

Chapter 5
STREETS and PUBLIC WAYS

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5.01 NAMES OF STREETS

All streets of the Village shall be known and designated by the names applied hereto, respectively, on the map of the Village kept on file in the Village Hall office. The street names designated on such map shall continue to be the names of the streets unless and until changed by ordinance of the Village Board.

5.02 DAMAGE TO PUBLIC PROPERTY

No person shall damage or deface any street, public way, park or other Village or public property, or any post, wire, lamp, street sign, traffic sign, tree, grass, vegetation, gutter, drain, manhole or any other appurtenance thereon.

5.03 ENCROACHMENTS ON STREETS

A. PERMIT: No person shall erect or maintain any structure or thing on, over or under any street or public right-of-way except by permit from the Village Board. Application for such permit shall describe the nature of the encroachment in such detail as the Village Board shall require. The Board, in its discretion, may issue or deny the permit and may impose any conditions to such permit as it deems appropriate.

B. AWNINGS: Awnings shall be permitted pursuant to Sign Regulations of this Code.

C. MAINTENANCE: Any encroachment on any street or public way shall be maintained so that it does not endanger or obstruct the public.

5.04 OBSTRUCTING STREETS

A. FREE PASSAGE: No person shall obstruct or endanger the free passage or proper use of the public on any street or public place, except as may be permitted by this Code.

B. EXCEPTIONS: Goods, wares and merchandise may be placed on walkways for such reasonable time as may be necessary while loading and unloading, provided pedestrian traffic is not totally obstructed.

5.05 MATERIAL IN PUBLIC WAYS

No person shall place any materials on or over any street, walkway or public place.

5.06 DEBRIS ON PUBLIC PROPERTY

No person shall litter or deposit any foreign matter on any street, walkway, right-of-way, park or public place, except building materials and merchandise as permitted under this Code, or as may be permitted by the Chief.

5.07 EXCAVATIONS IN STREETS and RIGHTS-OF-WAY *Amended, 398*

A. PERMIT: In addition to any other governmental permit, no person shall excavate in or tunnel under any street in the Village without first securing a permit in advance of such work from the Building Department.

B. DEPOSIT: A deposit shall be made pursuant to this Code for any excavation in streets or right-of-way.

C. RESTORATION: Restoration shall include right-of-way restoration to the original or acceptable condition.

D. STANDING BOND: Any public utility or other person shall deposit a letter of credit, approved by the Village Engineer, with the Village to assure the proper repair of Village streets whenever work is done in the Village.

E. To the extent the provisions of this Section may conflict with any of the provisions of Section 5.20, the more restrictive provisions shall prevail.

5.08 PROTECTION OF WORK IN STREETS

Any person constructing, repairing, or making any excavation in or tunneling under, or placing any material on or over any street, right-of-way or other public place shall maintain suitable barricades and other protective devices as necessary to prevent injury to any person(s) exposed to the construction process. Adequate lighting shall be maintained during the night time to warn

the public. No person, unless authorized by the Village, shall interfere with or disturb any such warning devices.

A JULIE dig number shall be obtained and a permit shall be secured from the Building Department at least 24 hours in advance of placing any barricades in any street.

5.09 OPENINGS IN STREETS

A. PERMIT: No street, tree bank, public ground or place shall be disturbed or opened, nor shall any material or thing be placed or kept therein without first making application to the Building Department for the privilege of making said opening and to have a written permit issued by the Building Inspector for said opening.

B. APPLICATION: Persons desiring such openings shall make application to the Building Department on a form furnished by the Village. No permit will be issued until the permittee:

1. Completes an application for opening providing all information required by the Village and states fully all purposes for which the opening is required.
2. Contacts all individuals or corporations operating gas, electric, telephone or other public utility in the area, as well as the Village itself to receive from them the information as to the existence and location of any underground facilities, so that the proper precautions can be taken to avoid serious damage to the underground structures. Before opening is started the applicant shall furnish the Building Inspector with written statements from persons named above to the effect that they have been informed of the proposed project.
3. Files a work scheduled approved by the Building Inspector indicating starting date and date of completion and number of hours each day that work will be undertaken.
4. Agrees to make an opening in such a manner as to not unreasonably interfere with vehicular and pedestrian traffic, the demand and necessity for parking spaces, and the means of egress to or from properties affected.

