product in any form or through any medium within 1,000 feet of the perimeter of school grounds, a playground, a recreation center or facility, a child care center, a public park or public library, or a game arcade to which admission is not restricted to persons 21 years of age or older. (Amd. 43-19; 12/02/2019)

SEC. Z-74. SIGNS PROHIBITED IN ALL DISTRICTS

The following types of signs are specifically prohibited in all districts:

- (1) Signs which constitute a hazard to public health and safety, including, but not limited to signs which interfere with, mislead, or confuse traffic by reason of placement, size, coloring, illumination, or singularly contain words such as "STOP", "LOOK", "DANGER", "YIELD", or any similar words, phrases, symbols, lights, or characters commonly used to control traffic. No sign may imitate, resemble, or obscure a traffic-control device nor hide from view or interfere with the movement of traffic.
- (2) Vehicle signs, which are advertising or business signs attached to a motor vehicle or semi-trailer which is parked and placed in a position for the primary purpose of displaying same to the public.
- (3) Portable signs except as allowed under Sec. 20-63.6 TEMPORARY SIGNS.
- (4) Temporary signs except as allowed under Sec. 20-63.6 TEMPORARY SIGNS.
- (5) Search lights, beacon lights, revolving lights, oscillating lights, and stroboscopic-type lights.

- (6) Rotating signs, or signs with moving parts, or audible signs.
- (7) Off premises signs, except as may specifically be permitted in this Article.
- (8) No sign shall be painted, pasted or similarly posted directly on the surface of any wall, nor shall any sign be permitted to be placed on any wall, fence or standard facing the side of any adjoining lot located in any residential district.

SEC. Z-75. EXEMPTIONS

The following signs shall be exempt from the requirements of this Article:

- (1) Memorial signs and tablets of four (4) square feet or less displayed on private property.
- (2) Signs of duly constituted governmental body; including traffic and similar regulatory devices, legal notices or warnings at railroad crossings.
- (3) Flags or emblems of political, civic, charitable, educational or religious organizations.
- (4) Political signs displayed on private property, provided they are no closer than one hundred (100) ft. to a polling place on Election Day. Political signs shall not be permitted to be displayed on public property. All political signs shall be removed within seven (7) calendar days following a general election.
- (5) Contractor, architect or engineer signs when placed on construction sites and not exceeding sixty four (64) square feet in area. All contractor, architect or engineer signs shall be removed within 14 days of the date when the building is turned over to the owner or when the construction is completed, whichever shall occur first.
- (6) Signs required to be maintained by law or governmental order, rule or regulation, with a total surface area not exceeding ten (10) square feet on any zoning lot.
- (7) Small signs displayed for the direction or convenience of the public, including signs which identify rest rooms, freight entrances or the like, with a total surface not exceeding five (5) square feet on any zoning lot.
Accessory structure for identification of entrance to a residential development provided the copy area contains the name of such development only.
- (8) Individual directional signs designating entrances, exits and conditions of use of parking facilities accessory to the main use of the premises may be maintained provided they are located within the property lines of the zoning lot and do not exceed twenty-four (24) square feet.
- (9) Temporary Special Event signs for events taking place in the Village. Special Event signs are allowed fourteen (14) days prior to the event and must be removed within 48 hours after the occurrence of the event. Special Event signs are not allowed to advertise anything other than the event.
- (10) Real Estates signs that advertise a property for sale, for rent or for lease. No more than one sign per zoning lot; except, that on a corner lot, one sign shall be permitted on each street side. No sign shall exceed thirty-two (32) square feet in area and shall not be placed closer than eight (8) feet to any other zoning lot.
- (11) Interior signs. No sign permit shall be required for permanent or temporary signs located inside a building.

Sec. Z-76. OFF-PREMISES IDENTIFICATION SIGNS

Off premises identification signs are allowed upon satisfaction of all of the following standards and conditions:

- (1) The off-premises identification sign is necessary to prevent or reduce traffic or safety hazards.
- (2) The off-premises identification sign shall have no more than two (2) sign faces and shall have a maximum gross surface area of no more than thirty two (32) square feet per face.

- (3) The off-premises identification sign shall not be located within seventy (70) feet of any other identification sign regardless of the lot on which said other identification sign is located.
- (4) Off-premises identification signs indicating the location of subdivisions under construction must be removed when 75% of the subdivision has been completed. This condition may be extended upon request of the developer and approval of the Board of Trustees.

Sec. Z-77. TEMPORARY BUSINESS SIGNS

- (1) Applicability. Temporary Business Signs are allowed upon satisfaction of all of the following standards and conditions:
 - (a) Permit. A Temporary Business Sign permit shall be obtained as prescribed by the requirements of this section. Acceptance of any of the benefits of a Temporary Business Sign shall be deemed acceptance of all terms and conditions set forth herein.
 - (b) Application. Application for a Temporary Business Sign shall be made to the Planning and Zoning Manager on a form prescribed by the Planning and Zoning Manager.
 - (c) Inspection. Prior to approval the Planning and Zoning Manager or designated representative shall review the application and inspect the premises for compliance with the regulations of this section. Additional inspections may be requested by the Planning and Zoning Manager to confirm continued compliance with the provisions of this section.
 - (d) Fee. The application fee for a Temporary Business Sign shall be \$10.00.
- (2) Required Standards and Conditions. Conforming Temporary Business Signs shall comply with the following regulations:
 - (a) Temporary business signs may be allowed in commercial and industrial zoned districts.
 - (b) Temporary Business Signs calling attention to a new business may be allowed for a maximum of thirty (30) days.
 - (c) Temporary Business Signs calling attention to other business activities may be allowed a maximum of two (2) times in a calendar year for no more than fourteen (14) days at a time.
 - (d) Temporary Business Signs shall not be excessive in size or number or be placed in such a manner on the property to cause a nuisance or safety concern to the surrounding properties or pedestrians. The allowed size, number and placement of signs shall be based upon the review and approval of the Planning and Zoning Manager.
 - (e) Temporary Business Signs shall be anchored and supported in a manner which reasonably prevents the possibility of the signs becoming hazards to the public health and safety as determined by the Planning and Zoning Manager and Building Official.
 - (f) Temporary Business Signs shall be maintained in good condition and free of tears, rips, fraying, or fading as determined by the Planning and Zoning Manager and Building Official.
 - (g) The use of portable signs as Temporary Business Signs may be allowed subject to the following restrictions: no portable sign shall be permitted with lights which flash, blink or vary in intensity; no portable sign shall be permitted with red, yellow, or green lights. The portable sign shall be subject to all other provisions of this section.
 - (h) A Temporary Business Sign may be an off-premise sign subject to off-premises sign regulations relating to size and distance.
- (3) Revocation. A Temporary Business Sign may be subject to immediate revocation for any of the following reasons:
 - Any change in the Temporary Business Sign for which the permit was issued;
 - Failure to allow required inspections;
 - Failure to comply with the applicable provisions herein;

Violation of any Village Ordinance, State law, or federal law.

Sec. Z-78. ELECTRONIC MESSAGE BOARDS

- (1) Applicability. Electronic Message Board signs are allowed upon satisfaction of all of the following standards and conditions:
 - (a) Permit. A Sign permit shall be obtained as prescribed by the requirements of this section.
 - (b) Application. Application for an Electronic Message Board shall be made to the Planning and Zoning Manager.
 - (c) Inspection. Prior to approval, Planning and Zoning Staff shall review the application and inspect the premises for compliance with the regulations of this section. Additional inspections may be requested by the Planning and Zoning Manager to confirm continued compliance with the provisions of this section.
 - (d) Fixed displays with one static message displayed for a minimum of 24 consecutive hours shall be exempt from the Location standards stated in (2)(a) below.
 - (e) Displays at gas stations, stating gas prices as a fixed message, shall be exempt from the Location standards stated in (2)(a) below.
 - (f) These Electronic Message Board standards do not apply to Electronic Billboards, or to small interior-mounted electronic signs in business windows.

- (2) Required Standards and Conditions. Conforming Electronic Message Board signs shall comply with the following regulations:
 - (a) Location
 - 1. Electronic Message Board signs shall be allowed only in commercial and industrial zoned districts, or for educational, religious, government or institutional uses in any other zoning districts.
 - 2. A maximum of one Electronic Message Board sign shall be permitted per zoning lot on which there is only one single business use, subject to statement (2)(a)(6) below.
 - 3. A maximum of two Electronic Message Board signs shall be permitted per integrated shopping center in single ownership, subject to statement (2)(a)(6) below.
 - 4. A minimum of one-hundred fifty (150) feet shall be maintained between an Electronic Message Board sign and adjacent residential structures which are within the line of sight to view the sign.
 - 5. Electronic Message Board signs must be orientated perpendicular to the adjacent roadway, so not to project illumination towards the other side of the roadway.
 - 6. Electronic Message Board signs may only be added to existing sign structures, if the existing sign structure meets all standards of “Article XVI: Signs” in this Ordinance.
 - (b) Size
 - 1. The square footage of Electronic Message Board signs shall be factored into the allowable total surface area of signage per zoning lot.
 - 2. The Electronic Message Board portion of a sign shall not exceed 70% of the total sign area on each sign structure, not to exceed a maximum of 100 square feet.
 - (c) Operation
 - 1. All illumination may consist of full color or monochrome, and shall have a black background.
 - 2. The message shall not flash, scroll or scintillate and segmented messages shall be prohibited.

3. Illumination representing movement or animation shall be prohibited.
 4. Any message on an Electronic Message Board shall be displayed for a minimum of 10 seconds.
 5. Electronic Message Boards shall be equipped with photosensitive equipment which automatically adjusts the brightness and contrast of the sign in direct relation to the ambient outdoor illumination, so as not to create a traffic hazard for operation of motor vehicles, or create a nuisance. (*Amd. Ord 40-17 – 01/02/18*)
- (3) Existing Electronic Message Board signs, pre-dating the adoption of this Ordinance, shall comply with the following regulations.
- (a) Existing Electronic Message Boards shall be permitted to repair or replace the sign in a manner that does not increase the size, or decrease the distance to other Electronic Message Board signs or to residential zoning districts.
 - (b) All sign operation regulations stated in (2)(c) above shall apply, except pre-existing signs may represent scrolling or segmented messages.

SEC. Z-79. AGRICULTURAL DISTRICT

In the agricultural district, signs shall be regulated as follows:

- (1) Residential uses.
 - (a) SINGLE-FAMILY DWELLINGS. For each dwelling unit, nameplates and identification signs indicating the name and/or address of the occupant not exceeding a total of two (2) square feet in area. On a corner zoning lot, nameplates or identification signs may be permitted for each dwelling unit, on each street side.
 - (b) No sign shall project higher than one story or fifteen (15) feet above the grade level, whichever is lower.
- (2) Non-residential uses.
 - (a) CHURCH BULLETINS, CEMETERIES, EDUCATIONAL INSTITUTIONS; RECREATION AND SOCIAL FACILITIES AND OTHER SIMILAR USES. Identification signs not exceeding a total of sixty four (64) square feet in area. Such signs may not be closer than eight (8) feet to any other zoning lot. On a corner zoning lot, identification signs shall be permitted on each street side.
 - (b) AGRICULTURAL PRODUCTS. Signs advertising the sale of agricultural products grown or produced on the property not exceeding a total of sixteen (16) square feet in area.
 - (c) PROJECTION AND HEIGHT. No sign when attached to the wall of a building or structure, shall project more than eighteen (18) inches from the wall to which it is attached. No sign shall project higher than twenty-five (25) feet above the grade level.
 - (d) NONCONFORMING BUSINESS. Business signs, other than identification signs permitted by paragraphs (a) and (b) of this sub-section, shall be located only on the premises utilized for a nonconforming commercial or industrial use existing in the Agricultural District and shall not exceed the standards specified under Section 20-66 for the CN District.
- (3) Advertising signs. Advertising signs shall be prohibited in the AG District.
- (4) Setback. All signs in Agricultural Districts shall have a minimum front yard setback of ten (10) feet and a minimum side yard setback of five (5) feet.

SEC. Z-80. RESIDENTIAL DISTRICTS

In the residential districts, signs shall be regulated as follows:

- (1) Residential uses.
 - (a) SINGLE-FAMILY DWELLINGS. For each dwelling unit nameplates and identification signs indicating the name and address of the occupant not exceeding a total of two (2) square feet in area. On a corner zoning lot, nameplates for identification signs shall be permitted for each dwelling unit, on each street side.
 - (b) MULTIPLE-FAMILY DWELLINGS. For each multiple-family dwelling, identification signs indicating only the name and address of the building and the name of the management not exceeding a total of thirty-two (32) square feet in area. Such signs may not be closer than eight (8) feet to any other zoning lot. On a corner zoning lot, identification signs may be permitted on each street side.
 - (c) No sign shall project higher five (5) feet above the grade level.
- (2) Nonresidential uses.
 - (a) CHURCH BULLETINS, CEMETERIES, EDUCATIONAL INSTITUTIONS, RECREATION AND SOCIAL FACILITIES AND OTHER SIMILAR USES. Identification signs not exceeding a total of sixty four (64) square feet in area. Such signs may not be closer than eight (8) feet to any other zoning lot. On a corner zoning lot, identification signs shall be permitted on each street side.
 - (b) AGRICULTURAL PRODUCTS. Signs advertising the sale of agricultural products grown or produced on the property not exceeding a total of sixteen (16) square feet in area.
 - (c) PROJECTION AND HEIGHT. No sign when attached to the wall of a building or structure, shall project more than eighteen (18) inches from the wall to which it is attached. No sign shall project higher than one story or twenty (20) feet above the grade level, whichever is lower.
- (3) Advertising signs. Advertising signs shall be prohibited in the residential districts.

SEC. Z-81. OFFICE DISTRICT

In the OF District business signs are permitted subject to the following conditions:

- (1) AREA. The gross surface area, in square feet, of all business signs on a zoning lot shall not exceed a maximum gross area of 200 square feet.
- (2) PROJECTION. No sign when attached to the wall of a building or structure, shall project more than eighteen inches from the face of the wall of such building or structure. Projection limitations shall not apply to identification marquee or canopy signs provided, that any identification sign located on a marquee or canopy shall be affixed flat to the surface thereof and shall be non-illuminated and shall indicate only the name, address and/or the type of business of the establishment. Further, no such sign shall extend vertically or horizontally beyond the limits of such awning.
- (3) FREESTANDING SIGN. Only one freestanding business sign shall be permitted for each street frontage of a zoning lot; provided, no such sign shall exceed one hundred (100) square feet in gross area.
 - (a) HEIGHT. A freestanding business sign shall not project higher than ten (10) feet above grade level.
 - (b) SIGN STAND OR BASE. A freestanding business sign stand or base must be enclosed, and pole supports are prohibited. The material for the sign base shall include a base constructed of brick, stone, or masonry materials and be matched in type and color to these materials used on the buildings on the premises if such materials are present. The area of the sign base shall be no less than eighty (80) percent of the width of the sign and no less than fifty (50) percent of the depth of the sign.
- (4) SETBACKS. Signs in the OF District shall have a minimum front yard and side yard setback of five (5) feet.

- (5) ADVERTISING SIGNS. Advertising signs shall be prohibited in the OF District.
- (6) ADDRESS IDENTIFICATION. All new freestanding signs that are constructed or reconstructed after the adoption of Ord #03-20 (1/6/2020) shall include a non-illuminated building address number for the structure that is served by the sign. For multi-tenant buildings containing numerous addresses, the address number to be posted on the sign shall reflect the highest and lowest range of addresses contained within the building served by the sign. The address numbers shall be a minimum of five inches high, with a minimum stroke width of .75 inch. (Ord 03-20)

SEC. Z-82. COMMERCIAL DISTRICTS

In the commercial districts, signs shall be regulated as follows:

- (1) RESIDENTIAL USES. The regulations covering the use of signs for residential buildings in the commercial districts shall be the same as in the residential districts.
- (2) NONRESIDENTIAL USES. Business signs are permitted subject to the following conditions:
 - (a) AREA. The gross surface area, in square feet, of all business signs on a zoning lot shall not exceed one (1) times the lineal feet of street frontage on such zoning lot or two (2) times the lineal feet of building frontage on such zoning lot. A principal building on a corner lot shall be deemed to have a frontage equal to the length of those sides of such buildings which abut a street. (Ord. 35-13)
 - (b) PROJECTION. No sign when attached to the wall of a building or structure, shall project more than eighteen (18) inches from the face of the wall of such building or structure.
 - (c) FREESTANDING SIGN. Only one freestanding business sign shall be permitted for each street frontage of a zoning lot; provided, no such sign shall exceed one hundred (100) square feet in gross area except as provided under paragraph (2) (d) below.
 - (i) HEIGHT. A freestanding business sign shall not project higher than ten (10) feet above grade level, or above the adjacent roadway as measured from the top of the curb nearest the freestanding sign, whichever is taller.
 - (ii) SIGN STAND OR BASE. A freestanding business sign stand or base must be enclosed, and pole supports are prohibited. The material for the sign base shall include a base constructed of brick, stone, or masonry materials and be matched in type and color to these materials used on the buildings on the premises if such materials are present. The area of the sign base shall be no less than eighty (80) percent of the width of the sign and no less than fifty (50) percent of the depth of the sign.
 - (d) INTEGRATED SHOPPING CENTERS. For integrated shopping centers in single ownerships or under unified control, one additional sign, other than those regulated in paragraph (2) (c) above shall be permitted, subject to the following:
 - (i) CONTENT. Such signs shall advertise only the name and location of such center, and the name and type of business of each occupant of the center.
 - (ii) AREA. Such signs shall not exceed one hundred (100) square feet in gross area.
 - (iii) HEIGHT. Such signs shall not project higher than fifteen (15) feet above grade level.
 - (iv) SIGN STAND OR BASE. Such signs stand or base must be enclosed, and pole supports are prohibited. The material for the sign base shall include a base constructed of brick, stone, or masonry materials and be matched in type and color to these materials used on the buildings on the premises if such materials are present. The area of the sign base shall be no less than eighty (80) percent of the width of the sign and no less than fifty (50) percent of the depth of the sign.
 - (e) ADVERTISING SIGNS. Advertising signs shall be prohibited in the Commercial Districts.

- (f) SIGNS ON NORTH SECOND STREET, NORTH OF ROOSEVELT ROAD. New freestanding signs in this area shall be permitted, subject to the following:
 - (i) AREA. Such signs shall not exceed one hundred (100) square feet in gross area.
 - (ii) HEIGHT. Such signs shall not project higher than fifteen (15) feet above grade level, or above the adjacent roadway as measured from the top of the curb nearest the freestanding sign, whichever is taller.
 - (iii) SIGN STAND OR BASE. Such sign bases shall conform with Z-82(2)(c)(ii), or shall be supported by an enclosed pole support with the pole-enclosure being no less than 36-inches in width, and being a color and material complimentary to the design of the freestanding sign.
 - (iv) INTEGRATED SHOPPING CENTERS. Multi-tenant signs at integrated shopping centers shall conform to the standards in Z-82(2)(d). (Ordinance 35-17)
- (3) ADDRESS IDENTIFICATION. All new freestanding signs that are constructed or reconstructed after the adoption of Ord #03-20 (1/6/2020) shall include a non-illuminated building address number for the structure that is served by the sign. For multi-tenant buildings containing numerous addresses, the address number to be posted on the sign shall reflect the highest and lowest range of addresses contained within the building served by the sign. The address numbers shall be a minimum of five inches high, with a minimum stroke width of .75 inch. (Ord 03-20)

SEC. Z-83. INDUSTRIAL DISTRICTS

In the Industrial Districts signs shall be regulated as follows:

- (1) Only one freestanding business sign shall be permitted for each street frontage of a zoning lot; provided no such sign exceed one-hundred (100) square feet of area. And total signage (both freestanding and wall-mounted) on a zoning lot shall not exceed three (3) times the lineal feet of frontage of such zoning lot.
 - (a) SIGN TYPE. Only Monument Signs shall be permitted, as freestanding signs in the Industrial District.
 - (b) SIGN HEIGHT shall not exceed six (6) feet above grade level.
 - (c) LANDSCAPING. All signs shall be placed within a landscaped area, the size of which shall be no less than equal to 1 times the surface area of the sign. (example: a sign 50-square feet in size shall be placed on a landscaped area at least 50-square feet in size.) When choosing landscaping materials, future plant height shall be considered, so not to block the sign message as plantings mature.
 - (d) WALL-MOUNTED SIGNS shall be permitted on the exterior of industrial buildings. However, they shall not project more than eighteen (18) inches from the face of the wall of such building, nor shall they project more than two (2) feet above the roofline.
- (2) PRE-EXISTING INDUSTRIAL SIGNS, which pre-date July 16, 2012, shall be permitted to repair or make additions to the sign structure, if the sign complies with the follow standards:
 - (a) The gross area, in square feet, of all business signs shall not exceed four (4) times the lineal feet of frontage on such zoning lot, not to exceed a maximum gross area of 680 square feet.
 - (b) The height of such freestanding sign shall not project more than thirty-five (35) feet above grade level.
 - (c) If the sign structure is being replaced, it must meet the standards set forth in 20-66.2(1), above.
- (3) ADVERTISING SIGNS in Industrial Districts shall comply with the following standards:
 - (a) MINIMUM DISTANCE BETWEEN ADVERTISING SIGNS. One freestanding sign

structure shall be permitted to be erected on a zoning lot provided that no such sign structure shall be permitted to be erected within two-thousand six-hundred and forty (2,640) feet of an existing such structure.

- (b) SPECIAL USE PERMIT REQUIRED. Advertising signs shall be permitted by Special Use Permit only subject to Section 20-71.
 - (c) SETBACK. Advertising signs shall be subject to the same front building setback required for principal structures in their respective district.
 - (d) SIZE. Advertising signs shall not be larger than 672 square feet.
 - (e) HEIGHT. Advertising signs shall not be taller than 50 feet above grade.
 - (f) MINIMUM DISTANCE FROM ROOFED STRUCTURE. All freestanding sign structures shall be no less than 50 feet from any roofed structure.
 - (g) VILLAGE LOGO. All freestanding sign structures shall incorporate the Village of Machesney Park's logo near the top of the sign support, as approved by Village Staff.
 - (h) PUBLIC SERVICE. All advertising signs with an Electronic Message Board shall contain a "public service" message as provided by the Village, if the Village participates, at no cost to the Village, to be displayed as 200 10-second messages per day. (Ord 44-15 – 12/7/2015)
- (4) ADDRESS IDENTIFICATION. All new freestanding signs that are constructed or reconstructed after the adoption of Ord #03-20 (1/6/2020) shall include a non-illuminated building address number for the structure that is served by the sign. For multi-tenant buildings containing numerous addresses, the address number to be posted on the sign shall reflect the highest and lowest range of addresses contained within the building served by the sign. The address numbers shall be a minimum of five inches high, with a minimum stroke width of .75 inch. (Ord 03-20)

SEC. Z-84. VARIANCE

A variance may be granted from certain requirements of this Article subject to Section 20-72 VARIATIONS where the literal application of the code would create a particular hardship for the sign user and the following criteria are met:

A literal application of the code would not allow the property to be used at its highest and best use as zoned.

The granting of the requested variance would not be materially detrimental to the property owners in the vicinity.

Hardship caused the sign uses under literal interpretation of the code is due to conditions unique to that property and does not apply generally to other property within the same zoning classification.

The granting of the variance would not be contrary to the general objectives of this code.

In granting a variance, the Village Board may attach additional requirements to carry out the spirit and purpose of this Ordinance in the public interest.

ARTICLE XVII. ADMINISTRATION

SEC. Z-85. ZONING OFFICE

- (1) Creation. The zoning office is hereby created and, under the direction of a Planning and Zoning Manager, shall have the responsibility of administering and enforcing the provisions of this ordinance.

