

VILLAGE OF LA GRANGE
ORDINANCE NO. O-20-39

AN ORDINANCE AMENDING CHAPTER 102
OF LA GRANGE CODE OF ORDINANCES –
CONSTRUCTION OF UTILITY FACILITIES IN PUBLIC RIGHTS-OF-WAY

WHEREAS, Chapter 102, titled “*Construction of Utility Facilities in Public Rights-of-Way*” of the La Grange Code of Ordinances (the “*Village Code*”) includes, among other things, standards for installation and maintenance of facilities and infrastructure by utilities and many other entities within public right-of-way throughout the Village of La Grange; and

WHEREAS, the public right-of-way is essential to the Village, and it is critical that the right-of-way be controlled and managed carefully; and

WHEREAS, there has been a significant increase over recent years of entities that wish to install facilities and infrastructure within the public right-of-way, and that increase threatens overcrowding and disruption of the right-of-way and impends the ability of the Village to properly control and manage the right-of-way; and

WHEREAS, accordingly, the President and Board of Trustees have determined that it is appropriate, essential, and in the best interest of the Village and public health, safety, and welfare for Chapter 102 to be amended to assure proper control and management of the right-of-way;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of La Grange, Cook County and State of Illinois, as follows:

Section 1. Recitals. The recitals stated above are incorporated into this Ordinance as findings of the Board of Trustees.

Section 2. Amendment of Chapter 102. Chapter 102 of the Village Code is hereby amended as set forth in Exhibit A attached to and by this reference made a part of this Ordinance.

Section 3. Effective Date. This Ordinance will be in full force and effect after its passage, approval, and publication in the manner provided by law.

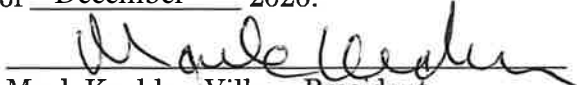
PASSED this 14 day of December 2020.

AYES: Trustees Augustine, Gale, Holder, Kotynek, McCarty and McGee

NAYS: -0-

ABSENT: -0-

APPROVED this 14 day of December 2020.


Mark Kuchler, Village President

Attest:


John Burns, Village Clerk

EXHIBIT A

**CHAPTER 102: CONSTRUCTION OF UTILITY FACILITIES
IN PUBLIC RIGHTS-OF-WAY**

VILLAGE OF LA GRANGE

CHAPTER 102: CONSTRUCTION OF UTILITY FACILITIES IN PUBLIC RIGHTS-OF-WAY

§ 102.01 PURPOSE AND SCOPE.

(a) Purpose. The purpose of this Chapter is to establish policies and procedures for constructing facilities on rights-of-way within the Village's corporate limits and for installation of telecommunications facilities within the Village, including without limitation small wireless facilities, which policies and procedures will provide public benefit consistent with the preservation of the integrity, safe usage, and visual qualities of the Village, rights-of-way within the Village, and the Village as a whole.

(b) Facilities Subject to This Chapter. This Chapter applies to (1) all facilities on, over, above, along, upon, under, across, or within the rights-of-way within the corporate limits of the Village and (2) installation and maintenance of telecommunications facilities, of all types within the Village, including without limitation small wireless facilities. To the extent any provision of this Chapter is inconsistent with or conflicts with any provision in Chapter 99 or other chapter of this Code, the provision of this Chapter applies and controls.

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

(d) Effect of Franchises, Licenses, or Similar Agreements.

1) Utilities Other Than Telecommunications Providers. In the event that a utility other than a telecommunications provider has a franchise, license, or similar agreement with the Village, that franchise, license, or similar agreement will govern and control during the term of the agreement and any lawful renewal or extension of the agreement.

2) Telecommunications Providers. In the event of any conflict with, or inconsistency between, the provisions of this Chapter and the provisions of any franchise, license, or similar agreement between the Village and any telecommunications provider, the provisions of the franchise, license, or similar agreement will govern and control during the term of the agreement and any lawful renewal or extension of the agreement.

(e) Conflicts with Other Chapters. This Chapter supersedes all chapters or parts of chapters adopted prior hereto that are in conflict with this Chapter, to the extent of that conflict.

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

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

§ 102.02 DEFINITIONS.

As used in this Chapter, and unless the context clearly requires otherwise, the words and terms listed have the meanings ascribed to them in this Section. Any term not defined in this Section will have the meaning ascribed to it in 92 Ill. Adm. Code § 530.30, unless the context clearly requires otherwise.

“ANSI” - American National Standards Institute.

“Applicant” - A person applying for a permit under this Chapter.

“ASTM” - American Society for Testing and Materials.

“Backfill” - The methods or materials for replacing excavated material in a trench or pit.

“Bore” or “Boring” - To excavate an underground cylindrical cavity for the insertion of a pipe or electrical conductor.

“Cable operator” - That term as defined in 47 U.S.C. §522(5).

“Cable service” - That term as defined in 47 U.S.C. §522(6).

“Cable system” - That term as defined in 47 U.S.C. §522(7).

“Carrier Pipe” - The pipe enclosing the liquid, gas or slurry to be transported.

“Casing” - A structural protective enclosure for transmittal devices such as: carrier pipes, electrical conductors, and fiber optic devices.

“Clear Zone” - The total roadside border area, starting at the edge of the pavement, available for safe use by errant vehicles. This area may consist of a shoulder, a recoverable slope, a non-recoverable slope, and a clear run-out area. The desired width is dependent upon the traffic volumes and speeds, and on the roadside geometry. Distances are specified in the American Association of State Highway and Transportation Officials Roadside Design Guide.

“Coating” - Protective wrapping or mastic cover applied to buried pipe for protection against external corrosion.

“Conductor” - Wire carrying electrical current.

“Conduit” - A casing or encasement for wires or cables.

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

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

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

“DBH” – Diameter at Breast Height.

“Director” - The Village’s Director of Public Works or his or her designee.

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

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

“Encasement” - Provision of a protective casing.

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

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

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

“Facility” - All structures, devices, objects, and materials (including without limitation track and rails, wires, ducts, fiber optic cable for any purpose, antennas, vaults, boxes, equipment enclosures, cabinets, pedestals, poles, conduits, grates, covers, pipes, cables, and appurtenances thereto) located on, over, above, along, upon, under, across, or within rights-of-way, or other specific locations, as provided in this Chapter. For purposes of this Chapter, the term “facility” does not include any facility owned or operated by the Village.

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

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

“Hazardous Materials” - Any substance or material that, due to its quantity, form, concentration, location, or other characteristics, is determined by the Director to pose an unreasonable and imminent risk to the life, health, or safety of persons or property or to the ecological balance of the environment, including without limitation explosives, radioactive materials, petroleum or petroleum products or gases, poisons, etiology (biological) agents, flammables, corrosives, or any substance determined to be hazardous or toxic under any federal or state law, statute, or regulation.

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

“Highway” - A specific type of right-of-way used for vehicular traffic including rural or urban roads or streets. “Highway” includes all highway land and improvements, including roadways, ditches and embankments, bridges, drainage structures, signs, guardrails, protective structures, and appurtenances necessary or convenient for vehicle traffic.

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

“IDOT” – Illinois Department of Transportation.

“ICC” – Illinois Commerce Commission.

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

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

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

“J.U.L.I.E.” - The Joint Utility Locating Information for Excavators utility notification program.

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

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

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

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

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

“Permittee” - That entity to which a permit has been issued pursuant to Sections 102.04 and 102.05 of this Chapter.

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

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

“Petroleum Products Pipelines” - Pipelines carrying crude or refined liquid petroleum products including without limitation gasoline, distillates, propane, butane, or coal-slurry.

“Prompt” - That which is done within a period of time specified by the Village. If no time period is specified, then the period is 30 days.

“Public Entity” - A municipality, entity, or other agency that is, or is part of, a government, whether at local, state, or federal.

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

“Right-of-Way” or “Rights-of-Way” - Any street, alley, other land or waterway, dedicated or commonly used for pedestrian or vehicular traffic or similar purposes, including utility easements in which the Village has the right and authority to authorize, regulate, or permit the location of facilities other than those of the Village. “Right-of-way” or “Rights-of-Way” do not include any real or personal Village property that is not specifically described in this paragraph and do not include Village buildings, fixtures, or other structures or improvements, regardless of whether they are situated in the right-of-way.

“Roadway” - That part of the highway that includes the pavement and shoulders.

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

“Security Fund” - That amount of security required pursuant to Section 102.10 of this Chapter.

“Shoulder” - A width of roadway adjacent to the pavement that provides lateral support to the pavement edge and provides an area for emergency vehicular stops and storage of snow removed from the pavement.

“Small wireless facilities” – See Section 102.21 of this Chapter for definitions applicable to small wireless facilities.

“Sound Engineering Judgment” - A decision consistent with generally accepted engineering principles, practices, and experience.

“Telecommunications” - This term includes, but is not limited to, messages or information transmitted through use of local, toll and wide area telephone service, channel services, telegraph services, teletypewriter service, computer exchange service, private line services, mobile radio services, cellular mobile telecommunications services, stationary two-way radio, paging service and any other form of mobile or portable one-way or two-way communications, and any other transmission of messages or information by electronic or similar means, between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar facilities. “Private line” means a dedicated non-traffic sensitive service for a single customer that entitles the customer to exclusive or priority use of a communications channel, or a group of channels, from one or more specified locations to one or more other specified locations. “Telecommunications” does 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. The term “telecommunications” does not include purchase of telecommunications by a telecommunications service provider for use as a component part of the service provided by that

provider to the ultimate retail consumer who originates or terminates the end-to-end communications. The term “telecommunications” does not include the installation of fiber optic cable within streets, parkways, or other Village right of way or property. The term “telecommunications” does not include the provision of cable services through a cable system as defined in the Cable Communications Act of 1984 (47 U.S.C. Sections 521 and following), as now or hereafter amended, or cable or other programming services subject to an open video system fee payable to the Village through an open video system as defined in the Rules of the Federal Communications Commission (47 C.F.R. §76.1500 and following), as now or hereafter amended.