If an opening requires the closing of a street, permit approval is required from the Village Board and the permittee shall provide for and pay all costs of detouring traffic.

5. Secures an IDOT permit if required.
6. Pays a permit fee, which shall be determined from time to time by the Village Board.
7. Agrees to pay all costs of Village engineering or inspection services if

deemed necessary by the Building Inspector. Permittee may be required to place on deposit with the Village an estimated cost of engineering and/or inspection services. The permittee, however, shall only pay the actual costs of such services.

8. File with the Village a letter of credit, subject to approval and payable to the Village, conditioned that such person shall faithfully observe the ordinances of the Village and shall make and repair such openings and space, and shall save and keep harmless the Village from all costs arising in any manner or way from the granting of such permit. The amount of the bond shall be determined by the Building Inspector, but in no case shall it be less than \$1,000.
9. Agrees to adequately protect all excavations with barricades, lights, or other means of protection required by the Building Inspector. The name, address and home telephone number of the person responsible for the work shall also be filed with the Village.
10. Agrees that materials used and methods of construction shall be in conformance with specifications established by the Village Engineer or Building Inspector. All work shall be under the supervision of the Building Inspector.
11. Agrees to secure and protect the Village from any liability or damage whatsoever for injury, including death, to any person or property and files with the Village liability insurance certificates in an amount to be established from time to time by the Village Board, but in no case less than \$1,000,000.

C. **DEFAULT:** In any case where a permittee shall be in default or shall fail to comply with the requirements of this Section, or shall fail to complete the work on the date agreed upon, the Building Inspector shall order the work completed by the Village and shall so notify the permittee and surety in writing. The Village shall recover the cost from the permittee or his surety.

5.10 STREET MAINTENANCE

A. **DUTY IMPOSED:** It shall be the responsibility of every subdivider or developer to keep and maintain the streets and ways in and around the subdivision clean and free from all dirt, mud, construction material and other debris during the period of construction.

B. **STREETS:** The duty imposed by this Section shall apply to all streets within the subdivision, all streets designated as construction traffic routes and all perimeter streets or streets adjacent to the subdivision.

C. **REQUIRED CLEANING:** Every subdivider or developer shall scrape each street described herein every day during the period of construction, and shall sweep or cause the streets to be swept once every week. In addition to the foregoing, every subdivider shall be required to

scrape, sweep or remove debris from the streets as from time to time directed by the Building Inspector or the Village Engineer.

D. **SNOW AND ICE REMOVAL:** In the event one or more Certificates of Occupancy have been issued for any structures located on an unaccepted street, the subdivider or developer shall be responsible for snow and ice removal. If required by the Village, a subdivider or developer shall enter into a contract with the Village for snow and ice removal. The cost of such service shall be approved from time to time by the Village Board using the IDOT approved cost schedule.

E. **PENALTIES:** Any subdivider violating any provision of this Section shall be subject to one or more of the following penalties, said penalties being cumulative and in addition to any other penalties which may be imposed:

1. A fine of not less than \$25 nor more than \$500 for each offense, and a separate offense shall be deemed committed on each day during or on which a separate violation occurs or continues.
2. The Village may undertake the necessary cleaning as required herein and then assess the costs and expenses, including reasonable attorneys' fees, incurred by the Village for such cleaning against the subdivider and may take action against the letter of credit.
3. "Stop Work Orders" for the subdivision may be issued by the Village until the subdivider complies with the requirements herein. No work shall be done in the subdivision while the stop work order is in effect.
4. The Village may withhold the issuance of Certificates of Occupancy for all residences or other structures within the subdivision until the subdivider complies with requirements herein.