- (2) Powers and duties. The Planning and Zoning Manager shall enforce the provisions of this ordinance and in addition thereto and furtherance of such authority shall:
 - (a) Examine and approve any application pertaining to the use of land, buildings or structures to determine if the application conforms with the provisions of the ordinance.
 - (b) Issue all zoning certificates, and keep permanent records thereof.
 - (c) Issue all certificates of zoning compliance and keep permanent records thereof.
 - (d) Conduct such inspections of buildings, structures and uses of land as are necessary to determine compliance with the terms of this ordinance.
 - (e) Receive, file and process for action all applications for appeals, variations, special uses and amendments to this ordinance which are filed in the zoning office.
 - (f) Initiate, direct and review, from time to time, a study of the provisions of this ordinance, and make reports of his recommendations to the Board of Trustees not less frequently than once a year.
 - (g) Revoke certificates of zoning compliance where provisions of this ordinance are being violated.
 - (h) Issue certificates of zoning compliance for nonconforming uses existing at the time of passage of this ordinance or any amendment thereto upon request.
 - (i) Maintain permanent and current records of this chapter, including all maps, amendments, special uses and variations.
 - (j) Provide and maintain public information relative to all matters arising of this ordinance.
- (3) Remedies cumulative. All remedies provided for herein shall be cumulative and not exclusive.

SEC. Z-86. PLANNING AND ZONING COMMISSION

- (1) Jurisdiction. The Planning and Zoning Commission is hereby vested with the following jurisdiction and authority, and it shall be its duty:
 - (a) To hold public hearings on requests for amendments to this chapter, to make findings and recommendations thereon, and to forward the same to the President and Board of Trustees of the Village.
 - (b) To hear and decide appeals from any order, requirement, decision or determination made by the Planning and Zoning Official in the administration or enforcement of this Chapter;
 - (c) To hear and decide appeals from any order, requirement, decision or determination made by an Administrative Official in the administration and enforcement of any other ordinances of the Village upon which the Planning and Zoning Commission is required to pass;
 - (d) To hear applications for variations from the regulations and restrictions contained in this Chapter and submit its recommendations thereon to the President and Board of Trustees of the Village;
 - (e) To hear all applications for special uses and submit its recommendations thereon to the President and Board of Trustees of the Village,
 - (f) To hear all applications for zoning map amendments and submit its recommendations thereon to the President and Board of Trustees of the Village; and
 - (g) To hear and decide, or make recommendations on, such other matters as may from time to time be committed to its jurisdiction by other ordinances of the Village.
- (2) Composition of the Planning and Zoning Commission. A Planning and Zoning Commission is hereby authorized to be established. The Commission shall consist of a chairman and six (6) members and the said Commission shall be appointed by the Village President with the consent of the Board of Trustees of the Village.
 - (a) Membership: The Commission shall be composed of seven (7) members appointed by the Village President with the consent of the Machesney Park Village Board. All members of the

Commission shall be residents of the Village, and no members shall hold an elective office in any government.

- (b) Attendance: Commission members shall advise the designated Staff member or the Commission chairperson of an anticipated absence from any regularly scheduled Commission meeting. Any member failing to attend three (3) consecutive regular meetings, or three of any seven (7) regular meetings, shall be reviewed by the Village President. An excused leave of absence may be granted by the Village President.
 - (c) Conflict of Interest:
 - (i) General Standard. No Commissioner shall be appointed with private or personal interests likely to conflict with the general public interest. If any person appointed to the Commission shall find that his/her private or personal interests are involved in any matter coming before the Commission, he/she shall disqualify himself from taking part in any discussion or action on the matter; alternatively, they may be disqualified by a two-thirds (2/3) majority vote of the Commissioners in attendance.
 - (ii) Conflict Due to Economic Interests. A Commissioner has a conflict of interest if, in his or her discharge of official duties, would be required to take an action or make a decision that would affect the Commissioner's financial interests. In the event a conflict of interest exists with respect to a particular matter before the Commission, the Commissioner shall disqualify him/herself from taking part in any discussion or action on the matter.
 - (d) Ex Parte Contacts: Ex parte contacts are contacts between individuals seeking to influence the decisions of the Commission and individual Commission members outside the meeting forum. Such contacts include meetings with project proponents, residents, property owners, and citizens separate from Commission meetings, communication between Commission members outside the meeting forum, telephone calls, letters, or electronic means which attempt to influence a Commissioner's opinion on a matter, which will be subject to the Commissioner's vote. When the Commission is involved in a matter, which is to be heard and decided by the Commission, Commissioners shall indicate to the person contacting them that such contact is inappropriate and all testimony needs to be offered at the hearing to ensure a fair hearing for all parties. In all other cases, Commissioners should discourage such contacts and should avoid expressing any opinion as to the merits of the case. When ex parte contacts occur, the Commissioner is responsible for notifying the Planning & Zoning Official, and for conveying the substance of the communication at the next Commission meeting at which the matter discussed is under consideration.
 - (e) Terms of Office: When first appointed, Commission members shall serve for terms of one (1) to seven (7) years to expire in September. One member shall serve for one (1) year; one for two (2) years, one for three (3) years, one for four (4) years, one for five (5) years, one for six (6) years, and one for seven (7) years. The successor to each member so appointed and members reappointed shall serve for a term of five (5) years.
 - (f) Vacancy of Office: A vacancy occurring on the Commission shall be filled by an appointment of the Village President with the approval of the Village Board for the unexpired term. Notice of the vacancy of a term of office shall be posted at Village Hall and published on the Village web site prior to the expiration of a term of office. The notice shall advise that a term is expiring and will request qualified persons interested in serving on the Commission to submit a Committee Resume to Village Hall. The notice will include the qualifications for the position and a brief description of the duties of the Commission.
- (3) Officers. The Commission shall annually elect three (3) Officers from among its own members during its annual Commission meeting. The three Officials of the Commission shall consist of a Chairperson, a Vice Chairperson, and a Secretary. The sequence of election shall be the Chairperson, Vice Chairperson, and

Secretary. Each Officer shall serve one (1) year terms. Terms of office of the Chairperson, Vice Chairperson, and Secretary shall not be held for more than two consecutive terms by one member of the Commission. In addition, the Planning & Zoning Official, or his/her designee, shall act as the recording secretary for the Commission.

- (a) Chairperson: The Chairperson shall preside at all meetings of the Commission, shall have general authority and responsibility in the administration of the Rules and Regulations, and shall be consistent with powers reserved to the Commission. Powers include signature for documents, recommendations and resolutions of the Commission, the call for special meetings in accordance with these by-laws, and appointments of advisory committees, subject to Commission confirmation.
 - (i) Duties of the Chairperson. The Chairperson shall preside at all meetings of the Commission and shall sign official documents of the Commission when authorized and directed by the Commission. The Chairperson shall appoint such Committee and Subcommittees as may be necessary to carry out the purpose of the Commission and shall be an ex-officio member of all Committees and Subcommittees with voice but no vote.
 - (b) Vice Chairperson: The Vice Chairperson shall exercise the functions of the Chairperson in the Chairperson's absence or incapacity. The Vice Chairperson shall also serve as Chairperson in the event the office of Chairperson becomes vacant due to resignation, removal, incapacity or any other similar circumstances.
 - (i) Duties of the Vice Chairperson. The Vice Chairperson, in the absence or disability of the Chairperson, shall perform all the duties and exercise all the powers of the Chairperson.
 - (c) Secretary: The Secretary shall see that records are maintained by administrative staff and call roll at Commission meetings.
 - (i) Duties of the Secretary: The Secretary shall be responsible for calling roll at Commission meetings and considering and approving minutes of previous meetings. Record keeping for the Commission will be conducted by administrative staff.
- (4) Meetings. All meetings of the Commission shall be conducted in accordance with the State of Illinois Open Meetings Law (5 ILCS 120/1), except as otherwise provided by ordinance. A member of the public shall not be required as a condition of attendance at any meeting to register his name, to supply information, to complete a questionnaire, or fulfill any other condition precedent to his attendance, except that a person seeking recognition may be required to give his name and affiliation.
- (a) Annual Meetings. The annual meeting of the Commission shall be held at the regular meeting of the month of October of each year. At the annual meeting, the members shall elect their Officers for the following year and shall conduct the regular business of the Commission.
 - (b) Regular Meetings. The Commission shall regularly meet on the fourth Monday of each month at 6:00 p.m., or at another time determined by the Commission members. If a meeting falls on a legal holiday, the meeting shall be held the next day. A regular meeting may be canceled or rescheduled by the Commission at a prior meeting or otherwise following reasonable notice to its members and the public.
 - (c) Special Meetings. Special meetings may be called by the Chairman by giving notice thereof to the Planning & Zoning Official. The Planning & Zoning Official, on behalf of the Chairman, shall notify each member of the time and place of the special meeting at least two (2) days prior to the meeting and notify the newspaper, radio or television station requesting such notice. The notice shall specify the business to be transacted, and no other business shall be considered at a special meeting.
 - (i) The Village Administrator is hereby authorized to make such additional charges to the applicant as may be necessary to cover the cost of sending and publishing a notice in the

event the filing fees authorized to be collected hereinafter are sufficient to cover costs, as well as the costs of the said hearings.

- (d) Recessed Meetings. The Commission may recess any regular, special or recessed regular or special meeting to a place and time specified in an order of recess. A copy of the order of recess shall be conspicuously posted on or near the door of the place where the meeting or recessed meeting was held. Only the matters appearing on the agenda may be acted upon in a meeting recessed to another location.
 - (e) Executive Sessions. The Commission may hold executive sessions, not open to public, only in accordance with Illinois Compiled Statutes (5 ILCS 120/2a).
- (5) General Procedures.
- (a) Quorum. Four (4) members of the Commission, including the Chairperson, shall constitute a quorum. No action shall be taken in the absence of a quorum, except to adjourn the meeting to a subsequent date or time. In instances where only four members are present, a concurring vote of four members is necessary to pass a motion. If three (3) members of a quorum of four vote "aye" and one member votes "nay" the motion fails. If three (3) members of a quorum of four vote "aye" and one member "abstains," the abstention goes with the majority and the motion passes.
 - (b) Voting. Each member of the Commission, including the Chairperson, shall be entitled to one (1) vote. Voting shall be by voice. Members of the Commission shall cast all votes in person. An affirmative vote on an action will consist of the majority of the members present at the meeting. The Chairperson or any absent member who certifies that he/she has listened to the recording or watched the video of the Commission proceedings may vote on any item before the Commission. The absent member has two (2) days from the date of the Commission meeting at which the item was heard to inform the Planning and Zoning Official in writing of said member's intention to vote. The vote of the absent member must be received by the Planning and Zoning Official within four (4) days after the recording of the proceedings becomes available.
 - (c) Abstention. Any member of the Commission shall abstain from voting on any matter of issue when that member has a personal or financial interest in that matter or issue. The member shall disclose his interest immediately after the matter is introduced for hearing and shall be disqualified from voting and from participation in any discussion upon the matter, and the Secretary shall so record in the minutes the action taken by the member.
 - (d) Absenteeism. The Commission shall notify the Village Board when any member misses three (3) consecutive, regularly-scheduled meetings or three of seven (7) regularly- scheduled meetings. Absenteeism as defined in this Section is pursuant to action by the Village Board as outlined in Chapter II, Section 2 of these By-Laws.
 - (e) Rules of Procedure. All meetings of the Commission shall be conducted generally in accordance with "Robert's Rule of Order," as amended, except where variance makes for more efficient flow of business, and by these By-Laws.
 - (f) Proceedings. At any regular meeting of the Commission, the following shall be the regular order of business:
 - (i) Call to order
 - (ii) Roll call and declaration of quorum
 - (iii) Consideration and approval of minutes of previous meetings
 - (iv) Communications
 - (v) Call of cases on agenda and hearing of requests for continuances
 - a. Continuances. Continuances may be granted at the discretion of the Commission in any case for good cause shown by the applicant.
 - b. Failure of Applicant to Appear
 - i. *The Chairperson may entertain a motion from the Commission to table the case for lack of testimony. In the absence of a motion from the*

ii. *Commission, the Chairperson shall rule to proceed with the case. For cases which are tabled for lack of testimony, the applicant will be furnished notice by the Planning and Zoning Official within three (3) working days.*

- (vi) Other Business
- (vii) Public Comment
- (viii) Adjournment

- (6) Procedures for Public Hearing. The public hearing is held for the purpose of obtaining information and comments. The Commission shall consider the information and comments presented during the public hearing, prior to the submission of recommendations to the Village Board.
- (a) Notice of Public Hearing. For applications that statutorily require published notification in a newspaper of general circulation, such notice of the time and place of hearing shall be given by published notice in a newspaper of general circulation not less than fifteen (15) and no more than thirty (30) days before the date of such hearing, in the case of amending these By-Laws, or as otherwise prescribed in present regulations.
 - (b) Appearance at Public Hearing. Any interested individual or group will be provided an opportunity to participate in the public hearing. Appearance will be granted in the following order:
 - (i) Those individuals or groups who wish to speak for the proposal set for public hearing,
 - (ii) Those individuals or groups who wish to speak against the proposal set for public hearing.
 - (iii) Those individuals or groups who wish only to comment and not speak for or against the proposal.
 - (c) Written Comments for Public Hearing. Any individual or group will be provided an opportunity to submit written comments to the Commission within the required public notice period for the public hearing. Written comments may be presented publicly and shall automatically be incorporated into the public hearing record.
 - (d) Proceedings for Public Hearing. All applications to the Planning & Zoning Commission shall be heard as follows at a public hearing:
 - (i) All parties providing testimony are sworn in by the Chairperson or Attorney.
 - (ii) All comments should be addressed to the subject of the hearing through the Chairperson and not directed to any other individuals.
 - (iii) The applicant and/or his/her representative may make an initial statement outlining the nature of the request prior to introducing evidence.
 - (iv) Items for consideration shall be presented in the following order:
 - a. Chairperson introduces hearing item.
 - b. Chairperson asks Village staff to provide a report and explain the nature of the item before the Commission.
 - c. Applicant presents evidence including evidence of any witnesses.
 - d. Commission members ask questions of the applicant and witnesses.
 - e. Objectors present evidence including evidence of any witnesses.
 - f. Commission members ask questions of objectors and witnesses.
 - g. Where applicable, cross-examinations may be allowed.
 - h. Rebuttal by applicant.
 - i. Rebuttal by objectors.
 - j. Evidence by Commission, if any. The Chairperson may wish to hear from Village staff or Attorney again for additional comments or clarification.
 - k. Chairperson entertains a motion.
 - l. Commission deliberates on the matter. Discussion may occur and the

Findings of Facts shall be recorded on cases of Variance and Special Use Permit.

- m. Roll call vote is taken.
- (e) Decisions/Recommendations. Final decisions or recommendations shall be made by the Commission following the hearing, and in no event shall the final recommendation be made later than 45 days after the close of the hearing.
 - (i) A concurring vote of four (4) members of the Commission shall be necessary to reverse any order, requirement, decision, or determination of Village staff, or to recommend any variation or modification in the item.
 - (ii) All deliberations of the Commission shall be conducted, and all of its decisions shall be made at a meeting that is open to the public.
 - (iii) All decisions of the Commission shall be made by motion and seconded, and by the Chairperson polling the membership by a roll call vote. The motion, which decided the issues, shall be in the form of findings of fact and shall state the reasons for the findings by the Commission. If conditions are imposed in recommending the granting of a variance or special use, such conditions shall be included in the motion.

SEC. Z-87. APPEALS

- (1) Scope of appeal. An appeal may be taken to the Planning and Zoning Commission by any person, firm, corporation or office, department, board or bureau affected by a decision of the Planning and Zoning Manager. Such appeals shall be taken within such time as shall be prescribed by the Planning and Zoning Commission by general rules adopted by it, and shall be taken by filing with the Planning and Zoning Manager a notice of appeal, specifying the grounds thereof, together with such plats and exhibits as are reasonably necessary. Such appeal shall be taken upon forms provided by the Planning and Zoning Commission. The Planning and Zoning Manager shall forthwith transmit to the Planning and Zoning Commission all of the papers constituting the record upon which the action appealed was taken.
- (2) Hearing of appeals. The Planning and Zoning Commission shall fix a reasonable time and place for the hearing of appeals and shall give notice thereof to the person appealing and to the office from whom the appeal is taken. It shall hear and decide the appeal within a reasonable time. At the hearing, parties of interest may appear in person or by agent or attorney to testify.
 - (a) The concurring vote of four (4) members of the Planning and Zoning Commission shall be necessary to reverse any order, requirement, decision or determination of the Planning and Zoning Manager. (Ord 68-87)
- (3) Stay of proceedings. The appeal shall stay all proceedings and furtherance of the action appealed from, unless the Planning and Zoning Manager certifies to the Planning and Zoning Commission, after notice of appeal has been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such a case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Planning and Zoning Commission or by court of record on application, with notice to the officer from whom the appeal is taken, and all due causes shown.

SEC. Z-88. SPECIAL USES

(1) Purpose. The formulation and enactment of this chapter is based on the division of the entire Village into districts in each of which are permitted specified uses that are compatible. In addition to such permitted, compatible uses, however, it is recognized that there are other uses which it may be necessary or desirable to allow in a given district but, because of their potential influence upon neighboring uses, need to be carefully regulated with respect to location or operation for the protection of the community. Such uses are classified in this chapter as "special uses."

(2) Application and fee.

(a) DATA TO BE FURNISHED. Application for a special use permit shall be made to the Planning and Zoning Manager on a form prescribed by the Planning and Zoning Commission with the following data:

1. Name and address of the applicant.
2. Statement that the applicant is the owner or the authorized agent of the owner of the property on which the use is proposed to be located.
3. Address and description of the property.
4. Statement indicating the precise manner of compliance with each of the applicable provisions of this chapter, together with any other data pertinent to the findings prerequisite to the granting of a special use permit, prescribed in subsection (3) of this section.
5. Name and address of all adjacent property owners from the latest adopted tax rolls.

(b) MAPS. The application shall be accompanied by the following plans and drawings:

1. An accurate scale drawing of the site and the surrounding area for a distance of at least three hundred (300) feet from each boundary of the site showing the existing locations of streets and property lines.
2. An accurate scale drawing of the site showing the contours at intervals of not more than five (5) feet and existing and proposed locations of streets, property lines, uses, structures, driveways, pedestrian walks, off-street parking and off-street loading facilities and landscaped areas.
3. The Planning and Zoning Manager may authorize omission of any or all of the plans and drawings required by this section if they are not necessary to enable the Planning and Zoning Commission to determine whether the proposed use will comply with each of the applicable provisions of this chapter.

(c) FEE. The application shall be accompanied by a fee as follows to cover the cost of processing the application as described in this Article:

Zoning lot of less than two (2) acres in area.....	\$100
Zoning lot of not less than two (2) nor more than five (5) acres in area.....	\$175
Zoning lot of more than five (5) acres in area.....	\$175

(Plus \$10 for each acre or part thereof in excess of five (5) acres, with a total maximum of \$300).

In the event that the applicant for a special use is for a use which is already in existence or for renewal of a special use whose conditional time limit has expired, the fee shall be double the amount of the fee set forth above to cover the cost of additional inspections and the costs of processing the application. (Ord. 51-85 & Ord. 52-89)

(3) Public Hearing.

(a) NOTICE. The Planning and Zoning Commission shall hold at least one public hearing on each applicant for a special use permit within forty-five (45) days of the date when the application was filed and found to be complete by the Planning and Zoning Manager. Notice of such hearing shall be published at least once not more than thirty (30) nor less than fifteen (15) days prior to the hearing in one or more newspapers of general circulation in the Village and by posting on or adjacent to the property which is the subject of the application. Failure to post notice shall not invalidate the proceedings. Notice shall also be sent via certified mailing to adjacent property owners within the time frame described above.

(1) All special use permits requiring Planning Commission review must receive a recommendation from Planning Commission before being heard by the Planning and Zoning Commission, unless otherwise authorized by the Planning and Zoning Commission. (Ord. 39-94)

(b) PROCEDURE. At the public hearing the Planning and Zoning Commission shall review the application and the drawings submitted therewith and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with regard to the findings prescribed in paragraph (3) (d) below:

(c) REVIEW. The Planning and Zoning Manager shall submit a review to the Planning and Zoning Commission on the Special Use variation at the time of public hearing. (Ord. 5-85)

(d) FINDINGS OF FACT. Within forty-five (45) days after the close of the public hearing on a proposed special use, the Planning and Zoning Commission shall make written findings of fact and shall submit same together with its recommendation to the Village Board. For the Planning and Zoning Commission to make an affirmative recommendation on any special use permit, it must consider the following items: (Ord. 112-88)

1. The establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;

2. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood;

3. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district;

4. Adequate utilities, access roads, drainage and/or necessary facilities have been, are being or will be provided;
 5. Adequate measures have been or will be taken to provide ingress or egress so designated as to minimize traffic congestion in the public streets; and
 6. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located.
- (e) The Planning and Zoning Commission may recommend and the Village Board may require such conditions or restrictions upon the construction, location and operation of a special use as deemed necessary for the protection of the adjacent properties. These conditions may include the expiration of the special use permit after a specified period of time and off-street parking and loading requirements in accordance with the provisions of the ordinance.
 - (f) If the Planning and Zoning Commission fails to act within forty-five (45) days of the public hearing, the special use shall be deemed approved by the Planning and Zoning Commission. The Planning and Zoning Manager shall forward the Planning and Zoning Commission decision and records to the Village Board within ten (10) days after action or within fifty-five (55) days from the date of public hearing if no action has been taken by the Planning and Zoning Commission.
 - (g) The concurring vote of four (4) members of the Planning and Zoning Commission shall be necessary to recommend the application for a special use permit to the Village Board. (Ord. 68-87)
- (4) Action of Village Board. The Village Board may affirm, reverse or modify a decision of the Planning and Zoning Commission; provided, that if a decision denying a special use permit is reversed or a decision granting a use permit is modified, the Village Board, on the basis of the record transmitted by the Planning and Zoning Manager and such additional evidence as may be submitted, shall make the findings prerequisite to the granting of a special use permit prescribed in subsection (3) of this section. A special use permit shall become effective immediately after it is granted by ordinance of the Village Board. (Ord. 86-83 & Ord. 112-88)
- (5) Lapse of Special Use Permit.
 - (a) A special use permit shall lapse and shall become void one year following the date on which the special use permit became effective, unless prior to the expiration of one year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the special use permit application, or a certificate of occupancy is issued for the structure which was the subject of the special use permit application or the site was occupied if no building permit or certificate of occupancy is required.
 - (b) A special use permit may be renewed for an additional period of one year; provided, that prior to the expiration of one year from the date when the special use permit originally became effective, an application for renewal of the special use permit is filed with the Planning and Zoning Commission.