“Telecommunications Retailer” - Means and includes every person engaged in making sales of telecommunications at retail as defined herein. See Section 102-21 of this Chapter for definitions applicable to small wireless facilities. The term “telecommunications retailer” does not include an entity that installs fiber optic cable for the purpose of ceding, selling, leasing, or otherwise transferring to a different entity.

“Trench” - A relatively narrow open excavation for the installation of an underground facility.

“Utility” - The individual or entity owning or operating any facility as defined in this Chapter including without limitation public and quasi-public utilities, wireless infrastructure providers, and wireless services providers. See Section 102.21 of this Chapter for additional definitions applicable to small wireless facilities.

“Vent” - A pipe to allow the dissipation into the atmosphere of gases or vapors from an underground casing.

“Video Service” - That term as defined in section 21-201(v) of the Illinois Cable and Video Competition Law of 2007, 220 ILCS 21-201(v).

“Village” - The Village of La Grange, Illinois.

“Village Code” or “Code” – The Village of La Grange Code of Ordinances and all other Village codes, ordinances, and regulations.

“Water Lines” - Pipelines carrying raw or potable water.

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

§ 102.03 ANNUAL REGISTRATION REQUIRED.

Every utility that occupies right-of-way within the Village, including without limitation SWF providers, must register on January 1 of each year with the Director, providing the utility’s name, address, email address, and regular business telephone number, the name and email address 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 person, and evidence of insurance as required in Section 102.08 of this Chapter, in the form of a certificate of insurance.

§ 102.04 PERMIT REQUIRED; APPLICATION AND FEES.

(a) Permit Required. No person may construct (as defined in this Chapter) any facility on, over, above, along, upon, under, across, or within any Village right-of-way that (1) changes the location of the facility, (2) adds a new facility, (3) disrupts the right-of-way (as defined in this Chapter), or (4) materially increases the amount of area or space occupied by the facility on, over, above, along, under, across, or within the right-of-way, without first filing an application with the Director and obtaining a permit from the Village therefor, except as otherwise provided in this Chapter. See Section 102.21 of this Chapter for requirements related to small wireless facilities. Permits for installation and maintenance of utility service connections and for installation and maintenance of driveways, parkways, or sidewalks to customers' premises are required through the Village's Community Development Department when a building permit is required. All provisions of this Chapter apply regardless of whether a permit is required or from which Village department a permit is issued.

(b) Permit Application. All applications for permits pursuant to this Chapter must be filed on a form provided by the Village and must be filed in the number of duplicate copies as the Village may designate. The applicant may designate those portions of its application materials that it reasonably believes contain proprietary or confidential information as "proprietary" or "confidential" by clearly marking each page of the materials accordingly. See also Section 102.21 of this Chapter for additional requirements related to small wireless facilities.

(c) Minimum General Application Requirements. The application must be made by the utility or its duly authorized representative and must contain, at a minimum, the following:

- 1) The utility's name and address and telephone and facsimile numbers;
- 2) The applicant's name and address, if different from the utility, and its telephone and facsimile numbers, e-mail address, and its interest in the work;
- 3) The names, addresses, and telephone and facsimile numbers and e-mail addresses of all professional consultants, if any, advising the applicant with respect to the application;
- 4) A general description of the proposed work and the purposes and intent of the facility and the uses to which the facility will be put. The scope and detail of the description must be appropriate to the nature and character of the work to be performed, with special emphasis on those matters likely to be affected or impacted by the work proposed;
- 5) A diagram or map showing all places within the Village where the applicant has existing facilities and where the applicant plans or intends to install any other facility in Right-of-Way within three years.
- 6) Evidence that the utility has placed on file with the Village:
 - i) A written traffic control plan demonstrating the protective measures and devices that will be employed consistent with the Illinois Manual on Uniform Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and

- ii) An emergency contingency plan that specifies the nature of potential emergencies, including without limitation construction and hazardous materials emergencies, and the intended response by the applicant. The intended response must include notification to the Village and must promote protection of the safety and convenience of the public. Compliance with ILCC regulations for emergency contingency plans constitutes compliance with this Section unless the Village finds that additional information or assurances are needed;
- 7) Drawings, plans, and specifications showing the work proposed, including the certification of an Illinois Licensed Professional Engineer that the drawings, plans, and specifications comply with applicable codes, rules, and regulations. See also Section 102.21 of this Chapter for additional requirements related to small cell facilities.
- 8) A plat or plats of survey showing property lines, and rights-of-way, existing sidewalks, curbs, gutters, underground utilities, easements, and similar features;
- 9) Evidence of permission from appropriate private property owners to be upon that private property;
- 10) Evidence of insurance as required in Section 102.08 of this Chapter;
- 11) Evidence of posting of the security fund as required in Section 102.10 of this Chapter;
- 12) Evidence of an application for an electrical permit from the Village if, and as, required by the Village Code;
- 13) Any request for a variance from one or more provisions of this Chapter (see Section 102.22 of this Chapter); and
- 14) Additional information reasonably required by the Village.

See Section 102.21 of this Chapter for requirements related to small wireless facilities.

(d) Supplemental Application Requirements for Specific Types of Utilities. In addition to the requirements of Subsection (c) of this Section, the permit application must include the following items as applicable to the specific utility that is the subject of the permit application:

- 1) In the case of the installation of a new electric power, communications, telecommunications, cable television service, video service, fiber optic cable, or natural gas distribution system, evidence that any "Certificate of Public Convenience and Necessity" or other regulatory authorization that the applicant is required by law to obtain, or that the applicant has elected, to obtain, has been issued by the ICC or other jurisdictional authority;
- 2) In the case of natural gas systems, state the proposed pipe size, design, construction class, and operating pressures;

- 3) In the case of water lines, indicate that all requirements of the Illinois Environmental Protection Agency, Division of Public Water Supplies, have been satisfied;
- 4) In the case of sewer line installations, indicate that the land and water pollution requirements of the Illinois Environmental Protection Agency, Division of Water Pollution Control and the Metropolitan Water Reclamation District have been satisfied; or
- 5) In the case of petroleum products pipelines, state the type or types of petroleum products, pipe size, maximum working pressure, and the design standard to be followed.

(e) Applicant's Duty to Update Information. Throughout the entire permit application review period and the construction period authorized by the permit, any amendments to information contained in a permit application must be submitted by the utility in writing to the Village within 30 days after the change necessitating the amendment.

(f) Application Fees. Unless otherwise provided by franchise, license, or similar agreement, all applications for permits pursuant to this Chapter must be accompanied by a fee in the amount of \$1,000 for plan review, inspections, and other services. No application fee is required to be paid by an electricity utility that is paying the municipal electricity infrastructure maintenance fee pursuant to the Electricity Infrastructure Maintenance Fee Act. See Section 102.21 of this Chapter for requirements related to small wireless facilities.

§ 102.05 ACTION ON PERMIT APPLICATIONS.

(a) Village Review of Permit Applications. Completed permit applications, containing all required documentation, will be examined by the Director within a reasonable time after filing. If the application does not conform to the requirements of all applicable ordinances, codes, laws, rules, and regulations, the Director will reject the application in writing, stating the reasons therefor. If the Director is satisfied that the proposed work conforms to the requirements of this Chapter and all other applicable provisions of the Village Code, the Director will issue a permit therefor as soon as practicable. In all instances it is the duty of the applicant to demonstrate, to the satisfaction of the Director, that the construction proposed under the application will be in full compliance with the requirements of this Chapter.

(b) Additional Village Review of Applications of Telecommunications Retailers.

- 1) See Section 102.21 of this Chapter for requirements related to small wireless facilities.
- 2) Pursuant to Section 4 of the Telephone Company Act, 220 ILCS 65/4, a telecommunications retailer must notify the Village that it intends to commence work governed by this Chapter for facilities for the provision of telecommunications services. That notice must include plans, specifications, and other documentation sufficient to demonstrate the purpose and intent of the facilities, and must be provided by the telecommunications retailer to the Village not less than 10 days prior to the commencement of work requiring no excavation and not less than 30 days prior to the commencement of work requiring excavation. The Director will

specify the portion of the right-of-way upon which the facility may be placed, used, and constructed.

- 3) If the Director does not provide specification of portion of the right-of-way to the telecommunications retailer within either (i) 10 days after service of notice to the Village by the telecommunications retailer in the case of work not involving excavation for new construction or (ii) 25 days after service of notice by the telecommunications retailer in the case of work involving excavation for new construction, then the telecommunications retailer may commence work without obtaining a permit under this Chapter.
- 3) Upon the provision of the specification by the Village, when a permit is required for work pursuant to Section 102.04 of this Chapter the telecommunications retailer must submit to the Village an application for a permit and any and all plans, specifications, and documentation available regarding the facility to be constructed. The application will be subject to the requirements of Subsection (a) of this Section.

(c) Additional Village Review of Applications of Holders of State Authorization Under the Cable and Video Competition Law of 2007. Applications by a utility that is a holder of a State-issued authorization under the Cable and Video Competition Law of 2007 will be deemed granted 45 days after submission to the Village unless otherwise acted on by the Village, but only if the holder has complied with applicable provisions of the Village Code.

§ 102.06 EFFECT OF PERMIT.

(a) Authority Granted; No Property Right or Other Interest Created. A permit from the Village authorizes a permittee to undertake only certain activities in accordance with this Chapter on Village rights-of-way, and does not create a property right or grant authority to the permittee to impinge upon the rights of others who may have an interest in the rights-of-way.