F. **NOTICE:** Prior to the imposition of the penalties set forth herein, the Village shall send a written notice to the subdivider or developer setting forth the specific violations(s) of this Code. The subdivider or developer shall have 24 hours from the date of the notice within which time to comply with the terms of the Code. In the event the subdivider or developer does not comply with the terms herein within said 24-hour period, the Village may proceed to impose the penalties provided for herein. No notice shall be required prior to the imposition of said penalties.

5.11 CURBS AND GUTTERS

All curbs and gutters hereinafter constructed in the Village shall be constructed pursuant to this Code and under the supervision of the Village Engineer and Building Inspector.

5.12 BURNING LEAVES AND RUBBISH

No person shall burn any leaves, paper, rubbish or other substances upon any street.

5.13 DRIVEWAYS

A. PERMIT: No person shall construct a driveway entering any street without a permit from the Building Department. Driveways shall be constructed according to the requirements of this Code and shall be constructed of asphalt or concrete.

B. CULVERTS: Culverts may be required in areas not served by curb, gutter and storm sewers, prior to the point of entry of the driveway to the public road, as defined in this Code. The length, width, depth and location of the culvert shall be subject to the approval of the Village Engineer or Building Inspector.

In the event driveways are to be altered where there have been no previous culverts or previous culverts are inadequate, new culverts shall be installed pursuant to this Code.

If, in the judgment of the Village Engineer, culverts are needed to remove any obstructions in drainage ditches or swales, the Village shall install a culvert of the size and length determined by the Village Engineer. The cost of the culvert and repaving that portion of any driveway that may be affected shall be borne by the owner of the property.

Maintenance to ensure proper water flows of all culverts, ditches and swales shall be the responsibility of the abutting property owner or tenant.

5.14 EASEMENTS, RIGHTS-OF-WAY, DITCHES/SWALES *Amended, 398*

Easements, rights-of-way, ditches and swales are that portion of each property in the Village from the front property line to the roadway, which has already been dedicated to the Village to be used for utilities, surface drainage and future roadway. Said easements, rights-of-way, ditches and swales are regulated as follows:

1. Buildings, structures or any parts of appurtenances thereto shall not be constructed or placed in any easement so as to restrict drainage channels.
2. The placement of any fill material in the right-of-way between the property line of the property owner and the public road shall require a permit issued by the Building Department.
3. No permit to alter, build or fill any part of the dedicated roadway shall be issued by the Building Department until written approval is received from the Village Engineer or Building Inspector that the proposed alteration, building or fill will in no way effect surface water run-off capacities or patterns of surrounding properties.
4. The cost of the engineering review shall be paid by the person(s) desiring the modification and shall be paid prior to the review being made.
5. All ditches and swales shall have the appropriate vegetation in the form of grass to eliminate erosion and sedimentation that could be caused by water transversing the ditch or swale, unless some other form of erosion and sedimentation control is recommended by the Village Engineer for the project.

6. In the event the provisions of this Section conflict in any way with the provisions of Section 5.20, the more restrictive provisions shall prevail.

5.15 SUMP PUMP DISCHARGE

No person shall construct, alter, maintain or in any way provide for the discharge of a sump pump, either directly or indirectly, to any public street.

5.16 NUMBERING BUILDINGS

A. **NUMBERING BUILDINGS:** All buildings abutting streets of the Village shall be numbered in accordance with the Village Map prepared by the Village Engineer, which map shall be kept on file in the Village Hall office.

B. **RESPONSIBILITY:** It shall be the duty of the owners and occupants of every building in the Village to have placed thereon or on the property, in a place visible from the street, in Arabic numerals (script not permitted) at least two inches high, showing the number of the house.