- (c) The Planning and Zoning Commission may grant or deny an application for renewal of a special use permit.
 - (d) Subsections (2)(a)(b) and (3) of this section shall apply to an application for renewal of a special use permit. (Ord. 117-88)
- (6) Existing Special Use. A use established by a special use permit issued by the County prior to the enactment of this ordinance shall be deemed nonconforming; however, it shall be permitted to continue; provided, that the use is operated and conducted in accord with the conditions prescribed in the special use permit as granted, if any. Any alterations, expansion or restoration shall be thereafter governed by the provisions of this chapter.
- (7) Revocation. Upon violation of any applicable provision of this chapter, or, if granted subject to a condition or conditions, upon failure to comply with the condition or conditions, a special use permit shall be suspended automatically. The Planning and Zoning Commission shall hold a public hearing within forty-five (45) days, in accord with the procedure prescribed in subsection (3) (a) of this section, and if not satisfied that the regulation, general provision or condition is being complied with, may revoke the special use permit or take such action as may be necessary to ensure compliance with the regulation, general provision or condition. Within five (5) days following the date of a decision of the Planning and Zoning Commission revoking a special use permit, the Planning and Zoning Manager shall transmit to the Village Board written notice of the decision. The decision shall become final ten (10) days following the date on which the special use permit was revoked or on the day following the next meeting of the Village Board whichever is later, unless an appeal has been taken to the Village Board or unless the Village Board shall elect to review the decision of the Planning and Zoning Commission, in which cases subsections four (4) to six (6) of this section shall apply.
- (8) Effect or Denial of a Special Use Permit. No application for a special use permit which has been denied only or partly by the Village Board shall be resubmitted for a period of one (1) year from the date of such denial, except on the grounds of new evidence not known to the applicant at the time of hearing on the first application, or as proof of changed conditions.
- (9) Special Use Permit to run with the land. A special use permit granted pursuant to the provisions of this article shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the special use permit application.
- (10) This section was deleted in its entirety by Ordinance 48-09 – 01/04/2010
- (11) Renewal of a Special Use Permit subject to a time limit. In the event a time limit is placed on a special use permit, the property owner may have the right to apply for an extension of said special use permit by filing an application which, in all other respects, complies with all of the provisions of the original special use permit and all of the provisions set forth in this section. (Ord. 51-89)

SEC. Z-89. VARIATIONS

- (1) Purpose. The Planning and Zoning Commission is empowered to recommend variations in order to prevent or to lessen such practical difficulties and unnecessary physical hardships inconsistent with the objectives of the Zoning Ordinance as would result from a strict or literal interpretation and enforcement of certain regulations prescribed by this ordinance. A practical difficulty or unnecessary physical hardship may result from the size, shape, or dimensions of a site or from population densities, street locations, or traffic conditions in the immediate vicinity. Recommending the variance will not merely serve as a convenience to the applicant, but is necessary to alleviate some demonstrable difficulty. Cost to the applicant of strict or literal compliance with a regulation shall not be the sole reason for recommending a variation. A variation shall be recommended by the Planning and Zoning Commission only in accordance with the standard set forth above and only in the following instances and no other.
 - (a) To permit any yard of less dimension than required by the applicable regulations;
 - (b) To permit any building or structure to exceed the square footage or height limitation imposed by the applicable regulations; but in no case shall such variation exceed ten (10%) percent; (Ord. 27-87)
 - (c) To permit the use of a lot prohibited solely because of the insufficient area of the lot, but in no event, shall the area of the lot be less than ninety (90%) percent of the required lot area;
 - (d) To reduce the applicable off-street parking or loading facilities, required parking spaces are permitted to be located from the use served; and
 - (e) To increase by not more than twenty-five (25%) percent the maximum distance that required parking spaces are permitted to be located from the use served; and
 - (f) To permit the same off-street parking facilities to qualify as a required facility for two (2) or more uses; provided, the substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week.
 - (g) To waive or modify the screening requirements of Section 20-8, subsection (5)(e)(2) of this chapter, or to permit any fence, wall or other enclosure which is greater than or less than the required height limit. (Ord. 6-85)
 - (h) To waive or modify the open sales lot requirements of Section 20-27 1/2, Subsections (5), (6), (7), and (8) of this chapter. (Ord. 34-98)
 - (i) To reduce by not more than twenty-five (25%) percent the minimum distance between advertising sign required by the applicable regulations.
- (2) Application and fee.
 - (a) **DATA TO BE FURNISHED.** Application for a variation shall be made to the Planning and Zoning Manager on a form prescribed by the Planning and Zoning Commission, which shall include the following data:
 1. Name and address of the applicant.
 2. Statements that the applicant is the owner or the authorized agent of the owner of the property on which the variation is being requested.
 3. Address or description of the property.
 4. Statement of the precise nature of the variation requested and the practical difficulty or unnecessary physical hardship inconsistent with the

objectives of this chapter that would result from a strict or literal interpretation and enforcement of a specified regulation of this chapter, together with any other data pertinent to the findings prerequisite to the granting of a variation, prescribed in subsection (4) of this section.

5. Name and address of all adjacent property owners at the address as taken from the latest adopted tax rolls.

- (b) MAP. The application shall be accompanied by an accurate scale drawing of the site and any adjacent property affected, showing, when pertinent, the contours at intervals of not more than five (5) feet, and all existing and proposed locations of street, property lines, uses, structures, driveways, pedestrian walks, off-street loading and off-loading parking facilities and landscaped areas.
 - 1. If required for a public hearing as prescribed in subsection (3) of this section, the application shall be accompanied by an accurate scale drawing of the site and the surrounding area for a distance of at least three hundred (300) feet from each boundary of the site showing the existing locations of streets and property lines.
- (c) FEE. The application shall be accompanied by a fee of seventy five (\$75.00) dollars to cover the cost of handling the application as prescribed in this Article. In the event that the variation is for an improved or building that is already under construction or in existence, the fee shall be double the amount of the fee set forth above to cover the cost of additional inspections and the costs of processing the application. (Ord. 51-85)

(3) Public Hearing.

- (a) NOTICE. The Planning and Zoning Commission shall hold a public hearing on an application for a variation within forty-five (45) days of the date when the application was filed and found to be complete by the Planning and Zoning Manager. Notice of a public hearing shall be given not less than fifteen (15) days nor more than thirty (30) days prior to the date of the hearing by publication in a newspaper of general circulation within the Village and by posting on or adjacent to the property which is the subject of the application. Failure to post such notice shall not invalidate the proceedings. Notice shall also be sent via certified mailing to adjacent property owners within the time frame described above.
- (b) PROCEDURE. At a public hearing the Planning and Zoning Commission shall review the application, statements and drawings submitted therewith and shall receive pertinent evidence concerning the variation, particularly with respect to the findings prescribed in paragraph (3)(d) below.
- (c) REVIEW. The Planning and Zoning Manager shall submit a review to the Planning and Zoning Commission on the variation at the time of the public hearing. (Ord. 5-85)
- (d) The Planning and Zoning Commission shall grant by resolution an application for a variation as the variation was applied for, or in modified form, or the application may be denied.

- (e) The concurring vote for four (4) members of the Planning and Zoning Commission shall be necessary to authorize any variation in this ordinance and to recommend same to the Village Board. (Ord. 68-87)
 - (f) FINDINGS OF FACT. Within forty-five (45) days after the close of the public hearing on a proposed variation, the Planning and Zoning Commission shall make a written finding of fact. For the Planning and Zoning Commission to make an affirmative decision on any proposed variation, it must consider the following items: (Ord. 112-88)
 - 1. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were to be carried out;
 - 2. The conditions upon which a petition for a variation is based are unique to the property for which the variation is sought and are not applicable, generally to other property within the same zoning classification;
 - 3. The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property;
 - 4. The granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located;
 - 5. The proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets or increase the danger of fire, endanger public safety or substantially diminish or impair property values within the neighborhood; and
 - 6. The proposed variance complies with the spirit and intent of restrictions imposed by this chapter.
- (4) Lapse of variation.
- (a) A variation shall lapse and shall become void one year following the date on which the variation became effective unless prior to the expiration of one year a building permit is issued and construction is commenced and diligently pursued toward completion on the site which was the subject of the variation application, or a permit is issued authorizing occupancy of the site or structure which was the subject of the variation application or the site is occupied if no building permit or certificate of occupancy is required.
 - (b) A variation may be renewed for an additional period of one year; provided, that prior to the expiration of one year from the date when the variation originally became effective and application for renewal of the variation is made to the Planning and Zoning Commission.
 - (c) The Planning and Zoning Commission may grant or deny an application for renewal of a variation.
 - (d) Subsections (2)(a)(b) and (3) of this Section shall apply to an application for renewal of a variation. (Ord. 117-88)

- (5) Revocation. A variation granted subject to a condition or conditions shall be revoked by the Planning and Zoning Commission, if the condition or conditions are not complied with. The Planning and Zoning Commission shall hold a public hearing within forty-five (45) days, in accord with the procedure prescribed in subsection (3) of this Section and if not satisfied that the regulation, general provision or condition is being complied with may revoke the variation or take such action as may be necessary to ensure compliance with the regulation, general provision or condition.
- (6) Effect or denial of a variation. No application for a variation which has been denied wholly or partly by the Planning and Zoning Commission shall be resubmitted for a period of one year from the date of such denial, except on the grounds of new evidence not known to applicant at time of hearing on first application, or as proof of changed conditions found to be valid by the Planning and Zoning Commission.
- (7) ACTION OF VILLAGE BOARD. (Ord 76-88) Within fifteen (15) days after the last public hearing or meeting held on any variation, the recommendation of the Planning and Zoning Commission shall be forwarded to the President and Board of Trustees of the Village, as well as to the Village Clerk and the Planning and Zoning Manager.

Whenever a variation is to be made by ordinance, upon receiving the report of the Planning and Zoning Commission, the President and Board of Trustees of the Village, without further public hearing, may grant or deny any proposed variation or may refer it back to the Planning and Zoning Commission for further consideration.

Any proposed variation shall be passed by the concurrence of a majority of all members then holding office on the Village Board, including the Mayor. Any proposed variation which fails to receive the approval of the Planning and Zoning Commission shall not be passed except by the favorable vote of two-thirds (2/3) of all Trustees of the Village. (Ord. 76-88)

SEC. Z-90. AMENDMENTS TO CHAPTER

- (1) Purpose. This chapter may be amended by changing the boundaries of any district, by changing any district regulation, off-street parking or loading facilities requirement, signs, general provision, exception or other provision thereof in accord with the procedure prescribed in this article.
- (2) Intention.
 - (a) A change in the boundaries of any district may be initiated by the owner or the authorized agent of the owner of property by filing an application for a change in district boundaries as prescribed in subsection (3) of this section. If the property for which a change of district is proposed is in more than one ownership, all the owners or their authorized agents shall join in filing the application.
 - (b) A change in boundaries of any district, or a change in a district regulation, off-street parking or loading facilities amendments may be initiated by action of a person, persons, Planning and Zoning Commission or Village Board; provided,

that the procedure prescribed in subsections (3) to (6) of this section shall be followed. (Ord. 85-83)

- (c) A proposal for a change in district boundaries initiated by the Village Board and one initiated by a property owner for all or part of the same area may be considered simultaneously.

(3) Application and fee.

- (a) DATA TO BE FURNISHED. A property owner desiring to propose a change in the boundaries of the district in which his property is located or his authorized agent may file with the Planning and Zoning Manager an application for a change in district boundaries on a form prescribed by the Planning and Zoning Commission which shall include the following data:

- 1. Name and address of the applicant.
- 2. Statement that the applicant is the owner or the authorized agent of the owner of the property for which the change in district boundaries is proposed.
- 3. Address and description of the property.
- 4. Name and address of all adjacent property owners at the address as taken from the latest adopted tax rolls.

- (b) MAP. The applicant shall be accompanied by an accurate scale drawing of the site and the surrounding area for a distance of at least three hundred (300) feet from each boundary of the site showing the location of streets and property lines.

- (c) FEE. The application shall be accompanied by a fee as follows to cover the cost of processing the application as described in this article:

Zoning lot of less than one-half (1/2) acre.....\$200

Zoning lot of not less than one-half (1/2) nor more than two (2) acres.... \$275

Zoning lot of not less than two (2) nor more than five (5) acres..... \$350

(Plus \$25.00 for each acre or part thereof in excess of five (5) acres, with a total maximum of six hundred (\$600) dollars.)

Text amendment..... \$150

Zoning of lot of any size initiated by Village Board..... \$0

In the event that an amendment is necessitated because a use is already in existence, the fee shall be double the amount of the fee set forth above to cover the cost of additional inspections and the costs of processing the application. (Ord. 51-85)

(4) Public hearing.

- (a) NOTICE. The Planning and Zoning Commission shall hold a public hearing on each application for a change in district boundaries or for a change of a district regulation, off-street parking or loading facilities requirement, signs, general provisions, exception or other provision of this chapter within forty-five (45) days

of the date when the application was filed and found to be complete by the Planning and Zoning Manager. Notice of the public hearing shall be given not less than fifteen (15) days nor more than thirty (30) days prior to the date of the hearing by publication in a newspaper of general circulation in the Village and by posting on or adjacent to the property which is the subject of the application. Failure to post such notice shall not invalidate the proceedings. Notice shall also be sent via certified mailing to the adjacent property owners within the time frame described above. (Ord. 21-88)

- (1) All map amendments must be reviewed by and receive a recommendation from the Planning Commission before being heard by the Planning and Zoning Commission, unless otherwise authorized by the Planning and Zoning Commission. (Ord. 40-94)
 - (b) PROCEDURE. At the public hearing the Planning and Zoning Commission shall review the application or the proposal and may receive pertinent evidence as to why or how the proposed change is consistent with the objectives of this chapter prescribed in Section 20-2.
 - (c) REVIEW. The Planning and Zoning Manager shall submit a review to the Planning and Zoning Commission on the proposed amendment at the time of public hearing. (Ord. 5-85)
 - (d) FINDINGS OF FACT AND RECOMMENDATION OF THE PLANNING AND ZONING COMMISSION. Within forty-five (45) days following the public hearing the Planning and Zoning Commission shall make a specific finding as to whether the change is consistent with the objectives of the Zoning Ordinance prescribed in Section 20-2. The Planning and Zoning Manager shall forward the report to the Village Board recommending that the application be granted, granted in modified form, or denied or that the proposal be adopted, adopted in modified form, or rejected, together with a copy of the application, resolution of the Planning and Zoning Commission; the scale drawing of the site and the surrounding area and all other data filed therewith; the minutes of the public hearing; and the findings of the Planning and Zoning Commission.
 - (e) The concurring vote of four (4) members of the Planning and Zoning Commission shall be necessary to recommend the application for an amendment to this chapter to the Village Board. (Ord. 68-87)
- (5) Action of the Village Board. An amendment shall be passed by the concurrence of a majority of all members then holding office on the Village Board, including the Mayor. In the case of a written protest against any proposed amendment of the regulations or districts, signed and acknowledged by the owners of twenty percent (20%) or more of: (Ord. 76-88)
- a. The frontage proposed to be altered, or
 - b. The frontage immediately adjoining or across an alley therefrom, or
 - c. The frontage directly opposite the frontage proposed to be altered, or
 - d. Any adjacent property contiguous to the property in question, the amendment shall not be passed except by a favorable vote of two-thirds (2/3) of the Trustees of the Village then holding office. In such cases, a copy of the written protest shall be filed with the Village Clerk, signed and acknowledged by said owners and shall be served by the

protestor on the applicant for the proposed amendment and a copy upon the applicant's attorney, if any, by certified mail at the address of such applicant and attorney shown in the application for the proposed amendment.

- (6) Effect of denial of an amendment. No application for an amendment which has been denied wholly or partly by the Village Board shall be resubmitted for a period of one year from the date of such denial, except on the grounds of new evidence, or proof of changed conditions found to be valid by the Planning and Zoning Commission.

SEC. Z-91. ENFORCEMENT

- (1) Planning and Zoning Manager's responsibilities. The Planning and Zoning Manager shall be the official responsible for the enforcement of this chapter. The Planning and Zoning Manager may serve notice requiring the removal of any structure or use in violation of this chapter on the owner or his authorized agent, on a tenant or on an architect, builder, contractor or other person who commits or participates in any violation. The Planning and Zoning Manager may call upon the Village Attorney to institute necessary legal proceedings to enforce the provisions of this chapter, and the Village Attorney is hereby authorized to institute appropriate actions to that end. The Planning and Zoning Manager may call upon the Village Policing Agency and his authorized agents to assist in the enforcement of this chapter.

- (2) Enforcement Procedure.

- (a) The Planning and Zoning Manager is authorized to enforce the Zoning Ordinance on a complaint basis or whenever any violation is brought to his or her attention. Upon becoming aware of an alleged violation, an inspector of the property involved shall be made by the Planning and Zoning Manager or designated representative.

If, in the opinion of the Planning and Zoning Manager, such violation does exist, the Planning and Zoning Manager shall notify the alleged violator of the violation by certified mail, which notice shall request a response within fourteen (14) calendar days from date of notification.

Within said fourteen (14) days the alleged violator shall be required to contact the Zoning Office to either demonstrate compliance with the zoning ordinance or show cause why he/she should be exempt.

If, following response, or lack of same from the alleged violator, the Planning and Zoning Manager reasonably believes that the alleged violation still exists, the Planning and Zoning Manager shall, after fourteen (14) days from the original notification date, notify the alleged violator in person or by certified mail that he/she shall begin proceedings for compliance within fourteen (14) days or be subject to prosecution. (Ord. 9-88)

If the alleged violator has not begun procedures for compliance within the said fourteen (14) day period aforesaid, the Planning and Zoning Manager shall then take necessary steps to compel compliance as provided by law. (Ord. 9-88)

- (b) Zoning violations may be brought into compliance with the zoning ordinance by approval of the Board of Trustees of a map amendment, special use permit or variance.

The Planning and Zoning Manager is authorized in cases of denial of a map amendment, special use permit or a variance to notify said violator in person or by certified mail that he/she must comply with existing zoning regulations within thirty (30) days of Board action or be subject to prosecution.

- (c) Map amendments initiated by a petitioner other than the Village Board may invalidate a pre-existing use(s) of the petitioner's property.

Map amendments initiated by a petitioner other than the Village Board that invalidate a pre-existing use(s) of a petitioner's property shall cause the pre-existing use to be in violation of this chapter.

The Planning and Zoning Manager is authorized to notify the petitioner in person or by certified mail, that he/she must comply with the new zone district regulations within thirty (30) days of Board approval of such map amendment or be subject to prosecution. (Ord. 11-84)

- (3) Penalties. Failure to comply with any of the requirements of this chapter shall constitute a violation, and any person upon conviction thereof shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. Each day the violation continues shall be considered a separate offense. (Ord. 18-86)
The owner or tenant of any building, structure, premises or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violations may each be found guilty of a separate offense and subject to the above penalties.

The Village may also take other lawful action as is necessary to prevent or remedy any violation.

ARTICLE XVIII. SPECIAL ADMINISTRATIVE PROCEDURES

SEC. Z-92. DETERMINATION AS TO USES NOT LISTED

- (1) Purpose and initiation. In order to ensure that this Zoning Ordinance will permit all similar uses in each district, the Planning and Zoning Commission upon its own initiative

or upon written request shall determine whether a use not specifically listed as a permitted use of a special use in agricultural, residential, commercial or industrial districts shall be deemed a permitted use or a special use in one or more districts on the basis of similarity to uses specifically listed.

- (2) Application. Application for determination that a specific use should be included as a permitted use or a special use in agricultural, residential, commercial or industrial districts shall be made in writing to the Planning and Zoning Manager and shall include a detailed description of the proposed use and such other information as may be required by the Planning and Zoning Commission to facilitate the determination.
- (3) Investigation. The Planning and Zoning Commission shall make or have made such investigations as it deems necessary to compare the nature and characteristics of the proposed use with those of the uses specifically listed in this ordinance, and to make a determination of its classification.
- (4) Determination. The determination of the Planning and Zoning Commission shall be rendered in writing within sixty (60) days, unless the applicant consents to an extension of the time period and shall include findings supporting the conclusion.
- (5) Effective date of determination. Within five (5) days following the date of a decision of the Planning and Zoning Commission on a request for a determination as to a use not listed, the Planning and Zoning Manager shall transmit to the Village Board written notice of the decision. A decision shall become effective ten (10) days following the date on which the determination was made or on the day following the next meeting of the Village Board, whichever is later, unless an appeal has been taken to the Village Board, or unless the Village Board shall elect to review the decision of the Planning and Zoning Commission.
- (6) Appeal to Village Board. Within ten (10) days following the date of a decision of the Planning and Zoning Commission on a request for a determination as to a use not listed, the decision may be appealed to the Village Board by the applicant or by any other person. The appeal shall state specifically wherein it is claimed there was an error or abuse of discretion by the Planning and Zoning Commission or wherein its decision is not supported by the evidence in the record.

- (7) Determination by Village Board. The determination of the Village Board shall be rendered in writing within sixty (60) days unless the applicant consents to an extension of the time period and shall include findings supporting the conclusion.

SEC. Z-93. SPECIAL USE PERMIT FOR PLANNED COMMUNITY DEVELOPMENTS (PCD)

- (1) Procedure. Planned community developments may be permitted in any district by special use permit in accordance with the procedures of this section.
- (2) Definition. A planned community development is a development occupying not less than ten (10) acres which shall include all land within the project boundaries plus one-half (1/2) of all adjacent public rights-of-way involving a related group of associated uses, planned as an entity and therefore, acceptable for development and regulation as one complete land use unit.
- (3) Applicant. The applicant for a planned community development special use permit shall be the owner of the site, or if more than one, all owners of the site acting jointly. For the purposes of this section, "owner" shall mean and include any public body corporate, a holder of a written option to purchase or a redeveloper under contract with the local public agency for urban renewal.
- (4) Purpose. The planned community development provision was established for the purpose of:
 - (a) Providing a procedure by which new communities or larger integrated developments may be processed.
 - (b) To encourage developers to prepare comprehensive land use plans for large acreages as opposed to "piece meal" solutions.
 - (c) To encourage variety in physical development through the use of new techniques in site development not attainable by conventional zoning application.
 - (d) To insure adequate provisions for environmental amenities for new urban areas such as parks, schools, open space, utilities and services.
- (5) Permitted uses. Unless otherwise provided in this chapter, no building or land may be used, and no building may be erected, converted, enlarged or structurally altered, in a planned community development, except for the following uses:
 - (a) Any use that is approved by the planned community development special use permit.
 - (b) A temporary real estate office in conjunction with a planned community development limited to the selling or renting of properties in planned community development and in no case to be in operation for more than one year following completion date of such construction.
 - (c) Temporary construction buildings and uses related to the planned community development provided all buildings are removed and uses ceased upon completion date of such construction.
 - (d) Accessory uses and building incidental to any use permitted or allowed by this section.
- (6) Procedure. A planned community development may be initiated by filing for a planned community development special use permit as provided in Article XIII of this chapter.
- (7) Pre-application Conference. Prior to applying for a special use permit, the applicant is required to confer with the Village Plat Officer/Planner within thirty (30) days after receipt of the following basic information and data, displayed to scale on maps:
 - (a) The boundaries of the property;
 - (b) Existing easements and covenants affecting the property;
 - (c) Land characteristics, such as natural drainage, swamp areas, wooded areas and topography at two (2) foot contours;

- (d) Development characteristics, such as surrounding streets, existing buildings, available community sewer, water and other utilities; and
 - (e) An overall land use development plan with a road and street system accompanied with data such as land use acreage, residential density, commercial and industrial floor area relevant to the land use components scheme on the proposed development plan.
- (8) Review and recommendation. The Village Plat Officer/Planner and Village Engineer shall review the proposed planned community development to determine its conformity with land development trends in the community; standards of the official comprehensive plan, and recognized principles of design, land use Planning and landscape architecture. The review will be conveyed in writing to the applicant within fifteen (15) days from the date of the pre-application conference.
 - (9) Procedure. After receipt of the written report, the applicant may file for a special use permit. All procedural rules in regard to the filing of a special use permit shall be the same as provided for in Section 20-71.
 - (10) Guarantee of completion. Before final approval of a planned community development special use permit, the Planning and Zoning Commission may recommend and the Village Board may require a safeguard guaranteeing completion of the planned community development in a period specified by the Village Board, but which period shall not exceed five (5) years unless extended by the Village Board for due cause shown.
 - (11) Fee. Zoning lot of not more than twenty (20) acres in area \$300. (Plus \$25 for each acre or part thereof in excess of twenty (20) acres, with a total maximum of \$600.)