(b) Duration. No permit issued under this Chapter is valid for a period longer than six months unless construction is actually begun within that period and is thereafter diligently pursued to completion.

(c) Pre-construction Meeting Required. Unless waived in writing by the Director, no construction may begin pursuant to a permit issued under this Chapter prior to attendance by the permittee and all major contractors and subcontractors who will perform any work under the permit at a pre-construction meeting. The pre-construction meeting will be held at a date, time, and place designated by the Village. The meeting will be for the purpose of reviewing the work under the permit and reviewing special considerations necessary in the areas where work will occur, including without limitation presence or absence of other utility facilities in the area and their locations, procedures to avoid disruption of other utilities, use of rights-of-way by the public during construction, and access and egress by adjacent property owners.

(d) Compliance with All Laws Required. The issuance of a permit by the Village does not excuse the permittee from complying with other requirements of the Village Code and all applicable statutes, laws, ordinances, rules, and regulations.

§ 102.07 REVISED PERMIT DRAWINGS.

If the actual locations of any facilities deviate in any material respect from the locations identified in the plans, drawings, and specifications submitted with the permit application, then the permittee must submit a revised set of drawings or plans to the Village within 90 days after the completion of the permitted work. The revised drawings or plans must specifically identify where the locations of the actual facilities deviate from the locations approved in the permit. If any deviation from the permit also deviates from the requirements of this Chapter, then the deviation will be treated as a request for variance in accordance with Section 102.22 of this Chapter. If the Village denies the request for a variance, then the permittee either must remove the facility from the right-of-way or must modify the facility so that it conforms to the permit and submit revised drawings or plans therefor.

§ 102.08 INSURANCE.

(a) Required Coverage and Limits. Unless otherwise provided by franchise, license, or similar agreement, each utility occupying right-of-way or constructing any facility in the right-of-way must secure and maintain the following liability insurance policies insuring the utility as named insured and naming and endorsing the Village and its elected and appointed officers, officials, agents, and employees as additional insureds on the policies listed in Paragraphs 1 and 2 below:

- 1) Commercial general liability insurance, including premises-operations, explosion, collapse, and underground hazard (commonly referred to as “X,” “C,” and “U” coverage) and products-completed operations coverage with limits not less than:
 - i) \$5,000,000 for bodily injury or death to each person;
 - ii) \$5,000,000 for property damage resulting from any one accident; and
 - iii) \$5,000,000 for all other types of liability;
- 2) Automobile liability for owned, non-owned, and hired vehicles with a combined single limit of \$1,000,000 for personal injury and property damage for each accident;
- 3) Worker’s compensation with statutory limits; and
- 4) Employer’s liability insurance with limits of not less than \$1,000,000 per employee and per accident.

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

(b) Excess or Umbrella Policies. The coverage required by this Section may be in any combination of primary, excess, and umbrella policies. Any excess or umbrella policy must provide excess coverage over underlying insurance on a following-form basis so that when any loss covered by the primary policy exceeds the limits under the primary policy, the excess or umbrella policy becomes effective to cover the loss.

(c) Copies Required. The utility must provide a copy of any of the policies required by this Section to the Village within 10 days after receipt of a written request for that policy from the Village.

(d) Maintenance and Renewal of Required Coverage. The insurance policies required by this Section must include the following statement or its legal equivalent:

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

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

(e) Self-Insurance. A utility may self-insure all or a portion of the insurance coverage and limit requirements required by Subsection (a) of this Section. A utility that self-insures is not required, to the extent of that self-insurance, to comply with the requirement for the naming and endorsing of additional insureds under Subsection (a), or the requirements of Subsections (b), (c), and (d) of this Section. A utility that elects to self-insure must provide the Village evidence sufficient to demonstrate its financial ability to self-insure the insurance coverage and limit requirements required under Subsection (a) of this Section, such as evidence that the utility is a “private self-insurer” under the Workers Compensation Act.

(f) Effect of Insurance and Self-Insurance on Utility’s Liability. The legal liability of the utility to the Village and any person for any of the matters that are the subject of the insurance policies or self-insurance required by this Section are not limited by the insurance policies or self-insurance or by the recovery of any amounts thereunder.

(g) Insurance Companies. All insurance provided pursuant to this Section must be effected under valid and enforceable policies, issued by insurers legally able to conduct business with the licensee in the State of Illinois.

§ 102.09 INDEMNIFICATION.

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

§ 102.10 SECURITY.

(a) Purpose. The permittee or its contractor must establish a Security Fund in a form and in an amount as set forth in this Section, for the purpose of assuring proper compliance with this Chapter during, and at completion, of work. The Security Fund must be maintained continuously in accordance with this Section at the permittee's sole cost and expense until the completion of the work authorized under the permit. The Security Fund will serve as security for:

- 1) The faithful performance by the permittee of all the requirements of this Chapter;
- 2) Any expenditure, damage, or loss incurred by the Village occasioned by the permittee's failure to comply with any codes, rules, regulations, orders, permits and other directives of the Village issued pursuant to this Chapter; and
- 3) The payment by permittee of all liens and all damages, claims, costs, or expenses that the Village may pay or incur by reason of any action or non-performance by permittee in violation of this Chapter including, without limitation, any damage to public property or restoration work the permittee is required by this Chapter to perform that the Village must perform itself or have completed as a consequence solely of the permittee's failure to perform or complete, and all other payments due the Village from the permittee pursuant to this Chapter or any other applicable law.

(b) Form. The permittee must provide the Security Fund in the form of either a surety bond in a form acceptable to the Village or an unconditional letter of credit in a form acceptable to the Village, at the permittee's election. The surety bond or letter of credit, at a minimum, must:

- 1) Provide that it will not be canceled without prior notice to the Village and the permittee;
- 2) Not require the consent of the permittee prior to the collection by the Village of any amounts covered by it; and
- 3) Provide a location convenient to the Village within Chicago metropolitan area at which it can be drawn.

(c) Amount. The dollar amount of the Security Fund must be sufficient to provide for the reasonably estimated cost to restore the right-of-way to at least as good a condition as that existing prior to the construction under the permit, as determined by the Director, but not less than \$5,000. The amount may include reasonable, directly related costs that the Village estimates are likely to be incurred if the permittee fails to perform the restoration. When the construction of facilities proposed under the permit will be performed in phases in multiple locations in the Village, with each phase consisting of construction of facilities in one location or a related group of locations, and where construction in another phase will not be undertaken prior to substantial completion of restoration in the previous phase or phases, the Director, in the exercise of sound discretion, may allow the permittee to post a single amount of security which must be applicable to each phase of the construction under the permit. The amount of the Security Fund for phased construction must be equal to the greatest amount that would have been required under the provisions of this Subsection (c) for any single phase.

(d) Withdrawals. The Village, by 14-day advance written notice stating its intention to exercise withdrawal rights under this Subsection and the reason for withdrawal, may withdraw

an amount from the Security Fund, unless the permittee has reimbursed the Village for that amount within the 14-day notice period. The Village may make a withdrawal if the permittee:

- 1) Fails to make any payment required to be made by the permittee hereunder;
- 2) Fails to pay any liens relating to the facilities that are due and unpaid;
- 3) Fails to reimburse the Village for any damages, claims, costs, or expenses which the Village has been compelled to pay or incur by reason of any action or non-performance by the permittee; or
- 4) Fails to comply with any provision of this Chapter that the Village determines can be remedied by an expenditure of an amount in the Security Fund.

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

(f) Interest. The permittee may request that any and all interest accrued on the amount in the Security Fund be returned to the permittee by the Village, upon written request for said withdrawal to the Village, provided that any withdrawal does not reduce the Security Fund below the minimum balance required in Subsection (c) of this Section.

(g) Closing and Return of Security Fund. Upon completion of the work authorized under the permit, the permittee will be entitled to the return of the Security Fund, or the portion thereof as remains on deposit, within a reasonable time after account is taken for all offsets necessary to compensate the Village for failure by the permittee to comply with any provisions of this Chapter or other applicable law. In the event of revocation of the permit, the Security Fund, and any and all accrued interest therein, will become the property of the Village automatically to the extent necessary to cover any reasonable costs, loss, or damage incurred by the Village as a result of the revocation, provided that any amounts in excess of said costs, loss, or damage will be refunded to the permittee.

(h) Rights Not Limited. The rights reserved to the Village with respect to the Security Fund are in addition to all other rights of the Village, whether reserved by this Chapter or otherwise authorized by law, and no action, proceeding, or exercise of right with respect to the Security Fund will affect any other right the Village may have. Notwithstanding the foregoing, the Village will not be entitled to a double monetary recovery with respect to any of its rights that may be infringed or otherwise violated.

§ 102.11 PERMIT SUSPENSION AND REVOCATION.

(a) Village Right to Revoke Permit. The Village may revoke or suspend a permit issued pursuant to this Chapter for one or more of the following reasons:

- 1) Fraudulent, false, misrepresenting, or materially incomplete statements in the permit application;
- 2) Non-compliance with this Chapter;

- 3) Permittee's physical presence or presence of permittee's facilities on, over, above, along, upon, under, across, or within the public rights-of-way presents a direct or imminent threat to the public health, safety, or welfare; or
- 4) Permittee's failure to construct the facilities substantially in accordance with the permit and approved plans.

(b) Notice of Revocation or Suspension. The Village will send written notice of its intent to revoke or suspend a permit issued pursuant to this Chapter stating the reason or reasons for the revocation or suspension and the alternatives available to permittee under this Section 102.11.