5.17 MAILBOX INSTALLATION

Mailboxes installed along Village streets shall be in accordance with U.S. Postal Service regulations. The placement of such mailboxes shall not interfere with street maintenance projects, such as snow plowing and street cleaning.

5.18 IDOT AGREEMENTS

The discharge of sanitary sewage and industrial waste water into a storm sewer or drainage facility constructed as part of an improvement specified in any agreement between the Village and IDOT is prohibited.

Any encroachment into an IDOT right-of-way is prohibited within the limits of any improvements specified in any agreement between the Village and IDOT.

5.19 UTILITY FRANCHISE AGREEMENTS *Ord. 393*

A. **DEFINITION:** In addition to the definition for “public utility” in Appendix A of this Code, for purposes of this Section, the word “utility” is to be used in the broadest and most comprehensive manner and includes, but it not limited to, entities that:

1. Fall under the definition of “public utility” at 220 ILCS 3/3-105 (the Public Utilities Act of the Illinois Compiled Statutes).
2. Are owners, operators, lessees or otherwise tied to cable communication systems, cable television systems, cable systems, cable services or multi-channel systems.

3. Is any other entity that provides any type of service or presence to or through the Village that seeks, needs or requires infrastructure installation within the Village.

B. **EXISTING UTILITIES:** All utilities currently within the Village limits are required to enter into a valid and binding franchise agreements with the Village within one year of the effective date of this Section.

C. **NEW UTILITIES:** Any utility that does not currently have facilities, equipment, inventory or any other presence within the Village are required to negotiate and enter into a franchise agreement with the Village prior to extending services to, through, under or over the public rights-of-way within the Village, regardless of whether any of the utility's services are for the benefit of Village or its residents.

D. **MISCELLANEOUS:** Any franchise agreement entered into between the Village and any utility shall pertain to the permit fee and to the utility's ability to use public streets, rights-of-way, alleys, ways for public service facilities or other public grounds which the Village may have an interest, for the construction, installation, operations, maintenance, alteration, addition, extension or improvement of the utility, its equipment or service.

E. **LIMITATION OF AUTHORITY:** Should any matter contained in this Section be directly regulated by the Illinois Commerce Commission or any other legal entity whose authority over a particular subject pre-empts the Village's authority, that particular matter shall be read to only grant the Village authority that is not subject to the pre-emption by the Illinois Commerce Commission or other government entity.

F. **PENALTY:** Any violation of this Section shall be subject to a fine of not less than \$1,500. Violators of this Section shall also be required to pay all attorney fees incurred by the Village in the enforcement of the terms of this Section.

5.20 **UTILITIES IN RIGHT OF WAY** *Ord. 398*

A. **DEFINITIONS:** For purposes of this Section:

1. "Village initiated improvements" or "Village operations" shall include but not be limited to, anything required by the Village in annexation, final plat requirements or other agreements with third parties including those intended to benefit other property within the Village, Village road construction, expansion or relocation projects, public works projects or other Village operations, maintenance and planning projects.
2. "Public right of way" shall include but not be limited to, any street, alley, parkway, other land or waterway, dedicated or commonly used for utility or cable purposes, including utility or cable easements.
3. "Utility" shall include, in addition to all other commonly and legally accepted definitions of the term, cable providers and facilities, and video service providers.

B. PERMITS:

1. Permit Required: No person shall erect or maintain any poles or wires on or over any street, alley or other public way or public right of way without a permit from the Building Department. A permit shall also be required for the installation, maintenance or replacement of any underground facilities, including, but not limited to wires, pipes, cables, conduits and ducts, within any street, alley or other public way.
2. Effect of Permit: A permit from the Village authorizes the permit holder to undertake only certain activities in accordance with this Section 5, and does not create a property right or grant authority to the permit holder to impinge upon the right of others who may have an interest in the public right of way.
3. The permit fee shall be determined from time to time by the Village Board.

C. GAS PIPES: Any person or company maintaining any gas pipe in the Village shall keep such pipe free from leaks so that no injury shall be done thereby to any person or property.