SEC. Z-94. PLANNED UNIT DEVELOPMENT

Residential planned unit developments may be permitted in the RR, R1, and R2 Residential Districts by a special use permit in accordance with the provisions of this article. (Ordinance 24-17)

- (1) General purpose. The residential planned unit development special use permit is developed in order to:
 - (a) Encourage unique design and site Planning of land areas through the use of criteria which, when properly implemented allows for certain flexibility and density bonuses.
 - (b) Permit and foster condominium developments in accord with the provisions of the "Condominium Property Act," effective June, 1963, as amended, State of Illinois.
 - (c) Provide an administrative procedure and standards to facilitate and utilize imaginative design and subdivision technology which may necessitate variation to traditional yards, setbacks, lot shapes and sizes.
- (2) Permitted uses. Unless otherwise provided in this Ordinance, no building or land may be used, and no building may be erected, converted, enlarged or structurally altered in a residential planned unit development except for permitted uses listed in the district in which the residential planned unit development is applied for.
- (3) Applicant. The applicant for a residential planned unit development special use permit shall be the owner of the site, or if more than one, all owners of the site acting jointly. For the purposes of this section, "owner" shall mean and include any public body corporate, a holder of a written option to purchase or a redeveloper under contract with the local public agency for urban renewal.
- (4) Pre-application conference. Prior to applying for a special use permit the applicant is required to confer with the Village Plat Officer/Planner, and Village Engineer. A conference shall be

scheduled by the Village Plat Officer/Planner within thirty (30) days after receipt of the following information and data, displayed to scale on maps:

- (a) The boundaries of the property;
 - (b) Existing easements and covenants affecting the property;
 - (c) Land characteristics, such as natural drainage, swamp areas, wooded areas and topography at two (2) foot contours;
 - (d) Development characteristics, such as surrounding streets, existing buildings, available community sewer, water and other utilities; and
 - (e) The proposed lay out including the road and street system and the location and extent of the various type of residential uses, acreage and density. Other characteristics of the proposal such as parks, playgrounds and other community facilities.
- (5) Review and recommendation. The Village Plat Officer/Planner and Village Engineer shall review the proposed planned community development to determine its conformity with land development trends in the community; standards of the official comprehensive plan, and recognized principles of design, land use Planning and landscape architecture. The review will be conveyed in writing to the applicant within fifteen (15) days from the date of the pre-application conference.
- (6) Filing procedure. After receipt of the written report, the applicant may file for a special use permit. All procedural rules in regard to the filing of a special use permit shall be the same as in the case of a regular zoning petition, excepting where the same are in conflict with the terms of this section.
- (7) Application for a residential planned unit development special use permit. An application for a residential planned unit development special use permit shall be filed with the Planning and Zoning Commission on a form prescribed by the Board and provided for that purpose. The application shall consist of:
- (a) Overall development plans showing:
 - 1. All information and data required by Appendix C of the Village Municipal Code (Subdivision Regulations) for tentative plats.
 - 2. Kind, location, bulk and capacity of proposed structures and uses.
 - 3. Proposed finished topography.
 - 4. Engineering and improvement plans.
 - 5. Provisions for automobile parking and loading.
 - 6. Provisions for sidewalks and bikeways.
 - 7. Twelve copies of each of the required plans.
 - (b) Written statement of facts explaining in detail the proposal and justifying the project at this location. Included also will be the proposed provisions for service, maintenance and continued protection of the residential planned unit development and adjoining territory.
 - (c) Fee.
Zoning lot of not less than one-half (1/2) nor more than five (5) acres in area.....\$300

(Plus \$25 for each acre or part thereof in excess of five (5) acres, with a total maximum of \$600)

The application shall include such other pertinent information as the Plats Officer/Planner shall prescribe; but, to promote efficiency and minimize expense, the Plats Officer/Planner may provide for the serial submission of portions of the application.

- (8) The Planning and Zoning Commission shall review the overall design of the proposed residential planned unit development as it relates to the natural and man-made features in the immediate and surrounding area.

The Planning and Zoning Commission shall recommend to the Village Board the maximum density (dwelling units per net acre) and height which should be permitted which is consistent with the character of the surrounding development. In establishing the maximum density and height, due consideration shall be given to the maximum density and height permitted in adjacent residential districts and to the actual density and height of the surrounding residential area where such exists. A residential planned unit development site may be divided into two (2) or more parts with densities and heights determined for each part if such division will improve the total character of the development and make it more compatible with the general development of the area.

The Planning and Zoning Commission may recommend an award of a maximum of twenty (20%) percent density bonus of the zoning district for excellence in design treatment of a proposed planned unit development in accord with the below listed environmental incentives.

- (9) Environmental incentives. The number of permitted dwelling units may be increased up to twenty (20%) percent as indicated below; provided, that the percentages for each item may be applied cumulatively to a total of at least twenty (20%) percent.

(a) OPEN SPACE.

12% Usable open space provided it equals twenty-five (25%) percent of site area which is (private or public) not covered by buildings, parking and streets.

6% Dedication of public park site according to the official map and the site may be considered part of the net site area for determining dwelling units.

6% Dedication of public-school site according to the official map, and the site may be considered part of the net site area for determining dwelling units.

(b) SITE PLANNING DESIGN.

2% Excellence in use of existing topography and/or land re-contouring.

4% Excellence in siting buildings and building groupings which may include variations in building setbacks.

2% Provision in design for usable courtyards, gardens and patios.

1% Proper consideration of sun and wind orientation.

1% Right-of-way provisions for riding, hiking and bicycling.

(c) LANDSCAPE PLANTING AND SCREENING.

1% Provision of landscaped buffer strip at least ten (10) feet wide on all peripheral lot lines with a less restricted use.

2% Provision of a masonry wall or solid fence five (5) feet high on all peripheral lot lines with a less restricted use.

(d) FACILITIES AND AMENITIES.

5% Recreational facilities which may or may not include a golf course and occupying one (1) square foot for every five (5) square feet of residential floor area.

5% Swimming pool (five (5%) percent for each pool; not to exceed ten (10%) percent).

3% Tennis courts (one (1%) percent for each court) and playground recreation equipment.

5% Community center and/or club.

2% Land area for public building site such as fire station.

3% Man-made lakes and water features.

1% Provisions for pedestrian leisure facilities, such as plazas, bicycle racks, interior sidewalks, benches, etc.

(e) TRAFFIC AND PARKING.

10% provision of fifty (50%) percent of required parking in an underground structure.

Additional detailed plans of site improvements and proposed documents to provide security for the installation and maintenance of utilities and community facilities and open spaces may be requested from time to time to facilitate the review of the proposed planned unit development. The Planning and Zoning Commission may recommend reasonable conditions regarding the layout, circulation and performance of the proposed development. The Planning and Zoning Commission may approve variation in the zoning and subdivision standards in residential planned unit developments which may permit private streets for unique developments that may utilize condominium development techniques, cluster housing concepts and other imaginative and unique development methods when consistent with the purpose of this section.

- (10) Public hearing. Upon receipt in proper form of the application referred to above, the Planning and Zoning Commission within sixty (60) days, unless the time period is extended by joint approval of the applicant and the Planning and Zoning Commission shall hold at least one public hearing on the proposed residential planned unit development, at such time and place as shall be established by the Board of Appeals. Notice of the hearing shall be given in accordance with state statute. The Village Board may by ordinance, require an applicant to assume the cost of administration, public notice and due notice to interested parties.
- (11) Findings of fact and recommendation of Planning and Zoning Commission. Within sixty (60) days after the close of the public hearing on the proposed residential planned unit development special use permit, the Planning and Zoning Commission shall make written findings of fact and shall submit same together with its recommendation to the Village Board. For the Planning and Zoning Commission to make an affirmative recommendation, it must find in each of the following instances that:
- (a) The establishment of a residential planned unit development will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (b) The residential planned unit development will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

- (c) The residential planned unit development will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district.
 - (d) Adequate utilities, access roads, drainage and/or other necessary facilities have been, are being or will be provided.
 - (e) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
- (12) Authorization. A residential planned unit development special use permit shall be authorized by a Village Board ordinance after a public hearing and recommendation from the Planning and Zoning Commission. Such ordinance shall specify the maximum density (dwelling units per net acre), coverage and height for the residential planned unit development and may include such other conditions and/or restrictions upon the location, design and construction as shall be deemed necessary to secure the general objectives of this chapter.
 - (13) Effect of denial. No application for a residential planned unit development special use permit which has been denied wholly or in part by the Village Board shall be resubmitted for a period of one year from the date of such denial, except on the grounds of new evidence or proof of changed conditions found to be valid by the Planning and Zoning Commission.
 - (14) Recorded plat required. A plat of the subdivision shall be recorded. Such plat will show building lines, common land, streets, easements and other applicable features required by Appendix C of the Village of Machesney Park Municipal Code. All applicable procedures, standards and requirements of Appendix B of the Village of Machesney Park Municipal Code shall be followed except those in conflict with this section. No building permits or occupancy permits shall be issued until after final approval of the residential planned unit development special use permit and recording of the subdivision plat is finally approved by the Village Board. (Ord. 49-90)
 - (15) Guarantee of completion. Before final approval of a residential planned unit development special use permit, the Board of Appeals on its own initiative may recommend and the Board may require a contract with safeguards satisfactory to the Village Attorney guaranteeing completion of the residential planned unit development in a period specified by the Planning and Zoning Commission, but which period shall not exceed five (5) years unless extended by the Village Board.
 - (16) Revocation. In any case when construction of a residential planned unit development has not commenced within one year after the date of approval, the Planning and Zoning Commission shall review such residential planned unit development and recommend to the Village Board whether or not the residential planned unit development special use permit should be revoked or continued.

SEC. Z-95. MULTI-FAMILY PLANNED UNIT DEVELOPMENT

- (1) Purpose. The Village's multi-family planned unit development (PUD) ordinance is intended to encourage unique and innovative land development that supports a high quality of life, sustainable, quality development, and to achieve environmental sensitivity, energy efficiency, and other Village goals. While the Village may allow flexible project design through the PUD process, standards are provided through this Ordinance to protect public health and safety; to assure design quality; to promote consistency with the Comprehensive Plan; and to ensure

congruity with nearby and adjacent neighborhoods. In addition, the Village seeks to achieve the following specific objectives through the planned unit development ordinance:

- (a) Secure high-quality developments that protect environmentally sensitive areas by capitalizing on special site characteristics, locations and uses;
- (b) Encourage multi-family residential projects that complement the unique architectural styles and development patterns defined by nearby and surrounding neighborhoods;
- (c) Ensure the creation and enhancement of friendly, safe, and welcoming residential development projects;
- (d) Provide a higher standard of living for residents in Machesney Park;
- (e) Establish neighborhoods that enhance the livability of the community by providing places for social interaction and recreation;

(2) Application of Multi-family Planned Unit Development Standards

- (a) Applicability. Planned Unit Developments shall be required for all multi-family residential development projects that contain 9 or more units, whether in one building or multiple buildings.
- (b) Intent. If it is determined by the Village that an owner/developer is intending to circumvent the requirements of the PUD ordinance by developing multiple phases of multi-family structures in 8 or less units, the Village reserves the right not to issue permits and can require a developer to file an application for a Planned Unit Development.

(3) Planned Unit Development standards.

- (a) Location. A multi-family residential PUD can be located in any R3 or R4 residential zoning district in the Village, including any land proposed for annexation.
- (b) Compatibility. Development within a PUD must be compatible with adjacent and nearby existing or proposed future development. In cases where there are issues of compatibility, the PUD must provide for transition areas at the edges of the development that provide for appropriate buffering and/or ensure a complimentary character of development. Complimentary character shall be identified based on densities and intensity, lot size and dimensions, building height, architectural design, building mass and scale, exterior lighting, and landscape and natural features.

- (c) Phasing. If different phases of development are proposed for the PUD, a development phasing plan shall be provided that identifies the general sequence or phases in which the land will be developed, including how residential and nonresidential development will be timed, how infrastructure (public and private) and open space will be provided and timed, and how development will be coordinated with the Village's TIF Redevelopment Plan, if applicable, and any planned public improvements. The phasing plan shall be established at the time of approval of the PUD and shall be consistent with the growth management schedule.
- (d) Public utilities. The developer shall provide written confirmation from the applicable public water and public sanitary sewer service providers that adequate public utilities are available and will not be negatively impacted by the proposed PUD. Written confirmation and a utility plan indicating all proposed utilities and easements shall be provided with the applicant's PUD application.
- (e) Public improvements. Upon approval, the PUD ordinance shall outline the owner/developer's responsibilities for providing and constructing on-site and off-site facilities for right-of-way, roadways and entrances, public utilities (including, but not limited to water and sanitary sewer), easements, and any other required infrastructure to support the proposed multi-family residential development. The PUD ordinance shall also establish the responsibility of the owner/developer to make any other improvements as required by Village codes or ordinance, and, if requested by the Village, the developer shall dedicate necessary improvements to the Village.
- (f) Surety. An opinion of probable construction costs for all public improvements associated with the PUD shall be provided with the PUD application, where applicable. Upon review and approval of the opinion of probable construction costs, a surety to cover the cost of required public improvements in accordance with the provisions of the Village's subdivision standards must be submitted prior to the issuance of any permits for an approved PUD.
- (g) Non-residential uses. Non-residential uses are not allowed within a multi-family residential PUD, with the exception of the following development amenities:
- a. Swimming pool;
 - b. Golf course;
 - c. Community center;
 - d. Recreation area; or
 - e. Property management or leasing office.

- (h) Compliance with codes and ordinances. Plans for the PUD application shall indicate the applicable zoning, building code, energy code and fire code design requirements.
- (i) Ownership. The area designated in the PUD shall remain under single-ownership and/or unified control. Unified control of property under multiple ownership may be accomplished through the use of enforceable covenants or the enabling PUD ordinance. If land within a PUD is sold and/or ownership or controlling interest transferred, said actions shall be conditioned upon the new owners or controlling interest agreeing to build/develop the lot/land in accordance with the approved PUD approvals. Building permits shall only be issued for structures which conform to the approved PUD.
- (j) Traffic Impact Study. A traffic impact study shall be provided with every PUD application for 25 or more residential units. All traffic impact studies shall be completed by a professional traffic engineer (PTOE). The Village shall, after reviewing the credentials and previous work of the owner/developer's consulting engineer, maintain the right to reject any proposed traffic engineer. The traffic study shall be paid for by the owner/developer. The Village engineer shall be responsible for determining the scope of the traffic study, and shall determine the study area, which will generally include the entire development area as well as all existing rights-of-way and intersections within ½ (one-half) mile of the development area. The traffic study shall include, at minimum, the following:
- a. An analysis of the existing and proposed conditions within the study area;
 - b. An estimate the average number of daily traffic trips that will generated by the development, as outlined by the growth management plan;
 - c. A capacity analysis of all major access points signalized and un-signalized intersections within the study area.
- (k) Existing Land Use Plan Incorporation. The PUD plan must implement the vision and land use policies of the Comprehensive Plan; the adopted Tax Increment Financing Redevelopment Plans, if applicable.
- (l) Growth management: A growth management schedule shall be provided to and approved by the Village Board, which indicates the number of residential units to be constructed in each calendar year. The maximum number of units to be constructed shall be 25 residential units per calendar year. The Village Board, with a recommendation from the Planning and Zoning Commission, can approve, deny or adjust the percentage of an increase in the number of units that can be built in one calendar year. The Village Board and the Planning and Zoning Commission shall consider the following criteria in approving an increase in the number of units that can be built annually:

- a. Completion of major and collector road networks and critical linkages in the street systems;
- b. Provisions which satisfy needed public facilities for recreation, safety or otherwise;
- c. Compliance with off-street parking requirements;
- d. Innovative architectural design, quality of exterior materials and creative use of landscaping;
- e. Other criteria or extraordinary amenities, not listed above, which may meet the development goals of the Village.

(m) Special Use Permit Review Standards. Multi-family residential PUDs are considered by the Village as Special Use Permits, and shall therefore demonstrate compliance with the following findings of fact criteria:

- a. The establishment, maintenance or operation of the special use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare;
- b. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, not substantially diminish and impair property values within the neighborhood;
- c. The establishment of the special use will not impede the normal or orderly development and improvement of the surrounding property for uses permitted in the district;
- d. Adequate utilities, access roads, drainage and/or necessary facilities have been, are being or will be provided;
- e. Adequate measures have been or will be taken to provide ingress or egress so designated as to minimize traffic congestion in the public streets;
- f. The special use shall, in all other respects, conform to the applicable regulations of the zoning district in which it is located.

(4) Design standards for multi-family residential planned unit developments.

(a) Dimensional standards. All multi-family residential planned unit developments shall comply with dimensional standards for the underlying zoning district.

(b) Sidewalks/paths. All multi-family residential planned unit developments shall provide the following pedestrian transportation amenities:

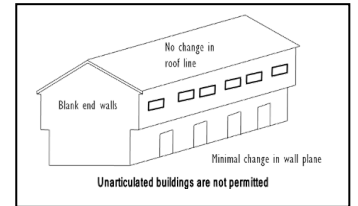
- a. 5-foot-wide concrete sidewalks or an 8-foot wide multi-use path along every internal and adjacent public right-of-way.
- b. An internal sidewalk network connecting multi-unit buildings with the public sidewalks/multi-use path.

- (c) Roadway, vehicular and pedestrian access design. The design of public streets and access roads within the PUD must comply with all applicable Village standards and current applicable building codes. Right-of-way, pavement widths, and street widths may be reduced by the Village Board with the recommendation of staff where it is found that a proposed development demonstrates design features above and beyond the minimum standards of the PUD Ordinance. In addition, PUD plans must demonstrate compliance with the following transportation design features:
- a. Proper separation of vehicular, pedestrian, and bicycle traffic;
 - b. Proper access for emergency service vehicles;
 - c. Adequate off-street parking as required by Village Ordinance;
 - d. Adequate space for public utilities shall be provided within publicly dedicated rights-of-way; and
 - e. Adequate space for the storage/piling of snow during the winter.
- (d) Off-street parking. Minimum off-street parking spaces shall be provided for multi-family residential developments for each dwelling unit, based on the number of bedrooms for each dwelling unit, using the following calculation:
- a. 1- and 2-bedroom units = 1 garage space and .25 paved guest parking spaces;
 - b. 3 or more-bedroom units = 1 garage space, 1 paved space adjacent to the dwelling unit, and .25 paved guest parking spaces;
- Note: Area immediately in front of the garage door shall not be considered as a parking space adjacent to the unit and shall not be used to park vehicles.
- (e) Tree preservation. Every possible effort shall be made to retain existing, mature trees on site, as these natural features add value and provide natural buffering between adjacent properties. The Community Development Department shall, following an inspection of the proposed development area, determine if a tree survey is required as part of the PUD application. The determination shall be based upon the Department's assessment of the number and quality of existing trees on site. High quality deciduous trees, such as, but not limited to, Oak, Maple, Hickory, and Birch trees over 6 inches in diameter (at 4.5 feet above grade) that are removed shall be replaced on a one-to-one basis with a 2.5-inch caliper tree of similar cultivated variety within the development area. Existing and replacement trees are allowed to count towards required landscaping unit counts required in Sections 20-37(14) and 20-57(7)(c).
- (f) Building design standards. All multi-family residential planned unit developments shall comply with the following architectural design standards:

a. Exterior wall finishes. Plywood and metal are prohibited finish materials. Vinyl siding, cedar shakes, fiber cement siding, brick or stone masonry are required. Materials shall be high quality, durable, and shall age well without discoloring. A material sample board including actual exterior materials and colors shall be provided with every planned unit development application.



b. Building articulation. Street-facing horizontal elevations of building walls shall be articulated a minimum of every 30 feet, by the use of projections or recesses at least 4-feet in depth. All other elevations shall be articulated at least 4-feet in depth at a minimum of every 50 feet.



c. Windows. A minimum of 20% of street-facing facades shall contain windows or doors. All other building facades shall contain a minimum of 10% windows or doors.



d. Minimum overhang. In the case of a gable or hip roof, a minimum 12-inch overhang is required. Soffit shall be required for all multi-residential structures.



e. Entrances. Entrances shall be accompanied by a covered porch, stoop, veranda, or other features that highlight entry points and offer protection from inclement weather.



f. Building orientation. Buildings along a public street should be oriented to avoid multiple parallel orientations to a public street. A variety of building orientations, including perpendicular and canted, or intervening open spaces should be provided to lessen the mass of buildings along the street.



g. Infill development. Infill development shall maintain setbacks, facade scale, and spacing compatible with adjoining and opposite buildings/land uses. All new multi-unit buildings located adjacent to single-family dwelling(s) shall not exceed 150% the average height of all dwellings that it abuts, not to exceed 35 feet.

h. Mailboxes. Exterior mailboxes for each multifamily development shall be alike in appearance, or a cluster box unit shall be used.

- i. Minimum building separation. The minimum separation between individual multifamily buildings within a development shall be 15 feet.
- j. Building length. The maximum length of a multifamily residential dwelling shall be 200 feet. For townhome developments, no more than six single-family attached units shall be attached in any single row.

(5) Planned Unit Development Review Process.

- (a) Multi-family residential planned unit development process. The planned unit development process is intended to serve the community as a public engagement tool that includes residents and neighbors in the development review process for multi-family residential planned unit developments. The planned unit development process shall consist of the following 4-step process:
 - a. Staff review, which may include outside review consultants, as determined by Village staff;
 - b. Public hearing and review by the Planning and Zoning Commission;
 - c. Review by the Planning and Economic Development Committee;
 - d. Review by the Village President and Board of Trustees over two readings.
- (b) Pre-application conference. Before submitting required materials for a preliminary planned unit development review, the applicant shall request and participate in a pre-application meeting with the Community Development Department. The purpose of the meeting is to informally discuss the general concept of the proposed development, as well as the Village's review process and development standards.
- (c) Application. Refer to the Planned Unit Development application handout, available through the Community Development Department, for specific explanations of submittal requirements. Any person owning real property in the Village of Machesney Park may file an application for a planned unit development subject to the general provisions of this Ordinance. The application shall be made in writing and shall be accompanied by plans and other information as required in the application form, along with a proper filing fee.
- (d) Procedure. Upon receipt of an application for a planned unit development, the Community Development Department shall forward copies of application to the members of the Planning and Zoning Commission, members of the Planning and Economic Development Committee, and to the Village President and Board of Trustees.
- (e) Public hearing and notice. Upon receipt of a petition for a planned unit development, the Planning and Zoning Manager shall schedule a public hearing before the Planning and Zoning

Commission, allowing adequate time for proper notice.

- (f) Report. Within 45 days, or as soon as agenda schedule permits, after all pertinent information has been received from the petitioner, and as necessary from the Village Staff, the petition shall be placed on the Planning and Zoning Commission agenda. The Community Development Department may require an earlier submittal date, if the proposed PUD is expected to require additional staff review time. Hearing/meeting dates shall not be established until all required submittals are received by the Community Development Department. The Planning and Zoning Commission shall review the proposed petition and report its findings to the Village Board as provided in this section.
- (g) Recommendations. Within 45 days following the public hearing, excluding any continuation of such hearing or extensions requested by the petitioner, the Planning and Zoning Commission shall forward its recommendations to the Planning and Economic Development Committee and the Village Board.
- (h) Conditions. The Planning and Zoning Commission may recommend and the Village Board, in granting any planned unit development, may impose such conditions or restrictions as appear necessary to minimize possible detrimental effects of such special use upon other properties in the neighborhood.
- (i) Action by the Village Board. The Village Board, upon receipt thereof, may adopt, with or without modification, reject or deny, the report and recommendations of the Planning and Zoning Commission, or may refer any matter back to the Planning and Zoning Commission for further consideration. In addition, any proposed planned unit development which fails to receive a positive recommendation of 2/3 of all the appointed Planning and Zoning Commission members then holding office as required by this Ordinance, shall not be approved by the Mayor and the Village Board of Trustees except by a favorable vote of 2/3 of all the Village Board members then holding office.
- (j) Failure to start construction on a multi-family residential PUD. Approval of a planned unit development shall be valid for one year after approval by Village Board. The Village President and Board of Trustees may, for good cause, approve an extension of a planned unit development. The Village may note grant more than three one-year extensions.
- (k) Amendments to a Planned Unit Development. Any changes to an approved planned unit development plan may first require an amendment, prior to construction. The Community Development Department shall review any plan changes or deviations and determine whether or not the changes are substantive and if so, will require an amendment. An amendment to the PUD shall follow the same process as a new PUD, as outlined above. When amending an

approved final PUD plan, unless the homeowners' association, where one is present, is authorized to act on behalf of the entire development, every property owner within the PUD is required to consent to the amendment to the PUD.

- (l) Fees. Administrative review fees shall be submitted with every PUD application. Fees shall be based upon the size of the proposed development.