(c) Permittee Alternatives Upon Receipt of Notice of Revocation or Suspension. Upon receipt of a written notice of revocation or suspension from the Village, the permittee will have the following options:

- 1) Immediately provide the Village with evidence that no cause exists for the revocation or suspension;
- 2) Immediately correct, to the satisfaction of the Village, the deficiencies stated in the written notice, providing written proof of the correction to the Village within five working days after receipt of the written notice of revocation; or
- 3) Immediately remove the facilities located on, over, above, along, upon, under, across, or within the public rights-of-way and restore the rights-of-way to the satisfaction of the Village providing written proof of the removal to the Village within 10 days after receipt of the written notice of revocation.

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

(d) Stop Work Order. In addition to the issuance of a notice of revocation or suspension, the Village may issue a stop work order immediately on discovery of any of the reasons for revocation set forth within Subsection a) of this Section.

(e) Failure or Refusal of the Permittee to Comply. If the permittee fails to comply with the provisions of Subsection c) of this Section, the Village or its designee may, at the option of the Village: (1) correct the deficiencies; or (2) upon not less than 20 days' notice to the permittee, remove the subject facilities or equipment; or (3) after not less than 30 days' notice to the permittee of failure to cure the non-compliance, deem them abandoned and property of the Village. The permittee is liable in all events to the Village for all costs of removal.

§ 102.12 CHANGE OF OWNERSHIP OR OWNER'S IDENTITY OR LEGAL STATUS.

(a) Notification of Change. A utility must notify the Village no less than 30 days prior to the transfer of ownership of any facility in the right-of-way or change in identity of the utility. The new owner of the utility or the facility will have all the obligations and privileges enjoyed by the former owner under the permit, if any, and all applicable laws, ordinances, rules and regulations, including this Chapter and other relevant provisions of the Village Code, with respect to the work and facilities in the right-of-way.

(b) Amended Permit; Registration. A new owner must request that any current permit be amended to show current ownership. If the new owner fails to have a new or amended permit issued in its name, then the new owner will be presumed to have accepted, and agreed to be bound by, the terms and conditions of the permit if the new owner uses the facility or allows it to remain on the Village's right-of-way. The new owner must register as required under Section 102.03 of this Chapter.

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

§ 102.13 GENERAL CONSTRUCTION STANDARDS.

(a) Standards and Principles. All construction in the right-of-way must comply with the Village Code and all other applicable ordinances, codes, laws rules and regulations, and commonly recognized and accepted traffic control and construction principles, sound engineering judgment and, where applicable, the principles and standards set forth in the following IDOT publications and this Code as they are amended from time to time:

- 1) Standard Specifications for Road and Bridge Construction;
- 2) Supplemental Specifications and Recurring Special Provisions;
- 3) Highway Design Manual;
- 4) Highway Standards Manual;
- 5) Standard Specifications for Traffic Control Items;
- 6) Illinois Manual on Uniform Traffic Control Devices (92 Ill. Adm. Code § 545);
- 7) Flagger's Handbook;
- 8) Work Site Protection Manual for Daylight Maintenance Operations; and
- 9) Title 9 of this Code.

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

§ 102.14 TRAFFIC CONTROL.

(a) Minimum Requirements. The Village's minimum requirements for traffic protection are contained in IDOT's Illinois Manual on Uniform Traffic Control Devices and this Code.

(b) Warning Signs, Protective Devices, and Flaggers. The utility is responsible for providing and installing warning signs, protective devices and flaggers, when necessary, meeting all applicable federal, state, and local requirements for protection of the public and the utility's workers when performing any work on the public rights-of-way.

(c) Interference with Traffic. All work must be phased so that there is minimum interference with pedestrian and vehicular traffic.

(d) Notice When Access is Blocked. At least 48 hours prior to beginning work that will partially or completely block access to any residence, business or institution, the utility must notify the resident, business or institution of the approximate beginning time and duration of the work, except that, that in cases involving emergency repairs pursuant to Section 102.20 of this Chapter, the utility must provide the notice as quickly as possible under the circumstances.

(e) Compliance. The utility must take immediate action to correct any deficiencies in traffic protection requirements that are brought to the utility's attention by the Village.

§ 102.15 LOCATION OF FACILITIES.

(a) General Requirements. In addition to location requirements applicable to specific types of utility facilities, all utility facilities, regardless of type, are subject to the general location requirements of this subsection.

- 1) No Interference with Village Facilities. No utility facilities may be placed in any location if the Director determines that the proposed location will require the relocation or displacement of any of the Village's utility facilities or will otherwise interfere with the operation or maintenance of any of the Village's utility facilities.
 - 2) Minimum Interference and Impact. The proposed location may cause only the minimum possible interference with the use of the right-of-way and may cause only the minimum possible impact upon, and interference with, the rights and reasonable convenience of property owners who adjoin said right-of-way.
 - 3) No Interference with Travel. No utility facility may be placed in any location that interferes with the usual travel on that right-of-way.
 - 4) No Limitations on Visibility. No utility facility may be placed in any location so as to limit visibility of or by users of the right-of-way.
 - 5) Size of Utility Facilities. The proposed installation must use the smallest suitable vaults, boxes, equipment enclosures, power pedestals, and/or cabinets then in use by the facility owner, regardless of location, for the particular application.
 - 6) Small Wireless Facilities. See Section 102-21 of this Chapter for requirements related to small wireless facilities.
- (b) Parallel Facilities Located Within Highways.
- 1) Overhead Parallel Facilities. An overhead parallel facility may be located within the right-of-way lines of a highway only if:
 - i) Lines are located as near as practicable to the right-of-way line and as nearly parallel to the right-of-way line as reasonable pole alignment will permit;

- ii) Where pavement is curbed, poles are as remote as practicable from the curb with a minimum distance of two feet (0.6 m) behind the face of the curb, where available;
 - iii) Where pavement is uncurbed, poles are as remote from pavement edge as practicable with minimum distance of four feet (1.2 m) outside the outer shoulder line of the roadway and are not within the clear zone;
 - iv) No pole is located in the ditch line of a highway; and
 - v) Any ground-mounted appurtenance is located within one foot (0.3 m) of the right-of-way line or as near as possible to the right-of-way line.
- 2) Underground Parallel Facilities. An underground parallel facility may be located within the right-of-way lines of a highway only if:
- i) The facility is located as near the right-of-way line as practicable and not more than eight feet (2.4 m) from and parallel to the right-of-way line;
 - ii) A new facility may be located under the paved portion of a highway only if other locations are impracticable or inconsistent with sound engineering judgment (e.g., a new cable may be installed in existing conduit without disrupting the pavement); and
 - iii) In the case of an underground power or communications line, the facility must be located as near the right-of-way line as practicable and not more than five feet (1.5 m) from the right-of-way line and any above-grounded appurtenance must be located within one foot (0.3 m) of the right-of-way line or as near as practicable.
- (c) Facilities Crossing Highways.
- 1) No Future Disruption. The construction and design of crossing facilities installed between the ditch lines or curb lines of Village highways may require the incorporation of materials and protections (such as encasement or additional cover) to avoid settlement or future repairs to the roadbed resulting from the installation of the crossing facilities.
 - 2) Cattle Passes, Culverts, or Drainage Facilities. Crossing facilities may not be located in cattle passes, culverts, or drainage facilities.
 - 3) 90 Degree Crossing Required. Crossing facilities must cross at or as near to a 90-degree angle to the centerline as practicable.
 - 4) Overhead Power or Communication Facility. An overhead power or communication facility may cross a highway only if:
 - i) It has a minimum vertical line clearance as required by ILCC's rules titled, "Construction of Electric Power and Communication Lines" (83 Ill. Adm. Code 305);

- ii) Poles are located within one foot (0.3 m) of the right-of-way line of the highway and outside of the clear zone; and
 - iii) Overhead crossings at major intersections are avoided.
- 5) Underground Power or Communication Facility. An underground power or communication facility may cross a highway only if:
- i) The design materials and construction methods will provide maximum maintenance-free service life; and
 - ii) Capacity for the utility's foreseeable future expansion needs is provided in the initial installation.
- 6) Markers. The Village may require the utility to provide a marker at each right-of-way line where an underground facility other than a power or communication facility crosses a highway. Each marker must identify the type of facility, the utility, and an emergency telephone number. Markers may also be eliminated as provided in current federal regulations. (49 C.F.R. 192.707 (1989)).
- (d) Facilities to be Located Within Particular Rights-of-Way. The Village may require that facilities be located within particular rights-of-way that are not highways, rather than within particular highways.
- (e) Freestanding Facilities.
- 1) The Village may restrict the location and size of any freestanding facility located within a right-of-way.
 - 2) The Village may require any above-ground equipment or facility located within a public right-of-way to be reasonably screened from view with shrubbery or other reasonable plant elements of a value not exceeding \$2,000.
- (f) Facilities Installed Above Ground. Above ground facilities may be installed only if:
- 1) No other existing facilities in the area are located underground;
 - 2) New underground installation is not technically feasible; and
 - 3) The proposed installation will be made at a location, and will employ suitable design and materials, to provide the greatest protection of aesthetic qualities of the area being traversed without adversely affecting safety. Suitable designs include, but are not limited to, self-supporting armless, single-pole construction with vertical configuration of conductors and cable. Existing utility poles and light standards must be used wherever practicable; the installation of additional utility poles is strongly discouraged.
- (g) Facility Attachments to Bridges or Roadway Structures.
- 1) Facilities may be installed as attachments to bridges or roadway structures only where the utility has demonstrated that all other means of accommodating the

facility are not practicable. Other means include, without limitation, underground, underwater, independent poles, cable supports and tower supports, all of which are completely separated from the bridge or roadway structure. Facilities transmitting commodities that are volatile, flammable, corrosive, or energized, especially those under significant pressure or potential, present high degrees of risk and are not permitted.