D. REMOVAL, RELOCATION OR MODIFICATIONS OF UTILITY FACILITIES: Within 60 days following written notice from the Village, any person or company shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any utility or cable facilities within the public right of way whenever the corporate authorities have determined that such removal, relocation, change or alteration is reasonably necessary for the construction, repair, maintenance or installation of any Village initiated improvements or Village operations on, over, under or within, such public right of way. To the extent this provision conflicts with the terms of an existing franchise agreement or with state law, the terms of the franchise agreement or state law shall govern. However nothing in this provision shall be interpreted as a fee to any utility or cable company for the use of the Village's rights of way.

E. REMOVAL OF UNAUTHORIZED FACILITIES: Within 30 days following written notice from the Village, any utility that owns, controls or maintains any unauthorized facility or related appurtenances within the public right of way shall, at its own expense, remove all or any part of such facilities or appurtenances from such public right of way. A facility is unauthorized and subject to removal in the following circumstances:

1. Upon expiration or termination of the permit holder's license or franchise, unless otherwise permitted by applicable law;
2. If the facility was constructed or installed without the prior grant of a license or franchise, if required;

3. If the facility was constructed or installed without prior issuance of a required permit in violation of this Section; or
4. If the facility was constructed or installed at a location not permitted by the permit holder's license or franchise.

F. **EMERGENCY REMOVAL OR RELOCATION OF FACILITIES:** The Village retains the right and privilege to cut or move any facilities located within the Village public right of way as the Village may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the Village shall attempt to notify the utility, if known, prior to cutting or removing a facility and shall notify the utility, if known, after cutting or removing a facility.

G. **ABANDONMENT OF FACILITIES:** Upon abandonment of a facility within the Village public right of way, the utility shall notify the Village within 90 days. Following receipt of such notice the Village may direct the utility to remove all or any portion of the facility if the Building Department determines that such removal will be in the best interest of the public health, safety and welfare. In the event the Village does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the Village, the abandoning utility shall be deemed to consent to the use, alteration or removal of all or any portion of the facility by another utility or person.

H. **CLEANUP AND RESTORATION:** Upon completion of all construction or maintenance of facilities, the utility shall, at its own expense, remove all excess material and restore all turf and terrain in a timely manner and to the satisfaction of the Village. This includes restoration of entrances and side roads. Restoration of roadway surfaces shall be made using materials and methods approved by the Building Department. Such cleanup and repair may be required to consist of backfilling, re-grading, re-seeding, re-sodding or any other requirement to restore the right of way to a condition substantially equivalent to that which existed prior to the commencement of the project.

I. **ANNUAL REGISTRATION REQUIRED:** Every utility that occupies a Village public right of way shall register on January 1 of each year with the Building Department, providing the utility's name, address and regular business telephone and facsimile numbers, the name of one or more contact persons who can act on behalf of the utility in connection with emergencies involving the utility's facilities in the right of way and a 24-hour telephone number for each such person, and the name, address and regular business telephone and facsimile number of one or more contact persons who shall receive any notices resulting from this Section. Each utility also shall provide evidence of insurance coverage reasonably consistent with industry standards.

J. Nothing in this Section shall exempt any utility working in the right of way from any other provisions of this Chapter. To the extent other provisions of this Code may conflict with the provisions of this Section, the more restrictive shall prevail.

K. **PENALTIES:** Any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Section shall be subject to a fine in accordance with Section 1.11 herein. There may be times when the Village will incur delay or other costs, including third

party claims, because the utility will not or cannot perform its duties under its permit and this Section. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility shall bear the Village's cost of damages and its cost of installing, maintaining, modifying, relocation or removing the facility that is the subject of the permit and improvements. No other administrative agency or commission may review or overrule a permit related cost apportionment of the Village. Sanctions may be imposed upon a utility that does not pay the costs apportioned to it.

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