Up to and including 5.0 acres - \$500

Each additional 5 acres - \$50

ARTICLE XIX. ZONING PERMIT AND CERTIFICATE OF OCCUPANCY

SEC. Z-96. PURPOSE AND REQUIREMENTS.

To ensure that each new or expanded use of a structure or site and each new structure or alteration of an existing structure complies with all applicable provisions of this chapter, and in order that the Village may have a record of each new or expanded use of a structure or site, a zoning permit is required before any building permit may be issued or any structure or site used; and a certificate of occupancy required by the Village Building Ordinance shall be issued only for a structure that conforms with the zoning permit.

To ensure that each new sign subject to design review or requiring a sign permit and each enlargement or change in the design, lighting or movement of sign subject to design review or requiring a sign permit complies with all applicable provisions of this chapter, a zoning permit is required before the sign may be displayed or altered or before a sign permit may be issued.

SEC. Z-97. APPLICATION AND ISSUANCE OF ZONING PERMIT.

Application for a zoning permit shall be made on a form prescribed by the Planning and Zoning Commission and shall be accomplished by plans and additional information as necessary, in the opinion of the Planning and Zoning Manager, to demonstrate conformity with this chapter. The Planning and Zoning Manager shall check the application and all data submitted with it to see that all provisions of this chapter will be complied with.

- (1) The fee for a zoning permit is \$5. (Ord. 45-92)

SEC. Z-98. ISSUANCE OF BUILDING PERMIT.

The Village Building Official shall not issue building permits for signs or structures unless they conform to an approved zoning permit or a special use permit has been issued by the Village Planning and Zoning Manager. (Ord 14-98)

SEC. Z-99. ISSUANCE OF CERTIFICATE OF OCCUPANCY.

The Village Building Official shall not issue a "certificate of occupancy" until all conditions of the zoning permit or special use permit are met. (Ord. 14-98)

SEC. Z-100. AGRICULTURAL EXEMPTION.

No permit shall be required with respect to land used or to be used for agricultural purposes, or with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for agricultural purposes upon such land as set forth in Chapter 34, Section 3151, Illinois Revised Statutes as amended.

SEC. Z-101. SITE DEVELOPMENT PLAN REVIEW PROCEDURES AND STANDARDS

Land proposed for development and controlled by the terms of this agreement shall be subject to the following procedures, standards and criteria concerning site development plan review, as applicable.

- (1) **Approved Plan - When Required.** Site development plan approval shall be required for multiple family and nonresidential development in the R3, R4, CN, CC, CG, OF, IL, IG, or the IH zoning district under the following intended situations:
 - (a) The construction of any new principal structure intended and designed for nonresidential or multi-family occupancy or the use of land for non-residential purposes.
 - (b) The construction of any new or modified building and/or site improvements for a zoning lot which has previously received site development plan approval under this agreement, re-approval of the plan is required for components of the plan which depart from the approved site development plan. The extent of changes to be incorporated in the submittal for re-approval shall be determined by the Director of Community Development.
 - (c) A site development plan shall not be required for a change of use except where such change of use results in increased off-street parking requirements which cannot currently be met by current parking and circulation improvements.
 - (d) A site development plan shall be required along with any application for a special use permit for any non-residential or multifamily development.
- (2) **Initiation.** Plan approval shall be initiated by the owner of the property, or a duly authorized representative of the owner, for which plan approval is sought.
- (3) **Procedure for Initiation**
 - (a) The owner of property, or a duly authorized representative of the owner, for which a building permit is sought (requiring site development plan approval under section A, above) and which development has not been approved under the requirements of this section, shall file an application for site development plan approval along with an application for such zoning permit or building permit.
 - (b) The owner of the property, or a duly authorized representative of the owner, for which a special use permit is sought (requiring site development plan approval under section A, above) shall file an application for site development plan approval along with such application for a special use permit.
 - (c) The owner of the property, or a duly authorized representative of the owner, shall file an application for site development plan approval with the Community Development

Department. It shall be accompanied by a nonrefundable fee, to be the same fee as that otherwise required for a special use permit under the Zoning Ordinance, and shall contain the following information:

- (i) Name, address and telephone number of the applicant including the name and address of each person or entity owning an interest in the property. The application shall include the signature of the owner(s).
- (ii) A site development plan of the size and containing the information required under section D, below.

- (4) Contents of a Site Development Plan Application. Applications shall include the following information and materials. For development proposals which have received prior site development plan approval, the Director of Community Development is authorized to waive requirements in this sections which are not affected by or do not apply to the proposed change:
 - (a) Site Development Plan Application
 - (i) A completed application form provided by the Community Development Department.
 - (ii) Each application shall include eight (8) copies of all full-sized documents and drawings. For all graphic and plan drawings, a scale of not less than one-inch equals one hundred feet (1 " = 100') shall be used. Individual sheets or drawings should not exceed thirty (30) inches by forty-two (42) inches.
 - (iii) The names and addresses of the persons responsible for preparing the plan, or plan components.
 - (iv) The present zoning of the site and adjoining property.
 - (v) A plat of survey.
 - (vi) Other information that may reasonably be required by the Community Development Department to reasonably understand and evaluate the proposed plan as the case may be, which may include a traffic study.
 - (b) An existing conditions map shall show the location, dimensions, size and height of the following, as applicable:
 - (i) Sidewalks, streets, alleys, easements and utilities, including street lighting and underground conduits for street lighting.
 - (ii) Buildings and structures.
 - (iii) Septic fields, wells and public sewer and water systems.
 - (iv) Slopes, particularly slopes specifically in excess of 10%, and terraces and retaining walls.
 - (v) Driveways, entrances, exits, parking areas and sidewalks.
 - (vi) Water mains and fire hydrants.
 - (vii) Natural and artificial watercourses and bodies of water and wetlands.
 - (viii) Limits of flood plains.
 - (ix) Significant geological features, if any.
 - (x) Areas that can reasonably be expected to or which do contain soils or materials contaminated with but not limited to heavy metals, petroleum products, PCB'S, pesticides, fly ash, or other toxic or hazardous materials.
 - (xi) Underground storage tanks, if any.
 - (xii) The topography of existing ground and paved areas, and elevations of streets, alleys, utilities, sanitary and storm sewers, buildings and structures. Topography is to be shown by dashed lines illustrating one (1) foot standard contour intervals and by spot elevations where necessary to indicate flat areas.

- (xiii) General alignment and lengths of all streets and all property lines.
 - (xiv) All building restriction lines, highway setback lines, easements, covenants, reservations and rights-of-way.
 - (xv) Date, scale and north point.
- (c) A separate site development plan shall be prepared to show the following regarding the proposed development:
- (i) For a site development plan which includes any existing structures or other improvements, an indication of those improvements that are to remain and those which will be removed.
 - (ii) Sidewalks, streets, alleys, easements and utilities, including street lighting and underground conduits for street lighting.
 - (iii) Buildings and structures with entrances and exits identified.
 - (iv) Utility plan for water and for sewage disposal.
 - (v) Slopes, terraces and retaining walls.
 - (vi) Driveways, entrances, exits, parking areas and sidewalks.
 - (vii) Water mains and fire hydrants.
 - (viii) Erosion control methods.
 - (ix) Natural and artificial watercourses and bodies of water and wetlands.
 - (x) Distances between buildings.
 - (xi) Calculations of the following, as applicable:
 - (a) number of dwelling units or square footage of non-residential uses;
 - (b) number of parking spaces;
 - (c) number of loading spaces;
 - (d) total land area
 - (e) total landscaped area
 - (f) total open space
 - (g) total impervious surface
 - (xii) Tentative plans for collecting and depositing storm water and the method of treatment of natural and artificial watercourses, including a delineation of existing and/or proposed limits of flood plains, if any. Plans shall indicate the direction of anticipated sheet flow using directional arrows.
 - (xiii) Preliminary engineering plans in sufficient detail to indicate proposed grading, surface drainage, terraces, retaining wall heights, grades on paved areas and ground floor elevations of proposed buildings and structures, shown by two (2) foot contours and approximate elevations.
 - (xiv) A landscape plan indicating landscaping improvements required under the Machesney Park Zoning Ordinance -- Article 1, Section 20-8, 5(e), and Article XI, Section 20-57, 7(c).
 - (xv) Street lighting, if applicable.
 - (xvi) Any locations intended for the outdoor display or storage of goods and merchandise.
 - (xvii) Plans to remediate, remove, or control on site any contaminated soils, materials, underground storage tanks, combustible gases, or old landfills, dumps or disposal areas.
 - (xviii) A light plan indicating all exterior building mounted and free-standing lights and structures including overall height, type of lamp, luminaries, and a statement that such lighting plan will meet the requirements of the Zoning Ordinance.

(xix) Exterior building elevations of all proposed structures and exterior elevations of existing buildings when existing building are proposed to be structurally altered. Elevations shall indicate the materials to be used in the design of the structure and the proposed color scheme.

(xx) Elevations of proposed free-standing signs as well as the intended sign message/display and the materials and colors intended for the sign. "Typical" elevations shall be provided for wall mounted signs including renderings of all sign faces; views of supporting members, poles, bases and pedestals; side views which indicate both signage depth and projections; method of illumination, materials indications, and dimensions of all sign elements.

- (d) Combined Existing Conditions Map and Site Development Plan. The requirements for each the Existing Conditions Map and Site development plan under subsections 2 and 3 above may be combined in a single map upon approval by the Director of Community Development.
- (5) Agreement of Owner. All documents and information submitted as part of an application for site development plan approval constitute a statement by the applicant that he intends and agrees to be bound to develop in accord with such information upon approval.
- (6) Notice Requirements. Site development plans do not require any form of public notice, however a site development plan application concurrently filed with an application for a special use permit shall state that site development plan approval is sought as part of the public notice in addition to the requested special use permit.
- (7) Procedures for Decisions. Depending upon the proposed action, site development plans shall be considered under one of the following procedures.
- (a) Plans Associated with Special Use Permits. Plans which are filed with an application for a special use permit shall be processed as a part of the special use permit under the procedures and requirements of the Machesney Park Zoning Ordinance. All other site development plans shall be approved under the following procedure.
- (b) Plans Associated with Zoning Permits or Building Permits. Within thirty (30) days of the date of application (unless otherwise extended to a mutually agreeable date), the Director of Community Development shall approve or deny site development plans in accord with these requirements. In rendering a decision to approve or deny a site development plan, the Director of Community Development may seek and rely on information and opinions provided by Village of Machesney Park Officials, and other professionals including, but not limited to the Planning and Zoning Manager, Village Engineer, Director of Public Works, and Village Attorney.

Should an owner be aggrieved of any decision in the approval or denial of a Site Development Plan by the Community Development Director, the decision may be appealed to the Village Board of Trustees for reconsideration. The Village Board of Trustees may, by simple majority vote, move to either sustain or reverse the action by the Community Development Director. Any decision reversing the action of the Community Development Director shall provide the reasons for such action and any appropriate conditions.

- (8) Criteria for Plans. In reviewing and determining whether to approve or disapprove a site development plan, the Director of Community Development and the Village Board, as applicable, shall consider the criteria listed below, as appropriate.
- (a) Conformance with Ordinances. The application shall comply with the provisions of this ordinance and other ordinances of the Village and of any other applicable laws.
 - (b) Comprehensive Plan. The plan shall be in reasonable conformity with the Comprehensive Plan and any specific recommendations associated or related to the subject property.
 - (c) Land-Use Compatibility and Integration. The overall design integrates neighborhood and site characteristics into a compatible expression of building mass, building scale, circulation and site improvements.
 - (d) Minimize Impacts to Surrounding Land-Uses. The spatial and functional design minimizes the potential impacts of noise, light, debris, and other undesirable effects of development upon adjoining properties and the area in general.
 - (e) Architectural Innovation. The plan is innovative in the design of structures by varying vertical and horizontal planes of building facades and makes creative use of building materials in establishing an overall architectural "theme" for the development.
 - (f) Signage. Signage is designed compatible in scale and character with the overall development.
 - (g) Site Access. Access to the site is designed to safely and efficiently facilitate ingress and egress. The use of shared curb-cuts and cross-access easements should be provided when appropriate. One curb cut per site shall be allowed, unless documentation is provided demonstrating the need for additional curb-cuts.
 - (h) Vehicle Circulation and Parking. Adequate provision has been made for traffic circulation, which is coordinated with, and minimizes impacts to the adjoining street system. The plan should also demonstrate the provision of safe and convenient off-street parking and loading areas. When appropriate, cross-access easements should be provided between adjoining properties to allow for expanded on-site circulation of vehicles.
 - (i) Pedestrian Circulation. Adequate provision has been made to ensure that the development will not create hazards to the safety of pedestrian traffic on or off the site, disjointed vehicular or pedestrian circulation paths, or undue interference and inconvenience pedestrian travel.
 - (j) Utilities and Community Facilities. Reasonable provision has been made to ensure that development will be served by essential public facilities and services such as police and fire protection, drainage structures, refuse disposal, public water supply, wastewater collection, and related facilities.
 - (k) Screening and landscaping. The arrangement and selection of landscaping materials should reinforce functional use areas of the site as well as add natural beauty. Screening in the form of fences, walls and landscaping should minimize the potential for nuisance impacts to surround properties.
 - (l) Lighting. On-site lighting shall provide for adequate illumination for vehicle and pedestrian safety. Lighting should not be permitted to illuminate adjoining properties.
 - (m) Detention and Retention Facilities. When appropriate, detention and retention facilities should be designed to provide for shared storage between properties. Detention and retention facilities should be appropriate landscaped.

The Director of Community Development and the Village Board, as applicable, shall not unreasonably or capriciously disapprove a site development plan which conforms to the following: the Village of Machesney Park Zoning Ordinance; the Village of Machesney Park Comprehensive Plan; the Village of Machesney Park Subdivision Ordinance; the Village of Machesney Park Building Codes Ordinance; the Village of Machesney Park Storm Water Detention Regulation; and, any and all other Village ordinances which are clearly and reasonably applicable to the site development plan.

- (9) Conditions on Plans. The approving authority may impose reasonable conditions in granting plan approval to minimize any negative impacts or minimize any adverse impacts due to the development.
- (10) Modifications of Plans. Changes to site development plans require reconsideration and re-approval under the appropriate procedure.
- (11) Lapse of Approval. Unless extended by the approving authority, and unless a building permit has been issued and construction commenced, site development plan approval shall automatically lapse one (1) year after the date of approval of the plan. (Ord. 5-97)

ARTICLE XX. SEPARABILITY

SEC. Z-102. INTENT OF VILLAGE.

It is hereby declared to be the intention of the Village that the several provisions of this chapter are separable, in accordance with the following:

- (1) If any court of competent jurisdiction shall declare any provisions of this chapter to be invalid, such ruling shall not affect any other provisions of this chapter not specifically included in such ruling.
- (2) If any court of competent jurisdiction shall declare invalid the application of any provision of this chapter to a particular property, building or other structure, such ruling shall not affect the application of such provision to any other property, building or structure not specifically included in such ruling.

APPENDIX B - SUBDIVISIONS

ORDINANCE NO. 16-87

AN ORDINANCE REPEALING EXISTING SUBDIVISION REGULATIONS
AND ADOPTING NEW SUBDIVISION REGULATIONS

BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF
THE VILLAGE OF MACHESNEY PARK, ILLINOIS, as follows:

SECTION 1. Ordinance No. 6-84 providing for subdivision regulations passed Kamiaru 24. 1094, and subsequent amendments are hereby repealed. (Amd. 15-88 - 2/23/88)

SECTION 2. The following subdivision regulations are hereby adopted and shall be referred to as the Machesney Park Subdivision Ordinance:

103.101. DEFINITIONS. For the purpose of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section:

A. PLANS. The term "plans of the planning commission", "the comprehensive plan", "adopted segments of the comprehensive plan", "adopted plans" and "Plan" and all such terms as used herein mean plans adopted into law by the Village Board under Illinois Revised Statutes, Chapter 24.

B. "SUBDIVISION" means the initial division of a parcel of land into two or more parts, any of which part is less than five acres, for the purpose of ownership, transfer or building development; or, if a new street is involved, any division of a parcel of land. The term includes any division of land that attempts to avoid the requirements of this regulation. Where appropriate to the context, the term shall relate to the process of subdividing or to the land subdivided.

C. "SUBDIVISION GUIDE" refers to the planning commission's report of that title, which report shall be considered a statement of principles of sound subdivision design by means of which subdivider may be guided and in terms of which each subdivision shall be judged insofar as such principles are reasonable and appropriate in their application to such subdivision.

D. "VILLAGE OF MACHESNEY PARK BOARD OF TRUSTEES" shall be referred to as the Village Board.

E. "VILLAGE OF MACHESNEY PARK PLANNING COMMISSION"

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shall be referred to as the Planning Commission.

F. MINOR SUBDIVISION. Any subdivision of less than five (5) acres, and fronting on an existing improved street, and not involving any new street or road, and not adversely affecting the development of the remainder of the parcel or adjoining property, and not in conflict with any provision or portion of the Comprehensive Plan, Zoning Ordinance or Subdivision Ordinance of the Village of Machesney Park. (Amd. Ord. 27-04 - 07/26/04)

103.102. INTERPRETATION, PURPOSE AND EFFECT OF REGULATION.

A. The provisions of this regulation shall be held to be minimum requirements, adopted to promote the health, safety and the convenience of the public and to lessen congestion and further the orderly layout and the use of land and to facilitate adequate provision for transportation, water, sewage, schools, parks, playgrounds and other public requirements.

B. It is not intended by this regulation to repeal or impair any existing easement, covenant or agreement between parties, or permits previously adopted or issued pursuant to the resolutions of the Village and statutes of the state; provided, however, that where this regulation imposes a greater restriction upon the development of the land than required by other rules, regulations or permits, the provisions of this regulation shall govern.

C. Where this regulation imposes a greater restriction than imposed or required by the provisions of existing ordinances, resolutions, rules and other regulations, this regulation shall control. Where provisions of existing ordinances, resolutions, rules or other regulations impose greater restrictions than imposed or required by this regulation, such provisions shall control. All provisions in existing resolutions, rules or regulations in conflict with this regulation are hereby repealed.

103.103. OFFICE OF PLAT OFFICER CREATED: POWERS AND DUTIES.

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A. The office of Plat Officer is hereby created. The Planning and Zoning Manager shall serve as the Plat Officer of the Village or any individual assigned by the Village President with approval of the Village Board. If the Plat Officer as designated herein is unavailable to perform any of the duties specified in this Appendix C - Subdivisions, then the Village President shall automatically serve as temporary Plat Officer and be vested with all of the powers of the Plat Officer during such period of time and until the Plat Officer is again available. (Amd. Ord. 57-90 - 6/18/90; Amd. Ord. 7-91 - 3/11/91; Amd. Ord. 7-93 - 1/25/93)

B. Recommendations to Planning and Economic Development Committee. The Plat Officer, in reviewing subdivision proposals or other proposed new developments, shall make recommendations to the Planning and Economic Development Committee on planning and economic development based on information available to him. (Amd. Ord. 53-93 - 10/12/93; Amd. Ord. 30-07 - 01/14/08)

103.104. PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE. A Planning and Economic Development Committee is hereby created to review the technical requirements of proposals brought before them as covered by this regulation. The Committee shall then make recommendations to the Village Board for Board action. (Amd. Ord. 30-07 - 01/14/08)

103.105. PLANNING AND ZONING COMMISSION REVIEW. The Planning and Zoning Commission pursuant to Chapter 24 of the Illinois Revised Statutes, shall review and make recommendation on all tentative plats. Said recommendation shall be forwarded to the Planning and Economic Development Committee for further consideration. (Amd. Ord. 30-07 - 01-14-08)

103.106. PROCEDURE PRIOR TO RECORDING. Every intended subdivision of land within the platting jurisdiction of the Village shall be submitted to the Plat Officer of the Village of Machesney Park for approval according to the provisions of this regulation prior to final recording of a map or plat of such subdivision, except where otherwise permitted by this regulation. No such map or plat of subdivision shall be

entitled to record or have validity until it has been so approved, except when otherwise permitted by this regulation.

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(Amd. Ord. 53-93 - 10/12/93)

103.107. VARIATIONS. In order to promote the best possible development and use of land, the plat Officer and the Village Board shall interpret the standards, provisions and specifications contained in this regulation liberally and in favor of the community interest. Variations from these standards, provisions and specifications shall be recommended and granted when it is demonstrated to the satisfaction of the Plat Officer and Village Board that such variation will bring about a more logical and desirable result than obtained by strict compliance.

A. A request for variation shall be filed by the owner or developer of the proposed subdivision with the Plat Officer. The Plat Officer shall refer the request, together with his recommendation, to the Village Board for decision. The request shall be in writing, shall state specifically what variation is sought, and the community's interest in granting the variation.

B. Upon application of the owner or developer, a tentative plat which has been disapproved by the Plat Officer, or a tentative plat upon which no action has been taken for ninety (90) days by the Plat Officer, shall be submitted to the Village Board for its tentative decision. The Village Board may approve the tentative plat as submitted, approve it with conditions, or disapprove it.

103.108. PROHIBITION OF SUBDIVISION. No persons, firm or corporation shall subdivide or resubdivide any parcel of land within the corporate limits of the Village or within one and one-half (1½) miles of said corporate limits but not within the corporate limits of any other municipality or within the jurisdiction of another municipality acting pursuant to the Illinois Revised Statutes, unless a subdivision plat has been reviewed by the Planning and Zoning Commission, with recommendation for approval by the Planning and Economic Development Committee and approved by the President and Board of Trustees of the Village as required by this regulation. Exemptions to this established procedure are as outlined in Section 103.109. (Amd. Ord. 30-07 - 01/14/08)

103.109. EXEMPTIONS.

EXEMPTION A.

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The following list shall be exempt from the platting and procedural requirements of this regulation:

(a) The division of land into parcels each greater than five (5) acres in size and which does not involve any new streets or easements of access.

(b) The sale or exchange of parcels of land between owners of contiguous and adjoining land.

(c) The conveyance of parcels of land or interests therein for use as a right of way for railways or other public utility facilities which does not involve any new streets or easements of access.

(d) The conveyance of land for highway or other public purposes or grants or conveyances relating to the dedication of land for public use or instruments relating to the vacation of land impressed with a public use.

(e) Conveyance made to correct descriptions in prior conveyance.

EXEMPTION B.

The following shall be exempt from the platting and procedural requirements of this regulation except that a Boundary Map and pertinent standards of this subsection shall apply.

(a) The division of land into two (2) parcels, either of which is less than five (5) acres and which does not involve any new streets or easements of access.

(b) The division of a lot of less than one acre in a recorded subdivision which does not involve any new street or easement of access, provided that the division complies with the regulations of the Zoning Ordinance.

(c) The sale or exchange of portions of a lot of less than one acre in a recorded subdivision which does not involve any new street or easement of access, provided that the portion of a lot to be sold or exchanged complies with the regulations of the Zoning Ordinance.

(d) The sale or exchange of portions of parcels of land less than five (5) acres between owners of contiguous and adjoining land.

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103.110. BOUNDARY MAP. The boundary map shall be prepared by a registered Illinois Land Surveyor.

A. Such boundary map shall be drawn with waterproof nonfading black ink on tracing cloth or good quality tracing paper. Acceptable boundary map dimensions are twenty-four (24") inches by thirty-six (36") inches or a size acceptable to the Winnebago County Recorder. No such boundary map shall be entitled to record or have validity until it has been signed by the Plat Officer. The Plat Officer shall keep a copy of such boundary map. After two such boundary maps dividing a tract of land in one ownership at the time of passage of this regulation have been signed by the Plat Officer he shall not sign another boundary map dividing such land. Further division of such land shall be recorded only by means of a map or plat of subdivision as provided in this regulation which map or plat of subdivision shall include all parcels previously divided off by such boundary map. (Amd. Ord. 53-93 - 10/12/93)

B. Where possible all street right-of-way widths shall be a minimum of sixty-six (66) feet for residential, eighty (80') feet for commercial/industrial and eighty (80') feet to one-hundred (100') feet for collector or arterial routes. (Amd. Ord. 53-93 - 10/12/93)

A boundary map of property adjacent to a street with insufficient right-of-way shall show on the face thereof additional right-of-way. Additional right-of-way shall be determined by the Planning and Economic Development Committee. A deed and a title policy guaranteeing Village ownership of said property, shall be transmitted with the boundary map to the Plat Officer. The Plat Officer shall retain the title policy and record the deed. (Amd. Ord. 30-07 - 01/14/08)

Exceptions to this requirement shall be determined by the Planning and Economic Development Committee based on evidence presented by the property owner that the community interest would not benefit. (Amd. Ord. 30-07 - 01/14/08)

C. The boundary map shall be endorsed by the Winnebago County Health Department of Health Officer with respect to all sewer and water facilities certifying that same comply with all rules, regulations and requirements of local government, regional, state

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and national authorities.