- 2) A utility must include in its request to accommodate a facility installation on a bridge or roadway structure supporting data demonstrating the impracticability of alternate routing. Approval or disapproval of an application for facility attachment to a bridge or roadway structure will be based upon the following considerations:
 - i) The type, volume, pressure or voltage of the commodity to be transmitted and an evaluation of the resulting risk to persons and property in the event of damage to or failure of the facility;
 - ii) The type, length, value, and relative importance of the highway structure in the transportation system;
 - iii) The alternative routings available to the utility and their comparative practicability;
 - iv) The proposed method of attachment;
 - v) The ability of the structure to bear the increased load of the proposed facility;
 - vi) The degree of interference with bridge maintenance and painting;
 - vii) The effect on the visual quality of the structure; and
 - viii) The public benefit expected from the utility service as compared to the risk involved.
- (h) Appearance Standards.
 - 1) The Village may prohibit the installation of facilities in particular locations in order to preserve visual quality.
 - 2) A facility may be constructed only if its construction does not require extensive removal or alteration of trees or terrain features visible to the right-of-way user or to adjacent residents and property owners, and if it does not impair the aesthetic quality of the lands being traversed.

§ 102.16 CONSTRUCTION METHODS AND MATERIALS.

- (a) Standards and Requirements for Particular Types of Construction Methods.
 - 1) Boring or Jacking.

- i) Pits and Shoring. Boring or jacking under rights-of-way must be accomplished from pits located at a minimum distance specified by the Director from the edge of the pavement. Pits for boring or jacking must be excavated no more than 48 hours in advance of boring or jacking operations and backfilled within 48 hours after boring or jacking operations are completed. While pits are open, they must be clearly marked and protected by barricades. Shoring must be designed, erected, supported, braced, and maintained so that it will safely support all vertical and lateral loads that may be imposed upon it during the boring or jacking operation.
 - ii) Wet Boring or Jetting. Wet boring or jetting is not be permitted under the roadway.
 - iii) Borings with Diameters Greater Than Six Inches. Borings greater than six inches (0.15 m) in diameter must be accomplished with an auger and following pipe, and the diameter of the auger may not exceed the outside diameter of the following pipe by more than one inch (25 mm).
 - iv) Borings with Diameters Six Inches or Less. Borings of six inches or less in diameter may be accomplished by either jacking, guided with auger, or auger and following pipe method.
 - v) Tree Preservation. Any facility located within the drip line of any tree designated by the Village to be preserved or protected must comply with the requirements of Chapter 100 of Title IX of this Code.
- 2) Trenching. Trenching for facility installation, repair, or maintenance on rights-of-way must be done in accord with the applicable portions of Section 603 of IDOT's "Standard Specifications for Road and Bridge Construction."
- i) Length. The length of open trench must be kept to the practicable minimum consistent with requirements for pipe-line testing. Only one-half of any intersection may have an open trench at any time unless special permission is obtained from the Director.
 - ii) Open Trench and Excavated Material. Open trench and windrowed excavated material must be protected as required by Chapter 6 of the Illinois Manual on Uniform Traffic Control Devices. Where practicable, the excavated material must be deposited between the roadway and the trench as added protection. Excavated material may not remain on the paved portion of the roadway. Where right-of-way width does not allow for windrowing excavated material off the paved portion of the roadway, excavated material must be hauled to an off-road location.
 - iii) Drip Line of Trees. The utility may not trench within the drip line of any tree designated by the Village to be preserved.
- 3) Backfilling.
- i) Any pit, trench, or excavation created during the installation of facilities must be backfilled for its full width, depth, and length using methods and

materials in accordance with IDOT's "Standard Specifications for Road and Bridge Construction." When excavated material is hauled away or is unsuitable for backfill, suitable granular backfill must be used.

- ii) For a period of three years after the date construction of a facility is completed, the utility will remain responsible to remove and restore any backfilled area that has settled due to construction of the facility. If so ordered by the Director, the utility, at its expense, must remove any pavement and backfill material to the top of the installed facility, place and properly compact new backfill material, and restore new pavement, sidewalk, curbs, and driveways to the proper grades, as determined by the Director.
- 4) Pavement Cuts. Pavement cuts for facility installation or repair is permitted on a highway only if that portion of the highway is closed to traffic. If a variance to the limitation set forth in this paragraph 4) is permitted under Section 30-92, the following requirements will apply:
- i) Any excavation under pavements must be backfilled and compacted as soon as practicable with granular material of CA-6 or CA-10 gradation, as designated by the Director.
 - ii) Restoration of pavement, in kind, must be accomplished as soon as practicable, and temporary repair with bituminous mixture must be provided immediately. Any subsequent failure of either the temporary repair or the restoration must be rebuilt on notification by the Village.
 - iii) All saw cuts must be full depth.
 - iv) For all rights-of-way that have been reconstructed with a concrete surface/base in the last seven years, or resurfaced in the last three years, permits will not be issued unless the work is determined to be an emergency repair or other work considered necessary and unforeseen before the time of the reconstruction or unless a pavement cut is necessary for a JULIE locate.
- 5) Encasement.
- i) Casing pipe must be designed to withstand the load of the highway and any other superimposed loads. The casing must be continuous either by one-piece fabrication or by welding or jointed installation approved by the Village.
 - ii) The venting, if any, of any encasement must extend within one foot (0.3 m) of the right-of-way line. No above-ground vent pipes may be located in the area established as clear zone for that particular section of the highway.
 - iii) In the case of water main or service crossing, encasement must be furnished between bore pits unless continuous pipe or Village approved jointed pipe is used under the roadway. Casing may be omitted only if pipe is installed prior to highway construction and carrier pipe is continuous or

mechanical joints are of a type approved by the Village. Bell and spigot type pipe must be encased regardless of installation method.

- iv) In the case of gas pipelines of 60 psig or less, encasement may be eliminated.
- v) In the case of gas pipelines or petroleum products pipelines with installations of more than 60 psig, encasement may be eliminated only if: (1) extra heavy pipe is used that precludes future maintenance or repair and (2) cathodic protection of the pipe is provided;
- vi) If encasement is eliminated for a gas or petroleum products pipeline, the facility must be located so as to provide that construction does not disrupt the right-of-way.

6) Minimum Cover of Underground Facilities. Cover must be provided and maintained at least in the amount specified in the following table for minimum cover for the type of facility:

TYPE OF FACILITY	MINIMUM COVER
Electric Lines	30 Inches (0.8 m)
Communication, Cable or Video Service Lines	24 Inches (0.6 m)
Gas or Petroleum Products	30 Inches (0.8 m)
Water Line	Sufficient Cover to Provide Freeze Protection
Sanitary Sewer, Storm Sewer, or Drainage Line	Sufficient Cover to Provide Freeze Protection

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

1) Electric Power or Communication Lines.

- i) Code Compliance. Electric power or communications facilities within Village rights-of-way must be constructed, operated, and maintained in conformity with the provisions of 83 Ill. Adm. Code 305 (formerly General Order 160 of the Illinois Commerce Commission) titled “Rules for Construction of Electric Power and Communications Lines,” and the National Electrical Safety Code.
- ii) Overhead Facilities. Overhead power or communication facilities must use single pole construction and, where practicable, joint use of poles must be used. Utilities must make every reasonable effort to design the installation so guys and braces will not be needed. Variances may be allowed if there is no feasible alternative and if guy wires are equipped with guy guards for maximum visibility.

- iii) Underground Facilities. (1) Cable may be installed by trenching or plowing, provided that special consideration is given to boring in order to minimize damage when crossing improved entrances and side roads. (2) If a crossing is installed by boring or jacking, encasement must be provided between jacking or bore pits. Encasement may be eliminated only if: (a) the crossing is installed by the use of “moles,” “whip augers,” or other approved method which compress the earth to make the opening for cable installation or (b) the installation is by the open trench method which is only permitted prior to roadway construction. (3) Cable must be grounded in accordance with the National Electrical Safety Code.
 - iv) Burial of Drops. All temporary service drops placed between November 1 of the prior year and March 15 of the current year, also known as snowdrops, must be buried by May 31 of the current year, weather permitting, unless otherwise permitted by the Village. Weather permitting, utilities must bury all temporary drops, excluding snowdrops, within 10 business days after placement.
- 2) Underground Facilities Other than Electric Power or Communication Lines. Underground facilities other than electric power or communication lines may be installed by:
- i) the use of “moles,” “whip augers,” or other approved methods which compress the earth to move the opening for the pipe;
 - ii) jacking or boring with vented encasement provided between the ditch lines or toes of slopes of the highway;
 - iii) open trench with vented encasement between ultimate ditch lines or toes of slopes, but only if prior to roadway construction; or
 - iv) tunneling with vented encasement, but only if installation is not possible by other means.
- 3) Gas Transmission, Distribution and Service. Gas pipelines within rights-of-way must be constructed, maintained, and operated in a Village approved manner and in conformance with the Federal Code of the Office of Pipeline Safety Operations, Department of Transportation, Part 192 – Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards (49 CFR 192), IDOT’s “Standard Specifications for Road and Bridge Construction,” and all other applicable laws, rules, and regulations.
- 4) Petroleum Products Pipelines. Petroleum products pipelines within rights-of-way must conform to the applicable sections of ANSI Standard Code for Pressure Piping. (Liquid Petroleum Transportation Piping Systems ANSI-B 31.4).
- 5) Waterlines, Sanitary Sewer Lines, Storm Water Sewer Lines or Drainage Lines. Water lines, sanitary sewer lines, storm sewer lines, and drainage lines within rights-of-way must meet or exceed the recommendations of the current “Standard Specifications for Water and Sewer Main Construction in Illinois.”