D. Prior to approval, at the discretion of the Plat Officer the boundary map may be referred to any utility or other agency involved.

E. A copy of the recorded boundary map shall be made available to the Plat Officer by the property owner, Registered Land Surveyor or representative of same.

F. The following certificates and affidavits shall appear on the boundary map:

(1) CERTIFICATION BY SURVEYOR

(Legal Description)

"I hereby certify that I have surveyed the above described property for the purpose of locating the boundaries and corners thereof and that the attached plat is a true and correct representation of said survey. Dimensions are given in feet and decimals of a foot unless otherwise specified."

Given under my hand and seal this ____ day of _____, 20____.

Registered Land Surveyor No. _____

(2) CERTIFICATION BY COUNTY CLERK

"I _____, County Clerk of Winnebago County in the State of Illinois, DO HEREBY CERTIFY that I find no delinquent general taxes, delinquent special assessment or unpaid current special assessment against the lands described in this boundary map."

"In witness whereof, I have hereunto set my hand and the seal of the County of Winnebago this ____ day of _____, 20____."

County Clerk

(3) CERTIFICATION BY PLAT OFFICER

"Approved by the Village of Machesney Park Plat Officer, this ____ day of _____, 20____."

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Plat Officer

(4) CERTIFICATION BY COUNTY RECORDER

"Filed for record this _____ day of _____, 20____
at _____.M., Recorded in Book of Plats, Page____ and
examined."

Document Number_____

County Recorder

The Village Engineer shall review and examine all plat and site plans within the jurisdictional limits of the Village of Machesney Park to insure the conformity with the principals, standards and requirements set forth in the Subdivision Control Ordinance and Codes of the Village of Machesney Park, Illinois. Review and examination shall include, but not be limited to, preliminary subdivision plats, commercial site plans, industrial site plans and apartment site plans. The cost incurred by the Village of Machesney Park from the Village Engineer, shall upon the Engineers completion, be reimbursed to the Village by the developer, project owner or site owner.

103.111. VACATION OF RECORDED PLATS OR PARTS OF RECORDED PLATS.

A. PROCEDURE. The vacation of plats or parts of plats shall follow the procedure required for final plats of subdivisions. Final approval of an instrument of vacation shall, however, be automatically referred to the Village Board.

The Planning and Economic Development Committee shall transmit to the Village Board, along with its recommendation on the instrument of vacation; (1) A statement of fact explaining the grounds for its recommendation and, (2) a recommendation respecting the monetary remuneration to be paid to the Village Treasurer in the consideration of any public property involved in the vacation. (Amd. Ord. 30-07 - 01/14/08)

Instruments of vacation not approved by the Planning and Economic Development Committee shall, upon the request of the petitioner, be submitted by the Committee to the Village Board with the reasons for disapproval. After reviewing the evidence, the Village

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Board may determine the monetary remuneration to be paid in consideration of public property, if any involved in the vacation, and direct the Plat Officer to certify approval of the instrument of vacation. (Amd. Ord. 30-07 - 01/14/08)

B. STANDARDS. A vacation shall not be approved that creates conditions that would not be permitted under the requirements of this regulation in newly created subdivisions, unless such vacation would at the same time correct other and more serious conditions detrimental to the public health, safety, comfort, morals and the general welfare. No vacation shall be approved unless it provides easements for existing public utilities within the confines of the vacated area.

C. FORM. The instrument of vacation shall consist of:

1. A written description, referring to an attached copy of the recorded plat, of the plat or part thereof to be vacated, and a written statement declaring same to be vacated.

2. An attached copy of the recorded plat, all or a part of which is to be vacated. If only part of the plat is to be vacated, such part shall be shaded and outlined with a heavy line.

3. The following certificates duly executed:

a. CERTIFICATION BY OWNER:

Certification by the owners shall include all of the owners of land in and adjacent and contiguous to the part of the plat to be vacated.

"As owner of the following described property, to-wit (description by reference to attached plat) I (we) hereby petition the Village Board of Trustees of the Village of Machesney Park, Illinois, to approve the above described vacation."

(owner) (parcel) (date)

b. CERTIFICATION BY NOTARY PUBLIC:

"I, _____, a Notary Public in and for the County of Winnebago, in the State of Illinois do

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hereby certify that _____ personally known to me to be the same person(s) whose name(s) is (are) subscribed to the foregoing instrument, appeared before me this day in person and delivered said instrument and (severally) acknowledged that he (they) signed, sealed as his (their) free and voluntary act for the uses and purposes herein set forth."

"Given under my hand and Notarial Seal this _____ day of _____, A.D. 20____."

Notary Public

c. CERTIFICATION BY THE VILLAGE ENGINEER:

"I hereby certify that this vacation is approved."

Village Engineer Date

d. CERTIFICATION BY THE PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE:

"We, the Planning and Economic Development committee of the Village of Machesney Park of the County of Winnebago, Illinois, have examined this instrument of vacation, find the same to be in due and proper form, and recommend that the Village Board approve this vacation and direct the Village Plat Officer to certify final approval."

"Dated this _____ day of _____, 20____."

e. CERTIFICATION BY VILLAGE CLERK:

"This is to certify that the Board of Trustees of the Village of Machesney Park did, at its meeting on the _____ day of _____, 20____, approved the annexed vacation and direct the Village Plat Officer to certify final approval for and in the name of the Village of Machesney Park in the State of Illinois, upon evidence of a receipt of the Village Treasurer in the amount of \$_____."

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Village Clerk

f. CERTIFICATION BY THE VILLAGE PLAT OFFICER:

"The annexed vacation is hereby approved this _____ day of _____, 20____."

Plat Officer

g. CERTIFICATION BY THE COUNTY SUPERINTENDENT OF HIGHWAYS:

"The annexed vacation is hereby approved this _____ day of _____, 20____."

County Superintendent of Highways

h. CERTIFICATION BY THE DISTRICT ENGINEER OF ILLINOIS DEPARTMENT OF TRANSPORTATION:

"The annexed vacation is hereby approved this _____ day of _____, 20____."

District Engineer of the Illinois Dept. of Transportation

i. CERTIFICATION BY PUBLIC UTILITY INVOLVED:

"I, (Office) of (Name of Public Utility), hereby approve the annexed vacation this _____ day of _____, 20____."

(State capacity with the public utility)

j. FORM FOR CERTIFICATION OF RECORDING OFFICIAL:

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"Filed for record this _____ day of _____,
20_____, at _____ o'clock _____M. Recorded in
Book _____ of Plats. Page _____ and
examined."

County Recorder
Document Number _____

D. FEES. A fee for vacation of streets or alleys shall be paid by the petitioner, such fee to be paid for each square foot of land sought to be vacated, multiplied by the average of the full fair cash market value per square foot of the premises adjacent thereto. Such full fair cash market value shall be that currently used for tax assessment purposes. A fee of one dollar (\$1.00) per lot or sub-lot shall be paid by the petitioner seeking vacation of lots or sub-lots. All such vacation fees shall be paid to the Village Treasurer before final approval is certified by the Plat Officer.

E. RESUBDIVISION IN LIEU OF VACATION. It shall not be necessary to vacate a plat or part thereof in order to proceed with a resubdivision of such plat or part thereof. Resubdivision according to the procedure and standards for subdivision required by this regulation shall automatically constitute vacation of a prior plat or part thereof; provided, that monetary remuneration shall be paid to the Village Treasurer in consideration of the excess of public property vacated over that rededicated in the replat, and provided further that any such resubdivision shall not vacate any prior public utility easement arising from a prior plat or separate grant of easement.

F. CANCELLATION OF BONDED CONTRACTS. Bonded contracts for the improvement of platted streets or alleys shall be automatically cancelled upon vacation of such platted streets or alleys.

103.112. PROCEDURE. Except as outlined in Section 103.107, the procedure detailed in this section shall be followed by subdivider in order to gain official approval for, and recording of, a subdivision layout.

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A. ZONING. Final approval shall not be granted to a subdivision unless it complies with all requirements of the Village Zoning Ordinance.

B. PRELIMINARY CONFERENCE. The subdivider shall contact the Plats Officer in order to schedule a preliminary conference with the Planning and Economic Development Committee about his particular intentions and problems. A map twenty-four (24") inches by thirty-six (36") inches showing the following information shall be brought to such conference:

1. The boundaries of the property to be subdivided, existing easements and covenants affecting the property, land characteristics, such as natural drainage, swamp areas, wooded areas, and development characteristics such as surrounding streets, existing buildings, available community sewer, water and other utilities. The Village requires floodway information as provided by the appropriate Federal Emergency Management Agency (FEMA) floodway map. (Amd. Ord. 53-93 - 10/12/93)

C. TENTATIVE PLAT APPROVAL. Within six (6) months following the Plats Committee conference or such greater time as the Plats Committee may designate, the sub-divider may submit a tentative plat or map of subdivision and fifteen (15) reproductions thereof to the Plat Officer-for conditional approval. The Plat Officer shall refer reproductions of the plat to the Village Engineer and any or all Village Staff, governmental agency, service provider, utility or other appropriate review entity including, but not limited to the following: Commonwealth Edison Company, Harlem Consolidated Schools/District 122, Harlem-Roscoe Fire Protection District, Illinois Department of Transportation/Division of Highways/District 2, Insight Communication, Nicor Gas, North Park Fire Protection District, North Park Public Water District, Northwest Fire Protection District, Rock River Water Reclamation District, Rockford Public Schools, SBC, Street Superintendent, United States Post Office, Verizon, Village Attorney, Winnebago County 9-1-1, Emergency Communication Center, Winnebago County Health Department, Winnebago County Highway Department, and the Winnebago County Soil and Water Conservation District.

Upon receipt of applicable review comments, the

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Plat Officer shall schedule the tentative plat on the next available Planning Commission agenda for review and comment. After the Planning Commission has reviewed the tentative plat, a Plats Committee meeting shall be scheduled for recommendation concerning conditional approval of the plat. In addition to submitted review comments and Plats Committee recommendations, conditional approval of a tentative plat shall be granted by the Plat Officer upon conformity with all pertinent laws, rules, regulations and particularly with the technical requirements established in the Section. Conditional approval shall be construed to be an expression of approval of the general layout submitted on the tentative plat as a guide to the preparation of the final plat and to the assurance of the sub-divider that the final plat will be approved if it conforms to the terms and conditions of the approved tentative plat. (Amd. Ord. 30-07 - 01/14/08; Amd. Ord. 23-07 - 09/17/2007)

D. TENTATIVE PLAT FORM & CONTENT. The tentative plat shall show the proposed layout for the whole tract of land owned or controlled by the subdivider and for any adjacent land, the design of which is dependent upon such tract. The tentative plat shall be drawn or printed on paper twenty-four (24) inches wide by thirty-six (36) inches long at a minimum scale of one hundred (100) feet to one inch, unless otherwise approved by the Plat Officer. The tentative plat shall show or be accompanied by the following information:

1. TITLE AND CERTIFICATES. Name under which proposed subdivision is to be recorded, location and position by quarter-quarter section, section, township, range, county and state; names and address of subdivider; notation stating scale, north arrow, and the following certificate:

"State of Illinois Village of Machesney Park Approved by _____ Village Plat Officer this ____ day of _____, 20____."

2. TOPOGRAPHIC DATA AND DESCRIPTIONS OF EXISTING CONDITIONS.

a. Boundary lines. Approximate angles and distances with reference to a United

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States land survey corner.

b. Easements. Location, width and purpose of easements and other existing restrictions, reservations or covenants.

c. Utilities existing on and adjacent to the tract. Location and size of sanitary and storm sewers; location and size of water mains; location of gas lines, fire hydrants and electric and telephone lines. If water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to, and size of nearest ones.

d. Ground elevations on the tract. Based on the Rockford datum plane when within one mile of Rockford or U.S.G.S. datum plane bench mark, or based on a located concrete monument from which the datum plane is taken. For land that slopes less than approximately two percent show spot elevations at all breaks in grade, along all drainage channels or swells, and at selected points not more than one hundred feet apart in all directions. For land that slopes more than approximately two per cent, show two foot contour intervals.

e. Other conditions on the tract. Watercourses, marshes, areas subject to inundation, rock outcrop, wooded areas, isolated preservable trees (one foot or more in diameter), houses, barns, shacks and other significant features.

f. Other conditions on adjacent land. The approximate directions and gradient of ground slope, including any embankments or retaining walls (this can be shown on a small map at convenient scale or on the location map); character and location of buildings, railroads, power lines, towers, and other nearby non-residential land uses or adverse influences.

g. Streets on and adjacent to or extending from the tract. Names of streets and right-of-way widths and locations; walks,

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curbs, gutters, culverts, building setback lines. (Amd. Ord. 53-93 - 10-12-93)

h. Proposed public improvements. Highways or other major improvements planned by public authorities for future construction on or near the tract according to the information received from the Village Engineer at the preliminary conference.

i. Location map. A small scale drawing of the section in which the subdivision is situated, and showing the location of the subdivision. This map shall show any lake or stream or the portion thereof to which access is provided from the subdivision, indicating the relation of the subdivision thereto.

j. Subsurface conditions on the tract. Location and results of tests made to ascertain subsurface soil, rock and ground water conditions. The Village requires a soils report which includes the following: soil types/ characteristics; moisture conditions/groundwater; a minimum of three (3) borings per proposed contiguous development; borings at minimums of one per five-hundred (500') feet of proposed streets, and roadway with a minimum of one per proposed street and six (6') feet below the proposed subgrade. (Amd. Ord. 53-93 - 10/12/93)

k. Street lights. All street light locations and any necessary easements in the proposed subdivision shall be shown. Street lights shall be erected at the intersection of public roads, mid-block locations and at any additional location deemed necessary by the Village of Machesney Park. (Amd. Ord. 74-95 - 09/11/95)

3. ALL PROPOSALS OF THE SUBDIVIDER, including;

a. Streets. Names; right-of-way and roadway widths; similar data for alleys, if

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any.

b. Rights-of-way of easements.
Location, width and purpose.

c. Lot lines and approximate dimensions.

d. Sites, if any, for the following:
Multi-family dwellings, shopping centers,
churches, industry, other uses exclusive of
single family dwellings.

e. Minimum building setback lines.

f. Site data. Tabulation of gross area,
street area, net subdivided area, total
number of lots, average lot size, typical lot
dimensions, lineal feet of streets.

g. Sites to be reserved or dedicated for
parks, playgrounds or other public uses.

h. A draft of any protective covenants
by which the subdivider may propose to
regulate land use in the subdivision and
otherwise to protect the proposed
development.

4. OTHER TENTATIVE PLANS. When required by
the Village Board, the tentative plat should be
accompanied by profiles showing ground surface and
proposed street grades, including extensions for a
reasonable distance beyond the limits of the
proposed subdivision, typical cross sections of the
proposed grading, roadway and sidewalk, and
tentative plan of proposed water mains, sanitary
and storm sewers with approximate grades and sizes
indicated. All elevations shall be based on the
Rockford datum plane, 603.383 of U.S.G.S. elevation
is zero on the city datum plane.

a. Deleted by Ord 23-07

5. TENTATIVE PLAT REVIEW FEE. A review fee
equal to a minimum of \$2,000, increased by \$30.00
per lot in excess of 50 lots, shall be charged by
the Village for review of Tentative Plats and any
related plans and specifications. This fee shall
be paid upon presentation to the Village of the

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Tentative Plat and shall be non-refundable.

a. The fee shall be used by the Village for the reimbursement of engineering, legal and any other related expenditures incurred during the review process by the Village. The Village Engineer and Village Attorney shall be reimbursed per published hourly rate and reimbursable schedules currently in effect.

b. In the event that actual incurred expenditures exceed the required review fee, the developer shall be required to pay an additional fee. The amount of the additional fee shall be consistent with anticipated expenditures to be incurred during the review process as determined by the Plat Officer. (Amd. 23-07 - 09-17-2007)

E. FINAL PLAT APPROVAL. Within one year of conditional approval, or such greater time as the Village Board may designate, the subdivider may submit an intended final plat or map of subdivision and ten (10) reproductions thereof to the Plat Officer. The final plat, which may constitute only that portion of the tentative plat which the subdivider proposes to record and develop at the time, shall be accompanied by a fee of one-hundred and fifty dollars (\$150.00), plus one dollar (\$1.00) for each lot, subplot or tract of land shown upon the final plat. (Amd. Ord. 53-93 - 10/12/93)

Final approval of a final plat shall be granted by the Village Board on the basis of its conformity with the tentative plat as approved, with all pertinent laws, rules, regulations and particularly with the technical requirements of Section 12.

1. FINAL PLAT REVIEW AND INSPECTION FEE. A review and inspection fee equal to 3% of the approved estimated cost of construction shall be charged by the Village for review of Final Plats and any related plans and specifications and for the inspection of all facets of construction to insure compliance with the plans and specifications. The construction cost shall include mass grading, public infrastructure, and private infrastructure as provided in Section 103.114. This fee shall be paid upon presentation

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to the Village of the Final Plat and shall be non-refundable.

a. The fee shall be used by the Village for the reimbursement of engineering, legal and any other related expenditures incurred during the review and inspection process by the Village. The Village Engineer and Village Attorney shall be reimbursed per published hourly rate and reimbursable schedules currently in effect.

b. In the event that actual incurred expenditures exceed the required review and inspection fee the developer shall be required to pay an additional fee. The amount of the additional fee shall be consistent with anticipated expenditures to be incurred during the review and inspection process as determined by the Plat Officer. (Amd. 23-07 - 09/17/2007)

F. RECORDING FILING. A final plat approved by the Village Board and signed by the Plat Officer shall be filed with the County Recorder within five (5) work days of such approval.

Two paper prints of the recorded plat shall be provided by the developer to the Plat Officer within thirty (30) days of the time of recording.

G. FINAL PLAT FORM AND CONTENT. The final plat shall be drawn with waterproof non-fading black ink on tracing cloth measuring twenty-four (24) inches by thirty-six (36") inches at a scale of one inch (1") equals one-hundred feet (100'), or larger. Variation in scale may be allowed when agreed to by the County Recorder and where necessary for a proper exhibit of a subdivision. When more than one sheet is used for any one plat, they shall be numbered consecutively and each sheet shall contain a notation showing the whole number of sheets in the plat, and its relation to other sheets. Linear dimensions shall be given in feet and decimals of a foot. The final plat shall show on the face thereof: (Amd. Ord. 53-93 - 10/12/93)

1. The name of the plat, such name not

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duplicating the name of any plat previously recorded in Winnebago County.

2. The location and position of the subdivision indicated in each of the following ways:

a. By quarter-quarter section, section, township, range, Principal Meridian, county and state. (Amd. Ord. 53-93 - 10/12/93)

b. By distances and bearings from true north or angles with reference to a corner or corners established in the United States Public Land Survey.

c. By a written legal description of the exterior boundaries of the land as surveyed and divided.

d. Any subdivision, plat or replat (exempting minor subdivision as defined) will be required to provide geodetic survey horizontal control values for a minimum of two (2) opposing corners of the permanently monumented subdivision, plat or replat.

Horizontal control values must be provided in the Illinois State Plane Coordinate System, North American Datum (NAD) 1983 West Zone and referenced on the subdivision, plat or replat.

The positional accuracy for the horizontal control values shall be a minimum order C-1. If differential CPS methods are used to acquire the horizontal control values, vertical control values shall also be required for the two (w) opposing corners.

A WinGIS Geodetic Control Network Reference Tie Form must be signed by an Illinois Professional Land Surveyor and submitted to WinGIS with a copy of the final plat. A copy of the completed form must also be submitted to the

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Village of Machesney Park for review at the time of final plat submittal. The final plat shall contain a signature certification by the WinGIS Director or designee. (Amd. Ord 27-04 - 07/26/2004)

3. An arrow indicating north; a graphic scale; date of preparation.

4. Notations in their proper places of all monuments erected, corners and other points established in the field and the materials of which such monuments, corners and other points are composed.

5. Sufficient surveying data to close the survey and to reproduce any line on the ground. The error of linear closure shall be not more than one (1) in five thousand (5000).

6. A graphic presentation of all streets, alleys, blocks, lots, parcels and public grounds into which the land is divided, and of all easements and rights-of-way.

7. The length of boundary lines of all streets, alleys, blocks, lots, parcels, public grounds, easements and rights-of-way or enough information so that the length of these lines can be derived by simple calculation. Where a boundary line is an arc of a circle, the length of the chord shall be shown.

8. The widths of all streets, alleys, easements and rights-of-way.

9. A graphic presentation of the minimum building setback lines on all lots and parcels, and a notation of the distance between such lines and the street right-of-way line.

10. The area of each lot or parcel containing an area of one (1) acre or more.

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11. Consecutive numbers on all lots throughout plat.

12. The name of each street, printed on the graphic representation of each street, and an appropriate label designating all other easements, rights-of-way, setback lines and dedications.

13. The words "Private Road" clearly marked on all streets shown on the plat which are not dedicated to public use.

14. Abutting street lines of adjoining subdivisions, shown in their correct locations by dashed lines.

15. The water elevation of adjoining lakes or streams at the date of survey and a graphic presentation, as well as a notation of, the high-water marks of such lakes or streams; all elevations referring to the Rockford datum plane when within one (1) mile of a Rockford or U.S.G.S. datum plane bench mark, or to a located concrete monument from which the datum plane is taken. Include lines and elevation indicating the 100 year flood plain boundary as designated by the Federal Emergency Management Agency, community-panel number 171009.

H. CERTIFICATES, ETC., ON FINAL PLAT. The following certificates and affidavits shall appear on the final plat. They must be duly signed by the appropriate person before the plat is entitled to record.

1. CERTIFICATION BY THE SURVEYOR:

"I hereby certify that, at the request of the owners, I have surveyed and subdivided according to the annexed plat _____ of _____ Subdivision; a part of the _____ quarter of the _____ quarter of section _____ township _____ north, range _____ East of the _____ Principal Meridian, bounded and described as follows:"

(Legal Description)

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"Dimensions are given in feet and decimals of a foot iron pins 3/4 inch in diameter and 4 feet long have been found or set at all points marked on the plat with a _____, and iron pins 5/8 inch in diameter and 3 feet long have been found or set at all other lot corners. Dimensions along curved lines represent a chord measurement."

"I further certify that the land above described is situated within the incorporated Village of Machesney Park, Illinois."

"I further certify that (no) part of this plat to be recorded is situated within 500 feet of any surface drain or watercourse serving a tributary area of 640 acres or more."

"Given under my hand and seal this _____ day of _____, A.D. 20____."

Illinois Land Surveyor
Registered Land Surveyor No. _____

2. CERTIFICATION OF DEDICATION BY PROPERTY OWNER:

"As owner(s), I (we) hereby certify that I (we) have caused the land described in the foregoing affidavit of the surveyor, to be surveyed, divided, and mapped as presented on this plat. All streets, alleys, walkways, parks, playgrounds and school sites shown on this plat are hereby dedicated to the public purposes, and all easements shown are subject to the easements provisions hereon."

Owner(s)

3. CERTIFICATION BY NOTARY PUBLIC:

"I, _____, a Notary Public in and for the County of Winnebago in the State of Illinois, do hereby certify that _____ personally known to me to be the same person(s) whose name(s) is (are) subscribed to the foregoing instrument, appeared before me this day in person and

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(severally) acknowledged that he (they) signed, sealed and delivered said instrument as his (their) free and voluntary act for the uses and purposes therein set forth."