- 6) Ground Mounted Appurtenances. Ground mounted appurtenances to overhead or underground facilities, when permitted within a right-of-way, must be provided with a vegetation-free area extending one foot (305 mm) in width beyond the appurtenance in all directions. The vegetation-free area may be provided by an extension of the mounting pad, or by heavy duty plastic or similar material approved by the Director. With the approval of the Director, shrubbery surrounding the appurtenance may be used in place of vegetation-free area. The housing for ground-mounted appurtenances must be painted a neutral color to blend with the surroundings.
- (c) Materials.
 - 1) General Standards. The materials used in constructing facilities within rights-of-way must be those meeting the accepted standards of the appropriate industry, the applicable portions of IDOT's "Standards Specifications for Road and Bridge Construction," the requirements of the Illinois Commerce Commission, or the standards established by other official regulatory agencies for the appropriate industry.
 - 2) Material Storage on Right-of-Way. No material may be stored on the right-of-way without the prior written approval of the Director. When storage is permitted, all pipe, conduit, wire, poles, cross arms, or other materials must be distributed along the right-of-way prior to and during installation in a manner to minimize hazards to the public or an obstacle to right-of-way maintenance or damage to the right-of-way and other property. If material is to be stored on right-of-way, prior approval must be obtained from the Village.
 - 3) Hazardous Materials. The plans submitted by the utility to the Village must identify any hazardous materials that may be involved in the construction of the new facilities or removal of any existing facilities.
- (d) Operational Restrictions.
 - 1) Construction operations on rights-of-way may, at the discretion of the Village, be required to be discontinued when the operations would create hazards to traffic or the public health, safety, and welfare. Those operations also may be required to be discontinued or restricted when conditions are such that construction would result in extensive damage to the right-of-way or other property.
 - 2) These restrictions may be waived by the Director when emergency work is required to restore vital utility services.
 - 3) Unless otherwise permitted by the Village, the hours of construction are those set forth in applicable chapters of this Code.
- (e) Location of Existing Facilities. Any utility proposing to construct facilities in the Village must contact JULIE and ascertain the presence and location of existing above-ground and underground facilities within the rights-of-way to be occupied by its proposed facilities. The Village will make its permit records available to a utility for the purpose of identifying possible facilities. When notified of an excavation or when requested by the Village or by JULIE, a utility

must locate and physically mark its underground facilities within 48 hours, excluding weekends and holidays, in accordance with the Illinois Underground Facilities Damage Prevention Act (220 ILCS 50/1 *et seq.*)

§ 102.17 TREES; VEGETATION CONTROL.

(a) Compliance with Tree and Vegetation Protection. All work pursuant to this Chapter is be subject to the tree preservation requirements of Chapter 100 of Title IX of this Code, the Tree Preservation and Tree Protection Policy, and the provisions of this Chapter.

(b) Chemical Use. Spraying of any type of brush-killing chemicals will not be permitted on rights-of-way unless the utility demonstrates to the satisfaction of the Director that the spraying is the only practicable method of vegetation control.

(c) No Damage, Blocking, or Trimming. No installation or facility may be constructed in a manner that would threaten, damage, injure, or block a tree without prior written consent from the Director. No tree may be trimmed without the prior written consent of the Director. The provisions of the Village's Tree Preservation and Tree Protection Policy apply to all trees in and adjacent to rights-of-way.

§ 102.18 REMOVAL, RELOCATION, OR MODIFICATIONS OF UTILITY FACILITIES.

(a) Notice. Within 90 days after written notice from the Village, a utility must, at its own expense, protect, support, temporarily or permanently disconnect remove, relocate, change or alter the position of any utility facilities within the rights-of-way whenever the corporate authorities have determined that the removal, relocation, change or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any Village improvement in or upon, or the operations of the Village in or upon, the rights-of-way.

(b) Removal of Unauthorized Facilities. Within 30 days after written notice from the Village, any utility that owns, controls, or maintains any unauthorized facility or related appurtenances within the public rights-of-way must, at its own expense, remove all or any part of the facilities or appurtenances from the public rights-of-way. A facility is unauthorized and subject to removal in the following circumstances:

- 1) Upon expiration or termination of the permittee's license or franchise, unless otherwise permitted by applicable law;
- 2) If the facility was constructed or installed without the prior grant of a license or franchise, if required;
- 3) If the facility was constructed or installed without prior issuance of a required permit in violation of this Chapter; or
- 4) If the facility was constructed or installed at a location not permitted by the permittee's license or franchise.

(c) Emergency Removal or Relocation of Facilities. The Village retains the right and privilege to cut or move any facilities located within the rights-of-way of the Village, as the Village may determine to be necessary, appropriate or useful in response to any public health or safety

emergency. If circumstances permit, the Village will attempt to notify the utility, if known, prior to cutting or removing a facility and will notify the utility, if known, after cutting or removing a facility.

(d) Abandonment of Facilities. Upon abandonment of a facility within the public rights-of-way of the Village, the utility must notify the Village within 90 days. Following receipt of that notice the Village may direct the utility to remove all or any portion of the facility if the Director determines will be in the best interest of the public health, safety and welfare. In the event that the Village does not direct the utility that abandoned the facility to remove it, by giving notice of abandonment to the Village, the abandoning utility will be deemed to consent to the alteration or removal of all or any portion of the facility by another utility or person.

§ 102.19 CLEANUP AND RESTORATION.

The utility must remove all excess material and restore all turf and terrain and other property within five (5) days after any portion of the rights-of-way are disturbed, damaged or destroyed due to construction or maintenance by the utility, all to the satisfaction of the Village. This includes restoration of entrances and side roads. Restoration of roadway surfaces must be made using materials and methods approved by the Director. The 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. The time period provided in this Section may be extended by the Director for good cause shown.

§ 102.20 MAINTENANCE AND EMERGENCY MAINTENANCE.

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

(b) Emergency Maintenance Procedures. Emergencies may justify non-compliance with normal procedures for securing a permit:

- 1) If an emergency creates a hazard on the traveled portion of the right-of-way, the utility must take immediate steps to provide all necessary protection for traffic on the highway or the public on the right-of-way including the use of signs, lights, barricades or flaggers. If a hazard does not exist on the traveled way, but the emergency requires the parking on the shoulder of equipment required in repair operations, adequate signs and lights must be provided. Parking on the shoulder in such an emergency will be permitted only when no other means of access to the facility is available.
- 2) In an emergency, the utility must, as soon as possible, notify the Director of the emergency, informing the Director as to what steps have been taken for protection of the traveling public and what will be required to make the necessary repairs. If the emergency may interfere with the free movement of traffic, then Village police will be notified.
- 3) In an emergency, the utility must use all means at hand to complete repairs as rapidly as practicable and with the least inconvenience to the traveling public.

(c) Emergency Repairs. The utility must file in writing with the Village of a description of the repairs undertaken in the right-of-way within 48 hours after an emergency repair.

§ 102.21 SMALL WIRELESS FACILITIES.

(a) Purpose; Application. The purpose of this Section is to establish standards, in addition to the generally applicable standards stated above in this Chapter, for the location, installation, and maintenance of small wireless facilities in compliance with the Illinois Small Wireless Facilities Deployment Act and Village standards. The provisions of this Section govern small wireless facilities except only in the event of a direct conflict between this Section and (1) a federal law or regulation, (2) the Illinois Small Wireless Facilities Deployment Act, (3) other provisions of this Chapter, or (4) provisions of the Zoning Code.

(b) Definitions. The definitions in this subsection are in addition to the definitions in Section 102.02 of this Chapter. In the event of a conflict between definitions, the definition in this Subsection (b) will apply and control. Capitalized words or phrases in this Section that are not defined in this Subsection (b) have the meanings ascribed to them in the Illinois Small Wireless Facilities Deployment Act. The following words and phrases have the meanings ascribed to them:

“SWF” means a small wireless facility.

“SWF Act” means the Illinois Small Wireless Facilities Deployment Act.

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

“Wireless Facility” means 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 the structure or improvements on, under, or within which the equipment is Collocated or wireline backhaul facilities, coaxial or fiber optic cable that is between wireless support structures or utility poles or coaxial, or fiber optic cable that is otherwise not immediately adjacent to or directly associated with an antenna.

“Wireless Infrastructure Provider” means any entity 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.

“Wireless provider” means a Wireless Infrastructure Provider or a Wireless Services Provider.

“Wireless Services” means 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, using wireless facilities.

“Wireless Services Provider” means an entity that provides wireless services.

“Zoning Code” means the La Grange Zoning Code.

(c) Permit Required. No SWF may be installed within the Village unless a permit is first obtained in accordance with the provisions of this Chapter.

(d) Permit Application. All applicants for a permit to install an SWF within the Village must submit a written permit application to the Director by personal delivery, on a form provided by the Village. The application may include up to 25 SWFs so long as the application meets all requirements of this Code and the standards set forth in Section 15 of the SWF Act. The permit application must include the following information and any other information requested by the Director, if and as provided by applicable law:

- 1) **Contact Information.** The names and contact information of the Wireless Services Provider, the Wireless Infrastructure Provider if any, and any known or potential users of the SWF or SWFs.
- 2) **Description.** A description and depiction of each of the Wireless Services Provider's existing SWFs located within the Village.
- 3) **Location, Photographs.** The proposed location of each proposed SWF, digital photographs of the location and its surroundings, depictions of the poles or structures on which each proposed SWF would be mounted, and a digital photograph simulation of the property location after the SWF is installed.
- 4) **Specifications, Drawings.** Specifications and drawings prepared by a licensed professional engineer for each proposed SWF as it is proposed to be installed, with a certification that each SWF complies with all applicable size and location standards.
- 5) **Structural Analysis.** A site-specific structural analysis of each location by a licensed, structural engineer that examines the acceptability of the site for factors such as pole loading from existing utility equipment and conductors as well as the SWF.
- 6) **Equipment, Model Numbers.** The equipment type and model numbers proposed for the antennas and all other wireless equipment associated with each proposed SWF. All proposed equipment must have, to the fullest extent possible, the smallest visual profile.
- 7) **Number, Map.** The total number of SWFs the Wireless Services Provider estimates it will seek to install within the Village within three years after the completion of installation of the first SWF; the total overall number of SWFs the Wireless Services Provider anticipates it will seek to install within the Village; and a map depicting all of the locations for all of the proposed and anticipated SWFs. The map must include the geographic area which each SWF will serve.
- 8) **Schedule.** A proposed schedule for the installation and completion of each proposed SWF.
- 9) **Proof of Insurance.** Proof of insurance coverage of the types and amount set forth in this Chapter.

- 10) Certification of SWF Act Compliance. A certification from a qualified engineer that the proposed SWF complies with Subsection 15(d)(6) of the SWF Act and this Subsection, is in compliance with applicable FCC orders, rules, and regulations relative to radio frequency emissions, as well as technical data, such as the frequencies in use, power output levels and antenna specifications, reasonably necessary to evaluate compliance with maximum permissible exposure levels set by the FCC, as well as a monitoring plan for each of the applicant's facilities capable of tracking and recording the daily amount of levels of radio frequency emissions produced by the equipment, in order to verify on an ongoing basis that the small wireless facility will not exceed applicable FCC radio frequency emissions or interfere with public safety communications.
 - 11) Noise Levels. A written report from a qualified engineer that analyzes sound level for each SWF and each component of the facility, including without limitation pumps, permanent backup power generators, and other equipment. The SWF must comply with the noise standards in Chapter 97 of the Village Code.
 - 12) Environmental Assessment. A copy of an environmental assessment review or report pursuant to the National Environmental Policy Act (NEPA) or any related rule or guidance, that establishes the compliance of the SWF to applicable federal standards or that the SWF is by rule exempt from that NEPA standard.
 - 13) Proof of Registration, Permit. A copy of the permit application as provided in under Sections 102.03 and 102.04 of this Chapter.
 - 14) Application Fees. An application fee of (a) \$650.00 for a single SWF, or (b) \$350.00 for each proposed SWF if the application includes two or more SWFs, or (c) \$1,000 for each SWF that includes the installation of a new Utility Pole.
 - 15) Owner, Co-Owner Certification. A certification from the owner or co-owner of the Utility Pole or Wireless Support Structure that the owner or co-owner has approved installation of an SWF on the Utility Pole or Wireless Support Structure.
 - 16) Notice. A notice prepared by the applicant, and approved by the Village, to be sent by the applicant to all owners of property located within 250 feet in any direction from the proposed SWF, stating and depicting the location of the proposed SWF, the facility on which the SWF will be mounted, the total height of the facility, and any information provided by the Village. The applicant must provide the Village a list of the addresses to which a notice will be sent.
 - 17) Permits. A copy of each applicable permit, license, and approval required by the FCC and any other federal or State entity with jurisdiction.
 - 18) A certification from the owner or co-owner of the Utility Pole or Wireless Support Structure that the proposed SWFs comply with the tree preservation requirements of Chapter 100 and 102 of Title IX of the Village Code and the Village Tree Preservation and Tree Protection Policy.
- (e) Review of Application. Applications will be reviewed in accordance with the following process, except that the Director may alter the review process for an application as appropriate based on the elements of that application.

- 1) **Determination of Completeness.** Within 30 days after an application is filed, the Director will determine whether the application is complete. The Director will notify the applicant of the Director determination. If an application is not complete, then the Director will identify the missing information.
- 2) **Processing Time Period.** The Director will process a complete application within 90 days, except that a complete application that includes Collocation of an SWF on a new Utility Pole will be processed within 120 days. All time periods are subject to tolling if an application is incomplete.
- 3) **Approvals, Permits.** The Director will approve an application and issue a permit if it meets all requirements of the SWF Act, the standards in this Chapter 102 and elsewhere within the Village Code, and all other applicable standards and requirements. The Wireless Provider must provide all reports, plans, and other documents and data necessary for the Village to determine conformance of the SWF. No plans or other documents may be modified without the prior approval of the Director. A permit is valid for five years. When the permit expires, the Village will renew the permit except if the Village determines the SWF does not conform to applicable federal, State, or local code or regulations.
- 4) **Denial.** The Director will deny an application that does not meet all requirements of the SWF Act, the standards in this Chapter 102 and elsewhere within the Village Code, and all other applicable standards and requirements of the Village Code. The Director will notify the applicant of the denial and the reason or reasons for the denial.

(f) Guidance on SWF Locations. Based on various factors including but not limited to public safety; existing Utility Poles and Wireless Facilities; compliance with standards applicable to trees in Sections 102.15, 102.16, and 102.17, existing infrastructure, and other potential adverse impacts, the applicant must consider, for each SWF, the following locations, with the items listed from most preferable to least preferable:

- 1) Existing Structures intended for wireless antennas or buildings owned by public utilities
- 2) Public Utilities' Poles. Utility poles owned or maintained by ComEd or another public utility.
- 3) Village Light Poles. Village-owned light poles specifically designed to accommodate SWFs (i) within arterial rights-of-way with ground-mounted equipment or integrated equipment as required by the Village; (ii) new light poles with ground-mounted equipment or integrated equipment as required by the Village. See also Subsection (g) of this Section below.
- 4) Village Utility Poles. Village-owned Utility Poles other than light poles or standards (whether existing or to be installed) in the following order of priority: (i) within an arterial street right-of-way, (ii) within a parking lot or on other property related to a governmental or institutional use, and (iii) within a collector street right-of-way.

- 5) Privately Owned Poles. Privately-owned Utility Poles, but only in locations approved by the Village.
- 6) Other Village Light Poles. Village-owned light poles or standards (whether existing or to be installed) in the following priority: (i) within an arterial street right-of-way, (ii) within a parking lot or on other property related to a governmental or institutional use, and (iii) within a collector street right-of-way.
- 7) Other Poles. Utility Poles, regardless of ownership, located in a rear yard (or abutting easement) of any residential dwelling.

(g) Design, Aesthetics, Stealth, and Concealment Poles. SWF's must comply with the Village's "Guidelines for Design, Aesthetic, Stealth, and Concealment for Small Wireless Facilities and Support Structures" (the "Guidelines") as maintained by the Director. In the event of inconsistency between this Chapter and the Guidelines, the Guidelines will apply unless determined otherwise by the Director. If the Director determines that an SWF proposed by the applicant would violate the Guidelines or would otherwise have an unduly adverse impact on the abutting area unless the SWF is Collocated on a decorative pole or is concealed, then the Director may require, as a condition of approval of that SWF, a decorative Utility Pole or a concealment pole, in accordance with the Guidelines. The Director or a designee may meet with the applicant to determine the plans for the SWF under that circumstance. If an agreement on plans cannot be reached, then the Director may deny the permit for that proposed SWF.

(h) Prohibited Locations. SWFs are prohibited at the following locations except as otherwise required by applicable law:

- 1) Residential Property. On any property classified in a residential district under the Village's Zoning Code.
- 2) Private Property. On any privately-owned property except with the approval of the Village.
- 3) Government Property. On any property owned or controlled by a unit of local government that is not located within Rights-Of-Way, except with the permission of the local government and approval of the Village.
- 4) Poles with Equipment. On any Utility Pole that includes equipment such as capacitor banks, transformers, cable terminals, cable rises, fuses, or disconnects.
- 5) Obstructions. No SWF may impend or hinder standard pedestrian or vehicular traffic or obstruct legal use of any right-of-way. No SWF may be collocated on a pole that is designed for pedestrian lighting.
- 6) Trees. No SWF may be placed or operated in any manner that may damage or endanger a mature tree. See Sections 102.15, 102.16, and 102.17 of this Chapter and Title IX, Chapter 100 of the Village Code regarding Village standards related to trees.

(i) Size of Components. No element of an SWF may exceed six cubic feet in volume. To the extent commercially available, technically compatible with the local network, and already used in its national or regional wireless network system, the Wireless Provider is required to install

SWF antennas and other equipment that have the smallest profile. See the General Guidelines and Small Wireless Facility Design , Aesthetic, Stealth and Concealment Standards.

(j) Overall Height. No element of an SWF may extend above 45 feet above adjacent grade.

(k) Height Above Pole. No element of an SWF may extend more than 10 feet above a Utility Pole.

(l) New Utility Pole, Wireless Support Structure Height. A new Utility Pole intended for an SWF, or a new Wireless Support Structure, may not exceed a height of 45 feet. No SWF installed on a new Utility Pole or Wireless Support Structure may extend above that 45-foot height.

(m) New Utility Pole Location. No new Utility Pole may be constructed for an SWF within 100 feet of an existing Utility Pole that the applicant may use on reasonable terms and conditions and without undue technical limits or undue additional costs. At any time an application is filed seeking a new utility pole, the Director may propose an existing utility pole or other support structure generally within 100 feet of the proposed location. The applicant must accept the alternative if the applicant has the right to use the alternate location under reasonable terms. To disapprove, the applicant must present written, detailed proof that the terms are not reasonable.

(n) Color. Antennas and equipment cabinets must be in colors harmonious with, and that generally blend into, the surroundings.

(o) Mounting Strength. The strength and sufficiency of the support structure, and the mounting of the antenna and related equipment, must be verified and stamped by a licensed structural engineer on the drawing required under Subsection.

(p) Landscaping. The immediate area around any ground-mounted equipment or cabinets must be landscaped in a manner that largely screens the equipment and cabinets, as determined by the Village. If the Wireless Provider does not keep the landscaped area in good condition, then the Village may repair the affected area and charge the costs and expenses of the repair to the Wireless Provider.

(q) Guy Wires Prohibited. No guy wire or other support wires may be used in connection with an SWF antenna or its related equipment except for preexisting guy wires or other support wires on a preexisting Wireless Support Structure.

(r) Grounding: An SWF antenna and related structure must be bonded to a ground rod.