"Given under my hand and Notary Seal this ___ day of _____, A.D. 20____."

"In witness whereof, I have hereunto set my hand and seal of the county of Winnebago this _____ day of _____, A.D., 20____."

County Clerk

4. EASEMENT PROVISION:

"An easement is hereby reserved for and granted to the designated governmental bodies and public utilities or cable television companies with the necessary authorizations and/or franchises and their respective successors and assigns within the area as shown by dotted lines on the plat and marked "Easement", to install, lay, construct, renew, operate and maintain storm and sanitary sewers, pipes, conduits, cables, poles and wires, overhead and underground, with all necessary braces, guys, anchors and other equipment for the purpose of serving the subdivision and other properties with telephone, electric, gas and other utility service or cable television service; also they are hereby granted, subject to pertinent Village Ordinances, the right to use the streets for said purposes, the right to install required service connections over or under the surface of each lot to serve improvements thereon, or on adjacent lots, and the right to enter upon the subdivided properties for all such purposes, and the right to enter upon the lots at all times to install, lay, construct, renew, operate and maintain within said easement area said storm and sanitary sewers, pipes, conduits, cables, poles, wires, braces, guys, anchors and other equipment and finally the right is hereby granted to cut down and remove or trim and keep trimmed any trees, shrubs or saplings that interfere with any of the said public utility equipment or cable television equipment installed on said easement. No permanent buildings or trees shall be planted on said

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easement, but same may be used for gardens, shrubs, landscaping and other purposes that will not then or later interfere with the aforesaid uses or rights herein granted."

5. CERTIFICATION BY PLAT OFFICER:

"All streets shown herein have been graded, drained and surfaced and all drainage structures have been built, as required, or have been provided for by bond contract or escrow agreement approved by the Board of Trustees."

"Dated this _____ day of _____, A.D. 20____."

Village Plat Officer

6. CERTIFICATION BY PRESIDENT OF THE BOARD OF TRUSTEES:

"This is to certify that the Board of Trustees of the Village of Machesney Park, Illinois has reviewed and approved the annexed plat of _____ and hereby authorizes it to be recorded."

"In witness whereof, I have hereunto set my hand this _____ day of _____, A.D. 20____."

President of the Board of Trustees

7. CERTIFICATION BY COUNTY RECORDER:

"Filed for record this _____ day of _____, 20____, at _____ o'clock ____M., recorded in Book _____ of Plats, page _____ and examined."

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County Recorder

Document Number _____

8. CERTIFICATION BY LIEN HOLDER:

"As lien holder(s) of record, I (we), upon behalf of myself (ourselves), successors and assigns, hereby join in the dedication to the public for public purposes of all streets, alleys, walkways, parks, playgrounds and school sites shown on this plat, and further join in the dedication of all easements shown on this plat subject to the easement provisions hereon."

Lien Holder

9. CERTIFICATION BY VILLAGE ENGINEER:

"Facilities and structures for the orderly runoff or detention of rain and melting snow have been designed in accordance with the "Storm Water Detention Regulation" of Village Ordinance 17-87 for this subdivision and have been approved by the Village Engineer."

Name

Illinois Registered Professional Engineer
No. _____

10. CERTIFICATION BY WinGIS DIRECTOR:

"I hereby certify that I have reviewed and approved the ties to the Winnebago County Geodetic Control Network for the property embraced within the plat. The Geodetic Control Network Reference Tie Form has been submitted and approved."

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WinGIS Director or Designee
(Amd. Ord. 27-04 - 07/26/2004)

103.113. REQUIRED IMPROVEMENTS. After conditional approval has been granted, but before the final plat is submitted for initial approval the subdivider shall either: (1) Install all improvements specified in this section; or, (2) Deliver to the Village Board in duplicate a signed contract covering all such improvements and an acceptable surety bond guaranteeing the completion of such improvements contracted for within three years from the date of such contract; or, (3) An escrow agreement placing 115% of the estimated cost of labor and materials for the improvement (as approved by the Village Engineer) in a bank account whereby the improvement is guaranteed to be installed within a given time limit or else the Village may use such funds in escrow to contract for the installation of said improvements; or (4) An Undertaking in Lieu of a Completion Bond to be executed by the developer to establish the relationship and obligations between the Village and the developer and which provides the developer will submit to the Village an Irrevocable Letter of Credit in a form to be approved by the Village Attorney, whereby the Undertaking in Lieu of a Completion Bond and Irrevocable Letter of Credit will cover 115% of the estimated cost of the labor and materials for the improvement (as approved by the Village Engineer). Vacation of a plat or of a portion of a plat will dissolve the corresponding bond obligation, escrow, Undertaking in Lieu of Completion Bond providing for an Irrevocable Letter of Credit, or portion thereof.

The subdivider's undertaking in lieu of completion bond shall be substantially in the following form:

SUBDIVIDER'S UNDERTAKING IN LIEU OF COMPLETION BOND
WITH THE VILLAGE OF MACHESNEY PARK, ILLINOIS

KNOW ALL MEN BY THESE PRESENTS, that _____, whose (Subdivider or Corporate name) _____ address is: _____ is hereinafter referred to as "SUBDIVIDER," is hereby bound to the Village of Machesney Park, hereinafter referred to as "VILLAGE" in the penal sum of _____ (\$_____) lawful money of the United States of America, for payment of which it does here bind itself and its successors and assigns firmly by these presents.

WHEREAS, Subdivider, has agreed to construct all public improvements located in Plat _____ of _____ in accordance (Number) (Title) with the Village Subdivision
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Ordinance and specifications as approved by the Village of Machesney Park and as set forth on the Cost Estimate prepared by _____ dated _____, (Project Engineer) 20____, set forth as Job No. _____, a copy of which is attached hereto and made a part hereof.

NOW, THEREFORE, the condition of this obligation is such, that if Subdivider, shall construct all public improvements located in Plat _____ of _____ in accordance with the Village (Member) _____ (Title) _____ Subdivision Ordinance and the plans and specifications as approved by the Village, and as set forth on the attached Cost estimate prepared by _____, dated _____, 20____, Job. No.____, (Project Engineer) and shall save the Village harmless from any loss, cost or damage by reason of its failure to complete said work, then this obligation shall be null and void; otherwise, it shall remain in full force and effect, and it shall be secured, as surety, by an Irrevocable Commercial Letter of Credit in the amount of _____ (\$ _____), No. _____, dated: _____, 20____, from _____ a copy of which is also attached (Name of Financial Institution) hereto, and the conditions of which are hereby incorporated herein and made a part hereof.

The principal of this Bond, _____,
(Subdivider or Corporate Name)

further agrees as follows:

1. An Irrevocable Letter of Credit in the amount of 115 percent of the cost estimate as set forth in the attached Exhibit "A", prepared by _____, as approved by the Village Engineer, _____ (Project Engineer) shall be furnished by the Subdivider to complete all the work as hereinabove guaranteed.

Subdivider guarantees the workmanship and materials of said above-listed improvements to be installed upon the site for a period of one year after official acceptance by the Village. The Irrevocable Letter of Credit shall terminate upon acceptance by the Village.

The Subdivider agrees to make the necessary repairs to said improvements due to defects of workmanship or materials caused by the Subdivider, or subcontractors or material suppliers, but not for repairs caused or necessitated by Acts of God, or any acts or omissions beyond the control of the Subdivider during the one year period.

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2. The Irrevocable Letter of Credit shall be retained for the percentage estimated in writing from time to time, by the Village Engineer as needed to protect the Village in conjunction with the Cost Estimate attached marked Exhibit 'A' and made a part hereof until acceptance of said improvements by the Village; at which time said improvements shall meet the Village Subdivision Ordinance of the Village in effect on _____, 20____, and approved by the Village Engineer in writing. The Irrevocable Letter of Credit shall be released as to any further obligations.

Dated this _____ day of _____, 20____.

By: _____
President/Owner
VILLAGE OF MACHESNEY PARK, ILLINOIS 61115
A Municipal Corporation,

By: _____
President of the Board of Trustees

By: _____
Plats Officer

ATTEST:

Village Clerk

The irrevocable commercial letter of credit shall be substantially in the following form:

(Letter Head)

IRREVOCABLE COMMERCIAL LETTER OF CREDIT

Amount: _____

No.: _____

Date: _____
Village Board of Machesney Park

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Machesney Park, IL 61115
Gentlemen:

WE HEREBY OPEN our Irrecoverable Commercial Letter of Credit Number _____ in your favor, available to you on behalf of _____
(Subdivider or Corporate Name)
whose address is: _____, hereinafter referred to as "SUBDIVIDER," for a total sum of _____ (\$ _____), to be accepted by your signed statement that drawing of funds by you upon this Letter of Credit is due to the default or failure to perform by the Subdivider the following improvements on or before (day/month/year).

The construction of (list public improvements) located in Plat No. _____ in (name of subdivision) as set forth in the attached cost estimate prepared by (project engineer) dated: _____, set forth as Job No. _____, a copy of which is attached hereto, marked exhibit A and made a part hereof.

The Machesney Park Village Engineer will notify the bank in writing, when either:

1. The improvements have been timely and satisfactorily completed and the credit may be released; or
2. The Subdivider has failed to perform or is in default. All drafts drawn under this Letter of Credit must be marked: "Drawn under (name of financial institution), N.A., Letter of Credit Number _____."

This credit is valid until (day/month/year) and drafts drawn hereunder, is accompanied by documents as specified above, will be honored if presented to the main office of (name of financial institution), N.A. whose address is: _____ on or before that date.

This Letter of Credit sets forth, in full, the terms of our undertaking, and such undertaking shall not in any way be modified, amended, or amplified by reference to any document, instrument, or agreement referred to herein or in which this Letter of Credit is referred to or to which this Letter of Credit relates and any such references shall not be deemed or incorporated herein by reference any document, instrument or agreement.

We hereby engage with drawers that drafts drawn and negotiated in conformity with the terms of this Letter of Credit will be duly honored on presentation.

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This credit is subject to the Uniform Customs and Practices for Documentary Credits (1984 Revision) International Chamber of Commerce Brochure No. 400.

Neither this letter nor the credit hereby established is negotiable, or otherwise transferable without the written consent of (name of financial institution).

Sincerely,

(name, title)_____

A. MONUMENTS. Iron pins three-fourths of an inch in diameter and four feet long shall be placed at all block corners, angle points of streets and of exterior boundaries, points of tangent of curved lines, points at which street lines intersect the exterior lines of the subdivision, and at such intermediate points as are required by the Village Engineer.

Iron pins five-eighths of an inch in diameter and three feet long shall be placed at all lot corners and at such intermediate points are required by the Village Engineer.

Monuments shall be placed at all lake or stream ends of lot lines. Such monuments shall be placed flush with the ground at the point of intersection of such lake or stream lot line with a line which is established along the shore not less than twenty feet (20') back from the ordinary high watermark of such lake or banks of such stream.

B. TOP SOIL PROTECTION. Top soil moved during the course of construction should be redistributed evenly, but need not provide more than four inches of cover.

C. STREET, UTILITY AND DRAINAGE IMPROVEMENTS. All street and utility improvements shall conform to specifications and requirements of the Village Board as recommended by the Village Engineer. These improvements shall not be accepted for public maintenance until approved by the Village Engineer. Cross sections and profiles of streets showing grades acceptable to the Village Engineer and plans and profiles of storm and sanitary sewers, dry wells and water mains, where the

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installation of these improvements is contemplated, generally will be requested. (Amd. Ord. 53-93 -10/12/93; Amd. Ord. 93-95 - 12/18/95)

Street and utility improvements shall be provided in each new subdivision in accordance with the standards and requirements described in the following schedule for the type of development indicated:

DEVELOPMENT TYPE:

1. For all residential lots: STANDARD A.

2. For rural residential lots where public sanitary sewers are not available: STANDARD B. This classification is established in order to preserve a semi-rural atmosphere for those who desire it with a high degree of light, air and privacy for each dwelling unit and to provide an adequate separation between dwelling units and facilities for the conduct of certain agricultural pursuits including housing of horses on land that may be annexed to the Village. The following development standards shall be observed:

- a) Minimum lot size of three acres.
- b) Minimum lot frontage of 150 feet.
- c) Minimum subdivision development acreage of 20 acres.

3. For commercial and industrial development: STANDARD C. Plus such increases in the standard and such additional standards as shall be required by the Village Engineer.

4. The Village Engineer shall periodically during the course of construction within the customary and good practice of engineering inspect all facets of construction to insure compliance with the plans and specifications within the jurisdictional limits of Machesney Park. The Village Engineer shall not be responsible for staking, grades, laboratory tests or mix designs. However, the Engineer shall be provided with copies of all test reports and mix design certificates. The Village Engineer shall attend project conferences at any reasonable time when requested by the project owner. Recommendation for final acceptance shall be given only when the Village Engineer has made final inspection and received all test reports. The cost incurred by the Village of Machesney Park from the Village Engineer shall upon the Engineer's completion be reimbursed to the Village by the Developer, project owner or site owner.

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STANDARD A & B & C

1. RESIDENTIAL STREETS.

All streets shall be graded to the full width of the right-of-way and the adjacent side slopes shall be graded to blend with the natural lay of the land and to provide reasonable access for vehicular traffic to each lot of the subdivision, to the satisfaction of the Village Engineer.

STANDARD A

(a) CURB & GUTTER. A twenty-four inch curb & gutter shall be installed on both side of the roadway. They shall be integral concrete construction, according to construction standard design, and shall be laid to the proper grade as approved by the Village Engineer.

(b) WIDTH/THICKNESS. Residential streets shall have minimum widths of thirty feet (30'; back-to-back of curb) with minimum of ten inches (10") of gravel or crushed stone base and three inches (3") of bituminous hot mix pavement. Collector streets shall have minimum widths of thirty-seven feet (37') with minimums of ten inches (10") of gravel or crushed stone base and three inches (3") of bituminous hot mix pavement. Minimum IBR which allow the stated pavement cross section is 2.25. If soils in the area have a lower IBR, then the pavement must be designed to IDOT Standards, which take into account the lower IBR. (Amd. Ord. 53-93 -10/12/93; Amd. Ord. 93-95 - 12/18/95)

(c) SIDEWALKS. Sidewalks shall be laid along both sides of the roadway within the public right-of-way one and one-half feet from the property line. Except under unusual conditions, sidewalks and interior block walkways shall be made of concrete five feet (5') wide and not less than four and one-half inches (4½") thick. At crossings of driveways, installed at the time of sidewalk installation, sidewalks shall be six inches (6") thick and reinforced with wire mesh reinforcing. Sidewalks shall be constructed upon a base of crushed aggregate, limestone or sand having a minimum compacted thickness of four (4) inches. Where the sidewalk crosses a driveway, the base material shall be crushed aggregate and shall have a minimum compacted thickness of six (6) inches. Native materials may be used as a

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base only with the written consent of the Village Street Superintendent or Village Engineer. (Amd. Ord. 23-93 - 3/22/93; Amd. Ord. 54-98 - 11/16/98)

STANDARD B

(a) WIDTH/THICKNESS. Rural residential streets shall have minimum widths of twenty-four feet (24') for the base and twenty-two feet (22') for the pavement with minimums of ten inches (10") of gravel or crushed stone base and three inches (3") of bituminous hot mix pavement. Collector streets shall have minimum widths of twenty-six feet (26') for the base and twenty-four feet (24') for the pavement with minimums of ten inches (10") of gravel or crushed stone base and three inches (3") of bituminous hot mix pavement. (Amd. Ord. 53-93 - 10/12/93; Amd. Ord. 93-95 - 12/18/95)

(b) DITCHES. Ditches shall be provided on each side of the roadbed for drainage of surface water. Side ditches shall be at least twenty-four inches (24") deep below the shoulder edge. Side slopes on each side of the drainage ditch along the roadway shall be sloped at the rate of no more than one foot (1') rise to three feet (3') horizontal. Paved ditches may be substituted, at the discretion and to the standards of the Village Engineer. (Amd. Ord. 53-93 - 10/12/93; Amd. Ord. 93-95 - 12/18/95)

(c) SIDEWALKS. Sidewalks are not required.

STANDARD C

(a) CURB & GUTTER. Streets in commercial/industrial areas shall have installed a twenty-four inches (24") curb and gutter on both sides of the roadway. They shall be constructed of integral concrete according to IDOT Standard design, and shall be laid to proper grade as approved by the Village Eng.

(b) WIDTH/THICKNESS. Commercial/Industrial areas shall have a minimum roadway width of thirty seven feet (37') as measured to the back of the curb; a minimum of twelve inches (12") of compacted gravel or crushed stone base, and four inches (4") of bituminous hot mix pavement or concrete equivalent.

(c) SIDEWALKS. Sidewalks are not required. (Amd. Ord. 93-95 - 12/18/95)

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2. DRAINAGE:

(a) STORM GENERALLY. Storm drainage improvements consisting of storm sewers and/or open channels shall adequately drain the area being developed and also all of the area, which naturally drains through the area being developed. The design of drainage improvements shall be coordinated with present and probable future improvements so as to form part of an integrated system. Storm water detention facilities shall be designed in accordance with the "Storm Water Detention Regulation" of Village Ordinance No. 17-87. Appropriate grading may be required.

(b) STORM SEWERS. Storm sewers of adequate design shall be installed. In general, storm sewer capacity shall be sufficient to provide for the run-off of a storm of a five (5) year frequency and a rainfall intensity curve of one and three-tenths (1.3) inches per hour as computed by the rational method of design. Appropriate grading of open channels of capacity to carry run-off for a storm of ten (10) year frequency may be required in lieu thereof. The developers engineer shall submit a drainage report to support the storm sewer design to the Village Engineer for approval before any construction shall commence. (Amd. Ord. 69-96 - 12/9/96)

(c) STORM WATER INLETS. Storm water inlets and/or dry wells of a standard design shall be installed. They shall be suitable as to type and capacity for the locations where installed.

(d) MANHOLES. Manholes of standard design shall be installed to provide access to storm sewers and meet all safety standards.

(e) SLOPE. Any storm sewer installed shall have a slope which shall provide a minimum velocity of three feet per second when flowing full.

(f) SUBSIDIARY DRAINAGE PLAT.

(1) The developer's engineer shall prepare a subsidiary drainage plat and shall submit the plat to the Village Engineer for approval at least 48 hours prior to the commencement of development or

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construction activities. (Amd. Ord. 6-95 - 3/13/95)

(2) The subsidiary drainage plat shall be drawn or printed on paper twenty-four (24") inches wide by thirty-six (36") inches long at a minimum scale of one hundred (100') feet to one (1") inch, unless otherwise approved by the Plat Officer. (3) Required content of the subsidiary drainage plat:

(a) Finished yard grades at building setback lines. Generally, finished yard grades at building setback lines shall be a minimum of twelve (12") inches and a maximum of thirty-six (36") inches above the top of the street or street curb. Should topography and/or parcel configuration characteristics make this rule impractical, a greater degree of variance may be permitted only as authorized by the Village Board.

(b) The following note shall appear on the plat:

The final grade of each lot is shown on this subsidiary drainage plat. The subdivision has been designed so that storm water drains away from each building area in a systematic manner. The subsidiary drainage plat is on file at the Village of Machesney Park Planning Department.

It is the responsibility of the developer and/or Builder of each lot to assure that the grades and drainage of each lot is in compliance with the approved subsidiary drainage plat.

Each lot owner shall be responsible for maintaining the integrity of the individual lot drainage as per the approved subsidiary drainage plat after construction and shall comply with the drainage plan when constructing accessory structures, fences or landscaping. (Amd. Ord. 53-93 - 10/12/93)

(g) DRYWELLS. Drywells shall be used only within water detention (storage) facilities as outlined in Chapter 23 1/2 of the Code of the Village of Machesney Park. Drywells shall not be used within any public right of way, or in any location that will cause

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flooding or the standing of water within the public right of way. (Amd. Ord. 43-98 - 8/24/98)

3. PUBLIC SANITARY SEWERS:

(a) GENERAL REQUIREMENTS. Sanitary sewers shall be provided and shall serve all lots where connection thereto is practicable and permitted by the controlling authority of the sewer system. Distances exceeding one thousand (1000) feet from the nearest boundary of the subdivision shall not be considered to be practicable. All sanitary sewers shall be consistent with the requirements and standards of the Rock River Water Reclamation District. (Amd. Ord. 53-93 - 10/12/93)

(b) MINIMUM SIZE. Sewer mains, eight (8) inches; sewer service lines, four (4) inches.

(c) MATERIAL. Vitrified clay pipe, cast-iron, PVC, concrete truss and ABS.

(d) MINIMUM SLOPE. Such as to give a velocity of at least two (2) feet per second when flowing full.

(e) DEPTH OF SEWERS. Sewers shall be sufficiently deep to prevent freezing. Insulation shall be provided for sewers that cannot be placed at a depth sufficient to prevent freezing.

(f) LOCATION. Sanitary sewers shall normally be located at or near the street center line. At the time the sewer mains are laid, sewer service lines shall be installed to serve all lots in the subdivision. Sewer service lines shall extend to three (3') feet beyond the property line and shall normally be located at the low side of the lot. They shall be laid at a minimum slope of one per cent. (Amd. Ord. 53-93 - 10/12/93)

(g) MANHOLES. Manholes shall be of standard design. They shall be spaced not more than four hundred (400) feet apart.

4. SAFETY BARRICADES:

The subdivider shall place barricades, as required by the Village Engineer, at the end of streets to be

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later extended.

5. FREEWAYS, ARTERIAL HIGHWAYS, SECONDARY HIGHWAYS, SECTION LINE ROADS:

Where an arterial highway, secondary highway or section line road is to be improved at greater than minor residential streets standards, the subdivider's share in the costs of improvements shall be equal to the cost of a minor residential street in the same location. Standard "A" shall be utilized for determining the cost of improvements.

6. DEFERRED CONSTRUCTION:

In the case of sidewalks and whenever else it is deemed necessary by the Village Board to defer the construction of any improvement required herein, the subdivider shall entrust his share of the cost of the future improvement with the Village Board.

7. STREET SIGNS:

Street signs shall be erected within the subdivision per the Manual on Uniform Traffic Control Devices (current edition). The signs shall include but not be limited to street name signs, stop signs, yield signs, speed limit signs and any other signs required by the standards.

The Superintendent of Streets shall review proposed subdivision plat and provide a complete list of signage needed for the subdivision. It will be the responsibility of the developer to purchase and install all signs required by the Village. All signs shall conform to specifications established by the Superintendent of Streets. (Amd. Ord. 16-00 - 5/15/00)

103.114. TECHNICAL REQUIREMENTS:

The following standard requirements shall apply to all new subdivisions of land. These standards shall be interpreted, however, to encourage new and improved design techniques with the object of promoting better subdivisions.

(a) CONFORMITY TO COMMUNITY PLANS:

All subdivisions shall conform to the general and detailed specifications of plans or segments thereof, adopted

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pursuant to the authority contained in Chapter 34 of the Illinois Revised Statutes, to the Zoning Ordinance, setback regulation, the limited-access road regulation, and to any other adopted ordinances, resolutions, regulations and plans.

(b) STREETS:

1. GENERAL DESIGN.

All streets shall be designed in substantial relation to:

(a) Topographic conditions and drainage;

(b) Public convenience and safety;

(c) The proposed uses of the land to be served by such streets.

2. PUBLICLY PLANNED STREETS.

Streets shall be laid out in conformity to street or highway plans officially adopted by the Village Board. Wherever such a planned street or highway runs through a proposed subdivision, it shall be provided for in the place and with the width indicated on such plan. However, no more than one hundred and twenty (120) feet width of right-of-way dedication shall be required for any street. Any additional right-of-way specified on the plan shall be reserved for circulation purposes by easement provisions.

3. SECTION LINE ROADS.

One hundred (100) foot wide streets shall be laid out on section and half-section lines, where possible. Where physical obstructions occur, or where a more appropriate location can be found, such roads may deviate from section and half-section lines; provided, that the required width of one hundred (100) feet is carried through to a suitable connection. Such deviations shall be made only with the consent and approval of the Plat Officer and the Village Engineer.