(s) Emergency Disconnection: An SWF antenna must have an emergency disconnect.

(t) IDOT, Cook County Approvals. The applicant must provide proof of concurrence of IDOT or Cook County for the use of traffic signals located on state or county roads.

(u) Lighting Prohibited. No SWF may be lighted unless required by the Federal Aviation Administration or other federal or state agency with jurisdiction and authority.

(v) Signs and Advertising Prohibited. Unless required by federal or state law, or by a rule of a federal or state regulatory agency with jurisdiction and authority, no markings, signs, or advertising of any kind may be placed on any SWF component except unobtrusive identification or location markings.

(w) Building Codes and Safety Standards. An SWF must meet or exceed (1) all requirements of the Village Code, (2) all other applicable local and state building codes and electrical codes, (3) and industry standards.

(x) Regulatory Compliance. Each SWF and Wireless Facility must meet or exceed current standards and regulations of the Federal Communications Commission, the Federal Aviation Administration, and any other federal or state agency with jurisdiction and authority.

(y) Misuse; Abandonment. Any SWF that has been used for a purpose other than its original purpose must be removed at the owner's expense on 60 days' notice from the Village. Any SWF that has been out of operation for any reason for a 12-month period will be deemed by the Village to be abandoned. The Wireless Provider must remove an abandoned SWF within 90 days after receipt of a notice of abandonment from the Village.

(z) Rates and Fees for Use of Village Utility Pole. The Village will set and charge nondiscriminatory rates and fees for Collocation on Village Utility Poles. The Village will keep a written schedule of rates and fees in the office of the Village Clerk.

(aa) Annual Rate. In addition to the rates and fees for Collocation, each Wireless Services Provider must pay an annual fee of \$200 for each SWF located on a Village Utility Pole in Right-Of-Way or the actual, direct, and reasonable costs related to the Wireless Provider's use of space on the Village's Utility Pole and an annual fee of \$3,600 for each SWF on Village property not located in Right-Of-Way.

(bb) Operating Agreement. Prior to commencement of SWF construction on a Village-owned Utility Pole, the owner must develop an operating agreement satisfactory to the Director. The agreement must include protocols for emergency response and for maintenance of the Utility Pole and include emergency contacts, a contact for public inquires, the utility billing address, and the legal address of the Wireless Services Provider.

(cc) Utility Worker Safety. Prior to the commencement of SWF construction, the Wireless Provider must provide the Village, in written form, with any required safety precautions for individuals working on or near the SWF. If refresher training, personal protective equipment, or tools are required for safety purposes related to an SWF Collocated on a Village Utility Pole, then the Wireless Services Provider must reimburse the Village for all of its actual costs of those elements.

(dd) SWF Equipment Replacement. The Wireless Provider must notify the Village at least 10 days prior to a planned equipment replacement and provide the equipment specifications. The replacement equipment must be substantially similar to, or smaller than, the original installation. The applicant must provide all information required for an initial application if any element of the replacement equipment is not substantially similar to the original installation.

(ee) Right-Of-Way Permit. The Wireless Provider must secure a permit for any activities in the right-of-way that affect traffic patterns or require lane closures.

- (ff) General Standards.
- 1) No Interference. Every Wireless Provider's operation of a Wireless Facility must not interfere with the frequencies used by any public safety agency for public safety communications. The Wireless Provider must install SWFs of the type and frequency that will not cause interference with any 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. The Wireless Provider must perform periodic monitoring of its Wireless Facility to assure compliance with applicable standards and must certify to the Village not less often than annually that all of the Wireless Facilities are operating in compliance with all FCC radio frequency emission limits and public safety standards. The Director may require an interim certification for a particular Wireless Facility at any time the Director determines is necessary. The Director also may cause a qualified radio frequency engineer to conduct an unannounced test of any Wireless Facility for the purpose of determining compliance. Any noncompliance must be reported immediately by the Wireless Provider to the FCC, with a copy of that report sent simultaneously to the Director. In the event a Wireless Facility is determined to be out of compliance, that Wireless Facility must be powered down and taken out of service within three days after the determination.
 - 2) Curing Interference. If an SWF causes interference and the Wireless Provider has been given written notice of the interference by the Village or public safety agency, then the Wireless Provider, at its expense, must take all reasonable steps necessary to correct and eliminate the interference, including without limitation powering down the SWF. The Village may terminate a permit for a SWF based on interference if the Wireless Provider is not making a good faith effort to remedy the problem in a manner consistent with the abatement and resolution procedures for interference with public safety spectrum established by the FCC including 47 CFR 22.970 through 47 CFR 22.973 and 47 CFR 90.672 through 47 CFR 90.675.
 - 3) Compliance with Contract Terms. Every Wireless Provider must comply with all requirements imposed by a contract between the Village and a private property owner that concern design or construction standards applicable to Utility Poles and to ground-mounted equipment located in Right-Of-Way.
 - 4) Spacing. Every Wireless Provider must comply with spacing requirements in this Section or any other applicable provisions of the Village Code concerning the location of ground-mounted equipment located in the Right-Of-Way. A Wireless Provider may apply for a variation of a spacing requirement.
 - 5) Undergrounding. Every Wireless Provider must comply with all Village codes and regulations regarding undergrounding of utilities and facilities and prohibitions on installation of new, or modification of existing, Utility Poles in a Right-Of-Way. A Wireless Provider may apply for a variation of an undergrounding requirement. If underground equipment is not feasible, as determined by the Director, then the utility may request a variance under Section 102.22 of this Chapter. If a variance is approved, then the Director may impose conditions on the variance related to above ground location, traffic disruption, traffic safety, interference with public right

of way, public safety, minimum spacing between above ground facilities, minimizing visual impacts, adverse impacts on historic areas, and similar standards in this Chapter.

- 6) **General Village Standards.** Every Wireless Provider must comply with generally applicable Village standards for construction and public safety in the Rights-Of-Way, including without limitation wiring and cabling requirements, grounding requirements, Utility Pole extension requirements, and sign restrictions. Every Wireless Provider must comply with all Village regulations applicable to the location, size, surface area and height of Wireless Facilities and the abandonment and removal of SWFs.
 - 7) **Poles for Electricity Distribution.** No Wireless Services Provider may Collocate a Wireless Facility on a Village Utility Pole that is part of an electricity distribution or transmission system within the communication worker safety zone of the Utility Pole or the electricity supply zone of the Utility Pole, except that the antenna and support equipment of the Wireless Facility may be located in the communications space on the Village's Utility Pole and on the top of the Utility Pole if no other Utility Pole is available and the Wireless Provider complies with applicable codes for work involving the top of the Utility Pole. The National Electric Safety Code applies to the provisions of this Subsection.
 - 8) **Public Safety Codes.** Every Wireless Provider must comply with all applicable State, County, and the Village Code that concern public safety.
 - 9) **Decorative, Stealth, Concealment Standards.** Every Wireless Provider must comply with the Village's generally applicable written standards for decorative Utility Poles, and the Village's generally applicable standards regarding stealth, concealment, and aesthetics, and the Village's design or concealment measures in a historic district or regarding a historic landmark.
 - 10) **Annual Certification.** A Wireless Provider must submit an affidavit to the Director annually stating: the location of each of its Wireless Facilities within the Village, that each Wireless Facility is operating within all applicable standards or is out of service, and that every Wireless Facility is insured.
 - 11) **Insurance.** Every Wireless Provider must maintain insurance as provided in Section 102.08 of this Chapter
 - 12) **Indemnification.** Every Wireless Provider must indemnify the Village as provided in Section 102.09 of this Chapter.
- (gg) **Installation and Maintenance of Wireless Facilities.** Each Wireless Provider must construct, install, and maintain all Wireless Facilities in accordance with the standards set forth in this Chapter.

§ 102.22 VARIANCES.

- (a) **Request for Variance.** A utility requesting a variance from one or more of the provisions of this Chapter must do so in writing to the Director as a part of the permit application.

The request must identify each provision of this Chapter from which a variance is requested and the reasons why a variance should be granted.

(b) Authority to Grant Variances. The Director will decide whether a variance is authorized for each provision of this Chapter identified in the variance request on an individual basis.

(c) Conditions for Granting of Variance. The Director may authorize a variance only if the utility requesting the variance has demonstrated that:

- 1) One or more conditions not under the control of the utility (such as terrain features or an irregular right-of-way line) create a special hardship that would make enforcement of the provision unreasonable, given the public purposes to be achieved by the provision; and
- 2) All other designs, methods, materials, locations or facilities that would conform with the provision from which a variance is requested are impracticable in relation to the requested approach.

(d) Additional Conditions for Granting of a Variance. As a condition for authorizing a variance, the Director may require the utility requesting the variance to meet reasonable standards and conditions that may or may not be expressly contained within this Chapter but which carry out the purposes of this Chapter.

(e) Right to Appeal. Any utility aggrieved by any order, requirement, decision or determination, including denial of a variance, made by the Director under the provisions of this Chapter will have the right to appeal to the Village Manager. The application for appeal must be submitted in writing to the Village Clerk within 30 days after the date of the order, requirement, decision or determination. The Village Manager will timely decide the appeal.

§ 102.23 PENALTIES.

Any person who violates, disobeys, omits, neglects or refuses to comply with any of the provisions of this Chapter is subject to fine in accordance with the penalty provisions of this Code. 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 Chapter. Unless the utility shows that another allocation of the cost of undertaking the requested action is appropriate, the utility will bear the Village's costs of damages and its costs of installing, maintaining, modifying, relocating, or removing the facility that is the subject of the permit. No other administrative agency or commission may review or overrule a permit related cost apportionment of the Village. Sanctions may be imposed upon a utility who does not pay the costs apportioned to it.

§ 102.24 ENFORCEMENT.

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

§ 102.25 SEVERABILITY.

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