4. ALIGNMENT AND CONTINUATION.

Where streets are not a part of the comprehensive plan or officially adopted street or highway plans, the arrangement of the streets in a subdivision shall either provide for the alignment and continuation or appropriate

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projection of existing principal streets in surrounding areas, or conform to an approved plan for the neighborhood which meets a particular situation where topographic or other conditions make continuance of or conformance to existing streets impracticable.

5. RESIDENTIAL STREETS.

Minor residential streets shall be laid out so that their use by through traffic will be discouraged.

6. MARGINAL ACCESS STREETS.

Where a subdivision borders on or contains a railroad right-of-way or limited-access road right-of-way, a street shall be located approximately parallel to and at least one lot depth distance from each side of such right-of-way, or at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential district, or for commercial or industrial purposes in appropriate districts, except where it is deemed necessary that a through street be continued without deflection, or that marginal access streets parallel and adjacent to such right-of-way be provided. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

7. NATURAL FEATURES.

Streets paralleling streams, rivers, ravines, bluffs, or other similar natural features shall be located approximately one lot depth away from such natural feature in order that the intervening land may be developed into private lots meeting the requirement of this regulation. The Forest Preserve District, or other local governmental bodies shall have been given a sixty (60) day opportunity to acquire such intervening land prior to final plat approval; provided that approval of the final plat shall not be delayed more than sixty (60) days after the date notice has been given to such local governmental bodies for reason of their failure to take action.

Streets paralleling such natural features and so close to them as to leave an intervening strip of land that cannot be developed into lots meeting the requirements of this regulation may be permitted, provided that the intervening land is dedicated to and accepted by the Forest Preserve District, or other governmental bodies.

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Lake and stream shore subdivision shall provide one or more streets or rights-of-way, running to the low water mark at one mile intervals as measured along the lake or stream shore, except where streets or rights-of-way already exist at not more than one mile intervals. The subdivider may place use restrictions on these stub streets to control until such time as a bridge is extended.

8. RESERVE STRIPS.

Reserve or "spite" strips controlling access to perimeter streets shall not be permitted on the perimeter of a development. Streets shall be located on the edge of or one lot depth away from the edge of the tract with due consideration being given to adjacent development.

9. STREET WIDTHS.

Where not otherwise specified, street right-of-way widths shall be not less than sixty-six (66) feet for residential streets eighty feet (80') for commercial/industrial streets, and eighty feet (80') to one-hundred feet (100') for collector or arterial routes. Where unusual conditions warrant, short streets and courts serving ten (10) lots or less may be platted with a width of sixty (60) feet. (Amd. Ord. 53-93 - 10/12/93)

10. HALF STREETS. Half streets shall not be permitted.

11. DEAD-END STREETS.

Dead-end streets, as such, shall not be permitted. Cul-de-sacs designed to be permanent shall not be longer than five hundred (500) feet and shall be provided with a turn-around not less than one hundred twenty (120) feet in diameter at the closed end. The length of the cul-de-sac shall be measured from the intersection of the center lines

of the right of way of the nearest intersecting street to the center of the cul-de-sacs. (Amd. Ord 55-06 - 01-08-2007)

12. STREET NAME.

Streets that are extensions of, or obviously in alignment with existing streets, shall bear the names of the existing streets; however, no other street shall bear names which duplicate, or so nearly duplicate as to be confused with the names of existing streets. North-south streets shall be called "streets" and east-west streets shall be

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called "avenues". The term "boulevard" shall be reserved for streets with divided pavement. In all cases, street names shall have a suffix.

13. PRIVATE STREETS.

Private streets shall not be permitted. The only exception to this provision shall be when the subdivider submits satisfactory evidence that there can be no public interest in such private street.

(c) ALLEYS: Alleys, service courts, and other similar ways shall not be permitted in residential areas.

(d) BLOCKS: Block lengths shall not exceed nineteen hundred (1,900) feet. Excessively short blocks will be discouraged.

(e) LOTS: All lots shall meet the minimum width, depth, and area requirements of the zoning ordinance.

Where utility sewer and utility water are not provided, the minimum area of any residential lot shall be twenty-five thousand (25,000) square feet based upon suitable soil and percolation tests by Winnebago County's Public Health Department. Where utility water is provided the minimum area may be reduced by five thousand (5,000) square feet. In addition the minimum area may be further reduced when the results of tests meet the standards of the Winnebago County Health Department.

The Planning and Economic Development Committee of the Village Board may further reduce the required minimum area for any subdivision when the developer establishes to the committee's satisfaction, based upon the report of a registered professional engineer and the opinion of the County Health Officer, that the public health will be in no way endangered and that the interest of the public will be preserved. However, in no case shall the lot area be less than what is required by the zoning ordinance.

When the Planning and Economic Development committee of the Village Board has reason to believe that a particular area should not be subdivided for reasons of poor drainage and the possibility of creating health problems, it may require that additional soil tests be made. If the soils do not meet the minimum requirements, the area in question shall not be subdivided until utility sewer or utility water is provided.

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(1) SOIL TEST. Any areas not served by sanitary sewers must abide by the Winnebago County Health Department requirements for septic systems.

(2) BUSINESS AND INDUSTRIAL LOTS. Business and industrial areas shall be subdivided into lots of such size and shape as to meet business or industrial needs. Properties reserved or laid out for commercial and industrial purposes shall be large enough to provide for the off-street loading and parking facilities required by the type of use and development contemplated.

(3) REMNANTS. Subdivisions shall contain no left over pieces, corners or remnants of land.

(4) CORNER LOTS. Corner lots shall be wide enough so that buildings conform with building setback lines on both streets.

(5) STREET ACCESS. Each lot shall be provided with satisfactory access to a public street by means of frontage on such street. No lot shall front on a street that has been designated by the Village Board as a "limited-access road".

(6) BUILDING LINES. Residential building setback lines shall be established at a distance back from each street right-of-way line equal to no less than one-half ($\frac{1}{2}$) the width of the street right-of-way and not closer to such line than those established on the same street in adjoining subdivisions.

(f) EASEMENTS. Utility easements not less than five (5) feet wide shall be provided on each side of all rear lot lines and where required by the utility along side lot lines. Where abutting unsubdivided land, or natural features such as a detention pond, easements shall be ten (10) feet.

Easements not less than five (5) feet wide shall be provided along abutting side lot lines where deemed necessary by the Department of Public Works for the purpose of street lighting.

The subdivider shall install electrical power lines, either overhead or underground, to and through the easement to the proposed locations of said street lights.

Where the character or topography of the land in a subdivision is such that it is impossible or impractical to place streets so that they carry off the surface water, the

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appropriate easements along lot lines shall be provided and improved, where necessary, to carry off surface water in open channels or storm sewers.

Where a subdivision is traversed by a watercourse, drainage way, channel or stream, appropriate dedication or easement provisions, with adequate width or construction to accommodate storm water and drainage through and from the subdivision shall be made. Where a drainage way carries water from one hundred (100) or more acres of land, such easement of dedication shall conform to the natural drainage channel. A preserved area no more than three hundred (300) feet wide may be required where the drainage way carries water from five hundred (500) or more acres of land.

Minimum vertical elevations for structures, in the form of vertical building lines, may be required in areas which are or may become subject to flooding by surface water. Areas of the subdivision which are subject to inundation from a 100 year storm shall have delineated on the face of the plat dashed lines to indicate same.

(g) PUBLIC SITES AND OPEN SPACES. Appropriate public agencies and governing bodies shall be given a sixty day (60) opportunity to acquire public grounds for schools, parks or playgrounds shown on any adopted plan which are in whole or in part in a subdivision.

No land shall be subdivided which is unsuitable for subdivision by reason of flooding, bad drainage, adverse earth or rock formation or topography, or any other feature likely to be harmful to the health, safety or welfare of the future residents in the proposed subdivision or of the community. Such lands shall remain unsubdivided until such time as the conditions causing the unsuitability are corrected.

Natural features such as trees, brooks, hilltops and views shall be preserved wherever possible.

Parks situated in the interior of blocks shall have direct public access to surrounding streets, and shall be covered by maintenance agreements.

(h) COMPLIANCE WITH PERMIT REQUIREMENTS AND STANDARDS

(1) All landowners, developers, project owners, site owners, agencies, businesses, builders, contractors, or subcontractors (hereafter referred to as

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developers) involved in development or construction activities on any land in the Village shall conduct said activities in compliance with the Illinois Environmental Protection Agency's current NPDES (National Pollutant Discharge Elimination System) Permit regarding construction site activities (hereafter referred to as the Permit). Furthermore, developers shall submit to the Village Engineer, at least 48 hours prior to the commencement of development or construction activities, two (2) copies of all notices, plans, and other documentation prepared as required by the Permit, including the Notice of Intent (to discharge storm water from construction sites) and the Storm Water Pollution Prevention Plan.

(2) Erosion and sediment controls and management practices implemented within construction sites as required by the permit shall be at least as protective as the requirements contained in the Illinois Environmental Protection Agency's current Standards and Specifications for Soil Erosion and Sediment Control (hereafter referred to as the Standards). (Amd. Ord. 53-93 - 10/12/93)

(3) The Permit and the Standards are available for review at the office of the Village Clerk.

(4) and (5) deleted by Ord 23-07 - 09-17-2007

(i) ROUTING OF CONSTRUCTION VEHICLES.

(1) The developer shall submit to the Village Engineer or Public Works Director at least 48 hours in advance of any construction: (1) a proposed routing for all construction related traffic, which shall include the names of all streets of which developers intend to use to gain access to a subdivided area, (2) the date on which all construction related traffic will begin to utilize said construction route, and (3) the date on which all construction related traffic will cease to utilize said construction route. All construction related traffic shall be required to gain access to the subdivided area by said construction route. The developer shall be responsible for informing any contractors or subcontractors working within the subdivided area the approved construction route. (Ord. 26-96 - 6/1/96)

(j) DEDICATION OF PARK LAND OR PAYMENT OF FEES -
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CRITERIA AND FORMULAS

Dedication of Land for Recreation and Open Space or Payments of Fees in lieu thereof. As a condition of approval to the recording of a final plat of subdivision or of the recording of a final plat of a planned unit development, the Village of Machesney Park shall require land dedicated for Recreation and Open Space purposes or payment of Fees in lieu of land, or a combination of both, at the option of the Village of Machesney Park. (Amd. Ord. 38-04 - 10/25/2004)

(1) Land Requirement and Population Ratio. The required amount of land to be dedicated for recreational and open space shall be calculated as follows:

$$\text{NOUX } 2.5 = \text{TNP}$$

$$\text{TNP}/1000 \times 7 \text{ acres} = \text{TAR}$$

NOU = Number of Units

TNP = Total Number of Persons

TAR = Total Acres Required

(Amd. Ord. 39-04 - 10/18/2004)

Where the Developer cannot satisfactorily show the specific number of dwelling units to be built, the following presumptions will apply:

a. Where the property to be developed is zoned Rural Residential (RR), the presumption is that 2.2 dwelling units per acre will be constructed.

b. Where the property to be developed is zoned Single-Family Residential (R1), the presumption is that 1 dwelling unit per lot will be constructed.

c. Where the property to be developed is zoned Two-Family Residential (R2), the presumption is that 2 dwelling units per lot will be constructed.

d. Where the property to be developed is zoned Multi-Family Low Density (R3), the presumption is that 12 dwelling units per acre will be constructed.

e. Where the property to be developed is zoned Multi-Family Medium Density (R4), the presumption is that 25 dwelling units per acre will be constructed.

(2) Location.

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The dedication land shall be located taking into account the Village Comprehensive Plan and so as to reasonably serve the recreation and open space needs of residents of the subdivision or planned unit development for which the land dedication is made. The Village Board may require that land be located on the periphery of the subdivision or planned unit development in order to allow the enlargement by combining such areas with recreation and open space areas serving adjacent property.

(3) Minimum Size.

The minimum size of any site to be dedicated for recreation and open space purposes shall be no less than 10,000 Sq. Ft., one dimension of which cannot be less than 100 feet, except the Plat Committee may recommend and the Village Board may approve dedications of a smaller size, when the usefulness of the smaller area for park and recreational purposes is demonstrated.

(4) Greenways.

The Plat Committee may recommend and the Village Board may approve the dedication of land for recreation and open space purposes in the form of a greenway. If recreation and open space is to be in the form of a greenway, the land shall be a continuous linear parcel through the subdivision of at least 30 feet in width.

(5) Exceptions.

The following land areas shall not be considered to fulfill the recreation and open space requirement unless approved by the Village Board.

a. Detention areas for storm water control shall not qualify as recreation and open space. If the Developer can clearly demonstrate the use of the land area for recreation and open space purposes the Village Board may consider detention areas for storm water control in fulfilling the recreation and open space requirement.

b. Rights-of-way and/or easements shall not qualify as recreation and open space. If the Developer can clearly demonstrate the use of the land area for recreation and open space purposes the Village Board may consider rights-of-way and/or easements in fulfilling the recreation and open space requirements.

However, in no event shall detention areas for storm

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water control and/or rights-of-way and/or easements exceed fifty percent (50%) of the total required recreation and open space dedication.

(6) Access

All dwelling units in the subdivision shall have free and convenient ingress and egress to the recreation and open space areas provided within the development by means of improved streets, recreational path or public walkways.

(7) Method and Form of Conveyance

All sites for recreation and open space required pursuant to this Section shall be conveyed by the Developer to the Village of Machesney Park by dedication on the Plat or by warranty deed.

(8) Payment of Fees in Lieu of Land Dedication

At the option of the Village of Machesney Park, the developer may be required to pay a cash fee in lieu of land dedication. The fee in lieu of land dedication is hereby established at the amount of \$20,000 per acre of required land dedication.

In the event that a developer is required by the Village to pay a cash fee in lieu of land dedication and he/she disagrees with the established fee per acre, he/she has the following option. At his/her expense, a developer may contract with an independent party, being a qualified appraiser, approved by the Village of Machesney Park, to establish the fee in lieu of land dedication. The appraiser shall use comparable properties when estimating the value. Said independent party's findings on the estimated value of the site shall be final and binding on all parties. A qualified appraiser shall be an Illinois Licensed Real Estate Appraiser. (Amd. Ord. 38-04 - 10/25/2004)

(9) Combination of Fees and Land Dedication.

The Developer may dedicate a portion of the total required land area to be dedicated and pay a fee in lieu of the remaining land area to be dedicated. This fee is to be determined using the following formula:

$$\text{TAR} - \text{ALD} = \text{Z}$$

$$\text{EVU} \times \text{Z} = \text{Required Fee}$$

TAR = Total Acres Required

ALD = Acre(s) of Land Dedicated

EVU = Estimated Value of Unimproved Land (see Payment of Fees in Lieu of Land Dedication)

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Z = Remaining Land for which a fee is required

(10) Time of Payment of Fees

Fees in lieu of land dedication paid pursuant to this Section shall be made to the Village of Machesney Park. The Village of Machesney Park shall receive such funds prior to the Village Plat Officer signing the final plat to be recorded.

(11) Use of Fees in Lieu of Dedication

The fees received in lieu of recreation and open space land dedications shall be held in trust by the Village solely for the acquisition of recreation and open space land, which will be available to serve the immediate or future needs of the residents of that subdivision or planned unit development, or for the improvement of any existing local recreation and open space land that already services such needs.

(12) Refund of Cash Contribution

If any portion of a fee in lieu of recreation and open space land dedication is not expended for the purposes set forth herein 10 years from the date of receipt, it shall be refunded to the Developer who made such contribution, along with any accrued interest earned on such funds.

(13) Credit for Private Recreation and Open Space Areas

When Owners or Developers provide their own recreation and open space areas and facilities, it has the effect of reducing the demand for local public recreational and open space areas. Depending on the size of the development, a portion of the recreation and open space area in subdivisions or planned unit developments may, at the option of the Village Board, be provided in the form of "private" recreation and open space in lieu of dedicated "public" recreation and open space. The extent of same shall be determined by the Village Board based upon the needs of the projected residents and in conformance with the "Standards for Park and Recreation Open Space" which is incorporated herein and made a part hereof by reference.

In general, a substitution of private recreation and open space for dedicated public recreational and open space requires a substantially higher degree of improvement and the installation of recreation facilities, including equipment by the owner of developer as part of his obligation. Detailed plans of such areas, including specifications of the

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facilities to be installed, must be approved by the Village in accordance with the "Standards for Park and Recreation Open Space". Before any credit is given for private recreation and open space areas, the owner or developer must guarantee that these private recreation and open space areas will be permanently maintained for such use by the execution of the appropriate legal documents. When an adjustment for private recreation and open space areas is warranted, it will be necessary to compute the total recreation and open space dedication that would have been required from the subdivision or planned unit development and then subtract the credit to be given; provided, however, in no event shall the credit exceed fifty percent (50%) of the total recreation and open space dedication that would have been required. (Amd. Ord. 6-97 - 2/18/97)

103.115. STREET LIGHTS

The initial cost of installation of street lighting in new subdivisions shall be the responsibility of the subdivider and/or developer.

(a) COST OF STREET LIGHTS.

Costs include cable, poles, brackets and lights and all other appurtenances. The subdivider or developer shall coordinate for installations of the street lights with Commonwealth Edison or the entity who provides electrical service in the Village of Machesney Park. Upon installation, the street lighting shall be added to the Village's Rate 23 contract with Commonwealth Edison.

(b) INSTALLATION OF STREET LIGHTS.

The installation of the street lights shall be undertaken in conjunction with the other improvements planned for any subdivision. The street lights planned for any one final plat of subdivision shall be completed prior to fifty (50%) of the Certificates of Occupancy being issued for the structures in such plat.

(c) TYPE OF STREET LIGHTS.

For residential subdivisions, the subdivider or developer shall have the choice of any decorative street light unit offered by Commonwealth Edison or the entity who offers electrical service in the Village of

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Machesney Park.

(d) ELECTRICAL SERVICE.

For residential subdivision, the electrical cable to all street light units shall be buried. (Amd. Ord. 74-95 -09/11/95)

103.116. INSPECTION.

The Village of Machesney Park shall periodically inspect development or construction activity on any land in the Village for compliance with approved plans, applicable provisions and ordinances.

A. VILLAGE ENGINEER. The Village Engineer shall periodically, during the course of construction, within the customary and good practice of engineering, inspect all facets of construction to insure compliance with approved plans, specifications, applicable provisions and ordinances. The Village Engineer shall attend project conferences at any reasonable time when requested by the project owner.

1. The Village Engineer shall not be responsible for staking, grades, laboratory tests or mix designs. However, the Village Engineer shall be provided with copies of all test reports and mix design certificates.

2. The Village Engineer shall review and make recommendation regarding final acceptance when requested by the project owner. Recommendation for final acceptance shall be provided only when the Village Engineer has made final inspection and receipt of all test reports. (Amd. 23-07 - 09-17-2007)

103.117. ENFORCEMENT OF REGULATIONS.

In the event any requirements of this Regulation has not been compiled with the Plat officer or his designee shall not approve or certify any Subdivision Plat. However, the Plat officer may, with Village Board approval, accept a bond to indemnify the Village for construction and completion of any required item including, but limited to, streets, curbs, gutters, and water and sewer pipes. The bond shall be in an amount of 115% of the estimated cost of labor and materials

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for the item (as approved by the Village Engineer), and the surety on the bond shall be a corporation licensed and authorized to do business in Illinois as a surety company, unless the Board of the Trustees by majority vote of those holding office accepts a personal surety. Also, the Plat Officer may, with Village Board approval, accept a cash escrow for construction or completion of any required item including, but not limited to streets, curbs, gutters, and water and sewer pipes in an amount equal to 115% of the estimated costs of the labor and materials for the item (as approved by the Village Engineer). An Escrow Agreement shall be entered into whereby said sum is placed in an escrow with a financial institution pursuant to an agreement on a form approved by the Village Board of Trustees whereby the item shall be installed by the subdivider or owner within a certain time limit to be set by the Village Board, and in the event that said improvement item is not so installed, the Village shall be allowed to obtain said funds and to obtain a contractor to install said item with said funds. Additionally, if bond letter of credit or escrow funds are insufficient, or for any reason unavailable, and after demand has been made of the appropriate entity and the requirements of this Regulation have not been complied with, the Village may undertake to correct any violation and assess any and all cost against developer or other appropriate entity. Also, the Plat Officer may, with Village Board approval, accept an undertaking in lieu of completion bond establishing the relationship and obligation between the Village and a developer which will provide that the developer will submit to the Village an irreversible letter of credit from the financial institution for 115% of the estimated cost of labor and materials for the improvement (as provided by the Village Engineer) and which an irrevocable letter of credit shall be in a form approved by the Village Attorney.

The Village Building Department shall defer granting Building Permits for improvements on property until such time as the Plat for such property has been approved and recorded in the manner provided by this Regulation. No Building Permits shall be granted except for improvements on land for which a Plat has been approved and recorded, according to the requirements of this Regulation, or on those parcels of property platted or recorded as separate parcels of property prior to the effective date of this Regulation. Further, the Building Department shall defer granting Building Permits for improvements on property until such time as all provisions of this Regulation have been complied with, including submission of subsidiary drainage Plat and evidence of property permits as required by Subsection 113 and Subsection 114 of this

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Regulation. The issuance of Building Permits may be deferred regardless of whether the entity requesting the Building Permit is primarily responsible for complying with the other obligations under this Subdivision.

Further, whenever it shall come to the attention of any officer or employee of the Village that any of the provisions of this Regulation have been violated, it shall be the Village's responsibility to notify the Village Attorney of said fact, and the Village Attorney shall immediately institute suit and prosecute same to final judgement against the person offending. The enforcement of this provision may include seeking equitable relief and requesting an Injunctive Order from the Court ordering the offending party to comply with the Regulations provided herein and to provide appropriate sanctions if the offending person fails to comply. This provision is in addition to any fines which may be assessed under Subsection 103-116 of this Regulation. (Amd. Ord. 12-95 -3-27-95)

103.118. PENALTIES. (Amd. Ord 23-07 - 09-17-2007 - Renumbered)

Whoever sells, offers for sale, and improves by construction of buildings or leases for any time exceeding five years, any lot, block, parcel, part of division of land in the Village before all the requirements of this Regulation have been complied with, shall be fined not less than \$100.00 nor more than \$500.00 for each lot, block, parcel, division or part thereof so disposed of, offered for sale, improved or leased. Each day the violation continues with regard to each lot, block, parcel division or part thereof improved or leased, shall be considered a separate offense. The bond, letter of credit, or instrument posted pursuant to Subparagraph 115 may be drawn upon to pay any fine so assessed.

Whoever shall layout, locate, open, widen, extend or alter the location of any highway, road, street, alley, public ground, toll road, railroad or canal and refuses or neglects to cause a plat thereof showing the width, courses and extent thereof, and making such reference to known or established corners or monuments that the location thereof may be ascertained, be made, and recorded in the office of the Recorder of Deeds within six months after such highway, road, street, alley, public ground, toll road, railroad or canal is laid out, located, opened, widened or extended or the location thereof altered, shall be fined not less than \$100.00 and no more than \$500.00. Each day said violation

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continues shall constitute a separate offense. (Amd. Ord. 12-95 - 3-27-95)

103.118. ALL ORDINANCES OR PARTS THEREOF OR RESOLUTIONS IN CONFLICT WITH THIS ORDINANCE ARE HEREBY REPEALED. THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, APPROVAL AND PUBLICATION IN PAMPHLET FORM AS PROVIDED BY LAW. THIS ORDINANCE SHALL BE PUBLISHED IN PAMPHLET FORM.

PASSED by the Village Board this 24th day of November, 1987.

APPROVED by the President of the Village Board this 1st day of December, 1987.
Ayes: 6

(Amending Ordinance 53-93 - 10/12/93) (Appendix C amended by Ordinance 30-07 - 01/14/08 removing references to Plats Committee and replacing with Planning and Economic Development Committee)